



Contract Reference Number: tfl_scp_001916

Date: 9 April 2021

System Supply Agreement
between
Transport for London
and
PeopleCert International Limited

Version: March 2021

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THIS AGREEMENT is made on the date set out on the front page of this Agreement

BETWEEN

- (1) Transport for London (the “**Authority**”)
- (2) The party set out in **Schedule 1** as being the Service Provider (the “**Service Provider**”)

BACKGROUND

- (a) The Authority wishes to procure and the Service Provider wishes to supply certain software and services, as set out below.
- (b) The parties have agreed to enter into this Agreement to define their contractual rights and liabilities in relation to such supply.

OPERATIVE PROVISIONS

1. DEFINITIONS

1.1 In this Agreement the following expressions shall have the following meanings unless inconsistent with the context:

- “**Acceptance**” date on which an Acceptance Certificate is issued
- “**Acceptance Certificate**” certificate issued by the Authority when the System has been installed and implemented and has successfully passed the Acceptance Tests in accordance with **Schedule 6**
- “**Acceptance Criteria**” criteria referred to in **Schedule 6** for testing the System (or relevant part thereof)
- “**Acceptance Tests**” tests that the party or parties, as set out in **Schedule 6**, will carry out using the test data and expected results, prepared by the party or parties as set out in **Schedule 6**, to determine whether the System or any part of

	the System complies with the Acceptance Criteria
“Additional Services”	services detailed in the Annex called Additional Services in Schedule 2 , if any
“Agreed Equality Policy”	equality policy agreed between the Authority and the Service Provider as set out in Schedule 9 , if any
“Agreement”	this Agreement, its Schedules, Annexes and Appendices (if any) and any other document expressly incorporated into this Agreement by virtue of any provision of this Agreement
“Agreement End Date”	date set out in Schedule 1 as the Agreement End Date
“Authorised Users”	means those employees, agents and independent contractors of the Authority who are authorised by the Authority to use the Service and the Documentation;
“Authority Assets”	means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of the TfL Group
“Authority Premises”	land or premises (including temporary buildings) owned or occupied by or on behalf of the Authority and/or any member of the TfL Group
“Authority Software”	software to be provided by the Service Provider to the Authority under this Agreement which is not Third Party Software or Service Provider Software, as may be

	updated, replaced or amended from time to time
a “Business Day”	a day other than a Saturday or Sunday or a public or bank holiday in England
“Business Hours”	hours set out in Schedule 1
“Cessation Plan”	a plan agreed between the parties or determined by the Authority pursuant to Clause 27 to give effect to a Declaration of Ineffectiveness or a Public Procurement Termination Event
“Change of Control”	change of the control of a company, and “control” shall be as defined by Section 1124 of the Income and Corporation Taxes Act 2010
“Charges”	charges set out in Schedule 3
“Commencement Date”	the date of this Agreement
“Confidential Information”	all information in respect of the business of the (i) Authority and/or any of the TfL Group Members and (ii) the Service Provider and its group of companies including, without prejudice to the generality of the foregoing, any ideas; business methods; pricing or financial information; business, financial, marketing, development or manpower plans; customer lists or details; computer systems and software; products or services including information concerning the party’s relationships with actual or potential clients, customers or Service Providers and the needs and requirements of the parties and any other information which, if disclosed, will be liable to cause harm to the affected party

	and/or its group of companies
“Contract Information”	(i) this Agreement in its entirety (including from time to time agreed changes to this Agreement) and (ii) data extracted from the invoices submitted pursuant to clause 4 which shall consist of the Service Provider’s name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount
“Copy”	individual copy on electromagnetic recording material of one or more of the programs constituting the Software
"Data Protection Legislation"	has the meaning given in clause 33.1
“Declaration of Ineffectiveness”	a declaration of ineffectiveness in relation to this Agreement made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulations 113(2)(a) or 118(3) of the Utilities Contracts Regulations 2016
“Disaster”	unplanned interruption (whether of information processing facilities or systems or otherwise), including fire, interruption in power supply, act of terrorism, threat of act of terrorism, earthquake, extraordinary storm, flood or abnormal weather conditions, which impairs the ability of the Service Provider to perform the Services (in whole or in part and other than in some superficial manner) to the standard of the Service

	Levels and/or in accordance with this Agreement
“Disaster Recovery Plan”	Service Provider’s plan for its emergency response, back-up procedures and business continuity in the event of a Disaster
“Dispute”	dispute or difference that may arise out of or in relation to this Agreement
“Dispute Resolution Procedure”	procedure for resolving/attempting to resolve disputes, as set out in clause 39
“Documentation”	technical and user documentation (including report guides, user manuals, technical manuals, computer operation manuals, installation and support manuals, operating standards, specifications and training materials and the Specification) that describe in detail the configuration, installation, intended operation and maintenance of the System (as applicable) as such written material may be updated from time to time in accordance with this Agreement
“e-GIF”	UK Government’s “e-government interoperability framework” standard, as may be updated or replaced from time to time, details of which are available on the Cabinet Office website, www.govtalk.gov.uk
“Exit Plan”	plan for dealing with the exit of the Services upon termination or expiry, as agreed between the parties in writing and updated in accordance with Schedule 10

“FOI Legislation”

Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004, and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation

“Force Majeure Event”

any of the following: riot, civil unrest, war, act of terrorism, threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes (but excluding any strikes, lock-outs or other industrial disputes of or relating to employees of the party whose obligation to perform is thereby affected, or employees of such party’s sub-contractors) to the extent that such event has materially affected the ability of the party relying on the Force Majeure Event (“**Affected Party**”) to perform its obligations in accordance with the terms of this Agreement but excluding any such event if those events should have been negated by implementation by the Service Provider of its’ Disaster Recovery Plan or insofar as the event arises from or is attributable to the willful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact

"GLA"	the Greater London Authority
"Guarantor"	means PeopleCert Holdings UK Limited, 121/122 Sloane Street, SW1X 9BW, London, UK
"Hardware"	items of hardware or equipment to be supplied and/or recommended and installed by the Service Provider under this Agreement as specified in Schedule 2 , if any, which may include computer equipment, telecommunications equipment or other equipment
"Holding Company"	any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006
"Information"	information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority
"Information Request"	request for any Information under the FOI Legislation
"Initial Tests"	tests that the Service Provider must carry out on the System to determine whether it is in accordance with the Specification before the System is submitted for Acceptance Tests in accordance with Schedule 6
"Insolvency Event"	any of the following: (a) the Service Provider and/or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration

order;

- (b) a receiver, administrative receiver, manager or administrator being appointed over all or part of the business of the Service Provider and/or the Holding Company;
- (c) being a company, the Service Provider and/or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);
- (d) the Service Provider and/or the Holding Company ceasing or threatening to cease to carry on its business for any reason and/or being unable to pay its debts within the meaning of the Insolvency Act 1986;
- (e) being an individual or firm, the Service Provider becoming bankrupt or dying; or
- (f) any similar event to those in (a) to (e) above occurring in relation to the Service Provider and/or the Holding Company under the law of any applicable jurisdiction

“Insurance” or

“Insurances”

“Intellectual Property

insurances, as set out in **Schedule 1, Annex A**

any and all patents, trademarks, trade

Rights” or “IPR”	names, service marks, copyright, moral rights, rights in design, rights in databases, know-how, Confidential Information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating thereto
“Key Milestone Dates”	key dates for delivery of the System, the Services, or parts thereof, as may be specified in the Project Plan
“Key Personnel”	Service Provider’s key personnel set out in Schedule 1 , as may be updated by agreement in writing from time to time
“Liquidated Damages Period”	period in which Liquidated Damages shall be paid, as set out in Schedule 1 , if any
“Liquidated Damages”	financial damages as set out in Schedule 1 , if any
“Losses”	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments
“Maintenance Services”	maintenance services for the System as detailed in the Annex C of Schedule 2 , called “Maintenance Services” , if any
the “parties”	the parties to this Agreement

"Personal Data"	has the meaning given in clause 33.1
"Project Plan"	plan in relation to any part of the provision of the System and/or Services as set out in Schedule 5 or as agreed between the parties in writing from time to time
"Public Procurement Termination Event"	has the meaning given in clause 27.6
"Public Procurement Termination Grounds"	any one or more of the grounds described either in Regulation 73(1) of the Public Contracts Regulations 2015 or Regulation 89(1) of the Utilities Contracts Regulations 2016
"Schedules"	schedules attached to and forming part of this Agreement
"Security Policy"	the TfL Group's security policy the current version(s) of which is/are as set out in Schedule 8 as such security policy may be updated by the Authority in writing from time to time
"Service Credits"	service credits as set out in the Annexes to Schedule 2 , if any
"Service Level Period"	period in which Service Credits shall be paid, as set out in Schedule 2 , if any
"Service Levels"	standards of performance to be achieved for the Services as set out in Schedule 2 , if any
"Service Provider Software"	Software where the IPR is to be retained by the Service Provider, as agreed between the parties, as set out in Schedule 1 , as such software may be updated, replaced or amended from time to time, if any

“Service Provider’s Equipment”

equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services or the System and in which title is not intended to pass to the Authority under this Agreement, as set out in **Schedule 1**, if any

“Service Provider’s IPR”

parts of the System or Services which exist prior to the commencement of this Agreement which are owned by the Service Provider and the Intellectual Property Rights in which are to be retained by the Service Provider, as specified in **Schedule 1**, if any

“Service Provider’s Personnel”

employees, officers, Service Providers, sub-contractors and agents of the Service Provider engaged in the performance of any of the Services and including the Key Personnel

“Services”

services required from the Service Provider in building and supplying the System; the Maintenance Services, if any; and the Additional Services, if any, in each case as are specified in **Schedule 2** (including its **Annexes**), together with any services, functions and responsibilities (including any incidental services, functions and responsibilities) not specifically set out in this Agreement but which are within the scope of the Services and which are reasonably to be inferred from this Agreement; and any other services from time to time agreed between the parties in writing to be supplied by the

	Service Provider to the Authority under this Agreement
“Site(s)”	Authority Premises, as specified in Schedule 1
“Software”	Service Provider Software, the Authority Software, and the Third Party Software
“Specification”	the TfL Group’s Statement of Requirements for the System and Services, as set out in Schedule 4 , which may be updated by agreement in writing from time to time by both parties and where a full Specification has not yet been agreed between the parties, any “Specification” shall mean the TfL Group’s Statement of Requirements until such time that the full agreed Specification has been signed off between the parties in writing after which point “Specification” shall be deemed to refer to such fully agreed specification
“Statement of Requirements”	high level Statement of Requirements of the Authority for the System and Services, as set out in Schedule 4 , if applicable, as may be updated or superseded by a full specification in writing from time to time
“Successor Authority”	person created by statute or subordinate legislation to assume all (or part of) the TfL Group’s functions
“System”	the Software (including any Software required to be developed to provide the bespoke TfL English test required under the Option)

“Term”	The period during which this Agreement continues in force as provided in Clause 2 and Schedule 1
“TfL”	Transport for London, a statutory corporation whose principal place of business is at 5 Endeavour Square, London E20 1JN
“TfL Group”	the Authority and the other companies or organisations related to the Authority, as set out in Schedule 1
“TfL Group Member”	any member of the TfL Group
“TfL Group’s Liability Cap”	amounts set out in Schedule 1
“Third Party”	person, partnership, company or any other undertaking not being the Service Provider or a TfL Group Member
“Third Party IPR”	parts of the System or Services which are owned by a third party, the Intellectual Property Rights in which the Authority has expressly agreed are to be retained by a third party as specified in Schedule 1 , as may be updated, replaced or amended from time to time
“Third Party Software”	third party software to be provided to the Authority under this Agreement which is specified as Third Party Software in Schedule 1 , as may be updated, replaced or amended from time to time
“Transparency Commitment”	means the Authority’s commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority’s own published

transparency commitments

“Virus”

program code or set of instructions intentionally or recklessly constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations including trojan horses, logic bombs, time bombs, data disabling code or any similar materials of any nature

“Warranty Period”

warranty period(s) set out in **Schedule 1**

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument, unless the context otherwise requires, shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted (whether in whole or in part) by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it, whether in place before or after the date of this Agreement;
- 1.4 except as specified in **clause 1.3** or expressly elsewhere in this Agreement, a reference to any document shall be construed as a reference to the document as at the date of execution of this Agreement;
- 1.5 headings are included in this Agreement for ease of reference only and do not affect the interpretation or construction of this Agreement;
- 1.6 references to clauses, Schedules, Annexes and Appendices are, unless otherwise provided, references to clauses of and Schedules, Annexes and Appendices to this Agreement and any reference to a paragraph in any Schedule or Annex or Appendix (if any) shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule or Annex or Appendix;

- 1.7 in the event, and only to the extent, of any conflict between the clauses, the Schedules, the Annexes, and the Appendices (if any), the clauses prevail, except where:
- 1.7.1 the conflicting part of the Schedule, Annex or Appendix is explicitly expressed to take precedence; or
 - 1.7.2 the conflict is with a provision in **Annex B** of **Schedule 1** (Special Conditions of Contract), in which case the provisions in **Annex B** of **Schedule 1** shall prevail;
- 1.8 the Schedules, Annexes and Appendices (if any) form part of this Agreement and, subject to **clause 1.7**, will have the same force and effect as if expressly set out in the body of this Agreement;
- 1.9 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. **COMMENCEMENT AND DURATION**

- 2.1 This Agreement shall, subject to **clause 2.2**, commence on the Commencement Date and shall, unless and until terminated in accordance with its terms, continue in force for the duration stated in **Schedule 1**.
- 2.2 As a condition precedent to this Agreement, the Service Provider shall (to the extent that it has not already done so) provide, at its own expense, a parent company guarantee from the Guarantor in the form set out in **Schedule 11**. Where, at any time following the date of this Agreement, the financial standing of the Guarantor reduces to a level that the Authority, acting reasonably, believes does not offer sufficient protection in the event that the Service Provider cannot perform under this Agreement, then the Service Provider shall (if requested by the Authority in writing) promptly provide, at its own expense, a company guarantee from an Affiliate of the Service Provider whose financial standing is equivalent or better than that of the Guarantor as

at the date of this Agreement, such guarantee to be substantially in the form set out in **Schedule 11**.

2.3 The Authority shall not be obliged to make any payment to the Service provider under this Agreement whether for the Charges or otherwise unless or until the parent company guarantee has been provided in compliance with **clause 2.2**.

2.4 The Service Provider shall be regarded as being in material breach of this Agreement, which is incapable of remedy, in the event that the duly executed parent company guarantee is, or becomes, invalid or otherwise unenforceable and no alternative company guarantee has been provided by an Affiliate of the Service Provider in accordance with **clause 2.2**.

3. **SERVICE PROVIDER'S OBLIGATIONS**

3.1 The Service Provider shall supply the System and perform the Services in accordance with the terms and conditions of this Agreement.

3.2 The Service Provider shall perform its obligations in relation to the Acceptance Tests in accordance with **Schedule 6**.

3.3 The Service Provider:

3.3.1 acknowledges that it has sufficient information about the TfL Group and its requirements relating to internet connections and the format for storing and providing information on the System and/or for the provision of the Services and that it has made all appropriate and necessary enquiries to enable it to supply the System and perform the Services in accordance with this Agreement ;

3.3.2 shall neither be entitled to any additional payment nor excused from any obligation or liability under this Agreement due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the TfL Group's requirements for the System and/or the Services or otherwise;

- 3.3.3 shall comply with all lawful and reasonable directions of the Authority relating to its supply of the System and performance of the Services;
 - 3.3.4 shall when required give to the Authority such written or oral advice or information regarding the System and/or the Services as the Authority may reasonably require;
 - 3.3.5 where a format for electronic receipt of orders by the Service Provider is set out in **Schedule 1**, shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term;
 - 3.3.6 shall provide training to the Authority's personnel (including its employees, officers, Service Providers, sub-contractors and agents) as specified in **Schedule 2**;
 - 3.3.7 shall provide inspection reports on all relevant penetration testing to the Authority promptly after completion and in any event conduct such tests not less than every twelve (12) months; and
 - 3.3.8 shall provide not less than six months' notice of any changes required to browser compatibility, which shall in all instances be a generally commercially available type and version and have a minimum requirement of Google Chrome and Internet Explorer 11 on all browsers.
- 3.4 Notwithstanding anything to the contrary in this Agreement, the TfL Group's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement.
- 3.5 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Agreement and shall give the Authority, if so requested, the names, contact details and all relevant qualifications of all such persons who are or may be at any time employed on performing the Agreement and shall ensure that all relevant security requirements are met.

The Service Provider shall ensure that all Service Provider's Personnel deployed on work relating to the Agreement shall be properly managed and supervised.

3.6 Subject to the provisions of this **clause 3**, the Service Provider shall maintain the continued involvement of the Key Personnel in the performance of the Services and shall take all reasonable steps to avoid changes to any of its staff designated as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and **clause 3.7** shall apply to the proposed replacement personnel.

3.7 The Service Provider will only use personnel to perform the Services who:

3.7.1 are suitably qualified and experienced to perform their role in performing the Services;

3.7.2 hold up to date and comply with professional certifications and qualifications relevant to the Services they are providing; and

3.7.3 in these and any other respects are acceptable to the Authority.

The Service Provider shall demonstrate compliance with this **clause 3.7** as required by the Authority from time to time.

3.8 Without prejudice to any of the Authority's other rights, powers or remedies (including under **clause 3.7**), the Authority may (without liability to the Service Provider) deny access to such Service Provider's Personnel to any Authority Premises if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Agreement and/or are otherwise incompetent, negligent, and/or guilty of misconduct and/or who could be a danger to any person and shall notify the Service Provider of such denial in writing and in which case the Service Provider shall immediately remove such Service Provider's Personnel from performing the Services and provide a suitable replacement (with the Authority's prior written consent in the case of Key Personnel). If the Authority requests, for bona fide reasons, that any member of the Service Provider's Personnel should cease to be involved in the supply of the System or the performance of the Services under this Agreement, it shall notify the Service Provider in writing

and state the reasons for the request. If the Service Provider agrees to the request (such agreement not to be unreasonably withheld) the said member shall be removed immediately and the Service Provider shall provide a suitably and similarly qualified replacement as soon as reasonably practicable and, in any event, within five (5) Business Days unless otherwise agreed. The removal of a member of the Service Provider's Personnel will not relieve the Service Provider from performance of its obligations under this Agreement nor provide grounds for an extension of time for the supply of the System or the performance of the Services.

- 3.9 The Service Provider shall not (except where the individuals are clearly not required for the performance of that part of the relevant Services) assign any of the Key Personnel to other duties which would prevent them from or interfere with their ability to properly carry out their duties in respect of the Services without the prior consent of the Authority. This shall not prevent the Service Provider from allowing members of the Service Provider's Personnel to take sickness, maternity, paternity, compassionate, religious or holiday leave or to attend a reasonable number of training courses.
- 3.10 In the event that a member of the Key Personnel resigns or shall for any reason cease to be engaged in the provision of the Services, the Service Provider shall ensure that a suitably and similarly qualified replacement who is acceptable to the Authority is appointed as soon as reasonably practicable and, in any event, within five (5) Business Days unless otherwise agreed; that there is a reasonable hand-over period (and that the costs of bringing the replacement up to the required level of knowledge are borne by the Service Provider); and that the performance of the Services are not affected. The Authority shall not unreasonably withhold agreement to the appointment of such replacement.
- 3.11 The Service Provider acknowledges and agrees that it shall be wholly responsible for the acts and omissions of the Service Provider's Personnel regardless of whether or not they are employees of the Service Provider. The Authority shall be wholly responsible for the acts or omissions of its

personnel and any other person, entity or agent acting on its behalf (other than the Service Provider).

- 3.12 The Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the TfL Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 3.8.
- 3.13 The parties shall each comply with their respective obligations set out in **Schedule 10**. Within sixty (60) days of the Commencement Date, the parties shall agree an Exit Plan in accordance with the provisions of **Schedule 10**.

4. **CHARGES AND PAYMENTS**

- 4.1 Subject to the Service Provider complying with and performing properly its obligations under this Agreement, the Service Provider shall be entitled to invoice the Authority in accordance with this **clause 4**.
- 4.2 In consideration of the proper performance of the Services and the supply of the System in accordance with this Agreement, the Service Provider may invoice the Authority the Charges in respect of the System and the Services at the amounts and on the basis set out in **Schedule 3**. Where no invoicing dates are set out in **Schedule 3**, then the Service Provider shall be entitled, within thirty (30) days following the end of each calendar month, or upon a milestone payment date set out in any Project Plan (as applicable), to submit an invoice in respect of the Charges arising during such month or upon achievement of such milestone (as applicable). The Charges are inclusive of reasonable expenses, which shall be identified on the invoice. For the avoidance of doubt, the Service Provider may not invoice the Authority for payments in relation to Key Milestone Dates or any other agreed payment milestones until such time that the Service Provider has delivered the applicable Services and/or parts of the System and has fully performed its obligations in relation to such Key Milestone Dates or other agreed payment milestones.

- 4.3 Any sum payable by one party to the other under this Agreement will be exclusive of Value Added Tax (“**VAT**”) and any other similar tax which may be chargeable and which will be payable in addition to the sum in question at the rate for the time being prescribed by law on delivery of a valid VAT invoice.
- 4.4 The Service Provider shall submit invoices to the postal address stated in **Schedule 1** (or as otherwise specified by the Authority from time to time) or, where an electronic format for submission of invoices is set out in **Schedule 1**, such electronic format shall, unless the Authority requires otherwise, be used. Each such invoice shall contain all information required by the Authority including the Contract Reference Number, SAP order number, the Service Provider’s name and address, a separate calculation of VAT and an adequate description of the Services provided.
- 4.5 If the Authority considers (acting reasonably) that any sums, fees or other charges claimed by the Service Provider in any invoice have been correctly calculated and that such invoice is correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within thirty (30) days of receipt of such invoice, or within such other time period as may be agreed under **Schedule 1**.
- 4.6 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority (whether related to payment or otherwise) shall:
- 4.6.1 indicate or be taken to indicate the TfL Group’s acceptance or approval of the Services or System or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under or by virtue of this Agreement; or

- 4.6.2 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Service Provider by mistake of law or fact. Without prejudice to **clause 4.8**, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt.
- 4.7 Not used.
- 4.8 All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Agreement or any other contract between the Authority or any TfL Group Member and the Service Provider (howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency) may be deducted by the Authority from monies due or which may become due to the Service Provider under this Agreement or the Authority may recover such amount as a debt.. The TfL Group's rights under this **clause 4.8** will be without prejudice to any other rights or remedies available to the Authority under this Agreement or otherwise.
- 4.9 If the Authority receives an invoice which the Authority reasonably believes specifies a Charge which is not valid or properly due or in respect of which any Service has not been duly and properly provided or where the Authority reasonably believes the invoice has not been calculated correctly or if the invoice contains any other error or inadequacy ("**Disputed Charge**"):
- 4.9.1 the Authority shall pay to the Service Provider the part of the Charges under that invoice which is not a Disputed Charge;
- 4.9.2 the Authority may withhold payment of the Disputed Charge in that invoice and, in that case, the Authority shall promptly (and in any event within thirty (30) days after receipt of the invoice) notify the Service Provider of the nature of the dispute and the parties shall commence, within five (5) days after the receipt of the TfL Group's notice, to resolve the dispute in accordance with the dispute resolution procedure set out in **clause 40**; and

4.9.3 once the dispute has been resolved, the Authority shall pay any amount due as part of that resolution within ten (10) days of such resolution.

4.10 Except where otherwise provided in this Agreement, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under this Agreement.

4.11 Interest shall accrue at the interest rate of two percent (2%) above the base rate of HSBC Bank plc from time to time on all sums due and payable under this Agreement from the due date until the date of actual payment (both before and after judgment). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under this Agreement in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

5. **SOURCE CODE**

5.1 The source code to any Software in which the Intellectual Property Rights are, or are to be, owned by the Authority, together with any programmers' notes and other documentation reasonably required to operate the source code in object code form and to maintain and adapt the source code, shall be supplied to the Authority when that part of the System is supplied to the Authority ("**the Authority Materials**").

5.2 This **clause 5.2** shall survive termination of this or part of this Agreement.

6. **THE TFL GROUP'S OBLIGATIONS**

6.1 The Authority shall:

6.1.1 pay for the System and the Services in accordance with the terms of this Agreement;

- 6.1.2 subject to **clauses 4.8** and **4.9**, pay all sums, fees and other charges due under this Agreement upon the dates provided for under this Agreement;
- 6.1.3 allow the Service Provider access to Sites in accordance with **clause 11**;
- 6.1.4 provide the Service Provider, on request and within a reasonable period thereafter, with information and assistance that the Service Provider may reasonably require;
- 6.1.5 make its own arrangements for internet access in order to access the System and Service, with the required type and version of browser as notified to the Authority by the Service Provider, which shall be a generally commercially available type and version and further provided that the Service Provider shall have given not less than six months advance notice of amending browser compatibility. Browsers shall have a minimum requirement of Google Chrome and Internet Explorer 11;
- 6.1.6 not make the System and/or Services available to anyone who may be a third party competitor of the Service Provider, whether directly or via a third party, other than the Authorised Users (in accordance with Annex A of Schedule 2) and shall use all reasonable endeavors to prevent unauthorised access to or use of the System and Service.
- 6.1.7 without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;
- 6.1.8 have the right to receive from the inspecting body the Penetration testing inspection reports at least every twelve (12) months and in any event within thirty (30) days of their completion; carry out all other Authority responsibilities set out in this Agreement in particular

the Specification and Project Plan in a timely and efficient manner including user acceptance testing in accordance with Schedule 6;

- 6.1.9 ensure that the Authorised Users use the System, Service and the Documentation in accordance with the terms and conditions of this Agreement relating to Authorised Users and shall be responsible for any Authorised User's breach of this Agreement;
- 6.1.10 co-operate, as reasonable and necessary, with the Service Provider in relation to the provision of the Service and System; and
- 6.1.11 ensure that its network and systems comply with any commercially reasonable and relevant specifications provided by the Service Provider from time to time; and includes Browser Compatibility (Google Chrome and Internet Explorer 11).

7. DOCUMENTATION

7.1 All documentation prepared by the Service Provider pursuant to this Agreement for the Authority shall, unless otherwise agreed by the parties, meet the following minimum requirements:

- 7.1.1 it and all referenced portions of other documents shall be clearly and concisely written; and
- 7.1.2 where applicable, it shall specify and describe the policy, specification or other subject matter in sufficient detail and in an easy to follow manner, so as to enable the TfL Group's staff or contractors trained and skilled to the level fairly expected of a person in the relevant position, to make full and efficient use of the Documentation for the purposes for which it was requested and/or written; and
- 7.1.3 it shall not refer to any document not provided to or already in the possession of the Authority; and

- 7.1.4 in the case of documents which are bespoke to the Authority, unless the Authority requests that such Documentation be subject to the Acceptance Tests, it shall be submitted to the Authority for approval and be subject to approval by the Authority in accordance with **clause 7.2**.
- 7.2 The documentation to be submitted to the Authority for approval, which is bespoke to the Authority, in accordance with **clause 7.1** shall be subject to one (1) draft correction cycle as specified in this **clause 7.2**. Unless agreed otherwise, the Authority shall, within five (5) days of the Service Provider submitting the Documentation either notify the Service Provider in writing of its approval of Documentation (as applicable) or provide the Service Provider with its reasons in writing why such item(s) (or any part of it) is not approved whereupon the Service Provider shall make the required amendments and re-submit the revised Documentation to the Authority and the foregoing provisions shall apply.
- 7.3 If the revised Documentation is not approved by the Authority and/or if the Service Provider does not accept the TfL Group's reasoning in relation to such non-approval, representatives of the parties will use their respective reasonable endeavours to resolve, in good faith, such non-approval/non-acceptance (as applicable) within thirty (30) days of the Authority submitting its reasons for such non-approval or (if later) the Service Provider's notification of non-acceptance of the TfL Group's reasons for non-approval (whichever is applicable). If, following the expiration of such period, the Documentation has not been approved by the Authority, the matter shall be referred for resolution in accordance with **clause 40**.

8. **PERFORMANCE AND DELAY**

- 8.1 In respect of each of the Services to be performed under this Agreement, the Service Provider shall provide or complete the performance of such Service(s) on or before the applicable date specified in the applicable Project Plan or, in the event no such date is specified, promptly having regard to the

nature of the project (“**Milestone**”). The meeting of each relevant Milestone by the Service Provider shall be of the essence.

- 8.2 The Service Provider shall notify the Authority in writing as soon as reasonably practicable after becoming aware of any actual or likely failure to comply with any Milestone. Such written notice shall contain a detailed explanation of the causes of, and responsibility for, the delay, details of actions taken and to be taken by the Service Provider (and, to the extent that the Service Provider considers that the Authority is responsible for such delay, actions it requests be taken by the Authority) to remedy such delay and any effects such delay may have on the performance of the Services or supply of the System and on the ability to meet the next Milestone or any other applicable Milestone. Without prejudice to any liability of either party, both parties shall use their reasonable endeavours to overcome and/or mitigate any such actual or anticipated delay.
- 8.3 If the Service Provider shall fail (to the extent that such failure was not directly due to any failure by the Authority to comply with its obligations under this Agreement) to provide the Service(s) or supply the System in accordance with this Agreement by the Milestone then notwithstanding anything else contained in this Agreement the Service Provider shall not be entitled to any payment for any additional time spent and materials used by the Service Provider in providing the Service(s).
- 8.4 The Service Provider shall deliver the applicable parts of the System and Services on or before the Key Milestone Dates to be agreed in the project plan by the Parties. Failure to deliver will impact on the Milestone Payment Plan unless the delay is wholly attributed to TfL and the relevant payment is agreed by both parties.
- 8.5 Where Service Levels and/or Service Credits are set out in **Schedule 2**, the Service Provider agrees that the Services shall comply in all respects with the Service Levels, and the Authority shall be entitled to the Service Credits in relation to any failure by the Service Provider to meet such Service Levels. Save where such failure is caused by any omission by the Authority, the

parties agree that such Service Credits are a genuine and reasonable pre-estimate of the loss which the Authority would suffer during the Service Level Period arising from a failure by the Service Provider to provide the Services as contemplated in this **clause 8.5**. The provisions of this **clause 8.5** shall be without prejudice to the TfL Group's other rights and remedies under this Agreement, including the TfL Group's rights to seek injunctive relief in any court of competent jurisdiction and/or to claim damages where the loss suffered exceeds the Service Credits.

9. **WARRANTIES AND OBLIGATIONS**

9.1 Without prejudice to any other warranties expressed elsewhere in this Agreement or implied by law, the Service Provider warrants, represents and undertakes to the TfL Group that:

9.1.1 the Service Provider:

9.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where it's procedures so require, the consent of its Holding Company, if any, to enter into and to perform this Agreement; and

9.1.1.2 is aware of the purposes for which the Services and the System are required and acknowledges that the TfL Group is reliant upon the Service Provider's expertise and knowledge in the supply of the System and the provision of the Services; and

9.1.1.3 is entering into this Agreement as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Agreement;

9.1.2 this Agreement is executed by a duly authorised representative of the Service Provider;

- 9.1.3 all materials, equipment and goods recommended, used or supplied by the Service Provider in connection with this Agreement shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979, sound in design, fit for purpose, shall comply with all statutory requirements and regulations relating to their sale and use and shall be in conformance in all respects with the requirements of the TfL Group including the Specification;
- 9.1.4 the Service Provider shall provide the Services:
- 9.1.4.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced companies providing services of a similar scope, type and complexity to the Services with sufficient resources including project management resources;
 - 9.1.4.2 in conformance in all respects with the Specification and the reasonable requirements of the Authority as a large scale user of the Services set out in this Agreement and so that they fulfil the purpose indicated by or to be reasonably inferred from such requirements;
 - 9.1.4.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner;
 - 9.1.4.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Agreement is not being or is unable to be performed;
- 9.1.5 each part of the System will, on the date on which it is supplied in accordance with this Agreement and for the Warranty Period thereafter, fulfil the TfL Group's requirements and comply with the Specification, and that if any part of the System materially fails to

comply in accordance with this **clause 9.1.5** at any time during the Warranty Period the Service Provider shall comply with **clause 9.3**;

- 9.1.6 without prejudice to clause **9.1.5**, the System will comply with any browser compatibility requirements specified by the Service Provider, such requirements not being changed without the Service Provider giving not less than six (6) months advance notice of such change;
- 9.1.7 the Service Provider shall fully co-operate with the TfL Group's agents, representatives or contractors (including other Service Providers of computing products and services) and supply them with such information, materials and assistance as the Authority may reasonably request or authorise from time to time;
- 9.1.8 all of the Service Provider's liabilities, responsibilities, and obligations shall be fulfilled in compliance with all applicable laws, enactments, orders, regulations, codes of practice, licences, waivers, consents, registrations, approvals, and other authorisations of competent authorities ("**Applicable Laws**") and that the TfL Group's possession and/or use of the System and/or its receipt of the benefit of the Services will not place the Service Provider or any third party contracted by the Service Provider in breach of any Applicable Law(s), provided that the Service Provider shall have no liability under this clause in respect of any breach of such Applicable Law(s) to the extent such breach is caused by the negligent, willful or fraudulent act and/or omission of the Authority. The Change Control Provisions shall apply in the event that a change in law requires changes to the System to be implemented by the Service Provider where the changes are peculiar to the business of the Authority or the TfL Group;
- 9.1.9 the Service Provider shall:
 - 9.1.9.1 not introduce into any of the TfL Group's computer systems anything, including any computer program code,

Virus, authorisation key, licence control utility or software lock, which is intended by any person to, is likely to, or may:

9.1.9.1.1 impair the operation of the System or any other computer systems or programs in the possession of the TfL Group and identified to the Service Provider or impair the receipt of the benefit of the Service(s); or

9.1.9.1.2 cause loss of, or corruption or damage to, any program or data held on the TfL Group's computer systems,

and this **clause 9.1.9.1** shall apply notwithstanding that any such things are purported to be used for the purposes of protecting the Service Provider's IPR, Third Party IPR, the Service Provider's contractual rights or other rights; or

9.1.9.2 not damage the reputation of the TfL Group;

9.1.10 the media on which any System is supplied will be free from material defects in materials and workmanship under normal use;

9.1.11 if and to the extent that software is being provided as part of the Services or the System, the Service Provider warrants that it shall not and shall ensure that it does not and its Personnel and subcontractor's do not, without the TfL Group's prior written consent (such consent to be signed off by an authorised signatory of the Authority), include any third party software code which materially conforms to either (a) the then current Open Source definition laid down by the Open Source Initiative; or (b) any generally accepted replacement for or alternative to such Open Source definition at the relevant time;

9.1.12 the Service Provider shall ensure that the System and any software, electronic or magnetic media, hardware or computer system recommended by the Service Provider for use in connection with this Agreement shall:

9.1.12.1 Not used;

9.1.12.2 not have its functionality or performance affected, or be made inoperable or be more difficult to use by reason of any data related input or processing in or on any part of such software, electronic or magnetic media, hardware or computer system;

9.1.12.3 not cause any damage to, loss of or erosion to or interfere adversely or in any way with the compilation, content or structure of any data, database, software or other electronic or magnetic media, hardware or computer system used by, for or on behalf of any the TfL Group Member and/or any third party, on which it is used or with which it interfaces or comes into contact;

and any variations, enhancements or actions undertaken by the Service Provider in respect of such software, electronic or magnetic media, hardware or computer system shall not affect the Service Provider's compliance with this **clause 9.1.12**.

Subject to **clause 9.1.8**, in all cases the costs of compliance with this **clause 9.1** shall be borne by the Service Provider.

9.2 The Service Provider shall ensure that the benefit of any and all warranties which it receives in respect of any and all Hardware and Third Party Software are passed on to the TfL Group, where the Authority is the owner, such that the TfL Group can enforce those warranties directly against such Third Party Software licensors and Hardware vendors.

9.3 Without prejudice to any other rights, powers or remedies the Authority may have, in the event of any breach(es) of the warranties set out at **clauses 9.1.3, 9.1.4, 9.1.5, 9.1.6, 9.1.8, 9.1.9, 9.1.10, 9.1.11 and 9.1.12** the Service Provider shall promptly (and, if applicable, in accordance with any relevant Service Level) supply such services as are necessary to remedy such breach(es) and to prevent the re-occurrence of such breach(es) in the future. To the extent that any such breach(es) re-occurs (notwithstanding, in relation to the limited warranty contemplated in **clause 9.1.5**, the fact that the relevant Warranty Period may have ended) then, subject to the cause of the said re-occurrence being the same or similar to that which caused the initial breach(es), the Service Provider shall forthwith supply such further Services as are necessary to remedy such breach(es) and to prevent any further re-occurrence thereof. Any Services required to be performed pursuant to this **clause 9.3** shall be performed at no additional cost to the Authority.

9.4 Each warranty and obligation in this **clause 9** shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of this Agreement.

10. **CONFLICT OF INTEREST**

10.1 The Service Provider warrants that it does not have an interest in any matter where there is or is likely to be a conflict of interest with the Agreement or any member of the TfL Group and that (except as provided below) it shall not act for any person, organisation or company where there is or is likely to be such a conflict of interest. This clause shall not prevent the Service Provider from providing services to an existing client of the Service Provider to whom the Service Provider is, as at the date of this Agreement, providing services provided that the Service Provider shall, save where specifically agreed by the Authority in writing:

10.1.1 not act for any such client in respect of any transactions between any member of the TfL Group and such client; and

- 10.1.2 ensure that the personnel acting in any capacity for any such client are different from the personnel involved in performing this Agreement or in any other work which the Service Provider carries out in relation to any member of the TfL Group;
 - 10.1.3 ensure that any personnel acting for any such client do not have access to information held by the Service Provider relating to any member of the TfL Group; and
 - 10.1.4 inform the Authority of all such existing clients where there could be a conflict of interest and the steps that it is taking to ensure compliance with **clauses 10.1.1 to 10.1.3** inclusive.
- 10.2 The Service Provider shall undertake ongoing and regular conflict of interest checks throughout the duration of the Agreement to ensure that it does not act for any person, company or organisation where there is likely to be conflict or potential conflict with the Authority save for any conflict already advised to the Authority by the Service Provider and agreed as an existing client of the Service Provider under clause 10.1 and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services and shall work with the Authority or any member of the TfL Group to do whatever is necessary to manage such conflict to the TfL Group's satisfaction.
- 10.3 If the Service Provider is in breach of **clause 10.1** or if the Authority is not satisfied on the issue of any conflict of interest in accordance with **clause 10.2**, the Authority may terminate this Agreement and any other contracts between the Service Provider and any member of the TfL Group immediately.

11. **ACCESS TO THE AUTHORITY PREMISES**

- 11.1 Subject to **clause 3.8**, any access to any Authority Premises or Authority Assets made available to the Service Provider in connection with the proper performance of this Agreement shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during

the term of this Agreement in accordance with this Agreement provided, for the avoidance of doubt, that the Service Provider shall be responsible for its own costs of travel including any congestion charging and/or low emission zone charging. The Service Provider shall:

- 11.1.1 have the use of such Authority Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Authority Premises;
 - 11.1.2 vacate such Authority Premises upon the termination of this Agreement or at such earlier date as the Authority may determine. If the Service Provider is asked to vacate the Authority Premises before the termination of this Agreement, the Service Provider shall not be liable for any delay in the supply of the System or the performance of the Services to the extent so caused by the request to vacate (provided such request is not due to the Service Provider's breach or default);
 - 11.1.3 not exercise or purport to exercise any rights in respect of any of the Authority Premises in excess of those granted under this **clause 11**;
 - 11.1.4 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times;
 - 11.1.5 not damage the Authority Premises or any assets of the TfL Group;
and
 - 11.1.6 return immediately to the Authority in good working order and satisfactory condition (in the reasonable opinion of the Authority) all Authority Assets used by the Service Provider or the Service Provider's Personnel in the performance of the Services.
- 11.2 Nothing in this **clause 11** shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any TfL Group Member.

- 11.3 Unless agreed otherwise in writing between the parties (referencing this Agreement), the Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider.
- 11.4 The Service Provider shall, while on the Authority Premises, comply with all of the TfL Group's security procedures and requirements notified to it from time to time, including the Security Policy, and shall ensure that all of the Service Provider's Personnel comply with all such procedures and requirements.
- 11.5 The Authority reserves the right, acting reasonably:
- 11.5.1 to refuse to admit to any Authority Premises any of the Service Provider's Personnel who fail to comply with any of the TfL Group's procedures, requirements, policies and standards referred to in **clause 12**;
- 11.5.2 to instruct any of the Service Provider's Personnel to leave any Authority Premises at any time for and such Service Provider's Personnel shall comply with such instructions immediately.
- 11.6 The Service Provider shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services.

12. **COMPLIANCE WITH POLICIES AND LAW**

- 12.1 The Service Provider undertakes to procure that all of the Service Provider's Personnel comply with all of the TfL Group's policies and standards that are relevant to the performance of the Services (including the Authority's workplace harassment policy as updated from time to time (copies of which are available on request from the Authority) and with TfL's Code of Conduct (which is available on the Authority's website, www.tfl.gov.uk)), including those relating to safety, security, business ethics, drugs and alcohol, the Security Policy, and any other on-site regulations specified by the Authority for personnel working at the Authority Premises or being granted access to

the Sites in accordance with **clause 11**. The Authority shall provide the Service Provider with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and the Authority, then the policies and standards of each of the GLA and the Authority shall apply as appropriate.

12.2 The TfL Group's workplace harassment policy ("**Policy**") as set out in **clause 12.1** as updated from time to time requires the TfL Group's own staff and those of its contractors to comply fully with the Policy to eradicate harassment in the workplace. The Service Provider shall:

12.2.1 ensure that its staff, and those of its sub-contractors, working on the Authority Premises are fully conversant with the requirements of the Policy;

12.2.2 fully investigate allegations of workplace harassment in accordance with the Policy; and

12.2.3 ensure that appropriate, effective action is taken where harassment is found to have occurred.

12.3 The Authority is committed to the improvement of business performance and the minimisation of risks and disruption to the TfL Group's and the Service Provider's respective employees, agents and subcontractors and customers of the TfL Group and those interfacing with the TfL Group transport networks through the effective management of health, safety and environmental issues and the Service Provider shall demonstrate its support for such commitment by:

12.3.1 implementing an effective health, safety and environmental management system; and

12.3.2 maximising opportunities for environmentally responsible procurement and maximising environmental opportunities and minimising environmental risks,

and shall communicate its methodology for doing so to the Authority.

- 12.4 If required by the Authority under **Schedule 1**, the parties shall agree an equality policy and if so, for the duration of this Agreement, the Service Provider shall comply with the Agreed Equality Policy.
- 12.5 Without prejudice to the generality of the foregoing, the Service Provider:
- 12.5.1 shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 12.5.2 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a “**Relevant Protected Characteristic**”) (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority and any TfL Group Member where possible to enable the Authority and any other TfL Group Member to satisfy its duty;
- 12.5.3 where possible, shall provide the Services in such a manner as to:
- 12.5.3.1 to promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
- 12.5.3.2 to eliminate unlawful discrimination; and
- 12.5.3.3 to promote good relations between persons of different racial groups, religious beliefs and sexual orientation.

12.6 The Service Provider:

12.6.1 shall not unlawfully discriminate;

12.6.2 shall procure that the Service Provider's Personnel do not unlawfully discriminate; and

12.6.3 shall use reasonable endeavours to procure that its direct and indirect subcontractors do not unlawfully discriminate

in relation to the Services, within the meaning and scope of the Equality Act 2010, and any other relevant enactments in force from time to time relating to discrimination in employment.

12.7 Without prejudice to **clauses 12.5 and 12.6**, the Service Provider shall:

12.7.1 assist and co-operate with the Authority where possible to enable the Authority to comply with its duties under section 1 and section 149 of the Equality Act 2010 as and when section 1 and/or section 149 come into force, including any amendment or re-enactment of section 1 or section 149, and any guidance, enactment, order, regulation or instrument made pursuant to these sections.

12.7.2 where the GLA is the Authority:

12.7.2.1 comply with policies developed by the Authority with regard to compliance with the Authority's duties referred to in **clauses 12.5 and 12.6** as are relevant to the Agreement and the Service Provider's activities;

12.7.2.2 obey directions from the Authority with regard to the conduct of the Services in accordance with the duties referred to in **clauses 12.5 and 12.6**;

12.7.2.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to this Agreement of the duties referred to in **clauses 12.5 and 12.6**;

- 12.7.2.4 on entering into any contract with a sub-contractor in relation to this Agreement, impose obligations upon the sub-contractor to comply with this **clause 12.7** as if the sub-contractor were in the position of the Service Provider;
- 12.7.2.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Service Provider has complied with this **clause 12.7**. In particular, the Service Provider shall provide any evidence requested within such timescale as the Authority may require, and co-operate fully with the Authority during the course of the Authority's investigation of the Service Provider's compliance with its duties under this **clause 12.7**; and
- 12.7.2.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Agreement by any person for breach of the Equality Act 2010 and any other relevant enactments in force from time to time relating to discrimination in employment.

12.8 If, pursuant to or in consequence of performing its obligations under this Agreement, if the Service Provider gains access to any computer system of any TfL Group Member including any software, hardware, firmware, database, data or file, whether directly or remotely:

- 12.8.1 all access shall be strictly limited to that part of the computer software, hardware, firmware, database, data or files (as the case may be) as is required for proper performance of its obligations under this Agreement;
- 12.8.2 the Service Provider shall comply with all reasonable security audit and other procedures and requirements of any TfL Group Member in relation to access; and

- 12.8.3 the Service Provider shall ensure that only the Service Provider's Personnel shall be permitted access and such access shall be to the extent strictly necessary for the proper performance of their duties in relation to the obligations of the Service Provider pursuant to this Agreement.
- 12.9 In providing the Services, the Service Provider shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:
- 12.9.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
- 12.9.2 enhance the environment and have regard to the desirability of achieving sustainable development;
- 12.9.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
- 12.9.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.
- 12.10 Without limiting the generality of **clause 9.1.8**, the Service Provider shall comply with the Bribery Act 2010 and any guidance issued from time to time by the Secretary of State under it.

13. LONDON LIVING WAGE

For the purposes of this **clause 13**, the following expressions have the corresponding meanings:

“CCSL” the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Authority from time to time;

“London Living Wage” the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);

13.1 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the Greater London Authority Act 1999 has directed that members of the TfL Group ensure that the London Living Wage be paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on the Authority’s estate in the circumstances set out in **clause 13.3.1**.

13.2 Without prejudice to any other provision of this Agreement, the Service Provider shall:

13.2.1 ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Services:

13.2.1.1 for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year;
and

13.2.1.2 on the Authority’s estate including (without limitation) premises and land owned or occupied by the Authority,

be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage;

- 13.2.2 ensure that none of:
 - 13.2.2.1 its employees; nor
 - 13.2.2.2 the employees of its Sub-contractors,

engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment;
- 13.2.3 provide to the Authority such information concerning the London Living Wage as the Authority or its nominees may reasonably require from time to time, including (without limitation):
 - 13.2.3.1 all information necessary for the Authority to confirm that the Service Provider is complying with its obligations under this **clause 13**; and
 - 13.2.3.2 reasonable evidence that this **clause 13** has been implemented;
- 13.2.4 disseminate on behalf of the Authority to:
 - 13.2.4.1 its employees; and
 - 13.2.4.2 the employees of its Sub-contractors,

engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and
- 13.2.5 cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):
 - 13.2.5.1 allowing the CCSL to contact and meet with the Service Provider's employees and any trade unions representing the Service Provider's employees;

13.2.5.2 procuring that the Service Provider's Sub-contractors allow the CCSL to contact and meet with the Subcontractors' employees and any trade unions representing the Sub-contractors' employees,

in order to establish that the obligations in **clause 13.3.1** have been complied with.

13.3 For the avoidance of doubt the Service Provider shall:

13.3.1 implement the annual increase in the rate of the London Living Wage; and

13.3.2 procure that its Sub-contractors implement the annual increase in the rate of the London Living Wage,

on or before 1 April in the year following the publication of the increased rate of the London Living Wage.

13.4 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's staff and the staff of its Sub-contractors.

13.5 Without limiting the Authority's rights under any other termination provision in this Contract, the Service Provider shall remedy any breach of the provisions of this **clause 13** within four (4) weeks' notice of the same from the Authority (the "**Notice Period**"). If the Service Provider remains in breach of the provisions of this **clause 13** following the Notice Period, the Authority may by written notice to the Service Provider immediately terminate this Agreement.

14. **CORRUPT GIFTS AND PAYMENT OF COMMISSION**

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission or fees or grant any rebates to any employee, officer or agent of any TfL Group Member nor favour any employee, officer or agent of any TfL Group Member with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of any TfL Group Member

other than as a representative of the Authority, without the TfL Group's prior written approval.

15. **EQUIPMENT**

15.1 Risk in:

15.1.1 all of the Service Provider's Equipment shall be with the Service Provider at all times; and

15.1.2 all other equipment and materials forming part of the Services ("**Materials**") shall be with the Service Provider at all times until completion of the Services in accordance with this Agreement,

regardless of whether or not the Service Provider's Equipment and Materials are located at the Authority Premises.

15.2 The Service Provider shall ensure that all of the Service Provider's Equipment and all Materials meet all minimum safety standards required from time to time by law.

15.3 All of the Service Provider's Equipment which the Service Provider brings to the Authority Premises shall be removed by the Service Provider on termination of this Agreement and the Authority shall provide the Service Provider with such access to the Authority Premises as is reasonably required to enable such removal.

16. **QUALITY AND BEST VALUE**

16.1 The Service Provider acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and, as such, the Authority is required to make arrangements to secure continuous improvement in the way it exercises its functions, having regard to a combination of economy, efficiency and effectiveness. Accordingly, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review and shall maintain an effective and economical programme for quality management, planned and developed

in conjunction with any other functions of the Service Provider necessary to satisfy the requirement contemplated in this Agreement.

- 16.2 Where the GLA is the Authority then in accordance with the statutory requirement set out in section 61(3) of the Greater London Authority Act 1999, the Service Provider shall send such representatives as may be requested to attend the Greater London Assembly for questioning in relation to the Agreement. The Service Provider acknowledges that it may be liable to a fine or imprisonment if it fails to comply with a summons to attend.

17. **RECORDS, AUDIT AND INSPECTION**

- 17.1 The Service Provider shall, and shall procure that its sub-contractors shall:

17.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Service Provider's obligations under this Agreement and all transactions entered into by the Service Provider for the purposes of this Agreement (including time-sheets for the Service Provider's Personnel where such records are material to the calculation of any sums due under this Agreement) ("**Records**");and

17.1.2 retain all Records during the term of this Agreement and for a period of not less than six (6) years (or such longer period as may be required by law), except Records containing Personal Data which shall only be retained for as long as necessary, following termination or expiry of this Agreement ("**Retention Period**").

- 17.2 The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services (including compliance with **clause 12**). The Authority shall use reasonable endeavours to co-ordinate its audits and to manage the number, scope, timing and method of undertaking audits so as to ensure that the Service Provider is not,

without due cause, disrupted or delayed in the performance of its obligations under this Agreement.

- 17.3 The Service Provider shall procure the services of a reputable third party specialist with the requisite expertise to audit and/or test the security and robustness of the System, Services and/or data integrity and protection against breach of confidentiality at appropriate intervals to ensure the robustness and stability thereof. The Service Provider shall request the third party provider of such services to share with the Authority such reports following their completion.
- 17.4 The parties will agree any changes to the Security Standards set out in Schedule 8 following any updated provided by the Authority's Cyber Security Team.
- 17.5 The Service Provider shall ensure that all relevant audits and tests reports are submitted to the Authority directly as soon as reasonably practical after their completion and in any event every twelve (12) months.
- 17.6 For the purposes of exercising its rights under **clauses 17.2 and 17.3**, the Service Provider shall provide the Authority and/or any person nominated by the Authority with all reasonable co-operation including:
- 17.6.1 granting access to any premises, equipment, plant, machinery or systems used in the Service Provider's performance of this Agreement, and where such premises, equipment, plant, machinery or systems are not the Service Provider's own, using all reasonable endeavours to procure such access;
 - 17.6.2 ensuring that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to any Records;
 - 17.6.3 making all Records available for inspection and providing copies of any Records if requested; and

- 17.6.4 making the Service Provider's Personnel available for discussion with the Authority.
- 17.7 Any audit, inspection and/or testing by the Authority pursuant to **clause 17.3** shall not relieve the Service Provider or any of its sub-contractors from any obligation under this Agreement or prejudice any of the TfL Group's rights, powers or remedies against the Service Provider.
- 17.8 The Service Provider shall promptly, to the extent reasonably possible in each particular circumstance, comply with the TfL Group's reasonable requests for access to senior personnel engaged in the Service Provider's performance of the Services.
- 17.9 This **clause 17** shall survive termination of this Agreement.
18. **CONTRACT MANAGEMENT AND CHANGE CONTROL**
- 18.1 The Service Provider shall provide the Authority with a written report on a periodic basis in respect of the Services performed in the preceding period or at the intervals set out in **Schedule 1**, if different. Such reports shall be provided within ten (10) Business Days of the end of the relevant period or interval set out in **Schedule 1**. Unless agreed otherwise in writing, a review meeting shall be held within ten (10) Business Days thereafter between representatives of the parties to discuss such report and any other matters relating to the status and performance of this Agreement generally.
- 18.2 Any reports to be provided to the Authority under **clause 18.1** will contain at least the following and any other agreed items:
- 18.2.1 written status summary;
 - 18.2.2 requests for action from the Authority;
 - 18.2.3 activities completed during the period;
 - 18.2.4 activities to be completed in the next period and by whom;

18.2.5 perceived risk factors and the strategies being used to minimise them; and

18.2.6 where applicable to the relevant Service(s) being provided, measurement of the Service Provider's performance against the Service Levels and details of any Service Credits accrued,

in a form to be agreed between the Authority and the Service Provider.

18.3 Any and all changes to the Services and the System to be supplied shall be made in accordance with the Change Control Provisions set out in **Schedule 7**.

19. **INSURANCE**

19.1 The Service Provider shall at its sole cost obtain and maintain the Insurances with a reputable insurer.

19.2 The Service Provider shall:

19.2.1 procure relevant and suitable public liability insurance;

19.2.2 procure that its public liability insurance, employer's liability insurance and product liability insurance includes an Indemnity to Principal clause;

19.2.3 provide evidence satisfactory to the Authority prior to the Commencement Date and at least five (5) Business Days prior to each anniversary of the Commencement Date that the Insurances have been effected and are in force. Where any Insurance is due for renewal during the term of this Agreement, the Service Provider shall within five (5) Business Days after the date of renewal also provide the Authority with satisfactory evidence that such Insurance has been renewed;

19.2.4 not take or shall fail to take any action or (insofar as it is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances;

- 19.2.5 if required by the Authority, procure that prior to cancelling or changing any term of any Insurances, such that it no longer meets the requirements set out in this Agreement, the insurer or insurers under such Insurances give the Authority not less than thirty (30) days' notice of intention to cancel or make such change;
- 19.2.6 bear the cost of all or any excesses under the Insurances;
- 19.2.7 notify the Authority as soon as reasonably practicable in writing of any anticipated or actual event or circumstance which may lead or has led to any Insurance lapsing or being terminated or the cover under it being reduced or modified;
- 19.2.8 notify the Authority as soon as reasonably practicable in writing upon becoming aware of any claim, event or circumstance which is likely to give rise to any claim or claims in aggregate in respect of the Services in excess of £100,000 or the figure set out in **Schedule 1**, if different, on any Insurance and, if requested by the Authority and where not otherwise subject to an obligation of confidentiality, provide full details of such claim, event or circumstance (and such other relevant information as the Authority may reasonably require) within three (3) Business Days of the TfL Group's request;
- 19.2.9 promptly and diligently deal with all claims under the Insurances (or any of them) relating to the Services and in accordance with all insurer requirements and recommendations; and
- 19.2.10 in relation to any claim settled under the Insurances in respect of the Services and to the extent that the proceeds of such claim are payable to the Service Provider, pay the proceeds to the person who suffered the loss or damage that gave rise to the claim (whether the Authority, a TfL Group Member or any third party).

- 19.3 In relation to all the Insurances except employer's liability insurance, but subject to the requirements of any insurer under the Insurances, the Service Provider agrees:
- 19.3.1 to use reasonable endeavours to procure the endorsement in respect of the Insurances set out in Schedule 1 (if any); and
- 19.3.2 that the Authority has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with this Agreement.
- 19.4 If the Service Provider is in breach of **clause 19.2** and does not remedy such breach within thirty (30) days of notice from the Authority to do so, then without prejudice to any of its other rights, powers or remedies, the Authority may pay any premiums required to keep any of the Insurances in force or itself procure such Insurances. In either case, the Authority may recover such premiums from the Service Provider, together with all expenses incurred in procuring such Insurances as a debt.
- 19.5 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the Insurances being or becoming void, voidable or unenforceable.
- 19.6 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify the Authority and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Authority.
- 19.7 In relation to Insurances which must be held for a period which extends beyond termination, this **clause 19** shall survive termination of this Agreement.

20. **THE TFL GROUP'S DATA**

- 20.1 The Service Provider acknowledges the TfL Group's ownership of Intellectual Property Rights which may subsist in the TfL Group's data. The Service Provider shall not delete or remove any copyright notices contained within or relating to TfL Group's data.

20.2 The Service provider shall at any time when any of the TfL Group's data is in its control or possession preserve the integrity of such TfL Group's data and to prevent any corruption or loss of TfL Group's data.

21. **INTELLECTUAL PROPERTY RIGHTS**

21.1 Except for any of the Service Provider's Software, the Third Party Software, the Service Provider's IPR including IPR created during configuration of the System post Commencement Date and Third Party IPR (which shall remain owned by the Service Provider or Third Party as applicable), all specially written Intellectual Property Rights in the System and the Services as agreed in writing by the Service Provider in the Specification as being the Authority's IPR and written by the Service Provider during configuration specially for the Authority ("**the Authority Rights**") whether created by the Service Provider or any of the Service Provider's Personnel shall or shall on creation of the same be and remain vested in the Authority. Prior to such vesting, the Service Provider grants the TfL Group a perpetual, royalty-free, worldwide and transferable licence to use, adapt, translate, support and sub-licence the Authority Rights to the extent necessary for the Authority, the TfL Group and its other authorised agents to receive its rights under this Agreement. The Service Provider shall do all such acts and execute all such deeds and documents as shall be necessary or desirable to perfect the right, title and interest of the Authority in and to such Intellectual Property Rights, including ensuring that the Service Provider's Personnel assign all such Intellectual Property Rights owned by them either direct to the Authority or to the Service Provider to enable the Service Provider to comply with its obligations hereunder and waive any moral rights they may otherwise have, in each case at no cost to the Authority.

21.2 Nothing in this **clause 21** shall prevent the Service Provider from using data processing techniques, ideas and know-how gained during the performance of this Agreement in the furtherance of its normal business, to the extent that this does not constitute or relate to a disclosure of Confidential Information or an infringement by the Service Provider of any Intellectual Property Right.

- 21.3 To the extent that any TfL Group Member provides the Service Provider for the purpose of or in connection with providing the Services or supplying the System with any materials in which any TfL Group Member owns (or is licensed by a third party to use) the Intellectual Property Rights, the Service Provider acknowledges and agrees that nothing in this Agreement grants to the Service Provider any right, title or interest in such materials other than a limited non-exclusive right to use those materials solely for the purposes of providing the Services. All Intellectual Property Rights in such materials are and shall remain the exclusive property of the TfL Group Member or (if applicable) its third party licensors.
- 21.4 The Service Provider warrants and shall ensure that the possession and/or use by the TfL Group of the System, and the performance by the Service Provider of the Services shall not constitute any infringement or misappropriation of any Intellectual Property Rights or any other legal or equitable right of any person and that the Service Provider owns or has obtained valid licences to or of all such Intellectual Property Rights and other rights which are necessary for the performance of its obligations under this Agreement.
- 21.5 If any third party claims that the possession and/or use of the System and/or the receipt of the Services ("**Indemnified Deliverables**") by any TfL Group Member and/or the provision by the Service Provider of any Indemnified Deliverable under or in connection with this Agreement constitutes an infringement or misappropriation of any Intellectual Property Rights or other right of that third party ("**IPR Claim**"), the Service Provider shall indemnify, keep indemnified and hold harmless the TfL Group Members (including their respective employees, sub-contractors and agents) against all Losses arising from or incurred by reason of any such IPR Claim (including the defence and any settlement of such IPR Claim).

- 21.6 In the event of a claim pursuant to **clause 21.5**:
- 21.6.1 the Authority shall promptly notify the Service Provider of the claim;
 - 21.6.2 the Service Provider shall, at its own cost and expense, control the defence of such IPR Claim and any related proceedings or settlement negotiations, except that the Authority shall be entitled to take any action which it deems necessary if the Service Provider fails to take action, or (in the TfL Group's reasonable opinion) delays taking action, in defending or settling any such IPR Claim and such failure or delay may, in the reasonable opinion of the Authority, prejudice the interests of the TfL Group; and
 - 21.6.3 at the cost and expense of the Service Provider, the Authority shall take all reasonable steps to co-operate with the Service Provider in the defence or settlement of such IPR Claim.
- 21.7 If any Indemnified Deliverable becomes the subject of any IPR Claim and, as a result of such IPR Claim, a court of competent jurisdiction grants an injunction preventing the use by the Service Provider, any TfL Group Member of any of such Indemnified Deliverable or there is substantial risk of such injunction being granted or the IPR Claim is settled on the basis that the Indemnified Deliverable cannot be used, the Service Provider shall at its expense as soon as possible following (and in any event within thirty (30) days of) such event occurring:
- 21.7.1 obtain for the TfL Group Members the right to continue to possess, use and/or receive the benefit of the relevant Indemnified Deliverable(s); or
 - 21.7.2 replace or modify the relevant Indemnified Deliverable(s) so that it becomes non-infringing without detracting from the functionality or performance of the overall System or Service and provided that any such replacement or modification shall not prevent the Service Provider's compliance with the warranties contained at **clause 9**.

- 21.8 The Service Provider shall have no liability under or in connection with this Agreement for any infringement caused solely and directly by:
- 21.8.1 the combination of the relevant Indemnified Deliverable with other products, data or information not supplied by the Service Provider unless the combination was made or approved by the Service Provider;
 - 21.8.2 the modification of the Indemnified Deliverable unless the modification was made or approved by the Service Provider;
 - 21.8.3 the supply by or on behalf of the Authority of any of the materials specified at **clause 21.3**; or
 - 21.8.4 breach by the Authority of any of the terms of this Agreement and/or any licence terms in respect of the Indemnified Deliverable to which the Authority is subject pursuant to the terms of this Agreement.
- 21.9 If any third party claims that the possession and/or use by the Service Provider of any of the materials provided to the Service Provider as contemplated in **clause 21.3 (“the Authority Deliverables”)** constitutes an infringement or misappropriation of any Intellectual Property Rights or other right of that third party, the Authority shall indemnify keep indemnified and hold harmless the Service Provider (including their respective employees, sub-contractors and agents) and keep the Service Provider indemnified against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a full indemnity basis) and damages awarded by a court of competent jurisdiction or agreed to be paid by way of settlement of such claim provided that:
- 21.9.1 the Service Provider promptly notifies the Authority of such claim;
 - 21.9.2 the Authority shall, at its own cost and expense, be entitled to control the defence of such claim and any related proceedings or settlement negotiations; and

- 21.9.3 at the cost and expense of the Authority, the Service Provider takes all reasonable steps to co-operate with the Authority in the defence or settlement of such claim.
- 21.10 The Authority shall not be liable under **clause 21.9** or otherwise for any infringement caused by:
- 21.10.1 the combination of the relevant the Authority Deliverables with other products, data, or information not supplied by the Authority;
 - 21.10.2 any use by the Service Provider of any the Authority Deliverables other than strictly for the purpose of the Service Provider performing its obligations under this Agreement; or
 - 21.10.3 breach by the Service Provider of any of the terms of this clause 21.
- 21.11 If any the Authority Deliverables become the subject of any claim as described in **clause 21.9** and, as a result of such claim, a court of competent jurisdiction grants an injunction preventing the TfL Group's and/or the Service Provider's use of any such the Authority Deliverables or there is substantial risk of such injunction being granted or the claim is settled on the basis that the Authority Deliverables cannot be used, the Authority shall at its expense as soon as possible following (and in any event within thirty (30) days of) such event occurring:
- 21.11.1 obtain for the Service Provider the right to continue to possess and/or use the relevant the Authority Deliverables;
 - 21.11.2 with all such assistance from the Service Provider (including the provision of Additional Services) as may be agreed in accordance with **clause 33.4.1**, replace or modify the relevant the Authority Deliverables so that it becomes non-infringing without detracting from the functionality or performance of the Authority Deliverables so as to prevent the Service Provider from complying with its obligations under this Agreement; or

21.11.3 if it is not commercially reasonable to perform either of the above options, the Authority and the Service Provider shall cease use of the infringing the Authority Deliverables in which case the parties' representatives shall meet and, in good faith, explore all possible amendments to the Services which are required as a result of such cessation of use. Any such amendments shall be considered and (where applicable) agreed in accordance with **clause 33.4.1**.

21.12 The Service Provider shall ensure that all royalties, licence fees or similar expenses in respect of all Third Party IPR used in connection with the Services have been paid and no such amounts shall be payable by the Authority or any TfL Group Member except to the extent such amounts are included within the Charges.

21.13 This **clause 21** shall survive termination of this Agreement.

22. **GENERAL EXCLUSIONS AND LIMITATIONS OF LIABILITY**

22.1 Neither party excludes or limits its liability to the other party in respect of:

22.1.1 the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

22.1.2 death or personal injury resulting from negligence within the meaning of section 1(1) of the Unfair Contract Terms Act 1977;

22.1.3 to the extent applicable, liability under Part 1 of the Consumer Protection Act 1987 for defects within the meaning of that Act;

22.1.4 **clause 31** (Confidentiality and Transparency);

22.1.5 fraud (including fraudulent misrepresentation); or

22.1.6 any other liability which, by law, it cannot exclude or limit,

but nothing in this clause confers any right or remedy upon a party to which it would not otherwise be entitled.

- 22.2 The Service Provider does not exclude or limit its liability to the Authority under or in connection with this Agreement:
- 22.2.1 for breach of Intellectual Property Rights (whether pursuant to **clause 21** (Intellectual Property Rights) or otherwise);
 - 22.2.2 in respect of liability pursuant to **clause 11** (Access to the Authority Premises);
 - 22.2.3 in respect of liability pursuant to **clauses 31.1** and **33** (Freedom of Information and Data Protection); or
 - 22.2.4 in respect of liability for loss of Data pursuant to clause 24 (Loss of Software and Data Security) where the Service Provider has been unable to restore lost Data from back-ups held by it within eight (8) working hours of such Data becoming lost or unavailable
- 22.3 Subject to **clauses 22.1** and **22.2**, **clauses 22.3** to **22.8** set out the entire liability of each party (including liability for the acts or omissions of its employees, agents or sub-contractors and, in relation to the Authority, the acts or omissions of the TfL Group) to the other party in respect of:
- 22.3.1 any breach of its contractual obligations arising under or in connection with this Agreement;
 - 22.3.2 any representation, statement, negligence, breach of statutory duty or other tortious act or omission arising under or in connection with this Agreement; and
 - 22.3.3 any damage to property.
- 22.4 Except as provided in **clauses 22.1** and **22.2**, the Service Provider's maximum liability under this Agreement will be as set out in **Schedule 1**.
- 22.5 Except as provided in **clause 22.1**, the entire liability of the Authority and the TfL Group (together) under or in connection with this Agreement will not exceed the TfL Group's Liability Cap.

- 22.6 In the event that a TfL Group Member other than the Authority suffers Losses in circumstances where the Authority would be able to recover such Losses from the Service Provider, such person may recover from the Service Provider an amount equal to the amount that the Authority would have been able to recover had the Losses been suffered by the Authority rather than the other TfL Group Member subject always to the limitations and exclusions of liability contained in this Agreement. In the alternative, the Service Provider agrees that any Losses suffered or incurred by any TfL Group Member arising under or in connection with this Agreement (in this **clause 22.6** collectively "**Group Member Losses**"): (i) will be deemed to have been incurred by the Authority; and (ii) will be recoverable by the Authority from the Service Provider as if they were losses suffered or incurred directly by the Authority but always subject to the limitations and exclusions of liability set out in this Agreement. For the purposes of this **clause 22.6**, any TfL Group Member Losses shall not be deemed to be consequential or indirect or special merely as a result of not being suffered directly by the Authority. For the avoidance of doubt, the Service Provider shall still be entitled, in the case of a remediable breach, to remedy such breach in accordance with the terms of this Agreement.
- 22.7 In the event that the Service Provider is defined under this Agreement to include more than one person, then each such person shall be jointly and severally liable for all obligations of the Service Provider under this Agreement.
- 22.8 The exclusions from and limitations of liability set out in this **clause 22** shall be considered severably. The validity or unenforceability of any one clause, sub-clause, paragraph or sub-paragraph of this **clause 22** shall not affect the validity or enforceability of any other clause, sub-clause, paragraph or sub-paragraph of this **clause 22**.
- 22.9 Subject to clause 22.10 and the limitations on liability provided in clause 22.4, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless the Authority and the other TfL Group Members (including their respective employees, sub-contractors and agents) (the "**Indemnified**

Party") against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach or any negligence performance of this Agreement by the Service Provider (including in each case any non-performance or delay in performance of this Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider.

- 22.10 In the case of any claim under clause 22.6 there shall be no double counting of such claim by the Authority or any TfL Group Member. The Service Provider is not responsible for and shall not indemnify the Authority for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under this Agreement by the Authority and/or any other the TfL Group Member.
- 22.11 The provisions of this **clause 22** shall survive the termination of the whole or a part of this Agreement.

23. **FORCE MAJEURE**

- 23.1 Subject to **clauses 22.4** and **37**, neither party shall be liable for any delay in performing or for failure to perform any of its obligations under this Agreement due to a Force Majeure Event.
- 23.2 Subject to **clauses 22.4** and **37**, if either party is prevented from performing any of its obligations due to a Force Majeure Event it shall promptly notify the other party in writing of the circumstances of the Force Majeure Event and the other party shall grant a reasonable extension for the performance of this Agreement. The other party shall in no circumstances be obligated to give an extension which is of a period longer than the Force Majeure Period set out in **Schedule 1**. The Authority may terminate this Agreement on immediate notice in writing if a Force Majeure Event affecting the Service Provider continues for more than the Force Majeure Period set out in **Schedule 1**.
- 23.3 Subject to **clauses 22.4** and **37**, it is expressly agreed that any failure by the Service Provider to perform, or any delay by the Service Provider in performing, its liabilities, obligations or responsibilities under this Agreement which results from any failure or delay in the performance of its obligations by

any person with which the Service Provider shall have entered into any contract, supply arrangement, sub-contract or otherwise, shall be regarded as a failure or delay due to a Force Majeure Event only in the event that such person shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement, sub-contract or otherwise as a result of circumstances of a Force Majeure Event.

24. LOSS OF SOFTWARE AND DATA SECURITY

- 24.1 Without prejudice to its other obligations under this Agreement, the Service Provider shall, during the term of this Agreement and in the course of performing the Services, provide all measures necessary in respect of the prevention of unauthorised access to any TfL Group Member's computer systems, software and data, the prevention of the introduction of known Viruses and shall provide the capability to restore the systems, software and data in the event that the loss of the systems, software or data arises directly or indirectly from any act or omission of the Service Provider (including the Service Provider's Personnel) or whilst such systems, software or data is in the custody, control or otherwise interfaced with or accessed by the Service Provider.
- 24.2 The Service Provider shall not, without the consent of the Authority, be entitled to delete any software or data belonging to any the TfL Group Member to which the Service Provider has access in performance of its obligations under this Agreement.
- 24.3 Upon receipt or creation by the Service Provider of the TfL Group's data and during any collection, processing, storage and transmission by the Service Provider of the TfL Group's software or data the Service Provider shall take all necessary precautions to preserve the integrity of such software and data and to prevent any corruption or loss thereof including such precautions as are specified by the Authority from time to time.
- 24.4 In the event that any of the TfL Group's software or data is corrupted or lost or so degraded as to be unusable due to any act or omission of the Service Provider after its receipt or creation by the Service Provider or during any

collection, processing, storage or transmission by the Service Provider of the TfL Group's software or data or otherwise as a result of any default by the Service Provider then, in addition to any other remedies that may be available to the Authority under this Agreement or otherwise:

24.4.1 the Service Provider shall promptly, at the Service Provider's expense, restore or procure the restoration of the TfL Group's software and data to the TfL Group's reasonable satisfaction, as notified in writing, such that the Service Provider has made good the corruption, loss or degradation of the software and data; and

24.4.2 in the event that the Authority itself has to restore or procure the restoration of the Service Provider's software or data, then the Authority shall require the Service Provider to repay the Authority's reasonable costs and expenses incurred in carrying out such restoration.

24.5 In the event that any of the TfL Group's software or data is corrupted or lost or sufficiently degraded as to be unusable otherwise than due to a default by the Service Provider, the Service Provider shall nevertheless carry out such remedial actions to restore the TfL Group's software and data or such other actions as may be necessary to restore the TfL Group's software and data as the Authority may request in writing and the reasonable agreed cost of the remedial actions or such other actions shall be borne by the Authority.

24.6 Without prejudice to the generality of **clauses 24.1** and **24.3**, the Service Provider shall:

24.6.1 before performing any actions in respect of any TfL Group Member's software or data, ensure that it has performed back-ups of such software or data as set out in **Schedule 1** or agreed in writing from time to time or, where none are agreed, as are reasonable in the circumstances; and

24.6.2 perform its obligations in conformance with the Security Policy.

Nothing in this Agreement shall relieve the Service Provider's obligations in this regard.

24.7 The Service Provider shall indemnify the Authority and the TfL Group for any and all Losses incurred or suffered by the Authority and/or any TfL Group Member which results from a material breach by the Service Provider of its obligations under this **clause 24** to the value of the services charged to TfL Group in the twelve (12) month period in which the material breach occurred beginning the effective date of this Agreement.

24.8 This **clause 24** shall survive termination of this Agreement.

25. **TERMINATION**

25.1 Without prejudice to the TfL Group's right to terminate at common law, the Authority may terminate this Agreement immediately (or on such later date as it shall specify in writing) upon giving notice to the Service Provider if:

25.1.1 the Service Provider has committed any material or persistent breach of this Agreement and in the case of such a breach that is capable of remedy fails to remedy that breach within twenty (20) Business Days from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied;

25.1.2 the Service Provider is subject to an Insolvency Event;

25.1.3 there is a Change of Control or any change of management personnel of the type referred to in **clause 30.4** which materially impacts on the performance of the Services or means that control of the Service Provider or the Holding Company is held by a party which the Authority, in its absolute discretion, considers is inappropriate given the nature of the Services; or

25.1.4 a conflict of interest has arisen and which is not approved by the Authority in accordance with clause 10;

25.1.5 the Service Provider commits any of the money laundering offences listed in the Public Contracts Regulations 2015;

- 25.1.6 the Service Provider fails to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law which are applicable to the Services;
- 25.1.7 the Service Provider or any of its officers, employees, sub-contractors or agents commits any act of bribery described in the Bribery Act 2010; or
- 25.1.8 a termination circumstance, as referred to in **Schedule 6**, applies.
- 25.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under this Agreement or otherwise) if the Service Provider is in breach of any of its warranties, or obligations under any provision of this Agreement, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. Nothing in this **clause 25.2** shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and where the Authority, acting reasonably, so procures any Services or any remedial action from an alternative contractor the Authority shall be entitled to recover from the Service Provider all reasonable costs incurred by the Authority in procuring such Services or remedial action.
- 25.3 Without prejudice to the TfL Group's right to terminate this Agreement under **clause 25.1** or to terminate at common law, the Authority may terminate this Agreement and/or the Software Maintenance Services and or the Additional Services at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1.
- 25.4 To the extent that the Authority has a right to terminate this Agreement under this **clause 25.1** then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the System or the Services or any of the **Annexes** set out in **Schedule 2** with effect from the date specified in the TfL Group's notice ("**Change Date**") whereupon the provision of the remainder of the System or

the Services will cease and the definition of “the System” and/or “the Services” shall be deemed amended accordingly.

25.5 Subject to **clause 4.8**, the Service Provider may terminate for non-payment by the Authority. Termination may only occur after a failure to remedy by the Authority within sixty (60) Business Days from the date of written notice by the Service Provider provided that the Service Provider also provides a written notice to the Authority thirty (30) Business Days after the first written notice is served of its intention to terminate if payment is not made within the next thirty (30) Business Days.

25.6 Without prejudice to the Authority’s right to terminate the Agreement under clauses 25.1, 25.3 or at common law, the Authority may terminate the Agreement at any time following a Declaration of Ineffectiveness in accordance with the provisions of clause 27.

26. **CONSEQUENCES OF TERMINATION/EXIT**

26.1 Except in the case of termination for breach, the Service Provider shall provide the Authority with a statement of account of monies owing to it (if any) for agreement with the Authority. The statement will not include monies withheld under **clause 4.8** or **4.9**.

26.2 On termination of this Agreement, howsoever caused, clauses and Schedules in this Agreement which expressly or impliedly have effect after termination shall remain in effect including **clause 21** (Intellectual Property Rights), **clause 31** (Confidentiality and Transparency), **clause 22** (General Exclusions and Limitations of Liability), **clause 40** (Law and Dispute Resolution) and **Schedule 10** (Exit Management).

26.3 The termination of this Agreement shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either party prior to or after such termination.

26.4 Upon termination of this Agreement (howsoever caused) the parties shall perform their respective obligations under **Schedule 10** and the Exit Plan.

- 26.5 Notwithstanding the provisions of the Exit Plan and **Schedule 10**, whenever the Authority chooses to put out to tender for a replacement service provider for some or all of the Services or System, the Service Provider shall disclose to tenderers such information concerning the Services and System as the Authority may require for the purposes of such tender. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may reasonably require.
- 26.6 The Authority shall, within thirty (30) days of the statement of accounts being agreed under **clause 26.1**, pay the Service Provider any charges remaining due in relation to any Services properly performed and/or the System properly delivered in accordance with this Agreement up to the date of termination.
- 26.7 If the Authority terminates this Agreement other than under **clause 25.3**, then the Authority may, without prejudice to its other rights under this Agreement:
- 26.7.1 itself complete the supply of the System and/or the Services, or enter into a contract with a third party to effect such completion and, for the avoidance of doubt, such completion shall be taken to include the creation, manufacture, production or procurement of any hardware, software or other products (or reasonable equivalents thereof); and
- 26.7.2 the Authority shall be entitled to use or have used on its behalf all Authority Rights.
- 26.8 If the Authority terminates this Agreement in accordance with **clause 25.1.2**, then the Service Provider shall, as of the date of termination of this Agreement, assign to the TfL Group with full title guarantee, all Intellectual Property Rights in the Services and the System which were due to be transferred to the Authority, if any, should the Insolvency Event have not occurred and which are in existence and capable of assignment as of the date of termination.

26.9 Upon termination of this Agreement (howsoever caused) or a cessation of any Services or part thereof, the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and the System. Where such termination occurs as a result of an event set out in clause 25.1, the Service Provider shall be liable for all additional expenses reasonably incurred by the Authority in procuring a third party to carry out the Services and providing the System in place of the Service Provider.

27. **DECLARATION OF INEFFECTIVENESS AND PUBLIC PROCUREMENT TERMINATION GROUNDS**

27.1 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 26** and these **clauses 27.1 to 27.5** shall apply as from the time when the Declaration of Ineffectiveness is made. Where there is any conflict or discrepancy between the provisions of **clause 26** and these **clauses 27.1 to 27.5** or the Cessation Plan, the provisions of these **clauses 27.1 to 27.5** and the Cessation Plan shall prevail.

27.2 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.

27.3 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:

27.3.1 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

27.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,

- 27.3.3 in accordance with the provisions of this Clause 27 and to give effect to the terms of the Declaration of Ineffectiveness.
- 27.4 Upon agreement, or determination by the Authority, of the Cessation Plan the parties will comply with their respective obligations under the Cessation Plan.
- 27.5 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 any Declaration of Effectiveness.
- 27.6 Without prejudice to the Authority's rights of termination implied into this Agreement by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016, in the event that the Authority exercises its right to terminate pursuant to this clause 27.6 (a "**Public Procurement Termination Event**") the Authority shall promptly notify the Service Provider and the Parties agree that:
- 27.6.1 the provisions of clause 26 and these clauses 27.6 to 27.11 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event; and
- 27.6.2 if there is any conflict or discrepancy between the provisions of clause 26 and these clauses 27.6 to 27.11 or the Cessation Plan, the provisions of these clauses 27.6 to 27.11 and the Cessation Plan shall prevail.
- 27.7 Termination on the Public Procurement termination Grounds shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such termination on Public Procurement Termination Grounds, in respect of the period prior to such termination, save as otherwise expressly provided in clauses 27.6 to 27.10 inclusive.

- 27.8 As from the date of receipt by the Service Provider of the notification of the termination on Public Procurement Termination Grounds, 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:
- 27.8.1 an orderly and efficient cessation of (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 the Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Grounds; and;
- 27.8.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities, in accordance with the provisions of these clauses 27.6 to 27.10 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.
- 27.9 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 27.10 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 as a result of a Public Procurement Termination Grounds.
- 27.11 For the avoidance of doubt, the provisions of this **clause 27** (and applicable definitions) shall survive the termination of this Agreement following a Declaration of Ineffectiveness or the termination on Public Procurement Termination Grounds.

28. OPERATIONAL MANAGEMENT

28.1 The Authority authorises the Contract Manager to act as the Authority's representative for this Agreement.

28.2 The Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under this Agreement except as set out below or unless notified by the Authority:

28.2.1 variations to the Agreement;

28.2.2 any matter concerning the terms of this Agreement;

28.2.3 any financial matter (including any issues in Schedule 3).

28.3 The Service provider shall, at the Authority's request, provide promptly to the Authority, at no additional cost such reports on the provisions of the Services as the Authority may reasonably request.

29. SEVERABILITY

29.1 If any provision of this Agreement (in whole or in part) is held to be 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 TfL Group'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.

30. ASSIGNMENT/SUB-CONTRACTING/CHANGE OF OWNERSHIP

30.1 The Service Provider shall not assign or sub-contract all or any part of the Services or its obligations in relation to providing the System without the prior written consent of the Authority as to the identity of the relevant sub-contractor, which may be refused or granted consent subject to such conditions as the Authority sees fit.

- 30.2 Where the Service Provider sub-contracts all or any part of the Services or the provision of the System to any person, the Service Provider shall:
- 30.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under this Agreement insofar as they relate to the Services or the provision of the System or part thereof (as the case may be) which that sub-contractor is required to provide;
 - 30.2.2 be solely responsible for payments to that person;
 - 30.2.3 remain solely responsible and liable to the Authority for any breach of this Agreement or act or omission of a sub-contractor or any performance, non-performance, part performance or delay in performance of any of the Services and/or obligations by any sub-contractor to the same extent as if such breach or act or omission had been made by the Service Provider.
 - 30.2.4 without prejudice to the provisions of **clause 12**, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor; and
 - 30.2.5 where the GLA is the Authority, include a term in each sub-contract requiring payment to be made by the Service Provider to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid invoice as defined by the sub-contract requirements.
- 30.3 Where the Authority gives its consent to sub-contracting under **clause 30.1**, the Authority may as a condition of giving its consent to the Service Provider require direct warranties, undertakings, guarantees and/or indemnities from such sub-contractor concerning the provision of the Services and its compliance with the obligations set out in this Agreement in all respects.

30.4 The Service Provider shall give notice to the Authority within 10 Business Days in the event that there is:

30.4.1 any change in the control of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; or

30.4.2 any change in the control of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company; or

30.4.3 in the case of an unincorporated Service Provider, any change in the management personnel of the Service Provider which alone or taken with any other change in management personnel not previously notified to the Authority, equates to a change in the identity of 50% or more of the management personnel of the Service Provider,

such notice to be given:

30.4.4 as soon as reasonably possible upon the Service Provider becoming aware the change of control or of management personnel is going to take place (taking into account any restrictions placed on giving such notice by any recognised stock exchange); and

30.4.5 within ten (10) Business Days of the date on which such change takes effect;

excluding any internal reorganisation of the Service Provider's Group which does not cause a change of control of the ultimate Holding Company of the Service Provider's Group.

30.5 The Authority may novate or otherwise transfer this Agreement (in whole or in part) and within ten (10) Business Days of a written request from the Authority, the Service Provider shall, at its own expense, execute such agreement as the Authority may reasonably require to give effect to any such

transfer of all or part of its rights and obligations under this Agreement to one or more persons nominated by the Authority.

31. **CONFIDENTIALITY AND TRANSPARENCY**

31.1 The parties agree in respect of Confidential Information disclosed pursuant to this Agreement or discovered further to the operation of this Agreement:

31.1.1 to keep the Confidential Information in strict confidence and secrecy;

31.1.2 not to use the Confidential Information save for complying with its obligations under this Agreement;

31.1.3 subject to **clause 31.1.4**, not to disclose the Confidential Information to a Third Party without prior written consent of the disclosing party (save that the Service Provider may disclose Confidential Information to any sub-contractors it appoints pursuant to **clause 30** who of necessity need the same in the performance of this Agreement subject to such sub-contractor providing the Authority with an undertaking to keep the Confidential Information disclosed to it confidential in similar terms to the provisions of this **clause 31**); and

31.1.4 to restrict the disclosure of the relevant and necessary parts of the Confidential Information to such of its employees, agents and sub-contractors (including persons who are appointed from time to time to maintain the System) who of necessity need the same in the performance of this Agreement and in such circumstances to ensure that such employees, agents and sub-contractors are aware of the confidential nature of the Confidential Information subject to any such agents and sub-contractors providing the Service Provider with an undertaking to keep the Confidential Information disclosed to it confidential in similar terms to the provisions of this **clause 31**.

31.2 The obligations set out in **clause 31.1** shall not apply to any Confidential Information which:

- 31.2.1 the receiving party can show by documentary evidence was already in its lawful possession and at its free disposal otherwise than directly or indirectly from the affected party;
- 31.2.2 is lawfully disclosed without any obligations of confidence, by any person who has not derived it directly or indirectly from the affected party;
- 31.2.3 is or has come into the public domain through no fault of the receiving party;
- 31.2.4 is disclosed with the prior written consent of the affected party; or
- 31.2.5 is disclosed pursuant to **clause 31.1**; and

neither party shall be in breach of clause 31.1 where it is required by law or by order of a court of competent jurisdiction to disclose Confidential Information but only to the extent required by such law or order.

- 31.3 The parties acknowledge that damages would not be an adequate remedy for any breach of **clause 31** and that (without prejudice to all other rights, powers and remedies which a party may be entitled to as a matter of law) the party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief to enforce the provisions of this **clause 31** and no proof of special damages shall be necessary for the enforcement of the provisions of this **clause 31**.
- 31.4 The parties' obligation of confidentiality in this **clause 31** shall survive the termination of this Agreement.
- 31.5 For the avoidance of doubt, the obligation not to disclose Confidential Information in **clause 31.1** shall take precedence over the remainder of this **clause 31** to the extent of any inconsistency.
- 31.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding any other provision of this Agreement, the Service Provider hereby gives its consent for

the Authority to publish the Contract Information to the general public subject to complying with clause 31.7.

- 31.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.
- 31.8 The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to **clause 31.6**. The Authority shall make the final decision regarding publication and/or redaction of the Contract Information.

32. **FREEDOM OF INFORMATION**

- 32.1 The Service Provider acknowledges that the Authority:
- 32.1.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and
 - 32.1.2 may be obliged under the FOI Legislation to disclose Contract Information without consulting or obtaining consent from the Service Provider and, subject to the provisions of this **clause 31.1**, may ultimately at its discretion disclose such Contract Information.
- 32.2 Without prejudice to the generality of **clause 32.1**, the Service Provider shall and shall procure that its sub-contractors (if any) shall:
- 32.2.1 transfer to the Authority each Information Request relevant to this Agreement, the Services, the System or any TfL Group Member that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Request; and
 - 32.2.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and/or copies

of all such Information that the Authority requests and such details and/or copies shall be provided within five (5) Business Days of a request from the Authority (or such other period as the Authority may reasonably specify) and in such forms as the Authority may reasonably specify.

- 32.3 The Authority shall be responsible for determining whether Contract Information is exempt information under the FOI Legislation and for determining what Contract Information will be disclosed in response to an Information Request in accordance with the FOI Legislation.
- 32.4 The Service Provider shall not itself respond to any person making a Contract Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.
- 32.5 This **clause 32** shall survive termination of this Agreement.

33. **DATA PROTECTION**

- 33.1 For the purposes of this **clause 33**, 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 or any sub-contractor on behalf of the Authority, pursuant to or in connection with this Agreement;
“Data Controller”	has the meaning given to it in Data Protection Legislation;
“Data Processor”	has the meaning given to it in Data Protection Legislation
“Data Protection Impact Assessment”	an assessment by the Data Controller of the impact of the envisaged Processing on the protection of Personal Data;

**“Data Protection
Legislation”**

means:

(a) the Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data;

(b) Directive (EU) 2016/680 (the Law Enforcement Directive);

(c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018;

(d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and

(e) the Privacy and Electronic Communications (EC Directive) Regulations 2003;

“Data Subject”

has the meaning given to it in Data Protection Legislation;

“Personal Data”

has the meaning given to it in Data Protection Legislation;

“Processing”

has the meaning given to it in Data Protection Legislation and “**Process**” and “**Processed**” will be construed accordingly

“Restricted Countries”

any country outside the European Economic Area other than the UK following withdrawal from the European Union;

“Sensitive Personal Data”	sensitive or special categories of Personal Data (as defined in Data Protection Legislation) which is Processed pursuant to or in connection with this Agreement; and
“Subject Request”	a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation including the right (i) to be informed, (ii) of access, (iii) to rectification, (iv) to erasure, (v) to restrict processing, (vi) to data portability, (vii) to object and (viii) to automated decision making including profiling.

33.2 With respect to the Parties' rights and obligations under the Agreement, the Parties acknowledge that the Authority is a Data Controller solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed, and that the Service Provider is a Data Processor.

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

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

Licence applicant

33.3.2 the Authority Personal Data to be Processed includes the following types of Personal Data and/or Sensitive Personal Data:

Information concerning both spoken and written competence in the English language

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

The Authority is the licensing authority for more than 35,000 taxi and private hire drivers. The Taxi and Private Hire Team provides a broad range of advice and services to manage the

granting of operator licences to taxi and private hire drivers, including with respect to the levels of English the drivers have and support the business in meeting its legislative requirements. The services the Taxi and Private Hire Team provides have a direct effect on safety, productivity and availability and therefore the cost and reliability of the transport service operation in Greater London.

Personal Data will be used to provide information to the Authority's Taxi and Private Hire Team to allow them to evaluate whether an operator licence should be issued to the applicant driver.

Personal Data may also be used to provide English language evaluation services to applicants for taxi and private hire licences of public sector bodies outside of the TfL Group and to any other external companies outside of the TfL Group that contracts with TfL's Taxi and Private Hire Team to provide such companies with English language evaluation services.

33.3.4 The duration of the Processing shall be:

From the Operational Commencement Date until the date that all relevant data has been processed and returned to the Authority in a useable form as set out in Schedule 10 (Exit Management).

33.3.5 The nature of the Processing is:

The collection, recording, use, assessment, organisation, structuring, storage, retrieval, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) in accordance with the pre-business rules set out by the Taxi and Private Hire Team.

33.4 The Service Provider shall:

33.4.1 process Personal Data only in accordance with written instructions from the Authority to perform its obligations under the Agreement;

- 33.4.2 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 Agreement 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;
- 33.4.3 notify the Authority without undue delay if it determines or is notified that an instruction to Process Personal Data issued to it by the Authority is incompatible with any 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;
- 33.4.4 maintain, and make available to the Authority on its request, documentation which describes the Processing operations for which it is responsible under this Agreement including:
 - 33.4.4.1 the purposes for which Authority Personal Data is Processed;
 - 33.4.4.2 the types of Personal Data and categories of Data Subject involved;
 - 33.4.4.3 the source(s) of the Personal Data;
 - 33.4.4.4 any recipients of the Personal Data;
 - 33.4.4.5 the location(s) of any overseas Processing of Authority Personal Data;
 - 33.4.4.6 retention periods for different types of Authority Personal Data; and
 - 33.4.4.7 where possible a general description of the security measures in place to protect Authority Personal Data;
- 33.4.5 where requested to do so by the Authority, assist the Authority in carrying out a Data Protection Impact Assessment in accordance with guidance issued from time to time by the Information

Commissioner (and any relevant requirements detailed in Data Protection Legislation);

- 33.4.6 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Agreement, take appropriate technical and organisational security measures which are appropriate to protect against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Authority Personal Data which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the measures);
- 33.4.7 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Agreement, 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 **clauses 33.4.6** and **33.4.8**, 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;
- 33.4.8 notify the Authority without undue delay and in any event within twenty four (24) hours by written notice with all relevant details reasonably available of any actual or suspected breach of this Clause 33, including the unauthorised or unlawful Processing of Authority Personal Data, or its accidental loss, destruction or damage;
- 33.4.9 having notified the Authority of a breach in accordance with **clause 33.4.8**, keep the Authority properly and regularly informed in writing until the breach has been resolved to the satisfaction of the Authority;
- 33.4.10 fully 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 Agreement, in relation to compliance with Data Protection Legislation or in relation to any actual or suspected breach), whether by the Authority (or any agent acting on its behalf), any relevant regulatory body, including the Information Commissioner, the police and any other statutory law enforcement agency, and shall do so both during the Agreement and after its termination or expiry (for so long as the Party concerned retains and/or Processes Authority Personal Data);

33.4.11 notify the Authority within two (2) Business Days if it, or any sub-contractor, receives:

33.4.11.1 from a Data Subject (or third party on their behalf):

33.4.11.1.1 a Subject Request (or purported Subject Request); or

33.4.11.1.2 any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation;

33.4.11.2 any communication from the Information Commissioner or any other regulatory authority in connection with Authority Personal Data; or

33.4.11.3 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;

33.4.12 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 31.4.11, including by promptly providing:

33.4.12.1 the Authority with full details and copies of the complaint, communication or request; and

33.4.12.2 where applicable, such assistance as is reasonably requested by the Authority to enable it to comply with the Subject Request within the relevant timescales set out in Data Protection Legislation;

33.4.13 when notified in writing by the Authority, supply a copy of, or information about any 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 two (2) Business Days from the date of the request;

33.4.14 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; and

33.4.15 if required to do so by Data Protection Legislation, appoint a designated Data Protection Officer.

33.5 The Service Provider shall not share Authority Personal Data with any sub-contractor without prior written consent from the Authority. The Service Provider shall provide the Authority with such information regarding the proposed sub-contractor as the Authority may reasonably require. The Service Provider shall only share Authority Personal Data with a sub-contractor where there is a written contract in place between the Service Provider and the sub-contractor which requires the sub-contractor to:

33.5.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider; and

33.5.2 comply with the same obligations which the Service Provider is required to comply with under this **clause 33**;

33.6 The Service Provider shall, and shall procure that any sub-contractor shall:

33.6.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider and as reasonably necessary to perform the Agreement in accordance with its terms;

33.6.2 not Process Authority Personal Data for any other purposes (in whole or part) and specifically, but without limitation, reproduce or

refer to it in training materials, training courses, commercial discussions and negotiations with third parties or in relation to proposals or tenders with the Authority;

- 33.6.3 not Process Authority Personal Data in such a way as to:
 - 33.6.3.1 place the Authority in breach of Data Protection Legislation;
 - 33.6.3.2 expose the Authority to the risk of actual or potential liability to the Information Commissioner or Data Subjects;
 - 33.6.3.3 expose the Authority to reputational damage including adverse publicity;
- 33.6.4 not allow Service Provider's Personnel to access Authority Personal Data unless such access is necessary in connection with the provision of the Services;
- 33.6.5 take all reasonable steps to ensure the reliability and integrity of all Service Provider's Personnel who can access Authority Personal Data;
- 33.6.6 ensure that all Service Provider's Personnel who can access Authority Personal Data:
 - 33.6.6.1 are informed of its confidential nature;
 - 33.6.6.2 are made subject to an explicit duty of confidence;
 - 33.6.6.3 understand and comply with any relevant obligations created by either this Agreement or Data Protection Legislation; and
 - 33.6.6.4 receive adequate training in relation to the use, care, protection and handling of Personal Data on an annual basis.
- 33.6.7 not disclose or transfer Authority Personal Data to any third party without the Service Provider having obtained the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Agreement);

- 33.6.8 without prejudice to **clause 33.4.6**, 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; and
- 33.6.9 comply during the course of the Agreement with any written retention and/or deletion policy or schedule provided by the Authority to the Service Provider from time to time.
- 33.7 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).
- 33.8 If, after the Operational 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:
 - 33.8.1 the Service Provider shall submit a written request to the Authority setting out details of the following:
 - 33.8.1.1 the Authority Personal Data which will be transferred to and/or Processed in any Restricted Countries;
 - 33.8.1.2 the Restricted Countries which the Authority Personal Data will be transferred to and/or Processed in;
 - 33.8.1.3 any sub-contractors or other third parties who will be Processing and/or receiving Authority Personal Data in Restricted Countries;
 - 33.8.1.4 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;
 - 33.8.2 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;

33.8.3 the Service Provider shall comply with any written instructions and shall carry out such actions as the Authority may notify in writing when providing its consent to such Processing or transfers, including:

33.8.3.1 incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Agreement or a separate data processing agreement between the Parties; and

33.8.3.2 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 Service Provider 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 **clause 33.8.3.1**.

33.9 The Service Provider and any sub-contractor (if any), acknowledge:

33.9.1 the importance to Data Subjects and the Authority of safeguarding Authority Personal Data and Processing it only in accordance with the Authority's written instructions and the Agreement;

33.9.2 the loss and damage the Authority is likely to suffer in the event of a breach of the Agreement or negligence in relation to Authority Personal Data;

33.9.3 any breach of any obligation in relation to Authority Personal Data and/or negligence in relation to performance or non-performance of such obligation be a material breach of Agreement;

- 33.9.4 if the Service Provider has committed a material breach under Clause 33.9.3 on two or more separate occasions, the Authority may at its option:
- 33.9.4.1 exercise its step in rights pursuant to **clause 28**;
 - 33.9.4.2 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or
 - 33.9.4.3 terminate the Agreement in whole or part with immediate written notice to the Service Provider in accordance with clause 25.1.1.
- 33.10 Compliance by the Service Provider with this **clause 33** shall be without additional charge to the Authority.
- 33.11 The Service Provider shall remain fully liable for all acts or omissions of any sub-contractor.
- 33.12 Following termination or expiry of this Agreement, howsoever arising, the Service Provider:
- 33.12.1 may Process the Authority 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 33.12.3**;
 - 33.12.2 where **clause 33.12.1** does not apply, may Process the Authority Personal Data only for such duration as agreed in **clause 33.3.4** above and following this will then comply with **clauses 33.12.3** and **33.12.4**;
 - 33.12.3 subject to **clause 33.12.1**, shall 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; or
 - 33.12.4 in the absence of instructions from the Authority after twelve (12) months from the expiry or termination of the Agreement securely destroy the Authority Personal Data.

- 33.13 Authority Personal Data may not be Processed following termination or expiry of the Agreement save as permitted by **clause 33.12**.
- 33.14 For the avoidance of doubt, and without prejudice to **clause 33.12**, the obligations in this **clause 33** shall apply following termination or expiry of the Agreement to the extent the Party concerned retains or Processes Authority Personal Data.
- 33.15 The Service Provider shall indemnify, keep indemnified and hold harmless the TfL Group Members (including their respective employees, sub-contractors and agents) against all Losses arising from or incurred by reason of a breach of this **clause 33**.
- 33.16 The Parties' liability in respect of any breach of this **clause 33** insofar as they relate to fines, court awards, settlements and legal costs shall be unlimited.

34. **AMENDMENT AND WAIVER**

- 34.1 This Agreement 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 require 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.
- 34.2 Any waiver of a breach of any of the terms of this Agreement shall not be deemed a waiver of any subsequent breach and shall not affect the other terms of this Agreement.

35. **EMPLOYEES**

- 35.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the Commencement Date or the expiry or termination of this Agreement.
- 35.2 Nothing in this Agreement will render the Service Provider's Personnel an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by the Service Provider under this Agreement and the Service Provider shall be responsible for making

appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.

35.3 Notwithstanding **clause 35.2**, the Service Provider shall indemnify, keep indemnified and hold harmless the TfL Group from and against all liabilities, costs, expenses, injuries, direct or indirect or consequential loss, damages, claims, demands, proceedings and legal costs (on a full indemnity basis) which the Authority or the TfL Group incur or suffer whenever arising or brought by the Service Provider's Personnel or any person who may allege to be the same.

35.4 The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for this Agreement and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

35.5 *NON-SOLICITATION*

35.5.1 Subject to **clause 35.5.2**, for the duration of this Agreement and for a period of six (6) months after expiry or termination of this Agreement, the Service Provider shall not employ, offer, engage or appoint any person employed by the Authority who has been associated with the provision of the Services by the Service Provider without the Authority's prior written consent.

35.5.2 This **clause 35.5** shall not prevent employment resulting from general recruitment advertising which shall not constitute a breach of **clause 35.5**.

Any breach of this clause shall render the Service Provider liable to pay to the Authority a sum equal to the basic salary payable to the employee by the Service Provider during the first six (6) months of new employment.

35.6 Subject to **Schedule 1**, the parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 are not envisaged to apply on the Commencement Date or the termination of this Agreement.

35.7 This **clause 35** shall survive termination of this Agreement.

36. **NOTICES**

36.1 Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand or prepaid recorded delivery first class post addressed to the addressee at the address stated in **Schedule 1** (or in the absence of such address being set out, the recipient's registered office), or any other address and facsimile number notified to the other party in writing in accordance with this clause as an address to which notices, demands and communications may be sent. The notice, demand or communication will be deemed to have been duly served:

36.1.1 if delivered by hand, at the commencement of the following Business Day; or

36.1.2 if delivered by post, seventy-two (72) hours after being posted or, in the case of airmail, ten (10) Business Days after being posted.

37. **PUBLICITY**

37.1 No announcement, circular, advertisement or other publicity (including any communication with representatives of the general or technical press, radio, television or other communications media) in connection with this Agreement, its subject matter or any ancillary matter will be made or issued by or on behalf of the Service Provider without the prior written consent of the Authority. The Authority shall have the right to approve any such announcement, circular, advertisement or other publicity before it is made.

37.2 The Service Provider agrees and shall ensure that the Authority has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with this Agreement.

38. **DISASTER RECOVERY**

38.1 The Service Provider will ensure at all times it has in place its Disaster Recovery Plan and that the Disaster Recovery Plan is adequate to minimise the effect of any Disaster.

38.2 Unless the Disaster was caused by a Force Majeure Event which a reasonable disaster recovery plan would not be expected to protect against, the Service Provider's liability to pay the Service Credits will continue to accrue until such time as the Services are performed by the Service Provider in accordance with the provisions of this Agreement and the Service Levels. Without prejudice to the generality of the foregoing, a reasonable disaster plan should protect against incidents involving fire, interruption in power supply, act of terrorism, threat of act of terrorism, earthquake, extraordinary storm, flood or abnormal weather conditions.

38.3 In the event of a Disaster, the Service Provider will immediately implement the Disaster Recovery Plan and will continue to provide those Services which are not affected by the Disaster in accordance with the provisions of this Agreement. In respect of any part of the Services which are affected by the Disaster, the Service Provider will comply with the Disaster Recovery Plan, the rest of this **clause 38** and this Agreement.

39. **INDEMNITY - CONDUCT OF CLAIMS**

39.1 In respect of any claim arising under any indemnity contained in this Agreement, the party indemnified ("**indemnified party**") will:

39.1.1 as soon as possible give to the party giving the indemnity ("**indemnifying party**") written notice of the claim, circumstance or matter against which that party is claiming to be indemnified, and all details of the claim from time to time in the knowledge or possession of that party;

39.1.2 where the claim relates to a claim by any third party against that party, not without the prior written consent of the other party (which will not be unreasonably withheld or delayed) admit liability or make

any offer, promise, compromise, settlement or communication with the third party in respect of the claim; and

39.1.3 where the claim is by a third party against the indemnified party,

39.1.3.1 at the request of the indemnifying party; and

39.1.3.2 provided at all times that the indemnifying party provides to the reasonable satisfaction of the indemnified party security for all costs, charges and expenses,

surrender to the indemnifying party or its insurers the conduct, in the indemnified party's name, of the defence, settlement and/or counterclaim to the third party's claim (provided that the indemnified party will be kept fully informed as to the conduct of such defence, settlement and/or counterclaim).

40. **LAW AND DISPUTE RESOLUTION**

40.1 The formation, existence, construction, performance, validity and all aspects whatsoever of this Agreement or of any term of this Agreement as well as any non-contractual obligations arising out of or in connection with it shall be governed by English law. The English courts shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement. The parties agree irrevocably to submit to that jurisdiction.

40.2 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.

40.3 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Service Provider within a period of seven (7) Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("**Senior Personnel**") of each of the Parties for resolution.

40.4 If the Dispute is not resolved within fourteen (14) Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the

Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("**Notice**") to commence such process and the Notice shall identify one or more proposed mediators.

- 40.5 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within twenty eight (28) Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 40.6 Where a dispute is referred to mediation under **clause 40.3**, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 40.7 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.
- 40.8 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within forty (40) Business Days of the service of the Notice either Party may commence proceedings.
- 40.9 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Agreement and without delay or disruption while the Dispute is being resolved pursuant to this **clause 40**.
- 40.10 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this **clause 40** and **clause 40** shall not apply in respect of any circumstances where such remedies are sought.

41. **RIGHTS OF THIRD PARTIES**

41.1 Save that any TfL Group Member has the right to enforce the terms of this Agreement 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 will be enforceable by virtue of the Third Party Act by any person not a party to it.

41.2 Notwithstanding **clause 41.1**, the parties are entitled to waive time, vary or rescind this Agreement without the consent of any TfL Group Members.

42. **ENTIRE AGREEMENT/RELIANCE ON REPRESENTATIONS**

42.1 This Agreement and the documents and Schedules and Annexes which are incorporated into and form part of this Agreement contain all the terms which the parties have agreed in relation to the subject matter of this Agreement and supersede any prior written or oral agreements, representations or understandings between the parties in relation to such subject matter.

42.2 The Service Provider acknowledges that this Agreement has not been entered into wholly or partly in reliance on, nor has the Service Provider been given, any warranty, statement, promise or representation made by or on behalf of the Authority other than as expressly set out in this Agreement. To the extent that any such warranties, statements, promises or representations have been given the Service Provider unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation to them.

42.3 Nothing in this **clause 42** will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

43. **GENERAL**

- 43.1 Nothing contained in this Agreement, and no action taken by the parties pursuant to this Agreement, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has, nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.
- 43.2 The failure or delay by either party to this Agreement in exercising any right, power or remedy of that party under this Agreement shall not in any circumstances impair such right, power or remedy nor operate as a waiver of it. The single or partial exercise by either party to this Agreement 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 right, power or remedy.
- 43.3 This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

SCHEDULE 1

Key Contract Information

Service Provider	PeopleCert International Limited
Service Provider's Contract Manager	[REDACTED]
the TfL Group	means the Authority in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any “ member of the TfL Group ” shall refer to the Authority or any such subsidiary and any company or individuals who procure Occupational Health services from TfL's Occupational Health Team
Authority Contract Manager	[REDACTED]
Agreement End Date	30-09 2024 with an option to extend for an additional [3] years.
Business Hours	The hours of 08:00 to 18:00 inclusive on any Business Day.
Service Provider's Equipment	None.
Key Personnel (Service Provider's)	[REDACTED] [REDACTED]
Site	N/A
Warranty Period(s)	3 months from Acceptance in respect of the whole System upon completion and

	final acceptance
Time period for payment under clause 4.5 (if different to the 30 day period set out in clause 4.5)	30 days from the date of invoice
Force Majeure Period	a period being no more than 30 days after the first date of the applicable Force Majeure Event
Insurances	See Insurances Annex in this Schedule 1
Service Provider's IPR, including any Service Provider Software	[REDACTED]
Third Party IPR, including any Third Party Software	Not Applicable
Authority Software	Web Browser : Chrome web browser (open source/enterprise free) OR Internet Explorer 11 (MS Windows licence) Operating System : Windows 10 IoT
Details of Software Licences for Third Party Software and which party is going to procure them	Not Applicable
Details of agreed back-ups to be provided by the Service Provider in respect of the Data and Software, if any, and intervals in which they are to be performed	[REDACTED]

Disaster Recovery

[Redacted]

[Redacted]

[Redacted]

Are the Services or Systems for business critical or safety critical parts of the TfL Group, its estate or services or otherwise Services or Systems which require continuous

[Redacted]

uninterrupted service?

Liquidated Damages

£2,350 per Business Day

Liquidated Damages Period:

From the Operational Commencement Date until the date when the system can actually commence the language testing services with language candidates.

Reports to be provided other than or in addition to those set out under clause 18

[REDACTED]

Dates for production of reports under clause 18 if more or less than monthly

[REDACTED]
[REDACTED]

Notice Period for termination for convenience in accordance with clause 25.4

Thirty (30) days' notice

Service Provider's Liability Cap

Subject to **clauses 22.1 and 22.2**, the Service Provider's maximum liability under this Agreement will not exceed:

(a) in relation to loss of or damage to tangible property, five million pounds (£5,000,000) per incident; and

(b) in relation to all other loss, an amount equal to 125% (one hundred and twenty five per cent.) of the aggregate of all amounts paid and/or payable (to the extent any sums remain outstanding or are subject to a purchase order) by or on behalf of the Authority to the Service Provider

under this Agreement.

The TfL Group's Liability Cap

Subject to **clause 22** and, without prejudice to the generality of the foregoing, in particular subject to **clause 22.1**, the entire liability of the TfL Group under or in connection with this Agreement in any contractual year will not exceed in aggregate the aggregate of all amounts paid and/or payable (to the extent any sums remain outstanding) to the Service Provider by the Authority under this Agreement in such contractual year in addition to its obligation to pay the Charges.

Data Protection

In addition to those set out in clause 33:

(1) All data processing is to be performed in the United Kingdom.

(2) Hosted systems reside in UK data centers.

Address to send the Authority Notices to

For attention of: [REDACTED]

Address: Taxi and Private Hire, Driver Assessment Centre, Transport for London, 210-212 Baker Street, London, NW1 5RT

Email: [REDACTED]

Copy to:

[REDACTED]

5 Endeavour Square, 4th Floor, Stratford,

**Address to send Service Provider
Notices to**

London, E20 1JN

For attention of: [REDACTED]

Address: 40 Themistokli Dervi Str.

Nicosia, 1066, Cyprus

Email: [REDACTED]

Copy to: [REDACTED]

Address: 121/122 Sloane Street, London,
England, SW1X 9BW

Email: [REDACTED]

Escrow/Verification Provisions

Required by the Authority upon request

Detail of services required: None

Escrow: No

Verification Services: No

Agreed Equality Policy required?

Yes

**Authority Address where invoices are
to be submitted to**

Accounts Payable, Transport for London
(TfL) Financial services Centre, Floor 1,
14 Pier Walk, London SE10 0ES.

**Electronic format required (if any) for
submission of orders by the Authority
and of invoices by the Service
Provider**

No

ANNEX A

INSURANCES

1. Insurance to be held by Service Provider in accordance with **clause 18**:
 - (a) Employer's liability insurance in respect of the Service Provider's liability for death, personal injury or occupational disease of any person in the Service Provider's employment in the sum of not less than five million pounds (£5,000,000) per incident or such other minimum level as may from time to time be required by law;
 - (b) Public liability insurance in respect of the Service Provider's liability for loss or damage to property (including property of the Authority or for which it is responsible), breach of any Intellectual Property Rights and against liability for death, injury or occupational disease in the sum of not less than five million pounds (£5,000,000) per occurrence; and
 - (c) Professional indemnity insurance in a sum normal and customary for a Service Provider in the business of providing services of a similar scope, nature and complexity to the Services but not less than one million pounds (£1,000,000) in the aggregate per annum for the term of this Agreement and for six (6) years after expiry or termination of this Agreement.

ANNEX B

SPECIAL CONDITIONS OF CONTRACT

1. The following Special Conditions will apply to this Agreement:
 - 1.1 In the event that the Authority becomes aware of any unauthorised access to the Service, it shall notify the Service Provider of any such unauthorised access or use; and
 - 1.2 The Service Provider shall not be liable in connection with the Authority's inability to access the Service if this due to the Authority's inability to establish internet connection when the Service Provider's system is able to be accessed by third party's internet connections, or the Authority does not have their browser set to the correct type and version, for accessing the Service, which has been advised to the Authority by the Service Provider and which shall include an Google Chrome and Internet Explorer 11 Browser setting.

SCHEDULE 2

Services

1. System and Services to be provided

Service Provider Software: [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

Cloud based software solution.

System Licence Type: SaaS

- The Service Provider will provide remote access to the Authority to use the functionality of the Service Provider's Software via Hosted Services by the internet
- Cloud Server – [REDACTED]
[REDACTED]

Licence Version: [REDACTED]
[REDACTED]
[REDACTED]

Location of Hosted Customer Data - All customer data to be hosted and processed within the United Kingdom [or the European Union]

Operational Commencement Date: 1st October 2021

The Service Provider shall provide test identification information to the Authority and the Authority shall be responsible for providing the relevant test identification information to the relevant candidates.

Additionally, the Software shall be supplied in accordance with the Provision of Software Annex set out in this **Schedule 2**.

2. Option for TfL-specific English Test

The Authority wishes to develop the content of the tests by making them more relevant to private hire drivers, with consideration of the information set out in the Private Hire Drivers' Handbook (details of which will be made available to the Service Provider should this option be exercised). The Authority seeks for Service Providers' proposals to outline the processes and procedures required to update the tests to make them more relevant. The proposals shall cover the creation and launch of the TfL-specific test within periods of 6, 9 and 12 months respectively from the date of exercising the option to develop the test.

2.1 The Authority has an option, which can be exercised at any time after the Commencement Date until 6 months before the Operational Commencement Date, to require the Service Provider to develop an English Test which is specific to the requirements of the Authority for drivers of passenger vehicles who will need to interact with passengers and the Authority (the "**TfL-specific Test**"), provided that:

2.1.1 if the 6 month option is chosen the TfL-specific Test shall be available from the Operational Commencement Date;

2.1.2 if the 9 month option is chosen the TfL-specific Test shall be available from the date that is 3 months after the Operational Commencement Date; and

2.1.3 if the 12 month option is chosen the TfL-specific test shall be available from the date that is 6 months after the Operational Commencement Date.

- 2.2 Within two weeks of exercising the option the Authority shall deliver to the Service Provider details of: (i) the TfL Private Hire Drivers' Handbook; and (ii) the specific areas of understanding of English that the Authority wishes to have tested and which are to be included in the TfL-specific Test
- 2.3 The Service Provider will design, test, certify and deliver the TfL-specific Test within the agreed period of months of the Authority exercising the option (depending on whether the 6, 9 or 12 month option is chosen).
- 2.4 TfL will own the IPR in the TfL-specific tests and all rights in respect to TfL will be transferred to them at the expiry or earlier termination of this Agreement.

3. System Maintenance

- 3.1 Software in respect of which Software Maintenance Services are being provided:

[Redacted]

- 3.2 System Maintenance Commencement Date:

1st October 2021

- 3.3 The System shall be maintained in accordance with the Maintenance Services Annex set out in this **Schedule 2**.

ANNEX A

PROVISION OF SOFTWARE

1. SOFTWARE

1.1 RISK

Not used.

1.2 LICENCE(S)

1.2.1 Prior to commencing work on building the System the Service Provider shall specifically identify any applicable:

1.2.1.1 Service Provider IPR and Service Provider Software intended for supply. The Service Provider grants the TfL Group a perpetual, royalty free, worldwide and transferable licence which permits the TfL Group to use, copy, adapt, translate and sub-licence the use of all Intellectual Property Rights in the Service Provider IPR and Service Provider Software for the benefit of the Authority, the TfL Group, any Successor Authority and the TfL Group's agents with effect from the date of delivery until the end of this Agreement; and

1.2.1.2 Third Party Software intended for supply, agreeing with the Authority in advance (at the TfL Group's option) whether the Authority or the Service Provider is to obtain the licences necessary to use such Third Party Software and the terms upon which such licence should be granted to use such Third Party Software. Unless otherwise agreed in writing, the Service Provider will be responsible for obtaining any licences required for Third Party Software on the basis of a perpetual, royalty free worldwide and transferable licence which permits the

Authority to use, copy, adapt, translate and sub-licence all Intellectual Property Rights in the Third Party Software or parts thereof for the benefit of the Authority, and, where the Authority requires it, any TfL Group Member and/or any Successor Authority and its agents. Should this not be possible the Service Provider shall consult with the Authority with regards to alternative licence terms or alternative third party Service Providers.

2. PROVISION OF SOFTWARE

- 2.1 The Software shall be provided as a service to the Authority in accordance with this Agreement and the relevant Project Plan.

ANNEX B

PROVISION OF HARDWARE

1. No Hardware is required to be provided by the Service Provider.

ANNEX C

MAINTENANCE SERVICES

For the purposes of this **Annex** the following expressions will have the following meanings unless inconsistent with the context:

- “Availability”** means the percentage of the Support Hours for which the System is available
- “Configuration Item” or “CI”** means a component or an element of a component of the System
- “Configuration Management”** means the ITIL process of identifying and defining Configuration Items in a system, recording and reporting the status of Configuration Items and Requests for Change, and verifying the completeness and correctness of Configuration Items
- “Consultancy Day”** means provision of a resource (as may be specified in **Schedule 3** by the Service Provider for one Business Day
- “Contract Year”** means a calendar year starting on the day of Go Live and each subsequent anniversary of such date for the duration of the term of this Agreement
- “Critical Application”** means any application(s), software, equipment or service which the Authority considers are critical applications for the purposes of allocating priorities under paragraph 4.1 of this Annex
- “Fault”** means a single root cause event that leads to one

or more functional components of the System not conforming to their Specification or operating manual

“Go Live”

means the date on which the Authority places the System into live operation other than for testing purposes

“Implementation”

means the act of upgrading the Live Environment to effect a Release

“Incident”

any event which is not part of the standard operation of the System which causes, or may cause an interruption to or reduction in the quality of the System. For the avoidance of doubt, this shall include unplanned outages. In this Agreement, an Incident can be either a **“System Error”** or a **“Fault”**

“ITIL”

means Information Technology Infrastructure Library. This is a methodology or framework to set out the best practice for delivery of IT services

“Known Error”

means a Problem or potential Problem when the cause becomes understood, and where an Incident is raised which is a manifestation of it and has a Workaround

“Live Environment”

means those aspects of the Services that constitute the operational environment for the TfL Group Users

“Major Adjustment”

means a modification to the System requested by the Authority (other than a modification made necessary or desirable as a result of a Problem or

an Incident)

- “Major Incident”** means Incidents categorised as Severity 1 or Severity 2 in paragraph 4 of this Annex
- “Major Incident Report”** means a report produced following a Major Incident giving a description of the Incident, details of the reasons for the Incident, and rectification plans implemented to ensure the Incident is not repeated
- “Man Day”** means the effort done by one person during or equivalent to 8 hours
- “Man Hour”** means the effort done by one person during one hour or a combination of persons and hours to provide an equivalent effort (for example, 12 man hours is the effort done by one person during 12 hours or by two persons during 6 hours or by three persons during 4 hours, and so on)
- “Measurement Period”** means a calendar month
- “Operational Level Agreement”** means a definition of the relationship and the interactions between the Service Provider and the Primary Service Provider to support the overall achievement of the Service Levels
- “Primary Service Desk”** means the service desk provided by the Primary Service Provider – this service is available twenty four (24) hours per day, seven (7) days a week, three hundred and sixty-five (365) days per year
- “Primary Service Provider”
or “PSP”** means the TfL Group’s provider(s) of core

services including but not restricted to: service desk; desktop support and LAN as more particularly described in paragraph 14.2 of this Annex

- “Problem”** the underlying cause of one or more Incidents
- “Problem Rectification Plan”** means a plan to implement a permanent fix to a Problem, including any proposed changes to CIs, testing of the proposed fix(es) and plans for Release into the Live Environment
- “Quarter”** means any successive period of three (3) calendar months measured from the start of the first Contract Year
- “Release”** means a collection of new and/or changed CIs which are tested and introduced into the Live Environment together
- “Release Management”** means the ITIL process describing how Releases are managed
- “Release Note”** means a short document summarising the details of an individual Release. It includes a list of CIs that form the Release
- “Request for Change”**
or **“RFC”** means a form, possibly electronic, used to record the details of any request for a change to the IT infrastructure, CIs or other aspects of the System
- “Resolution (Incident)”** means action that will result in the resumption of service and the removal or negation of the effect of an Incident

“Resolution (Problem)”	means action that will result in the removal of a Problem and normally the permanent fixing of one or more Incidents, removing the need for associated Workarounds
“Resolve”	means the act of supplying Resolution of an Incident or Problem
“Resolver Group”	means the function of the Service Provider assigned to investigate Incidents and propose Resolution
“Response”	means the first contact back to the TfL Group User subsequent to contacting the Service Desk to raise an Incident and “Respond” shall be construed accordingly. This response is to be made by a suitably knowledgeable Resolver Group which may be the Service Desk itself during the same contact as the raising of the Incident
“Restoration”	means action that will result in the resumption of service without the removal of the cause of an Incident. This may be a Workaround and does not necessarily mean that the underlying cause is rectified
“Restore”	means the act of supplying Restoration to an Incident or Problem
“Service Desk”	means the Service Provider’s single point of contact for logging, resolving and management of all requests for support by the TfL Group Users and the PSP
“Small Functional Adjustment”	means a modification to the System requested by

the Authority which is estimated by the Service Provider to be less than [twenty (20) Man Days effort] to build, test and deploy

“Software Error” means any non-compliance by the System with the features and functionalities set forth in the documentation supplied for the version, causing reproducible errors in the operation of the System

“Software Support” means Software Error correction (corrective maintenance), technical advice, training, coaching, providing clarifications by telephone, fax, e-mail, and on site at the TfL Group’s premises, to solve any problems that may arise concerning the operation of the System, excluding Hardware

“Support Hours” means 08:00am-18:00pm, Monday-Friday

“TfL Group User” means those TfL Group persons using the System

“Version” means a baseline of a Configuration Item which has significant added functionality to its predecessor

“Workaround” means a solution to an Incident or a Problem that does not involve rectifying the underlying cause but rather relies on an alternative method of usage

“Working Hour” means one hour within the Support Hours

References in this Annex and to a **“paragraph”** shall mean a paragraph to this Annex and a reference to a **“clause”** shall mean a clause in the main body of the Agreement unless otherwise specified or inconsistent with the context.

1. Maintenance Services

- 1.1 The Service Provider agrees to provide the following Maintenance Services to the Authority during Support Hours in respect of the System:
- 1.1.1 reasonable assistance in the resolution of Incidents and Problems via a telephone call originated by the Authority;
 - 1.1.2 recommendations relevant to the course of action necessary to recover from a fault, error or failure emanating from the System or its use;
 - 1.1.3 upon request by the Authority, the diagnosis of Faults in the System and the rectification of such Faults (remotely or by attendance at the TfL Group's premises) by the issue of fixes or other such remedy in respect of the Software
 - 1.1.4 the creation and dispatch to the Authority from time to time of fixes in respect of the System
 - 1.1.5 the creation and dispatch to the Authority from time to time of new Versions and Releases of the System as agreed by prior notice.

Maintenance Services in respect of the Software

- 1.2 The Service Provider shall not disclose such of the information as is contained in the data and which can reasonably be regarded by the Service Provider to be secret and confidential to a Third Party for so long as the same is secret and confidential. The Service Provider shall provide the Authority with reasonable notice of any proposed planned maintenance, which shall be performed with minimal or no impact to the use of the System by the Authority.
- 1.3 The Charges payable to the Service Provider by the Authority under **Schedule 3** for the SaaS solution shall include the provision and implementation of the diagnostics and rectification of any Faults arising within the Service.

2. Fault Categorisations and Corrections

2.1 Error Correction

- 2.1.1 The Service Provider will maintain the System in such working order as enables it to perform the functions specified in the Specification and the user manuals.
- 2.1.2 The Authority will notify the Service Provider of any Fault, and provide the Service Provider (in so far as the Authority is reasonably able) with a documented example of the Fault and a description of and the circumstances in which the Fault arose within a reasonable time of becoming aware of such circumstances.
- 2.1.3 On receipt of a request for correction of any Fault reported by the Authority or identification by the Service Provider of such Fault, the Service Provider will ensure that an appropriately qualified and experienced person commences investigatory and corrective work within the response time specified in paragraph 5 below applicable to the category into which the reported Fault falls. If the reported Fault is either Severity 1 or 2 (as set out below) the Service Provider will diligently continue investigatory and remedial work throughout the Support Hours or such other times as may be mutually agreed between the parties until the reported Incident or Problem has been Restored. Findings from investigatory/remedial work will be fed back to the Authority.
- 2.1.4 If requested by the Authority the Service Provider will provide, as soon as reasonably practicable, training for designated members of the TfL Group's staff to enable the Authority to make proper use of the corrected version of the System. Where applicable, the Service Provider will in addition provide the Authority with such assistance as is reasonably necessary to enable the Authority to implement the use of the corrected version of the System. For the avoidance of doubt, the provision of such training and assistance is included within the

Charges, and excludes travel expenses and the Service Provider shall not be entitled to any additional payments in respect of such training.

2.1.5 The Service Provider will notify the Authority promptly of any significant fixes, patches or Workarounds in respect of the SaaS solution, which are available to correct Faults identified by the Service Provider or the Authority users together with details of any material effects which such fixes, patches or Workarounds may be expected to have.

3. Fault Reporting

3.1 Requests for Support

3.1.1 The Service Provider shall provide during business hours (08:00 to 18:00), a manned helpdesk and a fault logging facility out of hours through which Support shall be requested.

3.1.2 The Service Provider shall log all requests for Support, including:

- (a) the date and time of the request;
- (b) how received (telephone, e-mail, letter);
- (c) the name of the person making the request;
- (d) the nature of the request (subject matter); and
- (e) the severity of the request, as specified by the Authority.

3.1.3 The Service Provider shall assign a unique log number to each request and notify this number to the Authority at the time the request is made. This number shall then be used in all follow-up actions and reporting.

3.2 The Service Provider shall maintain an accurate and up to date record of all Faults reported, showing the date and time of Fault, nature of the Fault, actions taken, status, expected or actual resolution time and shall provide the same to the Authority upon request.

4. Assignment of Priorities

4.1 The severity of the request shall be determined by the Authority, in accordance with the following scale:

Severity 1: Where one of more of the following apply:

- (a) The entirety of a service is unavailable;
- (b) Service performance is degraded to such a point that the service is deemed by the Authority to be unusable;
- (c) The overall security of the Authority's estate or its systems are significantly compromised;
- (d) There is a significant safety risk to the Authority's staff, third parties and/or members of the public;
- (e) There is a significant risk of revenue loss to the Authority; and/or
- (f) There is a significant risk of reputational loss for the Authority.

Severity 2: Where one of more of the following apply:

- (a) Key functionality within a service is unavailable, however the overall service is available;
- (b) Not enough users, in the Authority's opinion, are able to access the service to ensure completion of critical activities; and/or
- (c) Resilience has been degraded beyond the agreed tiering level for that service, however the service is still fully available to users.

Severity 3: Where one of more of the following apply:

- (a) A user or users are unable to perform certain functions, however it does not prevent critical activities being completed;
- (b) ECU equipment faults; and/or

(c) A single user has an issue with an application or mobile device.

Severity 4: No service impact

(a) A request for advice and guidance on a non-service effecting issue or one which is related to information management;

(b) Someone has forgotten their password and requires a password reset; and/or

(c) Someone has put the wrong password in and has locked their account and requires an account unlock.

4.2 The initial classification of severity is to be made by the Authority and will be confirmed on receipt by the Service Provider. In the event of any disagreement in the classification relating to Severity 1 or 2 reports, this will be escalated by the Service Provider and relevant counterpart in the Authority so as to minimise any delay in Response, Restore and Resolve times. While under escalation and until resolved, the Service Provider will perform the Maintenance Services in accordance with the Severity Level set by the Authority.

5. Response and Resolution Times

5.1 From the time when a request is received by the Service Provider from the PSP, the Service Provider shall Respond within the following timeframes:

Severity	Initial Response	Incident Restore	Incident Resolve
1	15 minutes	2 Support Hours	1 Business Day
2	30 minutes	4 Support Hours	1 Business Day
3	210 minutes	8 Support Hours	1 Business Day
4	210 minutes	N/A	10 Business Days

5.2 For the duration of the Fault resolution, the originator of the request shall be advised of progress updates as follows:

- (a) Severity 1 - every 30 minutes during Support Hours or such other times as may be mutually agreed.
- (b) Severity 2 - every 60 minutes during Support Hours or such other times as may be mutually agreed.
- (c) Severity 3 and 4 – progress updates are not required.

The Authority is entitled to specify the purpose of the consultancy and the Service Provider shall provide the appropriate level of person to provide such consultancy.

Service Level credits incurred for breaches of service level provision

5.3 The table below sets out certain Service Level credits which shall be incurred by the Service Provider where the relevant service level provisions are breached:

SLA	Service Area	Service Level	Description	Measurement	Service Level Target Threshold	Service Level target	Service Credit % due if target is met	Service Credit % due if target below threshold
SLA01	Incident Resolution	Severity 1	Where one or more of the following apply: - The entirety of a service is unavailable - Service performance is degraded to such a point that the service is deemed unusable.	Break to fix of Severity 1 Incidents within two (2) hours of the Incident being assigned or alert generated	99.00%	97%	1%	3%

SLA	Service Area	Service Level	Description	Measurement	Service Level Target Threshold	Service Level target	Service Credit % due if target is met	Service Credit % due if target below threshold
			<ul style="list-style-type: none"> - The overall security of the TfL estate is significantly compromised. - There is a significant safety risk to TfL staff, third parties and/or members of the public. - There is a significant risk of revenue loss - There is a significant risk of reputational loss 					
SLA02	Incident Resolution	Severity 2	<p>Where one or more of the following apply:</p> <ul style="list-style-type: none"> - Key functionality within a service is unavailable, however the service is up. - Not enough Authorised Users are 	Break to fix of Severity 2 Incidents within four (4) hours of the Incident being assigned or alert generated	99.90%	97%	1%	3%

SLA	Service Area	Service Level	Description	Measurement	Service Level Target Threshold	Service Level target	Service Credit % due if target is met	Service Credit % due if target below threshold
			<p>able to access the service to ensure completion of critical activities</p> <p>- Resilience has been degraded beyond the agreed tiering level for that service, however the service is still fully available to Authorised Users.</p>					
SLA03	Incident Resolution	Severity 3	<p>Where one or more of the following apply:</p> <p>- A User or Users are unable to perform certain functions, however it does not prevent critical activities being completed.</p> <p>- EUC equipment faults</p>	<p>Break to fix of Severity 3 Incidents within six (6) hours of the Incident being assigned or alert generated.</p>	99.90%	97%	1%	3%

SLA	Service Area	Service Level	Description	Measurement	Service Level Target Threshold	Service Level target	Service Credit % due if target is met	Service Credit % due if target below threshold
			- A single Authorised User has an issue with an application or mobile device					
SLA04	Availability	% Uptime Availability	The measurement of the availability of the service during operational hours. (Actual number of available hours divided by the Total number of available hours within the period)	Measurement based on %	99.74%	99.74%	1%	3%

Example: if the next monthly invoice is £20k and the minimum service credit of 1% applies, the Authority would expect a reduction of £200 to the invoice. If the maximum service credit of 3% applies, the Authority would expect a reduction of £600.

6. Incident and Problem Management

6.1 The parties will work together to define and agree a service model which encapsulates the ITIL best practice for end-to-end service delivery and support which will include Incident and Problem management.

7 Escalation Management

- 7.1 The parties will work together to define and agree a Service Model which encapsulates the ITIL Best Practice for end-to-end Service Delivery and Support which will include Escalation Management. Such model shall take into consideration the Dispute Resolution Procedure including **clause 40.3**.

8. Configuration Management Database (“CMDB”)

- 8.1 The Service Provider shall ensure that where Releases are provided to the Authority, they will deliver such information as is required to update the TfL Group’s CMDB reflecting changes made. This covers but is not restricted to: System version numbers, documentation, licensing.

- 8.2 The Service Provider shall ensure that where changes to the System are made as a result of Fault or Software Error correction, they will deliver such information as is required to update the TfL Group’s CMDB reflecting changes made.

9. Reporting

- 9.1 The Service Provider’s Nominated Representative shall provide the TfL Group’s Nominated Representative with a periodic service report within five (5) days of the end of each period (which shall be agreed between the parties and be no less than monthly) indicating:

- (a) number of requests for Support, by Severity;
- (b) number of requests cleared;
- (c) number and status of outstanding requests;
- (d) average time to Respond by Severity;
- (e) average time to Resolve by Severity;

- (f) performance against Service Levels as specified in paragraph 5.3;
- (g) Service Credit report (for review at Quarterly Service Review Meeting);
and
- (h) such further matters as the Authority may reasonably require.

9.2 The Authority may request that the Service Provider supply information relating to Major Incidents to the TfL Group's Primary Service Provider. This information shall include: diagnostic procedures and resolution details. Such information to be provided for inclusion in Major Incident Reports to be produced by the TfL Group's Primary Service Provider and shall be made available to the Service Provider upon reasonable request.

9.3 The Service Provider will arrange a service review meeting with the Authority which may be held by telephone conference. The frequency and duration of these are to be agreed no later than 30 days after the Commencement Date.

10. Change Management

10.1 The parties will work together to define and agree a service model which encapsulates the ITIL Best Practice for end-to-end service delivery and support which will include Change Management.

11. Versions and Releases

11.1 The Service Provider will notify the Authority of each new Version or Release of the Software, which from time to time is made available by the Service Provider to users generally.

11.2 The provision of each new Version or Release during the Term is included in the Charges.

11.3 Under this Agreement, the Authority is entitled to migrate to new Versions of the Software released by the Service Provider during the Term.

11.4 Whenever a new Version of the Software is released, the Service Provider will notify the Authority and will inform the Authority of the implications that the new Version will have on the Software and provide Release Notes. The Service Provider will ensure that new Versions of the Software will maintain the functionality of previous Versions unless expressly agreed with the Authority in writing. The Service Provider will ensure that the new Version of the Software will be able to read the files of the previous Versions.

12. Scheduled maintenance/Ad-hoc downtimes

12.1 All downtime must be scheduled and approved under the Authority Change Management process (which will be notified to the Service Provider within the Service Model referred to in paragraph 14.1) and must take place outside Support Hours unless specifically authorised by the Authority or where this is part of a major incident recovery plan.

12.2 Requests for downtime must not impact any additional up-time required by the Authority outside Support Hours.

13. Nominated Representatives

13.1 For the purposes of receipt of the Support Services, the TfL Group's Nominated Representative shall be the Contract Manager as stated in **Schedule 1**.

13.2 For the purposes of provision of the Support Services, the Service Provider's Nominated Representative is: [*Service Provider to insert*]. The Service Provider undertakes to keep the Authority informed of any changes to their Nominated Representative.

14. Service Model

14.1 It is expressly the intention of the parties to work together to define and agree a Support Model which encapsulates the ITIL Best Practice for end-to-end Service Delivery and Support.

- 14.2 The Authority have outsourced responsibility for certain of the TfL Group's IT environment to its Primary Service Provider. The scope of services provided under this arrangement includes: service desk; desktop support; infrastructure (server; LAN/WAN, messaging); and applications. The Authority expects that initial contact will be made to the Service Provider via this Primary Service Provider. Management of problems, incidents, change/release will be via this Primary Service Provider.
- 14.3 The Authority wishes to ensure that the TfL Group Users do not suffer any adverse impact on Services provided to them under this Agreement as a result of the interface between the Service Provider and the Primary Service Provider. Accordingly, it is expressly the intention of the Authority that the Service Provider enters into an Operational Level Agreement ("OLA") with the Primary Service Provider to ensure that end-to-end Service Levels are achieved in respect to Problem and Incident resolution. The Service Provider agrees with the Authority that the Service Provider shall comply with its obligations under the Operational Level Agreement.

15. Availability, Capacity and Service Assurance Activities

- 15.1 The System will be available during the Support Hours subject to the remaining provisions of this paragraph 15 and the Support Services will be provided during the Support Hours. The Service Provider warrants that it will have the capability to provide the Support Services out of hours subject to any request by the Authority for such availability being dealt with under the change control provisions of this Agreement.
- 15.2 Maximum outages of the System should not exceed one service level relating to uptime availability (as set out in the Table at paragraph 5.3 – Availability) and there should be no more than two unplanned outages of up to [one (1) hour per week (in any month)] and no more than [four (4)] unplanned outages in any three (3) consecutive months.

16. Major Adjustments and Exceptional Activities

16.1 The rendering of services concerning Major Adjustments and other activities which do not fall under the scope of this Schedule and shall be subject to Change Control Provisions in **Schedule 7** or by way of Additional Services, as may be agreed between the parties in writing.

17. Service Credits

17.1 Where the Service Provider is unable to meet the specified times for resolution set out in the Table at paragraph 5.3 it shall incur the Service Credits set out in column 8 of the table.

17.2 The Service Provider shall reduce the next Charges due to it from the Authority by the amount of Service Credits accrued in the previous Quarter. Where no further charges are due, the Service Provider shall pay the Service Credit amount to the Authority within thirty (30) days of the end of the relevant Quarter.

18. Persistent breach of service levels

18.1 Without prejudice to the TfL Group's other rights and remedies it may have (including any rights to terminate the Authority shall be entitled to) the Authority may terminate provision of the Maintenance Services forthwith by giving written notice to the Service Provider in the following circumstances:

18.1.1 Failure to meet a Service Level for three (3) consecutive Measurement Periods; or

18.1.2 Failure to meet a Service Level for any three (3) Measurement Periods in any Contract Year; or

18.1.3 Accumulation of six (6) or more Service Credits for any and all Service Levels in a period consisting of three (3) Measurement Periods

18.2 Failure by the Authority to exercise a right to terminate shall not prevent the Authority from exercising its right to terminate under this **Annex C**:

18.2.1 at a later date in relation to a separate or subsequent breach (whether or not committed in similar circumstances); or

18.2.2 at any time pending the satisfactory completion of an agreed rectification plan relating to the persistent breach in question.

18.3 Following any such termination, the Service Provider shall promptly pay to the Authority a refund of any Charges for the Maintenance Services paid in advance in respect of the period following termination.

ANNEX D

VOLUMES FORECAST

1. SERVICE CAPACITY

1.1 The Service Provider shall ensure that the Services provided must be capable of meeting the volume requirement when requested by the Authority.

1.2 The volume forecast based on the Authority's requirement is estimated as follows:

1.2.1 Table below shows volume forecast based on fiscal year.

Fiscal year	Estimate	Period
2021/22	27,500	Q3 and Q4
2022/23	55,000	Full yr
2023/24	55,000	Full yr
2024/25	27,500	Q1 and Q2

1.3 The Service Provider acknowledges that the volume forecast is not a guarantee to the Service Provider of the number of tests that the Authority is committed to order.

ANNEX E

ADDITIONAL SERVICES

1. SERVICE PROVIDER'S OBLIGATIONS

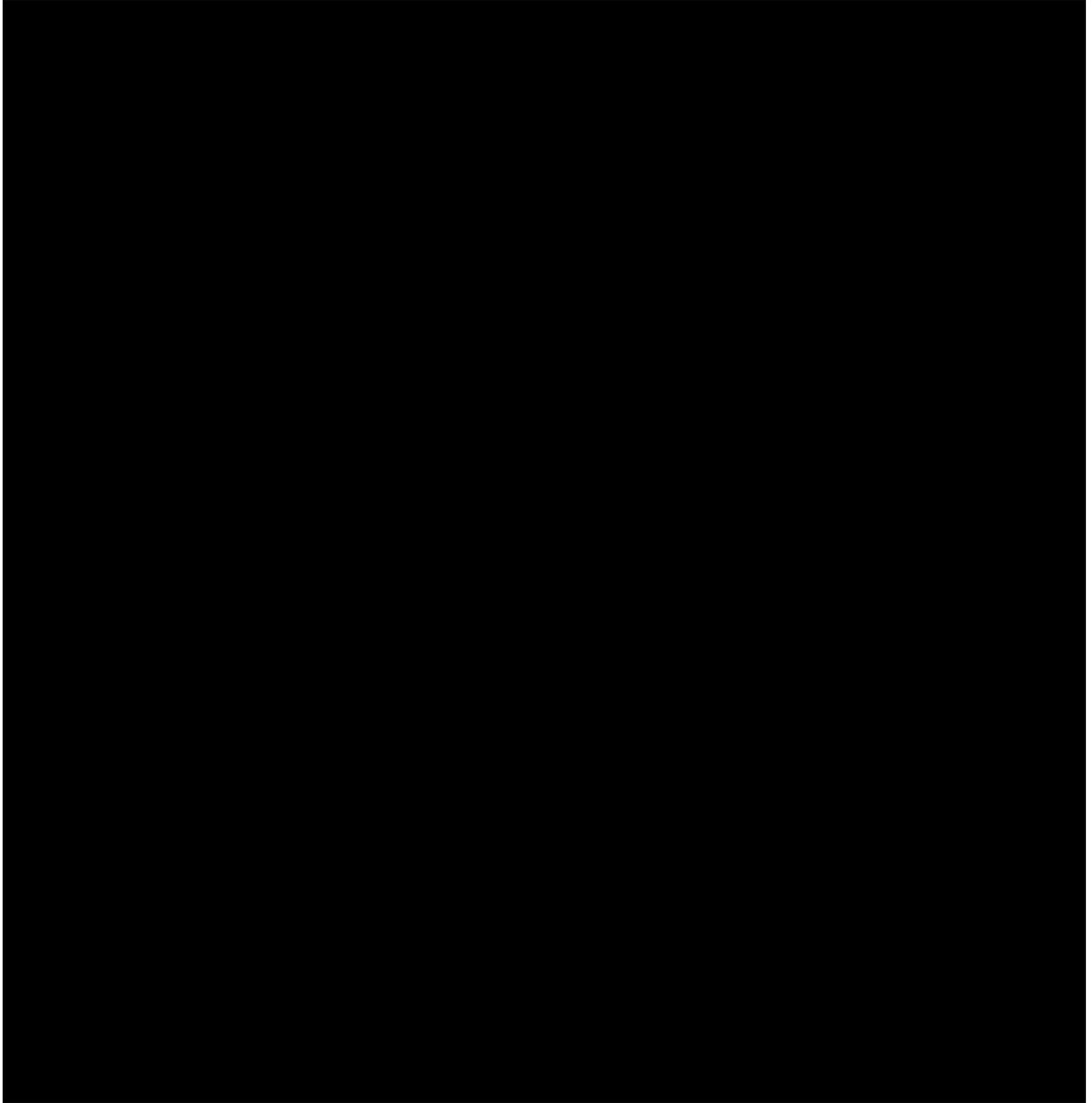
- 1.1 The Service Provider shall provide such Additional Services as specified in **Schedule 2** upon payment of the Additional Services Charge specified in or calculated in accordance with **Schedule 3** (Charges).
- 1.2 The Additional Services may take the form of all or any of the following:
- 1.2.1 the provision of a set number of man days of consultancy (whether for the preparation of further or bespoke software, a software specification or otherwise);
 - 1.2.2 the provision of training and consultancy services.
- 1.3 The provision of the Additional Services by or on behalf of the Service Provider for the Authority shall be subject to the terms of this Agreement.

2. ADDITIONAL SERVICE CHARGES

The Additional Services Charges shall be levied by the Service Provider for the Additional Services provided by the Service Provider as set out in **Schedule 3** (Charges).

SCHEDULE 3

Charges



SCHEDULE 4

Statement of Requirements

The Statement of Requirements capture the business requirements for the English Language Tests for London Licensed Private Hire Drivers – Speaking and Listening. Service levels are also detailed in Schedule 2.

Business Requirements

TPH English Language Test ELT

Dated 20th July 2020

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1 FUNCTIONAL REQUIREMENTS

1.1 Test Design

Requirement ID	Name	Description	Priority
ELT-REQ-1	Provide English Language Test	<p>The Service Provider shall provide an online computer-based English Language Test (ELT), ensuring the test assesses the candidates' competency in two facets-</p> <ul style="list-style-type: none"> • Speaking • Listening 	Must have
ELT-REQ-5	Scoring and Weighting	<p>The Service Provider shall provide a mechanism to vary the scoring and weighting within the CEFR Level B1 standards, which shall be submitted to TfL for approval.</p> <p>TfL shall be able to request changes to the scoring and weighting mechanism at no additional cost to TfL.</p>	Must have
ELT-REQ-6	Question Bank	The Service Provider shall ensure that the Question Bank drawn on by the ELT is large enough and refreshed at sufficiently frequent intervals to maintain the integrity of the ELT.	Must have
ELT-REQ-18	Returning Candidates	The Solution shall identify a returning candidate and shall ensure a different set of questions are presented at each subsequent ELT.	Must have
ELT-REQ-422	Removing ELT Questions	The Service Provider shall ensure that, at TfL's request, specific questions or topics be removed or substituted from the ELT if deemed by TfL as inappropriate to the role of a Private Hire Driver.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-423	Duration of the ELT	The Service Provider shall ensure that the ELT is no longer than 30 minutes in duration (calculated from the time the test is started by a candidate). Note- The Service Provider should outline what their approach would be to meet the 30 minute duration.	Should have
ELT-REQ-424	Elapsed Time during ELT	The Service Provider shall ensure that the Solution provides the candidate with a time-check indicating the length of time elapsed/time until expiry throughout. At expiry of the allotted time, the test will automatically end and no more questions will be presented to the candidate.	Must have

1.2 Marking

Requirement ID	Name	Description	Priority
ELT-REQ-7	Marking Service	The Service Provider shall provide a secure Marking and Results Service.	Must have
ELT-REQ-8	Candidate Results	The Service Provider shall make all ELT results available to TfL within 72 hours of the submission of a completed ELT. The method of results delivery shall be secure and access controlled so that only TfL Authorised Users may access it.	Must have
ELT-REQ-10	Candidate Results Notification	The Service Provider shall provide the results solely to TfL Authorised Users via a secure Results Verification System.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-11	Appeals Process	<p>The Service Provider shall provide an Appeal procedure to TfL for candidates wishing to challenge their result.</p> <p>The Service Provider will review the test within 72 hours of being notified by TfL that an Appeal has been lodged. TfL requires the Appeal Service to include but not limited to:</p> <ul style="list-style-type: none"> The use of a senior supplier resource not involved in the marking of the original test to conduct the Appeal. 	Must have
ELT-REQ-12	Marking Scheme	The Service Provider shall ensure that, when applying a marking scheme to the ELT, it is able to clearly demonstrate whether the candidate has satisfied the requirements to meet the CEFR Level B1 standard.	Must have

1.3 System

Requirement ID	Name	Description	Priority
ELT-REQ-17	Candidate ID	<p>To ensure candidate anonymity, the Solution shall use a unique ID provided by TfL for the candidate to securely log in and take the ELT.</p> <p>This unique ID will also be used for marking (Marking and Results service) and where a candidate initiates the Appeal process.</p>	Must have

Requirement ID	Name	Description	Priority
		TfL expects the unique ID to be used to communicate the ELT results back to TfL and in any associated activity, such as Appeal.	
ELT-REQ-22	Provide TfL Solution Access	The Service Provider shall ensure TfL Authorised Users have necessary access to the Solution for the purpose of auditing, which may include but not be limited to "live listening" and other security features as appropriate.	Should have
ELT-REQ-23	Availability of The Solution	The Service Provider shall ensure the ELT is available during Operational Hours, enabling TfL staff to manage the start and end times of the ELT at a TfL assessment centre.	Should have
ELT-REQ-24	Access	The Solution shall give appropriate controls to TfL Authorised Users to ensure they can manage the following scenarios at no extra charge to TfL: <ul style="list-style-type: none"> • Manage groupings of candidates • Add or remove candidates • Name changes • Any other administrative functions as appropriate. 	Should have

1.4 Training & Support

Requirement ID	Name	Description	Priority
ELT-REQ-427	Guidance for Candidates	The Service Provider shall ensure that guidance and instructions on how to navigate the ELT are made available to candidates prior to, or at the time of, taking the test.	Must have

1.5 Contract Management and Reporting

Requirement ID	Name	Description	Priority
ELT-REQ-52	ELT Results - Reporting	<p>The Service Provider's Results Verification System must encompass additional reporting functionality, enabling TfL to draw bespoke reports including, but not limited to:</p> <ul style="list-style-type: none"> • The volume of ELTs taken weekly, monthly, yearly • Volumes of passes / fails • Incomplete ELTs • The number of founded Appeals • The number of unfounded Appeals 	Must have
ELT-REQ-268	Set Up Standard Reporting	<p>The Service Provider shall set up standard reports and dashboards as agreed with TfL through the detailed design process and post go live. All reports and dashboards should be available prior to go live.</p>	Must have

2 NON-FUNCTIONAL REQUIREMENTS

2.1 Access

Requirement ID	Name	Description	Priority
ELT-REQ-326	Data Types	The Solution shall comply with TfL's approach for the security classification of data as described in Schedule 8- Security Policy for all data, personal and non-personal, processed and stored by the Solution.	Must have
ELT-REQ-330	Device Access	The Solution shall be accessible via the following device types: <ul style="list-style-type: none">• Devices connected to the TfL OneLondon network (e.g.Thick/Thin Clients, Laptops).	Must have

2.2 Accessibility

Requirement ID	Name	Description	Priority
ELT-REQ-331	Accessibility	The Solution shall conform to TfL's Digital Accessibility Standard. Please refer to TfL's Digital Accessibility Standard- https://tfl.gov.uk/info-for/suppliers-and-contractors/digital-design-toolkit/digital-accessibility-standard	Must have

2.3 Archiving and Retention

Requirement ID	Name	Description	Priority
ELT-REQ-332	Backup Log Files	<p>The Solution shall retain audit log files as live data in the Production environment for a minimum of 10 days before these log files are archived in accordance with TfL's Corporate Information and Records Disposal Schedules.</p> <p>Please refer to Schedule 8- Security Policy.</p>	Must have

2.4 Availability

Requirement ID	Name	Description	Priority
ELT-REQ-102	Solution Uptimes	<p>The Service Provider must offer at least one of the following uptimes, Recovery Time Objective (RTO) and Recovery Point Objective (RPO) tiers for the Solution and define and costs difference between them:</p> <p>1) Uptime - 99.98% - RPO - <15-Mins - RTO - <30-Mins</p> <p>2) Uptime - 99.74% - RPO - <4-Hours - RTO - <8-Hours</p>	Must have
ELT-REQ-334	Availability Percentage	<p>The Solution shall be at least 99.74% available on an annual basis, excluding agreed maintenance windows, where annual basis is defined as twenty four (24) hours a day, seven (7) days a week, three hundred and sixty five (365) days a year.</p>	Must have

2.5 Backup and Recovery

Requirement ID	Name	Description	Priority
ELT-REQ-337	Failover Capability	The Solution shall be capable of failing over in the event of a service outage.	Must have
ELT-REQ-430	Revert to Previous Version	The Solution shall enable users to revert back to the previous version of the Solution in the event of a system failure.	Must have
ELT-REQ-338	Recovery Point Objective	The Solution shall permit no more than 4 hours of data loss in the event of an unplanned interruption to normal operations, i.e. the last 4 hours of data that is input and stored in the Solution.	Must have
ELT-REQ-339	Disaster Recovery Plan	The Service Provider shall provide a Disaster Recovery Plan for the Solution, as agreed with TfL, which shall be in the format of a document called "Disaster Recovery On a Page". (DR on a Page).	Must have
ELT-REQ-340	Disaster Recovery Plan Contents	<p>The contents of the Disaster Recovery Plan for the Solution that is provided by the Service Provider shall contain information that includes, but is not limited to:</p> <ul style="list-style-type: none"> • Minimum failure scenarios which trigger the Disaster Recovery process (e.g. Loss of one or both Data centre, loss of Hub building) • Common service restoration steps • Resolver matrix describing who is responsible for resolving issues for the components of the Solution • Business contacts who need to be engaged • Service Impact descriptions 	Must have

Requirement ID	Name	Description	Priority
		<ul style="list-style-type: none"> • Dependent and depending services for the Solution • Links to design and build documents See requirement Disaster Recovery Plan.	
ELT-REQ-341	Backup Profile	The Solution shall deploy an online, back-up profile which has no impact on the operation of the service(s) provided by the Solution when the backup is taking place.	Must have
ELT-REQ-342	Backup Retention Period	The Solution shall retain its backups for a maximum of 2 years.	Must have
ELT-REQ-343	Backup Encryption	The Solution shall encrypt all data backups in accordance with Schedule 8 – Security Policy.	Must have
ELT-REQ-346	Backup Alerts	The Solution shall automatically send a notification to a designated user(s) if there is a failure in the backup process. The notification shall be in the Solution itself or by email.	Must have
ELT-REQ-347	Deployment Automation	The Service Provider shall automate the deployment of the following elements of the environment in which the Solution operates (if the Solution is not hosted by TfL): <ul style="list-style-type: none"> • Infrastructure (including Network routes and configuration) • Application • Application configuration from template and/or backup • Data from backup 	Must have

2.6 Capacity

Requirement ID	Name	Description	Priority
ELT-REQ-15	ELT Capacity	The Service Provider shall be able to demonstrate their ability to provide a robust Solution that can handle the volume of ELTs outlined in Schedule 4 Annex D- Volumes Forecast.	Must have
ELT-REQ-349	System Capacity	The Solution shall be capable of notifying an Authorised User if the capacity usage exceeds 85% of the available Solution capacity.	Must have
ELT-REQ-353	System Growth-Users	The Solution shall be scalable to accommodate the projected user volumetrics for the next six months. Please refer to Schedule 4 Annex D- Volumes Forecast.	Must have
ELT-REQ-354	System Growth: Data	The Solution shall be scalable to accommodate the projected data volumetrics for the next six months. Please refer to Schedule 4 Annex D- Volumes Forecast.	Must have

2.7 Data Management

Requirement ID	Name	Description	Priority
ELT-REQ-13	System Integration	The Solution shall have the ability to send and receive data via interfaces with other Solutions (to be identified during the detailed design phase), including but not limited to: TfL's Licensing	Could have

Requirement ID	Name	Description	Priority
		Service System.	
ELT-REQ-318	Data Storage	The Service Provider shall ensure that all Data storage fully complies with most up-to-date legislation for the duration of the contract, including but not limited to data protection legislation.	Must have

2.8 Front End

Requirement ID	Name	Description	Priority
ELT-REQ-20	Voice Recognition	The Solution shall be able to clearly pick up a candidate's voice when wearing sound-proof earphones and mic, in a room where there are multiple candidates taking the test who are spaced appropriately and in line with the relevant Covid-safe government guidance which prevails at the time of commencement of the service.	Must have
ELT-REQ-64	Solution Compatibility	The Solution shall be compatible with the following, including but not limited to: Internet Explorer 11 and Google Chrome - Windows 10 IoT, v1803 - Thin Client <ul style="list-style-type: none"> Google Chrome - Desktop, Windows 10 v1803 ,Thin Client, Windows 10 IoT v1803 & Citrix - Windows Server 2016 v1607 <p>Please note that the above assumes that the Solution is in a web based browser format.</p>	Must have
ELT-REQ-	Design of	The Solution shall be designed in a manner that allows for delivery of speaking and listening	Must have

Requirement ID	Name	Description	Priority
109	the ELT	<p>facets to multiple candidates simultaneously in the same room, without compromising the quality of the candidates' experience. Additionally, the arrangements advised by the Service Provider should mitigate any risk of the integrity of the test being compromised due to candidates overhearing the tests of other candidates in the room.</p> <p>This shall be in line with the government's current COVID 19 guidance regarding distances between people.</p>	

2.9 Incident Management

2.9.1 Incident & Problem Management Overview

The Service Provider must comply with TfL's Incident and Problem Management Process. This process uses a single point of contact through our central helpdesk managed by a 3rd party.

Where the service is being procured through a Supplier, there will need to be an integration between the Supplier's Service Desk tool to TfL's "Remedy" service desk tool. This will be defined during the contract phase.

The Service Provider will take instruction and management from TfL's central managed helpdesk.

Requirement ID	Name	Description	Priority
ELT-REQ-358	Maximum Incident Response Times	<p>The Service Provider shall comply with the response times stipulated by TfL's Tech and Data Incident and Request Management process, for Incidents raised against the Solution:</p> <ul style="list-style-type: none"> • Severity 1: 15 minutes • Severity 2: 30 minutes • Severity 3: 210 minutes • Severity 4: 210 minutes <p>The response time is defined as the maximum length of time between the Incident being raised and an initial response by the Service Provider being logged. Please refer to Schedule 2 Annex C- Maintenance Services.</p>	Must have
ELT-REQ-359	Maximum Incident Resolution Times	<p>The Service Provider shall comply with the resolution times stipulated by TfL's Tech and Data Incident and Request Management process, for Incidents raised against the Solution:</p> <ul style="list-style-type: none"> • Severity 1: 2 hours (4 hours - Network) • Severity 2: 4 hours (8 hours - Network) • Severity 3: 8 hours (24 hours - Network) • Severity 4: N/A <p>Please refer to Schedule 2 Annex C- Maintenance Services.</p>	Must have

2.10 Maintainability and Support

Requirement ID	Name	Description	Priority
ELT-REQ-264	Solution Downtime	The Service Provider shall ensure that no Solution downtime occurs when system maintenance is undertaken, unless previously agreed and scheduled with TfL.	Must have
ELT-REQ-383	Generating Alerts	The Solution shall generate an alert to Authorised Users if a pre-defined monitoring threshold is breached.	Must have
ELT-REQ-409	Alerts for Incident Management	Upon the generation of an alert, the Solution shall, if indicated in the threshold monitoring attributes, interface with TfL's Tech and Data IT Service Management (ITSM) framework in creating an Incident record with the correct categorisation, severity level, priority level and resolver group.	Must have
ELT-REQ-410	Monitoring Dashboards and Reporting	The Service Provider shall ensure that the monitoring of the characteristics of the Solution (Availability, Performance and Security) and their associated alerts shall be accessible to Authorised Users through dashboards and reports (scheduled and ad hoc).	Must have
ELT-REQ-411	Contents of Alerts	The Service Provider shall ensure that alerts generated by the Solution contains information that is an accurate reflection of the event.	Must have
ELT-REQ-413	Restarting Solution	The Solution shall automatically restart in the event of a failure, with automatic restarts applying for the whole of the Solution as much as possible.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-414	Restarting Alerts	The Solution shall automatically generate alerts to Authorised Users to indicate the failure of the Solution if the Solution is down, upon restarting.	Must have

2.11 Performance

Requirement ID	Name	Description	Priority
ELT-REQ-391	Performance	<p>The Solution shall allow Authorised Users to perform permitted actions on the same data record simultaneously without performance degradation. These permitted actions include, but are not limited to:</p> <ul style="list-style-type: none"> • Two or more users viewing the same data record • One user is updating the data record while another user is viewing the same data record. 	Must have

2.12 Reliability

Requirement ID	Name	Description	Priority
ELT-REQ-392	Infrastructure Resilience	<p>The Solution shall, as a minimum, meet the following defined levels of infrastructure resilience:</p> <ul style="list-style-type: none"> • Primary Solution instance hosted in a single data centre with high availability • Replication of the primary Solution instance to the back-up Solution instance hosted in a separate data centre. 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-393	Single Points of Failure	The Solution shall contain no single points of failure, relevant monitoring must be in place so that a failure in any individual component of the Solution is identified and rectified within agreed response times.	Must have

2.13 Security

Requirement ID	Name	Description	Priority
ELT-REQ-43	Security Software	The Service Provider shall ensure that anti-virus, anti-hacking, anti-malware and intrusion monitoring and detection software are in place for the Solution and regular patch and signature file updates are applied to all servers which should also be patched up to date.	Must have
ELT-REQ-105	Data Encryption	The Service Provider shall ensure encryption in transit and at rest for the data held.	Must have
ELT-REQ-394	Network Security	The Solution shall comply with the following TfL policies and standards as listed in Schedule 8- Security Policy for the purposes of network security: <ul style="list-style-type: none"> • TfL Network Cyber Security Policy • TfL Security Logging, Monitoring and Audit Policy • TfL Corporate Information and Records Disposal Schedules. 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-395	Endpoint / Data Protection	The Solution shall comply with TfL's Network Cyber Security Policy for the purposes of endpoint and data protection. Please refer to Schedule 8- Security Policy.	Must have
ELT-REQ-397	ITSM - Certification	The Service Provider shall ensure that all certificates applicable to the Solution shall be stored in TfL's IT Service Management (ITSM) framework with expiry dates at least 6 months in the future.	Must have
ELT-REQ-398	Access Control - TfL Active Directory	The Solution shall authenticate access for authorised TfL Staff/Users through TfL's Active Directory service (via Azure AD) in accordance with Schedule 8- Security Policy.	Must have
ELT-REQ-400	Access Control - User Accounts	The Solution shall associate user accounts to pre-defined roles within the Solution to control access to data and functionality.	Must have
ELT-REQ-401	Access Control - User Activity Logging	The Solution shall automatically record an audit trail of all user activities that take place within the Solution in an audit log file that can be viewed by users with the appropriate permissions. The activities to be recorded for the audit trail include, but are not limited to: <ul style="list-style-type: none"> • Type of activity (e.g. view record, creation, update, deletion) • Changes to the system configuration • Changes to user permissions • Unique identifier for the user activity • Date/Timestamp of the activity • Before and After values of attributes changed on data records. 	Must have

2.14 Environments

Requirement ID	Name	Description	Priority
ELT-REQ-56	Provide Solution Environments	<p>The Service Provider shall provide the following test Environment's that can be connected for testing future releases. This includes but is not limited to:</p> <ul style="list-style-type: none"> • Test • Pre-Production • Production 	Could have
ELT-REQ-57	Providing Support	The Service Provider shall ensure support for Azure Active Directory Integration.	Must have
ELT-REQ-58	SSO Authentication	The Service Provider shall provide authentication via SAML 2.0 for the use of single sign on.	Should have

2.15 Test Design

Requirement ID	Name	Description	Priority
ELT-REQ-4	TfL Branding	<p>The Service Provider shall provide a Solution that allows the TfL logo and TfL Digital Toolkit for fonts and formatting to be utilised in the test, with the ability to update as required by TfL at no additional cost.</p> <p>TfL will retain the intellectual property for the branding, logo and fonts at the end of the contract.</p>	Should have

3 OPERATIONAL REQUIREMENTS

3.1 Access

Requirement ID	Name	Description	Priority
ELT-REQ-328	Third Party Access- Information for Physical Access	<p>The Service Provider shall provide TfL with information about each individual, whether employed directly by the Service Provider or via a Third Party, that requires physical access to hardware on which the Solution is hosted. This information shall include, but not be limited to:</p> <p>Service Provider Name</p> <ul style="list-style-type: none"> • Individual's Name • Role Name of the Individual • Scope of remit (including areas of access) • Approval & verification workflow • Proof of compliance with relevant Legislative / Regulatory requirements. 	Must have
ELT-REQ-329	Third Party Access- Information About Third Party	<p>The Service Provider shall provide TfL with information about their own organisation and any Third Party. This information includes, but is not limited to:</p> <ul style="list-style-type: none"> • Service Provider Name • Primary Contact Details • Contacts (Roles and Communications methods) • Scope of service in relation to the Solution • Duration / Cost • TfL Budget Code • Link to Commercial Register entry. 	Must have

3.2 Availability

Requirement ID	Name	Description	Priority
ELT-REQ-14	Maintenance Plan	The Service Provider shall provide a maintenance plan, including how updates will be handled and ensure that there is no disruption to services.	Must have
ELT-REQ-16	Software Updates	The Service Provider shall ensure that any software updates, service downtime (and any other maintenance which could compromise the delivery of ELT) occurs outside of Operational Hours.	Must have
ELT-REQ-335	Maintenance Windows: Frequency	The Service Provider shall conduct maintenance activities on the Solution using a 4 weekly maintenance window as agreed with TfL.	Must have
ELT-REQ-336	Maintenance Windows: Information Required	The Service Provider shall provide TfL with the following information in relation to each maintenance window for the Solution: <ul style="list-style-type: none"> • Calendar date(s) • Time (24hr clock) window • Additional approval steps (if applicable) • Custom communications approach (if non-standard) • Service impacting (Yes/No). 	Must have

3.3 Backup and Recovery

Requirement ID	Name	Description	Priority
ELT-REQ-344	Backup Storage Location	The Service Provider shall, with the agreement of TfL, store backups of the Solution in an alternative location to the data centre which hosts the primary instance of the Solution.	Must have
ELT-REQ-348	Business Continuity Testing	The Service Provider shall, in collaboration with TfL, test the Solution's Continuity and Disaster Recovery capabilities every 2 years	Must have

3.4 Capacity

Requirement ID	Name	Description	Priority
ELT-REQ-350	Capacity Monitoring	The Service Provider shall have the capability to monitor the Solution's capacity for 100% of the agreed availability for the following components that include, but are not limited to: <ul style="list-style-type: none"> • Disk / Storage • Central Processing Unit (CPU) • Network • Memory • Licenses 	Must have
ELT-REQ-352	Capacity Reports	The Service Provider shall provide TfL with a monthly report, in excel format, of the Solution's capacity. The contents of the report shall include, but not be limited to:	Must have

Requirement ID	Name	Description	Priority
		<ul style="list-style-type: none"> • Disk / Storage usage • Central Processing Unit (CPU) usage • Network usage • Memory usage • License usage 	
ELT-REQ-402	Capacity Baselineing	The Service Provider shall collaborate with TfL to define and baseline the operational capacity of the Solution.	Must have

3.5 Change and Release Management

Requirement ID	Name	Description	Priority
ELT-REQ-108	Solution Roadmap	The Service Provider must provide a roadmap or intent on how often the Solution will undergo feature updates, non-security updates & security updates.	Must have
ELT-REQ-382	Testing Environments	<p>The Service Provider shall, in addition to the live Production environment, provide TfL with access to the following environments for the Solution:</p> <ul style="list-style-type: none"> • Test - for selected users to perform system tests on upcoming Changes / Releases • Pre-Production - for selected users to perform User Acceptance Testing (UAT) and rehearse deployments for upcoming Changes / Releases. 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-415	Change & Release Management Process	The Service Provider shall comply with TfL's defined Change & Release management processes. Please refer to Schedule 2 Annex C- Maintenance Services.	Must have

3.6 Compliance

Requirement ID	Name	Description	Priority
ELT-REQ-35	Compliance with IT Standards and Governance	The Service Provider shall provide evidence of ISO compliance and best practice such as certification / accreditation or striving to achieve ISO certification such as 27001:27002:27005.	Must have
ELT-REQ-46	ELT Remapping	The Service Provider shall remap the ELT against the CEFR using an independent source to ensure compliance, prior to any proposed changes to ELT taking effect, where appropriate.	Should have
ELT-REQ-107	IP and Ownership	The Service provider shall ensure that TfL retains the IP and ownership of inputted data held within the Solution.	Must have
ELT-REQ-283	Schedules and Standards	The Service Provider shall deliver the Solution in line with all Schedules and Standards contained within this contract, and according to any other relevant documentation.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-284	Standards	The Service Provider shall adhere to the standards and working practices of internationally recognised organisations as referenced in this contract or, where such standards and working practices have been amended and/or superseded, by the latest revisions or superseding standards and working practices, or any standard which is generally recognised as being equivalent to it.	Must have
ELT-REQ-285	Health and Safety	The Service Provider shall adhere to Health and Safety Legislation of all aspects of the operations and delivery of contractual obligations.	Must have
ELT-REQ-296	Meetings	<p>The Service Provider shall attend quarterly and/or ad hoc meetings with TfL and/or any related Third Parties upon request from TfL, either in person at TfL's offices or remotely.</p> <p>This shall be at no additional cost to TfL and applies to all project phases, pre and post go-live.</p>	Must have
ELT-REQ-315	Maintain Solution Components	The Service Provider shall ensure that all hardware, software, firmware and equipment used as part of the Solution is maintained at a supported production release at no cost to TfL.	Must have

3.6.1 Auditing

Requirement ID	Name	Description	Priority
ELT-REQ-286	Audit	<p>The Service Provider shall, at no cost to TfL, cooperate fully with any TfL audit, including but not limited to providing access to all relevant documentation, personnel, and marking centres and equipment. Audit methods are to be agreed with TfL before the Operational Commencement Date.</p> <p>TfL reserves the right to appoint or request the appointment of an external independent audit team if circumstances reasonably permit, with costs to be borne by the Service Provider.</p>	Must have
ELT-REQ-288	Risk Based Approach	The Service Provider shall use a risk-based approach to routinely carry out internal audits to provide assurance that effective controls are in place across all types of audit.	Must have
ELT-REQ-293	Audit Schedule	The Service Provider shall develop and comply with an audit schedule covering all audits, together with the scope of each audit, and shall submit such an audit schedule to TfL for assurance prior to the planned Operational Commencement Date.	Must have
ELT-REQ-294	Audit Results	The Service Provider shall, prior to the Operational Commencement Date, agree with TfL a timeframe to provide the results of all audits that will be carried out throughout the contract.	Must have

3.7 Data Management

Requirement ID	Name	Description	Priority
ELT-REQ-29	Compliance with Data Protection Legislation	The Service Provider shall ensure that measures are in place to ensure that Data Protection legislation standards are being adhered to, including (but not limited to) the General Data Protection Regulation (GDPR).	Must have
ELT-REQ-30	Personnel - Organisational Security	The Service Provider shall take and implement all such technical and organisational security procedures and measures necessary or appropriate that ensure a level of security and protection to preserve the integrity and confidentiality of any personal Data processed by the Service Provider.	Must have
ELT-REQ-31	Protection of Personal Data	The Service Provider shall protect all Personal Data against unauthorised or unlawful processing, accidental loss, alteration, destruction or damage.	Must have
ELT-REQ-32	Subject Access Requests	The Service Provider shall ensure that any Subject Access Requests and any other data subject rights are managed in accordance with Data Protection Legislation, as may be amended from time to time.	Must have
ELT-REQ-33	Personnel - Training	The Service Provider shall ensure that all Service Provider personnel who can and/or do access personal Data are suitably trained in relation to the obligations to protect personal Data in accordance with Data Protection Legislation and shall ensure that such training is updated at reasonable intervals.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-34	Data Protection Policy	The Service Provider shall ensure they have, and maintain, a Data Protection Policy; an Information Security Policy and a Security Incident/Data Breach Management Policy in accordance with TfL's policies. Please refer to Schedule 8- Security Policy.	Must have
ELT-REQ-36	Freedom of Information Requests	The Service Provider shall support TfL with any Freedom of Information requests related to the ELT and manage requests in accordance with the Freedom of Information Act 2000. Any Freedom of Information requests received by the Service Provider shall be escalated to TfL.	Must have
ELT-REQ-37	Compliance with TfL Standards and Policies	The Service Provider shall comply with all relevant TfL standards and policies for data management. Please refer to Schedule 8- Security Policy.	Must have
ELT-REQ-40	Membership of Industry Bodies	The Service Provider shall have certifications or evidence of membership of industry bodies that provide assurance of the confidentiality, integrity and availability of the online data held within the Solution.	Must have
ELT-REQ-290	Periodic Review of the Data management procedures	The Service Provider shall put in place Data management procedures to ensure that Data is periodically assessed for deletion in accordance with, including but not limited to, GDPR and TfL's Data Retention Policy.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-291	Data Management Procedures	The Service Provider shall submit the Data management procedures to TfL for assurance prior to the Operational Commencement Date, procedures shall be updated periodically in a frequency to be agreed with TfL.	Must have
ELT-REQ-292	Records of Data Deletion	The Service Provider shall maintain sufficient records of Data deletions, as defined by TfL from time to time, to provide a full audit trail to meet the requirements of (but not limited to): a) The Solution audit; b) TfL's external audit; c) Audit by TfL and TfL's internal auditors; d) TfL's management reporting and contract monitoring; and e) Privacy and Data Protection Legislation.	Must have
ELT-REQ-319	Transfers of Data	The Service Provider shall comply with all relevant provisions of the GDPR and ensure that all transfers of Data are secure, including: those using removable media, and shall explicitly prevent the unauthorised use of removable media by its agents, employees, contractors and other persons with access to equipment.	Must have
ELT-REQ-425	Disposal of Data	The Service Provider will dispose off/delete data in accordance with Data retention rules agreed with TfL.	Must have

3.8 Incident Management

Requirement ID	Name	Description	Priority
ELT-REQ-27	Problem Resolution	<p>The Service Provider shall provide ongoing support to TfL in order to resolve problems and ensure effective delivery of the ELT. This may include, but shall not be limited to:</p> <ul style="list-style-type: none"> • Access to telephone support; • Online user manuals <p>This support should be available during operational hours as defined by TfL.</p>	Must have
ELT-REQ-262	Named Contact for Incident Resolution	<p>The Service Provider shall provide a named individual as a contact point for tracking incident resolution. The individual shall be available both within and outside of operating hours, upon agreement with TfL.</p> <p>Please refer to Schedule 2 Annex C- Maintenance Services.</p>	Must have
ELT-REQ-263	Error Investigation	<p>The Service Provider shall investigate all Solution errors, coordinating with TfL and other Service Providers as necessary, and resolve them in accordance with the timescales defined in Schedule 2 Annex C Appendix – Maintenance Services.</p>	Must have
ELT-REQ-267	Service Monitoring - Alarm Notification	<p>The Service Provider shall provide mechanisms to ensure that alarms from the service monitoring system are received by the Service Provider's nominated personnel at any premises and at any time.</p>	Could have

Requirement ID	Name	Description	Priority
ELT-REQ-316	Maintenance - Incidents	The Service Provider shall schedule preventative maintenance to address Incidents as part of the regular maintenance plan.	Must have
ELT-REQ-356	Incident and Request Management Compliance	<p>The Service Provider shall comply with TfL's Tech and Data Incident and Request Management Process.</p> <p>Please refer to Schedule 2 Annex C - Maintenance Services.</p> <p><u>Additional information:</u></p> <p>Incident and Request Management- This process uses a single point of contact through TfL's central helpdesk managed by a 3rd party. There is an expectation that the Service Provider's service desk tool to integrate with TfL's "Remedy". This will be defined during contract phase. T&D and the Service Provider will take instruction and management from TfL's central managed helpdesk.</p>	Must have
ELT-REQ-357	Collaboration with TfL Service Desk	The Service Provider shall collaborate with TfL's Tech and Data primary service desk in resolving Incidents raised against the Solution during it's Operational Hours.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-360	Incident Update Frequency	<p>The Service Provider shall comply with the update frequency stipulated by TfL's Tech and Data Incident and Request Management process, for Incidents raised against the Solution:</p> <ul style="list-style-type: none"> • Severity 1: Every 30 minutes • Severity 2: Every 60 minutes • Severity 3: Daily • Severity 4: N/A <p>The update frequency is how often the Service Provider is expected to provide updates to affected users of the Solution.</p> <p>Please refer to Schedule 2 Annex C- Maintenance Services.</p>	Must have
ELT-REQ-361	Service Coverage	<p>The Service Provider shall provide Service Incident support for all components of the Solution during Operational Hours. These components include, but are not limited to:</p> <ul style="list-style-type: none"> • Infrastructure • Application • Middleware 	Must have
ELT-REQ-362	ITSM - General	<p>The Service Provider shall provide TfL with the following information about the Solution which will be recorded in TfL's Tech and Data Information Technology Service Management (ITSM) framework:</p> <ul style="list-style-type: none"> • Service Name • Operational Categories (to be agreed between the Service Provider and TfL) 	Must have

Requirement ID	Name	Description	Priority
		<ul style="list-style-type: none"> • Product Categories (to be agreed between the Service Provider and TfL) • Configuration Items (CIs) • Knowledge Base Articles including Problem Investigations (PBIs) and Known Errors (PKEs) • Software Certificates • Software Licenses • Service Level Agreements. 	
ELT-REQ-416	Problem Record Prioritisation	<p>The Service Provider shall collaborate with TfL's Tech and Data Primary Service Desk in prioritising Problem records that are raised against the Solution based on:</p> <ul style="list-style-type: none"> • Impact (the net effect the Problem is expected to have on business activities) • Urgency (how soon the impact of the Problem will be felt by the business). 	Must have
ELT-REQ-417	Trend Analysis	<p>The Service Provider shall conduct trend analysis on Incidents and problems against the Solution in order to identify common issues and underlying causes and propose fixes and take preventative action.</p>	Must have
ELT-REQ-418	Problems in Response to Severity 1 Incidents	<p>The Service Provider shall immediately raise a Problem record in order to investigate and identify the underlying cause(s) of the issue within 3 days of the service being restored for the Solution.</p> <p>This is in response to a Severity One Incident against the Solution which has an agreed work-around.</p>	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-419	Create Problem Record	The Service Provider shall, upon identifying the root cause(s) of an Incident which needs to be resolved for the Solution, collaborate with TfL's Tech and Data Primary Service Desk in creating a Problem record in TfL's Tech and Data IT Service Management (ITSM) framework.	Must have
ELT-REQ-420	Problem Management Report	<p>The Service Provider shall produce a Problem Management report every 3 months that includes information on:</p> <ul style="list-style-type: none"> • All new Problems registered in the last 3 months • All unresolved Problems • All Problems resolved in the last 3 months 	Must have
ELT-REQ-421	Problem Management Report Details	<p>The Service Provider shall include the following information for each Problem listed in the Problem Management Report:</p> <ul style="list-style-type: none"> • Unique Problem Identifier • Problem Name • Problem Description • Plan for Problem Resolution (unresolved Problems only) • Resources required to resolve the Problem (unresolved Problems only) • Estimated Date to resolve the Problem (unresolved Problems only) • Any identified Problem trends 	Must have

3.9 Maintainability and Support

Requirement ID	Name	Description	Priority
ELT-REQ-45	Notification of Change	<p>The Service Provider shall provide written notification to TfL of proposed changes to the ELT which will or is likely to lead to a change to the services.</p> <p>This will be at least at least 3 months prior to any changes being implemented and proposed changes will require authorisation from TfL prior to implementation.</p>	Must have
ELT-REQ-265	Maintenance	The Service Provider shall ensure that regular preventative maintenance (including but not limited to security patches and system upgrades) is carried out across the Solution.	Must have
ELT-REQ-314	Extraordinary Maintenance Activities	The Service Provider shall agree with TfL any extraordinary maintenance activities that are additional to the assured plan of regular preventative maintenance with TfL at least two (2) days prior to carrying out the maintenance activities, subject to the impact of the activity and agreement with TfL.	Must have
ELT-REQ-381	Rollback / Reverse Changes	The Service Provider shall rollback / reverse any Changes made to the Solution based on requests from TfL.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-385	License Management: Information	<p>The Service Provider shall provide information about licensing for the Solution to TfL that includes, but is not limited to:</p> <ul style="list-style-type: none"> • Name of license provider • License Type • Duration / Cost • Quantity • Deployment Method • Known Limits 	Must have
ELT-REQ-387	Service Reviews	The Service Provider shall attend quarterly service reviews with TfL regarding the ongoing provision of the Solution and service.	Must have
ELT-REQ-388	Service Reports: Intervals	The Service Provider shall provide quarterly service level Reports to TfL.	Must have
ELT-REQ-389	Service Reports: Measures	<p>The Service Provider shall provide TfL with service Reports for the Solution that measure values that include, but are not limited to:</p> <ul style="list-style-type: none"> • Agreed Service Levels • Number of Incidents • Number of Problems • Number of Changes • Licensing Status 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-390	Service Reports: Information	<p>The service Reports that the Service Provider for the Solution gives TfL shall comprise information that includes, but is not limited to:</p> <ul style="list-style-type: none"> • Name of the Report • The purpose of the Report • How often the Report is generated • Who generates the Report • Recipients of the Report 	Must have
ELT-REQ-404	Monitoring Solution Characteristics	<p>The Service Provider shall have the capability to measure and monitor the following characteristics of the Solution:</p> <ul style="list-style-type: none"> • Availability • Performance • Security • 	Must have
ELT-REQ-405	End-to-end Monitoring: Solution Layers	<p>The Service Provider shall have the capability for end-to-end monitoring of the Solution during Operating Hours at each of the following Solution layers:</p> <ul style="list-style-type: none"> • Application • Application Performance Monitoring (APM) • Infrastructure • User 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-406	Create Monitoring Thresholds for Solution	<p>The Service Provider shall create monitoring thresholds against which Solution events can be logged. The attributes to be defined for these thresholds shall include, but not be limited to:</p> <ul style="list-style-type: none"> • Name of threshold • Description of threshold • Solution characteristic to be monitored (e.g. Availability, Performance, Security) • Lower-level Solution characteristics to be monitored (e.g. for Capacity these may be storage or number of licenses) • Threshold value (e.g. for Capacity it may be that the number of licenses used exceeds 80% of the total available number of licenses for the Solution) • Which Users are to be notified in the event that Solution thresholds are breached • Raise an Incident Ticket if the Threshold is breached (Yes / No)? If 'Yes', this indicates that the Solution shall interface with TfL's IT Service Management (ITSM) framework to create an Incident record • Severity level to be assigned to the Incident ticket. 	Must have
ELT-REQ-412	Reviewing Alerts and Events	The Service Provider shall review alerts and events for applicability, accuracy and for gap analysis according to a schedule to be agreed with TfL.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-432	Guidance for Candidates	<p>The Service Provider shall ensure that any guidance and/or instructions will be updated if/when subsequent version upgrades of the Solution shall result in material changes to how the test operates.</p> <p>This will be done at no additional charge to TfL.</p>	Must have

3.10 Security

Requirement ID	Name	Description	Priority
ELT-REQ-42	Access - Security	The Service Provider shall ensure that access to the Service Provider's system is secure and preventative measures exist to ensure non-Authorised Users cannot access the Solution.	Must have
ELT-REQ-44	Cyber Security	<p>The Service Provider shall, when delivering the Solution, align with the 10 Steps to Cyber security set out by the National Cyber Security Centre and in accordance with relevant TfL policies, as amended from time to time.</p> <p>Please refer to Schedule 8- Security Policy.</p>	Must have
ELT-REQ-103	Storage of Data	The Service Provider shall ensure the service and data is held within the European Union or United Kingdom.	Must have
ELT-REQ-104	Security of Hosted Solution	The Service Provider shall ensure virtual and physical security of the hosted Solution so TfL data is secure and unauthorised access or disclosure is mitigated.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-275	Escalation Process	The Service Provider shall ensure that they have an escalation process in place for reporting any intelligence regarding suspicious behaviour or activity, or information of a sensitive nature to TfL.	Must have
ELT-REQ-276	Reporting Criminal Activity	The Service Provider shall report any criminal activity affecting the service, TfL or the customers to all the relevant parties (including but not limited to the police and TfL). The Service Provider shall include any images relevant to the report being made, as well as relevant notes, damage reports and approximate costs of reparations, including labour.	Must have
ELT-REQ-300	Staff Training and Qualifications	The Service Provider shall be responsible for providing suitably qualified and trained personnel to deliver, maintain and support the services. Personnel must hold all formal qualifications required in order to perform their roles in the provision of the service.	Must have
ELT-REQ-301	Removal of Service Provider Staff	The Service Provider shall accommodate any request from TfL for the removal of the personnel involved in the provision of the services.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-303	Reporting Personnel Activity	<p>The Service Provider shall ensure that TfL is notified immediately of the occurrence of any of the following, regarding the Service Provider's personnel if these personnel are directly involved in the provision of the service:</p> <ul style="list-style-type: none"> • Suspensions, • Disciplinary proceedings; • Dismissals; • Any criminal activity; and • Being found to be under the influence of alcohol or drugs whilst on duty. <p>• Suspensions arising from fraud (see ELT-REQ-277).</p>	Must have
ELT-REQ-304	Background Checks	<p>The Service Provider shall ensure that background checks are performed for new Service Provider personnel prior to the commencement of their employment including, but not limited to:</p> <ul style="list-style-type: none"> • Reference checks; • Related person(s) checks; • Credit checks; • Media checks; • Disclosure barring service (DBS) checks; • Medical checks; and • Right to work checks 	Must have
ELT-REQ-305	Notify - Compromising Action	<p>The Service Provider shall, in the event of the Service Provider's personnel taking any action that might compromise the reputation of TfL, alert TfL within twenty-four (24) hours of becoming aware of the action and provide details of its planned resolution including appropriate timescales and regular updates.</p>	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-306	Revoke Leaver Access	The Service Provider shall ensure that when a member of the Service Provider's personnel is dismissed or leaves, all property belonging to the Service Provider is returned; accesses are revoked, and the individual exits the premises on their last day.	Must have
ELT-REQ-307	Personnel - Records and Qualifications	The Service Provider shall upon request from TfL make available any relevant records or qualification certificates of any Service Provider personnel.	Must have
ELT-REQ-313	Notify - Security Breach	The Service Provider shall immediately notify TfL of any actual or threatened breach in connection with the security of the Solution and the services. The Service Provider shall comply with any Information Commissioner's Office (ICO) investigations, and report related activity and outcomes to TfL without delay.	Must have
ELT-REQ-317	Data Security	<p>The Service Provider shall take all reasonable measures to ensure the security of Customer and the Solution Data in accordance with TfL Data security policies and standards (see Schedule 8- Security Policy) including, but not limited to:</p> <ul style="list-style-type: none"> • Ensuring that all devices have up-to-date anti-virus software • Not leaving devices unattended while logged into the Solution • Ensuring that users have the correct level of user permissions in the Solution limited to only the data required for the role. 	Must have

Requirement ID	Name	Description	Priority
		<ul style="list-style-type: none"> • Immediately disabling user accounts of operators that have ceased to be a member of Service Provider's personnel or at TfL's request • Use of biometrics where possible • Tracking all activity of Users in the Solution • Disabling USB ports to prevent data being extracted to external devices. <p>Security arrangements need to be agreed with TfL and must be kept up to date.</p>	
ELT-REQ-399	Access Control - User Access	<p>The Service Provider shall comply with TfL's System Access Control Policy for granting users access to the Solution. This shall require approval to first be obtained from either the:</p> <ul style="list-style-type: none"> • TfL Business Owner for the Solution OR • TfL Service Owner for the Solution. 	Must have

3.11 Reporting

Requirement ID	Name	Description	Priority
ELT-REQ-47	Reporting Risks and Issues	<p>The Service Provider shall report risks and issues which affect the security, performance and compliance of the delivery of services to TfL.</p> <p>This shall be achieved via a monthly report in accordance with a format and using a mechanism to be agreed with TfL.</p>	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-50	ELT Reporting	The Service Provider shall carry out high level test analysis across the ELT results, and provide a monthly report of the analysis, in a format to be agreed with TfL. This must include analysis of the proportions of passes and fails across the facets and any trends.	Must have
ELT-REQ-53	ELT and Marking and Results Service Review	<p>The Service Provider shall, in collaboration with TfL, and at no extra cost, review the ELT and Marking and Results Service on an annual basis, or any other time that this is requested by TfL.</p> <p>Results of the review shall be made available to TfL and in a format requested by TfL and any changes must not incur any additional costs to TfL.</p> <p>TfL shall have the right to amend questions or remove them from the Question Bank and or ELT during this review process or at any other time.</p>	Must have
ELT-REQ-280	Anonymous Reporting of Fraud	The Service Provider shall ensure there is a process in place for anonymous and confidential reporting of suspected fraud or fraudulent activity that would compromise the integrity of the ELT, Marking and Results Service and Appeals service.	Must have
ELT-REQ-297	Meetings - Sub Contractors	The Service Provider shall, upon request from TfL and at no additional cost to TfL, invite sub-contractors to attend regular and/or ad-hoc meetings with TfL and any TfL related Third Parties. This applies to all project phases, pre and post go-live.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-321	Reporting	The Service Provider shall provide agreed reports at the frequency/format specified by TfL at no additional cost to TfL.	Must have

3.12 Disaster Recovery

Requirement ID	Name	Description	Priority
ELT-REQ-261	Disaster Recovery Plan	<p>The Service Provider shall ensure that a disaster recovery plan is in place and should include but not be limited to the following:</p> <ul style="list-style-type: none"> • Minimum failure scenarios (e.g. loss of data centres and hub buildings) • Common service restoration steps • Recovery Point Objective (RPO) and Recovery Time Objective (RTO) • RPO<4 hrs and RTO - 8 hours • Resolver matrix • Business contacts • Service impact descriptions • Dependent and depending services • Links to design & build documents. 	Must have

3.13 Exit Management

Requirement ID	Name	Description	Priority
ELT-REQ-433	Exit Management	The Service Provider shall adhere to TfL's Exit Management policies as set out in- Schedule 10- Exit Management.	Must have

3.14 Fraudulent Activity

Requirement ID	Name	Description	Priority
ELT-REQ-277	Fraudulent Activity	The Service Provider shall proactively identify and prevent fraudulent activity in relation to the ELT and notify TfL of any infringements immediately.	Must have
ELT-REQ-278	Fraudulent Activities - Review	The Service Provider shall review all fraudulent activities and together, with TfL, put in place mitigating actions and controls.	Must have
ELT-REQ-279	Fraudulent Activities - Recording	The Service Provider shall maintain a fraudulent activities log ensuring that all fraudulent activities are recorded as soon as the fraudulent activity is detected. This log will be shared with TfL on a periodic basis.	Must have
ELT-REQ-281	Data Provision	The Service Provider shall supply all Data, excluding Data owned by TfL, to the police and/or courts where specifically required to do so by law. Where any such request is made direct to the Service Provider, the Service Provider shall notify TfL the same day.	Must have
ELT-REQ-428	Fraudulent Activity- Guidance	The Service Provider shall provide ongoing guidance and support around new fraud identification and investigation techniques available in the market related to the ELT. The frequency of these sessions is to be agreed with TfL.	Could have

3.15 Personnel

Requirement ID	Name	Description	Priority
ELT-REQ-282	Personnel - Solution Testing	The Service Provider shall make personnel available to complete all testing activities involved in releasing new versions of the Solution, for both go-live and periodic releases, at no cost to TfL. This shall be in accordance with Schedule 6 – Acceptance Testing.	Must have
ELT-REQ-298	Named Contacts	The Service Provider shall ensure that TfL is advised of the name(s) and contact details of the appointed person(s) responsible for the operation of the services and shall ensure that they are available for contact by TfL during operational hours.	Must have
ELT-REQ-299	Organisational Chart	The Service Provider shall provide to TfL, job descriptions and organisational charts showing full time equivalent roles and key personnel, including the organisational chart of any relevant sub-contractors. The Service Provider provide updates to TfL when changes to the organisational structure occur.	Must have
ELT-REQ-308	London Living Wage	The Service Provider shall ensure that their working practices conform to TfL's commitments to the Investors in People scheme and London Living Wage.	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-310	Personnel - Training	<p>The Service Provider shall ensure the content of Service Provider personnel training includes, but is not limited to, coverage of the following areas, where applicable:</p> <ul style="list-style-type: none"> • Privacy legislation; • Freedom of Information Legislation; • Health and Safety legislation; • Security requirements; • Obligations, codes and procedures for its Personnel; • Computer Misuse Act 1990; • Security processes and procedure; • Fraud; • Premises rules and regulations; • Methods to ensure Personnel have a clear understanding of their duties and hours; • Methods to ensure Personnel are competent to use all necessary equipment and Service System(s) in a safe and efficient manner; and • Equality and Inclusion Policies; 	Must have
ELT-REQ-312	Personnel - Training Matrix	<p>The Service Provider shall supply and maintain a current matrix of training, certification, competencies and communication for Service Provider personnel engaged in the provision of services to TfL. This shall be provided to TfL annually and on request.</p>	Must have

3.16 Training

Requirement ID	Name	Description	Priority
ELT-REQ-25	Training of TfL Assessment Centre Staff	<p>The Service Provider shall ensure that pre go-live, post go-live training will be provided to up to 10 TfL Authorised Users so that they may administer the ELT. This includes all training materials which will be updated from time to time for the duration of the agreement.</p> <p>Note: The Service Provider must provide an option for ad hoc post go live training throughout the life of the contract.</p>	Must have
ELT-REQ-26	Technical Support	<p>The Service Provider shall provide technical support during Solution testing in accordance with an agreed test plan.</p> <p>Please refer to Schedule 6- Acceptance Testing.</p>	Must have
ELT-REQ-28	Training Materials for Candidates	The Service Provider shall make training materials available for candidates (test-takers) at no extra cost to TfL.	Should have
ELT-REQ-311	Training Materials	The Service Provider shall supply a copy of its training materials (see ELT-REQ-28) to TfL upon request.	Must have

3.17 Quality Assurance

Requirement ID	Name	Description	Priority
ELT-REQ-48	Accuracy of ELT	The Service Provider shall ensure that a process is in place in order to provide assurance of the accuracy of ELT results, as agreed between the parties.	Must have
ELT-REQ-272	ELT Quality Monitoring	The Service Provider shall provide TfL with a schedule of its quality assurance activities relating to all parts of the service provided (including the type and frequency of the activity) and make results available to TfL on request and at no additional cost to TfL.	Must have
ELT-REQ-287	Audit Access	<p>The Service Provider shall upon request from TfL, allow TfL and/or Third Parties authorised by TfL full access to conduct an audit in accordance with the agreed audit schedule.</p> <p>Areas to be audited may include, but are not limited to:</p> <ul style="list-style-type: none"> • Privacy (in accordance with BS10012, and guidance from the Information Commissioner's Office - ICO Guide to Data Protection Audits) • Procedures • Security (including but not limited to physical and cyber security) • Quality Management Systems • Health and Safety • Data 	Must have

Requirement ID	Name	Description	Priority
ELT-REQ-295	Audit Recommendations	The Service Provider shall implement the recommendations from any audits within the timescales agreed with TfL.	Must have
ELT-REQ-426	Quality Monitoring Activities	The Service Provider shall carry out quality monitoring activities along with sample checking. The size of the sample shall be agreed with TfL Prior to the Operational Commencement Date.	Must have

3.18 TfL- Specific Test

Requirement ID	Name	Description	Priority
ELT-REQ-322	ELT Contextualisation	<p>The Service Provider shall set out its approach (including a high level cost estimate) for making the ELT more relevant to the role of a Private Hire Driver (Contextualising) within the following timescales:</p> <ul style="list-style-type: none"> • Available from the Operational Commencement Date • Three months after the Operational Commencement Date • Six months after the Operational Commencement Date 	Should have

Glossary

TPH English Language Test ELT

Dated 3rd February 2020

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Ad Hoc Report

Term ID: ELT-TERM-30

Status: Draft

Version: v2

Description: Any Report other than the predefined Report.

Abbreviation:

Appeal

Term ID: ELT-TERM-1

Status: Final

Version: v9

Description: A request by a candidate to review the test results of an ELT.

Example- When a candidate fails the ELT, they may contact TfL and request a review of the ELT result. If TfL believe the request is warranted, TfL will request the Service Provider to review the ELT result and associated answers, and provides TfL with the outcome of their review .

Abbreviation:

Appeal Pack

Term ID: ELT-TERM-31

Status: Final

Version: v3

Description: An information pack prepared by TfL using Data extracted from the Solution in response to an Appeal and which contains all information relevant to the Appeal.

Abbreviation:

Appeals Service

Term ID: ELT-TERM-62

Status: Draft

Version: v3

Description:	The service and support provided by the Service Provider when a candidate appeals against a decision made.
Abbreviation:	

Business Continuity

Term ID: ELT-TERM-32

Status: Final

Version: v4

Description:	The continued operation of the Solution and all assets and infrastructure involved with the services.
Abbreviation:	

Capacity

Term ID: ELT-TERM-33

Status: Final

Version: v4

Description:	The maximum processing, input and output volumes, sizing requirements, network bandwidth, data storage and transfer handling capacity of the Solution and services.
Abbreviation:	

Capacity Threshold: Primary

Term ID: ELT-TERM-48

Status: Final

Version: v5

Description:	<p>A level or rate of activity at which some action should be taken.</p> <p>The Primary Capacity Threshold is the point at which the the Solution has reached it's first threshold. It is an acknowledgement and gives people managing the service an opportunity to validate if the threshold has been reached too soon (thereby validating the Capacity projections for the project). It should prompt questions such as whether any housekeeping needs to be done to reduce the capacity level. The primary threshold will be set at a lower level than the secondary and tertiary thresholds, for example, 60%.</p>
Abbreviation:	

Capacity Threshold: Secondary

Term ID: ELT-TERM-49

Status: Final

Version: v3

Description:	<p>A level or rate of activity at which some action should be taken.</p> <p>A Secondary Capacity Threshold is a trigger to set in motion investigatory works to define whether the Solution's initial capacity levels were too short and explore the option of increasing the capacity with the business so that they can start to build a business case for funding in order to increase capacity. A secondary threshold will be set at a higher level than the primary threshold, but lower than the tertiary threshold, for example, 75%.</p>
Abbreviation:	

Change Management

Term ID: ELT-TERM-66

Status: Draft

Version: v2

Description:	The controlled and managed process of identification and implementation of changes within the Solution.
Abbreviation:	

Change Types

Term ID: ELT-TERM-51

Status: Final

Version: v3

Description:	<p>There are 3 types of Changes:</p> <ol style="list-style-type: none">1. Standard Changes - Requests that are frequently performed, regular and routine in nature2. Non-standard Change - Encompasses the majority of Changes and must follow the complete Change Management process, including review, planning and approval3. Emergency Change - Change in response to a Severity 1 or Severity 2 production Incident to resolve/restore service.
Abbreviation:	

Common European Framework Reference for Languages

Term ID: ELT-TERM-2

Status: Final

Version: v3

Description:	The Common European Framework of Reference for Languages (CEFR) is an international standard for describing language ability. It describes language ability on a six-point scale, from A1 for beginners, up to C2 for those who have mastered a language.
Abbreviation:	CEFR

Digital Toolkit

Term ID: ELT-TERM-28

Status: Final

Version: v5

Description:	<p>The range of standards and guidelines for use by staff and suppliers when working on digital services for TfL.</p> <p>These can be found at the following URL: https://tfl.gov.uk/info-for/suppliers-and-contractors/digital-toolkit</p>
Abbreviation:	

DR on a Page

Term ID: ELT-TERM-15

Status: Final

Version: v3

Description:	<p>Disaster recovery on a page consists of the following:</p> <ul style="list-style-type: none">* Minimum failure scenarios (example loss of a DC, both DCs, hub building)* Common service restoration steps* Resolver matrix* Business contacts* Service impact descriptions* Dependent and depending services* Links to design & build documents
Abbreviation:	

English Language Test

Term ID: ELT-TERM-3

Status: Final

Version: v5

Description:	<p>An online listening and speaking test, designed to measure a person's language capability, aligned to CEFR.</p>
Abbreviation:	<p>ELT</p>

Environment

Term ID: ELT-TERM-17

Status: Draft

Version: v9

Description:	A version of the Solution that is available to a customer and/or an Authorised User. For example- An Authorised User has access to pre production, production and the live Environment.
Abbreviation:	

Functional Requirement

Term ID: ELT-TERM-37

Status: Final

Version: v3

Description:	Requirements that describe what the Solution and services shall do.
Abbreviation:	

Health and Safety Legislation

Term ID: ELT-TERM-61

Status: Draft

Version: v1

Description:	The legislation affecting the management of health and safety in organisations across all sectors, primarily the Health and Safety at Work Act 1974 (HSWA).
Abbreviation:	

Incident

Term ID: ELT-TERM-52

Status: Final

Version: v4

Description:	<p>First line support - TfL shall provide first line support to users of the solution. The exact scope of this shall be determined by the capabilities of the Solution.</p> <p>Second line support - TfL shall provide second line support to users of the solution. The exact scope of this shall be determined by capabilities of the solution.</p> <p>Third line support - The Service Provider shall interface with TfL third line support and address issues raised. This shall be termed "Contractor Service Support".</p> <p>TfL service desk hours - The TfL service desk hours shall be 24/7.</p>
Abbreviation:	

Incident Report

Term ID: ELT-TERM-39

Status: Final

Version: v3

Description:	<p>A report on any Incidents that occur during the Service Provider's performance of the services from time to time.</p>
Abbreviation:	

Incident Update Frequency

Term ID: ELT-TERM-20

Status: Final

Version: v3

Description:	Frequency at which updates are expected from the Service Provider to the user Severity 1 = every 30min Severity 2 = every 60min Severity 3 = Daily Severity 4 = N/A
Abbreviation:	

Marking and Results Service

Term ID: ELT-TERM-4

Status: Final

Version: v6

Description:	A service through which the Service Provider will review the candidates ELT and mark their answers to the ELT questions. The candidate's result will be securely made available for TfL to access.
Abbreviation:	

Non-Functional Requirements

Term ID: ELT-TERM-40

Status: Final

Version: v3

Description:	Requirements that specify how the Solution and services shall operate, rather than a specific item of functionality or behaviour.
Abbreviation:	

Operational Commencement Date

Term ID: ELT-TERM-24

Status: Final

Version: v4

Description:	The date on which TfL and the relevant Users shall commence using the Solution and services (including Marking and Results, and Appeals) in the live Environment.
Abbreviation:	

Operational Hours

Term ID: ELT-TERM-13

Status: Final

Version: v4

Description:	Monday to Friday, 08:00 to 18:00 excluding public holidays
Abbreviation:	

Private Hire Vehicle

Term ID: ELT-TERM-63

Status: Draft

Version: v1

Description:	A Private Hire vehicle within the meaning of section 1(1) of the PHV Act.
Abbreviation:	PHV

Question Bank

Term ID: ELT-TERM-23

Status: Final

Version: v3

Description:	The list of ELT questions approved by TfL which candidates will be tested against to measure their language capability. This list will sufficient enough to ensure the integrity of the ELT is not compromised.
Abbreviation:	

Recovery Point Objective

Term ID: ELT-TERM-59

Status: Final

Version: v3

Description:	The amount of data that can be lost (expressed as the number of hours of input) when the service is recovered.
Abbreviation:	RPO

Recovery Time Objective

Term ID: ELT-TERM-58

Status: Final

Version: v1

Description:	How long it will take for the Ssolution to be available for use again.
Abbreviation:	RTO

Release Plan

Term ID: ELT-TERM-16

Status: Draft

Version: v3

Description:	<p>A plan that describes which features will be delivered in an upcoming software release.</p> <p>The following list is the minimum information required in the Release Plan-</p> <ul style="list-style-type: none">* Required software* Dependent services* Required parties (technical, business & 3rd parties)* High-level step-by-step release guide* Roll-back guide* Additional costs
Abbreviation:	

Resolution Times

Term ID: ELT-TERM-19

Status: Draft

Version: v4

Description:	<p>The maximum time taken by the Service Provider to resolve or provide an acceptable workaround for any issues relating to the Solution.</p> <p>The Network MSP have extended SLA's which are referenced in brackets. All Service SLAs are caveated by the Network MSP SLAs.</p> <p>Severity 1 = 2 hours (4 Hours - Network) Severity 2 = 4 Hours (8 Hours - Network) Severity 3 = 8 Hours (24 Hours - Network) Severity 4 = N/A</p>
Abbreviation:	

Resolve

Term ID: ELT-TERM-44

Status: Final

Version: v3

Description:	<p>Taking action to return an IT Service to the users after repair and recovery from an Incident.</p>
Abbreviation:	

Response Times

Term ID: ELT-TERM-18

Status: Final

Version: v3

Description:	Maximum response time (to user and/or technical owner) from an incident being logged: Severity 1 = 15min Severity 2 = 30min Severity 3 = 210min Severity 4 = 210min
Abbreviation:	

Results Verification System

Term ID: ELT-TERM-5

Status: Final

Version: v7

Description:	The method of securely sending the candidate's ELT results to TfL Authorised Users. For example, this could be a password-protected spreadsheet or via a secure portal. TfL will then notify the candidate of their result.
Abbreviation:	

SAML 2.0

Term ID: ELT-TERM-26

Status: Final

Version: v3

Description:	SAML 2.0 is an XML-based protocol that uses security tokens containing assertions to pass information about a principal (usually an end user) between a SAML authority, named an Identity Provider, and a SAML consumer, named a Service Provider.
Abbreviation:	

Service Support

Term ID: ELT-TERM-54

Status: Final

Version: v4

Description: The collection of processes that are designed to ensure the operational efficiency of a service. These include incident and problem management, change management, release management and configuration management.

Abbreviation:

Solution

Term ID: ELT-TERM-7

Status: Final

Version: v4

Description: The core technology, including user interfaces, back end system(s) and interfaces that will facilitate the English Language Tests, Marking and Results Service and the Appeal's service.

Abbreviation:

Technology and Data

Term ID: ELT-TERM-65

Status: Draft

Version: v2

Description: The technology and development directorate of TfL.

Abbreviation: T&D

Information Technology Service Management

Term ID: ELT-TERM-57

Status: Final

Version: v4

Description: The ITIL processes supported by the ITSM Framework, which include, but are not limited to, the following: Service Request Management, Incident Management, Change Management, Asset Management, Problem Management, Release Management, Service Level Agreement Management, Configuration Management and Knowledge Management.

Abbreviation: ITSM

Test Plan

Term ID: ELT-TERM-8

Status: Draft

Version: v5

Description: A Test Plan is the document describing the testing scope and activities during the development of the ELT and Marking and Results Service and the Appeals service.

This plan will need to be approved by TfL prior to implementation.

Abbreviation:

Accessibility Standard

Term ID: ELT-TERM-67

Status: Draft

Version: v1

Description: A set of recommendations for making content more accessible, primarily for people with disabilities-but also for all Users, including specified devices, such as mobile phones.

Abbreviation:

TfL Assessment Centre

Term ID: ELT-TERM-68

Status: Draft

Version: v1

Description:	A location where a Customer Assessment can be carried out, this is a TfL managed location.
Abbreviation:	

Test Environment

Term ID: ELT-TERM-72

Status: Draft

Version: v1

Description:	The Solution setup of software and hardware for the purposes of executing test cases, either for the initial go-live of the Solution, or on an on-going basis to implement changes or upgrades to the Solution.
Abbreviation:	

Pre-Production Environment

Term ID: ELT-TERM-73

Status: Draft

Version: v2

Description:	The Pre-Production Environment is the environment where the final validation of upgrades, fixes, and other changes is completed before the changes are deployed to the Live Environment.
Abbreviation:	

SCHEDULE 5

Project Plan

KEY MILESTONES	DELIVERABLE	DATE	ASSOCIATED NOTES
MS1	CONTRACT AWARD	[REDACTED]	BOTH COPIES OF AGREEMENT SIGNED BY THE SERVICE PROVIDER AND TFL
MS2	CONSOLIDATED DESIGN COMPLETION	[REDACTED]	REVIEW PERIOD BY TFL: <u>BREAKDOWN OF ACTIVITY:</u> 1) ANALYSIS WITH SERVICE PROVIDER TO ENSURE ALL REQUIRED INFORMATION IS READY FOR DESIGN (3 WORKING DAYS); 2) UPDATE CONSOLIDATED DESIGN (10 WORKING DAYS); 3) PEER REVIEW OF CONSOLIDATED DESIGN (5 WORKING DAYS); 4) FEEDBACK WORKFLOW (10 WORKING DAYS); 5) APPROVAL (10 WORKING DAYS).

KEY MILESTONES	DELIVERABLE	DATE	ASSOCIATED NOTES
MS3	COMMISSION OF ELT SOFTWARE TO TPH ASSESSMENT DESKTOP	[REDACTED]	DEPLOYMENT UPDATE OF KIOSK ASSESSMENT BUILD AND USER ACCEPTANCE TESTING.
MS4	TRAINING OF TPH STAFF	[REDACTED]	THIS IS TRAINING TPH STAFF ON: INTERACTION AND ADMINISTRATION OF THE TEST; INCLUDING TEST FUNCTIONALITY. IN ADDITION, THIS INCLUDES A 'TRAIN THE TRAINER' ELEMENT FOR TPH STAFF.
MS5	GO LIVE	01/10/2021	AS PER SCHEDULE 2 SERVICES

SCHEDULE 6

Acceptance Testing

1. For the avoidance of doubt, the provisions of this **Schedule 6** shall apply but shall be subject to any specific acceptance provisions as may be agreed in writing by the parties in addition or by way of amendment.

1.1 The Software and the System (“**Test Items**”) shall be subject to and shall be required to satisfy the Acceptance Tests, to demonstrate that they comply with the Acceptance Criteria (together with the other requirements of this Agreement) before being accepted by the Authority.

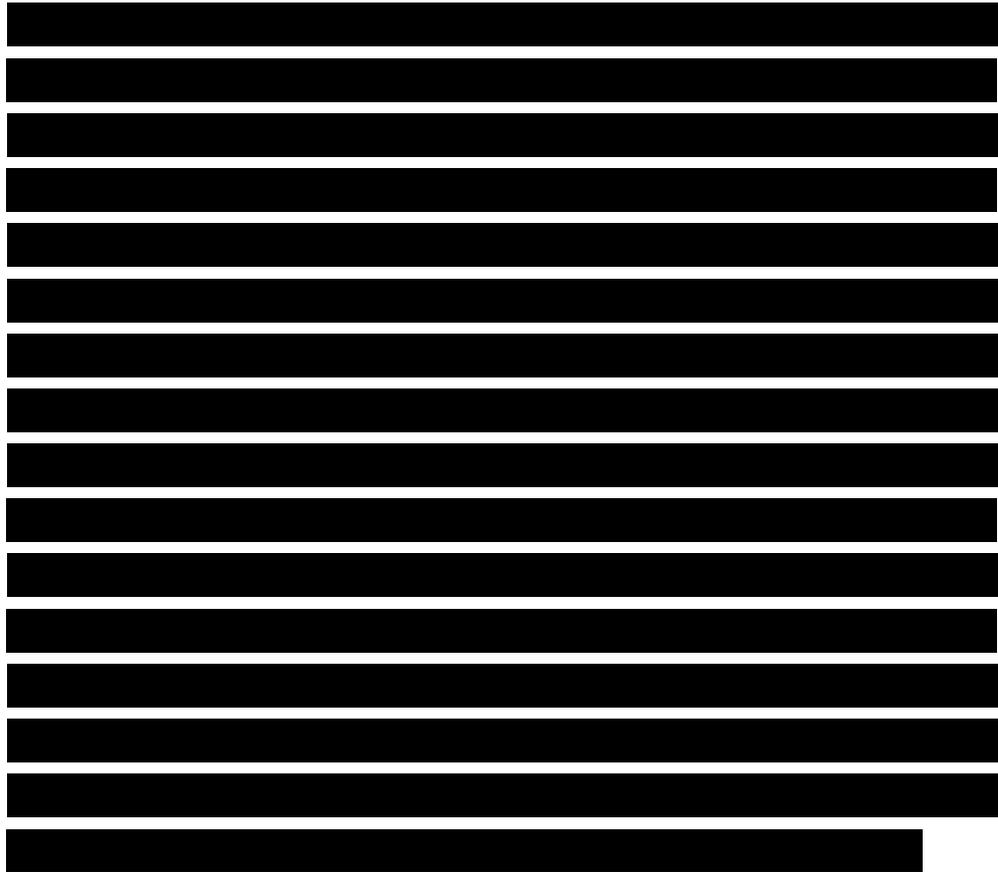
1.2 Specific Provisions

1.2.1 Software Tests

[REDACTED]

[REDACTED]

[REDACTED]



1.2.2 System Tests

Refer to 1.1.1 - Software Tests

1.3 General provisions

Refer to 1.1.1 - Software Tests

1.4 The Authority shall sign an Acceptance Certificate promptly following successful completion of the Acceptance Tests for the Test Items. Such Acceptance Certificate shall not be of any effect unless signed by the TfL Group's Contract Manager. The Authority shall have no obligation to sign an Acceptance Certificate in relation to any relevant Acceptance Tests unless the Service Provider can demonstrate that the Acceptance Tests have been carried out in accordance with the agreed procedure and the results of the Acceptance Tests objectively demonstrate that all of the Acceptance Criteria have been met. The Authority shall act reasonably in this regard. If the Software is used in a live environment then the Authority shall be deemed to have accepted whether an Acceptance Certificate has been signed or not.

- 1.5 Any dispute as to whether any Acceptance Test has been passed or whether any failure to provide approval is reasonable in the circumstances shall be referred for resolution in accordance with **clause 40** (Law and Dispute Resolution).
- 1.6 Acceptance of the System shall not relieve the Service Provider from performing its other obligations under this Agreement and shall not limit the warranties provided by the Service Provider under **clause 9** (Warranties and Obligations). The Service Provider shall (acting reasonably) agree with the Authority in conjunction with the exercising of the TfL Option the relevant testing required on the new system to be provided by the Service Provider under the TfL Specific Test Option.
- 1.7 The Service Provider shall (acting reasonably) agree with the Authority in conjunction with the exercising of the TfL Option the relevant testing required on the new system to be provided by the Service Provider under the TfL Specific Test Option.

ANNEX 1 – OUTLINE TEST STRATEGY

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

- [Redacted list item]

[Redacted]

[Redacted text block]

ANNEX 2 – ACCEPTANCE CERTIFICATE

To: Transport for London

FROM:

[*Date*]

Dear Sirs,

ACCEPTANCE CERTIFICATE

Deliverable(s): [*insert description*]

We refer to the agreement relating to the provision of the Service System and related services between Transport for London and [*name of Service Provider*] dated [*date*] (the **Agreement**).

Capitalised terms used in this certificate but not defined have the meanings given to them in the Agreement.

We confirm that the Deliverables listed above have been Tested successfully in accordance with the Test Plan relevant to those Deliverables.

There are no outstanding Test Issues ***OR** This Test Certificate is issued on the condition that any Test Issues are remedied in accordance with the Test Issues Resolution Plan attached to this certificate. *

**delete as appropriate*

Yours faithfully

[*Name*]

[*Position*]

acting on behalf of [*name of Service Provider*]

Approved by:

[*Name*]

[*Position*]

acting on behalf of Transport for London

SCHEDULE 7

Change Control Procedures

1. Principles

- 1.1 Where the Authority or the Service Provider sees a need to change any of the Services (which includes for the purposes of this **Schedule 7** any aspects of the System), the TfL Group's Contract Manager may at any time request, and the Service Provider's Contract Manager may at any time recommend, such amendment only in accordance with the formal Change Control Procedure ("**CCP**") as set out at paragraph 2.
- 1.2 Neither party shall unreasonably withhold its agreement to any amendment (which includes not recommending changes to any Services which are not reasonably necessary).
- 1.3 Until such time as an amendment to the Services is made in accordance with this Change Control Procedure, the Authority and the Service Provider shall, unless otherwise agreed in writing, continue to perform the Services in compliance with its terms prior to such amendment.
- 1.4 Any discussions which may take place between the Authority and the Service Provider in connection with a request or recommendation before the authorisation of a resultant amendment to the Services shall be without prejudice to the rights of either party.
- 1.5 Any work undertaken by the Service Provider which has not been otherwise agreed in accordance with the provisions of this **Schedule 7** shall be undertaken entirely at the expense and liability of the Service Provider.

2. **Procedures**

2.1 Discussion between the Authority and the Service Provider concerning an amendment to the Services shall result in any one of the following:

2.1.1 no further action being taken;

2.1.2 a request to amend the Services by the Authority; or

2.1.3 a recommendation to amend the Services by the Service Provider.

2.2 Where a written request for an amendment is received from the Authority, the Service Provider shall, unless otherwise agreed, submit two (2) copies of a Change Control Note (“**CCN**”) signed by the Service Provider to the Authority within seven days of the date of the request or such other period as the Contract Managers shall agree (acting reasonably).

2.3 A recommendation to amend by the Service Provider shall be submitted direct to the Authority in the form of two (2) copies of a CCN signed by the Service Provider at the time of such recommendation and the Authority shall give its response within fourteen (14) days or such other period as the Contract Managers shall agree (acting reasonably).

2.4 Each CCN shall contain:

2.4.1 the title of the amendment;

2.4.2 the originator and date of the request or recommendation for the amendment;

2.4.3 the reason for the amendment;

2.4.4 full details of the amendment including any specifications;

2.4.5 the price, if any, of the amendment;

2.4.6 a timetable for implementation together with any proposals for acceptance of the amendment;

2.4.7 a schedule of payments, if appropriate;

- 2.4.8 details of the likely impact, if any, of the amendment on other aspects of the Services including to:
 - 2.4.8.1 the timetable for the provision of the amendment;
 - 2.4.8.2 the personnel to be provided;
 - 2.4.8.3 the amended charges payable under the Services (as now amended);
 - 2.4.8.4 the documentation to be provided, if any;
 - 2.4.8.5 the training to be provided;
 - 2.4.8.6 working arrangements; and
 - 2.4.8.7 other contractual issues;
 - 2.4.9 the date of expiry of validity of the CCN; and
 - 2.4.10 provision for signature by the Authority and by the Service Provider.
- 2.5 For each CCN submitted the Authority shall, within the period of the validity of the CCN:
- 2.5.1 allocate a sequential number to the CCN;
 - 2.5.2 evaluate the CCN and, as appropriate:
 - 2.5.2.1 request further information, or
 - 2.5.2.2 arrange for two (2) copies of the CCN to be signed by or on behalf of the Authority and return one of the copies to the Service Provider; or
 - 2.5.2.3 notify the Service Provider of the rejection of the CCN.
- 2.6 A CCN signed by the Authority and by the Service Provider shall constitute an amendment to the Services and to the Agreement and otherwise no amendment shall have been agreed.

Change Control Note

Change Request No

Agreement No.....**dated**.....

Title of Amendment.....

Originator.....

The following change is requested to the Agreement identified above

Change Request (to be completed by the Authority)
<p>Description of Change:</p> <p>Reason/Justification:</p> <p>Affected Area(s):</p> <p>Price:</p> <p>Timetable for implementation:</p> <p>Schedule of Payments:</p>

Details of likely impact, if any, of the amendment on other aspects of the Services-

- the timetable for the provision of the amendment;
- the personnel to be provided;
- the amended charges payable under the Services (as now amended);
- the Documentation to be provided
- the training to be provided;
- working arrangements;
- other contractual issues.

I request that the described change be considered for inclusion in the Agreement

Signature

Date/...../.....

Approved by the Authority:

Signature

Date/...../.....

SCHEDULE 8

Security Policy

CYBER SECURITY MANAGEMENT

- 1. DEFINITIONS**
- 2. SCOPE AND PURPOSE**
- 3. SECURITY PRINCIPLES**
- 4. ACCESS CONTROLS AND SECURE CONFIGURATION OF SYSTEMS**
- 5. SERVICE PROVIDER PERSONNEL**
- 6. TRAINING**
- 7. TESTING & AUDIT**
- 8. SECURITY INCIDENT MANAGEMENT PROCESS**
- 9. SECURITY LOGGING AND MONITORING**
- 10. MALICIOUS SOFTWARE**
- 11. REVOLVABLE MEDIA**
- 12. MOBILE AND HOME WORKING**
- 13. DISPOSALS**
- 14. SECURITY MANAGEMENT PLAN**
- 15. INFORMATION SECURITY MANAGEMENT SYSTEM**
- 16. COMPLIANCE WITH ISO/IEC 27001**
- 17. APPROVED PRODUCTS**

THE ANNEX

1. DEFINITIONS

<p>“Cloud”</p>	<p>A type of internet-based computing service where organisation can have aspects of their IT infrastructure managed by external providers, normally as a Software as a Service (SaaS), Platform as a Service (PaaS) or Infrastructure as a Service (IaaS) basis</p>
<p>“Cyber Essentials Scheme”</p>	<p>is a UK government scheme encouraging organisations to adopt good practice in information security, focussing mainly on technical controls rather than governance, risk, and policy</p>
<p>“Cyber Security Policy / Policies”</p>	<p>The high level Cyber Security requirements for all IT and Operational technology and data owned by TfL or operated and supported by third parties for on behalf of TfL.</p>
<p>“Cyber Security Standard(s)”</p>	<p>The technical detail behind the implementation of the high level cyber security requirements as set out in the Cyber Security Policies.</p>
<p>“Data”</p>	<p>means data created, generated or collected, during the performance of the Services (or any part thereof), including Personal Data and data supplied to TfL and members of the TfL Group in connection with the Services or this Agreement;</p>
<p>“Good Industry Practice”</p>	<p>means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances.</p>

HMG Information Security Assurance Standards	the meaning and definition as well as relevant policy documents and standards can be found at https://www.gov.uk/government/collections/government-security-or-any-updated-link ;
“Information Asset Register”	means a register of all information assets relating to the services connected to this Agreement as detailed in paragraph 3.2(c)
“Information Security Management System” or “ISMS”	a framework of governance models, policies and procedures, based on a business risk approach to establish, implement, operate, monitor, review, maintain and improve information security in accordance with the requirements of paragraph 15
ISO/IEC 27001	is an information security standard specification for an information security management system (ISMS), with an emphasis on measuring and evaluating how well an organisation's ISMS is performing.
“IT Services”	means the IT services that support the delivery of the Services;
“Malicious Software”	means any software that brings harm to a computer system. Commonly known as malware can be in the form of worms, viruses, trojans, spyware, and adware which steal protected data, delete documents or add software not approved by a user.
“Operational Technology”	means any hardware or software which monitors and/or operates a physical process.
“Outline Security Management Plan”	means the security plan provided by the Service Provider as part of their tender submission

“Removable Media”	any type of storage device that can be removed from a computer while the system is running. Examples of removable media include CDs, DVDs and Blu-Ray disks, as well as diskettes and USB drives
“Security Incident”	a potential or actual event or attempted breach of security affecting the confidentiality, integrity or availability of the Services, IT Services or Networks which process or hold Data
“Security Management Plan”	means the Service Provider's security plan developed and revised pursuant to paragraph 8
“Security Policy”	means any TfL security policies as amended by TfL from time to time;
“Security Risk”	meaning all Risks associated with the security of the Services which may have a negative impact upon the agreed security posture, including information security and any risks identified pursuant to the Security Management Schedule.
“Security Risk Register”	means a register of Security Risks produced and maintained as detailed in paragraph 3.2(b)
“Service Assets”	means all assets and rights including all physical assets, Software, IPR, as well as spares and components whether in storage, repair or on sites, used by the Service Provider to provide the Services in accordance with this Agreement;
“Service Provider Personnel”	means all employees, agents, consultants and contractors of the Service Provider or of any Sub-Contractor
“Service	means any land or building where the Service Provider

Provider Premises”	carries out any part of this contract
"TfL"	means the Authority
“TfL Information Security Controls Framework”	means a hierarchy of IT security documents consisting of the high level Information Management Security Policy and ten security principles (Information Security Controls Framework); available upon request
“TfL Network(s)”	means the network infrastructure and services owned or used by TfL to support the delivery of the IT Services.
“TfL Personnel ”	means all employees, agents, consultants and contractors of TfL
“TfL Restricted”	as defined in the TfL Information Security Classification Standard (listed in the Annex)
“TfL Sites”	means all TfL premises where the services are delivered

2. SCOPE AND PURPOSE

2.1 The purpose of this Schedule is to:

- (a) set out the principles of protective security to be applied by the Service Provider in its delivery of the Services;
- (b) set out the Service Provider's wider security obligations relating to the Services;
- (c) set out the Service Provider's requirements to test and audit the Services including any Information Security Management System, to ensure compliance with the security requirements set out in this Agreement;

- (d) set out the Service Provider's obligations in the event of a Security Incident;
- (e) set out the principles for the Service Provider's development, implementation, operation, maintenance and continual improvement of the Security Management Plan;
- (f) set out the principles for the Service Provider's development, implementation, operation, maintenance and continual improvement of the Information Security Management System;
- (g) set out any Service Provider obligation for certification against the Services such as, ISO/IEC 27001, the Cyber Essentials Scheme or HMG Information Security Assurance Standards;
- (h) set out any Service Provider requirements to deliver the Services or Service Assets in accordance with the CESG Commercial Product Assurance (CPA) Scheme; and
- (i) set out the requirements on the Service Provider when delivering the Service(s), which are aligned with the 10 Steps to Cyber security set out by the Government (see Annex).
- (j) the Service Provider's obligation to comply with the Operations Technology Cyber Security Standards (see Annex).

3. SECURITY PRINCIPLES

3.1 The Service Provider acknowledges that security, data protection and confidentiality are of fundamental importance in relation to its provision of the Services and TfL's ability to retain public confidence. The Service Provider shall at all times comply with the security principles set out in this paragraph 3 in the delivery of the Services.

3.2 In recognition of the importance that TfL places on security, data protection and confidentiality, the Service Provider shall ensure that a director or relevant

individual, as agreed by TfL, is made aware of the risks set out in the Security Management Plan and is assigned overall responsibility for ensuring that:

- (a) appropriate members of Service Provider Personnel and the Service Provider's management team take responsibility for managing the different levels of security risk and promoting a risk management culture;
- (b) a Security Risk Register is produced and maintained and that all Security Risks are documented in an appropriate manner and is included in any contract risk register if one is in place. This Security Risk Register must be available for audit when reasonably required by TfL as set out in paragraph 7 of this Schedule
- (c) an Information Asset Register is produced and maintained and that all assets are documented in an appropriate manner in the Information Asset Register and shall identify the criticality of the relevant Service Assets in the delivery of the Services. This register must be available for audit when reasonably required by TfL as stated in paragraph 7 of this Schedule and when a Security Incident occurs.
- (d) supporting policies are implemented (where relevant) and communicated with Service Provider Personnel.

3.3 The Service Provider shall, and procure that its Sub-contractors shall, at all times ensure that:

- (a) security threats to the Services are minimised and mitigated;
- (b) the Services shall fully comply at all times with:
 - (i) any security requirements set out in the Annex;
 - (ii) the agreed Outline Risk Management Processes and approach set out in the Annex; and
 - (iii) Good Industry Practice.

- 3.4 The Service Provider must notify TfL of any instances where software, applications, services or processes are hosted or run from the cloud that are not part of the Agreement, and that host, process or connect with any of TfL Operational or IT technology, Data and Networks or handle TfL Data. The Service Provider is responsible for ensuring that any such cloud services comply with this Cyber Security Management Schedule.

4. ACCESS CONTROLS AND SECURE CONFIGURATION OF SYSTEMS

- 4.1 The Service Provider shall comply with all obligations relating to the patching and configuration management of Service Assets as set out in the Annex in addition to any specific obligations set out in the Annex, the Service Provider shall ensure that:
- (a) security patches are applied to Service Assets as soon as possible in line with vendor recommendations in accordance with overall risk management;
 - (b) account management and configuration control processes are implemented to ensure that access to Service Assets by Service Provider Personnel is limited to the extent required for them to fulfil their roles in supporting the delivery of the Services.
 - (c) when Service Provider Personnel change roles or no longer support the delivery of the Services access rights are revoked or reviewed;
 - (d) any system administration functionality is strictly controlled and restricted to those Service Provider Personnel who need to have access to such functionality and that the ability of Service Provider Personnel to change the configuration of the Services is appropriately limited and fully auditable;
 - (e) Service Provider Personnel are informed of what constitutes acceptable access of Operational or IT technology, Data and Networks and the consequences of non-compliance;

- (f) any preconfigured passwords delivered with any Service Assets are changed prior to their implementation for use in the Services;
- (g) the Services have appropriate devices, tools or applications in place to filter traffic or separate connections, such as industry standard firewalls and Malicious Software protection, to all public or private networks which are not controlled by or on behalf of TfL.
- (h) all wireless functionality is secure; and
- (i) software upgrades and patching must be managed appropriately and access to any software shall be granted using the principle of least privilege.

5. SERVICE PROVIDER PERSONNEL

- 5.1 The Service Provider shall, appoint a member of Service Provider Personnel to be the security manager who shall be responsible for the development, monitoring, enforcement, maintenance and enhancement of all security measures set out in this Agreement (the "**Security Manager**"). The Security Manager shall be a member of the Key Personnel.
- 5.2 The Service Provider shall ensure that all Service Provider Personnel are security screened or vetted appropriate to the Data and shall provide TfL within five (5) Business Days of the Commencement Date, and every twelve (12) months thereafter, written confirmation that this obligation has been complied with.
- 5.3 The Service Provider shall immediately notify TfL if it becomes aware of any security clearance issues in relation to the Service Provider Personnel and the Service Provider shall undertake any action requested by TfL in relation to mitigating the impact of any such security clearance issues.
- 5.4 The Service Provider shall not remove or replace the Security Manager (including when carrying out Exit Management) unless:
 - (a) requested to do so by TfL;

- (b) the Security Manager concerned resigns, retires or dies or is on maternity, paternity, adoption or long-term sick leave;
- (c) the Security Manager's employment or contractual arrangement with the Service Provider or a Sub-contractor is terminated for material breach of contract by that person; or
- (d) the Service Provider obtains TfL's prior written consent (such consent not to be unreasonably withheld or delayed) and the role is not left vacant.

5.5 The Service Provider shall:

- (a) notify TfL promptly of the absence of the Security Manager (other than for short-term sickness or holidays of three (3) weeks or less, in which case the Service Provider shall ensure appropriate temporary cover for Security Manager);
- (b) ensure that Security Manager role is not vacant for any longer than fifteen (15) Business Days;
- (c) give as much notice to TfL as is reasonably practicable (and in any event twenty (20) Business Days' notice) of any intention to remove or replace Security Manager except in the cases of death, unexpected ill health or a material breach by the Security Manager of his or her employment contract;
- (d) ensure that all arrangements for planned changes in the Security Manager provide adequate periods during which incoming and outgoing Security Manager work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services; and
- (e) ensure that any replacement for the Security Manager
 - (i) is only employed or engaged with TfL's prior written consent (such consent not to be unreasonably withheld or delayed)

- (ii) has a level of qualifications and experience appropriate for a Security Manager; and
- (iii) is fully competent to carry out the tasks of a Security Manager whom he or she has replaced.

6. TRAINING

- 6.1 The Service Provider shall ensure that all Service Provider Personnel have undergone suitable security awareness training prior to their deployment and such security awareness training shall cover, as a minimum; account usage, malicious software, home and mobile working, use of removable media, audit and inspection and Security Incident reporting and data handling. The Service Provider shall implement an up-to-date on-going programme of security awareness training for Service Provider Personnel throughout the Term.
- 6.2 The Service Provider shall provide additional training to its Service Provider Personnel, which may be required following a Security Incident, the application of a patch or update, or any relevant Operational Change agreed via a Contract Change Note (CCN).
- 6.3 The Service Provider shall ensure that all Service Provider Personnel are familiar with their responsibilities under applicable law and policies including, as a minimum, the Data Protection Legislation, the Security Policies set out in paragraph 1 of this Schedule and policies in relation to the handling of protectively marked materials both during their employment and following the termination of or change to the terms of their employment.

7. TESTING & AUDIT

- 7.1 The Service Provider shall conduct regular automated vulnerability scans of the Services, as agreed in the Risk Management Process and ensure that any identified vulnerabilities are appropriately mitigated or patched in line with the TfL Security Patching standard (see Annex), taking into consideration the risk posed to TfL and the Services.

- 7.2 The Service Provider shall conduct security tests, including ethical hacking and penetration tests, to assure compliance with the Security Incident Management Process, the security provisions in this Agreement and the Security Management Plan. The Service Provider shall conduct security testing in accordance with the Security Management Plan. The Service Provider shall procure the conduct of such security tests, as a minimum, every twelve (12) months from the Operational Commencement Date, by a competent third party that is CREST certified (or similar certification agreed by the Authority) and shall include security penetration testing of the Services and the associated technical infrastructure. Wherever the Services are accessible from the internet or other such public network, the Service Provider shall procure the carrying out of security penetration tests from the internet or the public network.
- 7.3 The Service Provider shall, within one (1) week completion of the security tests carried out in accordance with paragraph 7.2, provide a report to TfL setting out:
- (a) the outcome of such security tests including all identified vulnerabilities;
 - (b) the Service Provider's plans to remedy each such identified vulnerability as soon as possible, provided that any such remediation must be implemented in accordance with this Agreement including the TfL Change Management Process via an agreed CCN.
- 7.4 The Service Provider shall implement its plans to each identified vulnerability in accordance with the report delivered pursuant to paragraph 7.3 save to the extent directed by TfL in writing.
- 7.5 The Service Provider shall, upon request by TfL, following a Security Incident, carry out such additional security testing over and above the obligations set out in paragraph 7.2 as TfL requires.
- 7.6 TfL shall be entitled to send a member of TfL Personnel to witness the conduct of any audit or security tests carried out by or on behalf of the Service Provider. The Service Provider shall provide TfL with the results of such

audits (in a form agreed with TfL in advance) as soon as practicable after the completion of each audit or test.

7.7 In addition to complying with the Requirements, PCI DSS where applicable and other relevant industry standards and Good Industry Practice, the Service Provider shall at least once during each twelve (12) month period starting from the Operational Commencement Date, engage an appropriately skilled third party (which has CREST or similar certification) to conduct a formal audit of the Services against the then current versions of the following:

- (a) the security controls, processes and procedures required pursuant to this Agreement;
- (b) the Data Protection Legislation (using BS10012 or another standard as agreed with TfL), where applicable; and
- (c) the Security Management Plan,

and shall, within five (5) Business Days of becoming aware of actual or potential security issues which impact or could impact the Services, the Service Provider shall inform TfL of each such issue and shall keep TfL up-to-date as the Service Provider investigates the nature and impact of such issue. Within five (5) Business Days of the finalisation of the audit findings, the Service Provider shall provide to TfL a copy of all such findings which are relevant to the Services.

7.8 Without prejudice to any other right of audit or access granted to TfL pursuant to this Agreement or at Law, TfL and/or its representatives may carry out such audits in relation to security matters as are reasonably required to assess the Service Provider's compliance with the Information Security Management System and the Security Management Plan.

7.9 If any test or audit carried out pursuant to this paragraph 7 reveals any non-compliance with this Agreement or vulnerability (and, in the case of a TfL audit, TfL has informed the Service Provider thereof), the Service Provider shall, as soon as reasonably practicable, provide TfL with a written plan to remedy each such identified vulnerability as soon as possible, provided that

any such remediation must be implemented in accordance with this Agreement including the TfL Change Management Process and the Contract Change Note (CCN) Procedure. The Service Provider shall implement its plans to remedy each identified vulnerability in accordance with such report save to the extent directed by TfL in writing.

8. SECURITY INCIDENT MANAGEMENT PROCESS

8.1 The Service Provider shall, and shall procure that its Sub-contractors shall:

- (a) establish, document and share with TfL a process to identify and respond to Security Incidents and mitigate the impact of such Security Incidents on the Services, including in relation to assigning clearly defined roles and responsibilities to specific Service Provider Personnel;
- (b) record each Security Incident and corresponding severity level in the Service Provider's ISMS; and
- (c) without limitation to the other provisions of this Agreement, follow TfL's reasonable instructions in relation to the identification and resolution of any Security Incident.

8.2 The Service Provider shall notify and ensure TfL is aware as soon as possible and in any event no later than within one (1) hour upon becoming aware of any Security Incident or any potential Security Incident. In the first instant email: Cybersecurity@tfl.gov.uk

8.3 In addition to the requirements in paragraph 0 the Service Provider will additionally provide written notice with all relevant details reasonably available of any actual or suspected breach of security in relation to TfL Personal Data including unauthorised or unlawful access or Processing of, or accidental loss, destruction or damage of any TfL Personal Data.

- 8.4 If a Security Incident occurs, the Service Provider shall, within the framework of the Security Incident Management Process:
- (a) immediately take steps to assess the scope of the Data, user accounts and/or TfL Personal Data compromised or affected including, but not limited to, the amount of Data and/or TfL Personal Data affected;
 - (b) immediately take the steps necessary to remedy or protect the integrity of the Services against any such Security Incident;
 - (c) securely collect and preserve evidence, including logs, to support the Security Incident management process described in this Paragraph and share with TfL such evidence via secure channels as requested by TfL;
 - (d) handle any information pertaining to the Security Incident according to the handling requirements for TfL RESTRICTED information defined in TfL's Information Security Classification Standard;
 - (e) promptly escalate the Security Incident to a person or governance forum with a level of seniority within the Service Provider's organisation as TfL may reasonably require;
 - (f) as requested by TfL:
 - (i) provide such information in relation to the Security Incident (including, if necessary, by collating such information from its and its Sub-contractors' systems and the Service Provider Personnel);
 - (ii) provide relevant TfL Personnel with supervised access (or, if the Parties agree, direct access) to any relevant systems, Service Provider Sites and Service Provider Personnel in order to investigate the Security Incident; and
 - (iii) follow TfL's directions in relation to the steps necessary or desirable to remedy or protect the integrity of the Services; and

(g) as soon as reasonably practicable develop and provide TfL with a copy of its remediation plan for the Security Incident which sets out full details of the steps taken and to be taken by the Service Provider to:

- (i) correct, make good, reinstate, replace and remediate all deficiencies and vulnerabilities, loss and/or damage to the Service Assets, Data, and/or Services in connection with the Security Incident; and
- (ii) perform or re-perform any security tests or alternative tests relating to the security of the Service Assets and/or Services as appropriate and within the timescales specified by TfL, to assure TfL that the Security Incident has been addressed and its effects mitigated,

provided that any such remediation must be implemented in accordance with this Agreement including the TfL Change Management Process and the Contract Change Note (CCN) Procedure. The Service Provider shall fully implement and comply with such remediation plan save to the extent directed by TfL in writing

8.5 The Service Provider shall provide a detailed report to TfL within two (2) Working Days of the resolution of the Security Incident, such report to detail:

- (a) the nature of the Security Incident;
- (b) the causes and consequences of the Security Incident;
- (c) the actions undertaken and length of time taken by the Service Provider to resolve the Security Incident; and
- (d) the actions undertaken by the Service Provider to prevent recurrence of the Security Incident.

8.6 If there is a suspected security event up to and including a Security Incident, the Service Provider shall to the extent requested by the TfL CISO (or any duly authorised delegate):

- (a) provide information in relation to the Services which is relevant collating, if necessary, relevant information from Sub-contractors' systems and the Service Provider Personnel;
- (b) provide relevant TfL Personnel with supervised access (or, if the Parties agree, direct access) to any relevant systems, Service Provider Sites and Service Provider Personnel in order to investigate the security incident; and
- (c) follow TfL's directions in relation to the steps necessary or desirable to remedy or protect the integrity of the Services; and
- (d) work with TfL to identify any lessons learnt which could mitigate any gaps in process, policy or controls.

and TfL shall reimburse the Service Provider's reasonable, demonstrable costs and expenses in relation to the Service Provider's compliance with such request.

9. SECURITY LOGGING AND MONITORING

9.1 The Service Provider shall ensure that the Security Management Plan sets out its monitoring strategy to monitor its own performance of its obligations under this Schedule. The Service Provider shall update its monitoring strategy as necessary throughout the term of this Agreement in response to:

- (a) changes to applicable laws, regulations and standards;
- (b) changes to Good Industry Practice;
- (c) any relevant Operational Changes or CCN
- (d) any Security Incident; and
- (e) any reasonable request by TfL.

- 9.2 The monitoring strategy should include, as a minimum, processes for monitoring and logging (as appropriate):
- (a) networks and host systems to detect attacks originating both on an internal private network or from public networks (e.g. internet);
 - (b) instances of misuse of the Services, Service Provider systems used in the delivery of the Services and access to TfL RESTRICTED Data by TfL Personnel and Service Provider Personnel, including attempts at such misuse;
 - (c) wireless access points to ensure that all wireless networks are secure and no unauthorised access points are available;
 - (d) Malicious Software on: (i) the Service Provider systems used in the delivery of the Services and, (ii) the Services;
 - (e) access to and movement of TFL RESTRICTED Data, including internal access to such Data; and
 - (f) traffic for unusual or malicious incoming and outgoing activity that could be indicative of an attempt or actual attack.
- 9.3 The Service Provider shall ensure that access to system logs and monitoring information is strictly restricted to those Service Provider Personnel who need to access these items to ensure the delivery and integrity of the Services.
- 9.4 The Service Provider shall ensure that any monitoring process complies with the monitoring strategy developed in accordance with paragraphs 9.1 and 9.2 and all of its legal and regulatory obligations pursuant to Applicable Law.
- 9.5 The Service Provider shall maintain a log of:
- (a) all instances of Service Provider Personnel accessing Personal Data;
 - (b) all Service Recipient, TfL Personnel and Service Provider Personnel logon attempts, successful and failed, to the Services or any elements of the Service Provider Solution requiring authentication;

- (c) all actions taken by Service Recipients, TfL Personnel or Service Provider Personnel with administrative privileges;
- (d) all instances of accounts being created for Service Recipients, TfL Personnel or Service Provider Personnel and their relevant privileges;
- (e) all records of formal staff induction or certification required by Service Provider Personnel to operate systems and handle TFL RESTRICTED Data (where required);
- (f) all instances of accounts for Service Recipients, TfL Personnel, or Service Provider Personnel being deleted;
- (g) Service Provider Personnel system access group memberships in relation to relevant Service Assets;
- (h) Service Recipient and group privilege changes against each of the system resources;
- (i) unauthorised use of input and output devices and removable media; and
- (j) all access to log files and audit systems.

9.6 The logs required in paragraph 9.5 above must be raw logs, which are provided in a structured text format and the schema for such logs will need to be provided.

9.7 The Service Provider shall implement recording mechanisms to identify TfL Personnel and Service Provider Personnel and their actions when cases of misuse are being investigated and shall ensure that any such recording mechanisms are protected against manipulation and disruption.

9.8 The Service Provider shall regularly review logs to identify: (i) anomalies; (ii) suspicious activity; and (iii) suspected Security Incidents. The Service Provider shall notify TfL of such findings in accordance with paragraph 8.2.

9.9 The Service Provider shall provide copies of any log data collected by the Service Provider during its delivery of the Services (system audit log data) at TfL's request in a human readable electronic format such as comma-separated value or Microsoft Excel.

10. MALICIOUS SOFTWARE

10.1 The Service Provider shall throughout the Term, use the latest versions of anti-malware solutions and software available from an industry accepted vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software in the IT Services (or as otherwise agreed by the parties).

10.2 Notwithstanding paragraph 10.1, if Malicious Software is detected within services provided by the Service Provider, the Service Provider shall ensure the effect of the Malicious Software is mitigated and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Data, restore the Services to their desired operating efficiency.

10.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 10.2 shall be borne by the Parties as follows:

(a) by the Service Provider if the Malicious Software originates from the Service Provider Software, the Third Party Software supplied by the Service Provider (except where TfL has waived the obligation set out in paragraph 10.1) or TfL Data (whilst TfL Data was under the control of the Service Provider) unless the Service Provider can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by TfL when provided to the Service Provider; and

(b) otherwise by TfL.

11. REMOVABLE MEDIA

11.1 The Service Provider may only use Removable Media to support its delivery of the Services if it has obtained prior written consent of TfL and has implemented appropriate controls to ensure that the use of any input or output

devices and removable media is restricted strictly to that needed to supply and support delivery of the Services.

- 11.2 If removable media is approved for use by TfL, the Service Provider shall ensure that it deploys suitable anti-virus and anti-malware checking solutions to actively scan for the introduction of Malware onto systems and networks through all Data imports and exports from removable media and that the removable media is encrypted to a suitable standard agreed in advance with TfL in writing.
- 11.3 The Service Provider shall report any loss or interception of Data as a result of the use of removable media to TfL in accordance with paragraph 8 and TfL reserves the right in such instances to rescind its approval in relation to the Service Provider's continued use of removable media.

12. MOBILE AND HOME WORKING

- 12.1 The Service Provider may only use offer Mobile and Home working to support its delivery of the Services if it has obtained prior written consent of TfL and has implemented appropriate controls to ensure secure working. If such consent is granted but the Service Provider does not have a home and mobile policy for Service Provider Personnel, TfL's Home and Mobile Working Cyber Security Policy shall apply to the Service Provider and its Service Provider Personnel.
- 12.2 If the Service Provider has a home and mobile working policy in relation to the Service Provider Personnel, the Service Provider shall:
- (a) ensure through this policy that:
 - (i) Data is protected and suitably encrypted in line with Cyber Security Policy (see Annex), when stored outside of the Service Provider Premises;
 - (ii) Data is protected when accessed, imported or exported through a connection other than one which is accessed at the Service Provider Premises; and

- (iii) Security Incident management plans acknowledge the increased risk posed by home and mobile working such as theft or loss of Data and TfL Data and/or devices.

12.3 The Service Provider shall report any loss or interception of Data or TfL Data as a result of home or mobile working to TfL in accordance with paragraph 8.

13. DISPOSALS

13.1 The Service Provider shall not reuse any Service Asset or Removable Media used in the performance of the Services unless such items have been wiped securely in accordance with a TfL agreed standard.

13.2 The Service Provider shall securely dispose of and delete Data from Service Assets used for the delivery of the Services to a TfL agreed standard upon the termination or expiry of this Agreement or when such Service Assets are no longer required for the delivery of the Services, whichever is sooner, and documented accordingly.

13.3 The Service Provider shall ensure that the disposal of any Service Asset is accurately reflected in the Information Asset Register.

14. SECURITY MANAGEMENT PLAN

14.1 The Outline Security Management Plan as at the Contract Commencement Date is set out at Annex 1 (*Outline Security Management Plan*).

14.2 The Service Provider shall within fifteen (15) Business Days of the Commencement Date submit to TfL for approval, a draft Security Management Plan which a minimum will:

- a) set out the security measures to be implemented and maintained by the Service Provider in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure the Services comply with this Schedule;

- b) reference and comply with the security policies and standards set out in Annex 3;
- c) state any other cyber security industry standards over and above those set out in this Schedule which are applicable to the Services;
- d) state all applicable law which relates to the security of the Services; and
- e) how the Service Provider will comply with any other security requirements TfL may reasonably request from time to time.

14.3 When the Security Management Plan is approved by TfL the approved plan will replace the Outline Security Management Plan in Annex 1.

14.4 The Service Provider shall review and update the Security Management Plan at least annually and as required in response to:

- a) changes to the Cyber Security Standards;
- b) emerging changes in Good Industry Practice;
- c) any relevant Change;
- d) any new perceived or changed security threats; and
- e) any reasonable request by TfL.

14.5 The Service Provider shall submit any amendments to the Security Management Plan for Approval by TfL in accordance with the Change Control Request Procedure.

15. INFORMATION SECURITY MANAGEMENT SYSTEM

15.1 The Service Provider shall develop, implement, operate, maintain the ISMS and shall within fifteen (15) Business Days of the Commencement Date submit a draft ISMS to TfL to assure. The Service Provider shall ensure that the ISMS includes the Security Incident Management Process, dealing with, among other matters, Security Incident management.

- 15.2 The ISMS shall, unless otherwise specified by TfL in writing, be designed to protect all aspects of:
- (a) the Services;
 - (b) all processes associated with the delivery of the Services; and
 - (c) TfL Sites, the Service Provider Solution and any information and Data (including TfL Confidential Information and TfL Data) to the extent used by TfL or the Service Provider in connection with this Agreement.
- 15.3 The Service Provider shall make any document referenced in the ISMS available to TfL upon request.
- 15.4 If the investigation of a Security Incident reveals weaknesses or flaws in the ISMS, then any change to the ISMS to remedy the weakness or flaw shall be submitted to TfL for approval in accordance with the Variation procedure set out in this Agreement for the avoidance of doubt, if a change needs to be made to the ISMS to address an instance of non-compliance with the Security Management Plan or security requirements, the change to the ISMS shall be at no cost to TfL.
- 15.5 The ISMS will be fully reviewed in accordance with ISO/IEC 27001 by the Service Provider at least annually, or from time to time as agreed with TfL, in response to:
- (a) changes to Good Industry Practice;
 - (b) any relevant Changes or proposed Changes;
 - (c) any new perceived or changed security threats; and
 - (d) any reasonable request by TfL.
- 15.6 The Service Provider shall provide the results of such reviews to TfL (together with such related information as TfL may reasonably request) as soon as reasonably practicable after their completion. The results of the review should include, without limitation:

- (a) suggested improvements to the effectiveness of the ISMS;
- (b) updates to the risk assessments;
- (c) proposed modifications to the procedures and controls that affect the ability to respond to events that may impact on the ISMS; and
- (d) suggested improvements in measuring the effectiveness of controls.

16. COMPLIANCE WITH ISO/IEC 27001

- 16.1** The Service Provider shall obtain certification from a UKAS registered organisation of the ISMS to ISO/IEC 27001 for any aspects of the business that is necessary to support the Services. The Service Provider shall obtain such certification within twelve (12) months of the Effective Date and shall maintain such certification throughout the Term.
- 16.2** If certain parts of the ISMS do not conform to Good Industry Practice, or controls as described in ISO/IEC 27001, the Service Provider shall promptly notify TfL of this.
- 16.3** Without prejudice to any other audit rights set out in this Agreement TfL may carry out, or appoint an independent auditor to carry out, such regular security audits as may be required in accordance with Good Industry Practice in order to ensure that the ISMS maintains compliance with the principles and practices of ISO/IEC27001.
- 16.4** If on the basis of evidence provided by such audits, TfL, acting reasonably, considers that compliance with the principles and practices of ISO/IEC 27001 is not being achieved by the Service Provider, then TfL shall notify the Service Provider of the same and the Service Provider shall, as soon as reasonably practicable, provide TfL with a written plan to remedy each such non-compliance as soon as possible, provided that any such remediation must be implemented in accordance with this Agreement.

17. APPROVED PRODUCTS

- 17.1 The Service Provider shall ensure that all Service Assets providing security enforcing functionality are certified under the CESG Commercial Product Assurance (CPA) Scheme, to the appropriate grade, as defined with [INSERT NAME OF POLICY] Annex 3 provided that relevant certified products are available in the market.
- 17.2 If a product is not assured under the CPA scheme, TfL reserves the right to require bespoke assurance of that product under a recognised scheme such as CESG Tailored Assurance Service (CTAS).

**ANNEX 1 – OUTLINE SECURITY MANAGEMENT PLAN/SECURITY
MANAGEMENT PLAN**

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ANNEX 2 – OUTLINE RISK MANAGEMENT PROCESS

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ANNEX 3 – LIST OF RELEVANT POLICIES

TO BE PROVIDED BY TFL UPON REQUEST

- **Network Security Policy** defines the requirements for securing TfL networks as well as the information and network specific devices on them.
- **System Access Control Policy** defines the requirements for managing user and system account access to applications and technology such as allowing them to sign in to OneLondon or SAP.
- **Cyber Security Incident Management Policy** defines how we will handle cyber security incidents and the requirements for reporting and managing those incidents.
- **Malware Prevention Policy** defines the requirements for helping to prevent malware (malicious software e.g. computer viruses) from infecting our systems and networks.
- **Security Logging, Monitoring and Audit Policy** details the requirements for security logging and monitoring of access to our technology and data and the audit capabilities.
- **Removable Media Policy** details the requirements for using removable media such as USBs, CDs or portable hard drives.
- **Home and Mobile Working Cyber Security Policy** details the requirements for allowing and supporting secure home and mobile working.
- **Third Party Cyber Security Policy** defines the rules governing how the security of third party custodians of TfL information, technology and third party connections to TfL systems will be ensured.
- **TfL Information Security Classification Standard** details the information security classification scheme covering information and records, in all formats, and the minimum requirements for managing such information

- **10 Steps to Cyber Security** -
<https://www.gov.uk/government/publications/cyber-risk-management-a-board-level-responsibility/10-steps-summary>
- **Cyber Essentials Scheme**
<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>
- **Security Patching Standard** details the requirements for applying security-related updates ('security patches') in order to help secure TTL systems and applications in line with the secure builds and configurations policy.
- **Operations Technology Cyber Security Standard** describes the cyber security requirements for operational technology assets throughout their lifecycle.

SCHEDULE 9

Agreed Equality Policy

EQUALITY AND INCLUSION POLICY

Issue date: 19 January 2007

Effective: 22 January 2007

Updated: 01 October 2010

This supersedes any previous policy

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Equality and Inclusion Policy

1. Introduction

Transport for London (TfL) understands the benefits of having a diverse workforce that reflects all of London's diverse communities. TfL values the contribution of all its employees and aims to ensure employees and applicants for employment are treated fairly, equally and with respect and dignity. TfL is committed to ensuring that these values are enshrined through its policies, strategies, processes and practices.

TfL will seek to address inequalities and eliminate unlawful discrimination in the workplace. TfL will continue to embed good equality practice into all of its policies and procedures as an employer and a service provider in line with the Equality Act 2010. This will be done through assessing the equality impact of what it does and putting in place plans to achieve a workforce that reflects the diversity of the community it serves.

2. Organisational Scope

Employees of TfL, Docklands Light Railway Limited, Rail for London Limited, London Bus Services Limited, London Buses Limited, Victoria Coach Station Limited who are on TfL employment contracts (Paybands 1-5 and Directors) and those staff on predecessor organisation employment contracts where the individual has transferred to the employment of TfL.

TfL will ensure that employers of anyone engaged through a third party are made aware of this document and ensure that their employees observe it when engaged in TfL work or on TfL property.

3. Policy Statement

TfL aims to ensure equal and fair treatment without unlawful discrimination in relation to age, disability, nationality, ethnic or national origin, sex, race, religious or cultural belief, sexual orientation or transgendered status.

TfL is committed to working in partnership with external and internal parties to drive forward a strategy to achieve equality of opportunity and eliminate unfair discrimination within the business.

4. Requirements

TfL aims to promote equality by recruiting, retaining and developing its workforce based solely on their abilities to undertake their duties and responsibilities. TfL will promote and communicate this document to all employees, temporary staff, agents, contractors, consultants and job applicants. In order to ensure that all managers and employees are aware of their responsibilities around equality, TfL will provide all employees with support and equality related training and development.

TfL will undertake an equality impact assessment (EqIA) on all employment policies and other projects as prioritised in its equality schemes as they are developed. The purpose of the EqIA is to ensure that TfL meets its obligations to eliminate discrimination in the workplace, in service delivery and to promote equality of opportunity between groups of people. This is done through completing an assessment and identifying actions to minimise any adverse impact on any equality target group.

TfL will develop positive action initiatives to support the proportion of under-represented groups employed at all levels of the organisation. TfL will continue to set employment equality targets to work towards the workforce aspiration of reflecting the London communities we serve. Progress in achieving targets will be monitored on a periodic basis and reviewed bi-annually.

Responsibilities

All employees:

- To display and encourage in others a behaviour that contributes to an environment where everyone is treated fairly, equally and with dignity and respect
- To ensure that their behaviour at work does not discriminate against or harass others
- To comply with this document. Any employee who fails to do so may be subject to TfL's Discipline at Work Procedure, which may result in summary dismissal
- Should make sure they are aware of TfL's approach to equality and inclusion by attending equality training, completing equality e-learning and reading any relevant notices as they are issued

All managers and employees with leadership or supervisory roles shall:

- Be aware of and avoid potential situations which may cause harassment or discrimination
- Promote equality in the workplace, acting as role models
- Not tolerate unlawful discrimination in any form, from any employee or a third party who can affect an employee in their work
- Ensure local practices and procedures comply with this document to ensure that they do not cause unequal treatment
- Ensure that employees are not victimised or treated less favourably at work and, in particular, by reason of any involvement in a complaint of discrimination or harassment
- Implement reasonable adjustments in cases where employees are unable to undertake the full range of activities in their current employment due to a disability
- Demonstrate as an integral element of their professional development that they have undertaken and will continue to undertake, equality training
- Ensure that anyone within their area of responsibility is suitably trained and that they understand their responsibilities relating to equality and inclusion
- Ensure that the requirements outlined in this document are acted on and adhered to in their areas of responsibility and that appropriate, fair and consistent action is speedily taken to deal with any failure to conform to them
- Attend TfL's training programme on Equality and Inclusion keep their knowledge up to date through e-learning and disseminating relevant information that is produced by Group HR

TfL Group HR shall:

- Develop company policies to eliminate inequality
- Review and monitor the implementation and effectiveness of this document
- Publish annual reports on equality and inclusion statistics

5. Support & Advice

Support and advice can be obtained through speaking to your manager or contacting HR Services.

6. Ownership and Review

TfL Group Employee Relations and Engagement

Version 1	Effective 22/01/07	
Version 2	Effective 01/10/10	To take account of the Equality Act 2010

SCHEDULE 10

Exit Management

1. Exit provisions:

- 1.1 On termination of this Agreement for any reason the Service Provider is expected to work with the Authority to provide the following:
 - 1.1.2 The return of the Authority's Data free of charge as soon as reasonably practicable in a useable format that is easily manipulated and accessed by commercially available software, such as Excel format or a similar file format.
 - 1.1.3 The Authority will provide the Service Provider with a written request no later than 30 days following termination of this Agreement, to deliver the most recent back-up of the Authority's Data to the Authority or to a third party nominated by the Authority.
 - 1.1.4 The Service Provider shall retain the most recent three (3) back-ups of the Authority's Data for a period of no less than sixty (60) days after the date of termination.
- 1.2 In order to assist with an orderly exit, the parties will comply with the provisions set out in the remainder of this Schedule 10.

2. Definitions

In this Schedule, the following expressions shall have the following meanings unless inconsistent with the context:

"Assets"	means all assets and rights used by the Service Provider to provide the Services in accordance with this Agreement but excluding the Authority and the TfL Group's own assets
"Emergency Exit"	any termination of this Agreement which

	is a (i) termination of the whole or part of this Agreement in accordance with clause 25 (Termination), except where the period of notice given under that clause is greater than or equal to six (6) months; or (ii) wrongful termination or repudiation of this Agreement by either party
"Exit Manager"	the person appointed by each party pursuant to paragraph 3.5 of this Schedule for managing the parties' respective obligations under this Schedule
"Information Register"	the register of information regarding the System as set out in paragraph 4.1.1 of this Schedule
"Ordinary Exit"	any termination of this Agreement which occurs: (i) pursuant to clause 25 (Termination) where the period of notice given by the party serving notice to terminate pursuant to such clause is greater than or equal to six (6) months; or (ii) as a result of the expiry of the Term
"Registers"	has the meaning set out in paragraph 4.1 of this Schedule
"Replacement Service Provider"	means any replacement supplier or provider to the Authority of the Agreement (or any part of it)

"Termination Assistance Notice"	has the meaning set out in paragraph 7.10 of this Schedule
"Termination Assistance Period"	the period specified in the Termination Assistance Notice in which the Service Provider shall provide the Termination Services as may be extended pursuant to paragraph 7.11 of this Schedule
"Termination Services"	the services and activities to be performed by the Service Provider pursuant to the Exit Plan, including those activities listed in paragraph 7.15 of this Schedule and any other services required pursuant to the Termination Assistance Notice
"TfL specific Testing System"	the system created by the Service Provider for a dedicated TfL-specific language test

3. Overview

The Service Provider is required to ensure the orderly transition of the Services from the Service Provider to the Authority and/or any Replacement Service Provider in the event of termination (including partial termination) or expiry of this Agreement. This Schedule sets out the principles of the exit and service transfer arrangements that are intended to achieve such orderly transition and which shall form the basis of the Exit Plan. For the avoidance of doubt and unless the Authority requires otherwise in writing, the Service Provider shall be responsible for the overall management of the exit and service transfer arrangements in accordance with this Schedule and the Exit Plan.

4. Agreement Life Obligations

4.1 During the Term, the Service Provider shall:

4.1.1 at the TfL Group's election (which if requested at any time in writing, shall be deemed to be an obligation of the Service Provider under this Agreement) maintain a register ("**Information Register**") detailing:

- (a) the computer language used by the System;
- (b) the format of the system;
- (c) the inputs and outputs of the database;
- (d) any software licenses necessary to access the Authority's Data.

4.1.2 maintain a configuration management database (which at the TfL Group's request shall be part of the TfL Group's own Configuration Management Database ("**CMDB**")) or document detailing any technical infrastructure through which the Service Provider shall provide/provides the Services. This document should be of sufficient detail to permit the Authority and/or Replacement Service Provider to understand how the Service Provider provides the Services and to enable the smooth transition of the Services with the minimum of disruption,

(collectively the "**Registers**"). The Service Provider shall maintain the Registers in such format as is agreed between the parties and shall update the Registers from time to time and in particular in the event that Assets, Sub-contracts or other relevant agreements are added to or removed from the Services.

- 4.2 Each party shall appoint an Exit Manager and provide written notification of such appointment to the other party within sixty (60) days of the Commencement Date. The Service Provider's Exit Manager will be responsible for ensuring that the Service Provider and its employees, agents and subcontractors comply with this Schedule and the Exit Plan. The Service Provider shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Service Provider as are reasonably necessary to enable the Service Provider to comply with the requirements set out in this Schedule. The parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination/expiry of this Agreement and all matters connected with this Schedule, the Exit Plan and each party's compliance with them.

5. Obligations to Assist on Re-Tendering of Services

- 5.1 Not used.

6. Exit Plan

- 6.1 The Service Provider will, within thirty (30) days after the Commencement Date, deliver to the Authority an Exit Plan which sets out the Service Provider's proposed methodology for achieving an orderly transition of the Services from the Service Provider to the Authority and/or its Replacement Service Provider on the expiry or termination of this Agreement and which complies with the requirements set out in paragraphs 6.2 and 6.3 below. Within thirty (30) days after the submission of the Exit Plan, the parties shall use their respective reasonable endeavours to agree the contents of the Exit Plan. The Service Provider shall draft the final agreed Exit Plan taking into account the TfL Group's required changes, if any. If the parties are unable to

agree the contents of the Exit Plan then such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

6.2 The Exit Plan will contain, as a minimum:

6.2.1 separate mechanisms for dealing with Ordinary Exit and Emergency Exit. The provisions relating to Emergency Exit shall be prepared on the assumption that the Authority may require that the Service Provider ceases to provide all or some of the Services and that the Service Provider instead provides the full level of assistance as the Authority shall require to enable the Authority or its sub-contractors or a Replacement Service Provider to provide all or part of the Services, including the completion of the TfL-specific Testing System if not yet completed (but subject to the option to develop the system having been exercised by TfL) and particularly taking into account the TfL Group's rights under **clauses 26.7, 26.8 and 26.9**;

6.2.2 the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit; and

6.2.3 a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit.

6.3 In addition, the Exit Plan shall:

6.3.1 document how the TfL-specific Testing System is configured and works (if completed) or document how to complete the TfL-specific Testing System and how the TfL-specific Testing System is and will be configured and work (if not yet completed);

6.3.2 document how the TfL-specific Testing Services will transfer to the Replacement Service Provider and/or the Authority, including details of the relevant software required to read the data, processes, data configuration, documentation, data transfer, systems migration and

security. This will include details on how the data can be managed and accessed when no longer in the Service Provider's System;

- 6.3.3 specify the scope of the Termination Services that may be required for the benefit of the Authority and any charges that would be payable for the provision of such Termination Services, if any, and detail how such services would be provided (if required by the Authority), during the Termination Assistance Period. Any and all applicable charges shall be calculated at all times in accordance with paragraph 10 of this Schedule;
 - 6.3.4 address each of the issues set out in this Schedule to facilitate the transition of the Services from the Service Provider to the Replacement Service Provider and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period;
 - 6.3.5 provide a timetable and identify critical issues for providing the Termination Services; and
 - 6.3.6 set out the management structure to be put in place and employed during the Termination Assistance Period.
- 6.4 The Service Provider will review and (if appropriate) update the Exit Plan in the first month of each contractual year (commencing with the second contract year) to reflect any and all changes in the Services. Following such update the Service Provider will submit the revised Exit Plan to the Authority for review. Within thirty (30) days following submission of the revised Exit Plan, the parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan, based on the principles set out in this Schedule and the changes that have occurred in the Services since the Exit Plan was last agreed. The Service Provider shall draft the final version of the updated agreed Exit Plan taking into account the TfL Group's required changes, if any. If the parties are unable to agree the contents of the revised Exit Plan within that thirty (30) day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

7. Termination Services

General

- 7.1. During the Termination Assistance Period or such shorter period as the Authority may require, the Service Provider will continue to provide the Services (as applicable) and will, at the request of the Authority pursuant to paragraph 7.10, provide the Termination Services.
- 7.2. The costs of providing these Termination Services, if any, shall be as stated at paragraph 10 below.
- 7.3. During the Termination Assistance Period, the Service Provider will, in addition to providing the Services and the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Service Provider. The Service Provider will use all reasonable endeavours to reallocate resources to provide these services without additional costs. However, if this is not possible any additional costs incurred by the Service Provider in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan or are not without charge as a result of being incurred due to the Authority terminating under **clause 25.1** or **25.2**, will be subject to the Change Control Procedure, discussion and agreement (which will not be unreasonably withheld or delayed by either party).
- 7.4. During the Termination Assistance Period, the Services and the Termination Services will be provided at no detriment to the Service Levels, save to the extent that the parties agree otherwise in accordance with paragraph 7.5.
- 7.5. Where the Service Provider demonstrates to the TfL Group's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Service Provider's ability to meet a

particular Service Level(s), the parties shall vary the relevant Service Level(s) and/or the applicable Service Credits to take account of such adverse effect.

- 7.6 At the TfL Group's request and on reasonable notice, the Service Provider will deliver up-to-date Registers to the Authority.
- 7.7 The parties acknowledge that the migration of the Services from the Service Provider to the Authority and/or its Replacement Service Provider may be phased, as required by the Authority, such that certain of the Services are handed over before others.
- 7.8 Within fourteen (14) days after service of notice of termination by either party or not more than seven (7) months and no less than six (6) months prior to the expiry of this Agreement, the Service Provider will submit for the TfL Group's written approval an Exit Plan in a final form that could be implemented immediately.
- 7.9 The parties will meet and use their respective reasonable endeavours to agree the contents of the final form Exit Plan as soon as reasonably possible. The Service Provider shall draft the final version of such updated agreed Exit Plan taking into account the TfL Group's required changes, if any. If the parties are unable to agree the contents of the Exit Plan within thirty (30) days following its delivery to the Authority then such dispute shall be resolved in accordance with the Dispute Resolution Procedure. If and until the agreement of the final form Exit Plan, the Service Provider shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as this still applies).

Notification of Requirements for Termination Services

- 7.10 The Authority shall be entitled to require the provision of Termination Services by notifying the Service Provider in writing ("**Termination Assistance Notice**"). The Termination Assistance Notice shall specify the:
- 7.10.1 date from which Termination Services are required which shall be no earlier than six (6) months prior to expiry of this Agreement or from

the service by either party of any notice to terminate, as the case may be;

7.10.2 the nature of the Termination Services required; and

7.10.3 the period during which it is anticipated that Termination Services will be required which shall continue no longer than eighteen (18) months after the date that the Service Provider ceases to provide the Services.

7.11 The Authority shall have an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after the date the Service Provider ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Service Provider to such effect no later than twenty-one (21) days prior to the date on which the provision of Termination Services is otherwise due to expire. The Authority shall have the right to terminate its requirement for Termination Services by serving not less than twenty-one (21) days written notice upon the Service Provider to such effect.

Termination Obligations

7.12 The Service Provider shall comply with all of its obligations contained in the Exit Plan and this Schedule.

7.13 At the end of the Termination Assistance Period (or earlier if this does not adversely affect the Service Provider's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule):

7.13.1 the Service Provider will return to the Authority and, following confirmation from the Authority that all relevant data has been successfully uploaded onto the Authority's System or the System of a Replacement Service Provider, then erase from any computers, storage devices and storage media that are to be retained by the

Service Provider after the end of the Termination Assistance Period any and all Authority Software and TfL Group data;

- 7.13.2 the Service Provider will return to the Authority such of the following as is in the Service Provider's possession or control:
 - 7.13.2.1 all copies of the Authority Software and any other software licensed by the Authority to the Service Provider under this Agreement where such licences are to extend beyond termination; and
 - 7.13.2.2 all materials created by the Service Provider under this Agreement, the Intellectual Property Rights in which are owned by the Authority,
- 7.13.3 the Service Provider will transfer all TfL Group data (in complete, uncorrupted form in a useable format that is easily manipulated) in its possession or control to the Authority save to the extent (and for the limited period) that such data is required for the purposes of providing any services to the Authority under this Schedule or the Exit Plan;
- 7.13.4 each party will return to the other party all Confidential Information of the other party and will certify that it does not retain the other party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the party in question for the purposes of providing or receiving any Services or Termination Services.

7.14 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the Authority to the Service Provider in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

Scope of the Termination Services

7.15 The Termination Services to be provided by the Service Provider shall include such of the following services as the Authority may specify in writing:

- 7.15.1 notifying its subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
- 7.15.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Authority and/or Replacement Service Provider after the end of the Termination Assistance Period;
- 7.15.3 delivering to the Authority the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the twelve (12) month period immediately prior to the commencement of the Termination Services);
- 7.15.4 providing details of work volumes and staffing requirements over the (twelve) 12 month period immediately prior to the commencement of the Termination Services;
- 7.15.5 with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;

- 7.15.6 in relation to the Maintenance Services, providing the Authority with any problem and incident logs which have not previously been provided to the Authority;
- 7.15.7 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during and for a period of twelve (12) months after the Termination Assistance Period;
- 7.15.8 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
- 7.15.9 reviewing all Software libraries used in connection with the Services and providing details of these to the Authority and/or its Replacement Service Provider;
- 7.15.10 making available to the Authority and/or the Replacement Service Provider expertise to analyse training requirements and provide all necessary training for the use of software tools by such staff as are nominated by the Authority (acting reasonably) at the time of termination or expiry. A documented plan is to be separately provided for this activity and agreed with the Authority at the time of termination or expiry;
- 7.15.11 analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;
- 7.15.12 agreeing with the Authority a handover plan for all of the Service Provider's responsibilities. The Service Provider will co-operate fully in the execution of the agreed plan, providing skills and expertise of a suitable standard;

- 7.15.13 delivering copies of the production databases (with content listings) to the TfL Group's and/or the Replacement Service Provider's operations staff (on appropriate media) as reasonably requested by the Authority;
- 7.15.14 assisting with the loading, testing and implementation of the production databases;
- 7.15.15 assisting in the execution of a parallel operation until the effective date of expiry or termination of this Agreement;
- 7.15.16 in respect of the System where Maintenance Services are being provided, providing historical performance data for the previous twelve (12) months;
- 7.15.17 assisting in the execution of a parallel operation of the Maintenance Services until the end of the Termination Assistance Period or as otherwise specified by the Authority (provided that these Services end on a date no later than the end of the Termination Assistance Period);
- 7.15.18 the provision of an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Services;
- 7.15.19 answering all reasonable questions from the Authority and/or its Replacement Service Provider, if any, regarding the Services;
- 7.15.20 agreeing with the Authority and/or the Replacement Service Provider a plan for the migration of the configuration management database to the Authority and/or the Replacement Service Provider. The Service Provider will fully co-operate in the execution of the agreed plan, providing skills and expertise of a reasonably acceptable standard;
- 7.15.21 the provision of access to the Authority and/or the Replacement Service Provider during the Termination Assistance Period and for a period not exceeding six (6) months afterwards for the purpose of the

smooth transfer of the Services to the Authority and/or the Replacement Service Provider:

7.15.21.1 to information and documentation relating to the Services that is in the possession or control of the Service Provider or its subcontractors (and the Service Provider agrees and shall procure that its subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and

7.15.21.2 following reasonable notice and during the Service Provider's normal business hours, to members of the Service Provider Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Service Provider or its subcontractors.

Disputes Relating to Termination Services

7.16 Where there is any dispute between the parties regarding the manner in which the Termination Services are to be performed, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

8. Knowledge Transfer

8.1 During the Termination Assistance Period, the Service Provider will:

8.1.1 transfer all training material which is an Authority Asset and provide appropriate training in respect of the use of such Authority Assets to those Authority and/or Replacement Service Provider staff responsible for internal training in connection with the provision of the Services;

8.1.2 provide for transfer to the Authority and/or the Replacement Service Provider of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and

- 8.1.3 provide the Authority and/or Replacement Service Provider with access to such members of the Service Provider's or its sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Service Provider or its sub-contractors.
- 8.2 The information which the Service Provider shall provide to the Authority and/or its Replacement Service Provider pursuant to paragraph 7.1 above will include:
- 8.2.1 copies of up-to-date procedures and operations manuals for the TfL-specific Testing System;
 - 8.2.2 information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
 - 8.2.3 details of any physical and logical security processes and tools which will be available to the Authority; and
 - 8.2.4 any and all relevant interface information.
- 8.3 During the Termination Assistance Period the Service Provider shall grant any agent or personnel (including employees, consultants and contractors) of the Replacement Service Provider and/or the Authority or its sub-contractors access, during Business Hours and upon reasonable prior written notice(which can be as little as five (5) Business Days), to any Service Provider sites for the purpose of effecting a prompt knowledge transfer provided that any such agent or personnel (including employees, consultants and contractors) having access to any such sites under this paragraph shall sign a confidentiality undertaking in favour of the Service Provider (in such form as the Service Provider shall reasonably require).

9. Sub-Contracts and Software

9.1 Following notice of termination of this Agreement and during the Termination Assistance Period, the Service Provider will not, without the TfL Group's prior written consent:

9.1.1 terminate, enter into or vary any sub-contract; or

9.1.2 terminate, enter into or vary any licence for software in connection with the Services.

10. Service Provider Personnel

10.1 The Authority and Service Provider agree and acknowledge that, in relation to the Service Provider's employees and personnel, **clause 35** (Employees) shall apply.

11. Charges

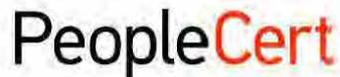
11.1 In relation to all assistance and services (whether Termination Services or otherwise) provided by the Service Provider pursuant to this Schedule and the Exit Plan:

11.1.1 such assistance and services shall be free of charge in the event of termination by the Authority in accordance with **clauses 25.1, 25.2 or 25.3**; and

11.1.2 in all other circumstances other than those set out in paragraph 11.1.1 above (including Ordinary Exit upon natural expiry of the Agreement), the Service Provider shall be entitled to charge for such assistance and services, such charges to be calculated at hourly rates which shall themselves be calculated from the Daily Rates set out in **Schedule 3** and divided by seven point five (7.5).

11.2 Where Charges apply in accordance with paragraph 11.1.2 above, during the Termination Assistance Period (or for such shorter period as the Authority may require the Service Provider to provide the Termination Services), the Authority shall pay such Charges to the Service Provider in respect of the

Termination Services monthly in arrears upon production of a properly executed invoice in accordance with **clause 4**.



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SCHEDULE 11

Parent Company Guarantee

To: Transport for London
Surface Transport
Commercial
197 Blackfriars Road
8th Floor, Zone (8Y4)
London SE1 8NJ

Date: March 23, 2021

Dear Sir/Madam

We, "PeopleCert Holdings UK Ltd", a company incorporated as private limited by shares, having its registered office situated in England and Wales, under company number 9323271 ("**the Guarantor**"), understand that you have agreed to enter into Contract Reference No. tfl_scp_001916 ("**the Contract**") with PeopleCert International Ltd, which has its registered office at 40, Themistokli Dervi Street, 1066 Nicosia, Cyprus ("**the Service Provider**") in respect of the provision of an English language testing service on the condition that the obligations of the Service Provider under the Contract be guaranteed by a Guarantor.

We are the sole owner of 100% of the equity of the Service Provider, and we warrant to you that this description of our relationship with/to the Service Provider is true and accurate in all material respects.

WE HEREBY AGREE AND UNDERTAKE with you as follows:-

- (a) We unconditionally guarantee on demand:
- (i) the proper, complete and punctual performance by the Service Provider of any and all its obligations, undertakings and responsibilities under the Contract and we shall forthwith make good any default thereunder on the part of the Service Provider; and
 - (ii) the due and punctual payment by the Service Provider of all sums, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable to you 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 Service Provider,

when and as the same shall become due for performance or payment (as the case may be).

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- (b) As a separate and primary obligation we unconditionally guarantee to you that in the case of default by the Service Provider in making any of the payments or in performing any of the obligations, undertakings and responsibilities set out in paragraph (a) above, we shall on demand pay all sums and observe and perform any or all of such obligations, undertakings and responsibilities as if we instead of the Service Provider were the primary obligor. Any payment under this Guarantee shall be made by us in pounds sterling or in any currency which may from time to time replace pounds sterling.
- (c) This Guarantee shall be a continuing security and shall remain in full force and effect until all obligations to be performed or observed by the Service Provider under or arising out of the Contract have been duly and completely performed and observed and the Service Provider shall have ceased to be under any actual or contingent liability to you thereunder.
- (d) Any demand or other notice made by you under this Guarantee shall be duly made if sent by first class recorded delivery post to us.
- (e) You shall be entitled to enforce this Guarantee without first notifying the Service Provider of any default or taking any proceedings or demanding upon, enforcing or exhausting any right or remedy against the Service Provider or any other person or taking any action to enforce any other security, bond or guarantee held by you or making or filing any claim in a bankruptcy, liquidation, administration or insolvency of the Service Provider or any person.
- (f) If any sum due or purportedly due under this Guarantee is not or would not be recoverable under a guarantee for any reason whatsoever, whether or not known to you, such sum shall still be recoverable from us as a sole principal debtor upon the terms of this Guarantee.

PROVIDED THAT:

- 1. We shall be under no greater obligation or greater liability under this Guarantee than we would have been under the Contract if we had been named as the Service Provider in the Contract.
- 2. Our obligations hereunder are those of primary obligor and shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:
 - (a) any alteration or variation to the terms of the Contract made by agreement between you and the Service Provider (including, without limitation, any increase in the Service Provider's obligations under the Contract or any alteration in the extent or nature or sequence or method or timing of the Services to be carried out under the Contract) or any novation of the Contract (in whole or in part); or
 - (b) any time being given to the Service Provider or any other indulgence, waiver, concession, forbearance or forgiveness to the Service Provider

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(whether express or by conduct) or any other thing done, omitted or neglected to be done under the Contract; or

- (c) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Service Provider under the Contract; or
- (d) the release or waiver of any such bond, security or guarantee referred to in paragraph 2(c) above; or
- (e) any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Service Provider; or
- (f) the winding-up, bankruptcy, administration, receivership or insolvency of the Service Provider; or
- (g) any legal limitation, disability or incapacity relating to the Service Provider or discharge by operation of law or any change in the constitution, name or style of the Service Provider or any other person (whether or not known to you); or
- (h) any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Service Provider under the Contract; or
- (i) the termination or partial termination of the Contract or the cessation of any Services for any reason or the making of any variation to the Services in accordance with the Contract; or
- (j) any claim or enforcement of payment from the Service Provider or any other person;
- (k) any act or omission which would not have discharged or affected the liability of a sole principal debtor instead of a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish our liability under this Guarantee.

3. So long as we remain under any actual or contingent liability under this Guarantee, we shall not exercise any right of subrogation or any other right or remedy which we may have against the Service Provider in respect of any payment made by or sum recovered from us pursuant to or in connection with this Guarantee or prove in any liquidation of the Service Provider in competition with you for any sums or liabilities owing or incurred to us by the Service Provider in respect of any such payment by or recovery from us or take or hold any security from the Service Provider in respect of any liability of ours hereunder. We shall hold any monies recovered or security taken or held in breach of this provision in trust for you.

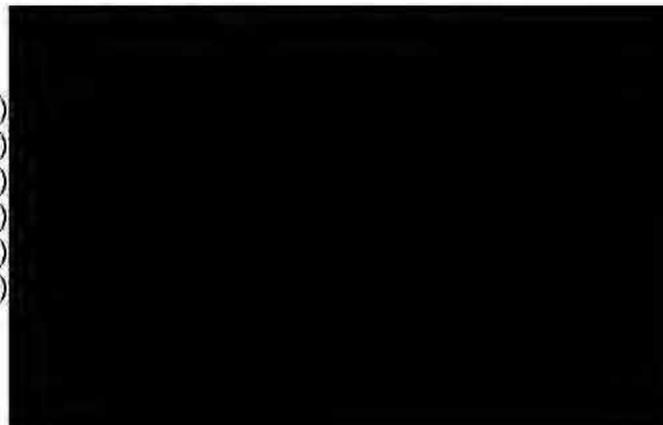
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4. Except where prevented from doing so by law, we waive and agree not to enforce or claim the benefit of any and all rights we have or may from time to time have as guarantor under any applicable law which is or may be inconsistent with any of the provision of this Guarantee.
5. This Guarantee is irrevocable.
6. This Guarantee, executed and delivered as a deed, is governed by and shall be construed in accordance with the law of England and Wales. The courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Guarantee except that you have the right in your absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which we are incorporated or in which any of our assets may be situated. You and we agree to submit to that jurisdiction.
7. You will be entitled to assign the benefit of this Guarantee in whole or in part but we may not assign the benefit and/or delegate the burden of this Guarantee in whole or in part or enter into any transaction which would result in any of those benefits and/or burdens passing to another person.
8. If any provision (in whole or in part) of this Guarantee is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Guarantee and shall be ineffective, without, so far as is possible, modifying any other provision of this Guarantee and this shall not affect any other provisions of this Guarantee which shall remain in full force and effect.

Executed as a Deed and delivered the day and year written above.

Executed as a Deed by
PeopleCert Holdings UK Ltd
acting by two Directors



SIGNED BY the duly authorised representatives of the parties on the date stated on the front page of this Agreement.

SIGNED by)
[NAME])
duly authorised to sign)
for and on behalf of)
Transport for London (TfL))
in the presence of:)

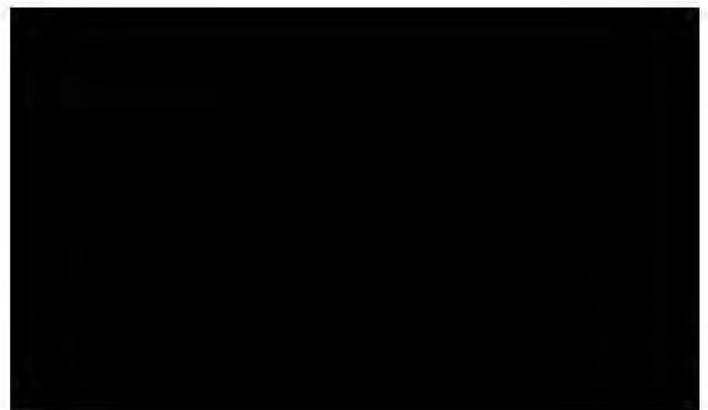


Witness Signature:

Name:

Address:

Occupation:



SIGNED by [NAME])
duly authorised to sign)
for and on behalf of)
[] Limited)
in the presence of:)

In signing this agreement I also confirm there is no conflict of interest

Witness Signature:

Name:

Address:

Occupation: