



Contract Reference Number: TfL 90921

Date: 3 February 2017

**Contract for Goods and Services**

**between**

**Transport For London (TfL)**

**and**

**Senator International Limited**

**Version: 1.0**

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**THIS CONTRACT** is made the 3<sup>rd</sup> day of February 2017

**BETWEEN:**

- (1) Transport for London (TfL), ("**the Authority**"); and
- (2) Senator International Limited, a company registered in England and Wales (Company Registration Number 1323955) whose registered office is at Syke Side Drive, Altham Business Park, Accrington, Lancashire, BB5 5YE ("**the Service Provider**").

**RECITALS:**

- A. The provision of a one-stop shop for furniture to cover all requirements of the organisation, both Head Office and Operational.
- B. The Authority wishes the Service Provider to provide the Goods and Services and the Service Provider is willing to provide the Goods and Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Goods and Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

**THE PARTIES AGREE THAT:**

**1 Definitions and Interpretation**

In the Contract (including the Recitals):

- 1.1 unless the context indicates otherwise the following expressions shall have the following meanings:

**"Applicable Law"**

means any:

- (a) statute, statutory instrument, bylaw, order, directive, treaty, decree or law (including any common law, judgment, demand, order or decision of any court, regulator or tribunal);
- (b) Rule of Natural Justice or other rule, policy, guidance or recommendation made or recognised by any court, regulator or tribunal or issued by any Regulatory Body, and/or
- (c) applicable code or requirement representing best practice or industry code of conduct or guideline,

which relates to this Agreement, an Order,

the Goods, the Services or the parts or activities which are comprised in all or some of the Goods and/or Services and/or the Authority's business;

**"Authority Assets"**

means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of the Authority Group;

**"Authority Group"**

shall mean where the Authority is:

- (a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **"member of the Authority Group"** shall refer to TfL or any such subsidiary; and
- (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor's Office for Policing and Crime and the London Fire and Emergency Planning Authority, London Legacy Development Corporation, and the Old Oak and Park Royal Development Corporation (**"Functional Bodies"**) each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **"member of the Authority Group"** shall refer to the GLA, any Functional Body or any such subsidiary;

**"Authority Premises"**

any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group;

**"Business Day"**

any day excluding Saturdays, Sundays or public or bank holidays in England;

**"Cessation Plan"**

a plan agreed between the Parties or determined by the Authority pursuant to Clauses 30.1 to 30.5 (inclusive) to give effect to a Declaration of Ineffectiveness or

	Clauses 28.6 to 28.10 (inclusive) to give effect to a Public Procurement Termination Event;
<b>"Charges"</b>	the charges payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 28.6 or Clause 33;
<b>"Confidential Information"</b>	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority Group);
<b>"Contract"</b>	this contract, including the Schedules and all other documents referred to in this contract;
<b>"Contract Information"</b>	(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 7 which shall consist of the Service Provider's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;
<b>"Contract Manager"</b>	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority.
<b>"Contract Commencement Date"</b>	the date for commencement of the Contract specified in Schedule 1;
<b>"Declaration of Ineffectiveness"</b>	a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 45J the Utilities Contracts Regulations 2006;

<b>"Delivery Address"</b>	means the address where the Goods are to be delivered, as specified in the relevant Order (and if more than one address is specified in relation to different Goods, then the relevant address for delivery);
<b>"Delivery Date"</b>	means such date as is specified in the relevant Order (and if more than one date is specified in relation to different Goods, then the relevant date for delivery), or if no such date is specified then not less than four (4) Business Days after the date of the relevant Order;
<b>"Force Majeure Event"</b>	any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event (" <b>Affected Party</b> ") to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;
<b>"Goods"</b>	means the products listed in Schedule 4 (Goods and Services), together with all component and ancillary parts;
<b>"Holding Company"</b>	any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006;
<b>"Insolvency Event"</b>	any of the following: <ul style="list-style-type: none"> <li>(a) either or both of the Service Provider or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;</li> <li>(b) a receiver, administrative receiver, manager, or administrator being</li> </ul>

appointed over all or part of the business of either or both of the Service Provider or the Holding Company;

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

**"Intellectual Property Rights"**

any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world.

**"Key Personnel"**

the Service Provider's key personnel named in Schedule 1.

**"Losses"**

all costs (including legal costs and costs of enforcement), expenses, liabilities (including

	any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;
<b>"Milestone"</b>	an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;
<b>"Order"</b>	means an order for the supply of Goods and/or Services by the Service Provider to the Authority on the terms and conditions of this Contract placed by the Authority.;
<b>"Parties"</b>	the Authority and the Service Provider (including their successors and permitted assignees) and "Party" shall mean either of them as the case may be;
<b>"Procurement Manager"</b>	the person named as such in Schedule 1 and referred to in Clause 9 or such other person as notified to the Service Provider by the Authority;
<b>"Project Plan"</b>	the plan (if any) for implementation including (without limitation) project delivery set out in Schedule 5, developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include Milestones;
<b>"Public Procurement Termination Event"</b>	if a court determines that one or more of the circumstances described in regulation 73(1) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25 has occurred;
<b>"Service Commencement Date"</b>	the date for commencement of the Services set out in Schedule 1;
<b>"Service Provider Equipment"</b>	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract;
<b>"Service Provider's"</b>	all such persons, including (without

**Personnel"**

limitation) employees, officers, suppliers, sub-contractors and agents of the Service Provider, as are engaged in the performance of any of the Services and including the Key Personnel;

**"Services"**

- (a) subject to Clause 28.6 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under the Contract as detailed in the Specification including any variations to such services or activities pursuant to Clause 33; and
- (b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;

**"Specification"**

means:

- (a) in relation to the Goods, the specification and other requirements of the Goods set out in Schedule 4 (Goods and Services) and, to the extent consistent with Schedule 3 (Goods and Services), any other plans, drawings, data, technical specifications, instructions or other information relating to such Goods that have been published by the Service Provider or manufacturer of the Goods or that have otherwise been made available by or on behalf of the Service Provider,;
- (b) in relation to the Services, the specification and other requirements of the Services set out in Schedule 3 (Goods and Services),

in each case, together with any other specifications or requirements set out in a Order;

**"Term"**

the period during which the Contract continues in force as provided in Clause 2 and Schedule 1

- "TfL"** Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
- "Transparency Commitment"** means the Authority's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority's own published transparency commitments;
- "VAT"** means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.
- "Warranty Period"** means the period set out in an Order, commencing on the date of acceptance of the Goods by the Authority;
- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of execution of the Contract;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
- 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or
- 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 shall prevail;

- 1.8 the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.9 the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words "including", "includes" and "included" will be construed without limitation unless inconsistent with the context.

## 2. Commencement and Duration

The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 28.

## 3. The Services

### 3.1 The Service Provider:

3.1.1 shall provide the Goods and Services to the Authority from the Service Commencement Date in accordance with the Contract;

3.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services and supply the Goods in accordance with the Contract;

3.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and

3.1.4\* shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services and supply of the Goods.

3.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;

3.3 The Service Provider shall provide the Services:

3.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;

- 3.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification;
  - 3.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and
  - 3.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed.
- 3.4 Where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 3.5 Throughout the term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services and/or Goods as the Authority may reasonably require.
- 3.6 Where a format for electronic receipt of orders by the Service Provider is set out in Schedule 1, the Service Provider shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.
- 4. The Goods**
- 4.1 The Service Provider shall ensure that all Goods supplied pursuant to an Order shall:
- 4.1.1 conform with the Specification and any additional requirements agreed under an Order;
  - 4.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 (as amended)) and fit for any purpose held out by the Service Provider or made known to the Service Provider by the Authority;
  - 4.1.3 be free from defects in design, materials and workmanship;
  - 4.1.4 be so formulated, designed, constructed and finished as to be safe and without risk to health; and
  - 4.1.5 comply with all Applicable Laws and all codes of conduct relating to the Goods.
- 4.2 The Service Provider shall obtain and maintain during the Term all approvals, permissions, registrations, licences and consents that are necessary or consequential to the manufacture, supply, installation, operation and/or maintenance of the Goods.

- 4.3 The Service Provider shall allow the Authority upon request to inspect and test the Goods at any time prior to delivery. The Service Provider will not unreasonably refuse any request by the Authority to carry out such inspection and testing and will provide the Authority with all facilities reasonably required.
- 4.4 If, as a result of such inspection or testing, the Authority is not satisfied that the Goods will comply in all respects with the Specification and the Authority so informs the Service Provider within thirty (30) days of such inspection or testing, the Service Provider will take all steps necessary to ensure compliance. Without prejudice to any other rights of the Authority under the Contract, any failure of this obligation by the Service Provider will be deemed to be a material breach entitling the Authority to terminate the relevant Order in accordance with Clause 28 (Breach and Termination of Contract).
- 4.5 Notwithstanding any such inspection or testing, the Service Provider shall remain fully responsible for the Goods and any such inspection or testing will not diminish or otherwise affect the Service Provider's obligations under the Contract or an Order.
- 4.6 The Service Provider shall deliver the Goods carriage paid to the Delivery Address, or if no such address is stated, to the Authority's place of business, at the time or during the hours specified by the Authority in an Order.
- 4.7 The Service Provider shall deliver the Goods on the Delivery Date and shall ensure that all deliveries are within the agreed maximum times for guaranteed delivery as set out in the Delivery Timetable. The Service Provider shall provide the Authority with at least forty-eight (48) hours notice of delivery and shall agree the delivery with an authorised representative of the Authority.
- 4.8 The Service Provider shall off-load the Goods at the Delivery Address at its own risk as directed by the Authority.
- 4.9 The Service Provider shall ensure that:
- 4.9.1 the Goods are marked in accordance with the Authority's instructions and any applicable regulations or requirements of the carrier and properly packed and stored so as to reach their destination in an undamaged condition;
  - 4.9.2 each delivery is accompanied by a prominently displayed Delivery Note checked by the Service Provider which shows, inter alia, the Service Provider's name and address, the order number, date of order, a brief description of the Goods delivered (including quantity and serial numbers where applicable), and, in the case of part delivery, the outstanding balance remaining to be delivered;
  - 4.9.3 any documentation and any keys (the latter, where applicable) for the Goods shall be delivered directly to and signed by the

authorised representative of the Authority as set out in the Order or as otherwise instructed by the Authority; and

- 4.9.4 the Authority is supplied on delivery of the Goods with all installation and assembly instructions, operating and safety instructions and warning notices clearly displayed and other information as may be necessary for their proper installation, use, maintenance and repair for the Authority to accept delivery of the Goods.
- 4.10 If the Service Provider at any time has reason to believe that it will be unable to deliver any Goods as set out in an Order to the Delivery Address on the Delivery Date during the required hours, the Service Provider shall, without prejudice to any rights or remedies of the Authority, immediately notify the Authority of the cause, the expected period of delay and the steps proposed by the Service Provider to minimise such delay.
- 4.11 Without prejudice to any rights or remedies, in the event that the Service provider fails to deliver any Goods to the Delivery Address on the Delivery Date during the required hours (or prior to the Delivery Date if agreed with the Authority):
- 4.11.1 subject to any cancellation under Clause 4.11.2, the Service Provider shall, at its own expense, arrange all such additional resources as may be necessary to ensure delivery of such Goods to the Delivery Address as soon as is reasonably practicable thereafter or on such dates and at such times as directed by the Authority;
- 4.11.2 the Authority shall be entitled, without liability to the Service Provider, to cancel the relevant Order (in whole or in part) by written notice to the Supplier if the Service Provider has failed to deliver the Goods within a period of thirty (30) days from the Delivery Date.
- 4.12 The Authority shall signify acceptance of the quantity only of the Goods as stated on the Delivery Note by the signature of an authorised representative of the Authority on a copy of the Delivery Note. The Service Provider must ensure that all Delivery Notes are checked, initialled and dated by the Service Provider's and Authority's representatives as part of the delivery process.
- 4.13 In the event of the quantity of Goods being:
- 4.13.1 less than the quantity set out in the Order, the Authority shall notify the Service Provider (including notification by an authorised person acting on its behalf) within three (3) Business Days and, without prejudice to any rights or remedies, the Service provider shall ensure delivery of any missing Good(s) or parts thereof within five (5) Business Days from the Delivery Date; or

- 4.13.2 in excess of the quantity set out in the Order, the Service provider shall not be entitled to charge for such excess Goods unless it has obtained the Authority's prior written consent and the Authority has agreed to pay for such excess Goods separately, such price to be equal to or less than the price of the Goods set out in the Order. Any excess Goods will be and remain at the Service Provider's risk and be returnable at the Service Provider's expense.
- 4.14 The Authority will not be deemed to have accepted the Goods until it has had ten (10) Business Days to inspect them following delivery. The Authority will also have the right to reject the Goods as though they had not been accepted for twenty (20) Business Days after any latent defect in the Goods has become apparent.
- 4.15 If the Service Provider has delivered Goods that do not comply with Clause 4.1 (The Goods) or are otherwise not in conformance with the Contract or an Order during the Warranty Period or at any time (including after the expiry of the Warranty Period) in respect of latent defects or defects in design, whether or not such Goods have been accepted by the Authority, and without prejudice to any other rights or remedies of the Authority, the Authority shall be entitled to:
- 4.15.1 reject the Goods (in whole or part) whether or not title has passed and return them to the Service Provider at the Service Provider's risk and expense and the Service Provider shall not be entitled to claim payment from the Authority in respect of such Goods;
  - 4.15.2 require the Service Provider, at the Service Provider's risk and free of charge, to either repair or replace the Goods rejected or provide a full refund of the Charges for such rejected Goods (if paid), in each case within five (5) Business Days of being requested to do so;
  - 4.15.3 cancel any or all remaining instalments if the Order has not already been terminated;
  - 4.15.4 refuse to accept any subsequent delivery of the Goods which the Service Provider attempts to make;
  - 4.15.5 obtain substitute Goods (including remedial services and repairs) from a third party supplier and the Service Provider shall promptly reimburse the Authority for its costs and expenses in doing so, and/or
  - 4.15.6 claim damages for any losses, expenses or additional costs incurred by the Authority arising out of or in connection with the Service Provider's breach of Clause 4.1 (The Goods) or any other act or omission of the Service Provider.
- 4.16 Goods repaired or replaced in accordance with Clause 4.15.2 shall be subject to the provisions of the Contract in the same manner as those originally delivered under the Order.

4.17 The Authority's rights under the Contract and any Order are in addition to its rights and remedies implied by statute and at common law and any warranty provided by the Service Provider.

4.18 The Service Provider warrants, represents and undertakes to the Authority that any warranty provided by the Service Provider in respect of the Goods shall be in addition to the rights and remedies of the Authority under the Contract and any Order and shall include all elements of the Goods, including all parts, components, fastenings and mechanisms.

**5. Risk and Title in the Goods**

Risk and title in the Goods shall pass from the Service Provider to the Authority when the Goods have been installed and accepted by the Authority in accordance with Clause 4.14 (Acceptance of the Goods).

**6. Charges**

6.1 The Service Provider shall invoice the Authority in accordance with the procedure set out in Clause 7 (Payment Procedures and Approvals) and in consideration of, and subject to the supply of the Goods and proper performance of the Services by the Service Provider in accordance with the terms of the Contract and an Order, the Authority shall pay the Service Provider the Charges in accordance with those procedures and any other terms and conditions of the relevant Order.

6.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in an Order or have been incurred with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.

6.3 The Authority shall have the right to delete or deduct from the payment due under Clause 6.1, the price of any Goods rejected under Clause 4 (Acceptance of the Goods) or any cost that the Authority has incurred as a result of the Service Provider's failure to comply with the terms of the Contract or an Order.

6.4 All Charges exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.

**7. Payment Procedures and Approvals**

7.1 The Service Provider shall invoice the Authority in respect of the Charges:

7.1.1 monthly in arrears during Term; or

7.1.2 at such dates or at the end of such other periods as may be specified in the Order; or

- 7.1.3 if specified in an Order, on completion of each milestone. It is a condition precedent of the submission of an invoice on completion of a milestone that all preceding milestones specified in the relevant Order have been completed.
- 7.1.4 If specified in an Order, for Orders in excess of £100,000, TfL reserves the right to withhold 5% of the Order value. Upon satisfactory performance of the Order, TfL shall release the retained sum within 3 months of satisfactory performance of the Order.
- 7.2 The Service Provider shall submit invoices to the address set out in each Order. Each such invoice shall contain all information required by the Authority including the Contract reference number, relevant Order number, SAP order number, the Authority account details, the Service Provider's name and address, a separate calculation of VAT and a brief description of the Goods and/or Services provided. Invoices shall be clear, concise, accurate and adequately descriptive to avoid delays in processing subsequent payment.
- 7.3 In the event of a variation to the Goods and/or Services in accordance with the Contract or the relevant Order that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoice.
- 7.4 If the Authority considers that the Charges claimed by the Service Provider in any invoice under the relevant Order have:
- 7.4.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in the relevant Order; or
- 7.4.2 not been calculated correctly and/or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall, acting reasonably, work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.
- 7.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or the Contract Manager (whether related to payment or otherwise) shall:
- 7.5.1 indicate or be taken to indicate the Authority's acceptance or approval of the Goods and/or Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service

Provider from any obligation or liability imposed on the Service Provider under the Contract or an Order, or

7.5.2 prevent the Authority from recovering any amount overpaid or wrongfully paid, including payments made to the Service Provider by mistake of law or fact. Without prejudice to Clause 19 (Set-off), the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt under the Contract or an Order.

7.6 If any sum payable by the Authority under an Order is not paid when properly due (excluding any disputed amounts) then the Service Provider shall be entitled to recover interest on that sum from the due date until payment is made in full both before and after any judgment, at a rate of 2% above the base rate of HSBC Bank plc from time to time. The Parties agree that this Clause 7.6 is a substantial remedy for the late payment of any sum payable under the Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998. The Service Provider is not entitled to suspend or delay delivery of the Goods or performance of the Services as a result of any sums being outstanding.

## 8. Warranties

8.1 Without prejudice to any other warranties expressed elsewhere in the Contract, an Order or implied by law, the Service Provider warrants, represents and undertakes that:

8.1.1 The Service Provider:

8.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its holding company as defined in section 1159 of the Companies Act 2006) to enter into and to perform the Contract; and

8.1.1.2 is aware of the purposes for which the Goods and Services are required and acknowledges that the Authority is reliant upon the Service Provider's expertise and knowledge in the supply of Goods and the provision of the Services; and

8.1.1.3 is entering into the Contract and will enter into any relevant Order as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under the Contract; and

8.1.1.4 is not aware of any breach of Clause 15 (Corrupt Gifts and Payment of Commission) existing prior to or on the date of the Contract or a relevant Order or of any arrangement or agreement which could put

the Service Provider in breach of Clause 15 (Corrupt Gifts and Payment of Commission) in connection with the execution of this Agreement or any Order;

8.1.1.5 the Contract is, and each Order will be, executed by a duly authorised representative of the Supplier;

8.1.1.6 the use and/or possession of the Goods or receipt of the Services (including the Materials) by the Authority shall not infringe the Intellectual Property Rights of any third party.

8.2 Each warranty in Clause 8 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation (including any warranty provided by the Service Provider) or any other term of the Contract or any Order.

8.3 For the purposes of construing the warranties in Clause 8, references to the Goods includes any part of the Goods.

## 9. Operational Management

9.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract.

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

9.2.1 variations to the Contract;

9.2.2 any matter concerning the terms of the Contract; and

9.2.3 any financial matter (including any issues in Schedule 4),

which shall be referred to the Procurement Manager.

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

## 10. Service Provider's Personnel

10.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the Contract Commencement Date or the expiry or termination of this Contract.

10.2 Nothing in this Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or Authority Group by

virtue of the provision of the Services by the Service Provider under the Contract, and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.

- 10.3 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.
- 10.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to any Service Provider's Personnel to any Authority Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).
- 10.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 10.3 shall apply to the proposed replacement personnel.
- 10.6 Notwithstanding Clause 10.1, the Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the Authority Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 10.4.
- 10.7 The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for the Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.
- 10.8 The Service Provider shall provide training to the Authority's personnel (including its employees, officers, suppliers, sub-contractors and agents) as specified in Schedule 1.

**11. Sub-Contracting and Change of Ownership**

- 11.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority, which may be refuse or grant consent subject to such conditions as the Authority sees fit.
- 11.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
- 11.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
  - 11.2.2 be responsible for payments to that person;
  - 11.2.3 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider;
  - 11.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify the Authority in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Service Provider to the Authority under the Contract;
  - 11.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 11.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier);
  - 11.2.6 without prejudice to the provisions of Clause 14, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;
  - 11.2.7 include a term in each sub-contract (of any tier):
    - 11.2.7.1 requiring payment to be made by the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract,

to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements; and

11.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements.

11.3 The Service Provider shall give notice to the Authority within 10 Business Days where:

11.3.1 there is any change in the ownership of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; and

11.3.2 there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company; and

11.3.3 (in the case of an unincorporated Service Provider) give notice to the Authority if there is any change in the management personnel of the Service Provider, which alone or taken with any other change in management personnel not previously notified to the Authority, equates to a change in the identity of 50% or more of the management personnel of the Service Provider.

Upon the occurrence of any of the events referred to at Clauses 11.3.1 – 11.3.3 above, the Authority shall have the right to terminate the Contract.

## 12. **Conflict of Interest**

12.1 The Service Provider warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.

12.1.1 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or

potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 28.1.4.

**13. Access to Premises and Assets**

13.1 Subject to Clause 10.4 any access to either or both of any Authority Premises or Authority Assets made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, the Service Provider shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:

13.1.1 have the use of such Authority Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Authority Premises;

13.1.2 vacate such Authority Premises upon the termination or expiry of the Contract or at such earlier date as the Authority may determine;

13.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 13.1;

13.1.4 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time;

13.1.5 not damage the Authority Premises or any assets on Authority Premises; and

13.1.6 return immediately to the Authority in good working order and satisfactory condition (in the reasonable opinion of the Authority) all Authority Assets used by the Service Provider or the Service Provider Personnel in the performance of the Services.

13.2 Nothing in this Clause 13 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any member of the Authority Group.

13.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider except as may be specified in Schedule 1.

**14. Compliance with Policies and Law**

14.1 The Service Provider, at no additional cost to the Authority:

14.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, (including where the GLA is the Authority the Authority's Dignity at Work policy as updated from time to time and with the GLA's Code of Ethics as updated from time to time, and where TfL is the Authority, TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, [www.tfl.gov.uk](http://www.tfl.gov.uk)) including the provisions set out in Schedule 7 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and TfL, then the policies and standards of each of the GLA and TfL shall apply as appropriate;

14.1.2 shall provide the Services in compliance and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either of both of the Service Provider's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 14.1.2;

14.1.3 without limiting the generality of Clause 14.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

14.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or

belief, age, pregnancy or maternity, gender reassignment or disability (a "Relevant Protected Characteristic") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;

14.1.5 acknowledges that where the Authority is the GLA, the GLA is under a duty under section 404(2) of the Greater London Authority Act 1999 and where the Authority is TfL, TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:

14.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

14.1.5.2 eliminate unlawful discrimination; and

14.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable the Authority to satisfy its duty;

14.1.6 Where the GLA is the Authority the Service Provider shall:

14.1.6.1 comply with policies developed by the Authority with regard to compliance with the Authority's duties referred to in Clauses 14.1.4. - 14.1.5 as are relevant to the Contract and the Service Provider's activities;

14.1.6.2 obey directions from the Authority with regard to the conduct of the Contract in accordance with the duties referred to in Clauses 14.1.4. - 14.1.5;

14.1.6.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to the Contract of the duties referred to in Clauses 14.1.4. - 14.1.5;

14.1.6.4 on entering into any contract with a sub-contractor in relation to this Contract, impose obligations upon the sub-contractor to comply with Clause 14.1.6 as

if the sub-contractor were in the position of the Service Provider;

- 14.1.6.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Service Provider has complied with Clause 14.1.6. In particular, the Service Provider shall provide any evidence requested within such timescale as the Authority may require, and co-operate fully with the Authority during the course of the Authority's investigation of the Service Provider's compliance with its duties under Clause 14.1.6; and
- 14.1.6.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.
- 14.1.7 without prejudice to any other provision of Clause 14.1 or the Schedules, shall where TfL is the Authority comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 14.1.7, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004;
- 14.1.8 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services;
- 14.1.9 without limiting the generality of Clause 14.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with Clause 14.1 shall be borne by the Service Provider.

- 14.2 In providing the Services, the Service Provider shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:

- 14.2.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;

- 14.2.2 enhance the environment and have regard to the desirability of achieving sustainable development;

14.2.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and

14.2.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

#### **Work Related Road Risk**

14.3 For the purposes of Clauses 14.3 to 14.11 (inclusive) of this Contract, the following expressions shall have the following meanings:

<b>"Bronze Accreditation"</b>	the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:  <a href="http://www.fors-online.org.uk">www.fors-online.org.uk</a> ;
<b>"Car-derived Vans"</b>	a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;
<b>"Collision Report"</b>	a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;
<b>"Delivery and Servicing Vehicle"</b>	a Lorry, a Van or a Car-derived Van;
<b>"Driver"</b>	any employee of the Service Provider (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Service Provider while delivering the Services;
<b>"DVLA"</b>	Driver and Vehicle Licensing Agency;
<b>"FORS"</b>	the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;

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

#### **Fleet Operator Recognition Scheme Accreditation**

- 14.4 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Contract Commencement Date:
- 14.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of TfL, is an acceptable substitute to FORS (the "Alternative Scheme"); and
  - 14.4.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze

Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Service Provider has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

#### **Safety Equipment on Vehicles**

- 14.5 The Service Provider shall ensure that every Lorry, which it uses to provide the Services, shall:
- 14.5.1 have Side Guards, unless the Service Provider can demonstrate to the reasonable satisfaction of TfL that the Lorry will not perform the function for which it was built if Side Guards are fitted;
  - 14.5.2 have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;
  - 14.5.3 have equipment fitted with an audible means of warning other road users of the Lorry's left manoeuvre; and
  - 14.5.4 have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

#### **Driver Licence Checks**

- 14.6 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that:
- 14.6.1 it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and
  - 14.6.2 each of its Drivers engaged in the provision of the Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Service Provider's risk scale, provided that the Service Provider's risk scale has been approved in writing by TfL within the last 12 months:

- 14.6.2.1 0 – 3 points on the driving licence – annual checks;
- 14.6.2.2 4 – 8 points on the driving licence – six monthly checks;
- 14.6.2.3 9 – 11 points on the driving licence – quarterly checks; or
- 14.6.2.4 12 or more points on the driving licence – monthly checks.

#### **Driver Training**

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

#### **Collision Reporting**

- 14.8 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, the Service Provider shall:
- 14.8.1 ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and
  - 14.8.2 within 15 days of the Commencement Date, provide to TfL a Collision Report. The Service Provider shall provide to TfL an updated Collision Report within five (5) working days of a written request from TfL.

#### **Self Certification of Compliance**

- 14.9 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Commencement Date, the Service Provider shall make a written report to TfL detailing its compliance with Clauses 14.5, 14.6 and 14.7 of this Contract (the “WRRR Self-certification Report”). The Service Provider shall provide updates of the WRRR Self-certification Report to TfL on each three month anniversary of its submission of the initial WRRR Self-certification Report.

#### **Obligations of the Service Provider Regarding Subcontractors**

- 14.10 The Service Provider shall ensure that those of its sub-contractors who operate Delivery and Servicing Vehicles to provide the Services shall:

- 14.10.1 comply with Clause 14.4; and
- 14.10.2 where its subcontractors operate the following vehicles to provide the Services shall comply with the corresponding provisions of this Contract:
  - 14.10.2.1 For Lorries – Clauses 14.5, 14.6, 14.7 and 14.8; and
  - 14.10.2.2 For Vans – Clauses 14.6, 14.7 and 14.8,

as if those sub-contractors were a party to this Contract.

#### **Failure to Comply with Work Related Road Risk Obligations**

- 14.11 Without limiting the effect of any other clause of this Contract relating to termination, if the Service Provider fails to comply with Clauses 14.4, 14.5, 14.6, 14.7, 14.8, 14.9 and 14.10:
  - 14.11.1 the Service Provider has committed a material breach of this Contract; and
  - 14.11.2 TfL may refuse the Service Provider, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by TfL for any purpose (including but not limited to deliveries).

#### **15. Corrupt Gifts and Payment of Commission**

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of any member of the Authority Group nor favour any employee, officer or agent of any member of the Authority Group with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of any member of the Authority Group other than as a representative of the Authority, without the Authority's prior written approval.

#### **16. Equipment**

- 16.1 Risk in:
  - 16.1.1 all Service Provider Equipment shall be with the Service Provider at all times; and
  - 16.1.2 all other equipment and materials forming part of the Services (title to which will pass to the Authority) ("Materials") shall be with the Service Provider at all times until completion of the Services in accordance with the Contract.

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

- 16.2 The Service Provider shall ensure that all Service Provider Equipment and all Materials meet all minimum safety standards required from time to time by law.

**17. Quality and Best Value**

- 17.1 The Service Provider acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and as such the Authority is required to make arrangements to secure continuous improvement in the way it exercises its functions (having regard to a combination of economy, efficiency and effectiveness) and, as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

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

**18. Records, Audit and Inspection**

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

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

18.1.2 retain all Records during the Term and for a period of not less than 6 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in section 1(1) of the Data Protection Act 1998) which shall only be retained for as long as necessary, following termination or expiry of the Contract ("Retention Period").

- 18.2 The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services (including compliance with Clause 14.1)

and the Service Provider shall give all reasonable assistance to the Authority or its nominee in conducting such inspection, including making available documents and staff for interview.

**19. Set-Off**

All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Contract or any other contract between the Authority and the Service Provider may be deducted by the Authority from monies due or which may become due to the Service Provider under this Contract or under any other contract with any member of the Authority Group may recover such amount as a debt.

**20. Indemnity**

20.1 Subject to Clause 20.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless each of the Authority and all other members of the Authority Group (including their respective employees, sub-contractors and agents) ("the Indemnified Party") against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach or negligent performance of the Contract by the Service Provider (or any of the Service Provider's Personnel) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees, agents or sub-contractors).

20.2 The Service Provider is not responsible for and shall not indemnify the Authority for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under the Contract by the Authority or any other member of the Authority Group including by any of their respective employees, agents or sub-contractors.

**21. Insurance**

21.1 The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of not less than £5 million per claim (in terms approved by the Authority) in respect of the following to cover the Services ("the Insurances") and will ensure that the Authority's interest is noted on each and every policy or that any public liability, product liability or employer's liability insurance includes an Indemnity to Principal clause:

21.1.1 public liability to cover injury and loss to third parties;

21.1.2 insurance to cover the loss or damage to any item related to the Services;

21.1.3 product liability; and

- 21.1.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the public liability insurance referred to in Clause 21.1.1 or, if applicable, the product liability insurance referred to in Clause 21.1.3. Any professional indemnity insurance or "financial loss" extension shall be renewed for a period of 6 years (or such other period as the Authority may stipulate) following the expiry or termination of the Contract.
- 21.2 The insurance cover will be maintained with a reputable insurer.
- 21.3 The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 21.1 and payment of all premiums due on each policy.
- 21.4 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 21.1 being or becoming void, voidable or unenforceable.
- 21.5 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify the Authority and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Authority.
- 22. The Authority's Data**
- 22.1 The Service Provider acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority's data. The Service Provider shall not delete or remove any copyright notices contained within or relating to the Authority's data.
- 22.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.
- 23. Intellectual Property Rights**
- 23.1 The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by or on behalf of the Service Provider in the provision of the Services ("**the Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.
- 23.2 The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable

licence free of charge to use such materials in connection with the use of the Products.

- 23.3 The Service Provider shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of the Authority.
- 23.4 The Service Provider shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid and are included within the Charges.

#### **24. Privacy and Data Protection**

- 24.1 The Service Provider shall comply with all of its obligations under the Data Protection Act 1998 and, if Processing Personal Data (as such terms are defined in section 1(1) of that Act) on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with Schedule 2 of this Contract.

#### **25. Confidentiality and Announcements**

- 25.1 Subject to Clause 26, the Service Provider will keep confidential:
- 25.1.1 the terms of this contract, and
  - 25.1.2 any and all Confidential Information that it may acquire in relation to the Authority.
- 25.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 25.1.
- 25.3 The obligations on the Service Provider set out in Clause 25.1 will not apply to any Confidential Information:
- 25.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 25);
  - 25.3.2 which a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or
  - 25.3.3 to the extent that such disclosure is to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agents and sub-contractors.

- 25.4 The Service Provider shall keep secure all materials containing any information in relation to the Contract and its performance.
- 25.5 The Service Provider shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Contract unless specifically granted permission to do so in writing by the Authority. The Authority shall have the right to approve any announcement before it is made.
- 25.6 The provisions of this Clause 25 will survive any termination of this Contract for a period of 6 years from termination.
26. **Freedom of Information and Transparency**
- 26.1 For the purposes of this Clause 26:
- 26.1.1 **"FOI Legislation"** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance or statutory codes of practice issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;
- 26.1.2 **"Information"** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and
- 26.1.3 **"Information Access Request"** means a request for any Information under the FOI Legislation.
- 26.2 The Service Provider acknowledges that the Authority:
- 26.2.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and
- 26.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Service Provider.
- 26.3 Without prejudice to the generality of Clause 26.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:
- 26.3.1 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in

any event within two (2) Business Days of receiving such Information Access Request; and

26.3.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and copies of all such Information that the Authority requests and such details and copies shall be provided within five (5) Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

26.4 The Authority shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.

26.5 The Service Provider shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

26.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 25.1 and Clause 26, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.

26.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.

26.8 The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to Clause 26.6. The Authority shall make the final decision regarding both publication and redaction of the Contract Information.

## 27. **Dispute Resolution**

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

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

- 27.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("**Notice**") to commence such process and the Notice shall identify one or more proposed mediators.
- 27.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 27.5 Where a dispute is referred to mediation under Clause 27.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 27.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.
- 27.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 42.
- 27.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 27.
- 27.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 27 and Clause 27 shall not apply in respect of any circumstances where such remedies are sought.
- 28. Breach and Termination of Contract**
- 28.1 Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Service Provider if:
- 28.1.1 In addition and without prejudice to Clauses 28.1.2 to 28.1.6 (inclusive), the Service Provider has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the

Service Provider giving details of the breach and requiring it to be remedied;

- 28.1.2 the Service Provider is subject to an Insolvency Event;
- 28.1.3 in the event that there is a change of ownership referred to in Clause 11.3 or the Service Provider is in breach of Clause 11.3;
- 28.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 12;
- 28.1.5 the Service Provider or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or
- 28.1.6 the Service Provider commits any of the money laundering related offences listed in the Public Contracts Regulations 2015.

28.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties, or obligations either under Clause 8 or any other provision of this Contract, the Service Provider shall, if required to do so by the Authority, promptly repair/replace the Goods and/or remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. Nothing in this Clause 28.2 shall prevent the Authority from procuring the supply of the Goods and/or provision of any Services or any remedial action in respect of the Goods and/or any Services from an alternative supplier and, where the Authority so procures any Goods and/or Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Goods and/or Services or remedial action from such alternative supplier.

28.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("the Affected Party"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("Innocent Party") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 28.3 then without prejudice to any rights and liabilities which accrued prior

to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.

- 28.4 Without prejudice to the Authority's right to terminate the Contract under Clause 28.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 28.4 may be disapplied by notice to that effect in Schedule 1.
- 28.5 Without prejudice to the Authority's right to terminate the Contract under Clauses 28.1, 28.4 or at common law, the Authority may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 30.
- 28.6 To the extent that the Authority has a right to terminate the Contract under this Clause 28 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

## 29. **Consequences of Termination or Expiry**

- 29.1 Notwithstanding the provisions of Clause 25, wherever the Authority chooses to put out to tender for a replacement service provider some or all of the Goods and/or Services, the Service Provider shall disclose to tenderers such information concerning the Goods and/or Services as the Authority may require for the purposes of such tender and shall also comply with all requirements as are set out at Schedule 8. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.
- 29.2 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.
- 29.3 Upon expiry or termination of the Contract (howsoever caused):
- 29.3.1 the Service Provider shall, at no further cost to the Authority:
- 29.3.1.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of

interruption and inconvenience to the Authority and to effect such handover; and

- 29.3.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.
- 29.3.2 the Authority shall (subject to Clauses 19, 29.1 and 29.4 and the provisions of any security for due performance supplied by the Service Provider) pay the Service Provider any Charges remaining due in relation to any Services properly performed and Goods properly supplied in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.
- 29.4 On termination of all or any part of the Contract, the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and/or provision of the Goods and (save where terminated under Clause 28.4) the Service Provider shall be liable for all additional expenditure reasonably incurred by the Authority in having such services carried out and/or provision of Goods and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Charges or otherwise recover such costs from the Service Provider as a debt.
- 30. Declaration of Ineffectiveness and Public Procurement Termination Event**
- 30.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Service Provider. The Parties agree that the provisions of Clause 29 and Clauses 30.1 to 30.5 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 29 and these Clauses 30.1 to 30.5 (inclusive) or the Cessation Plan, the provisions of these Clauses 30.1 to 30.5 (inclusive) and the Cessation Plan shall prevail.
- 30.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness.
- 30.3 As from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving

- 30.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and
- 30.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,
- in accordance with the provisions of Clauses 30.1 to 30.5 (inclusive) and to give effect to the terms of the Declaration of Ineffectiveness.
- 30.4 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 30.5 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to Clauses 30.1 to 30.5 (inclusive).
- 30.6 Without prejudice to the Authority's rights of termination implied into the Contract by regulation 73(3) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25, in the event of a Public Procurement Termination Event, TfL shall promptly notify the Service Provider and the Parties agree that the provisions of Clause 29 and these Clauses 30.6 to 30.10 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event. If there is any conflict or discrepancy between the provisions of Clause 29 and these Clauses 30.6 to 30.10 or the Cessation Plan, the provisions of these Clauses 30.6 to 30.10 and the Cessation Plan shall prevail.
- 30.7 The Public Procurement Termination Event shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Public Procurement Termination Event.
- 30.8 As from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, TfL shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 30.8.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Event; and

- 30.8.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,
  - 30.8.3 in accordance with the provisions of these Clauses 30.6 to 30.10 (inclusive) and to give effect to the terms of the Public Procurement Termination Event.
- 30.9 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 30.10 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Agreement or as otherwise reasonably determined by the Authority, provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to these Clauses 30.6 to 30.10 (inclusive)

**31. Survival**

Any provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

**32. Rights of Third Parties**

- 32.1 Save that any member of the Authority Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 32.2 Notwithstanding Clause 32.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the Authority Group.

**33. Contract Variation**

Save where the Authority may require an amendment to the Services, the Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as the Authority may dictate and which may be substantially in the form set out in Schedule 6 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

**34. Novation**

- 34.1 The Authority may novate or otherwise transfer the Contract (in whole or in part).

34.2 Within 10 Business Days of a written request from the Authority, the Service Provider shall at its expense execute such agreement as the Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under the Contract to one or more persons nominated by the Authority.

34.3 Subject to Clause 11, the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

**35. Non-Waiver of Rights**

No waiver of any of the provisions of the Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 37. The single or partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

**36. Illegality and Severability**

If any provision of the Contract (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from the Contract and the remaining provisions shall continue in full force and effect as if the Contract had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Authority's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of the Contract, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

**37. Notices**

Any notice, demand or communication in connection with this Contract will be in writing and may be delivered by hand, prepaid recorded delivery first class post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other Party in writing in accordance with this Clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

if delivered by hand, at the time of delivery;

if delivered by post, two (2) Business Days after being posted or in the case of Airmail 14 Business Days after being posted; or

if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other Party within 24 hours after transmission.

**38. Entire Agreement**

**38.1 Subject to Clause 38.2:**

38.1.1 the Contract and all documents referred to in the Contract, contains all of the terms which the Parties have agreed relating to the subject matter of the Contract and such documents and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Services. Neither Party has been induced to enter into the Contract by a statement which the Contract does not contain; and

38.1.2 without prejudice to the Service Provider's obligations under the Contract, the Service Provider is responsible for and shall make no claim against the Authority in respect of any misunderstanding affecting the basis of the Service Provider's tender in respect of the Contract or any incorrect or incomplete information howsoever obtained.

38.2 Nothing in this Clause 38 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

**39. Counterparts**

This Contract may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

**40. Relationship of the Parties**

Nothing in the Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in the Contract, neither Party shall be deemed to be the agent of the other, nor shall either Party hold itself out as the agent of the other.

**41. Further Assurance**

Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of the Contract.

42. **Governing Law**

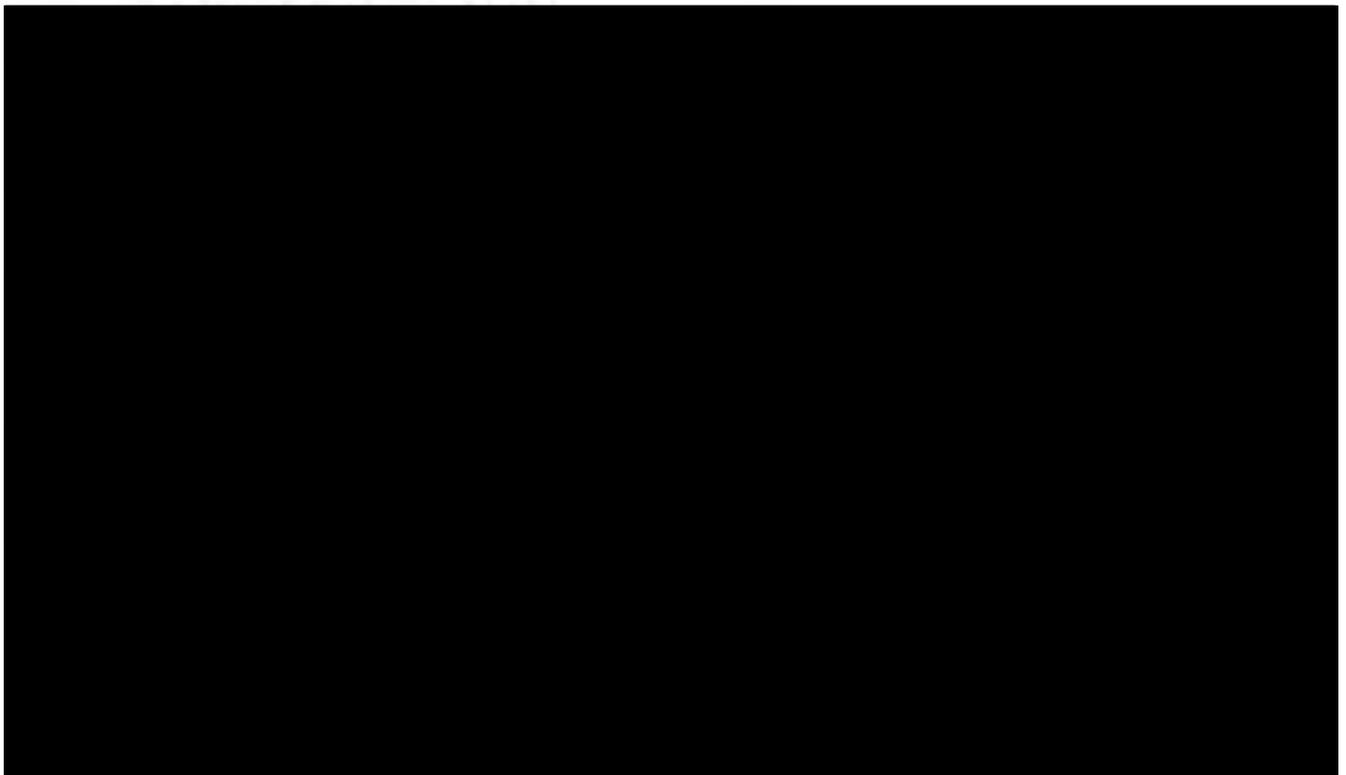
The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 25, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract provided that the Authority has the right in its absolute discretion to enforce a judgment and take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

**THE CONTRACT** has been signed for and on behalf of the Parties the day and year written above.

Signed by  
for and on behalf of  
**The Authority**



Signed by  
for and on behalf of  
the **Service Provider:**



## SCHEDULE 1 - KEY CONTRACT INFORMATION

1. **Contract Reference Number:** TfL 90921
2. **Name of Service Provider:** Senator International Limited
3. **Commencement:**
  - (a) **Contract Commencement Date:** 3 February 2017
  - (b) **Service Commencement Date:** 3 February 2017
4. **Duration/Expiry Date:** 5 years with an option to extend for a further 5 years in multiples of 12 month periods.
5. **Payment (see Clause 7):**

**Clause 7.1**

Where no alternative is listed, the payment period shall be 4-weekly

**Clause 7.2**

Refer to Appendix 12 of the Invitation to Tender Documentation, TfL Electronic Procure-to-Pay Supplier Handbook.

**Clause 7.4**

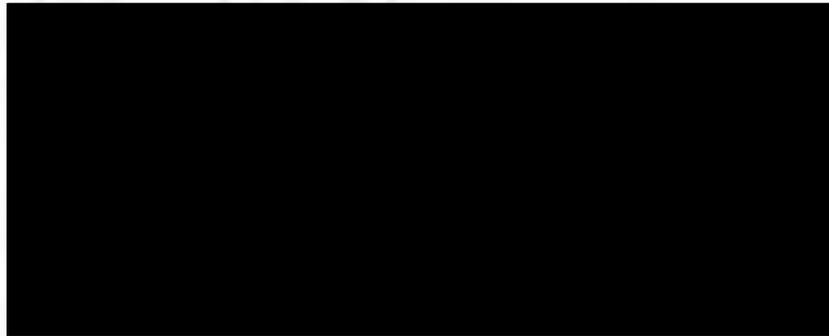
Where no alternative is listed, payment must be made within 30 days of receipt of invoices.
6. **Address where invoices shall be sent:**

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

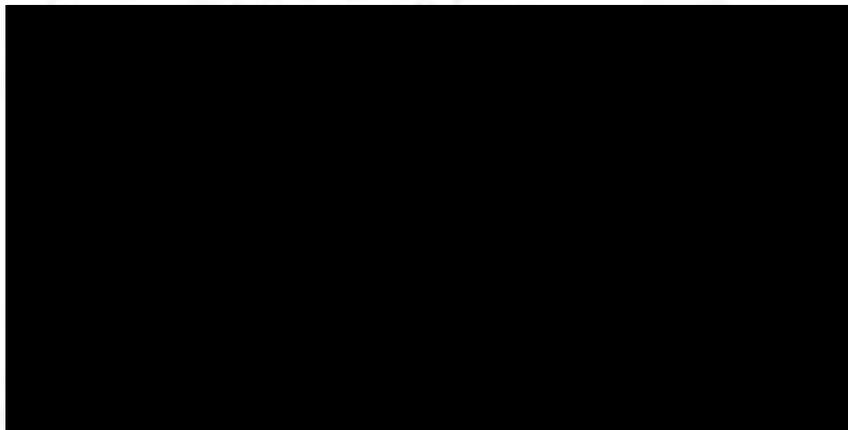
**Electronic format required (if any) for submission of orders by the Authority and of invoices by the Service Provider:**

[etrading@tfl.gov.uk](mailto:etrading@tfl.gov.uk)
7. **Time for payment where not 30 days (see Clause 7.4):** Payment remains 30 days apart from where Clause 7.1.4 applies.

**8. Details of the Authority's Contract Manager**



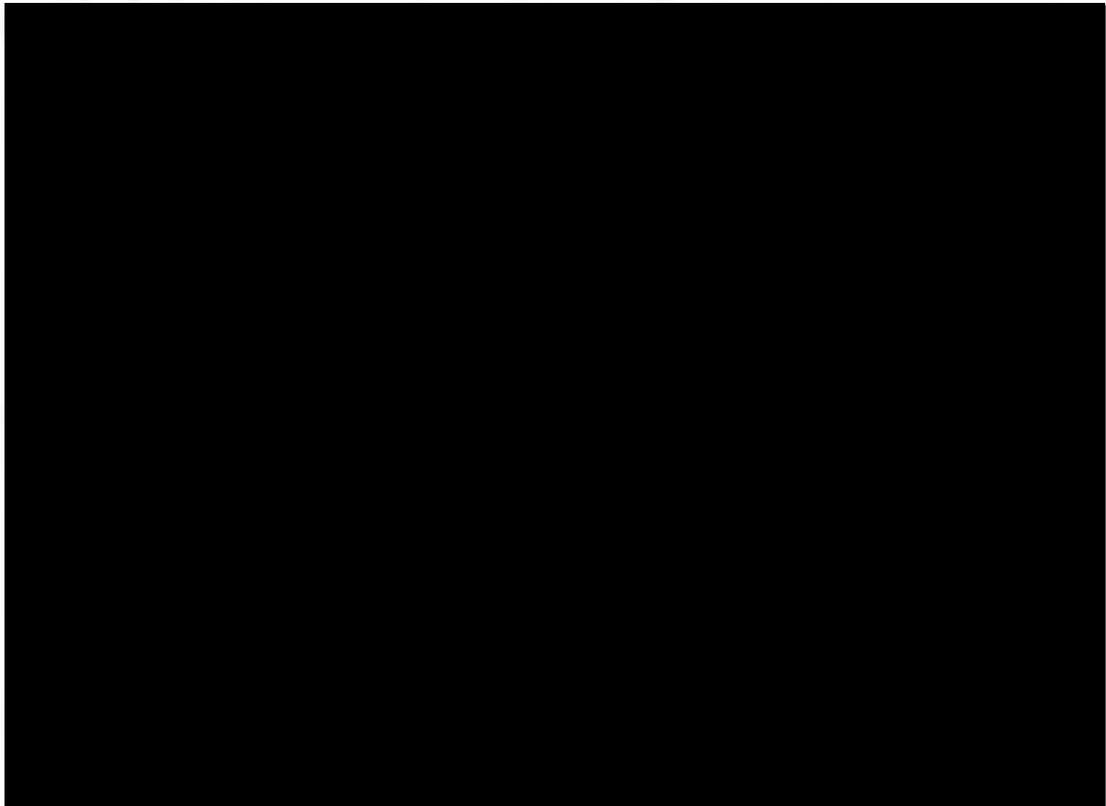
**9. Details of the Authority's Procurement Manager**



**10. Service Provider's Key Personnel:**

Name & Position	Contact Details	Area of Responsibility
[Redacted content]		

11. **Notice period in accordance with Clause 28.4 (termination without cause): 90 days**
12. **Address for service of notices and other documents in accordance with Clause 37:**



13. **Office facilities to be provided to the Service Provider in accordance with Clause 13.3: This Clause is not applicable under this contract.**
14. **Training to be provided by the Service Provider in accordance with Clause 10.8: As per the requirement of the contract.**



























































































































































































**SCHEDULE 5 – PROJECT PLAN**

This Schedule is not used

**SCHEDULE 6 - FORM FOR VARIATION**

Contract Parties: *[to be inserted]*

Contract Number: *[to be inserted]*

Variation Number: *[to be inserted]*

Authority Contact Telephone *[to be inserted]*

Fax *[to be inserted]*

Date: *[to be inserted]*

**AUTHORITY FOR VARIATION TO CONTRACT (AVC)**

Pursuant to Clause 33 of the Contract, authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Service Provider and returned to the Procurement Manager as an acceptance by the Service Provider of the variation shown below.

• DETAILS OF VARIATION •	• AMOUNT (€) •
• •	•
• ALLOWANCE TO THE AUTHORITY	•
• EXTRA COST TO THE AUTHORITY	•
• TOTAL	•

.....  
 For the Authority (signed) (print name)

• ACCEPTANCE BY THE SERVICE PROVIDER •	•
• • • Date	• • • Signed

**SCHEDULE 7 - CONTRACT QUALITY, ENVIRONMENTAL & SAFETY  
CONSIDERATIONS**

See schedule 2

**SCHEDULE 8 – RE-TENDER COOPERATION**

This Schedule is not used

## **SCHEDULE 9 - ORDERING PROCEDURE**

### **1. Ordering**

This is to be confirmed between the Authority and the Supplier. As stipulated in the Specification the use of an eCatalogue system has been mandated. Where the eCatalogue is not used, for example with projects, then the order will follow the form set out in Attachment 1 to this Schedule.

## Attachment 1

1. **Goods and Services to be provided**  
[INSERT DETAILS]
2. **Timetable**  
Start Date:  
*[Attach Project Plan (if any) (including Milestones if applicable)]*
3. **Delivery Details: Goods**
  - 3.1. Delivery Address:
  - 3.2. Delivery Date:
  - 3.3. Delivery Time:
4. **Performance Details: Services**
  - 4.1. Services Address:
  - 4.2. Services Date:
  - 4.3. Services Time:
  - 4.4. Service Levels:
5. **Warranty Period (all inclusive)**  
[INSERT DETAILS]
6. **Expenses**  
Expenses (if any) that the Supplier may claim
7. **Account Details**  
Relevant account code and cost centre:  
Address for invoices
8. **Representatives**  
Name:  
Address:  
Phone:  
Fax:

Email:

9. **[Key Personnel]**

*The Supplier's Key Personnel shall be available at the following period of notice:]*

10. **Other information**

*[Specify any other information or conditions relevant to provision of Goods or Services under this Order.]*

11. **Special Conditions**

11.1. **[Intellectual Property]**

*[Confirm ownership for bespoke products if different to the Order.]*

11.2. **[OTHER]**

*[INSERT DETAILS OR NOT APPLICABLE]*

