

**7.0 SPECIALIST PROTECTION (if applicable)**

Describe what specialist resources will be required & whether these will be provided by LU / Contractor or a Third Party

**8.0 VEHICLES / PLANT / EQUIPMENT (if applicable)**

Describe what Vehicles / Plant / Equipment will be required

Describe any access / planning requirements

**9.0 ADDITIONAL INFORMATION**

Add any other information which may be pertinent to the access requirements here

For details on completion timescales for processing Access Requests, talk to an Access Manager

A resource loaded schedule of work is to be attached when the form is submitted for final approval & processing

## Appendix 2: Application to Work Form

Multi-Worksite Possession Team Application to Work Form					
Date of Application			Week No.		Equivalent Engineering hours shifts
Date of Possession			Week No.		
Responsible manager for work	Name				
	Organisation				Cost Centre
	Contact number				E mail:
Scope of work: Brief Description					
Chainage					
Chainage	Line(s) Affected	Times Reqd.		Limits	
Worksite Location					
Lines Affected Including EB - WB - IR - OR - NB - SB Limits 1 No. Form For Each Respective Worksite					
Is it Possible to Pass Engineering Trains through your worksite. Ensure all information is correctly entered.					
			Yes	No	
			If Yes, how much notice reqd. to clear site	If No, enter justification below	
<b>Engineering Trains</b>					
Are Engineering trains working in your worksite		Yes		If Yes, how many and which type:	
		No			
<b>Road Rail Vehicles (RRVs)</b>					
Are EHs Possessions required to Outstable RRVs prior to Closure		Yes		Are EHs Possession required to return RRVs following Closure	
		No			
Comments					
<b>On Track Plant / machinery</b>					
Are any On Track Plant / machinery Working in your worksite		Yes		If yes ensure you enter all information correctly in the respective boxes below	
		No			
Line(s) Affected		Access		Egress	
<b>Resources</b>					
Are any specific resources required for your worksite		Yes		If yes ensure you enter all information correctly in the respective boxes below	
		No			
Are all staff on site Track Accustomed certificated?		Yes		If no ensure, adequate time is allocated to clear line(s) of all non cert. staff to allow passage of Engineering train if applicable	
		No			
Anticipated No of staff in worksite					
Control measures for access to worksite					
Is station Access required		Yes	No		
Worksite Notification: Date Worksite Notification accessible for review.					

### **Appendix 3: Indicative Timescales for the Publication of Notices**



#### Appendix 4: Access Subcategories

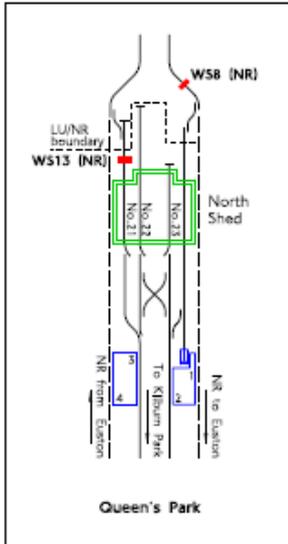
<b>Station works</b>			
<b>Access Type</b>	<b>Booking Description</b>	<b>Days</b>	<b>Work Type Description</b>
General Access	General Access (non Track)	14	For undertaking the majority of everyday access needs, using relevant tools and materials. Not to be used for works that imposes a restrictive or exclusive requirement on other access users.
Non Restrictive/ Exclusive Access	APPENDIX 1 Non Restrictive/ Exclusive Access (non Track)	14	For undertaking everyday access needs, using relevant tools and materials within a defined area
Restrictive Access	Restrictive - Asbestos Premises	21	Only issued to specialist Asbestos contractors registered with LU for asbestos works. Access for asbestos works e.g. removal for which no other parties can be present on grounds of safety.
	Restrictive - Bright Lights	21	For where access introduces the use of additional lighting that could potential impact other access users. Rarely applied.
	Restrictive - Closure Area	21	To define an area of a station subject to a Closure (i.e. taken out of service for the purposes of engineering works).
	Restrictive - Movement of Materials	21	For where access necessitates the movement of materials either through a station that may impact on other access users. May include craning over of materials.
	Restrictive - Noisy Works	21	For where access will result in particularly noisy works that may have an impact on other access users.
	Restrictive - Plant / Chemicals in a confined space	21	For where access introduces the use of plant and chemicals in a confined space. Rarely used.
	Restrictive - Power Cessation- Power	21	For where access will introduce a cessation of power that may impact other

<b>Station works</b>			
<b>Access Type</b>	<b>Booking Description</b>	<b>Days</b>	<b>Work Type Description</b>
	Outages Possible		access users (e.g. need for temporary supplies/portable lighting).
Exclusive Access	Exclusive – Asbestos Exclusion Zone	21	Only issued to specialist Asbestos contractors registered with LU for asbestos works. Access for asbestos works e.g. removal for which no other parties can be present on grounds of safety.

## Appendix 5: Network Rail Interface Locations

# Bakerloo line

T03. Harrow & Wealdstone to Kiburn High Road via Queen's Park Track Agreement. LU is Network Rail's customer for track, signalling and traction current. These are shared with LORCL, which also has an Agreement with Network Rail.



Station Agreements between Harrow & Wealdstone and Kiburn High Road via Queen's Park. Excluding Willesden Junction LU is the Station Facility Owner.

LU's access to Stonebridge Park is via Network Rail track. There is an end-on track interface between LU and Network Rail track at the depot entrance.

There are end-on track interfaces between LU and Network Rail at the North end of the LU Queen's Park North Shed. LU and Network Rail tracks also run parallel through Queen's Park Station.

The route from Queen's Park to Kiburn High Road station is provided under Track agreement T03 for reversing the service in emergency only.

<b>Richmond</b>	Network Rail owned station (with SFO, may be other TOC's)
<b>T03</b>	Track Agreement
	Location of Track Agreement

Created: 30 March 2012

For details of Land and Property boundaries refer to Site Specific Engineering arrangements LNW-B, SE-B and WN-B

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# Central line

Falling Broadway - Station Agreement.  
FGW is the Station Facility Owner.  
LU is the customer but owns the  
Central and District line platforms.



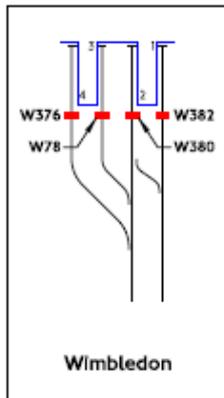
West and South Ruislip - Station Agreements.  
LU is the station owner. Chiltern Railways is  
LU's customer but manages its own platforms.

Greenford - Station Agreement. LU is the station  
owner. FGW is LU's customer.  
Network Rail owns the track in the bay platform.

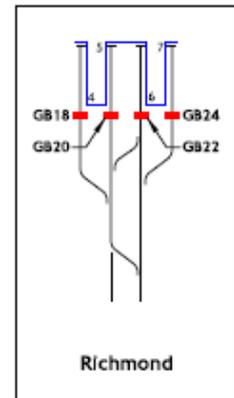
**Richmond** → **sw** Network Rail owned station (with SFO, may be other TOCs)  
**TOA** Track Agreement  
Location of Track Agreement

For details of Land and Property boundaries  
refer to Site Specific Engineering arrangements  
GW-C, ML-C and SE-C

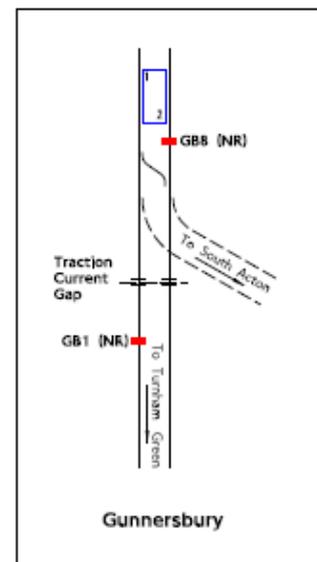
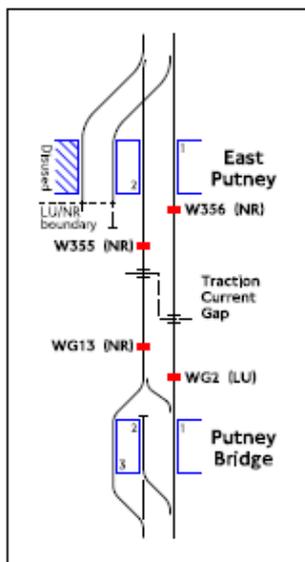
# District line



T02. East Putney to Wimbledon Track Agreement. Gives South West Trains a diversionary and empty stock route. Network Rail supplies the traction current and signal operation but is LU's customer for track.



Kensington Olympia - Station Agreement. LOROL is the Station Facility Owner. LU is the customer.



Barking and Upminster - Station Agreements. C2C is the Station Facility Owner. LU is the customer.

**Richmond (SW)** Network Rail owned station (with SFO, may be other TOCs)

**TO2** Track Agreement

**TO3** Location of Track Agreement

For details of Land and Property boundaries refer to Site Specific Engineering arrangements SE-D and WN-D

# Jubilee line



Canning Town - Station Agreement. LU is the Station Facility Owner. The Docklands Light Railway's access is covered by a lease but LU provides some station services.

West Ham - Station Agreement. LU is the station facility owner. CRC is the customer but manages its own platforms.

Stratford - Station Agreement. High level platforms and subways - NXEA are the Station Facility Owner. LU (Central line) is the customer, but staff Central line platforms.

<b>Richmond</b>	Network Rail owned station (with SFO, may be other TOC's)
<b>TO3</b>	Track Agreement
	Location of Track Agreement

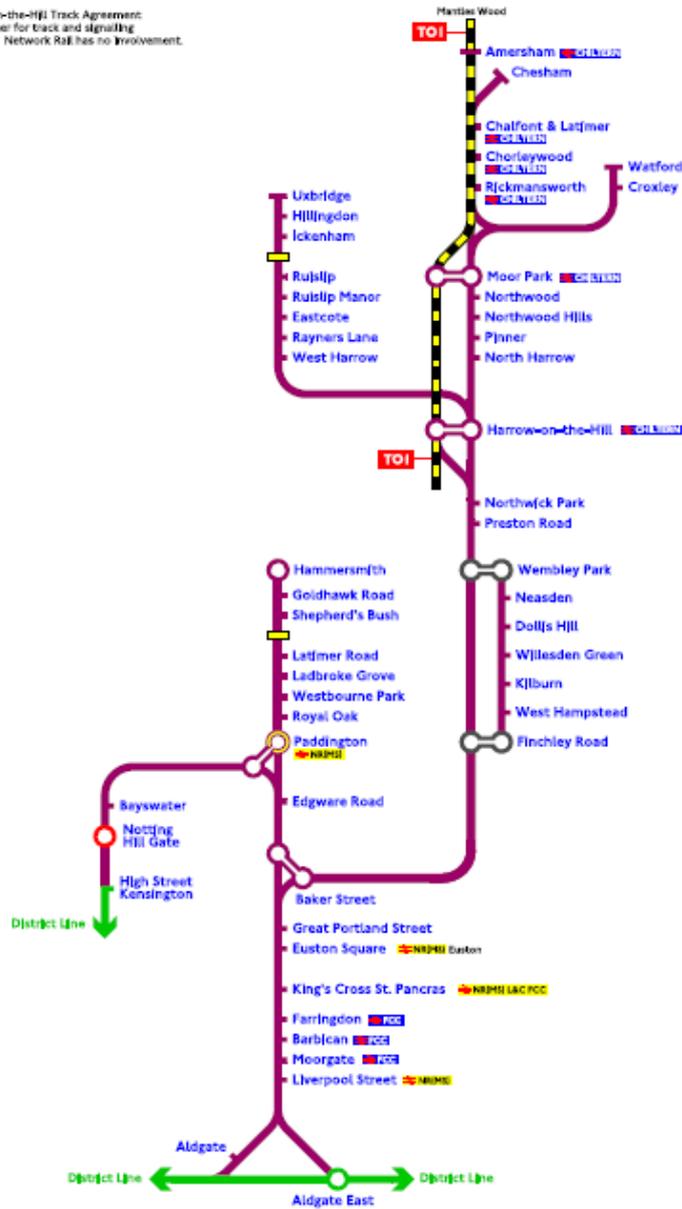
For details of Land and Property boundaries refer to Site Specific Engineering arrangements SE-J and LNW-J

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# Metropolitan line

TO1: Marles Wood - Harrow-on-the-Hill Track Agreement  
 Chiltern Railways is LU's customer for track and signalling over the Metropolitan main line. Network Rail has no involvement.



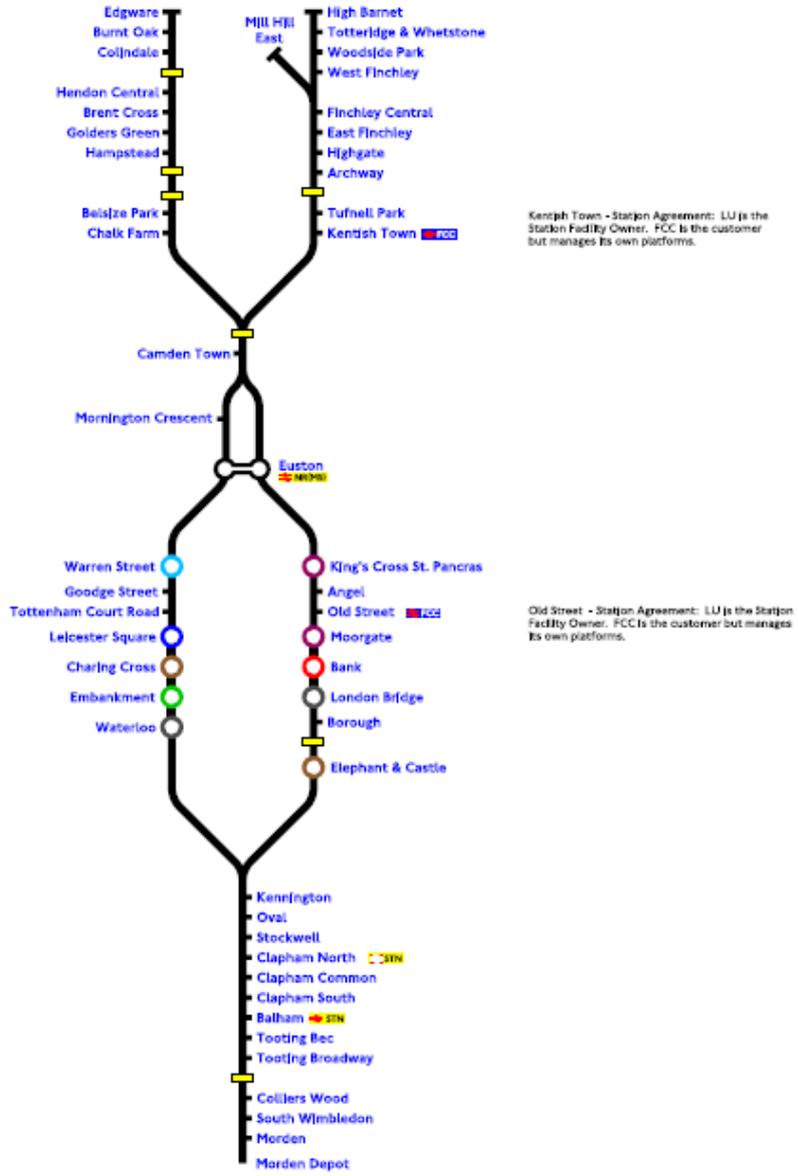
Station Agreements between Amersham and Harrow-on-the-Hill. LU is the station facility owner. Chiltern Railways is the customer. Chiltern uses Moor Park in emergencies only.

Farringdon and Moorgate - Station Agreements. LU is the Station Owner. FCC is the customer at Moorgate but manages its own platforms.

<b>Richmond-e-awt</b>	Network Rail owned station (with SFO, may be other TOC's)
<b>TO1</b>	Track Agreement
	Location of Track Agreement

For details of Land and Property boundaries refer to Site Specific Engineering arrangements LNE-M, LNW-M, SE-M and WN-M

# Northern line

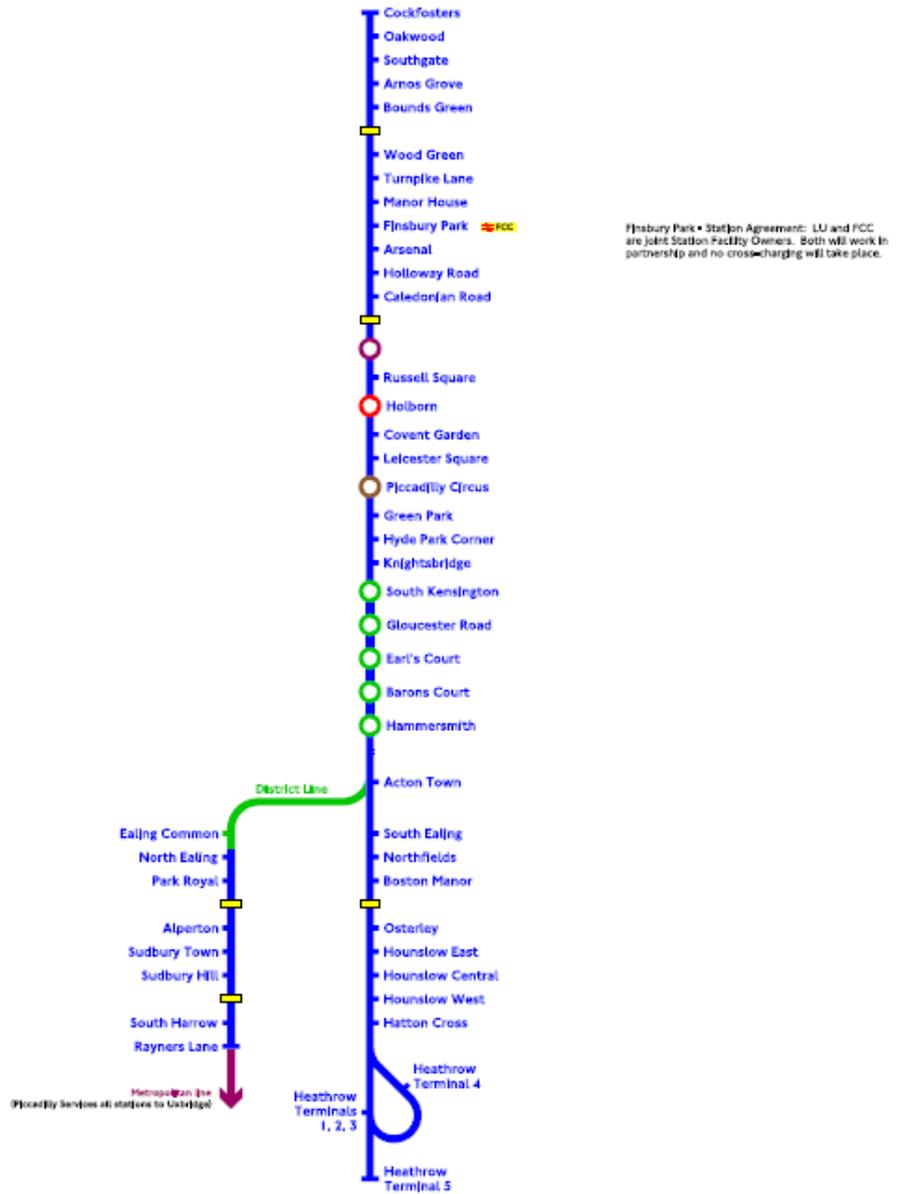


<b>Richmond - EWT</b>	Network Rail owned station (with SFO, may be other TOC's)
<b>ROS</b>	Track Agreement
<b>Yellow dashed line</b>	Location of Track Agreement

For details of Land and Property boundaries refer to Site Specific Engineering arrangements LNE-N, LNW-N and SE-N

Created: 30 March 2012

# Piccadilly line



<b>Richmond-Lowley</b>	Network Rail owned station (with SFO, may be other TOC's)
<b>TO3</b>	Track Agreement
	Location of Track Agreement

Created: 30 March 2012

For details of Land and Property boundaries refer to Site Specific Engineering arrangements LNE-P, LNW-P, SE-P and WN-P

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# Victoria line



Walthamstow Central - Station Agreement: NXEA is the Station Facility Owner. LU is the customer but owns its own part of the station at sub surface level.

Blackhorse Road - Station Agreement: LU is the Station Facility Owner. LOROL Train Services is the customer but manages its own platforms.

Tottenham Hale and Seven Sisters - Station Agreements: LU is the Station Owner. NXEA is the customer but manages its own platforms.

Highbury & Islington - FCC is the Station Facility Owner for NR deep level platforms. LU is the Station Facility Owner for the LOROL Train Services platforms. All other parts of the station are owned by LU.

	Network Rail owned station (with SFO, may be other TOC's)
	Track Agreement
	Location of Track Agreement

Created: 30 March 2012

For details of Land and Property boundaries refer to Site Specific Engineering arrangements LNE-V, LNW-V and SE-V

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**Appendix 6: Cancelled or Delayed/Curtailed Access Form**

London Underground					
Frustrated Access (Cancelled / Delayed / Curtailed) Form					FAC-001 v1
Directorate:			Upgrade / Asset Group:		
Project / Work Title:			Project Id / Work Order / Job Ref:		
Line: _____			Unique Ref.: _____		
Access Affected: <small>(tick one)</small>		Cancelled: <input type="checkbox"/>	Delayed / Curtailed: <input type="checkbox"/>		
Date: <small>(shift start)</small>		Day: ____/____/____	Night: (start) ____ - (end) ____/____/____		
Access Authority Details: <small>(must be valid)</small>					
Booking Ref. (1):		<input type="text"/>	PICER Ref <small>(copy required)</small> _____		
Booking Ref. (2):		<input type="text"/>	Access Type: TRACK / STATION / OTHER <small>(Circle as applicable)</small>		
<small>All details Mandatory</small>					
Access Location (or Code):			Work Location or Code (+ SB/NB/EB/WB):		
Station Supervisor Name:			Track Current Sections Booked Out (ref required):		
Work to be done <small>(brief details)</small>					
Time Booked on Station:	Time Booked on with TAC:	Call Back Time given by TAC:		TAC Ref. No:	
Planned Start time:	Actual Start time:	Planned finish time:	Actual finish time:	Total Shift or Time Lost:	
Reporters Details: <small>(mandatory)</small>					
Name:		Company		Contact No.	
				Email	
LU Accountable Manager Details:					
Name:		Directorate / delivery Group		Contact No.	
				Email	
Contractors / Sub-Contractors affected: <small>(mandatory)</small>					
Contractor	Ops in work Party (no.)	Contractor	Ops in work Party (no.)	Contractor	Ops in work Party (no.)
Cause of Lost Time / Shift <small>(mandatory)</small>					
Engineers Train Y/N	Train ref. no.	Was train published in ENLA?	If so, which no?	Was Train published in Eng Notice?	If so, which no?
	Reason for late running (if known)				
Passenger Train Y/N	Train ref. no.	Line	Direction (circle one) SB / NB / EB / WB	Destination	
	Reason for late running (if known)				
Other Contractor	<input type="checkbox"/>	Name			
LU Supervisor	<input type="checkbox"/>	Name			
Late Book on TAC	<input type="checkbox"/>	Details			
Early call back TAC	<input type="checkbox"/>				
Other	<input type="checkbox"/>				
Signature of station supervisor				Was further investigation completed by DOE / DOME? Y / N	

This form must be faxed to XXXXX or emailed to XXXX

## **SCHEDULE 5: CONTRACT VARIATION PROCEDURE AND ADDITIONAL WORKS**

### **PART A – CONTRACT VARIATION PROCEDURE**

1. Without prejudice to paragraph 3 below, 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 Authority may propose a variation by completing Appendix 1 (Form of Variation Proposal/Variation Order) of this Part A 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 Authority, the Supplier shall complete Part B of the Variation Proposal and shall supply two (2) copies of the Variation Proposal to the Authority. The Authority shall be entitled, at any time within twenty (20) Working 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 (1) 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 this Contract shall thereupon be varied accordingly.
3. For the avoidance of doubt, the Supplier shall carry out the variation in accordance with the Variation Order on the terms determined by the Authority and such variation shall commence no later than five (5) Working Days (unless otherwise instructed by the Authority) following receipt of the signed Variation Order by the Supplier. Where the terms are not agreed by the Supplier, or where the Supplier fails to provide Part B of the Variation Proposal to the Authority within the timescales set out in paragraph 2 above, the variation shall be deemed to be agreed and the Supplier shall proceed, at the request of the Authority, to implement the variation in accordance with the specified terms within five (5) Working Days (unless otherwise instructed by the Authority of receipt of the original Variation Proposal by the Supplier. Where such Variation Order is disputed by the Supplier, the Supplier may refer this to the dispute resolution procedure pursuant to Schedule 12 (Dispute Resolution Procedure) but is required to implement the variation pending the outcome of the Dispute.
4. The Supplier may propose a variation, after requesting the issue by the Authority 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 Authority. The Authority shall be entitled, at any time within twenty (20) Working 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 (1) 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 this Contract shall thereupon be varied accordingly.
5. 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 Authority in writing at least five (5) Working Days before the expiry of the time within which the Authority is entitled to instruct the Supplier to proceed with the variation.
6. In all Variation Proposals, the Supplier shall ensure that:

- (A) the price indicated by the Supplier is the full price and shall cover all costs associated with the variation;
  - (B) if appropriate, a range of prices is shown corresponding to the extent of the Services to be carried out; and
  - (C) the Variation Proposal includes such further information as may reasonably be required by the Authority.
7. In an Emergency, both Parties shall use their reasonable endeavours to expedite the actions permitted or required under the Contract Variation Procedure.
  8. The Authority will not accept any retrospective claims for additional work caused by a variation which has not been approved by the Authority in accordance with the Contract Variation Procedure before the commencement of such additional work.
  9. All authorised additional work resulting from any Variation Proposal shall be priced in accordance with any applicable rates set out in Schedule 2 (Payment).
  10. The Supplier shall at all times act reasonably and shall price each Variation Proposal at the least possible additional cost to the Authority that it is reasonably and economically practicable for the Supplier to offer and which has the least possible impact on the terms of this Contract, including but not limited to, the Specification.
  11. Strict adherence to the procedure described in this Schedule 6 Part A (Contract Variation Procedure) shall be a condition precedent to any addition to the Contract Price for the Services. If the Supplier does not adhere to each paragraph in this Schedule 6 Part A then the Supplier shall not be entitled to any addition to the Contract Price notwithstanding that the Supplier may have supplied additional or varied Services.

APPENDIX 1: FORM OF VARIATION PROPOSAL/VARIATION ORDER

<b>To:</b>		<b>From:</b>	
<b>Contract Reference:</b>			
<b>Variation Number:</b>			
<b>Variation Title: PART A (TO BE COMPLETED BY THE ORIGINATOR OF THE VARIATION ORDER)</b>			
<b>Description of change:</b>			
<b>Reason for changes and impact (if any) on Contract:</b>			
<b>Variation Proposal Authorised by:</b>		<b>Proposal Date:</b>	
<b>PART B (TO BE COMPLETED BY THE SUPPLIER)</b>			
<b>Price Breakdown</b> Note: If a further breakdown is needed please append details as a separate sheet.			
<b>Expected Delivery Date:</b>			
<b>Supplier's Representative:</b>			
<b>Print Name:</b> .....		<b>Signature:</b> .....	<b>Date:</b> .....
Completed document to be returned to the Authority's Representative			
<b>PART C (TO BE COMPLETED BY THE AUTHORITY'S REPRESENTATIVE)</b>			
<b>Comment on Parts A and B:</b>			
Variation Authorisation <b>Authority's Representative:</b>			
<b>Print Name:</b> .....		<b>Signature:</b> .....	<b>Date:</b> .....

PART B – ADDITIONAL WORKS

## SCHEDULE 5 PART B PART 1

### ADDITIONAL WORKS

#### Part 1

#### Definitions

#### 1. Definitions

##### 1.1 In this Schedule 5, Part B:

"Additional Works" means the provision, on a temporary and/or ad hoc basis, of:

- (a) services and/or works which are not the Services but which the Authority reasonably requires the Supplier to provide;
- (b) the Services at locations other than the Sites;
- (c) any additional labour, in excess of any of the quantities set out in the Specification, to provide services which relate to the type and nature of the general scope of the Services but which are outside of the specific scope of the Services;

"Additional Works Notice" means a request for Additional Works from the Authority that states on its face that it is an Additional Works Notice;

"Additional Works Rates" means the rates to be applied in respect of any request from the Authority for Additional Works as contained in Schedule 4 (Pricing);

"Revised Additional Works Notice" has the meaning given to it in paragraph 2.4 of Part 2 of this Schedule 6

## SCHEDULE 5 PART B PART 2

### ADDITIONAL WORKS

#### Part 2

##### Additional Works

**1. Additional Works Notice**

1.1 Where Additional Works are required by the Authority, the Authority shall submit to the Supplier an Additional Works Notice.

**2. Supplier Response and Authority Confirmation**

2.1 Within five (5) Working Days of receipt of the Additional Works Notice, the Supplier shall confirm in writing to the Authority as relevant and in accordance with this Part 2:

- (A) the cost of performing the required Additional Works;
- (B) the time period for performing the Additional Works; and
- (C) when it is proposed the Additional Works are to be carried out.

2.2 The cost of implementing the required Additional Works shall be calculated by reference to paragraph 3 of this Part 2.

2.3 Other than the costs referred to in paragraph 2.2 of this Part 2 the Supplier shall make no charge to the Authority for processing, implementing or managing Additional Works.

2.4 The Authority may object in writing within five (5) Working Days of receipt of the Supplier's confirmation pursuant to paragraph 2.1 of this Part 2 to any part of that confirmation and in such circumstances the Parties shall act reasonably to agree as soon as practicable how the Additional Works are to be implemented. In the event that the parties cannot reach agreement within ten (10) Working Days (unless otherwise instructed by the Authority, the Authority shall have sole discretion to determine the terms and such terms shall be notified to the Supplier in a revised Additional Works Notice (the "Revised Additional Works Notice").

2.5 Where the Authority accepts the information provided by the Supplier pursuant to paragraph 2.1 and following receipt of an instruction by the Authority to proceed with the Additional Works, the Supplier shall then carry out the Additional Works in accordance with the agreed Additional Works Notice or Revised Additional Works Notice (as applicable).

2.6 Notwithstanding the right of the Supplier to refer a Dispute in relation to an Additional Works Notice to the dispute resolution procedure pursuant to Schedule 12 (Dispute Resolution Procedure), in the event of a Dispute, the Supplier is required to implement the Additional Works pending the outcome of the Dispute.

**3. Pricing of Additional Works**

3.1 For the purposes of paragraph 2.2 of this Part 2, the cost of implementing any Additional Works shall be calculated in accordance with the calculation set out in Schedule 2 (Payment) and on the basis that:

- (A) wherever practicable the Supplier shall procure that such works are carried out by existing on-site and suitably qualified Supplier Personnel and no labour element shall be charged to the Authority in respect of such works. Where such Additional Works are not carried out by existing on-site and suitably qualified Supplier Personnel, the cost of the labour element shall be calculated in accordance with the Additional Works Rates or, where such rates are not applicable, in accordance with rates which are fair and reasonable;
- (B) subject to paragraph (C), the materials element shall be charged at the cost of materials to the Supplier or to the contractor carrying out the work (net of all discounts) and there shall be no management fee, margin, overhead, contingency or other cost applied in relation thereto; and
- (C) an uplift of five per cent (5%) shall be payable by the Authority to the Supplier in respect of the Additional Works.

**4. Implementation**

4.1 The Supplier shall perform the required Additional Works so as to minimise any inconvenience to the Authority and within the timescales specified in the confirmation provided pursuant to paragraph 2.1 of this Part 2 (or agreed by the parties pursuant to paragraph 2.4 of this Part 2).

4.2 The Supplier shall notify the Authority when it believes the Additional Works have been completed.

4.3 Where the Supplier has either:

- (A) failed to provide a response pursuant to paragraph 2.1 of this Part 2; or
- (B) failed to fully implement the Additional Works within ten (10) Working Days of the date that has been determined or agreed in accordance with paragraph 4.1 of this Part 2 as being the date on which the Additional Works should have been implemented,

then the Authority shall be entitled to exercise its rights pursuant to Schedule 11 (Performance Measurement).

**5. Payment**

5.1 Where the Additional Works have been performed to the satisfaction of the Authority acting reasonably the Supplier shall include the costs of the relevant Additional Works in

its next following Payment Application submitted pursuant to Clause 17.1 following completion of the relevant Additional Works.

- 5.2 All amounts payable in respect of Additional Works shall be invoiced and paid in accordance with the procedure described in Clause 17 of this Contract.

**6. Documentation and Monitoring**

- 6.1 No due diligence (whether funder, legal, technical, insurance or financial) shall be required in relation to Additional Works unless otherwise agreed between the parties.

- 6.2 Unless otherwise agreed between the parties, no changes shall be made to this Contract as a result of Additional Works, save for the encompassing of the subject matter of the Additional Works within the Specification.

- 6.3 The Supplier shall keep a record of all Additional Works processed, completed and outstanding and shall provide the Authority with a copy of that record whenever reasonably required by the Authority.

**7. Disputes**

Any Dispute may be referred by either party for resolution pursuant to Schedule 12 (Dispute Resolution Procedure), but the Supplier shall, nevertheless, be required to perform the Additional Works within the prescribed timescales notwithstanding the Dispute, where such Dispute concerns the cost of the Additional Works.

**8. Applicability of the Contract**

In providing the Additional Works, the Supplier shall comply with the requirements of the Contract and (save to the extent the contrary is expressly set out in this Schedule that is agreed or determined in accordance with the Contract) any provisions in the Contract which impose obligations on the Supplier in respect of the provision of the Services shall apply equally to the provision of the Additional Works.

Transport for London

London Underground



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# F0780 Contract Menu

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

**Review date:** August 2020

**Issue No.:**

**MAYOR OF LONDON**

# Contract Menu

<b>Contract No:</b>	TfL001127
<b>Contract Name</b>	<u>Programmable Logic Controller Maintenance Servicing and Fault Call Response</u>
<b>Client:</b>	Station Operations
<b>Supplier:</b>	Z – TECH CONTROL SYSTEMS LTD
<b>Principal Contractor:</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

## 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.
  - (1) The Supplier receives the ITT, evaluates the scope of work and, as a requirement of the tendering process, inserts 'Y' or 'N' in the 'Identified by the Supplier' column of the menu against each condition selected as being applicable. These selections may be different from those identified by the Client. Where the Supplier's selection differs from the Client's selection, a clear explanation of the reason for these differences shall be given by the Supplier. A reference to these explanations shall be put in the 'Reference to explanation' column on the menu.
  - (2) The Supplier representative signs and dates the 'Supplier menu (Tender)' on the last page of the menu and submits it with the tender, for consideration by the Client.
  - (3) Differences in the Client and Supplier menu selections will be discussed and resolved with the Client at subsequent tender review meetings. The agreed final version of the menu selections shall form a mandatory part of the Contract and shall be complied with by all Suppliers and their sub-contractors.
  - (4) The menu shall be subject to project version and document control.

### Queries on the menu

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



## Contract menu

### Requirements in QUENSH

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
4	Agreement of the applicable QUENSH contract conditions				
5	Supplier's selection of sub-contractors		Y		
6	Identification of Safety Critical Activities		Y		
7	Works Environmental Management		Y		
8	Emergency Plan		Y		
9	Method Statements		Y		
10	Health, Safety and Environment File		Y		
11	Pre-start LU health, safety and environment meeting		Y		
12	Supplier's site induction		Y		
13	Site Person in Charge		Y		
<b>14</b>	<b>Staff requirements</b>				
<b>14.1</b>	<b>Behaviours</b>				
14.1.1	Alcohol and drugs		Y		
14.1.2	Control of hours worked		Y		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
<b>14.2</b>	<b>Knowledge</b>				
14.2.1	English language		Y		
14.2.2	Access Card and Worksite Briefing		Y		
14.2.3	Visitors to sites		Y		
<b>14.3</b>	<b>General competence</b>				
14.3.1	Evidencing competence of safety critical staff		Y		
14.3.2	Identification of safety critical staff		Y		
14.3.3	Competent external safety critical personnel		Y		
14.3.4	Training		Y		
14.3.5	Asset specific competence		Y		
14.4	Medical requirements		Y		
14.5	Identification of Suppliers staff		Y		
14.6	Clothing		Y		
<b>15</b>	<b>Permits and licences</b>				
15.1	LU specific permits and licences		Y		
15.2	Permits, licences and certificates for Supplier's staff		Y		
<b>16</b>	<b>The Principles of Access</b>				
16.1	Introduction		Y		
16.2	Access to Stations		Y		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
16.3	Access to Track		Y		
16.4	Access to depots		Y		
<b>17</b>	<b>Applying for Planned Access</b>				
17.1	Introduction		Y		
18	Applying for General Access		Y		
18.1	Constraints that apply to Generic Access		Y		
19	Access for fault repair		Y		
20	Operational Assurance		Y		
<b>21</b>	<b>Closures and possessions</b>				
21.1	Requirements for closures		N		
21.2	Requirements for possessions		N		
<b>22</b>	<b>Controls at point of access</b>				
22.1	Publication of works		N		
22.2	Checks at point of access		Y		
22.3	Signing-on with the Station Supervisor		Y		
<b>22.4</b>	<b>Track specific requirements</b>				
22.4.1	Person providing protection		N		
22.4.2	Possessions		N		
23	Removal of supplier's personnel from LU Premises		N		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
24	Incidents		Y		
25	Notification of regulatory concern or action		Y		
26	Confidential Incident Reporting and Analysis System (CIRAS)		Y		
<b>27</b>	<b>Monitoring</b>				
27.1	LU inspections		Y		
27.2	Monitoring the supply chain		Y		
27.3	Health, safety and environmental surveillance by the supplier's personnel		Y		
27.4	Work location inspection and audit		Y		
27.5	Timescales for rectifying non-compliances		Y		
28	Radio transmitters and transceivers		Y		
29	Mobile phones		Y		
30	Knives		Y		
31	Site health, safety and environment committee		Y		
32	Site housekeeping and security		Y		
33	Accidental damage, obstruction or interference with assets		Y		
34	Delivery of materials		Y		
<b>35</b>	<b>Conveyance of loads</b>				
35.1	Conveyance of loads on lifts and escalators		Y		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
35.2	Conveyance of hazardous materials and substances		Y		
36	Asbestos (non asbestos removal projects)		N		
37	Working in or near lifts and escalators		Y		
38	Work on or adjacent to utilities and High Voltage cables (buried services)		Y		
39	Working on or about the track		Y		
40	Access to electrical sub-stations, working equipment, relay and other secure rooms		Y		
41	Entering areas with gaseous fire suppression systems		N		
<b>42</b>	<b>Fire prevention</b>				
42.1	General requirements		Y		
42.2	Temporary fire points		N		
42.3	Timber		N		
42.4	Composites		N		
42.5	Sheeting materials		N		
<b>42.6</b>	<b>Gas cylinders</b>				
42.6.1	Use of gas cylinders in below ground locations		N		
42.6.2	Storage of gas cylinders (above ground)		N		
<b>42.7</b>	<b>Flammable and highly flammable materials</b>				

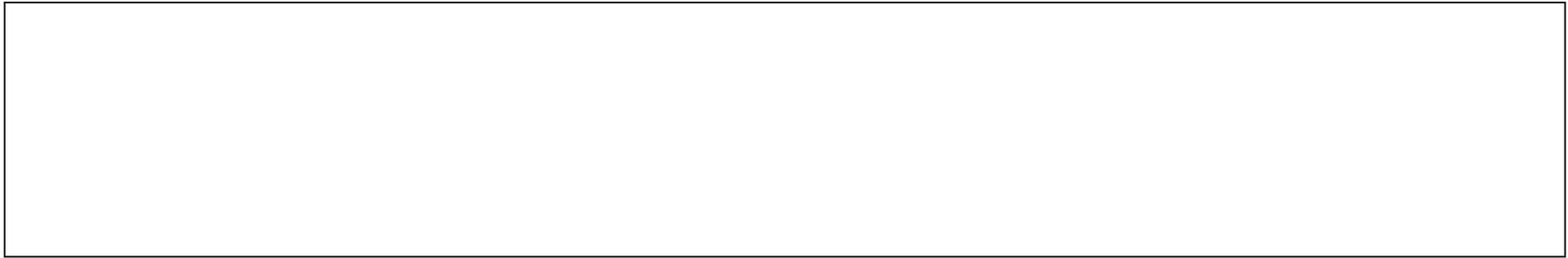
Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
42.7.1	Use of flammable and highly flammable materials below ground		N		
42.7.2	Storage of flammable and highly flammable materials below ground		N		
<b>43</b>	<b>Hot work and fire hazards</b>				
43.1	Hot work		Y		
43.2	Reasonable notice of works		Y		
<b>43.3</b>	<b>Precautions</b>				
43.3.1	Buildings and assets		Y		
43.3.2	Gas cylinders		N		
43.3.3	Gas detection		Y		
<b>44</b>	<b>Storage</b>				
44.1	General requirements for storage		Y		
44.2	Trackside storage		N		
44.3	Hazardous materials and substances		N		
44.4	Allocation of space on operational property		Y		
45	Plant and equipment		Y		
46	Clearance approvals		N		
47	Access equipment		Y		
48	Temporary works		Y		
49	Temporary fences and hoardings		Y		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
<b>50</b>	<b>Temporary lighting and power supplies</b>				
50.1	General requirements		Y		
50.2	Lighting in tunnels and shafts		Y		
51	Screening of lights and positioning		N		
<b>52</b>	<b>Environmental requirements</b>				
52.1	General environmental requirements		Y		
52.2	Environmental nuisance		Y		
52.3	Water		N		
52.4	Waste management		Y		
52.5	Noise and vibration		Y		
52.6	Archaeology, historical interest and listed buildings		N		
52.7	Wildlife and Habitats		N		
52.8	Resource Use		N		
52.9	Pest control		N		
52.10	Land and water pollution prevention		N		
<b>53</b>	<b>Quality requirements</b>				
53.1	Records		Y		
53.2	Retention period		Y		
53.3	Availability of records for inspection		Y		

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
53.4	Statistical process control, audit and inspection procedures		Y		
53.5	General quality requirements		Y		
53.6	Quality Plan		Y		
53.7	Testing and inspection		Y		
53.8	Certification of conformity		Y		
53.9	Quarantine		N		
53.10	Traceability		N		
53.11	Maintenance and servicing		Y		
53.12	Design		N		
53.13	Computer aided design		N		
53.14	Asset commissioning and handover		Y		

**Other requirements / comments**







### Client/Supplier approval

#### Client Menu (Invitation to Tender)

Prepared by: Russell Rowland Signature: 

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

Title: Programmable Logic Controller Maintenance Servicing and Fault Call Response

Address: 280 Old Marylebone Road, London, NW1 5RJ

Phone No: 020 7918 (4)1856

Email: 

Revision of this menu: 001

#### Supplier Menu (Tender)

Brendan Nicholson

Approved by (the Supplier's): \_\_\_\_\_ Signature: \_\_\_\_\_

Title: Programmable Logic Controller Maintenance Servicing and Fault Call Response  
Unit 4 Meridia, Buckingham Business Park, Anderson Road, Swavesey,

Address: Cambridge  
CB24 4AE

Phone No: 01223 653 599

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: \_\_\_\_\_

## SCHEDULE 7: DEED OF NOVATION

**THIS DEED** is made [●] day of [●] 20[●]

BETWEEN:

**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 "Authority" which expression shall include its successors, transferees and assignees); and

[●] a company registered in [England and Wales] under number [●] and having its registered office at [●] (the "Supplier"); and

[●] a company registered in [England and Wales] under number [●] and having its registered office at [●] (the "New Company").

WHEREAS:

- (A) The Authority has an agreement dated [●] and referenced [insert contract number] with the Supplier for the provision of [describe in brief the scope of work/services] (the "Contract").
- (B) The Authority wishes to transfer [part of] its benefit and burden under the Contract to the New Company.
- (C) The Supplier and the New Company have agreed to such transfer upon the terms and conditions of this Deed.

### IT IS AGREED AS FOLLOWS:

1. In this Deed:

"Transfer Date" means [●].

2. With effect from the Transfer Date:

2.1 the New Company undertakes to perform the obligations of the Authority under the Contract and be bound by its terms in every way as if the New Company is and had been named at all times as a Party to the Contract in lieu of the Authority;

2.2 the Supplier releases and discharges the Authority from all demands and claims whatsoever in respect of the Contract and accepts the liability of the New Company in relation to the Contract in lieu of the liability of the Authority and agrees to be bound by the terms of the Contract in every way as if the New Company were and had been a Party to the Contract at all times in lieu of the Authority;

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

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

2.4 the Authority 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 ).....

and

) Authorised Signatory

).....

) Authorised Signatory

## SCHEDULE 8: FORM OF PARENT COMPANY GUARANTEE AND PERFORMANCE BOND

THIS GUARANTEE is made the \_\_\_\_\_ day of \_\_\_\_\_ 201[●]

### BETWEEN:

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

### WHEREAS:

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

### NOW IT IS HEREBY AGREED as follows:

1. The Guarantor unconditionally guarantees to the Authority the proper and punctual performance and observance by the Supplier of all its obligations, warranties, duties, undertakings and responsibilities under the Contract and shall forthwith make good any default thereunder on the part of the Supplier and the Guarantor shall pay or be responsible for the payment by the Supplier to the Authority of all sums of money, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Supplier.
2. This Guarantee shall be a continuing guarantee and indemnity and accordingly shall remain in full force and effect until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed or observed by the Supplier under or arising out of the Contract have been duly and completely performed and observed in full.
3. The Guarantee is in addition to and not in substitution for any other security or warranty which the Authority may at any time hold for the performance of any obligations, warranties, duties and undertakings under the Contract and may be enforced by the Authority without first taking any proceedings or exhausting any right or remedy against

the Supplier or any other person or taking any action to enforce any other security, bond or guarantee.

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

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

13. This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
14. No person other than the Authority and its subsidiaries (as defined in section 1159 of the Companies Act 2006) shall have any right to claim or remedy under or pursuant to this Guarantee and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.
15. This Guarantee, executed and delivered as a deed, shall be governed by and interpreted according to the laws of England and the Courts of England shall have exclusive jurisdiction save that the Authority shall have the right to bring proceedings in the courts of any other jurisdiction in which any of the Guarantor's assets may be situated.
16. [For non-UK resident Guarantors only:

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

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

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

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

.....  
[Authorised Signatory]

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

## SCHEDULE 9: FORM OF ON DEMAND PERFORMANCE BOND WITH APPENDIX 1

### BOND

(Letterhead of Guarantor)

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

### Contract Bond No. [ • ]

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

### PROVIDED THAT:

1. This Bond shall come into force on the date hereof.
2. Any demand hereunder shall be substantially in the form of Appendix 1 (Form of Demand from the Authority to the Guarantor) to this Bond, and as between you and us the facts set out in that demand shall be: (a) deemed to be true and (b) accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due and payable to you hereunder, it being our intention that the event upon which payment must be made hereunder is the service of your demand without any rights on our part to raise any objections, irrespective of the validity or the effectiveness of the Contract and the obligations arising thereunder and irrespective of the underlying facts or their significance under the Contract.
3. All sums payable under this Bond shall be paid in pounds sterling to such bank account as may be specified in your demand in immediately available funds, free of any restriction or condition and free and clear of and without any deduction or withholding whether for or on account of tax, by way of set-off, or otherwise, except to the extent required by law.
4. For the purpose of this paragraph 4, the expression "Expiry Date" means [•]. Our liability hereunder shall be limited as follows:
  - (A) we shall have no liability in respect of any demand received after the Expiry Date; and
  - (B) in respect of a demand or demands received on or before the Expiry Date, our liability shall not exceed the aggregate sum of £ [4.8M] [**Amount of bond to be Confirmed**].
5. Our obligations hereunder shall remain in full force and effect and shall not in any way be affected, reduced or discharged by:

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

12. Except to the extent it is inconsistent with the express terms of this Bond, this Bond is subject to the ICC Uniform Rules for Demand Guarantees, 2010 revision, ICC Publication No. 758.

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

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

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

.....  
[Authorised Signatory]

**APPENDIX 1: FORM OF DEMAND FROM THE AUTHORITY TO THE GUARANTOR**

Dear Sirs

**[Contract Title]**

**Contract No: [●]** (the "Contract")

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

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

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

Yours faithfully

.....  
[Authority name]  
Windsor House  
42-50 Victoria Street  
London  
SW1H 0TL

## SCHEDULE 10: FORM OF COLLATERAL WARRANTY

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 201[●]

**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 "Authority" which expression shall include its successors, transferees and assignees);
- (2) [●] a company registered in England and Wales under number: [●] and having its registered office at [●] (the "Sub-Contractor"); and
- (3) [●] a company registered in England and Wales under number: [●] and having its registered office at [●] (the "Supplier").

**WHEREAS:-**

- (A) The Authority has entered into a contract with the Supplier (the "Main Contract") pursuant to which the Supplier is to undertake and complete the following services: [●] (the "Services").
- (B) The Sub-Contractor has submitted a tender to the Supplier for the carrying out and completion of certain parts (the "Sub-Contract Services") of the Services referred to above as more particularly described in the tender.

**NOW IN CONSIDERATION** of the payment of £1 (one pound) by the Authority to the Sub-Contractor (receipt of which the Sub-Contractor hereby acknowledges) IT IS HEREBY AGREED as follows:

1. The Sub-Contractor warrants to the Authority that:
  - (A) the Sub-Contract Services 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 Services;
  - (B) reasonable skill and care has been and will continue to be exercised in connection with:
    - (1) the design of any goods, works or services to the extent that the Sub-Contractor has or will be responsible for such design;
    - (2) the selection of all goods and materials comprised in the Sub-Contract Services (in so far as such goods and materials have been or will be selected by the Sub-Contractor);

- (3) 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 Services (the "Sub-Contract");
  - (4) the execution and completion of the Sub-Contract Services;
  - (5) the Sub-Contract Services 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 Services 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 Authority 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 Services shall include any part of the Sub-Contract Services. 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 Services:
- (A) execute and complete the Sub-Contract Services 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 Services 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 Authority 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 Authority or the Supplier, the Sub-Contractor hereby grants to the Authority 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 Services;

- (B) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Services;
- (C) extending, interfacing with, integrating with, connecting into and adjusting the Services;
- (D) enabling the Authority to carry out the operation, maintenance repair, renewal and enhancement of the TfL Network and/or Sites (as such capitalised terms are defined in the Main Contract);
- (E) executing and completing the Services; and
- (F) enabling the Authority to perform its functions and duties as Infrastructure Manager and Operator of the TfL Network and/or Sites (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 Authority or any persons authorised by the Authority access to the material referred to in Clause 4 and at the Authority's expense to provide copies of any such material; and
- (B) at the Sub-Contractor's expense to provide the Authority with a set of all such material on completion of the Sub-Contract Services.

6. The Parties hereby agree that:

- (A) this Agreement shall be personal to the Sub-Contractor;
- (B) the Authority 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 Authority 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 Services, 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 Services. The Sub-Contractor shall maintain such professional indemnity insurance for a period of 12 years from completion of the Services provided such insurance remains available at commercially reasonable rates and shall notify the Authority forthwith if such insurance ceases to be so available. When deciding whether such insurances are available at commercially reasonable rates, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Sub-Contractor's insurance claims record.

8. If any dispute of any kind whatsoever arises between the Parties in connection with this Agreement or the Sub-Contract Services which raises issues which are in opinion of the Authority the same as or substantially the same as issues raised in a related dispute (the "Related Dispute") between the Authority 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 Authority 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 Services 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 twenty five (25) Working Days prior written notice of its intention to do so, with a copy to the Authority, 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 twenty five (25) Working Days of such termination the Authority may give written notice to the Sub-Contractor and to the Supplier (a "Step-in Notice") that the Authority 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:
    - (1) the Authority 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 Authority or its appointee;

- (2) 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;
    - (3) the Authority 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
    - (4) 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:
      - (a) 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
      - (b) 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 Authority to the Sub-Contractor, the Authority shall not be under any obligation to the Sub-Contractor and the Sub-Contractor shall not be under any obligation to the Authority unless the Authority shall have served a Step-in Notice pursuant to Clause (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 Authority 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 Authority by this Agreement are in addition to any other rights and remedies that the Authority 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 Authority arising under the Main Contract or otherwise undertaken by the Supplier to the Authority in relation to the Sub-Contract Services.

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 11: PERFORMANCE MEASUREMENT

### 1. Definitions

For the purposes of this Schedule 11 (Performance Measurement), the following expressions shall have the following meanings:

- 1.1. "Escalation Procedure" means the procedure set out in table 1 (Summary of Escalation Procedure) of paragraph 8 of this Schedule 11 (Performance Measurement);
- 1.2. "Graded" shall mean marked in accordance with the relevant performance criteria set out for each KPI in Appendix 1 (Key Performance Indicators) to this Schedule 11 (Performance Measurement) and agreed or determined pursuant to paragraph 5.2 of this Schedule 11 (Performance Measurement).
- 1.3. "KPI Report" shall have the meaning given in paragraph 4.1 of this Schedule 11 (Performance Measurement).
- 1.4. "KPIs" means the key performance indicators as detailed in Appendix 1 to this Schedule 11 and "KPI" means any one of them.
- 1.5. "Level 1 Non Conformance" shall mean any of the following:
  - (A) a failure by the Supplier to co-operate with the Authority in connection with the preparation of a KPI Report in accordance with paragraph 4.1 of this Schedule 11 (Performance Measurement);
  - (B) a KPI is Graded as 'Red' for one Period; or
  - (C) a KPI is Graded as 'Amber' for three consecutive Periods; or
- 1.6. (D) a breach of this Contract by the Supplier and this is deemed a "Level 1 Non Conformance" by the Authority (in its sole discretion) "Level 1 Non Conformance Report" shall have the meaning given in paragraph 8.4.1 of this Schedule 11 (Performance Measurement).
- 1.7. "Level 1 Rectification Period" shall have the meaning given in paragraph 8.4.1(C) of this Schedule 11 (Performance Measurement).
- 1.8. "Level 1 Required Action" shall have the meaning given in paragraph 8.4.1(B) of this Schedule 11 (Performance Measurement).
- 1.9. "Level 2 Non Conformance" shall mean any of the following:
  - (A) the Authority determines that a Level 1 Non Conformance should be treated as a Level 2 Non Conformance, for any reason, including failure of the Supplier's Representative and the Authority's Representative to agree any or all of the Level 1 Required Action, the Level 1 Rectification Period and whether the Level 1 Required Action has been completed within the Level 1 Rectification Period;
  - (B) the Supplier fails to notify the Authority of the occurrence of a Level 1 Non Conformance prior to the Authority notifying the same to the Supplier (provided that the Authority shall be entitled, having regard to the gravity of the Non Conformance, to treat it as a Level 3 Non Conformance rather than a Level 2 Non Conformance);

- (C) the Supplier fails to make available to the Authority a Level 1 Non Conformance Report within 5 Working Days of service by the Authority of the notice referred to in paragraph 8.4.1 of this Schedule 11 (Performance Measurement);
  - (D) the Supplier fails in the Authority's opinion to undertake the Level 1 Required Action within the Level 1 Rectification Period;
  - (E) the Supplier fails in the Authority's opinion to complete the Level 1 Required Action within the Level 1 Rectification Period;
  - (F) within 1 month of the end of a Level 1 Rectification Period, the KPI concerned is Graded "Red" or 'Amber';
  - (G) a KPI that is currently subject to a Level 1 Rectification Period is Graded 'Red' or 'Amber';
  - (H) failure to meet the requirements of Schedule 6 (Health, Safety, Quality and Environmental Requirements); or
  - (I) [failure to provide the IPR Register in accordance with Schedule 2 (Specification)].
- 1.10. "Level 2 Non Conformance Report" shall have the meaning given in paragraph 8.5.1 of this Schedule 11 (Performance Measurement).
- 1.11. "Level 2 Rectification Period" shall have the meaning given in paragraph 8.5.1(C) of this Schedule 11 (Performance Measurement).
- 1.12. "Level 2 Required Action" shall have the meaning given in paragraph 8.5.1(B) of this Schedule 11 (Performance Measurement).
- 1.13. "Level 3 Non Conformance" shall mean any of the following:
- (A) the Authority determines that a Level 2 Non Conformance should be treated as a Level 3 Non Conformance for any reason, including the gravity of the Non Conformance or the failure of the Contract Management team to agree any or all of the Level 2 Required Action, the Level 2 Rectification Period and whether the Level 2 Required Action has been completed within the Level 2 Rectification Period;
  - (B) the Supplier fails to make available to the Authority a Level 2 Non Conformance Report within 5 (five) Working Days of service by the Authority of the notice referred to in paragraph 8.5.2;
  - (C) the Supplier fails in the Authority's opinion to undertake the Level 2 Required Action within the Level 2 Rectification Period;
  - (D) the Supplier fails in the Authority's opinion to rectify the Level 2 Non Conformance within the Level 2 Rectification Period;
  - (E) within 1 month of the end of a Level 2 Rectification Period the KPI concerned is Graded 'Red' or 'Amber'; or
  - (F) a KPI that is currently subject to a Level 2 Rectification Period is Graded 'Red' or 'Amber'.

- 1.14. "Level 3 Non Conformance Report" shall have the meaning given in paragraph 8.6.2(A) of this Schedule 11 (Performance Measurement).
- 1.15. "Level 3 Rectification Period" shall have the meaning given in paragraph 8.6.2(B) of this Schedule 11 (Performance Measurement).
- 1.16. "Level 3 Required Action" shall have the meaning given in paragraph 8.6.2(A) of this Schedule 11 (Performance Measurement).
- 1.17. "Level 4 Non Conformance" shall mean any of the following:
- (A) the Supplier fails to make available to the Authority a Level 3 Non Conformance Report by the deadline notified under paragraph 8.6.2;
  - (B) the Supplier fails in the Authority's opinion to undertake the Level 3 Required Action within the Level 3 Rectification Period;
  - (C) the Supplier fails in the Authority's opinion to rectify the Level 3 Non Conformance within the Level 3 Rectification Period;
  - (D) within 1 month of the end of a Level 3 Rectification Period the KPI concerned is Graded 'Red' or 'Amber'; or
  - (E) a KPI that is currently subject to a Level 3 Rectification Period is Graded 'Red' or 'Amber'.
- 1.18. "Non Conformance" shall mean any of a Level 1 Non Conformance, a Level 2 Non Conformance, a Level 3 Non Conformance or a Level 4 Non Conformance.
- 1.19. "Payment Abating KPI" shall mean a KPI in relation to which the word "Yes" appears in the column headed "Appendix 2 Payment Abatement" in Appendix 1 to this Schedule 11 (Performance Measurement);
- 1.20. "PMM" shall have the meaning given in paragraph 2.1 & 2.2 of this Schedule 11 (Performance Measurement).
- 1.21. "PPM Plan" shall have the meaning given to it in the Specification.
- 1.22. "PPM visit" shall have the meaning given to it in the Specification.

## **2. Overview**

- 2.1. This Schedule 11 (Performance Measurement) details the performance measurement mechanism ("PMM") applicable to the Services.
- 2.2. The PMM incorporates:
- (A) the measurement, grading and reporting of KPIs;
  - (B) non-financial remedies for the Authority in respect of failure to meet KPIs; and
  - (C) financial adjustments in respect of performance against KPIs.

## **3. KPIs**

- 3.1. KPIs measure:
- (A) the performance of the Supplier in undertaking PPM visits;
  - (B) the performance of the Supplier in undertaking the Reactive Maintenance Services;
  - (C) the time taken for the Supplier to attend the Site of a Fault upon being notified of such Fault by the Authority;
  - (D) Repeat Faults being reported and rectified; and
  - (E) the performance of the Supplier in undertaking the Spares Maintenance Services.
- 3.2. Details of the KPIs, their application to the Services and their method of measurement are provided in Appendix 1 (Key Performance Indicators) to this Schedule 11 (Performance Measurement).

#### **4. Measurement, grading and reporting of KPIs**

- 4.1. Within five (5) Working Days of the start of a Period, the Authority will prepare a report on performance against each of the KPIs applicable to the stage of the Services for the preceding Period (a "KPI Report").
- 4.2. In each KPI Report, for each applicable KPI, the Authority must indicate whether performance measured in the Period concerned is Graded 'Red', 'Amber' or 'Green'. The Authority shall show in each KPI Report the way in which it has applied the criteria for each applicable KPI, which shall be compliant with the method of calculation or determination in Appendix 1 (Key Performance Indicators) to this Schedule 11 (Performance Measurement).
- 4.3. The Supplier shall co-operate with the Authority in relation to the preparation of KPI Reports and shall provide, within 48 hours of the Authority's request, any underlying data in the Supplier's possession relating to any KPI Report required by the Authority.

#### **5. Assessment of performance against KPIs**

- 5.1. KPI performance shall be reported on and reviewed at each meeting required pursuant to Schedule 19 (Contract Management). The Parties shall review KPI Reports with the aim of agreeing performance against each of the applicable KPIs.
- 5.2. The Authority's Representative, as specified in Schedule 1 (Detailed Terms) must agree or determine performance against KPIs in accordance with the procedures of the Contract management meeting set out in paragraph 2.4 of Schedule 19 (Contract Management).

#### **6. Non-financial remedies in respect of failure to meet KPIs**

7. Where a Level 1 Non Conformance has occurred the Authority shall invoke the Escalation Procedure detailed in paragraph 8 (Escalation Procedure) of this Schedule 11 (Performance Measurement). **Adjustments in respect of performance against KPIs**

Where a KPI:

- (A) is applicable to the Services; and

(B) is a Payment Abating KPI;

the amount due to the Supplier for the Services is subject to adjustment in accordance with Appendix 2 (Payment Adjustment) of this Schedule 11 (Performance Measurement).

**8. Escalation Procedure**

- 8.1. The purpose of the Escalation Procedure set out in this paragraph 8 is to provide a structured framework within which the Parties can resolve failures to meet KPIs and failures to meet the requirements of Schedule 6 (Health, Safety, Quality and Environmental Requirements).
- 8.2. The following table summarises the Escalation Procedure. If and to the extent that there is a conflict between the text of this Schedule 11 (Performance Measurement) and Table 1, the text of Schedule 11 (Performance Measurement) shall prevail. It is possible for a number of Non Conformances to be in process at any one time.

Table 1 – Summary of Escalation Procedure

<b>LEVEL</b>	<b>ACTION</b>	<b>REVIEW BY</b>	<b>RESULT</b>
Level 1 Non Conformance	Level 1 Non Conformance Report required specifying Level 1 Required Action and Level 1 Rectification Period.  (Abatements may also be made under Appendix 2 if KPIs meet the criteria for this as set out in this Schedule 11 (Performance Measurement))	Supplier's Representative and Authority's Representative	Satisfactory - Stop  Unsatisfactory - Level 2
Level 2 Non Conformance	Level 2 Non Conformance Report required specifying Level 2 Required Action and Level 2 Rectification Period.  (Abatements may also be made under Appendix 2 if KPIs meet the criteria for this as set out in this Schedule 11 (Performance Measurement))	Supplier's Representative and Authority's Representative	Satisfactory - Stop  Unsatisfactory - Level 3
Level 3 Non Conformance	Level 3 Non Conformance Report required specifying Level 3 Required Action and Level 3 Rectification Period.  Abatements may also be made under Appendix 2 if KPIs meet the criteria for this as set out in this Schedule 11 (Performance Measurement))	Supplier's Representative and Authority's Representative	Satisfactory - Stop  Unsatisfactory - Level 4

LEVEL	ACTION	REVIEW BY	RESULT
Level 4 Non Conformance	Dispute resolution, suspension or termination  (Abatements may also be made under Appendix 2 if KPIs meet the criteria for this set out in this Schedule 11 (Performance Measurement))		

8.3. The Parties acknowledge that the Escalation Procedure does not preclude attempts to resolve issues to the mutual satisfaction of the Parties. Issues should be presented to the Authority's Representative and the Supplier's Representative for review and possible resolution.

8.4. **Level 1**

8.4.1. Any Level 1 Non Conformance will be recorded by the Authority and it shall submit a notice to the Supplier giving details of the Non Conformance. The Supplier shall in response (such response to be within 5 (five) Working Days of service of the notice by the Authority) prepare and submit to the Authority a report regarding the Non Conformance (a "Level 1 Non Conformance Report"). Such report will contain:

- (A) confirmation of the date(s) and details of the Level 1 Non Conformance;
- (B) suggested steps to be taken by the Supplier to ensure that performance will improve to meet the requirements of the Agreement and there is no repetition of such Level 1 Non Conformance, being (following agreement or determination pursuant to paragraph 8.4.2) the "Level 1 Required Action"; and
- (C) the time within which the Supplier suggests that such Level 1 Required Action is to be completed (which shall be a reasonable period being no longer than 20 (twenty) Working Days unless the Authority otherwise agrees in writing), being (following agreement or determination pursuant to paragraph 8.4.2) the "Level 1 Rectification Period".

8.4.2. The Supplier's Representative and the Authority's Representative will use all reasonable endeavors to agree:

- (A) as soon as reasonably practicable following receipt of the Level 1 Non Conformance Report, the Level 1 Rectification Period and the Level 1 Required Action; and
- (B) as soon as reasonably practicable following the end of the Level 1 Rectification Period, whether the Level 1 Required Action has been completed within the Level 1 Rectification Period,

if no agreement can be reached on sub-paragraphs (A) and (B) above, the Level 1 Rectification Period, Level 1 Required Action or whether the Level 1 Required Action has been completed within the Level 1 Rectification Period (as applicable) shall be determined at the sole discretion of the Authority.

8.4.3. If it is agreed pursuant to paragraph 8.4.2(B) that the Level 1 Required Action has been completed within the Level 1 Rectification Period then the Non Conformance will be recorded as resolved.

8.4.4. All Level 1 Non Conformances (whether resolved or not) will be reviewed jointly every Period by the Authority's Representative and the Supplier's Representative with the aim of ensuring that reoccurrence is (where possible) eliminated.

## 8.5. Level 2

8.5.1. Where a Level 2 Non Conformance occurs, the Authority shall submit a notice to the Supplier giving details of the Non Conformance. The Supplier shall in response (such response to be within 5 (five) Working Days of service of the notice by the Authority) prepare and submit to the Authority a report regarding the Non Conformance (the "Level 2 Non Conformance Report"). Such report will contain:

(A) the date and details of the Level 2 Non Conformance;

(B) suggested steps to be taken by the Supplier to ensure that performance will improve to meet the requirements of the Agreement and there is no repetition of such Level 2 Non Conformance, being (following agreement or determination pursuant to paragraph 8.5.2) the "Level 2 Required Action"; and

(C) the time within which such Level 2 Required Action is to be completed (which shall be a reasonable period being no longer than 20 (twenty) Working Days unless the Authority otherwise agrees in writing, being (following agreement or determination pursuant to paragraph 8.5.2) the "Level 2 Rectification Period").

8.5.2. The Supplier's Representative and the Authority's Representative will use all reasonable endeavors to agree:

(A) as soon as reasonably practicable following receipt of the Level 2 Non Conformance Report, the Level 2 Rectification Period and the Level 2 Required Action; and

(B) as soon as reasonably practicable following the end of the Level 2 Rectification Period, whether the Level 2 Required Action has been completed within the Level 2 Rectification Period;

in accordance with Schedule 19 (Contract Management). If no agreement can be reached on sub-paragraphs (A) and (B) above, the Level 2 Rectification Period, Level 2 Required Action or whether the Level 2 Required Action has been completed within the Level 2 Rectification Period (as applicable) shall be determined at the sole discretion of the Authority.

8.5.3. If it is agreed pursuant to paragraph 8.5.2(B) that the Level 2 Required Action has been completed within the Level 2 Rectification Period then the Non Conformance will be recorded as resolved.

8.5.4. All Level 2 Non Conformances (whether resolved or not) will be reviewed at the Contract Management meeting as set out in Schedule 19 (Contract Management) with the aim of ensuring reoccurrence is (where possible) eliminated.

## 8.6. Level 3

8.6.1. Where a Level 3 Non Conformance occurs the Authority shall submit a notice to the Supplier giving details of the Non Conformance.

8.6.2. The notice referred to in Paragraph 8.6.1 shall set out:

- (A) the deadline by which it requires the Supplier to serve on the Authority a report (a "Level 3 Non Conformance Report") setting out the steps which the Supplier has taken, or will take, to ensure that performance will improve to meet the requirements of the Agreement and there is no repetition of such Level 3 Non Conformance (being, following agreement or determination in accordance with paragraph 8.6.3, the "Level 3 Required Action"); and
- (B) the period (which shall be a reasonable period, being no longer than 20 (twenty) Working Days from the time of occurrence of the Level 3 Non Conformance unless the Authority otherwise agrees in writing) in which the Supplier must complete the Level 3 Required Action (being, following agreement or determination in accordance with paragraph 8.6.3, the "Level 3 Rectification Period").

8.6.3. The Supplier (or Senior Representatives or the Authority's Senior Representative, as specified in Schedule 19 (Contract Management)) must agree or determine:

- (A) as soon as reasonably practicable following receipt of the Level 3 Non Conformance Report, the Level 3 Rectification Period and the Level 3 Required Action; and
- (B) as soon as reasonably practicable following the end of the Level 3 Rectification Period, whether the Level 3 Required Action has been completed within the Level 3 Rectification Period;

in accordance with the procedures of the out in Schedule 19 (Contract Management). If no agreement can be reached on sub-paragraphs (A) and (B) above, the Level 3 Rectification Period, Level 3 Required Action or whether the Level 3 Required Action has been completed within the Level 3 Rectification Period (as applicable) shall be determined at the sole discretion of the Authority.

8.6.4. If it is agreed or determined in accordance with paragraph 8.6.3 that the Level 3 Required Action has been completed within the Level 3 Rectification Period the Non Conformance will be recorded as resolved.

8.6.5. All Level 3 Non Conformances will be reviewed at every contract review meeting.

#### 8.7. **Level 4**

8.7.1. When a Level 4 Non Conformance occurs the Authority is entitled to:

- 8.7.2. (A) suspend performance of the Contract, and the Supplier shall indemnify the Authority pursuant to Clause 43 in connection with any such period of suspension; or
- (B) terminate the contract in whole or in part in accordance with Clause 43.

#### 8.8. **Financial Adjustments**

This paragraph 8 is without prejudice to Appendix 2 (Payment Adjustment) to this Schedule 11 (Performance Measurement).

**SCHEDULE 11 - APPENDIX 1: (KEY PERFORMANCE INDICATORS)**

**Application of KPIs**

Ref:	Title	Applies to
KPI 1	PPM visits completed in accordance with Schedule 3 and the PPM Plan.	Planned Maintenance Services
KPI 2	Reactive Maintenance Services completed in accordance with Schedule 3	Reactive Maintenance Services
KPI 3	Proportion of Faults attended in accordance with paragraph 4.10 of the Specification	Reactive Maintenance Services
KPI 4	Repeat Fault responses	Reactive Maintenance Services
KPI 5	Level and quality of critical spares	Spares Maintenance Services

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory (Red)	Below Requirements (Amber)	Meets Requirements (Green)
<b>KPIs applicable to the Services</b>								
KPI 1	Planned Maintenance Services	<p><u>Title</u> PPM visits completed in accordance with Schedule 3 and the PPM Plan.</p> <p><u>Purpose</u> To measure the Supplier's compliance with the Specification in relation to delivery of the PPM visits</p>	<p><u>Measures</u> The percentage of audits carried out by the Authority that confirm the PPM visits undertaken by the Supplier are in accordance with paragraph 3 of the Specification and the PPM Plan.</p> <p><u>Measurement Rule</u> The Authority may, during each Period, carry out random audits of the Planned Maintenance Services provided by the Supplier. The Authority will collate the results from the random audits undertaken during that Period and the twelve (12) preceding Periods and will determine the number of PPM visits which were in compliance with paragraph 3 of the Specification and the PPM Plan ("<b>Satisfactory Audits</b>"). The Authority will also record the number of random audits it has undertaken in that Period</p>	Each Period	No	Less than or equal to 95%	Between 95% and 98%	Greater than or equal to 98%

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
			<p>and the twelve (12) preceding Periods (the “<b>Total Audits</b>”) to give the percentage success rate of the Supplier;</p> <p><u>Number of Satisfactory Audits</u></p> <p>The number of Satisfactory Audits is divided by Total Audits and multiplied by 100 to give the percentage of Satisfactory Audits.</p> <p><u>Data Source</u></p> <p>Audits undertaken by the Authority.</p>					



Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
KPI 3	Response to Faults Schedule 3 – paragraph 4.10	<p><u>Title</u> Proportion of Faults attended in accordance with paragraph 4.10 of the Specification</p> <p><u>Purpose</u> To measure the Suppliers effectiveness in reaching site in a timely manner in accordance with paragraph 4.10 of the Specification</p>	<p><u>Measure</u> The number of Faults attended in accordance with paragraph 4.10 of the Specification, expressed as a percentage proportion of the total number of Faults notified to the Supplier.</p> <p><u>Measurement Rule</u> Percentage of Faults attended in accordance with paragraph 4.10 of the Specification = <math>\frac{\text{number of faults attended in accordance with paragraph 4.10 of the Specification}}{\text{total number of Faults notified to the Supplier by the Authority}} \times 100</math></p> <p><u>Data Source</u> The Authority's fault reporting data.</p>	Each Period	Yes	Less than or equal to 74%	Between 75% and 89%	Greater than or equal to 90%

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
KPI 4	Repeat Faults Schedule 3 – paragraph 4.7 of the Specification	<p><u>Title</u> Repeat Fault responses</p> <p><u>Purpose</u> To measure the supplier performance in relation to the submission of accurate application for payments</p>	<p><u>Measure</u> A percentage of Repeat Faults attended against total call outs for Faults in a Period.</p> <p><u>Measurement Rule</u> The number of attendances by the Supplier on Site to review Faults recorded by the Asset Management System divided by the number of calls for Repeat Faults in the relevant Period and multiplied by 100 to give the percentage of completed PM activities:</p> <p>Percentage completed = (Repeat Faults attended to on Site by the Supplier in accordance with the Specification divided by Faults attended to on Site by the Supplier in accordance with paragraph 4.1 of the</p>	Each Period	No	Greater than or equal to 41%	Between 21% and 41%	Less than or equal to 20%

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
			Specification) x 100  <u>Data Source</u> The Authority's Asset Management system and the Suppliers accepted call log.					

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
KPI 5	Spares Maintenance Services	<p><u>Title</u> Level and quality of critical spares.</p> <p><u>Purpose</u> To measure the Supplier's compliance with the Specification in relation to critical spares</p>	<p><u>Measure</u> The percentage of audits carried out by the Authority that verify that the level and quality of critical spares being maintained by the Supplier are in accordance with the Specification</p> <p><u>Measurement Rule</u> The Authority may, during each Period, carry out random audits of the critical spares. The Authority will collate the results from the random audits undertaken during that Period and the twelve (12) preceding Periods and will determine the number of audits which conform to compliance with the specification deem "<b>Satisfactory Audits</b>". The Authority will also record the total number of random audits undertaken that Period and the twelve (12) preceding Periods (the "<b>Total Audits</b>") to give the percentage success rate of the Supplier;</p>	Each Period	No	Less than or equal to 80%	Between 80% and 95%	Greater than or equal to 95%

Ref	Assessment Area	Title and purpose	Measure	Frequency	Appendix 2 Payment Abatement	Performance Criteria		
						Unsatisfactory	Below Requirements	Meets Requirements
						(Red)	(Amber)	(Green)
			<u>Number of Satisfactory Audits</u> The number of Satisfactory Audits is divided by Total Audits and multiplied by 100 to give the percentage of Satisfactory Audits.  <u>Data Source</u> Audits undertaken by the Authority					

## **SCHEDULE 11 - APPENDIX 2: (PAYMENT ADJUSTMENT)**

### **1. General**

- 1.1. Payments due to the Supplier from the Authority in respect of Payment Abating KPI Graded as 'Red' or 'Amber' are subject to the Authority's right to levy abatements in accordance with paragraph 2 of this Appendix 2.
- 1.2. An example abatement calculation is provided (for illustrative purposes only) in paragraph 3 of this Appendix 2.

### **2. Method of calculation**

- 2.1. The KPIs are assessed in accordance with Schedule 11 (Performance Measurement) Appendix 1.
- 2.2. The payment due to the Supplier is abated on the basis of the assessment made for each of the Payment Abating KPIs as follows:
  - 2.2.1. for each instance of a Payment Abating KPI being Graded 'Amber' in a Period, the payment due to the Supplier for that Period shall be abated by 0.5% of the Payment;
  - 2.2.2. for each instance of a Payment Abating KPI being Graded Red in a Period, the payment due to the Supplier for that Period shall be abated by 1.0% of the Payment; and
  - 2.2.3. multiple instance of a Payment Abating KPI being Graded 'Amber' or 'Red' in a Period shall give rise to multiple abatements.

### 3. Example Price for Maintenance Services Provided to Date Abatement Calculation (for illustrative purposes only)

Payment Abating KPI		TfL Business Area				
		London Underground		TfL Corporate		Surface
		Delivery Unit	Delivery Unit	Delivery Unit	Delivery Unit	Delivery Unit
		Asset Operations (Stations, Depots and Operational Facilities)	Power Delivery	TfL Head Offices	LT Museum	Asset Operations (Buses, River Services and Cycle Hire)
KPI 2	Lost time injuries	Meets requirements	Unsatisfactory	Unsatisfactory	Below requirements	Meets requirements
KPI 7	Planned/ periodic maintenance completed against the Maintenance Plan	Below requirements	Meets requirements	Unsatisfactory	Below requirements	Meets requirements
KPI 8	Proportion of Faults rectified within required timescales	Meets requirements	Meets requirements	Below requirements	Below requirements	Meets requirements
KPI 9	Works/faults/planned maintenance completed in accordance with the Schedule 2	Meets requirements	Meets requirements	Meets requirements	Meets requirements	Meets requirements
	Number of PIs assessed as 'below requirements'	1	0	1	3	0
	Number of PIs assessed as 'unsatisfactory'	0	1	2	0	0
	Payment abatement percentage	1 x 0.5% = 0.5%	1 x 1.0% = 1.0%	1 x 0.5% + 2 x 1.0% = 2.5%	3 x 0.5% = 1.5%	No adjustment

## SCHEDULE 12: DISPUTE RESOLUTION PROCEDURE

1. For the purposes of this Dispute Resolution Procedure the following terms have the meanings set out below:

"Adjudicator" means an independent person appointed to act as an adjudicator in accordance with paragraph 9 of this Schedule 12 (Dispute Resolution Procedure).

"Dispute" has the meaning given to it in Clause 64.

"Nominating Authority" means the President or Vice President or other duly authorised officer of the London Court of International Arbitration;

"Notice of Adjudication" means any notice given by a Party to the other party or parties to the Dispute requiring reference of a Dispute to the Adjudicator in accordance with paragraph 8. The Notice of Adjudication shall include:

- (A) the nature and a brief description of the Dispute;
- (B) details of where and when the Dispute arose; and
- (C) the nature of the redress which is sought.

"Referral Notice" means a notice referring a Dispute to the Adjudicator in accordance with paragraph 12;

"Senior Representative" means a representative of a Party at senior executive level.

2. The Authority and the Supplier shall follow the procedure set out in this Schedule 12 (Dispute Resolution Procedure) for the management and resolution of Disputes.
3. Subject to paragraph 8, any Dispute may in the first instance be referred in writing from the referring Party to the Senior Representatives by notice in writing to the other Party. The written notice from the referring Party shall give brief written particulars of the Dispute, the relief sought and the basis for claiming the relief sought (including the provisions of this Contract that are relevant to the Dispute). The written notice shall also identify the referring Party's Senior Representative.
4. Within fourteen (14) days of receipt of the notice pursuant to paragraph 3, the responding Party shall provide the referring Party with a brief written response. The response shall include identification of the responding Party's Senior Representative.
5. The Senior Representatives shall meet and try to reach agreement to resolve the Dispute referred to them pursuant to paragraph 3.
6. If the Senior Representatives are unable to, or fail to, reach agreement to resolve the Dispute within fourteen (14) days after the date of the response under paragraph 4, court proceedings shall not be commenced unless and until the Dispute has first been referred to adjudication (and an Adjudicator's decision has been obtained) in accordance with the procedure in paragraphs 8–29 and notice has been given in accordance with paragraph 28.

7. Each Party bears its own costs and expenses in relation to any reference of a Dispute to the Senior Representatives. Discussions amongst the Senior Representatives and any documents prepared or exchanged in relation to the reference of the Dispute to the Senior Representatives (including, for the avoidance of doubt, the notice under paragraph 3 and any response under paragraph 4) are without prejudice and the Parties shall not make use of or rely upon any without prejudice statements in any proceedings.
8. Notwithstanding the provisions of paragraphs 2, 3, 4, 5, 6 and 7 either Party may give notice at any time of its intention to refer a Dispute to adjudication under the procedure set out in paragraphs 8–29 by giving a Notice of Adjudication to the other parties to the Dispute.
9. Should either Party give a Notice of Adjudication then immediately thereafter the parties to the Dispute shall endeavour to agree upon a person whom they would consider suitable to act as the Adjudicator.

In the event of the parties to the Dispute failing to agree upon a suitable person who is able to act as the Adjudicator, the referring Party shall request the Nominating Authority to select a person to act as the Adjudicator.

The Nominating Authority communicates the selection of the Adjudicator to the Parties within four (4) days of receiving a request to do so.

10. Any person requested or selected to act as the Adjudicator in accordance with paragraph 9:
  - (A) shall be a natural person acting in his personal capacity; and
  - (B) shall not be an employee of any of the parties to the Dispute, and shall declare any interest, financial or otherwise, in any matter relating to the Dispute
11. The terms of remuneration of the Adjudicator shall be agreed by the parties to the Dispute and the Adjudicator with the object of securing the appointment of the Adjudicator within seven (7) days of the Notice of Adjudication. If any party to the Dispute (but not all parties to the Dispute) rejects the terms of the remuneration of the Adjudicator the same shall be settled (and binding upon the parties to the Dispute) by agreement between the Nominating Authority and the Adjudicator (provided that the level of the Adjudicator's remuneration does not exceed the level originally proposed to the parties to the Dispute by the Adjudicator). If all the parties to the Dispute reject the terms of remuneration proposed by an Adjudicator another person shall be selected as an Adjudicator in accordance with paragraph 9.
12. Where the Adjudicator has been selected in accordance with paragraph 8 the referring Party shall refer the Dispute in writing to the Adjudicator by the Referral Notice in accordance with paragraph 13 within seven (7) days of the date of the Notice of Adjudication or within two (2) days of the date of appointment of the Adjudicator, whichever is later. Upon receipt of the Referral Notice, the Adjudicator must inform every Party to the Dispute of the date that it was received.
13. The Referral Notice shall:

- (A) include the facts relied upon by the referring Party in support of its claim(s);
- (B) include a statement of the contractual and/or other basis relied upon by the referring Party in support of its claim(s);
- (C) include a calculation of the specific monetary amount (if any) that the referring Party is seeking to recover in relation to each and every claim that is the subject matter of the Dispute;
- (D) be accompanied by copies of, or relevant extracts from, this Contract and such other documents on which the referring Party relies; and
- (E) include the addresses of all Parties to the Dispute.

The referring Party shall send copies of the Referral Notice and the documents referred to in this paragraph 13 to the other Party at the same time as he sends them to the Adjudicator.

14. If a matter disputed by the Supplier under or in connection with a Sub-Contract is also a matter disputed under or in connection with this Contract, the Supplier may, with the consent of the Authority, refer the Sub-Contract dispute to the Adjudicator at the same time as the main Contract referral. The Adjudicator shall then decide the disputes together and references to the parties for the purposes of the Dispute are interpreted as including the Sub-Contractor. The parties to the Dispute agree to consider and endeavour to agree in good faith any reasonable request by the Adjudicator for additional time to decide the main Contract and Sub-Contract disputes.
15. The parties to the Dispute may jointly terminate the Adjudicator's appointment at any time. In such a case, or:
  - (A) if the Adjudicator fails to give notice of his decision within the period referred to in paragraph 18 and the parties to the Dispute do not jointly extend time for his decision to be made in accordance with paragraph 18, or
  - (B) if the period referred to in paragraph 18 is extended in accordance with paragraph 19 or by agreement by the parties to the Dispute and the Adjudicator fails to give notice of his decision within such extended period, and the parties to the Dispute do not jointly extend time for his decision to be made in accordance with paragraph 18, or
  - (C) if at any time the Adjudicator declines to act or is unable to act as a result of his death, disability, resignation or otherwise,

a person shall be appointed to replace the Adjudicator in accordance with the provisions of paragraph 9. In the event of the parties to the Dispute failing to jointly appoint a person willing and suitable to act as replacement Adjudicator within three (3) days, any party to the Dispute may apply to the Nominating Authority to appoint a replacement Adjudicator. In any case where the Adjudicator is appointed as a replacement pursuant to this paragraph 15, the parties to the Dispute shall each send

to the Adjudicator, as soon as reasonably practicable, copies of all documents supplied by them to the Adjudicator he replaces.

16. The Nominating Authority and its employees and agents shall not be liable to any Party for any act or omission unless the act or omission is in bad faith. The Parties also agree that any employee or agent of the Nominating Authority shall be similarly protected from liability.
17. The Party not making the referral may send to the Adjudicator within fourteen (14) days of the date of the referral, with a copy to the other Party, a written statement of the contentions on which it relies and any materials it wishes the Adjudicator to consider.
18. The Adjudicator shall reach his decision and give notice of the decision to the parties to the Dispute within twenty eight (28) days of the date of receipt of the Referral Notice mentioned in paragraph 12, or such longer period as is agreed by the parties to the Dispute after the Dispute has been referred to him. Notice of the Adjudicator's decision (stating that it is given under this Schedule 12 (Dispute Resolution Procedure)) shall be in writing and shall include a summary of the Adjudicator's findings and a statement of the reasons for his decision.
19. The Adjudicator may extend the period of twenty eight (28) days referred to in paragraph 18 by up to fourteen (14) days, with the consent of the Party by whom the Dispute was referred.
20. The Adjudicator's decision shall be binding upon the parties to the Dispute and the Adjudicator unless and until the Dispute is finally determined by legal proceedings, by arbitration (if the parties otherwise agree to arbitration) or by agreement. The Adjudicator may on his own initiative or on the application of a Party correct his decision so as to remove a clerical or typographical error arising by accident or omission. Any correction of a decision must be made within five days of the delivery of the decision to the parties to the Dispute. As soon as possible after correcting a decision in accordance with this paragraph, the Adjudicator must deliver a copy of the corrected decision to each of the Parties to this Contract. Any correction of a decision shall form part of the decision. The Adjudicator may in his decision allocate his remuneration and expenses between the Parties in accordance with paragraph 27. If the Adjudicator's decision changes any payment which is due under this Contract, payment of the sum decided by the Adjudicator shall be due not later than seven days from the date of the decision or the date, on which such payment is due in accordance with the provisions of this Contract, whichever is the later.
21. The Adjudicator:
  - (A) shall act impartially and as an expert (not as an arbitrator) in the conduct of the reference and in reaching his decision;
  - (B) shall consider any relevant information submitted to him by any of the parties to the Dispute and make available to them any information to be taken into account in reaching his decision provided in accordance with the procedure (if any) which the Adjudicator may decide;

- (C) shall reach his decision in accordance with the law applicable to this Contract;
  - (D) may take the initiative in ascertaining the facts and the law in relation to the Dispute;
  - (E) may with the consent of the parties to the Dispute seek legal or technical advice from consultants whose appointment by the Adjudicator (including terms of remuneration) is subject to the approval of the parties to the Dispute;
  - (F) shall, where a translation of any document is required, decide by whom it should be provided in the event that the parties to the Dispute do not agree.
22. The Adjudicator shall decide in his discretion on the procedure to be followed in the adjudication. In particular he may, but is not obliged to:
- (A) convene meetings upon reasonable notice to the parties to the Dispute at which such parties and their representatives are entitled to be present;
  - (B) submit lists of questions to the parties to the Dispute to be answered in such meetings or in writing within such reasonable time as he requires;
  - (C) require the parties to the Dispute to provide him with such information and other facilities as he reasonably requires for the determination of the Dispute;
  - (D) otherwise take such action and adopt such procedures as do not conflict with any of the provisions of this Contract and are reasonable and proper for the just, expeditious and economical determination of the Dispute; and
  - (E) inspect any part of the Sites, the Services or the facilities of any relevant Sub-Contractor.
23. The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as an adjudicator unless the act or omission is in bad faith. The Parties also agree that any employee or agent of the Adjudicator shall be similarly protected from liability.
24. All meetings are private and save as required by law the Adjudicator and the Parties shall keep confidential the Dispute, all information of whatever nature provided to him by or on behalf of any Party and his decision.
25. The Parties to a contract to which the Dispute relates shall continue to observe and perform all the obligations contained in such contract, notwithstanding any reference to the Adjudicator, and insofar as the same is consistent with any safety review procedures to which the parties to the Dispute are bound, give effect forthwith to the Adjudicator's decision in every respect unless and until as hereinafter provided the Dispute is finally determined by a court in any legal proceedings, by arbitration (if the parties otherwise agree to arbitration) or by agreement. Any party to the Dispute may apply to any appropriate court for enforcement of the Adjudicator's decision. Neither any form of enforcement of the Adjudicator's decision nor any form of challenge to the enforcement of the Adjudicator's decision nor any dispute arising out of or in

connection with such enforcement or challenge are regarded and treated as a Dispute for the purposes of this Schedule 12 (Dispute Resolution Procedure).

26. After the giving of a Notice of Adjudication, the Parties may seek to agree how the Adjudicator allocates the costs and fees excluding his remuneration and expenses which are dealt with in paragraph 27 below of the adjudication as between the Parties. If such an agreement is reached between the Parties, they shall notify the Adjudicator, who shall allocate costs and fees in accordance with such agreement. The Parties agree to be bound by the Adjudicator's allocation of costs and fees and to pay such costs and fees in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by a court pursuant to any legal proceedings.
27. Subject to any agreement of the Parties, the Adjudicator shall allocate payment of his remuneration and expenses as between the Parties. Unless the Parties otherwise agree, the Adjudicator awards the payment of his remuneration and expenses on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of his remuneration or expenses. The Parties agree to be bound by the Adjudicator's allocation of payment of his remuneration and expenses and pay such remuneration and expenses in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by a court pursuant to any legal proceedings.
28. All notices, written submissions and any other written communications between the parties to the Dispute and the Adjudicator shall either be delivered by hand, sent by facsimile or sent by first class pre-paid post or recorded delivery (airmail if posted to or from a place outside the United Kingdom) and, in each case, copied simultaneously (delivered or sent as aforesaid) to the other Parties. Copies by way of confirmation of all communications by facsimile between the parties to the Dispute and the Adjudicator shall also be sent by first class post (airmail if posted to or from a place outside the United Kingdom) not later than the next following Working Day the date of the original facsimile transmission.
29. All information of whatever nature provided to the Adjudicator by any party to the Dispute shall be copied to the other parties simultaneously.
30. If any party to a Dispute is dissatisfied with the Adjudicator's decision on that Dispute, that party may commence court proceedings for the final determination of the Dispute.

## SCHEDULE 13: OBLIGATIONS ON HANDOVER

The provisions of this Schedule 13 (Obligations on Handover) are without prejudice to the obligations of the Supplier to continue to provide the Services as required by the terms of the Contract and any services reasonably required to transition the Services to an incoming supplier with the minimum of disruption and so as to prevent or mitigate any inconvenience to the Authority or disruption to its operations.

1. The Supplier shall at its own cost, commencing no later than eleven (11) months before the Expiry Date or on the date of receipt of any Termination Notice:
  - 1.1 prepare and submit for review and approval by the Authority's Representative, a detailed demobilisation plan for the Services containing the Supplier's proposals for the demobilisation aspects of the Services, including but not being limited to transfer of staff, intellectual property rights and manuals, spares and equipment (the "Demobilisation Plan") and thereafter update the Demobilisation Plan as requested by the Authority.
  - 1.2 in order to support the seamless transition of the Services following the Expiry Date or Termination Date, undertake all necessary actions in connection with the demobilisation, including but not being limited to the following:
    - (A) providing all necessary resource, including Supplier Personnel, equipment and materials to enable timely demobilisation;
    - (B) identifying its demobilisation team and demobilisation manager;
    - (C) procuring that its demobilisation team shall attend Authority chaired demobilisation/transition meetings;
    - (D) keeping the Authority's Representative fully informed on the progress of the demobilisation;
    - (E) complying with all reasonable instructions of the Authority in connection with the demobilisation; and
    - (F) ensuring, supporting and facilitating migration of any IT systems used by the Supplier in providing the Services.
  - 1.3 cooperate fully with and provide all reasonable and necessary assistance and information in connection with the Services and/or to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and any incoming supplier or suppliers in the transition of the Services before the Expiry Date or Termination Date (as the case may be) and for a period of three months after such date to ensure that the changeover to the incoming supplier (or back to the Authority) is effected with minimal disturbance and disruption.
  - 1.4 the requirement for the Supplier to provide cooperation pursuant to paragraph 1.3 above extends to any retender process for the Services carried out by the Authority in relation to an incoming supplier or suppliers to enable it to access the Sites and/or Authority personnel, and specifically an obligation to provide, on reasonable notice

during the term of the Contract, information for the purpose of a competition and managing the transition to an incoming supplier or suppliers, to include:

- (A) details of the Services;
  - (B) details of employees who would transfer to the replacement contractor;
  - (C) management information; and
  - (D) any other information that the Authority may reasonably require.
- 1.5 maintain records, data, files, information and Documentation relating to the Services in such form and manner as to enable the Supplier to effectively transfer them in full to the Authority and/or to any third party nominated by the Authority, so as to put the Authority and/or the third party into a position where the Authority and/or the third party can provide a level of service which is similar to or the same level as Services provided under this Contract.
2. Without prejudice to paragraph 1, within three (3) months of the Services Commencement Date, and thereafter annually, on each anniversary of the Services Commencement Date until expiry of the Contract or earlier termination, the Supplier shall submit a draft Demobilisation Plan for review and approval by the Authority. In addition to each such submission, at other intervals the Supplier shall update the draft Demobilisation Plan where requested by the Authority (acting reasonably).
3. On receipt of an instruction from the Authority, the Supplier shall return to the Authority's Representative all Free Issue Materials provided to the Supplier in accordance with Clause 22 (Free Issue Materials) of the Contract and not used in undertaking the Services, and shall provide replacement Equipment to the Authority where such Equipment does not meet the required standard for return.
4. Without prejudice to the provisions of Clause 12 (Records and Audit) and 36 (Intellectual Property Rights), the Supplier shall:
- 4.1 hand back to the Authority (at the Expiry Date or Termination Date (as the case may be)) all records, data, files, information and Documentation owned by the Authority but used by the Supplier in the performance of the Services, subsequently destroy all electronic copy information in the possession of the Supplier and provide a certificate of destruction to the Authority's Representative; and
  - 4.2 provide the Authority and/or incoming supplier or suppliers with all reasonable help, assistance and co-operation to make available and effect the transfer of records, data, files, information and Documentation to an incoming supplier or suppliers so as to enable the Authority and/or incoming supplier or suppliers to set up and effect the transition of the Services, in accordance with Clause 12 (Records and Audit) of the Contract; and
  - 4.3 hand over to the Authority (upon request of the Authority's Representative but in any event, at the Expiry Date or Termination Date (as the case may be)) all passes or entry permits.

5. The Supplier shall ensure that (at the Expiry Date or Termination Date (as the case may be)):
  - 5.1 all equipment (whether of a temporary or permanent nature) used in the delivery of the Services whether or not owned by the Supplier, the Authority or any third party is fully maintained, serviced and fully functional with an up-to-date service and maintenance history which is entered on the CAFM system. Equipment which fails to meet these conditions shall be replaced with new by the Supplier at its own cost. In the event that the Supplier is in breach of this paragraph 5.1 (irrespective of whether the equipment is in the ownership and responsibility of the Supplier or a sub-contractor), the Authority shall be entitled to purchase such equipment itself and recover the associated costs from the Supplier;
  - 5.2 all assets and spares, critical and non-critical, are handed over to the incoming supplier and the Authority and that relevant members of the Supplier Personnel are present at handover; and
  - 5.3 all areas which the Contractor has used for storage or operation have been left clean and tidy and all rubbish has been removed from the Sites.
6. During demobilisation the Supplier shall promptly provide all reasonable co-operation and support resource in relation to any audit or check required by the Authority and commissioned by the Authority's Representative, including in each particular circumstance:
  - 6.1 granting or procuring the grant of access to any premises used in performance of the Contract, whether the Supplier's own premises or otherwise;
  - 6.2 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 the Contract, wherever situated and whether the Supplier's own equipment or otherwise;
  - 6.3 making any contracts and other documents, records and information related to the provision of the Services available for inspection;
  - 6.4 granting copying facilities to the Authority and/or LUL's auditor for the purposes of making copies of any or all the information, records and documents;
  - 6.5 complying with the Authority's reasonable requests for access to senior personnel engaged in the Supplier's performance of the Contract; and
  - 6.6 granting access to the Sites to staff of the incoming suppliers (with the approval of the Authority) for the purpose of mobilisation and transitioning of the Services. This will include providing access to all plant, equipment, contract related records, staff, and escorting the incoming staff as requested by the Authority's Representative.
7. In the event of a failure by the Supplier to comply with any of the obligations set out in this Schedule 13, in the final 12 months of the Contract the Authority shall be entitled to retain from each payment per Period due to the Supplier a sum of 5% equal to the cost to the Supplier of performing the relevant obligation(s). The Parties agree that

such retention shall not be a penalty and is fair and reasonable and represents a genuine pre-estimate of what the cost of performance to the Supplier would have been.

8. The Supplier is required to notify any Sub-Contractors of the relevant demobilisation procedures set out in this Schedule 13 (Obligations on Handover) and/or the Demobilisation Plan.
9. In relation to any Necessary Consents, these will not transfer from the Supplier to an incoming supplier or suppliers and the incoming supplier or suppliers shall be required to obtain these in accordance with Clause 6 (Consents) of the Contract.

## SCHEDULE 14: RESPONSIBLE PROCUREMENT

### 1. Timber Standards

For the purposes of this Schedule 14, unless the context indicates otherwise, the following expressions shall have the following meanings:

- "Independent Report" means an independent report by an individual or body:
- (a) whose organisation, systems and procedures conform to:
    - (i) ISO Guide 65:1996 (EN 45011:1998); and
    - (ii) general requirements for bodies operating product certification systems; and
  - (b) who is accredited to audit against forest management standards by a national or international body whose organisation, systems and procedures conform to ISO Guide 61 General Requirements for Assessment and Accreditation of Certification Bodies;
- "Legal Timber" means Timber in respect of which the organisation that felled the trees and/or provided the Timber from which the wood supplied under the Contract derived:
- (a) had legal rights to use the forest;
  - (b) holds a register of all local and national laws and codes of practice relevant to forest operations; and
  - (c) complied with all relevant local and national laws and codes of practice including environmental, labour and health and safety laws and paid all relevant royalties and taxes;
- "Recycled Timber" and "Reclaimed Timber" means recovered wood that has been reclaimed or re-used and that has been in previous use and is no longer used for the purpose for which the trees from which it derives were originally felled. The terms 'recycled' and 'reclaimed' are interchangeable and include, but are not limited to the following categories: pre-consumer recycled wood and wood fibre or industrial by-products but excluding sawmill co-products (sawmill co-products

are deemed to fall within the category of Virgin Timber), post-consumer recycled wood and wood fibre and drift wood. Recycled or Reclaimed Timber must be capable of being evidenced as such to the Authority's satisfaction in order to satisfy this definition;

"Sustainable Timber"

means Timber, which in order to meet the Authority's criteria for sustainable timber, must be:

- (a) Recycled Timber; or
- (b) Sustainably Sourced Timber; or
- (c) a combination of (a) and (b);

"Sustainably sourced Timber"

means Timber sourced from organisational, production and process methods that minimise harm to ecosystems, sustain forest productivity, ensure that both forest ecosystem health and vitality, and forest biodiversity is maintained. In order to satisfy this definition, Timber must be accredited with the Forest Stewardship Council ("FSC") or equivalent. Where it is not practicable to use FSC standard accredited Timber, the Authority will accept Timber accredited through other schemes approved by the Central Point of Expertise on Timber (CPET), as listed below:

- (a) Canadian Standards Association (CSA);
- (b) Programme for the Endorsement of Forest Certification (PEFC); or
- (c) Sustainable Forestry Initiative (SFI),

or such other source as the Supplier may demonstrate to the Authority's satisfaction is equivalent;

"Timber"

means wood from trees that have been felled for that purpose, but excludes any item where the manufacturing processes applied to it has obscured the wood element (by way of example only, paper would not be treated as Timber). Where the term Timber is used as a generic term it includes both Virgin Timber and Recycled Timber; and

"Virgin Timber"

means Timber supplied or used in performance of the Contract that is not Recycled Timber.

## 1.1 Supplier's Obligations and the Authority's Rights

- (a) The Supplier shall ensure that all Timber supplied or used in the performance of the Contract shall be Sustainable Timber. If it is not practicable for the Supplier to meet this condition the Supplier must inform the Authority in writing prior to the supply of any Timber that is not Sustainable Timber, and stating the reason for the inability to comply with this condition. The Authority reserves the right, in its absolute discretion, to approve the use of Timber that is not Sustainable Timber. Where the Authority exercises its right to reject any Timber, the provisions of paragraph 1.1(d) below shall apply.
- (b) Without prejudice to paragraphs 1.1(a) and 1.3(b), all Virgin Timber procured by the Supplier for supply or use in performance of the Contract shall be Legal Timber.
- (c) The Supplier shall ensure that Virgin Timber it procures for supply or use in performance of the Contract shall not have derived from any species of tree that is protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) unless the Supplier can prove, by producing official documentation, that he has complied with the CITES requirements that permit trading in the particular species of tree so listed under that Convention.
- (d) The Authority reserves the right to reject at any time any Timber that does not comply with the conditions of this Contract or the Specification. Where the Authority exercises its right to reject any Timber, the Supplier shall supply contractually compliant alternative Timber, at no additional cost to the Authority and without causing delay to the performance of the Contract.
- (e) The Supplier shall maintain records of all Timber supplied and used in the performance of the Contract. Such information shall be made available to the Authority promptly if requested at any time.

## 1.2 Authority's Reporting Requirements

- (a) Unless the Authority has given its written approval in accordance with paragraph 1.1(a) that Timber that is not Sustainable Timber may be used, then, if requested, the Supplier shall promptly provide evidence to the Authority's satisfaction that the Timber is Sustainable Timber.
- (b) Upon a request by the Authority referred to in paragraph 1.2(a), in the event that the Supplier does not promptly provide such evidence, or the evidence provided does not satisfy the Authority's requirements, then (and without prejudice to paragraph 1.3(a)), the Authority reserves the right to retain 25% of any monies payable to the Supplier under the Contract until such date as the Authority is in receipt of such evidence and the Authority is satisfied that the evidence establishes that the Timber is Sustainable Timber.
- (c) The Supplier shall report quarterly on its use of Sustainable Timber in the performance of the Contract.

- (d) The Supplier shall report on the amount of Timber that has been supplied to the Authority in accordance with paragraph 1.1(a) which is not Sustainable Timber.

### 1.3 **Verification**

#### (a) **Evidence of Sustainable Timber**

- (i) The Authority reserves the right to determine whether the evidence supplied by the Supplier is sufficient to satisfy it that the Specification and the conditions of this Contract have been fully complied with. In the event that the Authority is not so satisfied, the Supplier shall, on written request by the Authority, commission and meet the costs of an Independent Report to:
  - (1) verify the source of the Timber; and
  - (2) assess whether the forests of origin were managed in accordance with the specified local laws and regulations.

#### (b) **Evidence of Legal Timber**

- (i) The Supplier shall, before delivering any Virgin Timber under this Contract, obtain documentary evidence to the Authority's satisfaction that the Timber is both Legal and Sustainable Timber. If requested in writing by the Authority, the Supplier shall submit such documentary evidence to the Authority either prior to delivery or at such other times as the Authority may require. For the avoidance of doubt, the Supplier shall identify, as part of the evidence submitted, a chain of custody from the source of the Timber through to delivery of the final product.
- (ii) The Authority reserves the right at any time during the execution of the Contract and for a period of 6 years from final delivery of any Timber under the Contract to require the Supplier to produce the evidence required for the Authority's inspection within 14 days of the Authority's written request.

## 2. **Ethical Sourcing**

2.1 The Authority is committed to ensuring that workers employed in its supply chains throughout the world are treated fairly, humanely and equitably. In the course of complying with this Contract, the Supplier shall comply with and shall procure that its Sub-Contractors (as applicable) comply with those principles of the ETI Base Code or an equivalent code of conduct approved by the Authority, (the "Ethical Sourcing Principles") in relation to the provision of the Services.

2.2 As at the Commencement Date, the Supplier shall be registered with an ethical supplier database, such as SEDEX (Supplier Ethical Data Exchange). The Supplier agrees that for the duration of this Contract, it shall permit and enable the Authority to have access to the information relating to the Supplier that subsists in such ethical supplier database.

- 2.3 During the course of this Contract, the Authority has the right to request the Supplier to carry out one or more audits using a reputable auditor to verify whether the Supplier is complying with the Ethical Sourcing Principles. The identity of the auditor is to be approved by the Authority, such approval not to be unreasonably withheld or delayed. The costs of the audit shall be borne by the Authority.
- 2.4 During the course of this Contract, if the Authority has reasonable cause to believe that the Supplier is not complying with any of the Ethical Sourcing Principles, then the Authority shall notify the Supplier and the Parties shall agree an action plan with appropriate timeframes for compliance by the Supplier (the "Action Plan"), such Action Plan to be agreed by the Parties by no later than 5 Working Days from the date of the Authority notifying the Supplier that remedial action is required or such other period as the Parties may otherwise agree in writing. The costs of the creation and implementation of the Action Plan shall be borne by the Supplier.
- 2.5 Following the agreement of the Action Plan, the Authority reserves the right to conduct one or more audits, (either itself or via a third-party auditor approved by the Authority) in relation to compliance by the Supplier with the Action Plan.
- 2.6 For the avoidance of doubt, the rights of audit contained in this Schedule 14 shall include without limitation the right of the Authority (or an Authority -approved auditor) acting reasonably to undertake physical inspections of relevant sites/factories, to conduct interviews with relevant personnel and to inspect relevant documents. The Supplier shall co-operate and shall procure that its Sub-Contractors (as applicable) co-operate with the Authority in relation to all aspects of any audit.

### **3. Supplier Diversity**

#### **3.1 Strategic Equality and Diversity Plan**

- (a) For the purposes of this paragraph 3, the expression "Agreed Strategic Equality and Diversity Plan" means the strategic equality and diversity plan to be provided by the Supplier to the Authority and as negotiated and agreed between the Parties and attached to the Contract as a new Schedule headed "Agreed Strategic Equality and Diversity Plan".
- (b) For the duration of this Contract, the Supplier shall comply with the Agreed Strategic Equality and Diversity Plan and shall procure that each of its Sub-Contractors adopts and implements a strategic equality and diversity plan in respect of their respective employees engaged in the performance of the Contract which is at least as extensive in scope as that agreed with the Authority and set out in the Agreed Strategic Equality and Diversity Plan.
- (c) Where a Sub-Contractor has, pursuant to paragraph 3.1(a) or otherwise, adopted a strategic equality and diversity plan, the Supplier shall procure that each of its Sub-Contractors provides a copy of its strategic equality and diversity plan (and any amendments thereto) to the Authority or its nominee as soon as reasonably practicable.

### 3.2 Diversity Training

- (a) For the duration of this Contract, the Supplier shall comply with the "Agreed Training Plan" in relation to all of its employees engaged in the performance of the Contract. For the purposes of this paragraph 3, the expression "Agreed Training Plan" means the diversity training plan to be provided by the Supplier to the Authority and as negotiated and agreed between the parties and attached to the Contract as a new Schedule headed "Agreed Training Plan". The Supplier shall procure that each of its Sub-Contractors adopts and implements a diversity training plan in respect of their respective employees engaged in the performance of the Contract which is at least as extensive in scope as the Agreed Training Plan.
- (b) Where a Sub-Contractor has, pursuant to paragraph 3.3(a) or otherwise, adopted a diversity training plan, the Supplier shall procure that each of its Sub-Contractors provides a copy of its diversity training plan (and any amendments thereto) to the Authority or its nominee as soon as reasonably practicable.

### 3.3 Supplier Diversity

- (a) For the duration of this Contract the Supplier shall at all times comply with the "Agreed Supplier Diversity Plan". For the purposes of this paragraph 3, the expression "Agreed Supplier Diversity Plan" means the supplier diversity plan to be provided by the Supplier to the Authority and as negotiated and agreed between the parties and attached to the Contract as a new Schedule headed "Supplier Diversity Plan". The Supplier shall procure that each of its Sub-Contractors adopts and implements a supplier diversity plan in relation to the performance of this Contract which is as least as extensive as the Agreed Supplier Diversity Plan.
- (b) Where a Sub-Contractor has, pursuant to paragraph 3.3(a) or otherwise, adopted a supplier diversity plan, the Supplier shall procure that each of its Sub-Contractors provides a copy of its supplier diversity plan (and any amendments thereto) to the Authority or its nominee as soon as reasonably practicable.

### 3.4 Communications Plan

For the duration of this Contract and in all dealings with the Local Community, the Supplier shall comply with the Agreed Communications Plan. For the purposes of this paragraph 3, the expression "Agreed Communications Plan" means the communications plan to be provided by the Supplier to the Authority and as negotiated and agreed between the parties and attached to the Contract as a new Schedule headed "Agreed Communication Plan" and the expression "Local Community" means those areas of London affected by the Services from time to time.

### 3.5 Monitoring and Reporting

- (a) Subject to paragraph 3.5(c), the Supplier shall use reasonable endeavours to provide the Authority on the date of this Contract and subsequently every 12

months from the date of this Contract or such other frequency as the Authority may reasonably request with an annual report on performance and compliance with the equality and diversity provisions as set out in paragraphs 3.1 to 3.4 of this Schedule 14. The annual report should set out:

- (i) the performance of the Supplier over the past 12 months in relation to the Agreed Strategic Equality and Diversity Plan, the Agreed Training Plan, the Agreed Supplier Diversity Plan and the Agreed Communications Plan and/or the action plan submitted for the previous 12 months in accordance with paragraph 3.5(a)(iv);
  - (ii) the proportion of the Supplier's employees engaged in the performance of the Contract and, to the extent reasonably possible, the employees of the Sub-Contractors engaged pursuant to the terms of the relevant sub-contracts in the performance of the Contract who are:
    - (1) female;
    - (2) of non-white British origin or who classify themselves as being non-white British;
    - (3) from the local community; or
    - (4) disabled;
  - (iii) the proportion of the Supplier's Sub-Contractors that are SMEs and/or BAMEs and/or other suppliers from other under-represented or protected groups; and
  - (iv) a plan of action for the forthcoming 12 months showing what the Supplier plans to do to continue delivery of the equality and supplier diversity objectives.
- (b) For the purposes of this paragraph 3.5, the meaning of SME and BAME is as set out in Appendix 2 (TfL Supplier Diversity Definitions) to this Schedule 14.
  - (c) The Supplier shall ensure at all times that it complies with the requirements of the Data Protection Act 1998 (as may be amended) in the collection and reporting of the information to the Authority pursuant to paragraph 3.5(a).

### 3.6 Equality and Diversity Infractions

- (a) For the purposes of this paragraph 3.6, "Equality and Diversity Infraction" means any breach by the Supplier of its obligations specified in paragraphs 3.1 to 3.4 of this Schedule 14 (Responsible Procurement) and/or any failure by a Sub-Contractor to adopt and implement a strategic equality and diversity plan, a diversity training plan and/or a supplier diversity plan as described in paragraphs 3.1 to 3.4 of this Schedule 14 (Responsible Procurement).
- (b) If the Supplier or any of its Sub-Contractors commits an Equality and Diversity Infraction, the Authority shall be entitled (but not obliged) to act as follows:

- (i) if an Equality and Diversity Infraction is committed by the Supplier then the Authority may serve written notice upon the Supplier identifying in reasonable detail the nature of the Equality and Diversity Infraction, and the Supplier shall cease committing and remedy, at its own cost, the Equality and Diversity Infraction, within 30 days of receipt of such notice (or such longer period as may be specified in the notice); or
  - (ii) if the Equality and Diversity Infraction is committed by a Sub-Contractor of the Supplier, the Authority may serve written notice upon the Supplier identifying in reasonable detail the nature of the Equality and Diversity Infraction, and the Supplier shall procure that the Sub-Contractor ceases committing and remedies, at its own cost, the Equality and Diversity Infraction within 30 days of receipt by the Supplier of such notice (or such longer period as may be specified in the notice). If the Supplier fails to procure the remedy of the Equality and Diversity Infraction, the Authority may serve a further written notice upon the Supplier and within 30 days of receipt of such further notice (or such longer period as may be specified in the notice), the Supplier shall terminate, at its own cost, the relevant contract with its Sub-Contractor and procure performance of the affected works or services by another person which also complies with the obligations specified in paragraphs 3.1 to 3.4 of this Schedule 14.
- (c) It shall be a fundamental term and condition of the Contract that the Supplier complies with its obligations under paragraphs 3.6(b)(i) to 3.6(b)(ii). Where, following receipt of a notice given pursuant to paragraphs 3.6(b)(i) to 3.6(b)(ii) the Supplier fails to remedy an Equality and Diversity Infraction to the satisfaction of the Authority or in the case of paragraph 3.6(b)(ii) fails to terminate the contract with a defaulting Sub-Contractor and procure performance by another person on the terms specified in paragraph 3.6(b)(ii) the Supplier will be in breach of the Contract and the Authority shall be entitled (but not obliged) to terminate the Contract, without further notice to the Supplier, in accordance with Clause 43 of the Contract.

### **3.7 Equality and Diversity Audit**

- (a) The Authority or its nominee may from time to time undertake any audit or check of any and all information regarding the Supplier's compliance with paragraphs 3.1 to 3.4 of this Schedule 14.
- (b) The Authority's rights pursuant to this paragraph 3.7 shall include any and all documents and records of the Supplier and its Sub-Contractors and shall include the Documentation.
- (c) The Supplier shall maintain and retain the Documentation for a minimum of six years from the termination or expiry of the Contract with respect to all matters in respect of the performance of and compliance with paragraphs 3.1 to 3.4 of this Schedule 14. The Supplier shall procure that each of its Sub-Contractors shall maintain and retain the Documentation for a minimum of six years from the termination or expiry of the Contract with respect to all matters in respect of the performance of and compliance with paragraphs 3.1 to 3.3 of this

Schedule 14. The Supplier shall procure that each sub-contract between it and its Sub-Contractors shall contain rights of audit in favour of and enforceable by the Authority substantially equivalent to those granted by the Supplier pursuant to paragraph 3.7(a).

- (d) The Authority shall use reasonable endeavours to co-ordinate its audits and to manage the number, scope, timing and method of undertaking audits so as to ensure that the Supplier and each Sub-Contractor is not, without due cause, disrupted or delayed in the performance of its obligations under the Contract and/or relevant subcontract (as the case may be).
- (e) The Supplier shall promptly provide, and procure that its Sub-Contractors promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:
  - (i) granting or procuring the grant of access to any premises used in the Supplier's performance of the Contract or in the relevant Sub-Contractor's performance of its sub-contract, whether the Supplier's own premises or otherwise;
  - (ii) granting or procuring the grant of access to any equipment (including all computer hardware and software and databases) used (whether exclusively or non-exclusively) in the performance of the Supplier's or the relevant Sub-Contractor's obligations specified in paragraphs 3.1 3.3 of this Schedule 14, wherever situated and whether the Supplier's own equipment or otherwise; and
  - (iii) complying with the Authority's reasonable requests for access to senior personnel engaged in the Supplier's performance of the Contract or the relevant Sub-Contractor's performance of its sub-contract.
- (f) For the purposes of this paragraph 3.7, the expression "Documentation" means all information relating to the Supplier's performance of and compliance with paragraphs 3.1 to 3.4 of this Schedule 14 and the adoption and implementation of a strategic equality and diversity plan, an equality and diversity training plan and a supplier diversity plan by each Sub-Contractor of the Supplier.

## Appendix 1: The ETI Base Code

1. The following terms shall be defined as follows when used within this Appendix 1:

"Child" means any person less than 15 years of age unless local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age shall apply. If however, local minimum age law is set at 14 years of age in accordance with developing country exceptions under International Labour Organisation ("ILO") Convention No. 11, the lower will apply.

"Young person" means any worker over the age of a child as defined above and under the age of 18.

"Child labour" means any work by a child or young person younger than the age(s) specified in the above definitions, which does not comply with the provisions of the relevant ILO standards, and any work that is likely to be hazardous or to interfere with the child's or young person's education, or to be harmful to the child's or young person's health or physical, mental, spiritual, moral or social development.

### 1.1 **EMPLOYMENT IS FREELY CHOSEN**

1.1.1 There is no forced, bonded or involuntary prison labour.

1.1.2 Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.

### 1.2 **FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING ARE RESPECTED**

1.2.1 Workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively.

1.2.2 The employer adopts an open attitude towards the activities of trade unions and their organisational activities.

1.2.3 Workers representatives are not discriminated against and have access to carry out their representative functions in the workplace.

1.2.4 Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining.

### 1.3 **WORKING CONDITIONS ARE SAFE AND HYGIENIC**

1.3.1 A safe and hygienic working environment shall be provided, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Adequate steps shall be taken to prevent accidents and injury to health arising

out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

- 1.3.2 Workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers.
- 1.3.3 Access to clean toilet facilities and to potable water, and, if appropriate, sanitary facilities for food storage shall be provided.
- 1.3.4 Accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers.
- 1.3.5 The company observing the code shall assign responsibility for health and safety to a senior management representative.

#### 1.4 **CHILD LABOUR SHALL NOT BE USED**

- 1.4.1 There shall be no new recruitment of child labour.
- 1.4.2 Companies shall develop or participate in and contribute to policies and programmes which provide for the transition of any child found to be performing child labour to enable her or him to attend and remain in quality education until no longer a child.
- 1.4.3 Children and young persons under 18 shall not be employed at night or in hazardous conditions.
- 1.4.4 These policies and procedures shall conform to the provisions of the relevant ILO standards.

#### 1.5 **LIVING WAGES ARE PAID**

- 1.5.1 Wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmark standards, whichever is higher. In any event wages should always be enough to meet basic needs and to provide some discretionary income.
- 1.5.2 All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid.
- 1.5.3 Deductions from wages as a disciplinary measure shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.

## 1.6 **WORKING HOURS ARE NOT EXCESSIVE**

1.6.1 Working hours comply with at least UK national laws and benchmark industry standards, whichever affords greater protection.

1.6.2 In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7 day period on average. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate.

## 1.7 **NO DISCRIMINATION IS PRACTISED**

1.7.1 There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation.

## 1.8 **REGULAR EMPLOYMENT IS PROVIDED**

1.8.1 To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice.

1.8.2 Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.

## 1.9 **NO HARSH OR INHUMANE TREATMENT IS ALLOWED**

1.9.1 Physical abuse or discipline, the threat of physical abuse, sexual or other harassment and **verbal** abuse or other forms of intimidation shall be prohibited.

### **Note on the Provisions of this Code**

The provisions of this code constitute minimum and not maximum standards, and this code should not be used to prevent companies from exceeding these standards. Companies applying this code are expected to comply with national and other applicable law and, where the provisions of law and this ETI Base Code address the same subject, to apply that provision which affords the greater protection.

## Appendix 2: TfL Supplier Diversity Definitions

### TfL Supplier Diversity Definitions

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Issue Date: February 2010

Effective: February 2010

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## 1. Document Outline

### 1.1 **Background**

Encouraging a diverse base of supplier forms a part of the GLA Group Responsible Procurement Policy. The TfL Supplier Diversity Definitions ensure consistency across Supplier Diversity activities across TfL. These definitions form a basis for the TfL Supplier Diversity Policy and act as a basis for alignment in the measurement of diverse suppliers.

### 1.2 **Version Control**

<b>Version Date</b>	<b>Author</b>	<b>Notes</b>
26 February 2010	C Cottam	Turnover/Balance Sheet Amendment
02 February 2009	C Cottam	SME definition update
31 January 2008	J Gall	Ownership categorisation
8 <sup>th</sup> May 2006	J Gall	EU definitions
19 <sup>th</sup> October 2005	J Gall	Updates/clarifications

## 2. Diverse Suppliers

For the purposes of TfL's Procurement Supplier Diversity Programme, "**Diverse Suppliers**" comprise the following four subsets:

- 2.1 Small and Medium Enterprises (SMEs)
- 2.2 Black, Asian and Minority Ethnic (BAME) businesses
- 2.3 Suppliers from other under-represented or protected groups
- 2.4 Suppliers demonstrating a diverse workforce composition

The more detailed explanations of the four above subsets are given in the sections below.

### **3. Small and Medium Enterprises (SMEs)**

3.1 A **Small Enterprise**<sup>4</sup> is a business which has both the following:

i) 0-49 Full Time Equivalent employees<sup>1</sup>;

AND EITHER

ii) Turnover<sup>2</sup> per annum of no more than £5.6 million net (or £6.72 million gross); in the last Financial Year;

OR

iii) Balance sheet total<sup>3</sup> of no more than £2.8 million net (£3.36 million gross).

3.2 A **Medium Enterprise**<sup>4</sup> is a business which has both the following:

i) 50-249 Full Time Equivalent employees<sup>1</sup>;

AND EITHER

ii) Turnover<sup>2</sup> per annum of no more than £22.8 million net (or £27.36 million gross) in the last Financial Year;

OR

iii) Balance sheet total<sup>3</sup> of no more than £11.4 million net (or £13.68 million gross).

3.3 A **Large Enterprise**<sup>4</sup> is a business which has both the following:

i) 250 and over Full Time Equivalent employees<sup>1</sup>;

AND EITHER

ii) Turnover<sup>2</sup> per annum over £22.8 million net (or £27.36 million gross) in the last Financial Year;

OR

iii) Balance sheet total<sup>4</sup> of over £11.4 million net (or £13.68 gross).

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<sup>1</sup> Full Time equivalent employees is defined in Section 7.1

<sup>2</sup> Turnover is defined in Section 7.3

<sup>3</sup> Balance Sheet Total is defined in Section 7.5

<sup>4</sup> Further explanation is outlined in Section 7.7 (Definition of Size) & 7.8 (Ownership Categorisation)

4. **Black, Asian and Minority Ethnic (BAME) owned businesses**

A Black, Asian and Minority Ethnic (BAME) owned business is a business which is 51% or more owned by members of one or more Black, Asian or Minority ethnic groups.

Minority ethnic groups are all people including those who have classified themselves as members of ethnic groups other than 'White British'.

The minority ethnic classification groups used by TfL for monitoring purposes are:

<u>Ethnic group</u>	<u>Racial origin</u>
White	Irish Any other White background
Mixed	White & Black Caribbean White & Black African White & Asian Any other Mixed background
Asian or Asian British	Indian Pakistani Bangladeshi Any other Asian background
Black or Black British	Caribbean African Any other Black background
Chinese or other Ethnic Group	Chinese Any other Ethnic Group

## **5. Suppliers from other under-represented groups or protected groups**

5.1 A Supplier from an under-represented group is one which is 51% or more owned by members of one or more of the following groups (where not covered by previous definitions):

5.1.1 Women (gender);

5.1.2 Disabled people with physical and sensory impairments, learning difficulties and mental health requirements;

5.1.3 Lesbians, Gay men, Bisexual and Transgender people (sexual orientation); and

5.1.4 Older people (aged 60 or over), young people (aged 24 or under) (age).

5.2 A Supplier from a protected group is one which is 51% or more owned by members of a group for which protection is provided by anti-discriminatory legislation and which is not already covered by the above (such as religious, faith or belief groups, or alternatively, ownership by a social enterprise or a voluntary/community organisation).

## **6. Suppliers demonstrating a diverse workforce composition**

This relates to Full Time Equivalent employees in the supplier's workforce who may be from one or more minority ethnic groups, and/or under-represented groups and/or protected groups as listed in II and III above.

## **7. Other Definitions & Information**

### **7.1 Full-Time Equivalent Employees**

Where employee numbers are used, these refer to Full-Time Equivalents (FTEs) expressed in **Annual Work Units** (see below). Staff headcount should include full-time, part-time and seasonal staff and includes the following:

- Employees
- Persons working for the enterprise being subordinated to it and considered to be employees under national law
- Owner managers
- Partners engaged in regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Full-time workers are expressed as hours worked per week. TfL refer to standard UK hours of work as full time workers – i.e. those who work 35 hours a week and 52 weeks a year (including annual leave).

### **7.2 Annual Work Units**

Refer to anyone who worked, over the past year, full-time within your enterprise, or on its behalf, during the entire reference year counts as one unit. You treat part-time staff, seasonal workers and those who did not work the full year as fractions of one unit.

### 7.3 **Turnover**

Turnover is in line with that defined in the Companies Act 1985:

The amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of:

- i) trade discounts
- ii) value added tax

Please refer to paragraph 7.8 regarding ownership categorisation to understand how to interpret ownership, where an enterprise is part of a parent organisation.

### 7.4 **Financial Year**

All data must be relating to the last approved accounting period and calculated on an annual basis. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply shall be derived from a reliable estimate made in the course of the Financial Year.

### 7.5 **Balance Sheet Total**

The annual balance sheet total refers to the value of your company's main assets.

### 7.6 **Ownership**

Individual or those in named control holding capital or voting rights - either through private or shared ownership - of any given business entity.

### 7.7 **Definition of Size**

Where headcount and turnover and/or balance sheet conditions apply to different size definitions, headcount acts as the more predominant aspect, in defining size.

An organisation does not need to satisfy both turnover and balance sheet total, only one of the conditions and may exceed one of them without losing its status. This is illustrated by an organisation which has 30 employees, a turnover of £12 million and a balance sheet total of £10 million. The number of employees figure would class the organisation as a small organisation; however the turnover and balance sheet total define the organisation as medium. In this case, the headcount would be used to define the classification of the organisation. This organisation would be classed as a small organisation.

To illustrate this, the following scenarios have been mapped for the different characteristics of supplier diversity definitions (based on information from the

Department for Trade & Industry (*now Department for Business Enterprise & Regulatory Reform*):

		Turnover/Balance Sheet Total		
		£5.6m net(up to)/ £2.8m net (up to )	£22.8m net(up to/incl.)/ £11.4m net (up to/incl.)	£22.8m net(over)/ £11.4m net (over)
<b>Employees</b>	<b>0-49</b>	✓	<i>Employees more predominant</i>	<i>Employees more predominant</i>
	<b>50-249</b>	<i>Employees more predominant</i>	✓	<i>Employees more predominant</i>
	<b>250+</b>	<i>Employees more predominant</i>	<i>Employees more predominant</i>	✓

## 7.8 Ownership Categorisation

### EU Commission Definition on Enterprise Ownership Categorisation

The European Commission's Guidance published in 2016 "User Guide to the SME Definition: User Guide and Model Declaration"<sup>5</sup>, outlines parameters for defining an organisation's ownership categorisation and whether an organisation is autonomous, partner or linked. The following paragraphs summarise these categories but the Guidance should be referred to for fuller detail.

#### 7.8.1 Autonomous

This is the most common category of ownership.

An organisation is autonomous if:

-It is totally independent, i.e. there is no participation in other enterprises and no enterprise has participation.

-It has a holding of less than 25% of the capital or voting rights (whichever is the higher) in one or more other enterprises and/or outsiders do not have a stake of 25% or more of the capital or voting rights (whichever is the higher) in your enterprise.

If an organisation is autonomous, it means that it is not a partner or linked to another enterprise

#### 7.8.2 Partner

<sup>5</sup> Refer directly to the EU Commission Definitions for more guidance:

[http://ec.europa.eu/enterprise/enterprise\\_policy/sme\\_definition/sme\\_user\\_guide.pdf](http://ec.europa.eu/enterprise/enterprise_policy/sme_definition/sme_user_guide.pdf)

An enterprise is a partner enterprise if:

-It has a holding equal to or greater than 25%, of the capital or voting rights in another enterprise and/or another enterprise has a holding equal to or greater than 25% in the other.

It is not linked to another enterprise. This means, among other things, that voting rights in the other enterprise (or vice versa) do not exceed 50%.

### 7.8.3 **Linked**

Enterprises formed as a **group** through the direct or indirect control of the majority of voting rights. An enterprise owned by another or through the ability to exercise a **dominant influence** on another enterprise.

Two or more enterprises are linked when they have any of the following relationships:

-One enterprise holds a majority of the shareholders' or members' voting rights in another.

-One enterprise is entitled to appoint or remove a majority of the administrative, management or supervisory body of another.

-A contract between the enterprises, or a provision in the memorandum or articles of association of one of the enterprises, enables one to exercise a dominant influence over the other.

-One enterprise is able, by agreement, to exercise sole control over a majority of shareholders' or members' voting rights in another.

## SCHEDULE 15: STRATEGIC LABOUR NEEDS AND TRAINING

### 1. Introduction

1.1 Without prejudice to the other provisions in this Contract relating to Supplier Personnel, this Schedule 15 (Strategic Labour Needs and Training) sets out the Supplier's obligations in respect of:

- (A) supporting the TfL Group (and third parties nominated by the TfL Group) in the implementation of the Skills and Employment Strategy; and
- (B) ensuring that the Supplier attracts, develops and retains Supplier Personnel with the skills necessary to deliver the Services, throughout the Contract until the Expiry Date.

1.2 In this Schedule, the following terms shall have the corresponding meanings:

**"Apprentice"** means a member of Supplier Personnel who is registered as an apprentice or technician with an industry recognised body;

**"Agreed SLNT Plan"** means the Supplier's strategic labour needs and training plan set out at Appendix 3 (*Initial/Agreed SLNT Plan*) to this Schedule 15 (Strategic Labour Needs and Training), to be prepared in accordance with the SLNT Plan Template and approved by the Authority;

**"Implementation Plan"** means the Supplier's implementation plan for delivering the Supplier's strategic labour needs and training plan in the form contained in Appendix 4 (Implementation Plan) of this Schedule 15 (Strategic Labour Needs and Training);

**"Initial SLNT Plan"** means the initial strategic labour needs and training plan set out at Appendix 3 (*Initial/Agreed SLNT Plan*) to this Schedule 15 (Strategic Labour Needs and Training), submitted by the Supplier prior to the Services Commencement Date and to be agreed between the Parties in accordance with paragraph 2 of this Schedule 15 (Strategic Labour Needs and Training);

**"Quarterly SLNT Monitoring Report"** means the report to be prepared by the Supplier in the form set out at Appendix 5 (*Quarterly SLNT Monitoring Report Template*) to this Schedule 15 (Strategic Labour Needs and Training) and submitted to the Authority in accordance with the provisions of

paragraph 4 of this Schedule 15 (Strategic Labour Needs and Training);

**"Relevant Employment Vacancy"** means an employment vacancy within the Supplier's organisation for a member of Supplier Personnel;

**"Skills and Employment Strategy"** means the TfL Group's ten (10) year skills and employment strategy, as amended from time to time. A copy of the current Skills and Employment Strategy is provided at Appendix 1 (*Skills and Employment Strategy*) to this Schedule 15 (Strategic Labour Needs and Training);

**"SLNT Co-ordinator"** has the meaning set out in paragraph 3.1 of this Schedule 15 (Strategic Labour Needs and Training);

**"SLNT Infraction"** means any breach by the Supplier of any of its obligations under this Schedule 15 (Strategic Labour Needs and Training) ;

**"SLNT Output"** means the minimum number of Apprentice positions or equivalent to be delivered by the Supplier (either directly through its own personnel and the personnel of its Sub-Contractors) under this Contract, as identified and agreed in the Agreed SLNT Plan;

**"SLNT Plan Template"** means the template for the SLNT Plan set out at Appendix 2 (*SLNT Plan Template*) to this Schedule 15 (Strategic Labour Needs and Training), to be completed by the Supplier;

**"Trainee"** means a member of Supplier Personnel who is registered as a trainee with an industry recognised body; and

## 2. Agreed SLNT Plan and Implementation Plan

2.1 Based on the Initial SLNT Plan, the Supplier shall:

- (A) further develop the Initial SLNT Plan to reflect the comments and requirements of the Authority;
- (B) submit a revised copy of the Initial SLNT Plan to the Authority for approval within twenty (20) Working Days from the Commencement Date; and
- (C) provide an Implementation Plan of this Schedule 15 (Strategic Labour Needs and Training) based on the revised copy of the Initial SLNT Plan within forty (40) Working Days from the Commencement Date.

2.2 If the Initial SLNT Plan is:

- (A) approved, it shall be adopted immediately and become the Agreed SLNT Plan; or
- (B) not approved, the Supplier shall amend the Initial SLNT Plan and re-submit it to the Authority for approval within the time period agreed in writing between the Parties. If the Authority does not approve the Initial SLNT Plan following its resubmission, the matters preventing such approval shall be resolved in accordance with Clause 64.

2.3 Without limiting any other provision of this Contract, the Supplier shall:

- (A) comply with provisions of the Agreed SLNT Plan and the Implementation Plan; and
- (B) at no additional cost to the Authority and subject to the provisions of paragraph 2.4 below, review and amend the Agreed SLNT Plan and Implementation Plan every twelve (12) Months following the Services Commencement Date or at other times requested by the Authority, to reflect:
  - (1) Good Industry Practice;
  - (2) any changes to the nature of the Services and updates to the Asset Management System; and
  - (3) any amendments proposed by the Authority.

2.4 Any changes or amendments to the Agreed SLNT Plan shall not be implemented until a Variation Order has been issued by the Authority in accordance with Schedule 5 (Contract Variation Procedure and Additional Works)..

### **3. SLNT Co-ordinator**

3.1 Within twenty (20) Working Days of the Commencement Date, the Supplier shall nominate a member of Supplier Personnel with the necessary skills and authority to:

- (A) be responsible for the implementation and on-going development and maintenance of the Agreed SLNT Plan; and
- (B) act as the single point of contact between Authority nominated personnel on all matters concerning the Agreed SLNT Plan,

(the "**SLNT Co-ordinator**").

3.2 The Parties shall add the SLNT Co-ordinator to the list of Key Personnel set out Schedule 17 (Key Personnel).

### **4. Monitoring and Reporting**

4.1 Subject to paragraph 4.2 below, the Supplier shall provide the Authority with a Quarterly SLNT Monitoring Report within eight (8) weeks of the Commencement Date

and within 10 Working Days of each Quarter end date there after detailing the Supplier's performance against the Agreed SLNT Plan.

- 4.2 Failure to provide the Authority with a copy of the Quarterly SLNT Monitoring Report within the timescales set out in paragraph 4.1 above shall constitute a failure for the purposes of paragraph 7 of the Escalation Procedure.
- 4.3 The Supplier shall ensure at all times that it complies with the requirements of the Data Protection Act 2018 (as may be amended) in the:
- (A) development and maintenance of Training Plans; and
  - (B) collection and reporting of the information to the Authority pursuant to paragraph 4.1 above.

## **5. SLNT Infractions**

- 5.1 Failure to:
- (A) ensure that each SLNT Output for the monitoring period is delivered in accordance with Agreed SLNT Plan; and/or
  - (B) review the Agreed SLNT Plan in accordance with paragraph 2.3 of this Schedule 15 (*Strategic Labour Needs and Training*),
- shall constitute a failure for the purposes of paragraph 7 of the Escalation Procedure.

## **6. SLNT Audit**

- 6.1 The Authority may from time to time undertake any audit or check of any and all information regarding the Supplier's compliance the provisions of this Schedule.
- 6.2 The Supplier shall maintain and retain records relating to the Agreed SLNT Plan and its compliance with the provisions of this Schedule for a minimum of seven (7) years.
- 6.3 The Authority shall use reasonable endeavours to co-ordinate such audits and to manage the number, scope, timing and method of undertaking audits so as to ensure that the Supplier is not, without due cause, disrupted or delayed in the performance of the Supplier's obligations under this Contract.
- 6.4 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:
    - (1) premises used in the Supplier's performance of this Contract, whether the Supplier's own premises or otherwise;
    - (2) equipment (including all computer hardware and software and databases) used (whether exclusively or non-exclusively) in the

performance of the Supplier's obligations under this Schedule 15 (Strategic Labour Needs and Training), wherever situated and whether the Supplier's own equipment or otherwise; and

- (B) complying with the Authority's reasonable requests for access to senior personnel engaged in the Supplier's performance of this Contract.

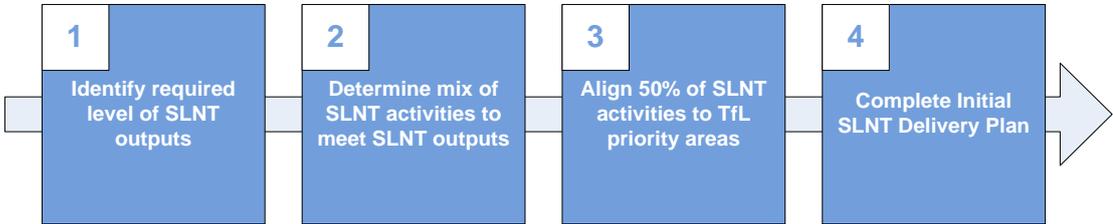
**Strategic Labour Needs and Training (SLNT)**  
**Explanation and Response Requirements**

**1 Principles of Strategic Labour Needs and Training (SLNT)**

**1.1 *Process Diagram***

1.1.1 To prepare the SLNT Delivery Plan, bidders should follow the process below, as outlined in Diagram 1:

**Diagram 1:**



**1.2 *Determining Number of Required SLNT Outputs***

1.2.1 Bidders can determine the number of required SLNT outputs based on the monetary value of the contract:

Each £1 million of contract value for service contracts  
= 1 SLNT output

1.2.2 Applying this ratio to the contract value a bidder can identify the minimum level of SLNT outputs required to be delivered. For example if a bidder’s estimated price for the contract was £30 million over its term, TfL will require a minimum of 30 SLNT outputs to be delivered over the term of the contract. These SLNT outputs can come from a range of SLNT activities (see 1.3).

**1.3 *Priority Areas***

1.3.1 To ensure bidders SLNT outputs are aligned to the priorities in TfL’s Skills and Employment Strategy, a **minimum of 25% of SLNT outputs must be from the Priority SLNT Activity Areas** (see Table 1 below).

**1.4 *SLNT Activities***

1.4.1 Bidders are able to select from a variety of SLNT activities to contribute towards their required SLNT outputs. SLNT activities, definitions and their output value, are detailed below in Table 1:

**Table 1:**

SLNT OUTPUT	DEFINITION	SLNT VALUE	PRIOR-ITY
<b>Apprenticeships</b>			
<b>Apprentice Job Start</b>	A new entrant who is recruited as an apprentice and enrolled on an approved Apprenticeship Framework. The apprentice must live within London. The apprentice can be any age from 16+.	<b>1 SLNT Output</b>	✓
<b>Workless Apprentice Job Start</b>	A new entrant who is recruited as an apprentice and enrolled on an approved Apprenticeship Framework, and who was previously workless before starting the apprenticeship. The apprentice must live within London. The apprentice can be any age from 16+.	<b>1 SLNT Output</b>	✓
<b>Apprentice Start (existing staff)</b>	An existing staff member who is enrolled onto an approved Apprenticeship Framework in order to up skill the workforce. The apprentice must live within London. The apprentice can be any age from 16+.	<b>1 SLNT Output</b>	✓
<b>Worklessness</b>			
<b>Workless Job Start</b>	As new job starts where the candidate was workless (economically inactive) prior to starting work. The candidate must live within London.	<b>1 SLNT Output</b>	
<b>Workless Graduate Job Start</b>	A graduate job starts where the candidate was workless (economically inactive) prior to starting work. The candidate must live within London.	<b>1 SLNT Output</b>	
<b>Educational/Career Support</b>			
<b>Placement Position</b>	A position intended to enable an individual to learn, develop or enhance their knowledge and skills in an industry or job role by providing a short work experience placement. A placement is expected to last a minimum of 1 week. A placement position could be paid or unpaid and	<b>20 Days = 1 SLNT Output</b> (e.g. 4 individuals each complete a 1 week placement: 4 x 5 days = 20 days = 1 output)	

	the individual must live within London.		
<b>School Engagement</b>	Education activities that support schools and school students, by raising awareness of the educational and employment opportunities in the industry. This could include attending career fairs, school visits, ambassador programmes etc. Schools supported should be within London.	<b>20 Days = 1 SLNT Output</b> (e.g. 2 staff members attend 10 careers fairs: 2 x 10 days = 20 days = 1 output)	
<b>Job Creation</b>			
<b>Job Start</b>	A new job start for an individual who lives within London, recruited as a result of the contract. This could include a graduate job start (non workless).	1 SLNT Output	

### 1.5 SLNT Definitions and Explanations

1.5.1 When completing their response, bidder should be aware of the following definitions and explanations as set out in Table 2 below:

**Table 2:**

<b>London</b>	Defined as being within the boundaries of the Greater London Authority (GLA) and the 33 London Boroughs. Suppliers are encouraged to recruit candidates who live within the vicinity of the project or works site.
<b>Priority Activity Areas</b>	SLNT Priority Activity Areas include Apprentice Starts, Workless Apprentice Starts and Apprentice Starts (existing staff) (see Table 1).
<b>Initial SLNT Delivery Plan</b>	The bidder's response to SLNT, to detail how they will meet the required SLNT outputs (see 3.1).
<b>Worklessness</b>	An individual is considered workless if they are 'economically inactive' and therefore not in paid employment or full time education. There is no minimum length of time the individual has to have been economically inactive to be considered workless. An individual who has moved into work from school, college or university is not considered workless.

### 1.6 SLNT Exclusions

1.6.1 Recognising that some products and services cannot be fully created or provided within a London or UK context, TfL is prepared to discount those elements from the overall value used to estimate the SLNT outputs.

1.6.2 Any exclusion will be balanced by the need to maximise SLNT outputs within a local London context and will only be agreed by TfL where it makes no sense to apply the SLNT requirements.

1.6.3 An example of this might be products that are manufactured outside of the UK. In such a case the value of the manufactured products would not be counted in determining the SLNT outputs, as compared to the installation and maintenance of those products which would be included.

## **1.7 *Accrual Method***

1.7.1 If the SLNT requirements are to be applied to a Framework contract, there is no initial value of work to be awarded. TfL will operate an accrual-based system to transfer debits or credits associated with SLNT delivery over following years. For example, a supplier undertaking SLNT activities in Year 1 can credit these activities into following years.

## **1.8 *Supply Chain/ Sub-Contractors***

1.8.1 Where a supplier will be using sub-contractors to deliver elements of the contract, suppliers will be required to apply the SLNT conditions/ requirements to these sub-contractors.

1.8.2 The supplier will be responsible for ensuring monitoring and delivery of the SLNT requirements relating to their supply chain/ sub contractors.

## **2 Supplier Skills Team**

### **2.1 *TfL Supplier Skills Manager***

2.1.1 TfL has appointed a team of Supplier Skills Managers (SSM) to act as a central co-ordination point for TfL suppliers. This is to ensure that suppliers are able to access funding, work programmes, educational institutions etc. in a controlled and co-ordinated manner.

2.1.2 After the commencement of the contract the SSM and the supplier must work together to understand their SLNT commitments as specified in the Initial SLNT Delivery Plan. During implementation the supplier and SSM agree a final SLNT Delivery Plan to ensure SLNT Outputs are deliverable and take advantage of public sector funding and support.

2.1.3 Working to support the supplier, the SSM will help to co-ordinate the various agencies and organisations (including Sector Skills councils, Department for Work & Pensions, National Apprenticeship Service, Skills Funding Agency etc.) that offer skills or employment funding, into one integrated programme for the supplier.

2.1.4 The SSM is available to support the supplier throughout the duration of the contract.

### **2.2 *Supplier's SLNT Coordinator***

2.2.1 It is a requirement of the contract for the supplier to appoint a SLNT Coordinator to manage the implementation of the SLNT Delivery Plan.

2.2.2 TfL expects the duties of the SLNT co-ordinator will include:

- Ensuring that the SLNT requirements are met
- Acting as primary point of contact for TfL's Supplier Skills Manager

- Managing subcontractor compliance
- Collection and presentation of the monitoring information including the monthly SLNT report

2.2.3 The role of the SLNT Co-ordinator is not required to be an exclusive appointment and may be combined with other duties.

### **3 Initial SLNT Delivery Plan**

3.1 The Initial Strategic Labour Needs and Training Delivery Plan should be completed to demonstrate how the bidder will deliver the required SLNT outputs. The plan is comprised of two components:

- a) Strategic Labour Needs and Training Activity Breakdown**
- b) Strategic Labour Needs and Training Method Statement**

#### **3.2 *SLNT Activity Breakdown***

3.2.1 The SLNT Activity Breakdown should show the bidder's proposed SLNT activity to achieve the required SLNT outputs across the term of the Contract. The SLNT Activity Breakdown shall:

- a) Be prepared using the tables provided in the SLNT Tender Questions.
- b) Be constructed:
  - In relation to the bidder's labour and/ or training plan
  - In relation to each year of the Contract as defined in schedule 17

#### **3.3 *SLNT Method Statement***

3.3.1 The SLNT Method Statement should provide details of the SLNT activities the bidder proposes to implement, as stated in the SLNT Activity Breakdown.

3.3.2 All elements of the questions should be addressed in the response.

3.3.3 A template SLNT Method Statement is provided in the SLNT Tender Questions.

### **4 SLNT: An Example**

- 4.1 TfL has provided the following example to clarify the provisions of 1.1 – 3.2 above.
- 4.2 A supplier is bidding for a services contract with a value of £20 million over 4 years, and therefore has a requirement to delivery 20 SLNT outputs over the duration of the contract.
- 4.3 25% of the outputs must be from one of the Priority Activity Areas; this means that 5 of the SLNT outputs must be either an apprentice start, a workless apprentice start, or an apprentice start (existing staff). To meet these outputs the supplier has decided to:
- Recruit 3 new apprentices; recruiting 2 apprentices in Year 1, and the next apprentice in Year 2 (3 SLNT priority outputs)
  - Enrol 2 existing staff members onto apprenticeships, one in year 1 and one in year 2 (2 priority outputs)
  - Recruit 5 new staff from a workless background (5 SLNT outputs)
  - Deliver 5 educational engagement activities with local schools per year (5 days x 4 years = 20 days = 1 SLNT output)
  - Offer 4 x 2 week placements to local unemployed young people across Year 2 and Year 3 (4 x 10 days = 40 days = 2 SLNT outputs)
  - Recruit an extra 7 staff onto the contract (7 SLNT outputs).
- 4.4. The supplier's proposed SLNT Activity Breakdown is therefore set out in Table 3:

**Table 3 - EXAMPLE**

SLNT Activity Breakdown - An Example								
SLNT Activity Area	Priority Output	Year 1	Year 2	Year 3	Year 4	Totals	Cross Check	
							SLNT Value	SLNT Totals
<b>Apprenticeships</b>								
- Apprentices Job Start (FTE)	Y	2	1			3	1	3
- Workless Apprentice Job Start (FTE)	Y					0	1	0
- Apprentice Start (Existing Staff)	Y	1	1			2	1	2
<b>Worklessness</b>								
- Workless Job Starts (FTE)		2	2	1		5	1	5
- Workless Graduate Job Start (FTE)						0	1	0
<b>Educational/Career Support</b>								
- Placement Positions (Days)			20	20		40	20	2
- School Engagement (Days)		5	5	5	5	20	20	1
<b>Job Creation</b>								
- Job Start (non-workless) (FTE)		3	2	2		7	1	7
						<b>Total SLNT Activity</b>		<b>20</b>
						<b>Priority Activities</b>		<b>5</b>

# SLNT Tender Questions

Please complete the SLNT Activity Breakdown Table and the SLNT Method Statement.

## Strategic Labour Needs and Training Activity Breakdown

### Title - SLNT Activity Breakdown

Please complete the following table outlining how you intend to meet your SLNT commitments.

**Table 1:**

SLNT Activity Breakdown								
SLNT Activity Area	Priority Output	Year 1	Year 2	Year 3	Year 4	Totals	Cross Check	
							SLNT Value	SLNT Totals
<b>Apprenticeships</b>								
- Apprentices Job Start (FTE)	Y					0	1	0
- Workless Apprentices Job Start (FTE)	Y					0	1	0
- Apprentice Start (Existing Staff)	Y					0	1	0
<b>Worklessness</b>								
- Workless Job Starts (FTE)						0	1	0
- Workless Graduate Job Start (FTE)						0	1	0
<b>Educational/Career Support</b>								
- Placement Positions (Days)						0	20	0
- School Engagement (Days)						0	20	0
<b>Job Creation</b>								
- Job Start (non-workless) (FTE)						0	1	0
						<b>Total SLNT Activity</b>		<b>0</b>
						<b>Priority Activities</b>		<b>0</b>

Please detail any information or assumptions relevant to the above outputs you have indicated as meeting your SLNT requirements:

**Additional Information/ Assumptions (max 250 words)**  
**Content:**

**Strategic Labour Needs and Training Method Statement**

**Title: Delivery Against TfL Priorities**

Referring to the SLNT Activity Breakdown outlined in Table 1, please describe the activities you will undertake in each of the SLNT areas. This should include further detail for each of the areas detailed below:

- The qualifications and training programmes you have identified;
- Named staff resource you will be deploying to support the activity;
- External funding streams you have identified to support the activity;
- Assumptions made in preparing proposed activities;
- Any input you require from TfL to undertake these activities.

Any areas where you are not proposing to undertake activity should be left blank.

You may use up to [250] words in each of the following boxes.

**Apprentice Job Start**

**Content:**

**Workless Apprentice Job Start**

**Content:**

**Apprentice Start (Existing Staff)**

**Content:**

**Workless Job Start**

**Content:**

**Workless Graduate Job Start**

**Content:**

<b>Placement Positions</b> <i>Content:</i>
<b>School Engagement</b> <i>Content:</i>
<b>Job Start (non-workless)</b> <i>Content:</i>

**Title: Supply Chain Compliance**

**Content: (max 250 words)**

If you are using sub-contractors in your work programme, please outline how you will ensure your SLNT requirements will be met through your sub-contractors: This should include:

- How you will include SLNT considerations in your selection, contracting and management of sub-contractors;
- How you intend to ensure your sub-contractors are aware of appropriate TfL/government support and funding streams for any SLNT activity they will be undertaking towards your stated SLNT outputs;
- How will you facilitate engagement between TfL's Supplier Skills Manager and your supply chain?

**Title: SLNT Monitoring & Co-ordination**

**Content: (Max 250 words)**

- Describe who will be responsible for implementing, managing and reporting SLNT activity within your company;
- What are the administrative and management arrangements that will be operated in relation to your SLNT activity?
- How will the proposed role/ structure interact with TfL?

***Title: SLNT Implementation Arrangements***

***Content: (max 250 words)***

What arrangements you will put in place to put the plan into action during contract implementation including:

- The transfer of knowledge from bid team to the project team;
- Engagement with TfL to develop the agreed SLNT Delivery Plan;
- Appointment of the SLNT Co-ordinator and establishment of the required administration, management and reporting structure.

## **APPENDIX 1 TO SCHEDULE 15**

### **Skills and Employment Strategy**

A copy of the Skills and Employment Strategy can be obtained from:

<https://www.tfl.gov.uk/cdn/static/cms/documents/skills-and-employment-strategy.pdf>

A copy of the Transport Infrastructure Skills Strategy can be obtained from:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/495900/transport-infrastructure-strategy-building-sustainable-skills.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/495900/transport-infrastructure-strategy-building-sustainable-skills.pdf)

A copy of the Transport Infrastructure Skills Strategy (TISS) – One Year On - can be obtained

from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627255/strategic-transport-apprenticeship-taskforce-1-yr-on.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627255/strategic-transport-apprenticeship-taskforce-1-yr-on.pdf)

A copy of the Transport Infrastructure Skills Strategy (TISS) – Two Years On - can be obtained from:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/727052/transport-infrastructure-skills-strategy-two-years-on.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727052/transport-infrastructure-skills-strategy-two-years-on.pdf)

**APPENDIX 2 TO SCHEDULE 15**

**SLNT Plan Template**

Please complete the following table outlining how you intend to meet your SLNT commitments.

**Table 1:**

SLNT Activity Breakdown								
SLNT Activity Area	Priority Output	Year 1	Year 2	Year 3	Year 4	Totals	Cross Check	
							SLNT Value	SLNT Totals
<b>Apprenticeships</b>								
- Apprentices Job Start (FTE)	Y					0	1	0
- Workless Apprentices Job Start (FTE)	Y					0	1	0
- Apprentice Start (Existing Staff)	Y					0	1	0
<b>Worklessness</b>								
- Workless Job Starts (FTE)						0	1	0
- Workless Graduate Job Start (FTE)						0	1	0
<b>Educational/Career Support</b>								
- Placement Positions (Days)						0	20	0
- School Engagement (Days)						0	20	0
<b>Job Creation</b>								
- Job Start (non-workless) (FTE)						0	1	0
						<b>Total SLNT Activity</b>		<b>0</b>
						<b>Priority Activities</b>		<b>0</b>

Please detail any information or assumptions relevant to the above outputs you have indicated as meeting your SLNT requirements:

***Additional Information/ Assumptions (max 250 words)***

**Content:**

**Strategic Labour Needs and Training Method Statement**

Referring to the SLNT Activity Breakdown outlined in Table 1, please describe the activities you will undertake in each of the SLNT areas. This should include further detail for each of the areas detailed below:

- The qualifications and training programmes you have identified;
- Named staff resource you will be deploying to support the activity;
- External funding streams you have identified to support the activity;
- Assumptions made in preparing proposed activities;
- Any input you require from the Supplier to undertake these activities.

Any areas where you are not proposing to undertake activity should be left blank.

You may use up to 250 words in each of the following boxes.

**Apprentice Job Start**

*Content:*

**Workless Apprentice Job Start**

*Content:*

**Apprentice Start (Existing Staff)**

*Content:*

**Workless Job Start**

*Content:*

**Workless Graduate Job Start**

*Content:*

<b>Placement Positions</b> <i>Content:</i>
<b>School Engagement</b> <i>Content:</i>
<b>Job Start (non-workless)</b> <i>Content:</i>

## SLNT Implementation Plan

### 1. Contact Information

TfL Contract

Supplier Skills Manager

Company  
Contract Manager  
TfL Stakeholder / SRM

SLNT Co-ordinator  
Contact Phone Number  
Contact Email

Reporting Requirements Quarterly / Monthly / Periodically

Report Period

Implementation Plan Review Date

### 2. Overview and Background

**2.1 - Overview:** Please provide an overview of the contract / project to which the SLNT requirements have been applied

**2.2 - Method:** Please outline how you will deliver your SLNT requirements with particular focus on TfL priority outputs

**2.3 - Forecasted Outputs:** Please indicate in the table below forecasted SLNT outputs

	Worklessness			New Entrants			Trainee's		Current workforce		Educational Activities
	Apprenticeship (FTE)	Job Starts (FTE)	Placement Positions	Apprenticeship (FTE)	Job Starts (FTE)	Graduates (FTE)	Placement Positions (Nos)	Taster Positions (Nos)	Adult Apprenticeships	Workforce Skills (days)	
Previous Year											
March											
April											
May											
June											
July											
August											
September											
October											
November											
December											
January											
February											
March											
<b>Annual Total</b>	0	0	0	0	0	0	0	0	0	0	0
Future Years											
<b>TOTAL</b>	0	0	0	0	0	0	0	0	0	0	0

**2.4 - Milestones:** Please detail key milestones related to the delivery of your SLNT outputs

Milestone 1		Milestone 6	
Milestone 2		Milestone 7	
Milestone 3		Milestone 8	
Milestone 4		Milestone 9	
Milestone 5		Milestone 10	

**2.5 - Partners:** Please detail any partner organisations that will assist you in your SLNT delivery (Organisation and Key Contact)

Partner 1		Partner 6	
Partner 2		Partner 7	
Partner 3		Partner 8	
Partner 4		Partner 9	
Partner 5		Partner 10	

**3. Risks:** Please detail any risks and associated mitigation measures for the delivery of your SLNT requirements

	Risk	Likelihood	Risk Mitigation
1			
2			
3			
4			
5			

**4. Communications:** Please outline any planned SLNT communication, events or publications (internal and external) and how TfL will be notified

**5. Monitoring:** You are required to complete the two monitoring templates attached to this document (Sheets 1 and 2 of this document)

1. **SLNT Monitoring Form** - Outlines SLNT outputs for each reporting period
2. **Job Start Monitoring Form** - Outlines specific information for TfL Priority SLNT outputs

**6. Sign Off:**

Suppliers SLNT Co-ordinator (Name)	Signature	Date
TfL Supplier Skills Manager (Name)	Signature	Date

Implementation Plan Review Date	
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## SCHEDULE 16: MOBILISATION REQUIREMENTS

1. The Supplier shall comply with:
  - (A) the Contract Mobilisation and Transition Plan set out at Appendix 1 (Contract Mobilisation and Transition Plan) to this Schedule 16 (Mobilisation Requirements); and
  - (B) the Business Continuity Plan set out at Appendix 3 (Business Continuity Plan) to Schedule 19 (Contract Management).
4. Without prejudice to the generality of paragraph 1:
  - (A) the Supplier's mobilisation team shall attend mobilisation/transition meetings chaired by the Authority as will be scheduled by the Authority and notified to the Supplier; and
  - (B) the Parties shall hold a daily conference call at a set time. The Supplier shall participate in this call and provide daily verbal updates.
5. In the event that the Supplier considers that there is likely to be a delay in carrying out any of the activities contained within the Contract Mobilisation and Transition Plan or Business Continuity Plan, it shall immediately notify the Authority and provide its proposals to the Authority for review and approval as to how it will mitigate the impacts of any such delay. The Supplier will thereafter comply with any such proposals as approved by the Authority. Any failure by the Supplier to comply with this obligation shall be dealt with in accordance with Schedule 11 (Performance Measurement).
6. In the event that the Authority considers at any time that there is likely to be a delay in carrying out any of the activities contained within the Contract Mobilisation and Transition Plan it may ask the Supplier to identify the reasons for such delay and immediately provide its proposals to the Authority for review and approval as to how it will mitigate the impacts of any such delay. The Supplier will thereafter comply with any such proposals as approved by the Authority. Any failure by the Supplier to comply with this obligation shall be dealt with in accordance with Schedule 11 (Performance Measurement).
7. Without prejudice to the generality of the above, the Supplier shall at all times:
  - (A) establish and maintain a statutory aspects inspection and compliance schedule and register; and
  - (B) ensure it understands and applies the Authority's permit to work system.

### Appendix 1: Contract Mobilisation and Transition Plan



Project: Revised Mobilisation P Task Timeline Summary  
 Date: Tue 16/07/19