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Union legislation (including any declarations of conformity) at any time or from time to time in force in the United Kingdom and which are or may become applicable to each Contract, any agreement or document referred to in each Contract, or for the performance of the Services.

"BAFO" means 'best and final offer'.

"Certificate of Completion" means a certificate of completion of Services under an Order in substantially the form set out in 0.

"Cessation Plan" means a plan agreed between the parties or determined by the Company in accordance with Clause 49.1 to give effect to a Declaration of Ineffectiveness.

"Commencement Date" means the date specified in Schedule 1.

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

"Company's Representative" means the person set out in the section headed 'Company's Representative' in Schedule 1.

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

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

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

"Contract" means a contract as defined in Clause 3.1.

"Contractual Documentation" means all documentation and information agreed to be delivered by the Supplier in accordance with each Contract including without limitation records, reports, documents, papers, unpatented designs, drawings, data specifications, manufacturing or work processes, testing procedures, relevant computer data and all other technical business and similar information originated by or on behalf of the Supplier in accordance with each Contract.

"Contract Information" means (i) each Contract and Agreement in its entirety (including from time to time agreed changes to any Contract and/or Agreement) and (ii) data extracted from the invoices submitted pursuant to Clause 9.1 which shall consist of the Supplier's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount.

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

"Contract Variation Procedure" means the procedure set out in 0.

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

"Defective" means that the Services or any part of them (including, without limitation, any parts or materials supplied or installed in connection with the Services) do not comply with the requirements of this Agreement or the relevant Contract, or are not fit for their intended purpose, or are of unsatisfactory quality whether in consequence of faulty design, faulty materials, negligence, bad workmanship or in consequence of any other reason attributable to the Supplier or its suppliers or the employees of any of them. For the avoidance of doubt, this shall include damage which occurs during transit from the Supplier to the Company.

"Dispute" has the meaning given to that term in Clause 38.1.

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

"Duty Manager" means the Company's duty manager at the Site from time to time.

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

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

"Excess Costs" has the meaning given to that term in Clause 23.5.

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

"Facilities" means those assets that comprise the infrastructure required by the Company to operate the service to be provided to customers in relation to trains and stations and which are owned, controlled or otherwise held from time to time by the Company and **"Facility"** means an element of the infrastructure which comprises the Facilities.

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

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

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

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

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

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

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

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

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

"Interest Rate" means the percentage above the base rate from time to time of the Bank of England

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

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

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

"Maintained Items" means Facilities in respect of which the Supplier is responsible under any Contract for supplying, operating or maintaining.

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

"Nominated Representatives" has the meaning given to that term in Clause 38.2.

"Notice to Proceed" has the meaning given to that term in Clause 23.6(b).

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

"Order" means an order which, unless the parties agree otherwise, shall be substantially in the form set out in 0, entered into by the Company and the Supplier.

"Order Commencement Date" means the date on which the Supplier is to commence providing the Services as specified as such on each Order or such other date as may be agreed between the parties in accordance with the terms of each Contract.

"Order Completion Date" means the date by which the Services are to be performed as specified as such in each Order or such other date as may be agreed between the parties in accordance with the terms of each Contract.

"Order Price" means the amount stated under the heading "Order Price" in the relevant Order.

"Payment Application" has the meaning given to that term in Clause 9.1.

"Planned Preventative Maintenance Schedule" is the schedule detailing all planned, preventative maintenance work to be carried out by the Supplier in accordance with Clause 4.

"Policies" means the policies set out in Clause 20.3.

"Programme" means the programme of work for the provision of the Services which has been submitted by the Supplier and approved by the Company, and as may subsequently be varied from time to time, in each case in accordance with Clause 4.

"Prohibited Act" means:

- (a) offering or agreeing to give to any servant, employee, officer or agent of the Company any gift or consideration of any kind as an inducement or reward:
 - (i) for doing or not doing (or having done or not having done) any act in relation to the obtaining or performance of the Agreement, any Contract or any other contract with the Company; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to the Agreement, any Contract or any other contract with the Company; or
- (b) entering into the Agreement, any Contract or any other contract with the Company with which commission has been paid or has been agreed to be paid by the Supplier or on its behalf or to its knowledge unless, before such contracts were entered into, particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Company; or
- (c) committing an offence
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts,in relation to the Agreement, any Contract or any other contract with the Company; or
- (d) defrauding or attempting to defraud the Company.

"QUENSH" means the parts of the Company category one standard number S1552, Contract QUENSH Conditions as are specified in the QUENSH menu in schedule 6 as being applicable to any Contract.

"Regulations" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

"Responsible Procurement Policy" means the policy document entitled the "GLA Group Responsible Procurement Policy" dated March 2006, updated in January 2008 and as may be amended.

"Safety Breach" means a material breach of any obligation under any Contract caused by the gross incompetence of or wilful default by the Supplier (or anyone employed by or acting on behalf of the Supplier) or any of its agents which has materially affected the safe operation of the Underground Network or the safety of the Company's customers, staff or any other person.

"Service Cessation" means the cessation of the Services or part thereof.

"Services" means the planned, reactive and emergency maintenance services to be carried out by the Supplier in respect to the Maintained Items including replacement, alteration and modification more particularly detailed in the Specification and any Additional Services.

"Site" means work areas detailed in Schedule 1 (Detailed Terms), and such other work areas as the Company may allow the Supplier access to in order to undertake and complete the Services.

"Specification" means the description of the Services set out in 0 and Appendix 1 to the relevant Order (or referenced in the relevant Order) to be provided by the Supplier in accordance with the Agreement.

"Standards" means the Category 1 and 2 Standards and Draft Category 1 and 2 Standards and such European, British and International Standards and associated Codes of Practice required by the Company for the Supplier to perform the Services in accordance with good industry practice. A full set of current Standards is available for the Supplier's use on-line at the LU Standards e-library or as notified to the Supplier.

"Supplier Personnel" means all employees, agents or consultants of the Supplier and the Supplier's subcontractors from time to time.

"Supplier Personnel Information" means information about Supplier Personnel including the numbers of Supplier Personnel involved in providing the Services and their approximate full time equivalents; their location; the skill sets in each location; role definitions; employment status; details of any previous transfer(s) pursuant to Clause 16; information regarding overall annual remuneration (including benefits); length of service; notice period; details of terms and conditions of employment (including pension schemes, annual leave, bonus entitlement, share options, car allowance, health insurance, life assurance and trade union recognition); details of any current

grievances or disciplinary issues and any other information relating to Supplier Personnel reasonably requested by the Company.

"Supplier's Representative" means the person set out in the section headed 'Supplier Representative' in the Schedule 1.

"Term" means the duration as specified in Schedule 1.

"TfL" or **"Transport for London"** means Transport for London, a statutory body set up by the Greater London Authority Act.

"TfL Group" means Transport for London and all of its subsidiaries and their subsidiaries (as defined in Section 1159 of the Companies Act 2006) from time to time, together with Crossrail Limited (company number 04212657) and reference to any **"member of the TfL Group"** refers to TfL or any such subsidiary.

"Transparency Commitment" means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which TfL is committed to publishing its contracts, tender documents and data from invoices received.

"Underground Network" means the stations and depots (wherever situate), assets, systems, track and other buildings which are used in the maintenance and provision of the underground service known as "London Underground".

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto, or in any primary or secondary legislation promulgated by the European Union or any official body or agency of the European Union, and any similar sales, consumption or turnover tax replacing or introduced in addition to the foregoing.

"Variation Order" means the written authorisation from the Company to a Variation Proposal in accordance with the Contract Variation Procedure.

"Variation Proposal" means the written proposal put by the Company or the Supplier to vary any Contract and/or this Agreement in accordance with the Contract Variation Procedure in substantially the form set out in Appendix 1 to 0.

"Warranty Period" means the period specified as such in Schedule 1.

"Working Day" means any day of the week (other than Saturday or Sunday) which is not an English bank holiday, or public holiday.

- 1.2** The headings in the Agreement and each Contract are only for convenience and shall not affect its interpretation.
- 1.3** Where appropriate, the singular includes the plural and vice versa.
- 1.4** A reference to a Clause or a Schedule shall be to a Clause of or, as the case may be, a Schedule to, the Agreement and each Contract and references to the Agreement or any Contract include its recitals and Schedules.
- 1.5** References to (or to any specified provision of) the Agreement, any Contract or any other document shall be construed as references to the Agreement, that Contract, that provision or that document as in force for the time being and as from time to time amended in accordance with the terms of the Agreement and any Contract.
- 1.6** Reference to any Applicable Laws and Standards also includes a reference to the Applicable Laws and Standards as from time to time amended, extended or re-enacted.
- 1.7** References to the "**Company**" shall include its successors, transferees and assignees.
- 1.8** References to a person, firm or company shall include any individual company, unincorporated association or body (including a partnership or joint venture) or other entity whether or not having a separate legal personality.
- 1.9** Where the Agreement is utilised by another member of the TfL Group, references in a Contract to "the Company" shall, unless the context otherwise requires, be to a member of the TfL Group.
- 1.10** In the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Agreement, the order of priority for the purpose of construction in descending order shall be:
- (a) the Clauses of the Agreement;
 - (b) the Schedules to the Agreement (equal priority but subject to Clause 1.11); and
 - (c) any other document referred to in, or incorporated by reference into, the Agreement.
- 1.11** The documents that make up the Schedules shall be taken as being mutually explanatory of one another. In the event of any conflict between any provision of the Clauses of the Agreement and a provision of any other Schedule then the Clauses of the Agreement shall take precedence except where the conflicting part of the other Schedule is explicitly expressed to take precedence over any specific part of the Clauses of the Agreement.
- 1.12** In the event of any inconsistency between the terms of the Agreement and the terms of any Order, the terms set out in the Order shall prevail.

2 Duration and Option to Extend

- 2.1 The Agreement shall commence on the Commencement Date and continues in force for the Term unless terminated earlier in accordance with this Agreement and subject to Clause 2.3.
- 2.2 Expiry or termination of the Agreement shall not, in and of itself give rise to an expiry or termination of the Contract and each Contract shall continue for the term set out in the relevant Contract.
- 2.3 The Company shall at its own discretion be entitled at any time prior to the expiry of the Term to inform the Supplier of its intention to extend the Term of the Agreement by a period of up to 2 years. The provisions of the Agreement shall continue to apply mutatis mutandis to any such extension of the Term (other than this Clause 2.3 containing the option to extend). On receipt of such notice from the Company by the Supplier, the Agreement shall be deemed extended accordingly.

3 Supplier's Primary Obligations

- 3.1 The Supplier shall provide the Services to the Company in accordance with:
- (a) the terms set out in the Agreement (including the Schedules); and
 - (b) the terms of the Orders which may from time to time be entered into by the Company and the Supplier,
- each Order together with the terms of the Agreement comprising a separate and distinct contract and herein referred to as a "**Contract**".
- 3.2 When Services are required by the Company, the Company shall give the Supplier an Order for the Services to be performed and each Order so given shall be final, unless varied in accordance with the Contract Variation Procedure.
- 3.3 The Supplier shall ensure and warrants to the Company that the Services will be performed:
- (a) by appropriately qualified and trained personnel exercising reasonable care, skill and diligence (any design or engineering work shall be carried out with the reasonable care, skill and diligence to be expected of appropriately qualified and experienced professional designers and engineers with experience in carrying out work of a similar scope, type, nature and complexity to the Services and using the best modern design and engineering principles and practices);
 - (b) in accordance with the Order Programme;
 - (c) in a good and workmanlike manner, using goods, materials, facilities, plant and equipment that are new and of a satisfactory quality, sound and free from defects;

- (d) in conformity to all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (e) in compliance with all Standards and any additional standards listed in Schedule 1 or in the Specification, or in the Order;
- (f) in compliance with the requirements of the Company set out in each Contract and all lawful and reasonable instructions and directions of the Company;
- (g) so that the Maintained Items are capable of being used, operated and maintained in a safe, economic and efficient manner, free from any unreasonable risk to the health and well-being of persons using, operating or maintaining the Maintained Items and are free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard; and
- (h) so that the Maintained Items are fit for the purposes for which they are intended from the date on which the Supplier first maintains a Maintained item under this Agreement to the expiry of this Agreement, or earlier termination of the relevant Contract, on the basis that the Maintained Items constitute high quality, reliable, well designed, engineered and constructed goods, materials, facilities, plant and equipment with a rate of deterioration reasonably to be expected of items of the same age as those contained within the Maintained Items..

3.4 The Supplier shall be fully responsible for the management of obsolescence in equipment and materials the expiry or early termination of this Agreement in accordance with the requirements set out in schedule 3

3.5 The Supplier warrants to the Company that it has entered into and executed the Agreement by its duly authorised representatives in accordance with all procedures required by its governing laws and contractual documents.

3.6 The Supplier warrants to the Company that it has the right to grant to the Company and any member of the TfL Group all licences (including without limitation all rights to sub-licence) of all and any Intellectual Property Rights as contemplated in the Agreement and each Contract.

3.7 The Supplier shall perform its obligations under each Contract in accordance with the requirements of the ISO 9000 and ISO 14000 series as appropriate to the provision of the Services or any equivalent international quality assurance standards as may be accepted as an alternative in the absolute discretion of the Company.

3.8 It shall be the responsibility of the Supplier to obtain, at its cost, all necessary approvals, licences, permits and consents in relation to the performance of the Services, including, but not limited to, those required by any Applicable Laws and Standards.

- 3.9** Unless otherwise stated in any Order, the Supplier shall provide the following as necessary for the provision of the Services:
- (a) staff and labour including management and supervision;
 - (b) facilities, plant and equipment, whether of a temporary or permanent nature;
 - (c) materials; and
 - (d) all other necessary resources.
- 3.10** Unless otherwise stated in any Order, the Supplier shall be responsible for:
- (a) bringing to;
 - (b) erecting and maintaining on; and
 - (c) dismantling and removing from,
- each Site its facilities, plant and equipment, whether of a temporary or a permanent nature.
- 3.11** For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Services waives, limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under this Agreement and each Contract.
- 3.12** The Supplier shall be responsible for the accuracy of all Contractual Documentation and shall pay the Company any extra costs occasioned by any discrepancies, errors or omissions therein. The Supplier shall at its own expense carry out any alterations or remedial work necessitated by such errors, omissions or discrepancies and modify the relevant documents or information accordingly.
- 3.13** The Supplier shall afford reasonable co-operation to the Company to enable the Company to comply with its obligations to provide a comprehensive travel information service to be provided to the general public in respect of public transport for the London area including without limitation notifying the Company of any circumstances or event of which the Supplier is aware which are likely, in the Supplier's reasonable opinion, to affect the operation of the Underground Network so as to impact on the service provided to the general public.
- 3.14** The Supplier shall supply operating and maintenance manuals and associated drawings and parts lists in respect of any plant and equipment supplied or installed by the Supplier, within two (2) months of supply or installation.

4 Programme

- 4.1** The Supplier shall submit to the Company's Representative within thirty (30) days of the Commencement Date a draft Programme in accordance with the Schedules, setting out the Supplier's proposals for providing the Services.
- 4.2** Within fourteen (14) days of receiving the Supplier's draft Programme, prepared in accordance with Clause 4.1, the Company's Representative shall advise the Supplier of its approval of the same or otherwise. The Company's Representative shall notify the Supplier of its reasons for not accepting the draft Programme and the Supplier shall revise the draft Programme to take account of the Company's Representative's comments and re-submit it to the Company's Representative for its approval.
- 4.3** The Supplier shall provide the Services in accordance with the approved Programme.
- 4.4** The Supplier shall revise the Programme and shall re-submit it to the Company's Representative for its re-approval when:
- (a) the Services have been disrupted by:
 - (i) a Force Majeure Event in accordance with Clause 26; or
 - (ii) suspension in accordance with Clause 23;
 - (b) the Supplier proposes to re-sequence the Services; or
 - (c) when instructed to do so by the Company's Representative

5 Records and Audit

- 5.1** The Supplier shall, and shall procure that its subcontractors shall, maintain a true and correct set of records including personnel records relating to all aspects of their performance of each Contract and all transactions related to each Contract and the Agreement. For the avoidance of doubt, such records shall include but are not limited to:
- (a) all necessary information for the evaluation of claims or variations;
 - (b) management accounts, information from management information systems and any other management records;
 - (c) accounting records (in hard copy as well as computer readable data);

- (d) subcontract files (including proposals of successful and unsuccessful bidders, bids, rebids etc);
- (e) original estimates;
- (f) estimating worksheets;
- (g) correspondence;
- (h) variation and claims files (including documentation covering negotiated settlements);
- (i) general ledger entries detailing cash and trade discounts and rebates;
- (j) commitments (agreements and leases) greater than £5,000;
- (k) detailed inspection records; and
- (l) such materials prepared in relation to the invitation to tender and subsequent tendering process relating to cost breakdowns, reconciliations against BAFO pricing and project plans, in each case which have not already been provided to the Company.

5.2 The Supplier agrees, and shall procure that its subcontractors agree, to retain all such records in such a manner as the Company may reasonably instruct for a period of not less than twelve (12) years after completion of performance under each Contract. In the absence of specific instructions as to the method of storage, the Supplier shall retain his records in an orderly and logical fashion.

5.3 The Company and its authorised representatives and any party legally authorised to inspect any part of the Underground Network shall have the right to inspect and audit any of the records referred to in Clause 5.1 at any time during the period referred to in Clause 5.2.

5.4 The Supplier shall promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:

- (a) granting or procuring the grant of access to any premises used in performance of each Contract, whether the Supplier's own premises or otherwise;
- (b) granting or procuring the grant of access to any equipment (including all computer hardware, software and databases) used (whether exclusively or non-exclusively) in the performance of the Supplier's obligations under each Contract, wherever situated and whether the Supplier's own equipment or otherwise;
- (c) making any contracts and other documents and records required to be maintained under each Contract available for inspection;

- (d) providing a reasonable number of copies of any contracts and other documents or records reasonably required by the Company's auditor and/or granting copying facilities to the Company's auditor for the purposes of making such copies; and
- (e) complying with the Company's reasonable requests for access to senior personnel engaged in the Supplier's performance of each Contract.

5.5 The Supplier shall maintain an effective and economical programme for monitoring and maintaining product quality, planned and developed in conjunction with any other functions of the Supplier necessary to satisfy each Contract's requirements.

5.6 The Supplier shall permit the Company's authorised representatives access and facilities (as required and when notified) for the purpose of systems and product quality audits including but not limited to access to documentation showing results of testing and inspection, certificates of conformance and safety-related documents. The Supplier shall provide the Company with a copy of any or all of the records listed in Clause 5.1, free of charge within thirty (30) days of the Company's request for the same.

5.7 The Supplier shall, and shall ensure that any subcontractor or sub-supplier shall, ensure that appropriate security systems are in place to prevent unauthorised access to, extraction of, or alteration to, data during any audit undertaken pursuant to the Agreement and each Contract.

6 Company's Obligations

6.1 The Company shall pay the Supplier the Order Price for the Services in accordance with the terms of the relevant Contract and Clause 9.

6.2 The Company shall make available to the Supplier the Company's plant and equipment as listed in the Schedules or in any Order for use in connection with the Services, at the times, on such terms and in such manner as are referred to in the Schedules, an Order or as may be agreed in writing between the Company and the Supplier.

6.3 The Supplier may submit a request in writing to the Company's Representative to use other items of the Company's equipment and plant not listed in the Schedules or the relevant Order, providing it is for use in connection with the Services. The Supplier shall give particulars in such a notice of the use to which it wishes to put the equipment. If, in the opinion of the Company's Representative, the plant and equipment is suitable for such use and is not otherwise required by the Company, it may grant permission for the Supplier to use the equipment and plant for such purposes. The Supplier shall pay a reasonable sum to the Company for the use of such equipment and plant including the cost of depreciation and wear and tear.

6.4 Payment of the Order Price shall not affect any claims or rights which the Company may have against the Supplier and shall not be an admission by the Company that the Supplier has performed its obligations under the relevant Contract properly.

6.5 The Agreement is not an exclusive arrangement and nothing in the Agreement operates to prevent the Company from engaging any other organisation or person to perform services similar to, or the same as, the Services.

7 Additional Services

The Company may, at any time during the term of any Contract, request the Supplier to provide a quotation for the supply of Additional Services in accordance with the Contract Variation Procedure and 0. If a Variation Order is made in respect of such Additional Services, the Order shall be amended to include such Additional Services, the Order Completion Date for them and the quoted price.

8 Variation

8.1 Unless the parties agree otherwise in writing, any variation to any Contract shall be made under the Contract Variation Procedure.

8.2 The Supplier shall not proceed to implement any variation unless there has been a Variation Order.

9 Price and Payment

9.1 The prices for the Services shall be the Order Price set out in the Order using the rates and prices set out in Schedule 2. The prices for the Services or any Order Price shall only be changed in accordance with the Contract Variation Procedure.

9.2 In consideration of and subject to the due and proper performance by the Supplier and its obligations under the Contract the Company will pay the Supplier the Order Price in accordance with the procedures for payment contained in this Clause 9.

9.3 Upon completion of the Services under an Order, the Supplier shall be entitled to present to the Company's Duty Manager a draft Certificate of Completion in relation to such Services. When the Duty Manager is satisfied that the relevant Services have been completed, the Duty Manager shall sign the Certificate of Completion.

9.4 Once a Certificate of Completion has been signed by the Company's Duty Manager, the Supplier shall be entitled to submit an invoice to the address below:

Accounts Payable
PO Box 45276
14 Pier Walk
London
SE10 1AJ

- 9.5** The invoice(s) submitted by the Supplier shall always quote a relevant Company transaction number, and must be sufficiently clear, concise, accurate and adequately descriptive in order to avoid delays in processing and subsequent payment. VAT must be shown separately on the invoice. Any loss or additional costs incurred by the Supplier in the correction or re-submission of an invoice shall be at the Supplier's expense.
- 9.6** If an invoice submitted by the Supplier is approved by the Company then the final date for payment of that invoice will be thirty days after receipt by the Company of the Supplier's invoice.
- 9.7** If an invoice submitted by the Supplier is not approved by the Company then the Company shall inform the Supplier within ten Business Days of receipt of the invoice why the invoice has not been approved.
- 9.8** Payments shall be made by Bank Transfer (Bank Automated Clearance System – BACS) or such other method that the Company may choose from time to time.
- 9.9** The Order Price shall be fixed and inclusive of all expenses and disbursements.
- 9.10** The Order Price shall not include VAT and, to the extent that such VAT is properly chargeable, it shall be charged at the rate in force on the date of the invoice and will be shown as a separate item on all such invoices.
- 9.11** In addition to any other rights of the Company whether at law or equity under this Agreement or any Contract, whenever under or arising out of this Agreement, any Contract or any other contract between the Company and the Supplier
- (a) any sum of money is recoverable from or payable by the Supplier; or
 - (b) any Losses are reasonably and properly owed to, or incurred by, the Company or any member of the Tfl Group
- then the same may be set-off against and/or deducted and/or withheld from any sum then due or which at any time thereafter may become due to the Supplier under this Agreement or any Contract.
- 9.12** All sums payable to the Company by the Supplier under each Contract shall be paid in full, free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction,

restriction, conditions, withholding, set-off or counterclaim whatsoever; and if the Supplier is compelled by law to make any deduction or withholding, the Supplier shall gross up the payment so that the net sum received by the Company will be equal to the full amount which the Company would have received had no such deduction or withholding been made.

10 Supplier Performance

10.1 The Company shall have the right to:

- (a) abate the Supplier for failure to meet the key performance indicators stated in 0; and
- (b) use the escalation process stated in 0 to rectify any unsatisfactory performance by the Supplier in its performance of the Agreement and any Contract or any failure by the Supplier to meet the performance standards set out in 0.]

11 Access and Time for Performance of the Services

11.1 The Company shall give the Supplier access to the Site and parts of the Underground Network required for the performance of the Services in accordance with the Access Procedure and the provisions of this Clause 11.

11.2 Subject to the provisions of the Access Procedure and this Clause 11, the Company shall use reasonable endeavours to give access to such parts of the Site and the Underground Network to the Supplier on the dates and times on which it has stated that it requires such access in the approved [programme]

11.3 The Supplier acknowledges that the Company does not guarantee uninterrupted or exclusive possession to any parts of the Underground Network and that its access to some parts of the Underground Network may be limited in accordance with the Agreement and each Contract.

11.4 Where the Supplier requires access to the Underground Network to carry out the Services it shall:

- (a) apply for access at the earliest available opportunity; and
- (b) provide the Company's Representative without delay with such additional information as the Company's Representative may reasonably require in respect of the Supplier's access requests.

11.5 The Company shall confirm access bookings in accordance with this Clause 11. The Company does not warrant or guarantee to the Supplier that such access will be granted. If any request for access is rejected, the Company shall advise the Supplier and agree with the Supplier alternative dates for

resubmission. The rejection of an access request shall not entitle the Supplier to an extension of time.

- 11.6** If the Supplier fails to apply for access in accordance with this Clause 11, the Company shall not be liable for any delays or costs arising and the Supplier shall be responsible for any failure to comply with the terms of the Agreement and any Contract.
- 11.7** The Supplier shall as soon as practicable, take all steps to avoid, overcome or minimise the cancellation or alteration of approved access. If the Supplier fails to use any booked access, for whatever reason, it shall within twenty-four (24) hours report each instance to the Company's Representative setting out all details including the part of the Underground Network affected, the duration of any delay and the reasons for the delay or cancellation so far as the Supplier is aware.
- 11.8** The Supplier shall ensure that all booked access is used efficiently with minimal disruption and disturbance to others or damage to the Underground Network. The Supplier shall make good any such damage at its own cost at the earliest opportunity and to the reasonable satisfaction of the Company's Representative.
- 11.9** The Supplier shall indemnify and keep indemnified the Company in respect of any claims by third parties relating to the disruption, delay or cancellation of their access due to the actions or omissions of the Supplier.
- 11.10** Prior to returning any part of the Underground Network to the Company at the end of any period of booked access, the Supplier shall clear away and remove all of its facilities, plant, equipment, rubbish and surplus goods and materials and shall leave that part of the Underground Network in a clean and workmanlike condition to the satisfaction of the Company's Representative.
- 11.11** If the Supplier fails to comply with the requirements of Clause 11.10 within such reasonable time as may be allowed by the Company's Representative, then the Company may:
- (a) sell any of those items which are the property of the Supplier; and
 - (b) return any of those items which are not the property of the Supplier to the owner at the Supplier's cost,
- and after deducting from any proceeds of sale the costs, charges and expenses in connection with such sale and return, the Company shall pay the balance, if any, to the Supplier but to the extent that such proceeds are insufficient to meet all such costs, charges and expenses, the excess shall become a debt due from the Supplier to the Company and is deductible or recoverable by the Company from any monies due or which may become due to the Supplier under this Agreement and any Contract.

11.12 Where the Supplier is denied booked access to any part of the Underground Network, through no fault of the Supplier, the Supplier shall be entitled to an extension of time in accordance with Clause 26.2.

11.13 Without limiting any other remedy, if the Services are not performed in accordance with this Agreement and any Contract then the Company shall be entitled to require the Supplier to re-perform the Services in accordance with any such Contract at no extra cost within five (5) Working Days.

11.14 The Supplier shall ensure that the Services are satisfactorily completed by the Order Completion Date. The time of the performance of the Services shall be of the essence in respect of each Contract.

12 Work on Company's Sites

12.1 During the term of each Contract, the Supplier shall:

- (a) ensure the personnel used in the provision of the Services are competent, properly trained and supervised and hold appropriate qualifications or certifications in accordance with any Applicable Laws and Standards;
- (b) ensure that all employees and agents of the Supplier including any of the Supplier's subcontractors working on the Company's or third parties' sites comply with the sites' local safety arrangements and undergo any relevant induction or training necessary and comply with all reasonable instructions of the Company or third party;
- (c) notwithstanding the terms of Clause 12.1(d), accept full responsibility for its subcontractors and ensure that such subcontractors adhere to the terms and conditions of each Contract;
- (d) supply the Company with a list of all personnel working on the Company's or third parties' site and notify the Company in writing of any changes to the identity of such personnel within one (1) Working Day of such change taking place;
- (e) ensure that no employees or agents of the Supplier including any of the Supplier's subcontractors use the Company's or a third parties' site equipment without the prior written consent of the Company or the relevant third party;
- (f) carry out the Services in such a manner as not to endanger or interfere in any way with the railway, the Company or any railway operator. The Supplier shall strictly observe all rules and regulations set out or referred to in the Agreement and any further instructions, rules and regulations which it may from time to time receive from the Company's Representative for the

working, protection and return of the railway or for the protection of persons on or adjacent to the railway; and

- (g) attend the Company or any third party in order to advise on the effects of the Supplier's actions or proposed actions in respect to the Services on the integrity and/or functionality of any other aspect of the railway.

12.2 Without prejudice to Clauses 12.1(a) to (g) the parties shall co-operate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights under each Contract.

12.3 Passes or entry permits may be required for admission to the Site or parts of the Site, in which case the Company's Representative shall issue such passes and permits to the Supplier as are reasonably required or shall give the Supplier appropriate authority to issue the same to its workforce. The Supplier shall submit to the Company's Representative a list of the names of those issued or to be issued with passes or entry permits, and any other information which the Company's Representative may reasonably require in connection with the issue of passes or entry permits. The Supplier shall return the passes or entry permits at any time on the request of the Company's Representative and in any case on the expiry of this Agreement or earlier termination of each Contract. Site passes are issued only to employees of the Supplier and other persons who have undertaken the relevant training as specified in the Schedules.

12.4 The Supplier shall take all reasonable measures, including all measures referred to in the Schedules, to prevent unauthorised persons being admitted onto the Site. If the Company's Representative gives the Supplier notice that any person is not to be admitted to the Site, the Supplier shall take all practical steps to prevent that person being admitted.

13 Free Issue Materials

13.1 In the event of the Company supplying Free Issue Materials to the Supplier under any Contract the cost of which has been included in calculating the Order Price, the Order Price shall be reduced by the amount included in the Order Price for the materials which have been replaced by such Free Issue Materials.

13.2 Any Free Issue Materials supplied by the Company to the Supplier shall remain the property of the Company and the Supplier shall ensure that all Free Issue Materials are properly labelled as the property of the Company and are kept separate from and not mixed with any materials owned or in the possession of the Supplier or with any materials supplied to it by third parties.

13.3 The Supplier shall properly store all Free Issue Materials and other property of the Company whilst the same are in the Supplier's possession and protect the same from damage by exposure to the

weather and shall take every reasonable precaution against accident or damage to the same from any cause. The Supplier shall be liable for all loss thereof or damage to such Free Issue Materials and other property of the Company whilst the same are in the Supplier's possession or in the possession of any subcontractor of the Supplier except where such loss or damage is solely due to any negligent act or omission of the Company or its employees.

14 Not Used

15 Safety

- 15.1** The Supplier shall not endanger in any manner the health and safety of, or unreasonably interfere with the proper performance of the duties of, the Company's employees or third parties or otherwise expose the Company to liability under any Applicable Laws and Standards, including (without limitation) the Health and Safety at Work etc. Act 1974, the Transport and Works Act 1992, or any statutory modifications or re-enactments thereof.
- 15.2** The Supplier shall act in accordance with the health and safety regulations and requirements stated in the Specification, including (but not limited to):
- (a) the provisions of the Company's Contract QUENSH Conditions that are indicated as being applicable to any Contract in the QUENSH menu set out in schedule 6 ("QUENSH") as amended from time to time;
 - (b) all applicable health and safety law; and
 - (c) the Company's drugs and alcohol policy as amended from time to time.
- 15.3** Section 20.1.1 (Alcohol and drugs) of QUENSH shall apply to each Contract as if the term "LU Premises" means any of the Company's property where the Services are carried out and as if references to "LU" are references to the Company.
- 15.4** The Designated Company's Representative for the purposes of QUENSH is [*the individual named in Schedule 1 (Detailed Terms)*] or any replacement notified to the Supplier from time to time by the Company's Representative. The Designated Company's Representative shall delegate authority in accordance with the relevant QUENSH requirements to act on its behalf generally in respect of the Contract to the Duty Operations Engineer for the period as set out in Schedule 1 (Detailed Terms). This delegation shall continue in force unless and until the Designated Company's Representative notifies the Supplier in writing that it has ended in accordance with the relevant QUENSH requirements.
- 15.5** The Company may at its discretion carry out on the Supplier's behalf any testing of the Supplier's employees, subcontractors or agents for drugs or alcohol which each Contract requires the Supplier

to carry out. The reasonable cost to the Company of carrying out the testing shall be paid by the Supplier, and is not a Variation Order for the purposes of Clause 8.

15.6 Throughout the duration of each Contract the Supplier shall take full responsibility and have full regard for the safety of all persons on the Site and shall keep the Site in an orderly state conducive to the avoidance of danger and hazards to persons and property.

15.7 The Supplier shall be responsible for providing, maintaining and updating all necessary Documentation to enable the Company to comply with its obligations under any applicable health and safety law.

16 Not Used

17 Independent Supplier

17.1 The Supplier is an independent supplier and is not and shall not hold itself out as, and shall procure that none of the Supplier's employees or subcontractors or their employees hold themselves out as, an agent of the Company. All personnel used by the Supplier in the performance of its obligations under each Contract shall be employees of the Supplier, or any subcontractor or agent of the Supplier.

18 Not Used

19 Supplier's Personnel

19.1 The Supplier shall use only competent and suitably qualified, skilled and experienced personnel to act on its behalf in the performance of the Services.

19.2 The Supplier shall, in its performance of each Contract, employ a sufficient number of persons on the relevant Site appropriate to the extent and type of work being carried out and shall provide to the Company's Representative an organisation chart showing the responsibilities of all management and supervisory personnel in relation to such Contract. If the Supplier intends to make any change in the management or supervisory personnel provided under this Clause 19.2 it shall immediately notify the Company's Representative in writing and obtain its prior approval to the personnel change.

19.3 The Supplier shall use its best endeavours to ensure that any replacement personnel are at least of equal ability and have equivalent experience as the personnel they replace.

19.4 The Company's Representative may require the Supplier to remove or require a subcontractor to remove from any Site any person employed by the Supplier or subcontractor who in the opinion of the Company's Representative:

- (a) misconducts himself or persists in any conduct which is prejudicial to safety or health; or
- (b) is incompetent or negligent in the performance of its duties,

and the Supplier shall comply with the Company's Representative's requirement. Such removal shall not affect the Supplier's liability to provide the Services in accordance with the relevant Contract. Any such person shall not be employed again by the Supplier or subcontractor to provide any of the Services without the prior written permission of the Company's Representative.

19.5 Any person removed from the Site under Clause 19.4 shall be replaced as soon as reasonably possible by the Supplier in accordance with Clause 19.1.

19.6 The Supplier shall, to the extent each Contract is for the provision of Services to be undertaken within Greater London or on the Underground Network:

- (a) ensure that none of its employees engaged in the provision of services under any Contract is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
- (b) provide to the Company such information concerning the application of the London Living Wage as the Company or its nominees may reasonably require;
- (c) disseminate on behalf of the Company to its employees who are paid no more than the London Living Wage such perception questionnaires in relation to the London Living Wage as the Company or its nominees may reasonably require and promptly collate and return to the Company responses to such questionnaires;
- (d) co-operate and provide all reasonable assistance to the Company and its nominees in monitoring the effect of the London Living Wage; and
- (e) procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause and the provisions of this Clause are included in any subcontract (of any tier).

19.7 The Supplier shall not, and shall procure that any subcontractor shall not, without the prior written consent of the Company, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause.

20 Responsible Procurement

- 20.1** The Supplier and the Company acknowledge and agree that the Mayor, in accordance with section 155 of the GLA Act has directed TfL and its subsidiaries (including the Company) to do all things reasonably necessary to comply with (inter alia) the Responsible Procurement Policy in its procurement activities.
- 20.2** The Supplier shall and shall procure that its subcontractors (of any tier) shall comply with, and shall provide such co-operation and assistance as may be reasonably requested by the Company to enable the Company to comply with, the Responsible Procurement Policy.
- 20.3** The Supplier acknowledges and agrees that the Company is required to develop a policy relating to the promotion of the procurement of goods and services in an ethical manner (the "**Ethical Sourcing Policy**") which shall reflect and be consistent with the relevant principles of the Responsible Procurement Policy and the Supplier shall and shall procure that all of its subcontractors shall comply with such Ethical Sourcing Policy to the extent it does not conflict with the Responsible Procurement Policy.
- 20.4** The Supplier acknowledges and agrees that it (and its subcontractors) shall be required to comply with any changes to the Responsible Procurement Policy (and any adjustment or amendment to the Ethical Sourcing Policy as a result of such amendment or adjustment to the Responsible Procurement Policy).
- 20.5** The Supplier shall not be entitled to any addition to the Order Price in the event of any change to the Responsible Procurement Policy (and any change to the Ethical Sourcing Policy as a result of such change to the Responsible Procurement Policy).
- 20.6** The Supplier shall procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause 20 and the provisions of this Clause 20 are included in any subcontract (of any tier).
- 20.7** The Supplier shall not, and shall procure that any subcontractor shall not, without the prior written consent of the Company, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause 20.

21 Failure to Perform and Warranty Period

- 21.1** If the Supplier has not performed the Services in accordance with the terms of this Agreement or any Contract or the Services are Defective, without prejudice to any other rights the Company shall have under this Agreement or such Contract, the Company shall be entitled to require the Supplier to carry out such work as is necessary to rectify its non-performance which where necessary shall