

Dated _____ 2017

LONDON UNDERGROUND LIMITED (1)
and

SPECIALIST COMPLIANT COATINGS LIMITED (2)

FRAMEWORK AGREEMENT
for the supply of

Rolling Stock Vinyl Filming Services

CONTRACT REFERENCE NUMBER: TfI 00717

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THIS AGREEMENT is made on

17 July

2017

BETWEEN:

- (1) **London Underground Limited**, a company registered in England and Wales under number 01900907 and having its registered office at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**" which expression shall include its successors and assigns); and
- (2) **Specialist Compliant Coatings Limited** a company registered in England and Wales under number 04279670 and having its registered office at 26 Heathfield, Stacey Bushes, Milton Keynes, MK12 6HR (the "**Supplier**").

BACKGROUND

- (A) The Supplier carries on the business of procuring and selling the Goods and providing the Services.
- (B) The Company wishes to buy and the Supplier wishes to supply the Goods and Services on the terms and conditions set out in the Agreement.
- (C) This Agreement may be utilised by the Company or any other member of the TfL Group. The Greater London Authority, any of the London boroughs, the Metropolitan Police Service, or any functional body (as defined in the GLA Act) may, if the Supplier so agrees, contract with the Supplier on the terms set out in this Agreement.

THIS DEED WITNESSES as follows:

1 Definitions and Interpretation

1.1 In this Agreement and each Contract the following definitions shall have the following meanings:

"**Additional Goods**" means any goods which the Company requests the Supplier to provide in accordance with the terms of the Agreement and each Contract in addition to those set out in the Specification.

"**Additional Services**" means any services which the Company requests the Supplier to provide in accordance with the terms of the Agreement and each Contract in addition to those set out in the Specification.

"Aggregated Annual Spend" means the total of all sums paid by the Company to the Supplier (exclusive of VAT) pursuant to the terms of the Contract annually calculated in accordance with Clause 9.

"Agreement" means these terms and conditions, including the Schedules, as amended, varied or supplemented from time to time.

"Applicable Laws" means, depending on the context, all or any laws, statutes, proclamations, recommendations, codes of practice, by-laws, directives, Regulations, statutory instruments, rules, orders, rules of court, delegated or subordinate legislation, rules of common law or any European 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 the Agreement and each Contract, any agreement or document referred to in the Agreement and each Contract, or the Goods and Services.

"BAFO" means 'best and final offer'.

"Cessation Plan" means a plan agreed between the parties or determined by the Company in accordance with Clause 54.1 to give effect to a Declaration of Ineffectiveness.

"Commencement Date" means the date specified as such 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 the Agreement and each Contract.

"Company's Representative" means the person appointed by the Company and named as such in the relevant Order.

"CompeteFor" has the meaning given to that term in Clause 55.

"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 Clauses 9.1 and 9.2 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 this Agreement.

"Contract Variation Procedure" means the procedure set out in Schedule 5.

"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).

"Defect" means that the Goods or any part of them do not comply with the requirements of any 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.

"**Delivery Address**" means the address at which the Supplier shall deliver the Goods to the Company and which is set out in the Order or such other destination as may be notified by the Company to the Supplier.

"**Delivery Note**" has the meaning given to that term in Clause 10.6.

"**Dispute**" has the meaning given to that term in Clause 43.1.

"**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.

"**Environmental Claim**" means receipt by the Company in connection with any pollution or contamination of the environment of:

- (a) any written claim, demand, suit or notice from a third party, including a Regulatory Authority ("**Regulatory Authority**" means any government entity or other public or quasi public authority or privatised utility having responsibility for any matters concerning the environment, or Environmental Law) or any order of the court of competent jurisdiction in connection with an alleged breach of Environmental Law; or
- (b) any charge or condition imposed by any Regulatory Authority or any notice served by any Regulatory Authority requiring Remediation (including any written indication from any Regulatory Authority that a requirement to carry out Remediation will be imposed on the Company unless the Company agrees to carry out Remediation voluntarily).

"**Environmental Law**" means all and any laws, including common law, legislation, codes of practice, notices, judgments, decrees, regulations, applicable clean-up standards, circulars, guidance notes (statutory or otherwise), as may be enacted, adopted, amended or supplemented, concerning the protection of human health, or the environment or the conditions of the work place.

"**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 21.5.

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

"**Expected Order Delivery Date**" means the date set out in each Order upon which the Goods or any part of them are to be delivered by the Supplier to the Company.

"**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.

"Goods" means the goods stated in the Specification to be supplied by the Supplier and any Additional Goods which the Company has agreed to buy under Clause 7.

"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.

"Initial Period" means the number of years from the Commencement Date stated in Schedule 1.

"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.

"**Invoice**" means a request for payment bearing all information required by the Company including the Agreement and each Contract reference number, Supplier's name, address and a brief description of the materials supplied or services provided;

"**Key Personnel**" means Supplier Personnel identified as such in Schedule 1 and any changes to the same that are made in accordance with Clause 30.

"**Liquidated Damages**" means the sums identified and calculated in accordance with each Order;

"**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).

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

"**Mini-Competition**" means a competitive process which the Company may from time to time utilise to select a Supplier to provide the Goods and Services.

"**Nominated Representatives**" has the meaning given to that term in Clause 43.2.

"**Notice to Proceed**" has the meaning given to that term in Clause 21.6(b).

"**Notified Sum**" has the meaning given to that term in Clause 9.8.

"**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 Schedule 4, entered into by the Company and the Supplier.

"**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 Delivery Date**" means the date upon which the Goods or any part of them are actually delivered to the Delivery Address by the Supplier to the Company.

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

"**Order Programme**" means the programme of work set out in each Order for the provision of the Services which has been submitted by the Supplier and approved by the Company. The programme may be varied from time to time subject to the terms and conditions of the relevant Contract or otherwise by agreement in writing between the Supplier and the Company.

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

"**Policies**" means the policies set out in Clause 33.3.

"**Prescribed Period**" has the meaning given to that term in Clause 9.9.

"**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 or 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 or any Contract or any other contract with the Company; or
- (b) entering into the Agreement or 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 or any Contract or any other contract with the Company; or
- (d) defrauding or attempting to defraud the Company

"**Proposal**" means the Supplier's offer to provide the Goods and/or the Services in response to a Request Form.

Quality and Safety Plan means the Supplier's quality and safety plan set out in Schedule 6 as amended from time to time.

"QUENCH" has the meaning given to it in Schedule 6.

"Regulation" 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.

"Rejected Goods" has the meaning given to that term in Clause 18.2.

"Rejection Notice" has the meaning given to that term in Clause 18.2.

"Remediation" means any or all investigation, sampling, analysing, removing, remedying, cleaning up, abating, containing, controlling or ameliorating the presence in or effects on the Environment of any contamination or pollution including, but without limitation, the removal, treatment and disposal of material and the treatment and monitoring of ground waters and gases and emissions and the obtaining of expert technical, legal and other professional advice (including all project management functions).

"Request Form" means the request form produced by the Company detailing the Company's requirements for a Proposal from the relevant Supplier

"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.

"Services" means the services stated in the Specification to be performed by the Supplier and any Additional Services.

"Specification" means the description of the Goods and Services set out in Schedule 3 and 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 supply the Goods 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 supplying the Goods and 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 30; 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 appointed by the Supplier and named as such in the relevant Order.

"**Term**" means the period specified as such in Schedule 1 to this Agreement;

"**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 Schedule 5.

"Volume Discount" is the figure calculated annually in accordance with Clause 9.17.

"Volume Discount Percentage" is the volume discount percentage set out in Schedule 1 to the Contract.

"Warranty Period" 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 and each Contract include its recitals and Schedules.
- 1.5 References to (or to any specified provision of) the Agreement and each Contract or any other document shall be construed as references to the Agreement and each 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 each 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 includes 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 In the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Agreement and each Contract, the order of priority for the purpose of construction in descending order is:
 - (a) the Clauses of the Agreement and each Contract;

- (b) the Schedules to the Agreement and each Contract (equal priority but subject to Clause 1.10); and
- (c) any other document referred to in, or incorporated by reference into, the Agreement and each Contract.

1.10 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 each Contract and a provision of any other Schedule then the clauses of the Agreement and each Contract will 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 and each Contract.

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 **12 months**. 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 supply the Goods and 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 Not Used.
- 3.3 The Supplier shall ensure and warrants to the Company that the Goods will:

- (a) conform in all respects with the Specification and the provisions of each Contract including, without limitation, specifications as to quantity, quality and description;
- (b) be of satisfactory quality and fit for the purpose for which they are intended;
- (c) comply with all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (d) comply with all Standards and any additional standards listed in Schedule 1 or in the Specification ;
- (e) comply with the requirements of the Company set out in each Contract and all lawful and reasonable directions of the Company;
- (f) have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials, goods and equipment.

3.4 The Supplier shall be fully responsible for the management of obsolescence in the Goods and Additional Goods throughout the Term in accordance with the requirements set out in the Specification.

3.5 The Supplier shall ensure and warrants to the Company that the Services will:

- (a) be performed by appropriately qualified and trained personnel exercising the highest standard of diligence, care and skill;
- (b) be performed in accordance with the Order Programme;
- (c) conform to all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (d) comply with all Standards and any additional standards listed in Schedule 1 or in the Specification; and
- (e) comply with the requirements of the Company set out in the Agreement and each Contract and all lawful and reasonable directions of the Company .

3.6 The Supplier warrants and undertakes that the Supplier has entered into and executed this Agreement and any Contract by the Supplier's duly authorised representative in accordance with all procedures required by its governing laws and contractual documents.

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 supply of Goods and

the Quality and Safety Plan 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 and the Goods and their delivery, including, but not limited to, those required by any Applicable Laws and Standards.
- 3.9 Unless otherwise stated in any Contract, the Supplier shall provide all equipment, support services and other facilities necessary for the performance of its obligations under each Contract.
- 3.10 For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Goods or the Services waives limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under this Agreement or any Contract.
- 3.11 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.
- 3.12 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 this Agreement.
- 3.13 Not Used
- 3.14 Not Used

4 Mini-Competition

- 4.1 At any time during the Term, the Company may identify the Goods and/or Services which at its sole discretion it wishes to let under the terms of the Agreement. Any decision by the Company to place a Contract under the terms of the Agreement will be preceded by a Mini-Competition save where the Company, having considered the Applicable Laws and Standards (including the Utilities Contracts Regulations 2006), considers it appropriate to issue an Order to one or more Suppliers without holding a Mini-Competition.
- 4.2 If pursuant to Clause 4.1 the Company conducts a Mini-Competition, it will issue to the Suppliers a Request Form, specifying the Goods and/or Services it requires.
- 4.3 On receipt of the Request Form, the Supplier shall:
- (a) within two (2) Working Days of the date of issue of the relevant Request Form, confirm receipt of such Request Form; and

(b) by the date specified in the relevant Request Form (or if no date is specified within seven (7) Working Days of the date of issue of such relevant Request Form) or by such other date agreed in writing between the Company and the relevant Supplier:

(i) complete and issue to the Company a Proposal which shall include in full the information requested by the Company in the relevant Request Form and full details of the basis on which the prices have been calculated; or

(ii) notify the Company that it does not intend to submit a Proposal.

4.4 The Supplier acknowledges and agrees that a Proposal remains valid for at least [six (6)] months (or such longer period as may be specified in the relevant Request Form) from the date such Proposal is submitted to the Company.

4.5 If the Company accepts a Proposal issued pursuant to Clause 4.3(i), it shall notify the relevant Supplier of its intention to place an Order for the Goods and/or Services to be delivered and each Order so given shall be final.

4.6 A Request Form and anything prepared or discussed by the Company constitutes an invitation to treat and does not constitute an offer capable of acceptance by the relevant Supplier. The Company is not obliged to consider or accept any Proposal submitted by the Supplier.

4.7 The Agreement does not oblige the Company to place an Order or enter into any Contract with the Supplier.

4.8 Unless otherwise expressly agreed in writing with the Company, the Supplier shall not charge under the Agreement for any work involved in receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this Clause 4.

4.9 The Supplier is responsible for all and any costs, charges and expenses arising from or associated with the procurement process in this Clause 4 (the "**Procurement Process**"), and the Company shall not be liable for any costs, charges or expenses borne by or on behalf of the Supplier whether or not the Supplier is awarded a Contract (which for the avoidance of doubt includes any costs, charges and expenses arising from or associated with an abortive or cancelled Procurement Process).

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 the Agreement and each Contract and all transactions related to the Agreement and each Contract. 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 sub-contractor or sub-supplier shall ensure that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit undertaken pursuant to the Agreement and any Contract.

6 Company's Obligations

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

6.2 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.

6.3 The Agreement is not an exclusive arrangement and nothing in the Agreement or any Contract operates to prevent the Company from engaging any other organisation or person to supply goods and services similar to or the same as the Goods and Services.

7 Additional Goods and Services

7.1 The Company may, at any time during the term of any Contract, request the Supplier to provide a quotation for the supply of Additional Goods and/or Additional Services in accordance with the Contract Variation Procedure. If a Variation Order is made in respect of such Additional Goods and/or Additional Services, the relevant Contract shall be amended to include such Additional Goods and/or Additional Services, the Expected Order Delivery Date and/or the Order Completion Date and the Order Price.

8 Variation

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

8.2 The Supplier shall not proceed to implement any variation unless a Variation Order has been entered into in respect of such variation.

9 Price and Payment.

9.1 The Supplier shall submit an application for payment to the Company's Representative according to the rates and prices set out in Schedule 2 for the relevant portion of the Order Price in respect of the Goods after the Order Delivery Date of such Goods (a "**Payment Application**"). If (as the case may be) the Goods are to be delivered in instalments, the Supplier shall submit a Payment Application for the relevant portion of the Order Price to the Company's Representative after the Order Delivery Date of each instalment.

9.2 The Supplier shall submit a Payment Application for the relevant portion of the Order Price in respect of the Services using the rates and prices set out in Schedule 2, to the Company's Representative following the completion of the Services to the satisfaction of the Company.

9.3 Each Payment Application shall specify the sum that the Supplier considers will become due on the payment due date and the basis upon which that sum is calculated. The Supplier shall submit any supporting documents that are reasonably necessary to enable the Company's Representative to check the Payment Application.

9.4 Not Used.

9.5 The Company's Representative shall assess the Payment Application and shall notify the Supplier in writing not later than *fourteen (14) days* after the date of receiving the Payment Application of:

- (a) the amount (if any) the Company's Representative considers to be due at the payment due date (which amount shall be net of any discount to which the Company is entitled); and
- (b) the basis on which the amount was calculated,

a "**Payment Certification**". It is immaterial for the purposes of this Clause 9.5 that the amounts referred to in Clauses 9.5(a) or 9.5(b) may be zero.

- 9.6 Within seven (7) days of receipt of a Payment Certification the Supplier shall issue a VAT invoice for the amount stated in that Payment Certification to the Company. The final date for payment of such VAT invoice shall be thirty (30) days after the date on which the Company's Representative received such VAT invoice.
- 9.7 Not Used.
- 9.8 Not Used.
- 9.9 Not Used.
- 9.10 Not Used.
- 9.11 The Order Price shall be fixed and inclusive of all expenses and disbursements including, but not limited to, the costs incurred in supplying the Goods to the Delivery Address. The Order Price for the Goods and/or Services shall only be changed in accordance with the Contract Variation Procedure.
- 9.12 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 Payment Application and will be shown as a separate item on all such Payment Applications.
- 9.13 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 or any 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.

- 9.14 Payment Applications shall be submitted separately for each Contract and all such Payment Applications shall clearly show the Contract Reference Number, the Order number (as indicated on the relevant Order), the date of the Order, the Order Price and any associated Variation Order. Supporting documentary information shall be submitted to the Company's Representative for all Payment Applications submitted by the Supplier. The Company's Representative shall from time to time agree with the Supplier the detailed information required in relation to all such Payment Applications and the Supplier shall provide such information as is reasonably required.
- 9.15 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.
- 9.16 The Supplier agrees that if at any time during the Initial Period it supplies any Goods to a comparable customer for less than the Order Price, it shall reduce the relevant rates and prices to match the lower price for so long as the lower price is available (but for no longer) and shall refund the Company the difference between the Order Price and the lower price in respect of its purchases of the Goods after the Supplier began charging the lower price. For the purposes of this Clause 9.16, 'comparable' means a customer that purchases products in substantially similar volumes as the Company on broadly similar terms and conditions.
- 9.17 The Company calculates the Volume Discount annually by applying the relevant Volume Discount Percentage to the Aggregated Annual Spend. The Company issues an invoice to the Supplier for the Volume Discount. The Supplier pays the Volume Discount to the Company within 30 days of receipt of the invoice.
- 9.18 No payment made by the Company will indicate or be taken to indicate the Company's acceptance or approval of any part of the Goods delivered or any Services performed or of any act or omission of the Supplier or will absolve the Supplier from any obligation or liability imposed upon the Supplier by any provision of the Agreement and any Contract or otherwise.

10 Delivery of Goods

- 10.1 The Goods/services shall be delivered by the Supplier to the Company on the Expected Order Delivery Date and on the times stated in the Order and at the Delivery Address. The Supplier shall be responsible for, and shall comply with any reasonable instructions of the Company with regard to, the unloading of the Goods at the Delivery Address. The Company shall be under no obligation to accept partial delivery of an Order.
- 10.2 The time of delivery of the Goods/services shall be of the essence in respect of each Contract.

- 10.3 If the Goods/Services are not supplied on the Expected Order Delivery Date stated in the relevant Order then, without limiting any other remedy, the Company shall be entitled to deduct from the price payable for such Goods/Services or to claim from the Supplier by way of Liquidated Damages for delay the amount stated in Schedule 1 for the period of delay stated in Schedule 1 up to a maximum of the 125% stated in Schedule 1 of the price payable for such Goods/Services. The Company shall not be entitled to deduct such amount from the price payable for such Goods/Services or to claim such amount from the Supplier by way of Liquidated Damages for delay to the extent that the delay is due to (i) a default or other act of prevention of the Company, its agents, employees or contractors (other than the Supplier) or (ii) a Force Majeure Event, or a (iii) Permitted Delay Event.
- 10.4 The Supplier accepts that the amount of Liquidated Damages under any Contract constitutes a genuine pre-estimate of the loss that would be suffered by the Company as a result of the Supplier's failure to achieve the Expected Order Delivery Date.
- 10.5 The Goods shall be properly packed and secured in such a manner as to reach the Delivery Address in good condition and otherwise in a condition which fully complies with the requirements of each Contract.
- 10.6 The Supplier shall provide a detailed delivery note stating the relevant Contract Reference Number, Order number (given on the relevant Order) and giving full particulars of the Goods to be supplied (the "**Delivery Note**"). A copy of the Delivery Note shall be delivered with the Goods and be sent by facsimile to the Company on the Order Delivery Date in accordance with Clause 42.
- 10.7 If for any reason the Company is unable to accept delivery of the Goods on or after the Expected Order Delivery Date, the Supplier shall store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until the Order Delivery Date, and the Company shall be liable to the Supplier for the reasonable cost (including insurance) of its so doing.
- 10.8 In the event that all or any of the obligations of the Supplier under any Contract to pay Liquidated Damages are held to be unenforceable, the Supplier agrees to pay the Company damages in respect of all actual Losses suffered by the Company due to the circumstances in respect of which Liquidated Damages would have been payable if the relevant obligation had been enforceable including, without limitation, loss of profit, loss of use, loss of revenues, loss of production and loss of savings. The damages payable by the Supplier in accordance with this Clause 10 shall not exceed the amounts which would have been payable if the relevant obligation(s) to pay Liquidated Damages had been enforceable save where such obligation(s) are held to be unenforceable as a result of any argument or proceedings raised or brought by the Supplier that such obligation(s) are unenforceable, in which case the amount of such damages shall be unlimited.

- 10.9 The Supplier will not, and will ensure that neither its subcontractors, suppliers nor any other person will have, a lien, charge or encumbrance on or over any of the Goods which are vested in the Company under Clause 17.2 for any sum due to the Supplier or its subcontractors, suppliers or other persons and the Supplier shall take all reasonable steps as may be necessary to ensure that the title of the Company and the exclusion of any such lien charge or encumbrance are brought to the notice of subcontractors and other persons dealing with any such Goods.
- 10.10 The Company shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Company elects not to accept such over-delivered Goods it shall be entitled to give notice in writing to the Supplier to remove them. Within 7 days of receipt by the Supplier of such notice the Supplier shall remove the excess and refund to the Company any expenses incurred by the Company as a result of such over-delivery (including but not limited to the costs of moving and storing them) failing which the Company shall be entitled to dispose of such Goods and to charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Supplier until they are collected by or on behalf of the Supplier or disposed of or purchased by the Company, as appropriate
- 10.11 Notwithstanding Clause 106 the Company may revise the Delivery Note by providing the Supplier with not less than one (1) days notice of the revised Delivery Date (the "Revised Delivery Note").

11 Supplier Performance

- 11.1 On the date that the Company's Representative receives the first Payment Application and every 4 weeks after that date, the Company assesses the Supplier's performance under the Agreement and each Contract in accordance with Schedule 10.
- 11.2 The Company shall have the right to:
- (a) abate the Supplier for failure to meet the key performance indicators stated in Schedule 10; and
 - (b) use the escalation process stated in Schedule 10 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 Schedule 10

12 Failure to Perform the Services

- 12.1 If the Supplier has not performed the Services in accordance with the terms of any Contract, without prejudice to any other rights the Company shall have under 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 include re-performing the Services within the time period that the Company shall specify.

122 Without limiting any other remedy, if the Supplier fails to comply with the requirements of Clause 12.1, the Company shall be entitled to perform or procure the performance of the Services or part thereof itself or from a third party. Without prejudice to any other right or remedy of the Company hereunder or under the general law, all expenditure properly incurred by the Company exercising its rights under this Clause 12.2 is recoverable by the Company from the Supplier and the Company shall be entitled to deduct such amounts from any amount due or to become due to the Supplier under the Agreement.

123 For the purposes of Clause 12.3 the Supplier hereby grants to the Company and any third party the right to use any Intellectual Property Rights, Documentation, goods, materials and spares belonging to the Supplier or used by the Supplier in connection with the Agreement and any Contract as may be required by the Company to exercise its rights under Clause 12.3 and the Supplier shall provide all such co-operation and assistance as may be required by the Company to enable the Company to exercise its rights under Clause 12.3.

13 Access and Time for Performance of the Services

13.1 The Company shall give the Supplier access to the parts of the Underground Network required for the performance of the Services in accordance with the provisions of this Clause 13.

13.2 Subject to the provisions of Clause 12, the Company shall use reasonable endeavours to give access to such parts of the Underground Network to the Supplier on the dates and times on which it has stated that it requires such access in accordance with the approved Order programme.

13.3 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.

13.4 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.

13.5 The Company shall confirm access bookings in accordance with this Clause 13. 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.

- 13.6 If the Supplier fails to apply for access in accordance with this Clause 13, 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.
- 13.7 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.
- 13.8 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.
- 13.9 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.
- 13.10 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.
- 13.11 If the Supplier fails to comply with the requirements of Clause 13.10 within such reasonable time as may be allowed by the Company's Representative, then the Company may dispose of those items as the Company sees fit and at the Supplier's cost. which cost if met by the Company 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.
- 13.12 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.
- 13.13 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.

- 13.14 The Supplier shall ensure that the Services are satisfactorily completed by the Order Completion Date. If the Services are not performed by the Order Completion Date stated in the relevant Order then, without limiting any other remedy, the Company shall be entitled to deduct from the price payable for such Services or to claim from the Supplier by way of Liquidated Damages for delay the amount stated in Schedule 1 for the period of delay stated in Schedule 1 up to a maximum of the percentage stated in Schedule 1 of the price payable for such Services. The Company shall not be entitled to deduct such amount from the price payable for such Services or to claim such amount from the Supplier by way of Liquidated Damages for delay to the extent that the delay is due to (i) a default or other act of prevention of the Company, its agents, employees or contractors (other than the Supplier) or (ii) a Force Majeure Event or a (iii) Permitted Delay Event.
- 13.15 The Supplier accepts that the amount of Liquidated Damages under this Agreement and any Contract constitutes a genuine pre-estimate of the loss that would be suffered by the Company as a result of the Supplier's failure to perform the Services by the Order Completion Date.
- 13.16 In the event that all or any of the obligations of the Supplier under this Agreement and any Contract to pay Liquidated Damages are held to be unenforceable, the Supplier agrees to pay the Company damages in respect of all actual Losses suffered by the Company due to the circumstances in respect of which Liquidated Damages would have been payable if the relevant obligation had been enforceable including, without limitation, loss of profit, loss of use, loss of revenues, loss of production and loss of savings. The damages payable by the Supplier in accordance with this Clause 13 shall not exceed the amounts which would have been payable if the relevant obligation(s) to pay Liquidated Damages had been enforceable save where such obligation(s) are held to be unenforceable as a result of any argument or proceedings raised or brought by the Supplier that such obligation(s) are unenforceable, in which case the amount of such damages shall be unlimited.

14 Work on Company's Sites

- 14.1 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 14.1(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.

14.2 Without prejudice to Clauses 14.1(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.

15 Free Issue Materials

- 15.1 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.
- 15.2 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.
- 15.3 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

18.2 If, following the inspection referred to in Clause 18.1, the Goods do not comply with the terms of the relevant Contract, including but not limited to, conforming to the Specification and being fit for the purpose for which they are intended, without prejudice to any rights or remedies the Company may have against the Supplier, whether under the relevant Contract or otherwise, the Company may by notice in writing (the "**Rejection Notice**") to the Supplier reject all or any part of the Goods (the "**Rejected Goods**").

18.3 The Rejection Notice shall specify the reason for the rejection of the Rejected Goods. Within seven (7) days of receipt of the Rejection Notice, the Supplier shall remove such Rejected Goods at its risk and expense from the Delivery Address or such other address as the Company shall specify in the Rejection Notice and shall at the Company's option:

- (a) replace such Rejected Goods with Goods which conform in all respects with the relevant Contract within five (5) Working Days; or
- (b) if an application for payment has been submitted or payment made for the Rejected Goods, issue a credit note in respect of that application or refund the payment (as applicable); and
- (c) pay the Company's Losses resulting from the Supplier's delivery of Goods that were not in conformity with the terms of the relevant Contract.

18.4 The Company's rights and remedies under this Clause 18 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the relevant Contract by the Sale of Goods Act 1979.

18.5 If the Supplier fails to promptly replace Rejected Goods in accordance with Clause 18.3(a), the Company may, without affecting its rights under Clause 18.3(c), obtain substitute goods from a third party supplier, or have the Rejected Goods repaired by a third party, and the Supplier shall promptly reimburse the Company for the costs it incurs in doing so.

18.6 The Goods shall conform in all respects with any sample approved by the Company and in the absence of a sample; all the Goods provided shall be within the normal limits of industrial quality.

19 Warranty

19.1 Without prejudice to any rights or remedies the Company may have against the Supplier whether under each Contract or otherwise, the Supplier shall without delay, upon a request by the Company to do so, replace or (at the Company's option) repair all Goods in which a Defect has occurred or is likely to occur in the reasonable opinion of the Company, provided that such request is made during the Warranty Period. Any replacement Goods shall comply in all respects

- (a) understanding the Goods and Services;
- (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Goods and Services;
- (c) extending, interfacing with, integrating with, connecting into and adjusting the Goods and Services;
- (d) enabling the Company to carry out the operation, maintenance, repair, renewal and enhancement of the Underground Network;
- (e) executing and completing the provision of the Goods and Services; and
- (f) enabling the Company to perform its function and duties as Infrastructure Manager and Operator of the Underground Network.

20.5 *Provision of Supporting Documentation and Other Materials*

The Supplier shall:

- (a) promptly, and in any event by no later than such date as the Company may notify to the Supplier, provide at no charge to the Company, copies of any materials and items (including, without limitation, Documentation) in the Supplier's or subcontractor's (of any tier) or other third party's possession or control (or which ought reasonably to be in the Supplier's or subcontractor's (of any tier) or other third party's possession or control) which are referred to or relied upon in using and copying, or required in any way for the use and copying of, the Intellectual Property Rights referred to in Clauses 20.2, 20.3 and 20.4 above; and
- (b) keep copies of such materials, items and Documentation in a secure place where they will not deteriorate and undertake regular (and in any event not less than every three months) integrity testing of the same and provide written evidence of such testing to the Company at regular intervals and in any event upon the Company's request.

20.6 *Company's Rights of Retention*

If the Supplier has not complied with its obligations under Clause 20.5(a), the Company shall be entitled to retain one quarter of the sums that would otherwise be due to the Supplier under each Contract until the Supplier has complied with its obligations under Clause 20.5(a).

20.7 *Company's Rights to the Software*

If the Supplier or any of its subcontractors providing software for incorporation into or operation of the Goods and/or as part of the Services stops trading, is subject to an insolvency event

equivalent to any of those events set out in Clause 21.1 (including their equivalent in any jurisdiction to which the Supplier or any of its subcontractors is subject), makes known its intention to withdraw support of that software or fails to support that software in accordance with the terms of the Agreement and each Contract then the Supplier, at no charge to the Company, shall use its best endeavours to transfer or procure the transfer to the Company of all Intellectual Property Rights in that software.

20.8 *Company's Rights in relation to Other Procurement Activities*

For the avoidance of doubt, the Company shall be entitled to use and copy the materials, items and Documentation referred to in Clause 20.5 above and anything in which the Intellectual Property Rights referred to in Clauses 20.2, 20.3 and 20.4 subsist for the purposes of inviting tenders or of procuring goods and/or services the same as or similar to the Goods and/or Services for the carrying out of any activities in connection with the licence under Clause 20.4 subject always to the Company's requirements for tenderers to treat the same in the strictest confidence.

20.9 *Supplier's Indemnity against Third Party Intellectual Property Rights Infringement*

- (a) The Supplier shall indemnify and hold harmless the Company and any member of the TfI Group against any actions, claims, losses, demands, costs, charges or expenses that arise from or are incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights belonging to any subcontractor (of any tier) or other third party and against all costs and damages of any kind which the Company may incur in connection with any actual or threatened proceedings before any court or arbitrator or any other dispute resolution forum. If required by the Company the Supplier shall conduct negotiations with any subcontractor (of any tier) or other third party and/or a defence in relation to any action, claim or demand referred to herein on behalf of the Company.
- (b) In the event of a claim of infringement of any Intellectual Property Rights the Supplier shall use all reasonable endeavours to make such alterations or adjustment to the Goods as may be necessary to ensure that the use and provision of the Goods continues in spite of such claim.

20.10 *Ownership of the Company's Intellectual Property Rights*

Intellectual Property Rights in all Documentation and in all other material and items supplied by the Company to the Supplier in connection with the Agreement and each Contract shall remain vested in the Company or the person owning such rights at the time the Documentation, material or items were supplied. The Supplier shall, if so requested, at any time, execute such documents

and perform such acts as may be required fully and effectively to assure to the Company the rights referred to in this Clause.

Company's Intellectual Property Rights

20.11 The Supplier is not entitled to use in any manner whatsoever any Intellectual Property Rights belonging to the Company.

21 Termination and Suspension

21.1 The Company may terminate the Agreement and/or any individual Contract (in which case any remaining outstanding Contracts shall survive) immediately by notice in writing to the Supplier if:

- (a) the Supplier commits a breach of the Agreement and/or any Contract which in the case of a breach capable of remedy has not been remedied within five (5) Working Days, or such other period as may be agreed between the Supplier and the Company, of the Company serving notice on the Supplier requiring such remedy;
- (b) the Supplier or anyone employed by or acting on behalf of the Supplier (whether or not acting independently of the Supplier when committing any breach) commits a Safety Breach or Prohibited Act;
- (c) any limit on the Supplier's liability to pay Liquidated Damages is reached or exceeded;
- (d) the Supplier enters into compulsory or voluntary liquidation (other than for the purpose of effecting a solvent reconstruction or amalgamation provided that if the company resulting from such reconstruction or amalgamation is a different legal entity it shall agree to be bound by and assume the obligations of the Supplier under the Agreement and each Contract) or is deemed unable to pay its debts as they fall due in accordance with Section 123(1) of the Insolvency Act 1986, or a meeting of its shareholders or directors is convened to consider any resolution for (or petition or file documents with the courts for) its administration or an administrative receiver, manager, administrator, liquidator, trustee or other similar officer is appointed or notice is given to appoint the same
- (e) a breach of the Supplier's obligations under Clause 49 *[or*
- (f) the Company becomes entitled to terminate in accordance with the escalation procedure set out in Schedule 10

21.2 Without prejudice to Clause 21.1, the Company shall have the right:

- (a) to terminate the Agreement and/or any individual Contract (in which case any remaining outstanding Contracts shall survive} at any time by giving notice of not less than thirty (30) days to the Supplier in writing; or

- (b) at any time to require the Supplier to suspend the provision of the Goods and/or Services by giving notice in writing (a "**Suspension Notice**") to the Supplier.

21.3 In the event that the Company terminates the Agreement and/or any Contract for any reason under this Clause 21, the Supplier shall, without prejudice to any other rights or remedies which the Company may have under the Agreement and such Contract or under general law at the Company's option law, at the Company's option:

- (a) permit the Company to enter the Supplier's premises and take possession of any equipment, goods or Documentation which are the property of the Company; and
- (b) permit the Company to place an order for the remaining Goods (or equivalent goods) and Services with any other person or persons or complete the provision of such Services by its own workmen; and
- (c) promptly return to the Company any equipment, goods or Documentation which are the property of the Company and of which the Supplier or any of its subcontractors have possession.

In either such case, the Company shall be entitled to retain those Goods and the benefit of any part of the Services already provided by the Supplier in accordance with the Agreement and the relevant Contract, at the material time.

21.4 In the event that the Agreement and/or any Contract is terminated, the liability of the Company shall be limited to payment to the Supplier for those Goods and Services provided in accordance with the Agreement and such Contract up until the date of such termination.

21.5 Following a termination in accordance with Clause 21.1 (but not a termination in accordance with Clause 21.2(a)) the Supplier shall be liable to the Company for

- (a) any Losses of whatever nature arising out of or in connection with the relevant breach; and
- (b) where the Company exercises its rights under Clause 21.3(b) and in so doing incurs costs which are in excess of those which would have been incurred in relation to the due provision of the Goods and Services under the Agreement and the relevant Contract by the Supplier ("**Excess Costs**"), such Excess Costs.

21.6 In the event that the Agreement and/or any Contract is suspended in accordance with Clause 21.2(b), the Supplier shall:

- (a) issue to the Company an application for payment in respect of those Goods and Services provided to the Company in accordance with the Agreement and the relevant Contract up until the date of such suspension; and
- (b) not carry out any further work in connection with the provision of the Goods and Services until such time as the Company issues a notice lifting the suspension (a "**Notice to Proceed**").

21.7 In the event that the Agreement and/or any Contract is suspended in accordance with Clause 21.2(b), and such suspension continues for a period of twenty-eight (28) days, the Supplier shall be entitled to request that the Company serve a Notice to Proceed. In the event that no Notice to Proceed is issued by the Company within a further fourteen (14) days from such request of the Supplier, the Supplier shall be entitled to approach the Company with a request for a variation, in accordance with the Contract Variation Procedure.

21.8 In the event that the parties are unable to agree upon the variation requested under Clause 21.7, then a Dispute shall be deemed to have arisen and the matter shall be referred for resolution in accordance with Clause 43.

21.9 Termination of the Agreement and/or any Contract for whatever reason shall not affect the accrued rights of the parties arising in any way out of the Agreement and the relevant Contract as at the date of termination and in particular but without limitation the right to recover damages against the other party.

21.10 If anyone employed by the Supplier, acting independently of the Supplier, commits a Safety Breach or Prohibited Act, then the Company may require the Supplier to exclude that individual from the provision of the Goods and Services with immediate effect and that individual may only resume the provision of the Goods and Services at the Company's absolute discretion.

22 Cooperation in Handover

22.1 The Supplier shall provide at no cost such reasonable assistance to the Company and to any third party nominated by the Company as the Company may require during the last six (6) months of the Agreement and in the three (3) months after the expiry of the Term (or, in the case of earlier termination for any reason, the period of three (3) months from the effective Agreement termination date) to facilitate the engagement of a successor supplier and/or the resumption by the Company of the supply of the Goods and Services and in such a manner so as not to unduly disrupt or hinder the Company's business.

22.2 Without prejudice to the generality of Clause 22.1 above, the Supplier shall on or prior to the expiry of the Term transfer to the Company such Documentation relating to the Goods or full copies thereof as the Company may request.

23 Indemnity and Insurance

- 23.1 The Supplier shall be liable for, and shall indemnify the Company, including any of its employees, servants, agents, subcontractors, directors and officers and members of the TfL Group on an after-tax basis against all Losses suffered or incurred by the Company or relevant member of the TfL Group, arising from or in connection with the performance or non-performance of the Supplier under the Agreement and each Contract:
- (a) in respect of death or personal injury to any person;
 - (b) in respect of loss of or damage to any property (including the Underground Network and any other property belonging to the Company or for which it is responsible);
 - (c) arising out of or in the course of or by reason of any act, omission, negligence or breach of contract or breach of statutory duty, wilful misconduct of the Supplier, its employees, agents or subcontractors; and
 - (d) arising under the Company's contracts with third parties,
- and shall, at its own cost on the Company's request, defend the Company in any proceedings involving the same.
- 23.2 The Supplier shall not be liable to indemnify the Company or any member of the TfL Group under the indemnity in Clause 23.1 to the extent Losses are solely due to the negligence, breach of duty or breach of contract of the Company.
- 23.3 The Supplier's indemnity under Clause 23.1 and all other indemnities under the Agreement and each Contract shall remain in force for the duration of the Agreement and each Contract and for the period of twelve (12) years after the Order Delivery Date and/or Order Completion Date or earlier termination of the Agreement and each Contract.
- 23.4 The Company may withhold from any sum due or which may become due to the Supplier any sum due to the Company as a result of the operation of Clause 23.1.
- 23.5 Other than in respect of the Losses (i) described in Clauses 23.1(a) and 23.1(d) above and (ii) Excepted Liabilities, neither party shall have any liability to the other for any Consequential Loss arising out of the performance of its obligations under or in connection with the Agreement and each Contract. Each party respectively undertakes not to sue the other party, TfL or any member of the TfL Group in respect of Consequential Loss.
- 23.6 Without prejudice to the obligation to indemnify the Company set out in Clause 23.1, the Supplier undertakes to:

- (a) maintain at its own cost insurance which complies with the Employers' Liability (Compulsory Insurance) Act 1969 and any statutory orders made under such Act or any amendment or re-enactment thereof;
- (b) maintain at its own cost an adequate level of public liability insurance in respect of the Supplier's liability for death or injury to any person and loss of or damage to property and being not less than £5,000,000 (five million pounds) per occurrence;
- (c) maintain at its own cost an adequate level of professional indemnity insurance commensurate with the risk and, where appropriate, being not less than £2,000,000 (two million pounds) per occurrence;
- (d) maintain at its own cost an adequate level of "goods in transit" insurance commensurate with the risk and, where appropriate, being not less than £25,000 (twenty-five thousand pounds) per occurrence, in respect of the Supplier's liability for theft, loss or damage to property and Goods while in transit from one place to another or being stored during a journey;
- (e) maintain at its own cost product liability insurance in respect of the Supplier's liability for death or injury to any person, or loss or damage to any property arising out of its performance of any Contract in an amount not less than £5,000,000 (five million pounds) for any one occurrence;
- (f) ensure that the foregoing insurance policy or policies shall be or are effected with a reputable insurer. Such insurance shall be on terms approved by the Company (such approval not to be unreasonably withheld or delayed) and shall be maintained in force for a period not less than twelve (12) years after the delivery of the Goods and completion of the Services (whichever is the later);
- (g) ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the contract which they are contracted to fulfil; and
- (h) produce within seven (7) days of any reasonable request by the Company and in any event before the commencement of the Services or the provision of any of the Goods by the Supplier under any Contract satisfactory evidence in the form of a broker's letter or similar, confirming the existence of insurance in accordance with the terms of this Clause 23.6.

23.7 The Supplier's liabilities under each Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Clause 23.6.

23.8 If the Supplier fails to maintain the insurance policies as provided in this Clause 23, the Company may effect and keep in force any such insurance and pay such premium or premiums at

commercially competitive rates as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or which become due to the Supplier or recover the same as a debt due from the Supplier.

23.9 Not used.

24 Not Used

25 Co-operation in Handover

25.1 The Supplier shall provide at no cost such reasonable assistance to the Company and to any third party nominated by the Company as the Company *may* require during the last six (6) months of the Agreement and any Contract, and in the three (3) months after the expiration of the Term (or, in the case of earlier termination for any reason, the period of three (3) months from the effective Agreement termination date) to facilitate the engagement of a successor supplier and/or the resumption by the Company of the provision of the Goods and Services and in such a manner so as not to unduly disrupt or hinder the Company's business

25.2 Without prejudice to the generality of Clause 25.1 above, the Supplier shall on or prior to the end of the effective Agreement termination date transfer to the Company such Documentation relating to the Goods and Services or full copies thereof as the Company *may* request.

26 Force Majeure and Permitted Delay events

Force Majeure

26.1 Neither party shall be in breach of its obligations under *any* Contract if there is any total or partial failure of performance by it of its duties and obligations under any Contract occasioned by any Force Majeure Event. If either party is unable to perform its duties and obligations under the Agreement or any Contract as a direct result of a Force Majeure Event, that party shall within one (1) Working Day of such event taking place give written notice to the other party specifying the event and the steps taken by it to minimise or overcome the effects of such event. The operation of the relevant Contract shall be suspended during the period (and only during the period) in which the Force Majeure Event continues. Without delay upon the Force Majeure Event ceasing to exist the party relying upon it shall give written notice to the other of this fact. If the Force Majeure Event continues for a period of more than twenty-eight (28) days and substantially affects the abilities of the Supplier to perform its obligations under the relevant Contract, the Company shall have the right to terminate the relevant Contract immediately upon giving written notice of such termination to the Supplier.

Permitted Delay Events

- 26.2 If delay is caused or either Party can reasonably foresee delay occurring by reason of a Permitted Delay Event then the Supplier shall give notice to the Company's Representative of the same and any claim for an extension of time to the Delivery Date, within seven (7) days after the cause of any delay has arisen.
- 26.3 For the purposes of this Agreement or any Contract, the occurrence of one or more of the following shall constitute a "Permitted Delay Event":
- (a) any act of prevention, omission, default or neglect or breach by the Company of an express obligation under this Agreement or any Contract; or
 - (b) any variation of the Agreement or any Contract under Clause 8; or
 - (c) the suspension of this Agreement or any Contract in accordance with Clause 21 (other than where the suspension is necessary by reason of default by the Supplier).
- 26.4 Where any delay in achieving the Expected Order Delivery Date and/or Order Completion Date arises, the Supplier shall be entitled to an extension to such Expected Order Delivery Date and/or Order Completion Date (either prospectively or retrospectively) but only to the extent that such delay is directly caused by a Permitted Delay Event that has a direct and material adverse effect on the Supplier's ability to provide the Goods by the Expected Order Delivery Date and/or Order Completion Date and provided that the Supplier:
- (a) notifies the Company of the Permitted Delay Event in accordance with Clause 26.2 and subsequently provides such further information as the Company may reasonably require regarding the nature and likely duration of such event;
 - (b) provides the Company with reasonable access to the Supplier's premises or of its subcontractors for investigating the validity of the potential Permitted Delay Event;
 - (c) uses its reasonable endeavours to mitigate the delay to the relevant Delivery Date; and
 - (d) shall not be entitled to an extension of time to the extent that the Permitted Delay Event was caused by or resulted from any act, omission, neglect, default or breach of this Contract by the Supplier, its subcontractors and/or employees.

27 Safety

- 27.1 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.

- 27.2 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 the Specification ("QUENSH") as amended from time to time; and
 - (b) the Company's drug and alcohol principles as amended from time to time.
- 27.3 Section 20.1.1 (Alcohol and drugs) of QUENSH shall apply to the Agreement and each Contract as if the term "LU Premises" means any of the Company's property and/or where the Services are carried out and as if references to "LU" are references to the Company.
- 27.4 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.

28 Not Used

29 Independent Supplier

- 29.1 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.

30 Supplier Personnel

- 30.1 For the purposes of this Clause 30:

"Current Service Provider" means any person, company or other legal entity which on or before the Commencement Date was the employer of any of the Transferring Employees, and which (for the avoidance of doubt) may include the Company;

"Replacement Employer" means any person to whom a Subsequent Relevant Employee may or does transfer under the Transfer Regulations on termination of the contract (or part of it);

"Relevant Claims and Liabilities" means all liabilities, obligations, proceedings, court or tribunal orders, losses, fines and penalties, damages, expenses, costs (including reasonable legal costs and disbursements) actions, claims and demands;

"Subsequent Transfer Date" means the time and date on which a Subsequent Relevant Employee transfers to a Replacement Employer by virtue of the Transfer Regulations;

"Subsequent Relevant Employee" means a person employed or engaged by the Supplier or relevant subcontractor from time to time in respect of any part of the supply of Goods and/or Services who would transfer to a Replacement Employer by virtue of the Transfer Regulations on termination of the contract (or part of it);

"Transfer Regulations" means all or any of the following: the Transfer of Undertakings (Protection of Employment) Regulations 2006; the Transfer of Employment (Pension Protection) Regulations 2005; any other or further regulations, order or statutory instrument which apply or are capable of applying to a person to whom section 257 of the Pensions Act 2004 applies, as amended, replaced or extended from time to time and including any regulations or other legislation which (either with or without modification) re-enacts, adopts, consolidates or enacts in rewritten form any such regulations; and

"Transferring Employees" means those employees of or those engaged by the Current Service Provider who transfer or have the right to transfer to the Supplier under the Transfer Regulations.

30.2 The Supplier complies and procures that his sub-contractors comply with any obligations which may arise out of a transfer to the Company or another person under the Transfer Regulations upon the expiry of the Term or earlier termination of the Agreement.

30.3 At any time during the last twelve (12) months of the Agreement and/or during any period of notice terminating the Agreement, the Company may require the Supplier to provide, within a specified period of being requested, to the Company (or to any other person or persons nominated by the Company) such information as is reasonably required by the Company or such other persons relevant to the potential liabilities of the Company or any other person arising under the Transfer Regulations including but not limited to information on the following:

- (a) the names of employees (of the Supplier or its subcontractors) engaged in supplying the Goods and/or Services, their salaries and other conditions of employment, ages and length of service;
- (b) the method of organisation of the employees (of the Supplier or its subcontractors) engaged in supplying the Goods and/or Services and documentary evidence relating to such organisation;
- (c) the proposals for informing and consulting with affected employees;
- (d) details of collective agreements and union recognition agreements; and

- (e) any other employee liability information within the meaning of the Transfer Regulations,
- (f) and will in addition provide copies to the Company upon request of any communication with any potential or intended new consultant or the Supplier's employees or their representatives relating to the effect on such employees of the expiry or termination of the Agreement.

30.4 The Supplier will provide the Company upon request with the name and address of a person within its organisation to whom all queries and requests for information under this Clause 30 may be addressed. The Supplier will if required by the Company warrant that any information provided under Clause 30 is accurate, complete and not misleading, including any information supplied in relation to its subcontractors .

30.5 The Supplier will not and will procure that its subcontractors will not in the 48 months prior to the expiry of the Term or termination of the Agreement (or, where notice of termination is given of less than six (6) months, during any such period of notice) without the Company's written consent:

- (a) re-organise or substantially alter the number or method of organisation or identity of the employees engaged in the provision of the Goods and/or Services, except to the extent that any such change is the result of a bona fide business reorganisation of the Supplier or the relevant subcontractor which is not related or confined to the employees engaged in supplying the Goods and/or Services or relates to the expected expiry of the Term or termination of the Agreement, or
- (b) make any increase to the salaries or any significant change to the terms and conditions of employment of the employees engaged in the provision of the Goods, except where such increases or changes would have arisen in the ordinary course of the Supplier's or the relevant sub-contractor's business and are not related to the expiry of the Term or termination of the Agreement (either because they are applied to all of the Supplier's or the relevant sub-contractor's employees, whether or not engaged in providing the Goods or otherwise) or are the result of a bona fide business reorganisation of the Supplier or the relevant sub-contractor which is not related or confined to the employees engaged in supplying the Goods or relates to the expiry of the Term or termination of the Agreement.

30.6 The Supplier shall indemnify the Company against all Relevant Claims and Liabilities arising from or incurred by reason of any act or omission of the Supplier, its servants or agents in connection with or arising from or incurred by reason of the employment of the Transferring Employees, including but not limited to any claim against the Company or any other person for damages for breach of contract, or for compensation for unfair or wrongful dismissal or redundancy, or failure to provide comparable pension rates, or failure to provide information, or failure to inform or consult Transferring Employees, or in respect of death or personal injury, breach of statutory duty

or any other claim in tort by a Transferring Employee, or by a person who would be a Transferring Employee but for any act or omission (including dismissal or constructive dismissal) of the Supplier, arising from the operation (or alleged operation) of the Transfer Regulations in relation to the Goods and/or Services.

30.7 The Supplier shall indemnify the Company and all Replacement Employers against all Relevant Claims and Liabilities arising from or related to:

- (a) any claim by a Subsequent Relevant Employee in respect of any default, failure or omission (or alleged default, failure or omission) by any person whatsoever concerning or arising from employment before a Subsequent Transfer Date in respect of which the Company or the Replacement Employer incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations; and
- (b) any claim by any former or existing employee of the Supplier or relevant Subcontractor (other than a Subsequent Relevant Employee) in respect of which the Company or a Replacement Employer incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations.
- (c) In this Clause 30.7 "Relevant Claims and Liabilities" include those incurred by the Company by reason of any contract term between the Company and a Replacement Employer provided always that in relation to Relevant Claims and Liabilities which the Company may incur to a Replacement Employer, the Supplier shall not be required to indemnify the Company or the Replacement Employer for more than or with a greater scope than it would if such Relevant Claims and Liabilities were made against or incurred by the Company in providing an indemnity under this paragraph.

30.8 The provisions of this Clause 30 are without prejudice to the Transfer Regulations. For the avoidance of doubt, any remedies available to the Company for any breach by the Supplier of any provision of this Clause 30 shall be in addition to and not in substitution for any remedies available to the Company under any provision of the Transfer Regulations.

Key Personnel

30.9 Not Used.

30.10 Not Used.

30.11 Not Used.

30.12 Not Used

30.13 Not Used

30.14 Not Used

31 Confidentiality

- 31.1 The Supplier undertakes to keep confidential and not to disclose to any third party (without the prior written consent of the Company) any Confidential Information supplied by the Company to the Supplier and shall use such information only for the purpose of the performance of his obligations under each Contract.
- 31.2 On the Company's request, the Supplier shall, so far as is reasonably possible:
- (a) transfer onto hard copies or other media in industry standard format and programming languages and deliver to the Company any Confidential Information in its possession or control supplied by the Company to the Supplier;
 - (b) return to the Company all copies (whether hard copy or other media) of such Confidential Information; and
 - (c) destroy, erase or otherwise expunge from its records, systems, databases or other forms of archive all such Confidential Information save to the extent that information needs to be retained for statutory purposes or tax purposes.
- 31.3 The Supplier shall ensure that all his subcontractors, suppliers, employees and agents perform his obligations in Clauses 31.1 and 31.2 as if they were the Supplier, and the Supplier shall be responsible to the Company for any act or omission by his subcontractors, suppliers, employees and agents in breach of such obligations.
- 31.4 The Supplier shall notify the Company promptly if the Supplier becomes aware of any breach of confidence by a subcontractor, supplier, employee or agent and shall give the Company all assistance the Company reasonably requires in connection with any proceedings the Company brings, or other steps the Company takes, against that subcontractor, supplier, employee or agent for such breach of confidence.
- 31.5 The Supplier shall not, either alone or jointly with others, publish any material relating to the Company, the Company's Representative, any Contract or the Goods and Services without the prior written consent of the Company.
- 31.6 The Supplier shall not, either alone or jointly with others, make any press, television, radio or other media announcement in connection with any Contract or the Goods and Services, or any Dispute arising under or in connection with any Contract.
- 31.7 The provisions of Clauses 31.1 to 31.6 shall not apply:

- (a) to any information which is already in the public domain at the time of its disclosure other than by breach of any Contract; or
- (b) to any information which is required to be disclosed to the extent required by any applicable law, the regulations of any recognised stock exchange, any taxation authorities or by order of a court or other tribunal of competent jurisdiction or any relevant regulatory body.

31.8 The Supplier acknowledges that damages would not be an adequate remedy for any breach of this Clause 31 by the Supplier and that (without prejudice to all other remedies to which the Company may be entitled as a matter of law) the Company shall be entitled to any form of equitable relief to enforce the provisions of this Clause 31.

32 London Living Wage

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

- (a) ensure that none of its employees engaged in the provision of Goods and Services under the relevant 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 32 and the provisions of this Clause 32 are included in any subcontract (of any tier).

32.2 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 32.

33 Responsible Procurement

- 33.1 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.
- 33.2 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.
- 33.3 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 the Ethical Sourcing Policy to the extent it does not conflict with the Responsible Procurement Policy.
- 33.4 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).
- 33.5 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).
- 33.6 The Supplier shall procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause 33 and the provisions of this Clause 33 are included in any subcontract (of any tier).
- 33.7 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 33.

34 Assignment and Subcontracting

- 34.1 The Supplier shall not assign, novate or subcontract any of its rights or obligations under the Agreement or any Contract or any part thereof without the prior written consent of the Company.
- 34.2 The subcontracting of all or any part of the Goods and/or Services to a subcontractor shall not relieve the Supplier of its obligations to supply the Goods and/or Services under the Agreement and each Contract. The Supplier shall be responsible for the acts and omissions of its

subcontractors.

- 34.3 The Company may novate, assign, transfer or subcontract the Agreement and/or any Contract or any part thereof to any person at any time without the consent of the Supplier, provided the Company has given prior written notice to the Supplier.
- 34.4 Within seven (7) days of any written request by the Company to the Supplier, the Supplier shall execute a deed of novation in the form set out in Schedule 7 in favour of any person to whom the Agreement and for any Contract is being novated.

35 Company's and Supplier's Representative

Each party shall in respect of each Contract appoint one or more representatives to act on its behalf under the relevant Contract. Each party shall advise the other party, in writing, of the names and contact details of its representatives and these shall be recorded in the Order. The Supplier shall not appoint such a representative without the prior written consent of the Company (which consent shall not be unreasonably withheld). Any party may, on giving reasonable notice to the other party, appoint an additional representative or replace an existing representative but the Supplier may only do so with the prior written consent of the Company. Each party shall be responsible for the acts, omissions, neglects and defaults of its representatives as if such acts, omissions, neglects and defaults were its own. Each party will be bound by any decision made or action taken by its representatives.

36 Costs

Except as otherwise agreed, each party shall bear its own costs incurred in connection with the negotiation, preparation and execution of the Agreement and each Contract.

37 Severance

If a provision of the Agreement or any Contract is, or becomes, invalid, unenforceable or illegal, that will not affect the legality, validity or enforceability of any other provision of the Agreement or any Contract, provided that the operation of this Clause 37 would not negate the commercial interest and purpose of the parties under the Agreement or any Contract.

38 Publicity

The text of any press release or other communication to be published by or in the media concerning the subject matter of the Agreement and any Contract shall require the prior written approval of the Company. No interviews concerning the same shall be given by the Supplier with the media without prior written approval from the Company of the content of such an interview.

39 Corrupt Gifts and Payments of Commission

- 39.1 The Supplier undertakes that it shall not and procures that its subcontractors and suppliers shall not enter into or offer to enter into any business arrangement with any servant, employee, officer or agent of the Company other than as a representative of the Company without the Company's prior written approval.
- 39.2 The Supplier undertakes that it shall not, and uses reasonable endeavours to procure that its subcontractors and suppliers shall not commit any Prohibited Acts or cause the Company to commit any equivalent act.
- 39.3 The Company shall have the right to audit any and all records necessary to confirm compliance with this Clause 39 at any time during performance of the Agreement and each Contract and during the twelve (12) year period following completion of performance.

40 NoWaiver

- 40.1 No failure or delay on the part of either party to exercise any right or remedy under the Agreement or any Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in the Agreement or any Contract are cumulative and are not exclusive of any rights or remedies provided by law.
- 40.2 No payment made by the Company shall indicate or be taken to indicate the Company's acceptance or approval of any part of the Goods and/or Services or any act or omission of the Supplier from any obligation or liability imposed upon the Supplier by any provision of the Agreement or otherwise.

41 Entire Contract

The Contract embodies and sets forth the entire contract and understanding of the parties and shall supersede all prior oral or written contracts understandings or arrangements relating to the subject matter of the Agreement or any Contract. Except in the case of fraud neither party shall be entitled to rely on any contract, understanding or arrangement which is not expressly set forth in the Agreement or any Contract.

42 Notices and Service of Process

Any notice or other document given under, or in connection with, the Agreement or any Contract must be in English and in writing and sent by letter or fax or delivered by hand to the other party's representatives in each case to the address below. The notice or other document will be effective as follows:

- (a) if the notice or other document is sent by letter, it will be effective when it is delivered;
- (b) if the notice or other document is sent by fax, it will be effective when it has been transmitted and the transmission report from the fax machine states that the entire fax has been sent successfully; and
- (c) if the notice or other document is delivered by hand to the other party's representative. it will be effective immediately it is delivered.

If a party's details change, it must notify the other party promptly in writing of any such changes. The parties agree that proceedings arising out of or in connection with the Agreement or any Contract may be served in accordance with this Clause 42.

43 Dispute Resolution

- 43.1 Any question, dispute, difference or claim (a "**Dispute**") shall be resolved in accordance with this Clause 43.
- 43.2 The parties shall use their reasonable endeavours to resolve any Dispute by a meeting between the Company's Representative and a suitably qualified and duly authorised representative of the Supplier (together the "**Nominated Representatives**") which shall be convened to discuss such Dispute within fourteen (14) days of notification in writing by one party to the other of a matter in dispute.
- 43.3 If the Dispute has not been resolved within twenty-eight (28) days after the date of a meeting between the Nominated Representatives in accordance with Clause 43.2 (or if no such meeting was convened within twenty-eight (28) days after the date on which notification was served by one party on the other), the Dispute shall be referred as soon as practicable to the Company's Contracts and Procurement Manager and the Supplier's Managing Director or in the absence or unavailability of these personnel, persons of similar status deputed to resolve disputes on behalf of their respective companies.
- 43.4 If the Dispute has not been resolved within twenty-one (21) days of it being referred to the Company's Contracts and Procurement Manager and the Supplier's Managing Director or their deputies in accordance with Clause 43.3 either party may refer the matter for resolution in accordance with the provisions of Clause 44.
- 43.5 Clauses 43.1 to 43.4 are subject to the Supplier's rights (if any) under the HGCR to refer a Dispute to adjudication at any time. Any such adjudication shall be in accordance with the Company's Adjudication Rules. For the purposes of this Clause 43.5, "**Adjudication Rules**" means the most recent edition of the Company's adjudication rules on the date of the notice referring adjudication.

44 Counterparts

Agreement may be executed in several counterparts each of which shall be deemed an original and all of which shall constitute one and the same document.

45 Partnerships and Joint Ventures

- 45.1 If the Supplier is a partnership, the rights, obligations and liabilities of the partners in the partnership under the Agreement are joint and several. The Agreement and the liabilities of the partners under the Agreement shall not automatically terminate upon the death, retirement or resignation of any one or more members of such partnership or upon the admission of additional partner or partners. The partner or partners in the partnership shall use their reasonable endeavours to procure that any additional partner or partners enter into an agreement with the Company confirming his/her acceptance of the rights, obligations and liabilities of the Supplier under the Agreement.
- 45.2 If the Supplier comprises two (2) or more parties in joint venture, the rights, obligations and liabilities of each such party under the Agreement are joint and several.
- 45.3 Nothing in the Agreement shall constitute, or shall be deemed to constitute, a partnership between the parties. Except as expressly provided in the Agreement, neither party is deemed to be the agent of the other and neither party holds itself out as the agent of the other.

46 Governing Law and Jurisdiction

- 46.1 This Agreement and each Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.
- 46.2 The Company and the Supplier submit, subject to the provisions of this Agreement and any Contract, to the exclusive jurisdiction of the courts of England and Wales provided that the Company has the right in its absolute discretion to enforce a judgement and/or to take proceedings in any other jurisdiction in which the Supplier is incorporated or in which any asset of the Supplier may be situated.

47 Contracts (Rights of Third Parties) Act 1999

- 47.1 Subject to the Replacement Employer's rights in accordance with Clause 30, no person except any member of the TfL Group may enforce the Agreement and any Contract by virtue of the Contracts (Rights of Third Parties) Act 1999, but this does not affect any other right or remedy of a third party arising at law.

47.2 Notwithstanding those rights referred to in Clause 47.1, the Company and the Supplier may agree to vary or rescind the Agreement or any Contract without the consent of any third party.

48 Bonds, Warranties and Guarantees

48.1 Where stated in Schedule 1, the Supplier shall at its own expense provide within seven (7) days of the Company's request the following:

- (a) an executed bond issued by a financial institution whose long term debt obligations are rated not less than A- by Standard & Poor's and/or A3 by Moody's in the form set out in favour of the Company;
- (b) an executed parent company guarantee from the ultimate holding company or other parent company of the Supplier (provided that such company's long-term debt obligations are rated not less than A- by Standard & Poor's and/or A3 by Moody's) in the form set out in favour of the Company.

48.2 The Supplier shall ensure that any bond required under Clause 48.1:

- (a) provides, in aggregate, credit protection for the Company in an amount of not less than the amount specified in Schedule 1: and
- (b) is renewed every twelve (12) months until the earlier of (i) expiry of the Warranty Period applicable to the final Delivery Date or (ii) twelve (12) months after termination.

48.3 If at any time the existing bond and/or parent company guarantee cease(s) to meet the requirements of Clauses 48.1 and 48.2 then the Supplier shall replace such bond and/or parent company guarantee with a bond and/or parent company guarantee (as the case may be) that meets the requirements within seven (7) days.

48.4 If requested by the Company, the Supplier shall provide an accompanying legal opinion to the bond and/or parent company guarantee supplied under Clause 48.1 completed and signed by a qualified lawyer from the country in which the guarantor and/or parent company is resident in the form specified by the Company.

48.5 If any performance bond and/or parent company guarantee required by any Contract is not procured by the Supplier and delivered to the Company in accordance with Clause 48.1, one quarter of the aggregate of the Order Price for the relevant Contract shall be retained in assessments of the amount due and shall not be payable to the Supplier until such documents have been delivered.

48.6 If required by the Company, the Supplier shall procure that the terms of any subcontract require the subcontractor, within seven (7) days of a written request by the Company to the subcontractor, to enter into:

- (a) a collateral warranty in the form set out in Schedule 9 in favour of the Company and if requested by the Company, the Supplier shall require the subcontractor to provide an accompanying legal opinion completed and signed by a qualified lawyer from the country in which the subcontractor is resident in the form specified by the Company; and
- (b) a parent company guarantee in the form provided by the Company from the ultimate holding company of the subcontractor in respect of any of the subcontractor's obligations under any collateral warranty required under this Clause 48.6.

48.7 If any warranty (including any accompanying parent company guarantee) required under Clause 48.6 is not delivered to the Company in accordance with Clause 48.6 one quarter of the aggregate of the Order Price relative to the Goods provided by the relevant subcontractor shall be retained in assessments of the amount due and is not payable until such warranty has been delivered.

49 Change of Control

The Supplier shall not without the prior written consent of the Company implement any change of ownership of the Supplier where such change relates to fifty per cent (50%) or more of the issued share capital of the Supplier.

50 Interest

50.1 If either party fails to pay to the other any amount payable in connection with the Agreement or any Contract on or before the due date for payment, interest shall accrue on the overdue amount from the due date for payment until the date of actual payment (whether before or after judgment) at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. Any interest accruing under this Clause 50.1 shall be immediately payable by the paying party on demand.

50.2 Interest (if unpaid) arising on an overdue amount will be compounded monthly with the overdue amount but will remain immediately due and payable.

51 Freedom of Information

51.1 For the purposes of this Clause 51:

"**FOi Legislation**" means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-

enactment of any of them; and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

"Information" means information recorded in any form held by the Company or by the Supplier on behalf of the Company; and

"Information Request" means a request for any Information under the FOi Legislation.

51.2 The Supplier acknowledges that the Company:

- (a) is subject to the FOi Legislation and agrees to assist and co-operate with the Company to enable the Company to comply with its obligations under the FOi Legislation; and
- (b) may be obliged under the FOi Legislation to disclose Information without consulting or obtaining consent from the Supplier.

51.3 Without prejudice to the generality of Clause 51.2 the Supplier shall and shall procure that its subcontractors (if any) shall:

- (a) transfer to the Company's Representative (or such other person as may be notified by the Company to the Supplier) each Information Request relevant to the Agreement or any Contract, the supply of Goods and Services or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Working Days of receiving such Information Request; and
- (b) in relation to Information held by the Supplier on behalf of the Company, provide the Company with details about and/or copies of all such Information that the Company requests and such details and/or copies shall be provided within five (5) Working Days of a request from the Company (or such other period as the Company may reasonably specify), and in such forms as the Company may reasonably specify.

51.4 The Company shall be responsible for determining whether Information is exempt information under the FOi Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOi Legislation. The Supplier shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Company.

52 Data Transparency

- 52.1 The Supplier acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 31 and Clause 51, the Supplier hereby gives its consent for the Company to publish the Contract Information to the general public.
- 52.2 The Company 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 Company may take account of the exemptions/exceptions that would be available in relation to information requested under the FOi Legislation. The Company may in its absolute discretion consult with the Supplier regarding any redactions to the Contract Information to be published pursuant to Clause 52.1. The Company shall make the final decision regarding publication and/or redaction of the Contract Information.

53 Survival

- 53.1 The provisions of Clauses 5 (Records and Audit), 9.13 (Set-Off), 19 (Warranty), 20 (Intellectual Property Rights), 21 (Termination), 23 (Indemnity and Insurance), 24 (*Environmental Claims*) 30 (Supplier Personnel), 31 (Confidentiality), 33 (Responsible Procurement), 37 (Severance), 38 (Publicity), 39 (Corrupt Gifts and Payments of Commission), 40 (No Waiver), 41 (Entire Contract), 42 (Notices and Service of Process), 43 (Dispute Resolution), 46 (Governing Law and Jurisdiction), 47 (Contracts (Rights of Third Parties) Act 1999), 51 (Freedom of Information), 52 (Data Transparency), 53 (Survival), 54.1 and 54.5 (Transport for London Group) will survive the termination or expiry of this Agreement and any Contract and continue in full force and effect, along with any other Clauses or Schedules of this Agreement and any Contract necessary to give effect to them. In addition, any other provision of this Agreement and any Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination will survive such termination as aforesaid.

54 Transport for London Group

54.1 Declaration of Ineffectiveness

- (a) Without prejudice to the Company's right to terminate the Agreement and any Contract under Clause 21.1, Clause 21.2(a) or at common law, the Company may terminate the Agreement and any Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of this Clause 54.1.
- (b) In the event that any court makes a Declaration of Ineffectiveness, the Company shall notify the Supplier. The parties agree that the provisions of this Clause 54.1 shall apply as from the date of receipt by the Supplier of the notification of a Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of

Clause 21.1 and this Clause 54.1 or the Cessation Plan, the provisions of this Clause 54.1 and the Cessation Plan prevail.

- (c) The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or which shall accrue to either party prior to or after such Declaration of Ineffectiveness.
- (d) As from the date of receipt by the Supplier 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 Company shall reasonably determine an appropriate Cessation Plan with the object of achieving:
 - (i) an orderly and efficient cessation of the supply of Goods and Services or (at the Company's request) a transition of the supply of Goods and Services to the Company or such other entity as the Company may specify; and
 - (ii) minimal disruption or inconvenience to the Company or to public passenger transport services or facilities, in accordance with the provisions of this Clause 54.1 and to give effect to the terms of the Declaration of Ineffectiveness.
- (e) Upon agreement, or determination by the Company of the Cessation Plan the parties shall comply with their respective obligations under the Cessation Plan.
- (f) The Company shall pay the Supplier's reasonable costs in assisting the Company in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or charges agreed as part of the Agreement and any Contract or as otherwise reasonably determined by the Company. Provided that the Company shall not be liable to the Supplier for any loss of profit, revenue goodwill or loss of opportunity as a result of the early termination of the Agreement and any Contract in accordance with this Clause 54.1.

54.2 **Crime and Disorder Act 1998**

The Supplier acknowledges that Transport for London is under a duty under Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006 and the Policing and Crime Act 2009) to:

- (a) have due regard to the impact of crime, disorder and community safety in the exercise of TfL's duties;
- (b) where appropriate, identify actions to reduce levels of crime and disorder; and

(c) without prejudice to any other obligation imposed on the Company, exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent in its area;

- (i) crime and disorder (including anti-social and other behaviour adversely affecting the local environment);
- (ii) the misuse of drugs, alcohol and other substances; and
- (iii) re-offending

and in the performance of the Agreement and each Contract, the Supplier shall assist and co-operate with the Company and relevant members of the TfL Group and shall use reasonable endeavours to procure that its subcontractors assist and co-operate, with the Company and relevant members of the TfL Group to enable TfL to satisfy its duty.

54.3 **The Company's business**

The Supplier acknowledges that it:

- (a) has sufficient information about the Company and the supply of Goods and Services;
- (b) is aware of the Company's processes and business;
- (c) has made all appropriate and necessary enquiries to enable it to carry out the supply of Goods and Services in accordance with the Agreement and each Contract;
- (d) is aware of the purposes for which the supply of Goods and Services are required; and
- (e) shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement and each Contract due to any misinterpretation or misunderstanding by it of any fact relating to the supply of Goods and Services.

54.4 **Best value**

The Supplier acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the Company 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. The Supplier shall assist the Company to discharge TfL's duty where possible, and in doing so, shall carry out any review of the supply of Goods and Services reasonably requested by the Company from time to time. The Supplier shall negotiate in good faith (acting reasonably) with the Company any changes to the Agreement and any Contract in order for the Company to achieve best value.

54.5 Data Protection

- (a) The Supplier shall comply with all of its obligations under the Data Protection Act 1998 and if processing personal data (as such terms are defined in section 1(1) of that Act) on behalf of the Company ("**Company Personal Data**"), the Supplier shall only carry out such processing in order to carry out the supply of Goods and Services and at all times in accordance with any instructions from the Company.
- (b) When the Supplier receives a written request from the Company for information about, or a copy of, Company Personal Data, the Supplier shall supply such information or data to the Company within such time and in such a form as is specified in the request (such time to be reasonable) or if no period of time is specified in the request, then the Company shall supply the information or data within fourteen (14) days from the date of the request.
- (c) The Company shall remain solely responsible for determining the purposes and manner in which Company Personal Data is to be processed. The Supplier shall not share any Company Personal Data with any subcontractor or third party unless there is a written agreement in place which requires the subcontractor or third party to:
 - (i) only process Company Personal Data in accordance with the Company's instructions to the Supplier; and
 - (ii) comply with the same data protection requirements that the Supplier is required to comply with under the Agreement and any Contract.

54.6 Conflict of Interest

- (a) The Supplier acknowledges and agrees that it does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the carrying out of the supply of Goods and Services or with any member of the Tfl Group, save to the extent fully disclosed to and approved in writing by the Company.
- (b) The Supplier shall undertake ongoing and regular checks for any conflict of interest throughout the duration of the Agreement and any Contract and in any event not less than once in every six (6) months and shall notify the Company in writing immediately on becoming aware of any actual or potential conflict of interest with the carrying out of the supply of Goods and Services under the Agreement and any Contract or with any member of the Tfl Group and shall work with the Company to do whatever is necessary (including the separation of staff working on, and data relating to, the supply of Goods and Services from the matter in question) to manage such conflict to the Company's satisfaction, provided that, where the Company is not so satisfied (in its absolute discretion) it shall be entitled to terminate the Agreement and any Contract.

54.7 **Equality and Diversity**

54.7.1 Without limiting the generality of any other provision of the Agreement and any Contract, the Supplier:

- (a) shall not unlawfully discriminate;
- (b) shall procure that its employees and agents do not unlawfully discriminate; and
- (c) shall use reasonable endeavours to procure that its subcontractors do not unlawfully discriminate when providing the Supply,

within the meaning and scope of the Equality Act 2006, the Equality Act 2010 and any other relevant enactments in force from time to time in relation to discrimination in employment.

54.7.2 The Supplier acknowledges that the Company is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to:

- (a) eliminate unlawful discrimination on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (all "**Protected Characteristics**") and marriage and civil partnership;
- (b) advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a Protected Characteristic and persons who do not.

In performing the Agreement and each Contract the Supplier shall assist and cooperate with the Company where possible in satisfying this duty.

54.7.3 The Supplier shall ensure that its staff, and those of its subcontractors who are engaged in the performance of the Agreement and each Contract comply with the Company's policies in relation to equal opportunities and diversity, workplace harassment and drugs and alcohol as may be updated from time to time. Copies of these policies are available from the Company at any time on request.

54.7.4 To the extent that the Company is required to assist or co-operate with TfL in compliance with its duties under the Equality Act 2010 (Specific Duties) Regulations 2011, the Supplier shall assist and co-operate with the Company where possible.

54.8 **Work Related Road Risk**

54.8.1 For the purposes of Clauses 54.8.2 to 54.8.9 (inclusive) of this Agreement, the following expressions shall have the following meanings:

"Bronze Accreditation" the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk

"Car-derived Vans" a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

"Collision Report" a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;

"Delivery and Servicing Vehicle" a Lorry, a Van or a Car-derived Van;

"Driver" any employee of the Supplier (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Supplier while delivering the Goods and Services;

"DVLA" Driver and Vehicle Licensing Agency;

"FORS" the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;

"FORS Standard" the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at:

www.fors-online.org.uk

"Gold Accreditation" the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk

"Lorry"	a vehicle with an MAM exceeding 3,500 kilograms;
"MAM"	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
"Side Guards"	guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986;
"Silver Accreditation"	the intermediate level of accreditation within the FORS Standard, the requirements of which are more particularly described at www.fors-online.org.uk
"Van"	a vehicle with a MAM not exceeding 3,500 kilograms.

Fleet Operator Recognition Scheme Accreditation

54.8.2 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services, it shall within 90 days of the Commencement Date:

- (a) (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the Company, is an acceptable substitute to FORS (the "Alternative Scheme"); and
- (b) (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Supplier has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Equipment on Vehicles

54.8.3 The Supplier shall ensure that every Lorry, which it uses to provide the Goods and Services, shall:

- (a) have Side Guards, unless the Supplier can demonstrate to the reasonable satisfaction of the Company that the Lorry will not perform the function for which it was built if Side Guards are fitted;
- (b) have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;
- (c) have equipment fitted with an audible means of warning other road users of the Lorry's left manoeuvre; and
- (d) have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

Driver Licence Checks

54.8.4 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services the Supplier shall ensure that:

- (a) it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and
- (b) each of its Drivers engaged in the provision of the Goods and Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Goods and Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Supplier's risk scale, provided that the Supplier's risk scale has been Approved in writing by the Company within the last 12 months:
 - (i) 0–3 points on the driving licence – annual checks;
 - (ii) 4–8 points on the driving licence – six monthly checks;
 - (iii) 9–11 points on the driving licence – quarterly checks; or
 - (iv) 12 or more points on the driving licence – monthly checks.

Driver Training

54.8.5 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services the Supplier shall ensure that each of its Drivers undergo approved progressive training (to include a mix of theoretical, e-learning, practical and on the job training) and continued professional development to include training covering the safety of vulnerable road users and on-cycle hazard awareness, throughout the term of the Agreement and each Contract.

Collision Reporting

54.8.6 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services, the Supplier shall:

- (a) ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and
- (b) within 15 days of the Commencement Date, provide to the Company a Collision Report. The Supplier shall provide to the Company an updated Collision Report within five working days of a written request from the Company.

Self Certification of Compliance

54.8.7 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services, within 90 days of the Commencement Date, the Supplier shall make a written report to the Company detailing its compliance with Clauses 54.8.3, 54.8.4 and 54.8.5 of this Agreement (the "WRRR Self-certification Report"). The Supplier shall provide updates of the WRRR Self-certification Report to the Company on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Supplier Regarding Subcontractors

54.8.8 The Supplier shall ensure that those of its subcontractors who operate Delivery and Servicing Vehicles to provide the Goods and Services shall:

- (a) comply with Clause 54.8.2; and
- (b) where its subcontractors operates the following vehicles to provide the Goods and Services shall comply with the corresponding provisions of this Agreement:
 - (i) For Lorries – Clauses 54.8.3, 54.8.4, 54.8.5 and 54.8.6; and
 - (ii) For Vans – Clauses 54.8.4, 54.8.5, and 54.8.6,

as if those subcontractors were a party to this Agreement.

Failure to Comply with Work Related Road Risk Obligations

54.8.9 Without limiting the effect of any other clause of this Agreement or any Contract relating to termination, if the Supplier fails to comply with any of Clauses 54.8.2, 54.8.3, 54.8.4, 54.8.5, 54.8.6, 54.8.7 and/or 54.8.8:

- (a) the Supplier has committed a material breach of this Agreement and any Contract; and
- (b) the Company may refuse the Supplier, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by the Company for any purpose (including but not limited to deliveries).

55 CompeteFor

55.1 Without prejudice to Clause 34 the Supplier will, on a non-exclusive basis, use the CompeteFor electronic brokerage service (or such alternative web-based tool as the Company may direct from time to time) ("**CompeteFor**") to make available to other suppliers all appropriate opportunities, arising in connection with the Agreement and each Contract, to supply goods, works and services to the Supplier.

55.2 The Supplier will use all reasonable endeavours to ensure that its sub-contractors (for the purposes of this clause, the "**Supplier's Sub-contractors**") use CompeteFor, on a non-exclusive basis, to make available to other sub-contractors all appropriate opportunities, arising in connection with the Agreement and each Contract, to supply goods, works and services to the Supplier's Sub-contractors .

55.3 The Supplier will monitor (and maintain a record of) the number, type and value of opportunities, arising in connection with the Agreement and each Contract, made available to other suppliers via CompeteFor, whether by the Supplier or the Supplier's Sub-contractors, as required by this Clause 55, and will report this information on a quarterly basis by way of email to the Company Representative.

56 Criminal Record Declarations

56.1 For the purposes of this Clause 56:

"**Relevant Individual**" means any servant, employee, officer, consultant or agent of either the Supplier or any subcontractor or supplier involved in the provision of , or intended to provision of, any aspect of the Goods and Services; and

"**Relevant Conviction**" means any unspent criminal conviction relating to actual or potential acts of terrorism or acts which threaten national security.

- 56.2 The Supplier shall procure from each Relevant Individual (as the case may be) a declaration that he has no Relevant Convictions ("**Declaration**") or disclosure of any Relevant Convictions. A Declaration shall be procured prior to a Relevant Individual providing any of the Goods and Services. The Supplier shall confirm to the Company in writing on request or in any event not less than once in every year that each Relevant Individual has provided a Declaration. The Supplier shall procure that a Relevant Individual notifies the Supplier immediately if he commits a Relevant Conviction and the Supplier shall notify the Company in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.
- 56.3 The Supplier shall not engage or allow to act on behalf of the Supplier or any subcontractor in the performance of any aspect of the Goods and Services any Relevant Individual who has disclosed a Relevant Conviction.
- 56.4 The Company shall have the right in accordance with the audit rights set out in Clause 5 to audit and inspect the records of the Supplier and its subcontractors and its and their respective employees and agents in order to confirm and monitor compliance with this Clause 56 at any time during performance of this Agreement and each Contract.
- 56.5 If the Supplier fails to comply with the requirements under Clauses 56.2 and/or 56.3 the Company may, without prejudice to its rights under Clause 21.1, serve notice on the Supplier requiring the Supplier to remove or procure the removal of {as the case may be) any Relevant Individual who has not provided a Declaration from the Agreement and each Contract and/or Company's site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the provision of the Goods and Services unless (in the case of non-compliance with Clause 56.2) within seven (7) days of receipt of the notice the Supplier confirms to the Company that he has procured all of the relevant Declarations required under Clause 56.2.
- 56.6 A persistent breach of Clause 56.2 and/or Clause 56.3 by the Supplier shall entitle the Company to terminate the Agreement and each Contract in whole or in part with immediate effect in accordance with Clause 21.1(a).
- 56.7 In the event the Company becomes aware that a Relevant Individual has committed a Relevant Conviction, the Supplier shall remove or procure the removal (as the case may be) of such Relevant Individual from the Agreement and each Contract and/or the Company's site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the provision of the Goods and Services.
- 56.8 Nothing in this Clause 56 shall in any way waive, limit or amend any obligation of the Supplier to the Company arising under the Agreement and each Contract and the Supplier's responsibilities in respect of the provision of the Goods and Services remain in full force and effect and the Supplier cannot claim any extra costs or time as a result of any actions under this Clause 56.

Schedule 1
Detailed Terms

Commencement Date	Date of the Agreement	
Term	4 years (option to extend for 1 year)	
Warranty Period	<i>Hexis materials 4 years warranty from fitment</i>	
Vinyl Filming materials	<i>Eastman materials 10 years warranty from fitment</i>	
Filming workmanship	10 Years	
Volume Discount Percentage	In respect of each order (See Schedule 2)	
Framework Specification	See Schedule 3	
Additional standards pursuant to Clause 3.3(d) and 3.5(d):	New Requirements Change to Rolling Stock (CRS) as approved by LUL Engineering	
The Liquidated Damages for delay for the purpose of Clause 10.3 payable for such Goods/ Services are:	To be agreed in respect of each Order	
The period of delay over which the Liquidated Damages shall be calculated for the purpose of Clause 10.3 is every:	Week	
The maximum amount of Liquidated Damages payable under Clause 10.3 expressed as a percentage of the price payable for such Goods/Services is:	In respect of each Order, up to one hundred and twenty five per cent. (-) of that Order Price Up to of the Order Value	
The Liquidated Damages for delay for the purpose of Clause 13.14 payable for such Services are:	<p style="text-align: center; font-size: 2em; font-weight: bold;">Pr -</p>	
The period of delay over which the Liquidated Damages shall be calculated for the purpose of Clause 13.14 is every:		Week
The maximum amount of Liquidated Damages payable under Clause 13.14 expressed as a percentage of the price payable for such Services is:		In re ect of each Order, -) of that Or er Price
Security required pursuant to Clause 48.1:		
Bond	No	
Parent Company Guarantee	No	

Application for payment dates	At Point of delivery by the Supplier (Please see clause 9.1)
Interest Rate pursuant to Clause 50.1	Please see clause 50.1
The Supplier Personnel are Key Personnel	TBC

Insurance Against	Party Responsible for ensuring insurance is in place	Minimum amount of cover or minimum limit of indemnity
Product and Public Liability Insurance		
All sums for which the insured shall become legally liable to pay as damages in respect of death of or injury or illness or disease to third parties and/or loss of or damage to third party property, obstruction, loss of amenities, trespass, nuisance or any like cause happening during the period of insurance and arising out of or in connection with the Contract.	Supplier	Limit of indemnity: £10m any one occurrence and in the aggregate in respect of Product Liability
Employer's Liability Insurance liability for death of or bodily injury or illness sustained by employees of the Supplier arising out of or in the course of their employment in connection with the Contract.	Supplier	Limit of Indemnity: £10m any one occurrence restricted to £5m in respect of Terrorism
Professional Indemnity Insurance Negligence omission or default in respect of the design of the Supply or other professional services for which the Supplier or its sub-contractors is responsible.	Supplier	N/A
"Goods in Transit" Insurance Transit insurance to cover Materials, Goods, materials supplied by the Supplier until safe receipt at the Premises by the Company.	Supplier	Not less than £25,000 for each and every claim or series of claims arising out of one incident.

Schedule 2 Payment

Labour Rates

Labour Rates are fixed for the contract duration

Traffic Hours* - Monday to Friday

Grade of Staff	Hourly Rate	Shift Rate
HSQE	██████	██████
Project Manager	██████	██████
Team Leader	██████	██████
Window FilmNin I Technician	██████	██████

* Traffic hours refers to normal running times - 8am to 12 midnight

Engineering Hours* - Monday to Friday

Grade of Staff	Hourly Rate	Shift Rate
HSQE	██████	██████
Project Manager	██████	██████
Team Leader	██████	██████
Window FilmNin I Technician	██████	██████

*Engineering Hours refers to out of service hours - 12 midnight to 8am

Weekend Hours* - Saturday to Sunday

Grade of Staff	Hourly Rate	Shift Rate
HSQE	██████	██████
Project Manager	██████	██████
Team Leader	██████	██████
Window FilmNin I Technician	██████	██████

*Weekend Hours refers to day rates assuming no services are running

Cancellation Rates

Grade of Staff	Hourly Rate	Shift Rate
24 hour notice given (Window FilmNin I Technician)	██████	██████
48 hour notice given (Window FilmNin I Technician)	██████	██████
72 hour notice given (Window FilmNin I Technician)	██████	██████
Intransit/On site and no vehicle available	██████	██████

Filming Materials

Materials	Quantity MOQ	Unit Price Year 1	Unit Price Year 2	Unit Price Year 3	Unit Price Year 4
Hexis AGLR RED	10 rolls				
Hexis AGLR WHITE	10 rolls				
Hexis AGLR BLUE	10 rolls				
Hexis All other colours	10 rolls				
Llumar 100 micron SCL SR PS4 36" x 100'					
Llumar 100 micron SCL SR PS4 48" x 100'					
Llumar 100 micron SCL SR PS4 60" x 100'					
Llumar 100micron N1040 SR P 84 Sputterd Medium Neutral 60"					
Armourcoat ?milclear 175micron safet film - 48"					

Notes:

For quantities of **mar** more rolls purchased at the same time, % price reduction will be offered on Llumar Window Films

Sundries	Unit Price Year 1	Unit Price Year 2	Unit Price Year 3	Unit Price Year 4
Hexis No 1 Adhesive Remover - Red				
Hexis No 3 Final Degreasing Cleaner - Green				
Blades & Sera ers				
General Consumables				

Schedule 3

Framework Specification

- 1 The scope of works is supply, preparation and Installation of Anti-Graffiti Film & Coatings for Internal Glass and Internal & External train surfaces including provision of ancillary services across LUL Rollingstock
- 1.2 The requirements will be mini - tendered as and when required. The Company conducts a Mini-Competition in accordance with Clause 4.1. Upon agreement a Purchase Order (PO) will be issued by the Company to reflect the scope of works and any specific terms issued in Appendix 1, Order Specification "**VINYL FILMING OF ROLLING STOCK**".
- 1.3 The prices are based upon terms of payment as described in Schedule 2.

2. Terms of payment

- 2.1 Payment shall be made in accordance with Clause 9 of the Agreement.
- 2.2 The Company shall issue a PO as required.

3 Delivery Lead Time.

- 3.1 As specified in the issued PO

Schedule 4 Form of Order

Transport for London
London Underground Limited



Purchase order

Page 1 of 2

Vendor address

Contact

Requested by

Telephone

Invoice to

London Underground Ltd
Accounts Payable
1st Floor
PO Box 45276, 14 Pier walk
London SE10 1AJ
Telephone: 0645 3035100
Fax: 020 3054 5331
email: accounts.payable@tfl.gov.uk

Information

Purchase Order no.
Contract no.
Vendor no.
Currency
Payment terms

Delivery address

London Underground Limited
55 Broadway
London
SW1H 0BO
Order ref below

Instructions to vendor

The supply of goods/services under this purchase order is subject to the Purchase Order Conditions which are available on www.tfl.gov.uk or available upon request from the contact named below. Supply of goods or services under this purchase order indicates your acceptance of such conditions.

Item	Description	Quantity	UM	Net price	Total price

Procurement Department

Date:

London Underground Limited

55 Broadway London SW1H 0BO

Telephone: 0645 3035100

VAT number: 260 08 1000 London Underground Limited is a company controlled by a UK authority within the meaning of Part 1 of the Local Government Finance Act 1988. The controlling Authority is Transport for London

MAYOR OF LONDON

If you have problems reading this text please call 020 70384614

Appendix 1
Specification

BCV-SSL-JNP
 SPECIFICATION & SCOPE OF WORKS FOR

VINYL FILMING OF ROLLING STOCK

Asset: BCVISSL&JNP Fleet	All London Underground Limited (LUL) Fleets
Contract No: TfL00717	Rolling Stock Vinyl Filming

Full Address / Location:	<u>Works to be undertaken at:</u> Various Depots across London Underground Limited
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Work Description:	Supply, preparation and Installation of Anti-Graffiti Film & Coatings for Internal Glass and Internal & External train surfaces including provision of ancillary services across LUL Rolling stock.
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Target Start: | To be agreed.

REV.	DATE	PREPARED BY	LUL APPROVAL			ISSUE
			NAME	SIGN	DATE	
1	06/09/2015	GR	[REDACTED]		06/09/2015	FINAL

Access to the site:	LUL licences required. No guaranteed depot parking except temporary parking for delivery
Employer Representative:	Ambience Manager: [REDACTED] or other LUL representative

Health and Safety Issues:	General Public:	Provisions should be made for interface with 3rd party contractors and depot staff during the works.
	LUL Staff:	LUL staff will be made aware of works. The work site shall be identified by the contractor to prevent unauthorised access to the work site.
	Sub-Contractor:	Minimum PPE: Safety boots, eye protection, gloves, Hi-Vi jacket. Additional PPE to be worn in g. Q-Q9-i2! h t -i?<sed W .
	Training LUL:	SENTINEL card holder PtD core and depot tour Non-track SPC Q I where requir9-
	Additional Information:	No guaranteed storage available on site.

Expected Benefit:	Provision of Anti-Graffiti Films & Coatings to External & Internal train surfaces and glass to maintain Mystery Shopper Survey (MSS) train ambience scores and customer travelling environment.
Duration of the Contract:	4 years + 1year optional extension
Working Hours on site are available:	By local arrangement
Deliveries on site are available:	Yes

0.0 INTRODUCTION

The purpose of this Specification is to define the requirements for the provision of glass filming, coloured film application services and other ancillary services, deemed necessary to maintain the London Underground train fleet's interior and exterior's ambient appearance to an acceptable standard. Sections 1 and 2 of the Scope of Works are defined in two parts as follows:

Section A - Window Filming

Section B - Coloured film for interior & exterior and ancillary services.

This is then followed by Sections 3-7 and Appendices, which define contractual elements that are common to both.

1.0 SCOPE OF WORKS

LUL Rolling stock to be included within this scope are -

fleet	Stock	No.of Trains
Bakerloo	72 TS	36
Central	92 TS	85
Waterloo & Citv	92 TS	5
Victoria	09 TS	47
District	S7	83
Hammersmith & Circle	S7	50
Metropolitan	S8	58
Jubilee	95 TS	59
Piccadilly	73 TS	86

LUL Engineering & Materials Approvals

An approved LUL Engineering technical scope for each work package will form the basis for quotation within the invitation to tender (ITT).

Only Approved Materials can be used on LUL Rolling Stock Assets. The Supplier will need to provide details within the ITT of specific materials proposed for each work stream as further LUL Engineering approvals for fire safety and process may be required for the specific fleet which must be in place prior to any works commencing.

The supplier will be able to demonstrate recognition of being authorised by the manufacturer as an approved applicator of any proposed system to preserve material warranty.

SECTION AI - WINDOW FILMING

1.1 FITTING OF WINDOW FILM TO NEW FLEETS

The purpose of this scope is to apply clear, self-adhesive polyester film to the new incoming LUL train fleets. The fitment of the film is to limit the risk of glass fragmenting if impacted and minimise the visual impact of glass graffiti caused by:

1. Scratching of glass using sharp objects
2. Etching of glass resulting from the use of strong acids.

The contractor will be expected to meet the needs of supplying appropriately skilled staff on time, and to complete the work within the time window allocated for the fitment. The contractor is also required to supply a suitable fire compliant clear polyester film (reference should be made to the LUL APR (Approved Product Register)).

It is expected that this work will be carried out over the weekend on either days and/or nights but may be subject to change to meet the needs of the delivery programme set out by LU.

1.2 WINDOW FILM MAINTENANCE

The purpose of this scope is to systematically replace any damaged or vandalised clear, self-adhesive polyester film that has previously been fitted to the interior glass surfaces of train fleets maintained by LUL. Film replacement may be required in the following areas:

- Windows and draught screen in passenger saloon areas.
- Anti-spall film in train operators' cabs.

Following the installation of the original film, there have been subsequent scratching attacks on the film, which have caused a decrease in the Mystery Shopper Scores for interior scratch graffiti to well below 65. This Contract will fulfil the requirement to maintain film by employing a Contractor to ensure that the minimum target figure of 65 for older fleets and 90 for newer fleets is met.

The Contractor must work the full 8 hour shift and will fit the agreed number of films specified in the contract per shift at each location. The requirement for attendance at Depots is as follows or alternatively agreed:

LULBCV - Bakerloo, Central, Victoria and Waterloo & City Fleets

Hainault Depot - 3 nights per week (Target 50 windows per shift)
Stonebridge Park Depot - 1 night per week (Target 50 windows per shift)
Northumberland Park Depot - 1 night per week (as instructed by Ambience Manager)
Waterloo & City Depot - On casualty basis as required

LULSSR - Metropolitan, Hammersmith & Circle, District Fleets

Ealing Common Depot - On casualty basis as required
Hammersmith Depot - On casualty basis as required
Neasden - On casualty basis as required

LULJNP - Jubilee and Piccadilly Line fleets only

Cockfosters/Northfields Depots - On casualty basis as required
Stratford Market Depot - On casualty basis as required

The above requirement is subject to change by LUL and the Contractor shall provide resourcing and pricing that accommodates full flexibility for any requested changes to the frequency at the defined locations.

For both passenger saloons and train operators' cabs only polyester films that are listed on the LUL Approved Product Register (APR) and for use on the specific application can be used by the contractor. LUL will provide the contractor with the appropriate sections of the APR.

The contractor will always attend site with sufficient film to enable the required number of windows to be changed in one shift.

SECTION 8) - COLOURED FILMS AND ANCILLARY SERVICES

The purpose of this Specification is to define the requirements for the provision of Filming and Ancillary Services to LUL BCV, SSL and JNP Train Fleets, as and when maintenance and project works are required.

The Train Fleets are as follows:

BCV - Bakerloo Line, Central Line, Victoria and Waterloo & City Line Fleets
SSL - Circle Line, Hammersmith and City Line, Metropolitan Line and District Line Fleets
JNP - Jubilee Line and Piccadilly Line Fleets

The Contractor shall provide LUL with the supply of labour and materials for the filming of the Train Fleets detailed in section 1. The scope for this contract is to provide ad hoc maintenance, project filming and ancillary services.

There are 3 main areas of work, as listed below:

1) Interior filming

- Body Filming:
 - Filming of sliding doors, access & communicating doors
 - Filming of body panels (bulkheads, body ends, window surrounds etc)
- Refresh (filming of areas, as required, to improve the condition of painted panels across the whole fleet)
- Patch repair (repair of areas that have already been filmed)
- Application of film over paint stripper graffiti

2) Exterior filming

- Damaged films on the bodywork
- Panel repair
- Full wrap
- Application of film over paint stripper graffiti

3) Ancillary Services

- Painting of heater panels and 3-Dimensional window surround panels (using Hydro Topcoat paint from Axalta).
- Application of Approved anti-graffiti coatings (e.g. Tuto Prom) to selected 3-Dimensional panels.
- Buffing of interior panels to remove graffiti ghosting, fine scratches & dirt particles retained in pores using suitable paint refinishing products (e.g. Approved products from Autoglym/Farecla).
- Buffing of sliding door Kick Plates using abrasive discs to remove etched graffiti.

The works to be carried out comprises:

- The undertaking of an audit by the Supplier to determine existing exterior & interior film provisions / locations, and size requirements for the new film.
- Removal of existing films from interior surfaces where applicable
- Preparation of interior panels, grab poles, heater panels and kick plates where required consisting of abrading surfaces to remove damage or corrosion.
- Filling and priming of all surface imperfections on interior panels, grab poles, heater panels and kick plates where required using LUL approved materials to ensure not visible under filming.
- Application of coloured self-adhesive film, paint or anti-graffiti coating over prepared surfaces as defined within scope.

Additional considerations are as follows:

- The Contractor shall undertake full and complete preparation of all surfaces to which filming, paint or anti-graffiti coatings are to be applied, to the manufacturer's recommended standards and in addition to any applicable LUL standards (to be approved by TLL).
- The Contractor is also required supply a suitable fire compliant films and paints (reference should be made to the LUL Approved Product Register).

- Contractor to provide provisions for the delivery of materials and staff to site at the relevant Depots as required.
- Contractor to provide all filming, preparation materials, equipment, tooling and consumables including any small portable appliances and compressor requirements for completion of works.
- Contractor to provide all necessary apparatus (including step systems), safety equipment and PPE for working at all levels (including low and high) that is compliant with LUL Standards and QUENSH.
- The Contractor will be responsible for the storage of materials.
- The Contractor shall provide a full-time project manager to ensure quality, value for money and Health and Safety requirements are met.
- Contractor to provide HSQE documentation and details of management structure (including holiday and sick cover) as required as part of the QUENSH.
- The Contractor shall undertake a quality and assurance sign-off for each vehicle including inspection and a testing regime for each carriage, adhering to the Visual Inspection and Acceptance requirements included in Appendix 1 to this Specification.
- Submission of a site waste management plan is required prior to works commencing.
- The Supplier will be responsible for removal of scrap materials from site on the day of completion of the works, and reporting of dropped materials on the same day.
- The Supplier shall be responsible for the completion of any warranty work requirements (to make good) within 7 days of notification.
- The Supplier shall undertake the works at the Depots relevant to the LUL Line on which work is proceeding.
- The Supplier shall be liable for any damage to LUL property caused by the Supplier (e.g. train, property etc.) and will be charged accordingly for such damage.
- The Supplier is responsible for provision of any other items as specified in the ITI or agreed as a variation to contract.

2.0 WORKING ARRANGEMENTS -WINDOW FILMING

SECTION A) - WINDOW FILMING

2.1 FITTING OF WINDOW FILM TO NEW FLEETS

The required system of work will be as follows:

1. The Fleet Ambience Manager or his designated rep will notify the Contractor of the date of delivery of the new train and will always aim to give one weeks' notice.
2. Trains will be delivered to the depot and stabled in an appropriate area.
3. The contractor will attend over the period allocated for the installation and until the work is completed to the required standard.
4. Film application will proceed as per the film manufacturer's instructions, with the following additional points drawn to attention:
 - Film can be brought to site pre-templated or alternatively suitably sized pieces of film can be cut from a complete roll. If required, a heat gun may be used to enable the film to conform to curved pieces of glass but the amount of heat used must not cause the glass itself to fracture or be weakened.
 - For all glass other than draught screens, a sharp knife will be used to trim excess film at the edges of the glass. There will be a gap of no more than 1mm left between the edge of the glass except in cases where there are any textured dots on the glass (in which case the film is required to be cut no more than 1mm from the point where the textured dots start on the glass).
5. For draught screens (which require film on both sides) it will be necessary to cut a 45° bevel at the edge of the film, again leaving a gap of no more than 1mm from the edge of glass. The Contractor will work systematically through one car at a time to completion, working on glass which is required to be filmed. Once this is completed the next available car will be worked through to completion and so on.

6. The Contractor will ensure that all pieces of removed film, trimmings, paper backings from the film, equipment and chemicals are fully removed from each car.
7. At the end of each shift the contractor will provide a copy of the Fleet Glass Diagram showing pieces of film that have been applied to the Fleet Ambience Manager or nominated representative and copy should also be retained by the Contractor.

2.2 WINDOW FILM MAINTENANCE

The required system of work will be as follows:

1. Upon arrival at the depot the Contractor will show all relevant passes and sign in at security and the **DDM**
2. Trains will arrive in the depot and be stabled in the area of the depot stipulated in the contract.
3. The Fleet Ambience Manager and Inspectors (LU staff) may provide a set of Fleet Glass Diagrams showing the specific pieces of film that must be changed on each car number by the Contractor, which may include both passenger saloon areas and the anti-spall film in the train operators cab. These will be determined as the Contractor priorities. If insufficient quantities of damaged film identified the Contractor must select worst case damaged film and replace, recording the work completed as detailed in section 7.
4. Film replacement for both passenger saloon areas and the train operators cab areas will proceed as per the film manufacturer's instructions, with the following additional points drawn to attention:
 - The existing scratched piece of film will be peeled off the surface. The Contractor is permitted to use heat and suitable cleaning products (subject to the submission of a satisfactory COSHH assessment and LUL engineering approvals) to assist in this process if required.
 - After the film has been fully peeled off it will be necessary to ensure that all adhesive residues have been fully removed using metal scrapers and solvent cleaners (subject to the submissions of a satisfactory COSHH assessment and LUL engineering approvals). **Note** – fresh pieces of film will not adhere properly to the inadequately cleaned glass. LUL will require films to be replaced, free of charge, if it is found that any areas de-bond at a later date due to inadequate surface preparation.
 - If required, a heat gun may be used to enable the film to conform to curved pieces of glass but the amount of heat used must not cause the glass to fracture or be weakened.
 - For all glass other than draught screens, a sharp knife will be used to trim excess film at the edges of the glass. There will be a gap of no more than 1mm left between the edge of the film and the edge of the glass except in cases where there are any textured dots on the glass (in which case the film is required to be cut no more than 1mm from the point where the textured dots start on the glass).
 - For draught screens (which require film on both sides) it will be necessary to cut a 45° bevel at the edge of the film, again leaving a gap of no more than 1mm from the edge of the glass.
5. The Contractor will work systematically through one car at a time to completion. Once this is completed the next available car will be worked through to completion and so on.
6. The Contractor will ensure that all pieces of removed film, trimmings, paper backings from the film, equipment and chemicals are fully removed from the work area.
7. At the end of each shift the Contractor will provide a copy of the Fleet Glass Diagram showing pieces of film that have been changed to the Fleet Ambience Manager or his nominated representative and a copy should also be retained by the Contractor. This must detail the following:
 - a) The car number and exact position and type of each glass pane fitted during the shift.
 - b) The number of hours and number of personnel deployed during the shift.
8. Invoices must be raised by the Contractor which clearly detail the following:
 - a) The exact number of glass panels that have had film replaced
 - b) The number of hours and number of personnel deployed during the shift.
9. Any damage to LUL property caused by the contractor (damage to Train windows / Rubber Seals etc.) will be charged to the contractor.

SECTION BI - COLOURED FILMS AND ANCILLARY SERVICES

3.1 WORKING ARRANGEMENTS - BODY FILMING AND ANCILLARY SERVICES

The required system of work will be as follows:

1. Upon arrival at the depot the Contractor will show all relevant passes and sign in at security and the DOM
2. Trains will arrive in the depot and be stabled in the area of the depot stipulated in the contract.
3. The Fleet Ambience Manager and Inspectors (LU staff) may provide a set of Fleet Diagrams showing the specific areas requiring a film application/repair procedure or ancillary service to be carried out by the Contractor, which may include both interior and exterior areas of passenger saloons.
4. The Contractor will work systematically through one car at a time to completion. Once this is completed the next available car will be worked through to completion and so on.
5. The Contractor will ensure that all pieces of removed film, trimmings, paper backings from the film, equipment and chemicals are fully removed from the work area.
6. At the end of each shift the Contractor will provide a copy of the Fleet Diagram showing pieces of film that have been changed to the Fleet Ambience Manager or his nominated representative and a copy should also be retained by the Contractor. This must detail the following:
 - c) The car number and exact position and type of each complete film panel fitted during the shift.
 - d) The number of hours and number of personnel deployed during the shift.
7. Invoices must be raised by the Contractor which clearly detail the following:
 - c) The exact number of glass panels that have had film replaced
 - d) The number of hours and number of personnel deployed during the shift.
8. Any damage to LUL property caused by the contractor (damage to surrounding panels / rubber seals etc.) will be charged to the contractor.

All other aspects of the working arrangements will be as defined in Sections 3.1 – 3.4 below.

3.1 FILM APPLICATION/REPLACEMENT ON INTERIOR AND EXTERIOR

1. Film replacement for all interior and exterior panels will proceed as per the film manufacturer's instructions, with the following additional points drawn to attention:
 - Any existing pieces of film will be peeled off the surface as a whole panel (patch repairs are not satisfactory). The Contractor is permitted to use heat and suitable cleaning products (subject to the submission of a satisfactory COSHH assessment and LUL engineering approvals) to assist in this process if required.
 - After any film has been fully peeled off it will be necessary to ensure that all adhesive residues have been fully removed using solvent cleaners (subject to the submissions of a satisfactory COSHH assessment and LUL engineering approvals). **Note** – fresh pieces of film will not adhere properly to the inadequately cleaned panels (this is equally applicable to both interiors and exteriors). LUL will require films to be replaced, free of charge, if it is found that any areas de-bond at a later date due to inadequate surface preparation.
 - If required, a heat gun may be used to enable the film to conform to curved panels but the amount of heat used must not cause any damage to the panel.
2. Application of new films for all interior and exterior panels will proceed as per the film manufacturer's instructions, with the following additional points drawn to attention:
 - Prepare the surface using a 110 Volt orbital sander to smooth out any imperfections in the surface (e.g. paint stripper graffiti, gouges, dents etc).
 - If necessary, any deep indentations may need to be filled with compliant body filler (as listed in the LUL Approved Product Register). Manufacturers' instructions will need to be followed.
 - If necessary any bare metal may need to be primed with compliant metal primer paint (as listed in the LUL Approved Product Register). Manufacturers' instructions will need to be followed.

- After any fillers/primers have cured, the Contractor will need to clean the surface using a suitable chemical product (subject to the submission of a satisfactory COSHH assessment and LUL engineering approvals).

3.2 PAINING OF HEATER PANELS/WINDOW SURROUNDS

1. Paint application for heater panels and 3-Dimensional window surrounds will proceed as per the film manufacturer's instructions, with the following additional points drawn to attention:
 - Prepare the surface using a 110 Volt orbital sander to smooth out any imperfections in the surface (e.g. paint stripper graffiti, gouges, dents etc.).
 - If necessary, any deep indentations may need to be filled with compliant body filler (as listed in the LUL Approved Product Register). Manufacturers' instructions will need to be followed.
 - If necessary any bare metal may need to be primed with compliant metal primer paint (as listed in the LUL Approved Product Register). Manufacturers' instructions will need to be followed.
 - After any fillers/primers have cured, the Contractor will need to clean the surface using a suitable chemical product (subject to the submission of a satisfactory COSHH assessment and LUL engineering approvals).
2. Paint application may only be made using paint brush or roller – sprayed application is not permitted in the depot environment.

3.3 BUFFING TO REMOVE GRAFFITI GHOSTING/SCRATCHES FROM PANELS AND KICK PLATES

1. Buffing of panels with graffiti ghosting, scratches and porous surfaces will proceed as per the product manufacturer's instructions, with the following additional points drawn to attention:
 - Only 110 Volt buffing tools with lambswool or foam heads are permitted. Under no circumstances should abrasive disks be used.
 - Buffing should be kept to a minimum to restore the panel to an acceptable condition without revealing undercoat or bare metal.
2. In the event that undercoat or bare metal is revealed the works should stop and the Designated Employee Representative (DER) should be notified to determine corrective action to be undertaken.
3. Buffing of Stainless Steel Kick Plates on sliding doors to remove etched graffiti will proceed using a 110 volt buffing tool with a suitable abrasive disc. It is important that the whole of the Kick plate is buffed to ensure a uniform finish.

3.4 APPLICATION OF ANTI-GRAFFITI COATINGS

1. The application of Approved anti-graffiti coatings will proceed as per the product manufacturer's instructions, with the following additional points drawn to attention:
 - Application is only permitted either on panels that have first undergone the painting or buffing procedures in Section 3.2 or 3.3 above. The coatings may not be used on any other areas. Under no circumstances should these coatings be used on areas that have been filmed.
 - The area undergoing treatment will need to be cordoned off to prevent access by cleaners or depot staff during application and drying of the coating.

4.0 TECHNICAL REQUIREMENTS AND DESIGN INFORMATION

4.1 Appendices 2 - 5 of this Specification provide schematics (for guidance only - precise spatial configurations vary between fleets) for the areas required to be included within this scope. It will be the Supplier's responsibility to undertake measurement and provide CAD drawings to the exact dimensions and locations of surfaces to be filmed prior to commencement of filming services on site.

4.2 Any additional film application and/or material costs or resources required by the Supplier (due to error on its part) throughout the duration of the contract will be the full responsibility of the Supplier.

4.3 All LUL Internal & External signage to be replaced using approved materials which includes:

- Roundels
- Door letters
- Car Numbers (where applicable)
- Door Warning labels
- Door Penalty Fare labels
- Priority Seat labels
- Any other labelling removed through preparation and filming works

4.4 A manpower template which relates to the Programme and shows the proposed resources shall be provided by the Supplier. The Supplier shall be required to provide the manpower submitted in the template throughout the programme of works. Any additional cost or resourcing in addition to the manpower template submission to meet the requirements of the scope will be the responsibility of the Supplier.

5.1 PRODUCT AND COMPLETION RECORDS

This Section is applicable to all activities defined within this Specification.

The Supplier shall maintain a computer inventory of all carriages completed as well as the associated batch details, with this information then included in the Inspection and Release to Service (IRS) document (see bullet points below). Once the work specified for an individual carriage has been completed by the Supplier, the Supplier shall ensure that the IRS is counter-signed by the Designated Employee Representative (DER) where available before re-entering service.

- Information in the IRS shall include but will not be limited to;
- Record of vehicle condition before filming
- Carriage number and identification
- Any surface preparation issues
- Delivery date and details
- Certificate of Conformity
- Material batch number and batch details
- Temperature reading
- Identification of the operative working on each carriage
- Any building facilities issues
- Material batch inspection / carriage inspection results

These records shall be available to LUL throughout the contract in an electronic format and shall be handed over to LUL upon completion of contract.

6.0 STANDARDS AND ASSURANCE

6.1 The Supplier shall comply with all London Underground Standards, European Union and National Legislation, Regulations and Industry Guidance.

6.2 The precise requirements in relation to visual inspection and acceptance of works undertaken is as follows:

- A summary of the Visual Inspection and Acceptance Requirements are included in Appendix 1.
- The Supplier shall prepare a First Article Inspection (FAI) in accordance with section 4.0 of Appendix 1 for each of the Filming Services detailed in this Specification. The LUL DER shall attend the work site to witness each FAI. This will be scheduled into the mobilisation plan by the Supplier and agreed by LUL.
- A 'glass case sample' (GCS) of any coloured film used must be established as part of the FAI and a GCS submitted for acceptance by the supplier to LUL and retained by both the Supplier and LUL. Batch inspections of any further film must be compared with and meet the standard of the GCS.

6.3 The precise skills and competencies required for a contractor to safely and successfully complete their responsibilities in this contract are as follows:

- The Supplier's personnel shall be fully trained in order to be able to deliver the Filming Services in accordance with this Specification. Such training, including any subsequent refresher training shall be at the Supplier's expense and shall be organised by the Supplier.
- Training for working on LUL premises will, as a minimum, require Entry Permit (LUCAS card/Sentinel) and, at least, Depot core & Familiarisation training for each specific Depot being worked at.
- The Supplier shall provide proof of training in respect of all LUL approved and product licensed labour it uses to provide the Filming Services listed in this Specification and shall make these available to LUL representatives on request.
- Any training should be requested 4 weeks in advance of any requirement to be on site. The Supplier shall organise for this training to be undertaken and this includes, but is not limited to, manual handling, working at heights and working at low level. All training records must be maintained within the contractors working documents at each of the relevant depots at which work is progressing and made available to LUL representatives immediately upon request.

6.4 The contractor's responsibilities regarding packaging, delivery and removal are as follows:

- The contractor shall be responsible for providing the Materials and these shall be delivered to site at the Depots.
- LUL will be responsible for general depot access and will endeavour to provide the contractor with a space located on depot which can be secured for material storage. However, this is dependent on allocation space and not guaranteed. Any space that may be provided for safe storage and security of materials shall be the responsibility of the contractor.

7.0 KEY PERFORMANCE INDICATORS

NACCORDANCE WITH SCHEDULE 10 AND INCLUDES 7.1-7.3 BUT NOT LIMITED TO

7.1 Achievement of Weekly Service Productivity Targets

- The contractor shall meet 95% of the pro rata targets quoted in its Tender across each calendar week.

7.2 Quality of Workmanship

- Short-term: No more than 1 reject shall be recorded on the grounds of workmanship in a calendar week across all requirements.
- Medium-term: No more than 1 reject shall be reported on the grounds of workmanship 3 months after completion of any refurbishment Services. For the avoidance of doubt, defects associated with the works, although the responsibility of the Supplier shall not be included in this KPI.

7.3 Weekly Review Meeting / Report

- The Contractor and designated LUL managers will meet no later than the Tuesday of the week following the week whose performance is being discussed. During these meetings the parties shall discuss and then calculate the performance of the Contractor against 6.1 and 6.2 above, and review such trends based on the programme of work so far carried out. These metrics shall be recorded by the contractor in a report to be submitted to the designated LUL managers no later than Friday of the week such meetings are held.

8.0 SAFETY

The various items and subsequent requirements are as follows;

Risk Item	Requirement
Works to be undertaken in an operational Depot	Supplier to ensure work activities to not impact upon Depot operations
Works are to be undertaken adjacent to and within Depot internal tracks	Ensure work personnel are protected from train movements and electricity risks within the Depot. Employ a Safe System of Work in accordance with all LU standards and procedures
Works involve potential confined space and working at height implications	Consideration must be given to confined space working and working at height implications. Full PPE to be adopted.

Risk mitigation strategies should be defined in full by the Supplier.

9.0 RISK ASSESSMENTS.

Documented assessments will be required to outlining how the following risk factors will be dealt with:

Leptospirosis
Manual Handling
Pigeon Droppings
Access / Egress
Scaffold Erection
Dust
Working at Heights
Hand Held Tools
Noise and Vibration
Working on Ladders
Electrocution
Sharps/Needles

Appendix 1- Material Specification, Film Installation Quality Controls

The following Appendix details the quality controls proposed during the inspection of film batches, during installation and prior to train handover for LUL inspection. These quality controls shall be adhered to or an alternative improved method proposed and agreed.

1.0 Inspection of Film Batches

Technical Compliance Matrix			
ID	Parameter	Compliance	Remarks
1	Certificate of Conformity available for each batch of film clearly showing colour reference and batch number.	Valid batch CofC available for inspection	
2	Each batch visually inspected for integrity of packaging and general indicators of satisfactory transit condition.	Log available for inspection	
3	Assurance that Film meets LUL Standards		

2.0 Inspection of Installation Works

Technical Compliance Matrix			
ID	Parameter	Compliance	Remarks
1	Surface preparation being conducted as per Supplier's approved Method Statement	LU Inspection	as detailed in section 4
2	Film application being conducted as per Supplier's approved Method Statement	LU Inspection	as detailed in section 4
3	Label application being conducted as per Supplier's approved Method Statement	LU Inspection	as detailed in section 4

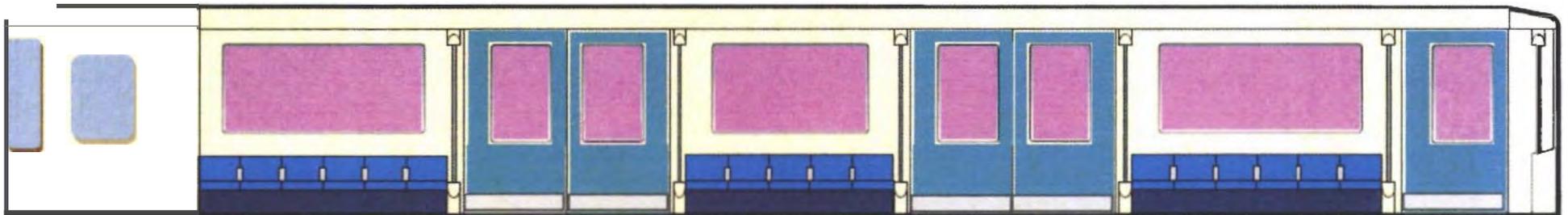
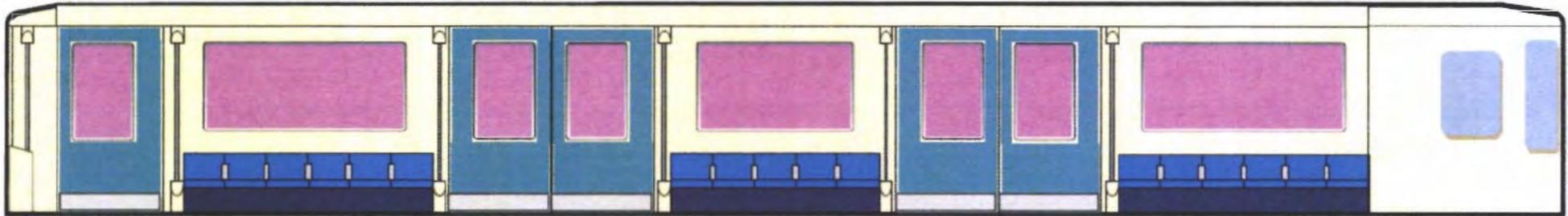
3.0 Inspection prior to LUL Handover

Technical Compliance Matrix			
ID	Parameter	Compliance	Remarks
1	All aspects of Supplier's approved Quality Assurance System have been logged as compliant for each carriage as detailed in section 4.	LU Inspection	as detailed in section 4
2	Visual Inspection of carriages by LUL personnel to ensure film has been fitted to all areas with no visual evidence of de-bonding. And any areas repaired show no visible signs of preparation works such as filling 12riming etc.	LU Inspection	
3	Visual Inspection of carriages by LUL personnel to ensure all warning and safety labels removed have been re-applied in the correct positions.	LU Inspection	-

4.1 First Article Inspection (FAI) Requirements

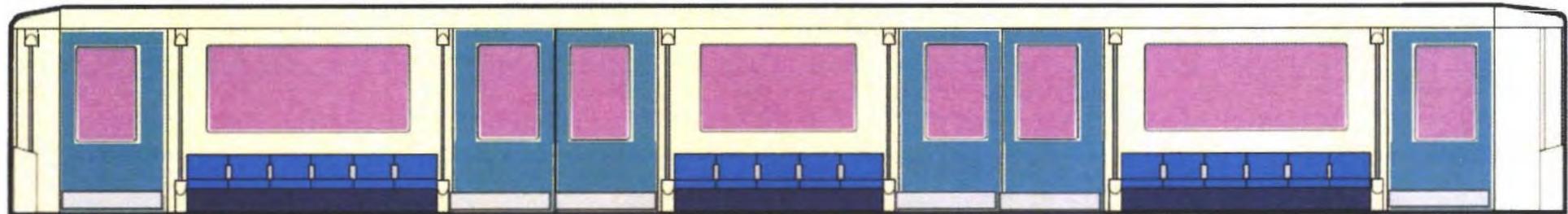
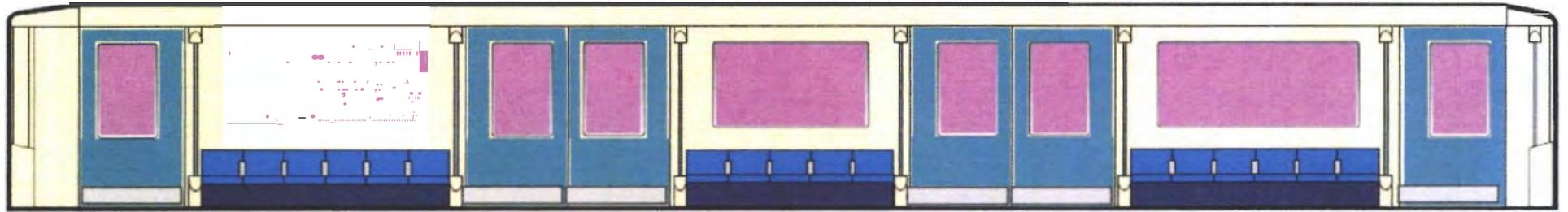
Technical Compliance Matrix			
IO	Parameter	Compliance	Remarks
1	Full Method Statement for surface preparation improvement works and film application to be developed by Supplier and approved by LUL before work commences.	LU Inspection	Assessed against manufacturer's recommendations
2	Method Statement for the application of labels to be developed by Supplier and approved by LUL before work commences.	LU Inspection	Assessed against corporate livery standards
3	Full Quality Assurance System to be developed by Supplier and approved by LUL before work commences.	LU Inspection	To include logged in process and final inspection checks
4	Stock Management Plan to be developed by Supplier and approved by LUL before work commences.	LU Inspection	Plan to be submitted with tender information
5	Confirmation that correct grade of LUL compliant film and colours are provided before work commences (COC).	LU Inspection	Colour match validation with previously approved colours

Appendix 2: Example Interior Cross Section – Driving Motor (OM) Cars



Colour	Item	Actions
1. ..4: 2';,- it	Saloon Glass (including draught screens)	Inspect condition, where required remove existing film and replace with new film.
	Cab Glass (Including M door)	Inspect condition, where required remove old film and replace with new Anti-Spall film.
	Doors	Prepare surface, apply film. Replace all door signage and lettering
	Stainless Steel Kick Plates	Buff Kick plates to remove etched Graffiti where visible

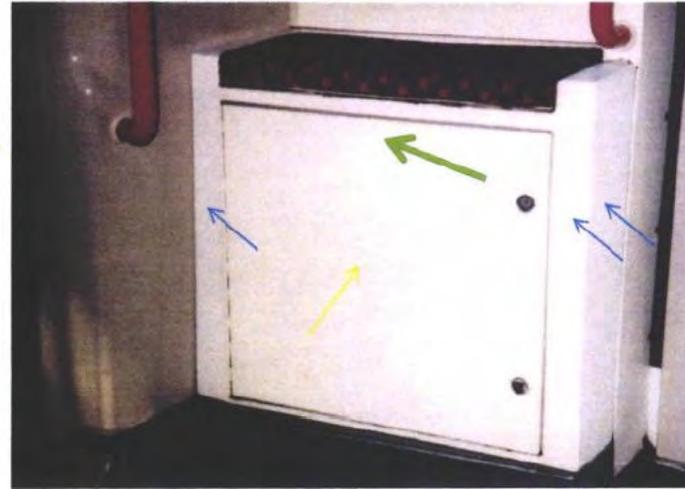
Appendix 2: Example Interior Cross Section – Non Driving Motor (NDM) Cars



Colour	Item	Actions
	Sabon Glass <u>including draught</u> screens	Inspect condition, where required remove existing film and replace with new film.
	Doors	Prepare surface, apply film. Replace all door signage and lettering.
	Stainless Steel Kick Plates	Buff Kick plates to remove etched Graffiti where visible

Appendix 3: Detailed Areas - Car Interiors

All arrowed areas require film, paint or coating application over the whole of the indicated vertical panel area.



NOTE: All interior LUL signage to be replaced using approved vinyl labels which include:

- Door letters
- Car Numbers
- Door warning signage

Appendix 4: Detailed Area – Window Surround



The 3 Dimensional shape of the Window Surround Panels makes it possible to only apply film within the area marked with yellow dashed lines.

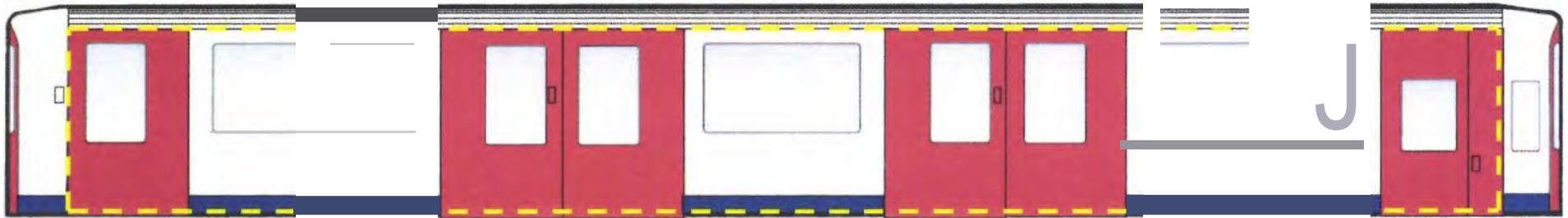
Scope for work on these panels is as follows:

- Inspect condition of panel.
- Deep clean and/or buff with paint refinishing compound.
- Apply film if condition of panel is still considered unacceptable.
- If general condition is good, apply anti-graffiti clear coating.

Other parts of the window surround that are not suitable for film application should be deep cleaned and/or buffed followed by application of anti-graffiti clear coating.

Appendix 5: Exteriors

- a) All 2 dimensional areas between the upper part of the sole bar and underside of the cant rail (i.e. area within the dashed line) are to be filmed with compliant Vinyl colour matched to the existing paint.



- b) Surfaces to be prepared by sanding back to remove all surface imperfections to provide a smooth surface for film application.
- c) Any surfaces sanded back to base metal to remove corrosion must be protected against corrosion using only LUL approved fillers and primers.
- d) Prior to film application, surfaces are to be deep cleaned to remove any deposits that could negatively affect film adhesion.
- e) All surface panels and doors to be filmed must maintain RVAR requirements.
- f) All un-filmed surfaces and car ends to be deep cleaned and buffed or repaired as required and Anti-Graffiti coating applied to compliment vinyl filmed areas.
- g) All exterior LUL signage to be replaced using approved vinyl labels which includes:
- Door letters
 - Car Numbers
 - LU Roundels
 - Door warning signage

Schedule 5

Contract Variation Procedure

The cost of any Variation Order shall be agreed between the parties taking account of the reasons why the Variation Order was required.

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

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

Appendix 1
Form of Variation Proposal Variation Order

To: _____ From: _____

Contract Reference Number:
Order Number:
Variation Number:
Variation Title:

PART A (TO BE COMPLETED BY THE ORIGINATOR OF THE VARIATION ORDER)

Description of change:

Reason for changes and impact (if any) on Contract:

Variation Proposal Authorised by: _____

Proposal Date: _____

PART B (TO BE COMPLETED BY THE SUPPLIER)

Price Breakdown

Note: If a further breakdown is needed please append details as a separate sheet.

Expected Order Delivery Date and/or Order Completion Date: _____

Supplier's Representative:

Print Name: _____

Signature: _____

Date: _____

Completed document to be returned to the Company's Representative

PART C (TO BE COMPLETED BY THE COMPANY'S REPRESENTATIVE)

Comment on Parts A and B:

Variation Authorisation

Company's Representative:

Print Name: _____

Signature: _____

Date: _____



Schedule 6
QUENSH

F0780 A18 Contract Menu

This Contract Menu must be used in conjunction with Category 1 Standard 51552 "Contract QUENSH Conditions"

Contract Menu

Contract No: Tft.-00717

Contract Name Rolling Stock Vinyl Filming Services

Client: London Underground

Supplier: Specialist Complant Coatings Ltd

Principal Contractor: Yes **1J** No **0**

Guidance

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

How to complete the menu

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

Queries on the menu

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

Contract menu

Requirements in QUENSH

Applicable requirements identified by Client				Applicable requirements identified by Supplier	
Section	Topic	Other documents / Comments	Y/N	Y/N	Reference to explanation of Section 2 of the Contract Guidance Note
4	Agreement of the applicable QUENSH contract conditions				
5	Supplier's selection of subcontractors		Y	Y	
6	Identification of Safety Critical Activities		Y	Y	
7	Works Environmental Management		Y	Y	
8	Emergency Plan		Y	Y	
9	Method Statements		Y	Y	
10	Health, Safety and Environment File		Y	Y	
11	Pre-start LU health, safety and environment meeting		Y	Y	
12	Supplier's site induction		Y	Y	
13	Site Person in Charge		Y	Y	
14	Staff requirements		Y	Y	
14.1	Behaviour		Y	Y	
14.1.1	Alcohol and drugs		Y	Y	
14.2	Control of hours worked		Y	Y	
14.2.1	Working Time Regulations		Y	Y	
14.2.2	Fatigue		Y	Y	
14.3	Knowledge		Y	Y	
14.3.1	English language		Y	Y	
14.3.2	Access Control and Work (site Briefing		Y	Y	
14.3.3	Visitors to sites		Y	Y	
14.4	General competence		Y	Y	
14.4.1	Evidencing competence of safety critical staff		Y	N	SEC do not provide Safety Critical Work/Staff
14.4.2	Identification of safety critical staff		Y	N	As above

Printed copies of this document are uncontrolled.

Page 3 of 10

Use in conjunction with S4552



Applicable requirement identified by Client				Applicable requirements identified by Supplier	
Section	Topic	Other doalments / Comments	YIN	YIN	R.r.rwnc:e to explanation - ... s.ctlon Z. In Illt9ched Guidance Not9s
14.4.3	Competent external safety critical personnel		Y	N	Above
14.4.4	Training		Y	Y	
14.4.5	Asset specific competence		Y	Y	
14.5	Medical requirements		Y	Y	
14.6	Identification of Suppliers staff		Y	Y	
14.7	Clothing		Y	Y	
15	Permits and Licences		Y	Y	
15.1	LU specific permits and licences		Y	Y	
15.2	Permits, licences and certificates for Supplier's staff		Y	Y	
16	The Principles of Access		Y	Y	
16.1	Introduction		Y	Y	
16.2	Access to Stations		N	N	
16.3	Access to Track		N	N	
16.4	Access to depots		Y	Y	
17	Apply for Planned Access		N	N	
17.1	Introduction		N	N	
18	Applying for General Access		Y	Y	
18.1	Constraints that apply to Generic Access		N	N	
19	Access for fault repair		N	N	
20	Operational Assurance		N	Y	
21	Closures and possessions		Y	Y	
21.1	Requirements for closures		N	N	
21.2	Requirements for possessions		N	N	
22	Controls at point of access		Y	Y	
22.1	Publication of works		N	N	
22.2	Checks at point of access		Y	Y	
22.3	Signing-on with the Station Supervisor		N	N	
22.4	Track specific requirements		N	N	



Applicable requirement identified by Client				Applicable requirement identified by SUD/IER	
Section	Topic	Other documents / Comments	Y/N	Y/N	Reference to expansion section 2 attached Guidance
22.4.1	Person providing protection		N	N	
22.4.2	Possessions		N	N	
23	Removal of supplier's personnel from LU Premises		N	N	
24	Incidents		N	N	
26	Notification of regulatory concern or action		N	N	
26	Confidential Incident Reporting and Analysis System (CIRAS)		N	N	
27	Monitoring		Y	Y	
27.1	LU inspections		Y	Y	
27.2	Monitoring the supply chain			Y	
27.3	Health, safety and environmental surveillance by the supplier's personnel		Y	Y	
27.4	Work location inspection and audit		Y	Y	
27.5	Time scales for rectifying non-compliances		Y	Y	
28	Radio transmitters and transceivers		N	N	
29	Mobile phones		Y	Y	
30	Knives		Y	Y	
31	Site health, safety and environment committee		Y	Y	
32	Site housekeeping and security		Y	Y	
33	Accidental damage, obstruction or interference with assets		Y	Y	
34	Delivery of materials		Y	Y	
35	Conveyance of loads		Y	Y	
35.1	Conveyance of loads on lifts and escalators		N	N	
35.2	Conveyance of hazardous materials and substances		Y	Y	
36	Asbestos (non asbestos removal projects)		N	N	
37	Working in or near lifts and escalators		N	N	
38	Work on or adjacent to utilities and High Voltage cables (buried services)		N	N	
39	Working on or about the track		Y	Y	



Applicable requirements identified by Client				Applicable requirements identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Y / N	Reference to explanation • see Section 2a In attached Guidance Notes
40	Access to electrical sub-stations, working equipment, relay and other secure rooms		Y	N	
41	Entering areas with gaseous fire suppression systems		N	N	
42	Fire prevention		Y	Y	
42.1	General requirements		Y	Y	
42.2	Temporary fire points		Y	Y	
42.3	Timber		N	N	
42.4	Composites		N	N	
42.6	Sheeting materials		N	N	
42.6	Gas cylinders		Y	N	
42.6.1	Use of gas cylinders in below ground locations		N	N	
42.6.2	Storage of gas cylinders (above ground)		N	N	
42.7	Flammable and highly flammable materials		Y	N	
42.7.1	Use of flammable and highly flammable materials below ground		N	N	
42.7.2	Storage of flammable and highly flammable materials below ground		N	N	
43	Hot work and fire hazards		N	Y	
43.1	Hot work		N	N	
43.2	Reasonable notice of works		N	N	
43.3	Precautions		N	H	
43.3.1	Buildings and assets		N	N	
43.3.2	Gas cylinders		N	N	
43.3.3	Gas detection		N	N	
44	Storage		Y	Y	
44.1	General requirements for storage		Y	N	
44.2	Trackside storage		N	N	
44.3	Hazardous materials and substances		Y	Y	
44.4	Allocation of space on operational property		N	N	
45	Plant and equipment		Y	N	



Applicable requirements identified by Client				Applicable requirements identified by Supplier	
Section	Topic	Other documents / Comments	Y/N	Y/N	Reference to explanation - see Section 2- In attached Guidance Note
46	Clearance approval		N	N	
47	Access equipment		N	N	
48	Temporary works		N	N	
49	Temporary fences and hoardings		N	N	
60	Temporary lighting and POW & r appl.		N	N	
50.1	General requirements		N	N	
50.2	Lighting in tunnels and shafts		N	N	
51	Screening of lights and positioning		N	N	
52	Environmental requirements		Y	Y	
52.1	General environmental requirements		Y	Y	
52.2	Environmental nuisance			Y	
52.3	Water		N	N	
52.4	Waste management		Y	Y	
52.5	Noise and vibration		Y	Y	
52.6	Archaeology, historical interest and listed buildings		N	N	
52.7	Wildlife and Habitats		N	N	
52.8	Resource Use		N	N	
52.9	Pest control		N	N	
52.10	Land and water pollution prevention		Y	Y	
53	Quality requirements		Y	Y	
53.1	Records		Y	Y	
53.2	Retention period		Y	Y	
53.3	Availability of records for inspection, etc.		Y	Y	
53.4	Statistical process control, audit and inspection procedures		Y	Y	
53.5	General Quality requirements		Y	Y	
53.6	Quality Plan		Y	Y	
53.7	Testing and Inspection		Y	Y	
53.8	Certification of conformity		Y	Y	

Applicable requirements identified by Client				Applicable requirements identified by Supplier	
S.Ction	Topic	Other documents / Comments	YIN	YIN	Reference to explanation • see Section 2ah attached Guidance Notes
53.9	Quarantine		y	y	
53.10	Traceability		y	y	
53.11	Maintenance and servicing		y	y	
53.12	Design		N	N	
53.13	Computer aided design		N	N	
53.14	Asset commissioning and handover		y	y	

Client/Supplier approval

Client Menu (Invitation to Tender)

Prepared by: _____ Signature: _____

Approved by
(the Client's
representative): _____ Signature: _____

Title: _____

Address: _____

Phone No: _____

Email: _____

Revision of this menu: A18

Supplier Menu (Tender)

Approved by
(the Supplier's): _____ Signature: _____

Title: _____

Address: _____

Phone No: _____

Email: _____

Revision of this menu: _____

Contract Menu (Final Approval of Menu)

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

Client's
representative
approval: _____ Signature: _____

Supplier's
representative
acceptance: _____ Signature: _____

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

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

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

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

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

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

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

Executed as a deed by affixing the Common Seal of

London Underground Limited

in the presence of:-

{Authorised Signatory}

Executed as a Deed by [SUPPLIER]

acting by

)

) Authorised Signatory

and

)

) Authorised Signatory

Executed as a Deed by [NEW COMPANY]

acting by

)

) Authorised Signatory

and

)

) Authorised Signatory

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

For the purposes of construing the warranties in this Clause 1 references to the Sub-Contract Supply shall include any part of the Sub-Contract Su

pply. Each warranty shall be construed as a separate warranty and shall not be limited by reference to, or reference from, the terms of any other warranty or any other term of the Sub-Contract.

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

provided always that the Supplier shall not be liable for the consequences of any use of the Documents as aforesaid for any other purpose. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties without the prior consent of the Sub-contractor.

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

5. The Sub-Contractor agrees:

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

6. The parties hereby agree that:

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

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

any increase in the premium or imposition of terms which arise as a result of the Sub-contractor's insurance claims record.³

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

9.
 - (a) Neither the Sub-Contractor nor the Supplier shall exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated the Sub-Contract or discontinue or suspend the performance of any of its duties or obligations thereunder or treat the Sub-Contract as determined without first giving to the Supplier or the Sub-Contractor (as applicable) not less than 35 days prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-contractor's or Supplier's grounds for terminating or treating as terminated the Sub-contract or discontinuing or suspending its performance thereof or treating the Sub-contract as determined.

 - (b) If the Main Contract is terminated for any reason, within 35 days of such termination the Company may give written notice to the Sub-Contractor and to the Supplier (a "**Step-in Notice**") that the Company or its appointee shall henceforth become the Supplier under the Sub-Contract in accordance with the terms of sub-clause (c) below.

 - (c) With effect from the date of the service of any Step-in Notice:
 - (i) the Company or its appointee shall be substituted in the Sub-Contract as the Supplier thereunder in place of the Supplier and references in the Sub-

Contract to the Supplier shall be construed as references to the Company or its appointee;

- (ii) the Sub-Contractor shall be bound to continue with the performance of its duties and obligations under the Sub-Contract and any exercise or purported exercise by the Sub-Contractor prior to the date of the Step-in Notice of any right to terminate or treat as terminated the Sub-Contract or to discontinue or suspend the performance of any of its duties or obligations thereunder or to treat the Sub-Contract as automatically determined shall be of no effect;
 - (iii) the Company shall become bound by the terms and conditions of the Sub-contract in respect of all obligations and duties of the Supplier thereunder which fall to be performed after the date of the Step-in Notice and shall promptly thereafter make payment of any amounts properly due to the Sub-contractor as at the date of the Step-in Notice and still outstanding; and
 - (iv) the Supplier shall be released from further performance of the duties and obligations of the Supplier under the Sub-Contract after the date of the Step-in Notice, but without prejudice to any rights and remedies of:
 - (1) the Sub-Contractor against the Supplier in respect of any matter or thing done or omitted to be done by the Supplier on or before the date of the Step-in Notice; and
 - (2) the Supplier against the Sub-Contractor in respect of any matter or thing done or omitted to be done by the Sub-Contractor on or before the date of the Step-in Notice.
- (d) Notwithstanding anything contained in this Agreement and notwithstanding any payments which may be made by the Company to the Sub-Contractor, the Company shall not be under any obligation to the Sub-Contractor and the Sub-Contractor shall not be under any obligation to the Company unless the Company shall have served a Step-in Notice pursuant to Clause 9(b) above.
10. The Sub-Contractor's liabilities, duties and obligations hereunder shall be no greater and of no longer duration than the liabilities, duties and obligations which the Sub-Contractor owes to the Supplier under the Sub-Contract.

11. The Sub-Contractor further undertakes to indemnify the Company from and against the consequences of any breach by the Sub-Contractor of any of the warranties, covenants and undertakings contained in this Agreement.
12. The rights and benefits conferred upon the *Company* by this Agreement are in addition to any other rights and remedies that the Company may have against the Sub-Contractor including, without prejudice to the generality of the foregoing, any remedies in negligence.
13. Nothing contained in this Agreement shall in any way limit the obligations of the Supplier to the Company arising under the Main Contract or otherwise undertaken by the Supplier to the Company in relation to the Sub-Contract Supply.
14. No amendment to this Agreement shall be valid unless it is in writing and signed by all parties.
15. Any person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
16. This Agreement shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

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

Executed as a deed by affixing the Common Seal of

London Underground Limited

in the presence of:-

{Authorised Signatory}

Executed as a Deed by [SUB-CONTRACTOR]

acting by

)

) Authorised Signatory

and

)

) Authorised Signatory

Executed as a Deed by [SUPPLIER]

acting by

)

) Authorised Signatory

and

)

) Authorised Signatory

Schedule 10 Supplier Performance

1 Supplier Performance

1.1 The contractor shall meet as minimum 95% of the pro rata targets agreed.

1.1.1 **Delivery** – The target is 100% to the agreed times. Failure to meet the delivery schedule will attract the following abatements against the full order value due to be delivered in the measured period. This will be measured each Accounting Period.

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

1.2 Quality

12.1 Short-term: No more than 1 reject shall be recorded on the grounds of workmanship in a calendar week across all requirements.

1.2.1 (a) Medium-term: No more than 1 reject shall be reported on the grounds of workmanship 3 months after completion of any refurbishment Services.

For the avoidance of doubt, defects associated with the works, although the responsibility of the Supplier shall not be included in this KPI.

1.2.2 Working in accordance with ISO9001:2008 including training matrix, competence and compliance.

1.2.3 Working in accordance with ISO9001:14001 & 18001.

12. 4 A valid change control process.

12.5 Regular audits ensuring no corrective action request (CAR's), observations at no more than 1-2 per audit. (Frequency of audits to be agreed at contract review meeting (CRM)).

12.6 Full working risk register (To ensure adherence to technical and performance specification)
To be reviewed at CRM.

12.7 LUL handback and control of work site process.

Quality KPIs to be address at contract review meetings.

2. **Availability of agreed resources.**
3. **Warranty of workmanship and all consumables.**
4. **Review meetings attendance as agreed**

The Contractor and designated LUL managers will meet no later than the Tuesday of the week following the week whose performance is being discussed. During these meetings the parties shall discuss and then calculate the performance of the Contractor, and review such trends based on the programme of work so far carried out. These metrics shall be recorded by the contractor in a report to be submitted to the designated LUL managers no later than Friday of the week such meetings are held

When defects are found the escalation process will begin in the following circumstances:

- More than 1 reject on the grounds of workmanship 3 months after completion.
- Material defects
- Non compliance of Quality Processes and documentations
- Unavailability of agreed resources
- Unavailability of reports and review meeting attendance

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

Summary of Escalation Process

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

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

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

Level 1

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

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

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

Level 2

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

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

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

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

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

Level 1

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

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

Level 4

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

Rectification Period; or the Supplier fails to rectify the Level 3 Non-Conformance within the Level 3 Rectification Period.

EXECUTION PAGE:

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

Executed as a deed by
affixing the Common Seal of
London Underground Limited

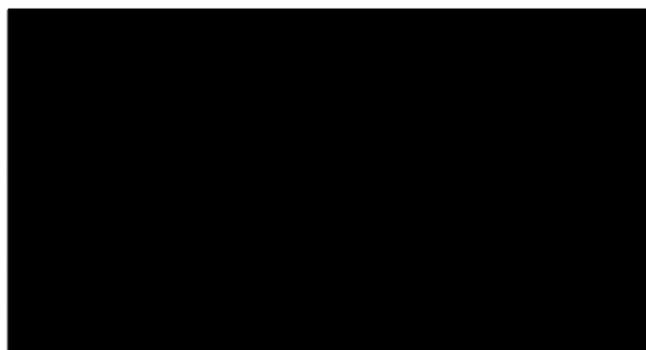


in the presence of:-



Authorised Signatory

Executed as a Deed by
Specialist Compliant Coatings Ltd
acting by



and