

Dated 201[•]

LONDON UNDERGROUND LIMITED (1)

and

Direct Track Solutions Limited (2)

**FRAMEWORK AGREEMENT
for the supply of Insulated Block Joints
CONTRACT REFERENCE NUMBER:**

TFL-00161

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THIS AGREEMENT is made on

201[•]

BETWEEN:

- (1) **London Underground Limited** (company number 01900907) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**" which expression shall include its successors and assigns); and
- (2) **Direct Track Solutions Limited** (company number 04609088 whose registered office is at Unit 1c Midland Place Midland Way, Barlborough, Chesterfield, S43 4FR (the "**Supplier**").

BACKGROUND

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

THIS DEED WITNESSES that:

1 Definitions and Interpretation

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

"**Accounting Period**" means the Company's accounting periods as notified from time to time by the Company to the Supplier each such period being of between 25 and 32 days and one of 13 periods during the Company's financial year;

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

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

"**Applicable Laws and Standards**" means, depending on the context, all or any laws, statutes, proclamations, recommendations, codes of practice, by-laws, directives, Regulations, statutory instruments, rules, orders, rules of court, delegated or subordinate legislation, rules of common law or any European Union legislation (including any declarations of conformity), at any time or from time to time in force in the United Kingdom and which are or may become applicable to the

relevant Contract, any agreement or document referred to in such Contract (including for clarity any standard referenced in any Order), or the Goods.

“BAFO” means ‘best and final offer’.

“Cessation in the Supply of Goods” means any cessation in the supply of the Goods.

“Cessation Plan” means a plan agreed between the parties or determined by the Company in accordance with Clause 41.1 to give effect to a Declaration of Ineffectiveness.

“Commencement Date” means the date of the Agreement.

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

“Company’s Representative” means the person set out in the section headed ‘Company’s Representative’ in the relevant Order.

“CompeteFor” has the meaning given to that term in Clause 42.

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

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

“Contract” means a contract as defined in Clause 3.1.

“Contract Information” means (i) each Contract and the Agreement in its entirety (including from time to time agreed changes to any Contract and/or the Agreement) and (ii) data extracted from the invoices submitted pursuant to Schedule 5 which shall consist of the Supplier’s name,

the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount.

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

“Contract Variation Procedure” means the procedure set out in Schedule 3.

“Declaration of Ineffectiveness” means a declaration of ineffectiveness in relation to any Contract made by a court of competent jurisdiction in accordance with Regulation 47(k) of the Public Contracts Regulations 2006 (as amended) or Regulation 45(k) of the Utilities Contracts Regulations 2006 (as amended).

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

“Defect” means that the Goods or any part of them do not comply with the requirements of any Contract, or are not fit for their intended purpose, or are of unsatisfactory quality whether in consequence of faulty design, faulty materials, negligence, bad workmanship or in consequence of any other reason attributable to the Supplier or its suppliers or the employees of any of them. For the avoidance of doubt, this shall include damage which occurs during transit from the Supplier to the Company.

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

“Delivery Note” has the meaning given to that term in Clause 9.5.

“Dispute” has the meaning given to that term in Clause 35.1.

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

“Employment Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or replaced).

[“Environmental Claim” means receipt by the Company in connection with any pollution or contamination of the environment of:

- (a) any written claim, demand, suit or notice from a third party, including a Regulatory Authority (“Regulatory Authority” means any government entity or other public or quasi*

public authority or privatised utility having responsibility for any matters concerning the environment, or Environmental Law) or any order of the court of competent jurisdiction in connection with an alleged breach of Environmental Law; or

- (b) *any charge or condition imposed by any Regulatory Authority or any notice served by any Regulatory Authority requiring Remediation (including any written indication from any Regulatory Authority that a requirement to carry out Remediation will be imposed on the Company unless the Company agrees to carry out Remediation voluntarily).*

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

“Escrow Agent” means such escrow agent as may be approved by the Company from time to time.

“Escrow Agreement” means an escrow agreement in the form attached at Schedule 7.

“Ethical Sourcing Policy” has the meaning given to that term in Clause 25.3.

“Excess Costs” has the meaning given to that term in Clause 17.5.

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

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

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

- (a) war, invasions, acts of foreign enemies, hostilities (whether war be declared or undeclared), civil war, rebellion, revolutions, insurrection, military or usurped power, confiscation, or requisition by or under the order of any government or public or local authority;
- (b) civil unrest;
- (c) any act of terrorism or a specific threat of terrorism which results in the partial or total, temporary or long term closure of the Underground Network;
- (d) lightning, earthquake or subject to (f) below, extraordinary storm;
- (e) fire;
- (f) flooding, other than flooding caused by rising water table or by weather conditions (including extraordinary storm);
- (g) compliance with the provision of sections 118 to 121 of the Railways Act 1993;
- (h) nuclear, chemical or biological contamination including ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel or radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (i) the discovery of fossils, antiquities or other material which in each case is required to be exhumed or unexploded bombs; and
- (j) strikes, lock outs or other industrial action being in each case industry-wide.

“**Goods**” means the goods stated in the Specification to be supplied by the Supplier and any Additional Goods which the Company has agreed to buy under Clause 6.

“**Greater London**” has the meaning ascribed to it in the GLA Act.

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

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

“**Initial Period**” means the number of years from the Commencement Date stated in Schedule 2.

“**Intellectual Property Rights**” means any intellectual property rights in any part of the world and includes but is not limited to all rights to, and interests in, any patents (including

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

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

["Key Personnel" means Supplier Personnel identified as such in the Order (if any) and any changes to the same that are made in accordance with Clause 22.]

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

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

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

["Mini Competition" means a competitive process which the Company may from time to time utilise to select a Supplier to provide the Goods and/or the Services].

"Nominated Representatives" has the meaning given to that term in Clause 35.2.

"Notice to Proceed" has the meaning given to that term in Clause 17.6(b).

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

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

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

“Order Price” means the amount stated under the heading “Order Price” in the relevant Order.

“Payment Application” has the meaning given to that term in Clause 8.4.

“Prescribed Period” has the meaning given to that term in Clause 8.11.

“Prohibited Act” means:

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

["Proposal” means the Supplier’s offer to provide the Goods and/or the Services in response to a Request Form.]

“Protected Characteristics” has the meaning given to that term in Clause 41.8.

“Quality and Safety Plan” means the Supplier's quality and safety plan set out in **Error! Reference source not found.** as amended from time to time.

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

“Rejected Goods” has the meaning given to that term in Clause 14.2.

“Rejection Notice” has the meaning given to that term in Clause 14.2.

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

“Replacement Supplier” means any replacement provider of the Goods appointed by the Company from time to time.

“Request Form” means the request form produced by the Company detailing the Company's requirements for a Proposal from the relevant Supplier.]

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

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

“Specification” means the description of the Goods set out in Appendix 1 to the relevant Order (or referenced in the relevant Order) to be provided by the Supplier in accordance with the Agreement.

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

“Supplier Personnel Information” means information about Supplier Personnel including the numbers of Supplier Personnel involved in providing the Goods and their approximate full time equivalents; their location; the skill sets in each location; role definitions; employment status;

details of any previous transfer(s) pursuant to the Employment Regulations; information regarding overall annual remuneration (including benefits); length of service; notice period; details of terms and conditions of employment (including pension schemes, annual leave, bonus entitlement, share options, car allowance, health insurance, life assurance and trade union recognition); details of any current grievances or disciplinary issues and any other information relating to Supplier Personnel reasonably requested by the Company.

“Supplier’s Representative” means the person set out in the section headed ‘Supplier Representative’ in the relevant Order.

“Supplier’s Sub-contractors” has the meaning given to that term in Clause 42.

“Term” means the period specified as such in Schedule 2.

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

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

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

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

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

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

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

“Warranty Period” the period specified as such in each Order.

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

- 1.2 The headings in the Agreement and each Contract are only for convenience and shall not affect its interpretation.
- 1.3 Where appropriate, the singular includes the plural and vice versa.
- 1.4 A reference to a Clause or a Schedule shall be to a Clause of or, as the case may be, a Schedule to, the Agreement and each Contract and references to the Agreement or any Contract include its recitals and Schedules.
- 1.5 References to (or to any specified provision of) the Agreement, any Contract or any other document shall be construed as references to the Agreement, that Contract, that provision or that document as in force for the time being and as from time to time amended in accordance with the terms of the Agreement and any Contract.
- 1.6 Reference to any Applicable Laws and Standards also includes a reference to the Applicable Laws and Standards as from time to time amended, extended or re-enacted.
- 1.7 References to the **“Company”** shall include its successors, transferees and assignees.
- 1.8 Where the Agreement is utilised by another member of the TfL Group or any of the other entities referred to in Recital C of this Agreement, references in a Contract to **“the Company”** shall, unless the context otherwise requires, be to that member of the TfL Group or other entity (as the case may be).

2 Duration

- 2.1 The Agreement shall commence on the Commencement Date and continues in force for the Term unless terminated earlier in accordance with this Agreement.
- 2.2 Expiry or termination of the Agreement shall not, in and of itself give rise to an expiry or termination of the Contract and each Contract shall continue for the term set out in the relevant Contract. To the extent that any provisions of this Agreement is relevant to the Contract, such provisions shall survive expiry or termination of this Agreement.

3 Supplier’s Primary Obligations

- 3.1 The Supplier shall supply the Goods to the Company in accordance with:
 - (a) the terms set out in the Agreement (including the Schedules); and

- (b) the terms of the Orders which may from time to time be entered into by the Company and the Supplier,

each Order together with the terms of the Agreement comprising a separate and distinct contract and herein referred to as a “**Contract**”, and in the event of any inconsistency between the terms of the Agreement and the terms of any Order, the terms set out in the Order shall prevail.

3.2 The Supplier shall ensure and warrants to the Company that the Goods will:

- (a) conform in all respects with the Specification and the provisions of each Contract including, without limitation, specifications as to quantity, quality and description;
- (b) be of satisfactory quality and fit for the purpose for which they are intended;
- (c) comply with all Applicable Laws and Standards (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (d) comply with all standards referred to in each Contract;
- (e) comply with the requirements of the Company set out in each Contract and all lawful and reasonable directions of the Company.

3.2A The Supplier shall be fully responsible for the management of obsolescence in the Goods and Additional Goods throughout the Term in accordance with the requirements set out in the Specification.

3.3 Not used.

3.4 The Supplier shall perform its obligations under each Contract in accordance with the Quality and Safety Plan, and comply with the requirements of the ISO 9000 and ISO 14000 series as appropriate to the supply of Goods or any equivalent international quality assurance standards as may be accepted as an alternative in the absolute discretion of the Company.

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

3.6 Unless otherwise stated in any Contract, the Supplier shall provide all equipment, support services and other facilities necessary for the performance of its obligations under each Contract.

3.7 For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Goods waives limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under any Contract.

3.8 [When Goods are required by the Company, the Company shall give the Supplier an Order for the Goods to be delivered and each Order so given shall be final.]

[3A. Mini-Competition

3A.1 At any time during the Term, the Company may identify the Goods which at its sole discretion it wishes to let under the terms of the Agreement. Any decision by the Company to place a Contract under the terms of the Agreement will be preceded by a Mini-Competition save where the Company, having considered the Applicable Laws and Standards (including the Utilities Contracts Regulations 2006), considers it appropriate to issue an Order to one or more Suppliers without holding a Mini-Competition.

3A.2 If pursuant to Clause 3A.1 the Company conducts a Mini-Competition, it will issue to the Suppliers a Request Form, specifying the Goods it requires.

3A.3 On receipt of the Request Form, the Supplier shall:

- (a) within [two (2)] Working Days of the date of issue of the relevant Request Form, confirm receipt of such Request Form; and
- (b) by the date specified in the relevant Request Form (or if no date is specified within [seven (7)] Working Days of the date of issue of such relevant Request Form) or by such other date agreed in writing between the Company and the relevant Supplier:
 - (i) complete and issue to the Company a Proposal which shall include in full the information requested by the Company in the relevant Request Form *[and full details of the basis on which the prices have been calculated]*; or
 - (ii) notify the Company that it does not intend to submit a Proposal.

3A.4 The Supplier acknowledges and agrees that a Proposal remains valid for at least [six (6)] months (or such longer period as may be specified in the relevant Request Form) from the date such Proposal is submitted to the Company.

3A.5 If the Company accepts a Proposal issued pursuant to Clause 3A.3(b)(i), it shall notify the relevant Supplier of its intention to place an Order for the Goods to be delivered and each Order so given shall be final.

3A.6 A Request Form and anything prepared or discussed by the Company constitutes an invitation to treat and does not constitute an offer capable of acceptance by the relevant Supplier. The Company is not obliged to consider or accept any Proposal submitted by the Supplier.

3A.7 The Agreement does not oblige the Company to place an Order or enter into any Contract with the Supplier.

3A.8 Unless otherwise expressly agreed in writing with the Company, the Supplier shall not charge under the Agreement for any work involved in receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this Clause 3A.

3A.9 The Supplier is responsible for all and any costs, charges and expenses arising from or associated with the procurement process in this Clause 3A (the "Procurement Process"), and the Company shall not be liable for any costs, charges or expenses borne by or on behalf of the Supplier whether or not the Supplier is awarded a Contract (which for the avoidance of doubt includes any costs, charges and expenses arising from or associated with an abortive or cancelled Procurement Process).

4 Records and Audit

4.1 The Supplier shall, and shall procure that its subcontractors shall, maintain a true and correct set of records including personnel records relating to all aspects of their performance of each Contract and all transactions related to each Contract and the Agreement. For the avoidance of doubt, such records shall include but are not limited to:

- (a) all necessary information for the evaluation of claims or variations;
- (b) management accounts, information from management information systems and any other management records;
- (c) accounting records (in hard copy as well as computer readable data);
- (d) subcontract files (including proposals of successful and unsuccessful bidders, bids, rebids etc);
- (e) original estimates;
- (f) estimating worksheets;
- (g) correspondence;
- (h) variation and claims files (including documentation covering negotiated settlements);
- (i) general ledger entries detailing cash and trade discounts and rebates;
- (j) commitments (agreements and leases) greater than £5,000;
- (k) detailed inspection records; and

- (l) such materials prepared in relation to the invitation to tender and subsequent tendering process relating to cost breakdowns, reconciliations against BAFO pricing and project plans, in each case which have not already been provided to the Company.
- 4.2 The Supplier agrees, and shall procure that its subcontractors agree, to retain all such records in such a manner as the Company may reasonably instruct for a period of not less than twelve (12) years after completion of performance under each Contract. In the absence of specific instructions as to the method of storage, the Supplier shall retain his records in an orderly and logical fashion.
- 4.3 The Company and its authorised representatives and any party legally authorised to inspect any part of the Underground Network shall have the right to inspect and audit any of the records referred to in Clause 4.1 at any time during the period referred to in Clause 4.2.
- 4.4 The Supplier shall promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:
- (a) granting or procuring the grant of access to any premises used in performance of each Contract, whether the Supplier's own premises or otherwise;
 - (b) granting or procuring the grant of access to any equipment (including all computer hardware, software and databases) used (whether exclusively or non-exclusively) in the performance of the Supplier's obligations under each Contract, wherever situated and whether the Supplier's own equipment or otherwise;
 - (c) making any contracts and other documents and records required to be maintained under each Contract available for inspection;
 - (d) providing a reasonable number of copies of any contracts and other documents or records reasonably required by the Company's auditor and/or granting copying facilities to the Company's auditor for the purposes of making such copies; and
 - (e) complying with the Company's reasonable requests for access to senior personnel engaged in the Supplier's performance of each Contract.
- 4.5 The Supplier shall maintain an effective and economical programme for monitoring and maintaining product quality, planned and developed in conjunction with any other functions of the Supplier necessary to satisfy each Contract's requirements.
- 4.6 The Supplier shall permit the Company's authorised representatives, access and facilities (as required and when notified) for the purpose of systems and product quality audits including but not limited to access to documentation showing results of testing and inspection, certificates of conformance and safety-related documents. The Supplier shall provide the Company with a copy

of any or all of the records listed in Clause 4.1, free of charge within thirty (30) days of the Company's request for the same.

5 Company's Obligations

- 5.1 The Company shall pay the Supplier the Order Price for the Goods in accordance with the terms of the relevant Contract.
- 5.2 Payment of the Order Price shall not affect any claims or rights which the Company may have against the Supplier and shall not be an admission by the Company that the Supplier has performed its obligations under the relevant Contract properly.

6 Additional Goods

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

7 Variation

- 7.1 Unless the parties agree otherwise in writing, any variation to any Contract shall be made under the Contract Variation Procedure.
- 7.2 The Supplier shall not proceed to implement any variation unless a Variation Order has been entered into in respect of such variation.

8 Price and Payment.

- 8.1 The prices for the Goods, shall be the Order Price set out in the Order using the rates and prices set out in and shall be inclusive of costs of packaging, carriage and insurance. The prices for the Goods in this Agreement or in respect of any Order shall only be changed in accordance with the Contract Variation Procedure.
- 8.2 The Company shall be entitled to the Supplier's standard discount for prompt payment.
- 8.3 The Supplier agrees that if at any time during the Initial Period it supplies any Goods to a comparable customer for less than the rates and prices set out in schedule 5, it shall reduce the relevant rates and prices to match the lower price for so long as the lower price is available (but for no longer) and shall refund the Company the difference between the Order Price and the lower price in respect of its purchases of the Goods after the Supplier began charging the lower price. For the purposes of this Clause 8.3, 'comparable' means a customer that purchases

products in substantially similar volumes as the Company on broadly similar terms and conditions.

- 8.4 The Supplier shall submit an application for payment to the Company's Representative for the Goods after the Order Delivery Date of such Goods (a "Payment Application"). If (as the case may be) the Goods are to be delivered in instalments, the Supplier shall submit a Payment Application to the Company's Representative after the Order Delivery Date of each instalment.
- 8.5 Not used.
- 8.6 Each Payment Application shall specify the sum that the Supplier considers will become due on the payment due date and the basis upon which that sum is calculated. The Supplier shall submit any supporting documents that are reasonably necessary to enable the Company's Representative to check the Payment Application.
- 8.7 The payment shall become due for the purposes of the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009 ("**HGCRA**") on the date on which the Company's Representative receives the Payment Application.
- 8.8 The Company's Representative shall assess the Payment Application and shall notify the Supplier in writing not later than five (5) days after the date of receiving the application of:
- (a) the amount (if any) the Company's Representative considers to be due at the payment due date; and
 - (b) the basis on which the amount was calculated.

It is immaterial for the purposes of this Clause 8.8 that the amounts referred to in Clause 8.8(a) or Clause 8.8(b) may be zero. A notification given under this Clause 8.8 shall constitute a payment notice for the purposes of section 110A of the HGCRA.

- 8.9 The final date for payment for the purposes of the HGCRA shall be thirty (30) days after the date on which the Company's Representative received the Payment Application.
- 8.10 Subject to Clause 8.11 and Clause 8.12, the Company shall pay the Supplier the sum referred to in the Company's Representative's payment notice (or, if the Company's Representative has not served a payment notice pursuant to Clause 8.8, the sum referred to in the Supplier's Payment Application under Clause 8.4 and/or Clause 8.5) (the "**Notified Sum**") on or before the final date for payment.
- 8.11 The Company shall not pay less than the Notified Sum unless the Company's Representative has notified the Supplier in writing not later than one (1) day (the "**Prescribed Period**") prior to the

final date for payment of:

- (a) the amount the Company's Representative considers to be due on the date the notice is served and the basis upon which that sum is calculated; or
- (b) if there is more than one basis, each basis and the amount attributable to it.

It is immaterial for the purposes of this Clause 8.11 that the amounts referred to in Clause 8.11(a) or Clause 8.11(b) may be zero. Where a notice is given under this Clause 8.11, the Company's obligation to pay the Notified Sum under Clause 8.10 applies only in respect of the sum specified pursuant to this Clause 8.11.

- 8.12 Notwithstanding Clauses 8.10 and 8.11, if the Supplier is subject to an event set out in Clause 17.1(d) or other like event after the Prescribed Period, the Company shall not be required to pay the Supplier the Notified Sum on or before the final date for payment.
- 8.13 The Order Price shall be fixed and inclusive of all expenses and disbursements including, but not limited to, the costs incurred in delivering the Goods to the Delivery Address.
- 8.14 The Order Price will not include VAT and, to the extent that such VAT is properly chargeable, it shall be charged at the rate in force on the date of the Payment Application and will be shown as a separate item on all such Payment Applications.
- 8.15 All Losses which the Company may have paid, suffered or incurred, and for which the Supplier is liable under any Contract, may be set off against any other amounts payable in respect of that or any other Contract, provided that the Company's Representative informs the Supplier in writing of any deductions made, if possible, prior to and in any event no later than the date upon which any such deduction is made.
- 8.16 Payment Applications shall be submitted separately for each Contract and all such Payment Applications shall clearly show the Contract Reference Number, the Order number (as indicated on the relevant Order), the date of the Order, the Order Price and any associated Variation Order. Supporting documentary information shall be submitted to the Company's Representative for all Payment Applications by the Supplier. The Company's Representative shall from time to time agree with the Supplier the detailed information required in relation to all such Payment Applications and the Supplier shall provide such information as is reasonably required.
- 8.17 All sums payable to the Company by the Supplier under each Contract shall be paid in full, free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim whatsoever; and if the Supplier is compelled by law to make any deduction or withholding, the Supplier shall gross up the payment so that the net sum received by the Company will be equal to the full amount which the Company would have received had no such deduction or withholding been made.

8A Supplier Performance

- 8A.1 On the date that the Company's Representative receives the first Payment Application and every 4 weeks after that date, the Company assesses the Supplier's performance under the Agreement and any Contract in accordance with Schedule 12.
- 8A.2 The Company shall have the right to:
- (a) abate the Supplier for failure to meet the key performance indicators stated in Schedule 12; and
 - (b) use the escalation process stated in Schedule 12 to rectify any unsatisfactory performance by the Supplier in its performance of the Contract or any failure by the Supplier to meet the performance standards set out in Schedule 12.

9 Delivery of Goods

- 9.1 The Goods shall be delivered by the Supplier to the Company on the Expected Order Delivery Date at the Delivery Address and within the times stated on the Order. The Supplier shall be responsible for, and shall comply with all reasonable instructions of the Company with regard to, the unloading of the Goods at the Deliver Address. The Company shall be under no obligation to accept partial delivery of an Order.
- 9.2 [The time of delivery of the Goods shall be of the essence in respect of each Contract.]
- [If the Goods are not supplied on the Expected Order Delivery Date stated in the relevant Order then, without limiting any other remedy, the Company shall be entitled to deduct from the price payable for such Goods or to claim from the Supplier by way of liquidated damages for delay the amount stated in Schedule 1 for the period of delay stated in Schedule 1 [up to a maximum of the percentage stated in Schedule 1 of the price payable for such Goods]. The Company shall not be entitled to deduct such amount from the price payable for such Goods or to claim such amount from the Supplier by way of liquidated damages for delay to the extent that the delay is due to (i) a default or other act of prevention of the Company, its agents, employees or contractors (other than the Supplier) or (ii) a Force Majeure Event.
- 9.3 The Supplier accepts that the amount of liquidated damages under any Contract constitutes a genuine pre-estimate of the loss that would be suffered by the Company as a result of the Supplier's failure to achieve the Expected Delivery Date.]
- 9.4 The Goods shall be properly packed and secured in such a manner as to reach the Delivery Address in good condition and otherwise in a condition which fully complies with the requirements of each Contract.

- 9.5 The Supplier shall provide a detailed delivery note stating the Contract Reference Number, Order number (as indicated on the relevant Order) and giving full particulars of the Goods to be supplied (the “**Delivery Note**”). A copy of the Delivery Note shall be delivered with the Goods and be sent by facsimile to the Company on the Order Delivery Date in accordance with Clause 34.
- 9.6 If for any reason the Company is unable to accept delivery of the Goods on or after the Expected Order Delivery Date, the Supplier shall store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until the Order Delivery Date, and the Company shall be liable to the Supplier for the reasonable cost (including insurance) of its so doing.
- 9.7 [In the event that all or any of the obligations of the Supplier under any Contract to pay liquidated damages are held to be unenforceable, the Supplier agrees to pay the Company damages in respect of all actual Losses suffered by the Company due to the circumstances in respect of which liquidated damages would have been payable if the relevant obligation had been enforceable including, without limitation, loss of profit, loss of use, loss of revenues, loss of production and loss of savings. The damages payable by the Supplier in accordance with this Clause 9 shall not exceed the amounts which would have been payable if the relevant obligation(s) to pay liquidated damages had been enforceable save where such obligation(s) are held to be unenforceable as a result of any argument or proceedings raised or brought by the Supplier that such obligation(s) are unenforceable, in which case the amount of such damages shall be unlimited.]

10 Not used

11 Not used

12 *[Environmental Claims*

- 12.1 *The Supplier shall indemnify the Company against Losses and Remediation costs in respect of any Environmental Claims which may arise out of or by reason of the Supplier’s performance, non performance or part performance of each Contract to the extent that such Losses and Remediation costs are due to any act, negligence, breach of contract, breach of statutory duty, error, omission or default by the Supplier, its employees, subcontractors or agents.*
- 12.2 *The Supplier shall notify the Company’s Representative and the Company as soon as it becomes aware that any Remediation is or will become necessary on any part of the Company’s site.*
- 12.3 *Where the Supplier discovers or suspects that the site has been contaminated or polluted by another party, the Supplier shall notify the Company’s Representative and the Company of the identity of the other party, where known. The Supplier shall not without the prior written consent of the Company undertake any environmental investigations on site or commission or undertake*

any Remediation. The Supplier shall provide the Company with a separate record of the costs of any Remediation as soon as possible after such costs are incurred.

12.4 *In the event that the Supplier commissions an environmental assessment, the Supplier shall use reasonable endeavours to procure that the environmental assessment includes an acknowledgement by its authors that the Company can rely on any reports, recommendations or summaries prepared in relation to the environmental assessment.*

12.5 *The Supplier shall provide to the Company's Representative:*

(a) copies of all environment-related permissions, permits, consents, licenses, registrations and authorisations required for him to carry out the provision of the Goods (for the purposes of this Clause 12.5, the "authorisations");

(b) copies of any amendments to the authorisations;

(c) notification of any revocations, suspensions, cancellations, withdrawals, adverse amendments or refusals to provide any of the authorisations; and

(d) notification of any event or circumstance that is likely to cause the revocation, suspension, cancellation, withdrawal, adverse amendment or refusal to provide any of the authorisations.]

13 Risk and Ownership

13.1 Risk of damage to, or loss of, the Goods shall pass to the Company upon counter-signature by the Company of the Delivery Note. If the Company serves a Rejection Notice under Clause 14.2, risk of damage to and loss of the Goods shall pass to the Supplier on the earlier of the date that the Supplier removes the Goods from the Delivery Address (or such other address as the Company shall specify under Clause 14.3) or the date falling three (3) days after the receipt by the Supplier of the Rejection Notice.

13.2 The Supplier shall, without further act, pass title to the Goods, with full title guarantee to the Company, upon the Order Delivery Date.

14 Inspection of the Goods

14.1 Following delivery by the Supplier to the Company of the Goods the Company shall inspect the Goods.

14.2 If, following the inspection referred to in Clause 14.1, the Goods do not comply with the terms of the relevant Contract, including but not limited to, conforming to the Specification, the Quality and Safety Plan and being fit for the purpose for which they are intended, without prejudice to any

rights or remedies the Company may have against the Supplier, whether under the relevant Contract or otherwise, the Company may by notice in writing (the “**Rejection Notice**”) to the Supplier reject all or any part of the Goods (the “**Rejected Goods**”).

- 14.3 The Rejection Notice shall specify the reason for the rejection of the Rejected Goods. Within seven (7) days of receipt of the Rejection Notice, the Supplier shall remove such Rejected Goods at its risk and expense from the Delivery Address or such other address as the Company shall specify in the Rejection Notice and shall at the Company’s option:
- (a) replace such Rejected Goods with Goods which conform in all respects with the relevant Contract within five (5) Working Days; or
 - (b) if an application for payment has been submitted or payment made for the Rejected Goods, issue a credit note in respect of that application or refund the payment (as applicable); and
 - (c) pay the Company’s Losses resulting from the Supplier’s delivery of Goods that were not in conformity with the terms of the relevant Contract.
- 14.4 The Company’s rights and remedies under this Clause 14 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into each Contract by the Sale of Goods Act 1979.
- 14.5 If the Supplier fails to promptly replace Rejected Goods in accordance with Clause 14.3(a), the Company may, without affecting its rights under Clause 14.3(c), obtain substitute goods from a third party supplier, or have the Rejected Goods repaired by a third party, and the Supplier shall reimburse the Company for the costs it incurs in doing so.

15 Warranty

- 15.1 Without prejudice to any rights or remedies the Company may have against the Supplier whether under each Contract or otherwise, the Supplier shall without delay, upon a request by the Company to do so, replace or (at the Company’s option) repair all Goods in which a Defect has occurred or is likely to occur in the reasonable opinion of the Company, provided that such request is made during the Warranty Period. Any replacement Goods shall comply in all respects with the terms of the relevant Contract and shall conform to the Specification and shall be fit for the purpose for which they are intended.
- 15.2 For the avoidance of doubt, where Goods are replaced or repaired in accordance with this Clause 15, such repaired Goods or replacement Goods shall be re-delivered to the Company in accordance with the terms of each Contract and the provisions of Clauses 9, 13 and 14 shall apply to such re-delivered Goods. The Warranty Period for these purposes shall commence on

the date that the Supplier delivers the Goods in accordance with Clause 9 or, where applicable, re-delivers the Goods in accordance with this Clause 15.

- 15.3 The Supplier shall use all reasonable endeavours to procure for the Company the benefit of such warranties and other rights as are conferred on the Supplier in relation to Defects in such part or parts of the Goods which are not manufactured by the Supplier.

16 Intellectual Property Rights

16.1 Existing Contracts

The Agreement is entirely without prejudice to, and nothing in it is intended to, nor shall, in any way prejudice the rights of any member of the TfL Group in relation to intellectual property under or pursuant to Existing Contracts.

16.2 Vesting of Intellectual Property Rights created under this Agreement

All Intellectual Property Rights created wholly or mainly in connection with the performance of, or in order to perform, each Contract shall vest in the Company. The Supplier shall procure that each of its subcontractors (of any tier) or other third party shall assign such Intellectual Property Rights to the Company.

16.3 Ownership of the Supplier's Intellectual Property Rights

Without prejudice to Clause 16.2, all Intellectual Property Rights owned by the Supplier or its subcontractors (of any tier) or other third party and which are not assigned to, or vested in, the Company pursuant to Clause 16.2 shall remain or be vested in the Supplier, its subcontractors (of any tier) or other third party (as the case may be).

16.4 Company's Licence to use the Supplier's Intellectual Property Rights

The Company shall have and the Supplier hereby grants and procures that its subcontractors (of any tier) or other third party grant, to the Company a worldwide, royalty-free, perpetual, irrevocable, non-exclusive licence (with the right to sub-licence such rights to any third party) to use and copy the Intellectual Property Rights referred to in Clause 16.3 for the purposes of:-

- (a) understanding the Goods;
- (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and retendering the Goods;

- (c) extending, interfacing with, integrating with, connecting into and adjusting the Goods;
- (d) enabling the Company to carry out the operation, maintenance, repair, renewal and enhancement of the Underground Network;
- (e) executing and completing the provision of the Goods; and
- (f) enabling the Company to perform its function and duties as Infrastructure Manager and Operator of the Underground Network.

16.5 Provision of Supporting Documentation and Other Materials

The Supplier shall:

- (a) promptly, and in any event by no later than such date as the Company may notify to the Supplier, provide at no charge to the Company, copies of any materials and items (including, without limitation, Documentation) in the Supplier's or subcontractor's (of any tier) or other third party's possession or control (or which ought reasonably to be in the Supplier's or subcontractor's (of any tier) or other third party's possession or control) which are referred to or relied upon in using and copying, or required in any way for the use and copying of, the Intellectual Property Rights referred to in Clauses 16.2, 16.2 and 16.4 above; and
- (b) keep copies of such materials, items and Documentation in a secure place where they will not deteriorate and undertake regular (and in any event not less than every three months) integrity testing of the same and provide written evidence of such testing to the Company at regular intervals and in any event upon the Company's request.

16.6 Company's Rights of Retention

If the Supplier has not complied with its obligations under Clause 16.5(a), the Company shall be entitled to retain one quarter of the sums that would otherwise be due to the Supplier under the relevant Contract until the Supplier has complied with its obligations under Clause 16.5(a).

16.7 Company's Rights to the Software

If the Supplier or any of its subcontractors providing software for incorporation into or operation of the Goods stops trading, is subject to an insolvency event equivalent to any of those events set out in Clause 17.1 (including their equivalent in any jurisdiction to which the Supplier or any of its subcontractors is subject), makes known its intention to withdraw support of that software or fails to support that software in accordance with the terms of each Contract then the Supplier, at no charge to the Company, shall use its best endeavours to transfer or procure the transfer to the Company of all Intellectual Property Rights in that software.

16.8 Company's Rights in relation to Other Procurement Activities

For the avoidance of doubt, the Company shall be entitled to use and copy the materials, items and Documentation referred to in Clause 16.5 above and anything in which the Intellectual Property Rights referred to in Clauses 16.2, 16.3 and 16.4 subsist for the purposes of inviting tenders or of procuring goods and/or services the same as or similar to the Goods for the carrying out of any activities in connection with the licence under Clause 16.4 subject always to the Company's requirements for tenderers to treat the same in the strictest confidence.

16.9 Supplier's Indemnity against Third Party Intellectual Property Rights Infringement

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

16.10 Ownership of the Company's Intellectual Property Rights

Intellectual Property Rights in all Documentation and in all other material and items supplied by the Company to the Supplier in connection with the Agreement and any Contract shall remain

vested in the Company or the person owning such rights at the time the Documentation, material or items were supplied. The Supplier shall, if so requested, at any time, execute such documents and perform such acts as may be required fully and effectively to assure to the Company the rights referred to in this clause.

17 Termination and Suspension

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

- (a) the Supplier commits a breach of any Contract which in the case of a breach capable of remedy has not been remedied within five (5) Working Days, or such other period as may be agreed between the Supplier and the Company, of the Company serving notice on the Supplier requiring such remedy;
- (b) the Supplier or anyone employed by or acting on behalf of the Supplier (whether or not acting independently of the Supplier when committing any breach) commits a Safety Breach or Prohibited Act;
- (c) any limit on the Supplier's liability to pay liquidated damages is reached or exceeded;
- (d) the Supplier enters into compulsory or voluntary liquidation (other than for the purpose of effecting a solvent reconstruction or amalgamation provided that if the company resulting from such reconstruction or amalgamation is a different legal entity it shall agree to be bound by and assume the obligations of the Supplier under the Agreement and each Contract) or is deemed unable to pay its debts as they fall due [*in accordance with*] [*within the meaning of*] Section 123(1) of the Insolvency Act 1986, or a meeting of its shareholders or directors is convened to consider any resolution for (or petition or file documents with the courts for) its administration or an administrative receiver, manager, administrator, liquidator, trustee or other similar officer is appointed or notice is given to appoint the same [*or any similar or analogous procedure or step is taken in any jurisdiction*]; or
- (e) the Company becomes entitled to terminate in accordance with the escalation procedure set out in Schedule 12.

17.2 Without prejudice to Clause 17.1, the Company shall have the right:

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

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

17.3 In the event that the Company terminates the Agreement or any Contract for any reason under this Clause 17, the Supplier shall, without prejudice to any other rights or remedies which the Company may have under such Agreement or Contract or under general law, permit the Company, at the Company's option, to:

- (a) enter the Supplier's premises and, solely in respect of the Agreement or any Contract that has been terminated, take possession of any equipment or goods which are the property of the Company, the Specification and any applicable Company Documents; and
- (b) place an order for the remaining Goods (or equivalent goods) with any other person or persons.

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

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

17.5 Where the Company exercises its rights under Clause 17.3(b), following a termination in accordance with Clause 17.1 (but not a termination in accordance with Clause 17.2(a)) and in so doing and securing the full provision of the Goods (or equivalent goods), incurs costs which are in excess of those which would have been incurred in relation to the due provision of the Goods under the Agreement and the relevant Contract(s) ("**Excess Costs**"), the Supplier shall be liable to the Company for such Excess Costs in addition to being liable to the Company for any Losses of whatever nature arising out of or in connection with the relevant breach.

17.6 In the event that any Contract is suspended in accordance with Clause 17.2(b), the Supplier shall:

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

17.7 In the event that any Contract is suspended in accordance with Clause 17.2(b), and such suspension continues for a period of twenty-eight (28) days, the Supplier shall be entitled to

request that the Company serve a Notice to Proceed. In the event that no Notice to Proceed is issued by the Company within a further fourteen (14) days from such request of the Supplier, the Supplier shall be entitled to approach the Company with a request for a variation, in accordance with the Contract Variation Procedure.

- 17.8 In the event that the parties are unable to agree upon the variation requested under Clause 17.7, then a Dispute shall be deemed to have arisen and the matter shall be referred for resolution in accordance with Clause 0.
- 17.9 Termination of the Agreement and/or any Contract for whatever reason shall not affect the accrued rights of the parties arising in any way out of the Agreement and such Contract(s) as at the date of termination and in particular but without limitation the right to recover damages against the other party.
- 17.10 If anyone employed by the Supplier, acting independently of the Supplier, commits a Safety Breach or Prohibited Act, then the Company may require the Supplier to exclude that individual from the provision of the Goods with immediate effect and that individual may only resume the provision of the Goods at the Company's absolute discretion.

18 Indemnity and Insurance

- 18.1 Not used.
- 18.2 The Supplier shall be liable for, and shall indemnify the Company, including any of its employees, servants, agents, subcontractors, directors and officers on an after-tax basis against all Losses suffered or incurred by the Company and/or any third party, arising from or in connection with the performance or non-performance of the Supplier under any Contract:
- (a) in respect of sickness, disease, death or injury to any person;
 - (b) in respect of loss of or damage to any property (including any rail vehicles and property belonging to the Company or for which it is responsible);
 - (c) in respect of any Defect, including, but not limited to, any Defects in the workmanship and materials of the Goods or their packaging or breach of warranty;
 - (d) in respect of the presence of the Supplier, its employees or agents on the Company's premises whether such Losses be caused by negligence or otherwise;
 - (e) arising out of or in the course of or by reason of any negligence or breach of contract or breach of statutory duty, wilful misconduct or other wrongful act or omission of the Supplier, its employees, agents or subcontractors in manufacturing, supplying, delivering and installing (as the case may be) the Goods, except to the extent that such Losses

result solely from the negligence, breach of contract or other wrongful act or omission of the Company, its employees and agents;

- (f) arising out of or in the course of or by reason of the Supplier's performance, non performance or part performance of each Contract; and
- (g) in respect of any liability under the Consumer Protection Act 1987 or any other similar statutory provisions,

and shall, at its own cost on the Company's request, defend the Company in any proceedings involving the same.

- 18.3 The Supplier shall keep the Company indemnified against all claims arising as a result of the Supplier failing to comply with any relevant Applicable Laws and Standards, including but not limited to any liquidated damages claims made against the Company by an operator of a rail vehicle in circumstances where that rail vehicle is taken out of service as a result of the Supplier failing to comply with a relevant Applicable Law and Standard, provided always that the Supplier shall not be required to indemnify the Company for claims directly arising solely out of the wrongful acts or omissions of the Company, its employees or agents, and provided further that the Supplier's liability to indemnify the Company shall be reduced proportionately to the extent that the wrongful acts or omissions of the Company, its employees or agents may have contributed to the said claims.
- 18.4 The Supplier's indemnity under Clause 18.2 and all other indemnities under the Agreement and each Contract shall remain in force for the duration of each Contract and for the period of [twelve (12)] years after the order Delivery Date or earlier termination of each Contract.
- 18.5 The Company may withhold from any sum due or which may become due to the Supplier any sum due to the Company as a result of the operation of Clauses 18.2 to 18.4 provided that an appropriate notice to withhold payment has been served by the Company on the Supplier.
- 18.6 Neither party shall have any liability to the other for any indirect or consequential loss arising out of the performance of its obligations under or in connection with the Agreement or any Contract.
- 18.7 Without prejudice to the obligation to indemnify the Company set out in Clauses 18.2 and 18.4, the Supplier undertakes to:
- (a) maintain at its own cost insurance which complies with the Employers' Liability (Compulsory Insurance) Act 1969 and any statutory orders made under such Act or any amendment or re-enactment thereof;
 - (b) maintain at its own cost public liability insurance in respect of the Supplier's liability for death or injury to any person or loss or damage to any property arising out of its

performance of each Contract in an amount not less than that set out in the relevant Order, for any one occurrence or series of occurrences consequent on one event or original cause;

- (c) maintain at its own cost product liability insurance in respect of the Supplier's liability for death or injury to any person, or loss or damage to any property arising out of its performance of each Contract in an amount of not less than that set out in the relevant Order, for any one occurrence or series of occurrences consequent on one event or original cause;
- (d) maintain at its own cost professional indemnity insurance (to the extent that the Supplier carries out any design work as part of this contract) to ensure that its activities under each Contract are insured and remain insured in an amount not less than that set out in the relevant Order, for any one occurrence or series of occurrences consequent on one event or original cause;
- (e) maintain at its own cost "goods in transit" insurance in an amount not less than that set out in Schedule 1, in respect of the Supplier's liability for theft, loss or damage to property and Goods while in transit from one place to another or being stored during a journey;
- (f) maintain at its own cost insurance which complies with the Road Traffic Act 1988 and any statutory orders made under such Act or any amendment or re-enactment thereof;
- (g) ensure that the foregoing insurance policy or policies shall be or are effected with a reputable insurer. Such insurance shall be on terms approved by the Company (such approval not to be unreasonably withheld or delayed) and shall be maintained in force for a period not less than [twelve (12)] years after the delivery of the Goods;
- (h) ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the contract which they are contracted to fulfil; and
- (i) produce within seven (7) days of any reasonable request by the Company and in any event before the provision of any of the Goods by the Supplier under each Contract satisfactory evidence in the form of a broker's letter or similar, confirming the existence of insurance in accordance with the terms of this Clause 18.8

18.8 The Supplier's liabilities under each Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Clause 18.8

18.9 If the Supplier fails to maintain the insurance policies as provided in this Clause 18, the Company may effect and keep in force any such insurance and pay such premium or premiums at

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

18.10 Not used

19 Force Majeure

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

20 Safety

20.1 The Supplier shall not endanger in any manner the health and safety of, or unreasonably interfere with the proper performance of the duties of, the Company's employees or third parties or otherwise expose the Company to liability under any Applicable Laws and Standards, including (without limitation) the Health and Safety at Work Act etc. 1974, the Transport and Works Act 1992, or any statutory modifications or re-enactments thereof.

20.2 The Supplier shall act in accordance with the health and safety regulations and requirements stated in the Specification, including (but not limited to):

- (a) the provisions of the Company's category one standard number 2-05104-432, Contract QUENSH Conditions that are indicated as being applicable to any Contract in the QUENSH menu set out in the Specification ("QUENSH") as amended from time to time; and
- (b) the Company's drug and alcohol principles as amended from time to time.

- 20.3 Section 20.1.1 (Alcohol and drugs) of QUENSH shall apply to each Contract as if the term “LU Premises” means any of the Company’s property and as if references to “LU” are references to the Company.
- 20.4 The Company may at its discretion carry out on the Supplier’s behalf any testing of the Supplier’s employees, subcontractors or agents for drugs or alcohol which each Contract requires the Supplier to carry out. The reasonable cost to the Company of carrying out the testing shall be paid by the Supplier.

21 Independent Supplier

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

22 Supplier Personnel

Commencement of the supply of Goods

- 22.1 The Company and the Supplier agree that the commencement of the supply of the Goods on the Commencement Date will not constitute a relevant transfer for the purposes of the Employment Regulations.
- 22.2 If the contract of employment of any individual is found or alleged to have effect on or after the Commencement Date as if originally made with the Company by reason of the Employment Regulations, the Supplier agrees that:
- (a) in consultation with the Company, it will, within fourteen (14) days of being so requested by the Company (as long as the request is made no later than fourteen (14) days after the Company becomes aware of such finding or allegation), make to that person an offer in writing to employ him or her under a new contract of employment to take effect from the Commencement Date; and
 - (b) the offer to be made will be such that none of the terms and conditions of the new contract will differ from the corresponding provision of that person’s contract of employment immediately before the Commencement Date; and
 - (c) it will do nothing to discourage the acceptance of the offer.
- 22.3 Upon that offer being made in accordance with Clauses 22.2(a) and 22.2(b) (or after fourteen (14) days, if the offer is not made as requested), the Company may terminate the employment of

the person concerned and the Supplier undertakes to indemnify the Company in respect of (i) the employment of such person after the Commencement Date until any termination of employment of this nature; (ii) any Losses relating to such person which transfer to the Company under Regulation 4 of the Employment Regulations; (iii) such termination of employment; and (iv) any Losses relating to any failure to inform and consult with such person or his representatives as required by Regulation 13 of the Employment Regulations.

Supplier Personnel

- 22.4 The Supplier will be responsible and liable for the recruitment, training, management, removal and termination of all Supplier Personnel and the acts and omissions of the Supplier Personnel in connection with or relating to the supply of the Goods and will indemnify the Company on demand in respect of all Losses that may be suffered or incurred by the Company in connection with the acts or omissions of Supplier Personnel in connection with or relating to the supply of the Goods and/or when dealing with any individuals employed or engaged in any capacity by the Company.
- 22.5 The Supplier will, to the extent required, secure the consent of Supplier Personnel to the disclosure of data falling within the scope of the Data Protection Act 1998.

Supplier Personnel Information and Supplier Personnel Indemnity

- 22.6 The Supplier:
- 22.6.1 will, on request at any time (including for the avoidance of doubt after the expiry of the Agreement and any Contract), provide to the Company, the Supplier Personnel Information. Such Supplier Personnel Information shall be provided to the Company as soon as reasonably practicable and in any event no later than twenty eight (28) days after such a request;
- 22.6.2 warrants and undertakes to the Company that any Supplier Personnel Information disclosed pursuant to Clause 22.6.1 above is complete and accurate; and
- 22.6.3 will indemnify and hold harmless the Company and any Replacement Supplier from and against all Losses incurred or suffered by the Company and any Replacement Supplier in connection with, or as a result of, any claim or demand:
- (i) by any Supplier Personnel which relates wholly or in part to the Supplier Personnel's employment in the period on or after the Commencement Date;
 - (ii) by any Supplier Personnel which relates to the Supplier's failure or alleged failure to employ such Supplier's Personnel on the terms and conditions which they enjoyed immediately prior to the Commencement Date;

- (iii) by or on behalf of any Supplier Personnel which relates to a breach of any of the warranties and undertakings given by the Supplier in this Clause 22; or
- (iv) relating to any incomplete or incorrect information relating to the Supplier Personnel which the Supplier has provided to the Company pursuant to this Clause 22 or otherwise and which the Company has relied upon.

22.6A The Company will keep any Supplier Personnel Information supplied by the Supplier in accordance with Clause 22.6.1 confidential although such information may be disclosed to a prospective Replacement Supplier in any tender exercise.

Staff Travel Facilities

22.7 *[In order to assist (i) in the administration and issue of staff travel facilities to Supplier Personnel and (ii) in the control and avoidance of abuse of, and fraud in relation to, staff travel facilities, the Supplier shall:*

- (a) *provide a list of Supplier Personnel to the Company as evidence of continuing employment of those Supplier Personnel every twelve (12) months, setting out information relevant to each such Supplier Personnel's grade and the Supplier's promotion structures;*
- (b) *notify the Company:*
 - (i) *within seven (7) days of their last day of service of any Supplier Personnel about to cease, or who has ceased, to be an employee of the Supplier and to provide the Company with all information reasonably required about the circumstances in which the employment ceased, or is about to cease;*
 - (ii) *within fourteen (14) days of the effective date of any change in the grade of an Supplier Personnel or the promotion structure of the Supplier generally which, in either case, may have an impact upon the provision of staff travel facilities;*
 - (iii) *within seven (7) days of becoming aware of any loss or theft of, or within fourteen (14) days of any failure to return, staff travel facilities by Supplier Personnel; and*
 - (iv) *of any abuse of staff travel facilities by Supplier Personnel which are known to the Supplier as soon as the Supplier becomes aware of the same;*
- (c) *immediately take all reasonable steps to secure the return of staff travel facilities from Supplier Personnel prior to their leaving the employment of the Supplier and to return them to the Company within fourteen (14) days of securing their return from the Supplier Personnel;*

- (d) *take all reasonable steps to certify to the Company the nature of the documents which have been examined by the Supplier and the fact that they confirm the eligibility of the Supplier Personnel to staff travel facilities;*
- (e) *take all reasonable steps to secure the return of staff travel facilities which should have been returned and to assist the Company in securing their return, including providing the Company with addresses of the Supplier Personnel where known to the Supplier; and*
- (f) *take all reasonable steps to assist the Company in promoting compliance with the terms and conditions of issue applicable to staff travel facilities including any variations from time to time.]*

Code of Practice

22.8 The parties shall comply with the Code of Practice in relation to any Supplier Personnel.

Surplus Supplier Personnel

22.9

22.9.1 The Supplier shall deal with any surplus Supplier Personnel as follows:

- (a) where Supplier Personnel become surplus to requirements and are displaced, the Supplier shall use reasonable endeavours to identify and offer one suitable alternative job to each such Supplier Personnel elsewhere in the Supplier;
- (b) where within one (1) month of the displacement of Supplier Personnel, the Supplier is unable to identify a suitable alternative job within its respective organisation the Supplier shall ask the Company whether there are any suitable vacancies within its organisation or other subcontractor organisations;
- (c) where the Company is asked by the Supplier whether there are any suitable vacancies within its organisation, the Company shall use reasonable endeavours to identify a suitable alternative job and shall notify the Supplier in writing within one (1) month of the request being made whether such an alternative position has been identified;
- (d) where the Supplier is asked by another subcontractor whether there are any suitable vacancies within its organisation, the Supplier shall use reasonable endeavours to identify a suitable alternative job and shall notify the other subcontractor in writing within one (1) month of the request being made whether such an alternative position has been identified; and
- (e) where the Company or another subcontractor has a suitable vacancy for that Supplier Personnel and is prepared to offer that vacancy to such employee, it shall provide full

details of that vacancy to the Supplier (together with the notification as to whether the position has been identified and that Supplier Personnel shall upon accepting an offer from the Company or the other subcontractor (as the case may be) transfer on the standard terms and conditions for that organisation unless otherwise agreed between the Supplier Personnel and, as the case may be, the Company or the other subcontractor.

- 22.9.2 In the event that the Supplier, having complied with its obligations under this Clause 22.9 is unable to identify a suitable alternative job for the displaced employee or the displaced employee rejects any suitable alternative job offer (including any job offer made by the Company or another subcontractor), then the Supplier may dispense with the services of the displaced employee.

Key Personnel

- 22.10 [The Supplier shall ensure that each of the Key Personnel devotes substantially their whole time and effort to the supply of the Goods. The Supplier shall take all reasonable steps to ensure it retains the services of the Key Personnel and shall not without the Company's prior written consent terminate their employment, remove or change Key Personnel or do any such thing which would cause any of the Key Personnel to resign.
- 22.11 The Supplier agrees to inform the Company of any changes to the Key Personnel where any relevant member of Key Personnel dies, suffers long term sickness or disability, is incapacitated by reason of ill health or accident from performing his or her duties for a period of or periods aggregating thirty (30) days in the preceding three (3) months, is guilty of gross or serious misconduct, goes on any period of statutory leave (other than holiday) or leaves the Supplier's employment.
- 22.12 The Supplier shall be responsible for the costs of replacing any member of Key Personnel with an appropriately qualified and competent replacement (including but not limited to, the cost of training any replacement to ensure that they can take over the vacated position efficiently and without disrupting the supply of the Goods). The Supplier shall use all reasonable endeavours to ensure that any replacement for any member of Key Personnel is engaged and available to perform his or her role as soon as reasonably practicable and at least within seven (7) days of the expiry of the notice period of the relevant member of Key Personnel. Where termination of the relevant member of Key Personnel is due to gross or serious misconduct, a replacement shall be engaged and available to perform his/her role as soon as reasonably practicable and in any event within twenty-eight (28) days. Further, save where the relevant member of Key Personnel being replaced has vacated the position immediately due to death, illness, gross misconduct or some other similar reason, the Supplier shall, at its own cost, ensure that the member of Key Personnel being replaced works in parallel with his or her replacement to hand over to them for a period of seven (7) days or any shorter period agreed between the parties.

- 22.13 A reasonable period before an offer of engagement is made to a replacement member of Key Personnel, the Supplier shall provide such information about and access to the relevant individual as the Company may reasonably require. The Company shall notify the Supplier if it objects to the appointment of an individual as a member of Key Personnel, together with its reasons for such objection. The Supplier shall comply with any request by the Company that a particular person should not become a member of Key Personnel.
- 22.14 The Company may change the list of Key Personnel on reasonable notice and subject to the consent of the Supplier, such consent not to be unreasonably withheld or delayed.]

Cessation in the Supply of Goods

- 22.15 The Company and the Supplier agree that no Cessation in the Supply of Goods will constitute a relevant transfer for the purposes of the Employment Regulations.
- 22.16 If the contract of employment of any Supplier Personnel is found or alleged to have effect on or after a Cessation in the Supply of Goods as if originally made with the Company or a Replacement Supplier by reason of the Employment Regulations, the Supplier agrees that:
- (a) in consultation with the Company, it shall, within fourteen (14) days of being so requested by the Company (as long as the request is made no later than fourteen (14) days after the Company becomes aware of such finding or allegation), make to that person an offer in writing to employ him or her under a new contract of employment to take effect from the relevant Cessation in the Supply of Goods; and
 - (b) the offer to be made will be such that none of the terms and conditions of the new contract will differ from the corresponding provision of that person's contract of employment immediately before the Cessation in the Supply of Goods;
 - (c) it will do nothing to discourage the acceptance of the offer; and
- 22.17 Upon that offer being made in accordance with Clauses 22.16(a) and 22.16(b) (or after fourteen (14) days, if the offer is not made as requested), the Company or the Replacement Supplier may terminate the employment of the person concerned and the Supplier undertakes to indemnify the Company and the Replacement Supplier against any Losses in respect of (i) the employment of such person after the Cessation in the Supply of Goods until any termination of employment of this nature; (ii) any Losses relating to such person which transfer to the Company or the Replacement Supplier under Regulation 4 of the Employment Regulations; (iii) such termination of employment; and (iv) any Losses relating to any failure to inform and consult with such person or his representatives as required by Regulation 13 of the Employment Regulations.
- 22.18 The Supplier shall indemnify the Company and any Replacement Supplier against any Losses in respect of any claim to the extent that it is in relation to:

- (a) the employment and termination of the employment of any Supplier Personnel up to and including the Cessation in the Supply of Goods;
- (b) all emoluments and other benefits of Supplier Personnel arising in respect of the period up to and including the Cessation in the Supply of Goods regardless of when they fall due for payment;
- (c) any act, fault or omission up to and including Cessation in the Supply of Goods in respect of the employment of Supplier Personnel; and
- (d) any claim by any Supplier Personnel relating to that person's employment or its termination after the date of the Cessation in the Supply of Goods.

22.19 The Company shall have the right to audit any and all records necessary to confirm compliance with this Clause 22 at any time during performance of any Contract and during the twelve (12) year period following completion of performance.

23 Confidentiality

23.1 The Supplier undertakes to keep confidential and not to disclose to any third party (without the prior written consent of the Company) any Confidential Information supplied by the Company to the Supplier and shall use such information only for the purpose of the performance of his obligations under each Contract.

23.2 On the Company's request, the Supplier shall, so far as is reasonably possible:

- (a) transfer onto hard copies or other media in industry standard format and programming languages and deliver to the Company any Confidential Information in its possession or control supplied by the Company to the Supplier;
- (b) return to the Company all copies (whether hard copy or other media) of such Confidential Information; and
- (c) destroy, erase or otherwise expunge from its records, systems, databases or other forms of archive all such Confidential Information save to the extent that information needs to be retained for statutory purposes or tax purposes.

23.3 The Supplier shall ensure that all his subcontractors, suppliers, employees and agents perform his obligations in Clauses 23.1 and 23.2 as if they were the Supplier, and the Supplier shall be responsible to the Company for any act or omission by his subcontractors, suppliers, employees and agents in breach of such obligations.

23.4 The Supplier shall notify the Company promptly if the Supplier becomes aware of any breach of confidence by a subcontractor, supplier, employee or agent and shall give the Company all

assistance the Company reasonably requires in connection with any proceedings the Company brings, or other steps the Company takes, against that subcontractor, supplier, employee or agent for such breach of confidence.

23.5 The Supplier shall not, either alone or jointly with others, publish any material relating to the Company, the Company's Representative, any Contract or the Goods without the prior written consent of the Company.

23.6 The Supplier shall not, either alone or jointly with others, make any press, television, radio or other media announcement in connection with any Contract or the Goods, or any Dispute arising under or in connection with any Contract.

23.7 The provisions of Clauses 23.1 to 23.6 shall not apply:

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

24 London Living Wage

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

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

- (e) procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause 24 and the provisions of this Clause 24 are included in any subcontract (of any tier).

24.2 The Supplier shall not, and shall procure that any subcontractor shall not, without the prior written consent of the Company, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause 24.

25 Responsible Procurement

25.1 The Supplier and the Company acknowledge and agree that the Mayor, in accordance with section 155 of the GLA Act has directed TfL and its subsidiaries to do all things reasonably necessary to comply with the Responsible Procurement Policy in its procurement activities.

25.2 The Supplier shall and shall procure that its subcontractors (of any tier) shall comply with, and shall provide such co-operation and assistance as may be reasonably requested by the Company to enable the Company to comply with the Responsible Procurement Policy..

25.3 The Supplier acknowledges and agrees that the Company is required to develop a policy relating to the promotion of the procurement of goods and services in an ethical manner (the “**Ethical Sourcing Policy**”) which shall reflect and be consistent with the relevant principles of the Responsible Procurement Policy, and the Supplier shall and shall procure that all of its subcontractors shall comply with such the Ethical Sourcing Policy to the extent it does not conflict with the Responsible Procurement Policy.

25.4 The Supplier acknowledges and agrees that it (and its subcontractors) shall be required to comply with any changes to the Responsible Procurement Policy (and any adjustment or amendment to the Ethical Sourcing Policy as a result of such amendment or adjustment to the Responsible Procurement Policy).

25.5 The Supplier shall not be entitled to any addition to the Order Price in the event of any change to the Responsible Procurement Policy (and any change to the Ethical Sourcing Policy as a result of such change to the Responsible Procurement Policy).

25.6 The Supplier shall procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause 25 and the provisions of this Clause 25 are included in any subcontract (of any tier).

25.7 The Supplier shall not, and shall procure that any subcontractor shall not, without the prior written consent of the Company, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause 25.

26 Assignment and Subcontracting

- 26.1 The Supplier shall not assign, novate or subcontract any of its rights or obligations under the Agreement or any Contract or any part thereof without the prior written consent of the Company.
- 26.2 Not used.
- 26.3 The Company may novate, assign, transfer or subcontract the Agreement and/or or any Contract or any part thereof to any person at any time without the consent of the Supplier, provided the Company has given prior written notice to the Supplier.
- 26.4 Within seven (7) days of any written request by the Company to the Supplier, the Supplier shall execute a deed of novation in the form set out in **Error! Reference source not found.** in favour of any person to whom the Agreement or relevant Contract is being novated.

27 Company's and Supplier's Representative

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

28 Costs

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

29 Severance

- 29.1 If a provision of any Contract is, or becomes, invalid, unenforceable or illegal, that will not affect the legality, validity or enforceability of any other provision of such Contract, provided that the operation of this Clause 29 would not negate the commercial interest and purpose of the parties under such Contract.

30 Publicity

The text of any press release or other communication to be published by or in the media concerning the subject matter of the Agreement and/or any Contract shall require the prior

written approval of the Company. No interviews concerning the same shall be given by the Supplier with the media without prior written approval from the Company of the content of such an interview.

31 Corrupt Gifts and Payments of Commission

- 31.1 The Supplier undertakes that it shall not and procures that its subcontractors and suppliers shall not enter into or offer to enter into any business arrangement with any servant, employee, officer or agent of the Company other than as a representative of the Company without the Company's prior written approval.
- 31.2 The Supplier undertakes that it shall not, and uses reasonable endeavours to procure that its subcontractors and suppliers shall not commit any Prohibited Acts or cause the Company to commit any equivalent act.
- 31.3 The Company shall have the right to audit any and all records necessary to confirm compliance with this Clause 31 at any time during performance of each Contract and during the twelve (12) year period following completion of performance.

32 No Waiver

- 32.1 No failure or delay on the part of either party to exercise any right or remedy under any Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in any Contract are cumulative and are not exclusive of any rights or remedies provided by law.

33 Entire Contract

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

34 Notices and Service of Process

- 34.1 [Notwithstanding the provisions of Clause 34A, notices relating to the service of any proceedings or other documents in an adjudication or a legal action to which the Civil Procedure Rules apply] / [Any notice or other document given under, or in connection with, the Agreement or any Contract] must be in English and in writing and sent by letter or fax or delivered by hand to the other party's representatives in each case to the address below. The notice or other document will be effective as follows:

- (a) if the notice or other document is sent by letter, it will be effective when it is delivered;

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

The address and fax numbers of the Company and the Supplier are as follows (or such other address or facsimile number which may be subsequently notified by the relevant party):

Company: *[Address]*

Attn: Company's Representative

Facsimile:

Supplier: *[Address]*

Attn:

Facsimile:

If a party's details change, it must notify the other party promptly in writing of any such changes. The parties agree that proceedings arising out of or in connection with the Agreement or any Contract may be served in accordance with this Clause 34.1.

34A Not used

35 Dispute Resolution

- 35.1 Any question, dispute, difference or claim (a "**Dispute**") shall be resolved in accordance with this Clause 0.
- 35.2 The parties shall use their reasonable endeavours to resolve any Dispute by a meeting between the Company's Representative and a suitably qualified and duly authorised representative of the Supplier (together the "**Nominated Representatives**") which shall be convened to discuss such Dispute within fourteen (14) days of notification in writing by one party to the other of a matter in dispute.
- 35.3 If the Dispute has not been resolved within twenty-eight (28) days after the date of a meeting between the Nominated Representatives in accordance with Clause 35.2 (or if no such meeting was convened within twenty-eight (28) days after the date on which notification was served by one party on the other), the Dispute shall be referred as soon as practicable to *[the Company's Contracts and Procurement Manager and the Supplier's Managing Director]* or in the absence or unavailability of these personnel, persons of similar status deputised to resolve disputes on behalf of their respective companies.

- 35.4 If the Dispute has not been resolved within twenty-one (21) days of it being referred to [*the Company's Contracts and Procurement Manager and the Supplier's Managing Director*] or their deputies in accordance with Clause 35.3 either party may refer the matter for resolution in accordance with the provisions of Clause 36.
- 35.5 Clauses 35.1 to 35.4 are subject to the Supplier's rights (if any) under the HGCR to refer a Dispute to adjudication at any time. Any such adjudication shall be in accordance with the Company's Adjudication Rules. For the purposes of this Clause 35.5, "**Adjudication Rules**" means the most recent edition of the Company's adjudication rules on the date of the notice referring adjudication.

36 Governing Law and Jurisdiction

The Company and the Supplier submit, subject to the provisions of this Agreement and any Contract, to the exclusive jurisdiction of the courts of England and Wales provided that the Company has the right in its absolute discretion to enforce a judgement and/or to take proceedings in any other jurisdiction in which the Supplier is incorporated or in which any asset of the Supplier may be situated.

37 Contracts (Rights of Third Parties) Act 1999

- 37.1 Subject to
- the Replacement Supplier' rights in accordance with Clause[s] 22.6.3; [22.17 and 22.18]no person except any member of the TfL Group may enforce any Contract by virtue of the Contracts (Rights of Third Parties) Act 1999, but this does not affect any other right or remedy of a third party arising at law.
- 37.2 Notwithstanding those rights referred to in Clause 37.1, the Company and the Supplier may agree to vary or rescind the Agreement and/or any Contract without the consent of any third party.

38 Bonds, Warranties and Guarantees

- 38.1 Where stated in an Order, the Supplier shall at its own expense provide within seven (7) days of the Company's request the following:
- (a) an executed bond issued by a financial institution whose long term debt obligations are rated not less than A- by Standard & Poor's and/or A3 by Moody's in the form set out in 0 in favour of the Company;
 - (b) an executed parent company guarantee from the ultimate holding company or other parent company of the Supplier (provided that such company's long-term debt obligations

are rated not less than A- by Standard & Poor's and/or A3 by Moody's) in the form set out in 0 in favour of the Company.

- 38.2 The Supplier shall ensure that any bond required under Clause 38.1 provides, in aggregate, credit protection for the Company in an amount of not less than [10% of the aggregate of the Order Price of the relevant Contract at all times until the Order Delivery Date and thereafter 5% of the aggregate of the Order Price of the relevant Contract until expiry of each Warranty Period.]
- 38.3 If at any time the existing bond and/or parent company guarantee cease(s) to meet the requirements of Clauses 38.1 and 38.2 then the Supplier shall replace such bond and/or parent company guarantee with a bond and/or parent company guarantee (as the case may be) that meets the requirements within seven (7) days.
- 38.3A If requested by the Company, the Supplier shall provide an accompanying legal opinion to the bond and/or parent company guarantee supplied under Clause 38.1 completed and signed by a qualified lawyer from the country in which the guarantor and/or parent company is resident in the form attached to Schedule 9.
- 38.3B If any performance bond and/or parent company guarantee required by any Contract is not procured by the Supplier and delivered to the Company in accordance with Clause 38.1, one quarter of the aggregate of the Order Price of the relevant Contract shall be retained in assessments of the amount due and shall not be payable to the Supplier until such documents have been delivered.
- 38.4 If required by the Company, the Supplier shall procure that the terms of any subcontract require the subcontractor, within seven (7) days of a written request by the Company to the subcontractor, to enter into:
- (a) a collateral warranty in the form set out in 0 in favour of:
 - (i) the Company;
 - (ii) any persons who have entered into or may enter into an agreement for the provision of finance in connection with the Agreement or any Contract;
 - (iii) any persons who have acquired or may acquire an interest in or over the Agreement, any Contract or any part of the Goods or in relation to any infrastructure or works to which the Goods relate;
- and if requested by the Company, the Supplier shall require the subcontractor to provide an accompanying legal opinion completed and signed by a qualified lawyer from the country in which the subcontractor is resident in the form attached to the collateral warranty set out in Schedule 10; and

- (b) a parent company guarantee in the form provided by the Company from the ultimate holding company of the subcontractor in respect of any of the subcontractor's obligations under any collateral warranty required under this Clause 38.4.

38.5 In addition to the obligation to procure warranties as set out in Clause 38.4(a), the Supplier shall within seven (7) days of any written request provide collateral warranties as required by the Company in respect of the Goods in favour of any of the parties referred to in Clause 38.4(a)(ii) and (iii). Any such collateral warranty shall be in the format that the Company shall request.

38.6 If any of the warranties (including any accompanying parent company guarantee) required under Clauses 38.4 and 38.5 are not delivered to the Company in accordance with the provisions of those Clauses:

- in the case of subcontractor warranties required under Clause 38.4, one quarter of the aggregate of the Order Price of each Contract relative to the Goods supplied by the relevant subcontractor; and
- in the case of Contractor warranties required under Clause 38.5 one quarter of the aggregate of the Order Price of the relevant Contract,

shall be retained in assessments of the amount due and shall not be payable until such warranties have been delivered.

39 Default Interest

39.1 If either party fails to pay to the other any amount payable in connection with any Contract on or before the due date for payment, interest shall accrue on the overdue amount from the due date for payment until the date of actual payment (whether before or after judgment) at the Default Interest Rate. Any interest accruing under this Clause 39.1 shall be immediately payable by the paying party on demand.

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

40 Freedom of Information

- (a) For the purposes of this Clause 40:

“**FOI Legislation**” means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and

Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

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

“**Information Request**” means a request for any Information under the FOI Legislation.

- (b) The Supplier acknowledges that the Company:
 - (i) is subject to the FOI Legislation and agrees to assist and co-operate with the Company to enable the Company to comply with its obligations under the FOI Legislation; and
 - (ii) may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Supplier.
- (c) Without prejudice to the generality of Clause 40(b) the Supplier shall and shall procure that its subcontractors (if any) shall:
 - (i) transfer to the Company’s Representative (or such other person as may be notified by the Company to the Supplier) each Information Request relevant to the Agreement and/or any Contract, the supply of Goods or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Working Days of receiving such Information Request; and
 - (ii) in relation to Information held by the Supplier on behalf of the Company, provide the Company with details about and/or copies of all such Information that the Company requests and such details and/or copies shall be provided within five (5) Working Days of a request from the Company (or such other period as the Company may reasonably specify), and in such forms as the Company may reasonably specify.
- (d) The Company shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Supplier shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Company.

40A Data Transparency

- 40A.1 The Supplier acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 23 and Clause 41, the Supplier hereby gives its consent for the Company to publish the Contract Information to the general public.
- 40A.2 The Company may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Company may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The Company may in its absolute discretion consult with the Supplier regarding any redactions to the Contract Information to be published pursuant to Clause 41A.1. The Company shall make the final decision regarding publication and/or redaction of the Contract Information.

40B Survival

- 40B.1 The provisions of Clauses 4 (Records and Audit), 8.5 (Set-Off), [12 (*Environmental Claims*)], 15 (Warranty), 16 (Intellectual Property Rights), 17 (Termination), 18 (Indemnity and Insurance), 22 (Supplier Personnel), 23 (Confidentiality), 25.2 (Responsible Procurement), 29 (Severance), 30 (Publicity), 31 (Corrupt Gifts and Payments of Commission), 32 (No Waiver), 33 (Entire Contract), 34 (Notices and Service of Process), 35 (Dispute Resolution), 36 (Governing Law and Jurisdiction), 37 (Contracts (Rights of Third Parties) Act 1999), 40 (Freedom of Information), 40A (Data Transparency), 40B (Survival), 41.1 and 41.5 (Transport for London Group) will survive the termination or expiry of this Agreement and/or any Contract and continue in full force and effect, along with any other Clauses or Schedules of this Agreement and/or any Contract necessary to give effect to them. In addition, any other provision of this Agreement and/or any Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination will survive such termination as aforesaid.

41 Transport for London Group

41.1 Declaration of Ineffectiveness

- (a) Without prejudice to the Company's right to terminate the Agreement and/or any Contract under Clause 17.1, Clause 17.2(a) or at common law, the Company may terminate the Agreement and/or any Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of this Clause 41.1.
- (b) In the event that any court makes a Declaration of Ineffectiveness, the Company shall notify the Supplier. The parties agree that the provisions of this Clause 41.1 shall apply as from the date of receipt by the Supplier of the notification of a Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of

Clause 17.1 and this Clause 41.1 or the Cessation Plan, the provisions of this Clause 41.1 and the Cessation Plan prevail.

- (c) The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or which shall accrue to either party prior to or after such Declaration of Ineffectiveness.
- (d) As from the date of receipt by the Supplier of the notification of the Declaration of Ineffectiveness, the parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Company shall reasonably determine an appropriate Cessation Plan with the object of achieving:
 - (i) an orderly and efficient cessation of the supply of Goods or (at the Company's request) a transition of the supply of Goods to the Company or such other entity as the Company may specify; and
 - (ii) minimal disruption or inconvenience to the Company or to public passenger transport services or facilities, in accordance with the provisions of this Clause 41.1 and to give effect to the terms of the Declaration of Ineffectiveness.
- (e) Upon agreement, or determination by the Company of the Cessation Plan the parties shall comply with their respective obligations under the Cessation Plan.
- (f) The Company shall pay the Supplier's reasonable costs in assisting the Company in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or charges agreed as part of the Agreement and/or any Contract or as otherwise reasonably determined by the Company. Provided that the Company shall not be liable to the Supplier for any loss of profit, revenue goodwill or loss of opportunity as a result of the early termination of the Agreement and/or any Contract in accordance with this Clause 41.1.

41.2 **Crime and Disorder Act 1998**

The Supplier acknowledges that Transport for London is under a duty under Section 17 of the Crime and Disorder Act 1998 to:

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

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

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

41.3 **The Company's business**

The Supplier acknowledges that it:

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

41.4 **Best value**

The Supplier acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the Company is required to make arrangements to secure continuous improvement in the way it exercises its functions, having regard to a combination of economy, efficiency and effectiveness. The Supplier shall assist the Company to discharge TfL's duty where possible, and in doing so, shall carry out any review of the supply of Goods reasonably requested by the Company from time to time. The Supplier shall negotiate in good faith (acting reasonably) with the Company any changes to the Agreement and/or any Contract in order for the Company to achieve best value.

41.5 **Data Protection**

- (a) The Supplier shall comply with all of its obligations under the Data Protection Act 1998 and if processing personal data (as such terms are defined in section 1(1) of that Act) on behalf of the Company ("**Company Personal Data**"), the Supplier shall only carry out such processing in order to carry out the supply of Goods and at all times in accordance with any instructions from the Company.

- (b) When the Supplier receives a written request from the Company for information about, or a copy of, Company Personal Data, the Supplier shall supply such information or data to the Company within such time and in such a form as is specified in the request (such time to be reasonable) or if no period of time is specified in the request, then the Company shall supply the information or data within fourteen (14) days from the date of the request.
- (c) The Company shall remain solely responsible for determining the purposes and manner in which Company Personal Data is to be processed. The Supplier shall not share any Company Personal Data with any subcontractor or third party unless there is a written agreement in place which requires the subcontractor or third party to:
 - (i) only process Company Personal Data in accordance with the Company's instructions to the Supplier; and
 - (ii) comply with the same data protection requirements that the Supplier is required to comply with under the Agreement and/or any Contract.

41.6 **Conflict of Interest**

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

41.7 Not used.

41.8 **Equality and Diversity**

41.8.1 Without limiting the generality of any other provision of the Agreement, the Supplier:

- (a) shall not unlawfully discriminate;

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

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

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

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

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

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

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

41.9 **Cycling Safety**

- (a) For the purposes of this Clause 41.9:

“Approved Driver Training” means the Safe Urban Driving course as accredited by the Joint Approvals Unit for Periodic Training details of which can be found at www.fors-online.org.uk.

“Bronze Accreditation” means the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at www.fors-online.org.uk.

“Car-derived Vans” means 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.

“Class VI Mirror” means a mirror fitted to a Freight Vehicle that allows the driver to see what is immediately in front of the vehicle and that complies with Directive 2003/97/EC.

“Close Proximity Sensor” means a device consisting a sensor system that detects objects in a vehicle’s blind spot and alerts the driver via in-cab visual and/or audio stimuli and which alerts other road users to the planned movement of the vehicle when the vehicle’s indicators are engaged.

“Collision Report” means a report detailing all collisions during the previous twelve (12) months involving injuries to persons or fatalities.

“Driver” means any employee of the Supplier (including an agency driver), who operates Freight Vehicles on behalf of the Supplier while delivering the Goods.

“DVLA” means the Driver and Vehicle Licensing Agency.

“FORS” means the Fleet Operator Recognition Scheme, which is an accredited scheme for businesses operating van and lorry fleets. It is free to join and offers impartial, independent advice and guidance to motivate members to improve their compliance with relevant laws and their environmental, social and economic performance.

“FORS Standard” means the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at: www.fors-online.org.uk.

“Freight Vehicle” means a Lorry, a Van or a Car-derived Van.

“Fresnel Lens” means a clear thin plastic lens that is pressed fitted to a lorry window on the passenger side and that allows the driver to see that which is in the vehicle’s blind spot.

“Gold Accreditation” means the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk.

“**Lorry**” means a vehicle with an MAM exceeding 3,500 kilograms.

“**MAM**” means the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road.

“**Side Guards**” means guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986.

“**Silver Accreditation**” means the intermediate level of accreditation within the FORS Standard the requirements of which are more particularly described at: www.fors-online.org.uk.

“**Van**” means a vehicle with a MAM not exceeding 3,500 kilograms.

(b) **Fleet Operator Recognition Scheme Membership**

Where the Supplier operates Freight Vehicles, it shall within ninety (90) days of executing the Agreement:

- (i) (unless already registered) register for membership of FORS or a scheme, which in the reasonable opinion of the Company, is an acceptable substitute to membership of FORS (the “**Alternative Scheme**”); and
- (ii) (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme.

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

(d) The Supplier shall ensure that those of its subcontractors who operate Freight Vehicles shall comply with Clauses 41.9(b) and 41.9(c) as if they applied directly to the subcontractor.

(e) **Safety Equipment on Vehicles**

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

- (i) have Side Guards, unless the Supplier can demonstrate to the reasonable satisfaction of the Company that the vehicle will not perform the function for which it was built if Side Guards are fitted;
- (ii) have a close proximity warning system fitted comprising:
 - a front-mounted, rear-facing CCTV camera with in-cab live feed from the said camera or a Fresnel Lens where the Fresnel Lens provides a reliable alternative to the CCTV camera and where the Operator has obtained the Company's approval to use the Fresnel Lens, which approval the Company may withhold in its unfettered discretion; and
 - a Close Proximity Sensor;
- (iii) have a Class VI Mirror; and
- (iv) bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.

The Supplier shall ensure that every Van, which it uses to provide the Goods, shall bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.

(f) **Driver Licence Checks**

The Supplier shall ensure that each of its Drivers has a driving licence check with the DVLA before that Driver commences delivery of the Goods and that the driving licence check with the DVLA is repeated in accordance with either the following risk scale, or the Supplier's risk scale, provided that the Supplier's risk scale has been approved in writing by the Company within the last twelve (12) months:

- (i) 0 – 3 points on the driving licence – annual checks;
- (ii) 4 – 8 points on the driving licence – six (6) monthly checks;
- (iii) 9 – 11 points on the driving licence – quarterly checks; or
- (iv) 12 or more points on the driving licence – monthly checks.

(g) **Driver Training**

The Supplier shall ensure that each of its Drivers who has not undertaken:

- (i) Approved Driver Training (or training, which in the reasonable opinion of the Company, is an acceptable substitute) the last three (3) years, undertakes Approved Driver Training within sixty (60) days of the Commencement Date; and
- (ii) a FORS e-learning safety module in the last twelve (12) months, undertakes a FORS e-learning safety module (or e-learning, which in the reasonable opinion of the Company, is an acceptable substitute).

(h) **Collision Reporting**

Within fifteen (15) days of the Commencement Date, the Supplier shall provide to the Company a Collision Report. The Supplier shall provide to the Company an updated Collision Report on a quarterly basis and within five (5) Working Days of a written request from the Company.

(i) **FORS Reports**

Within thirty (30) days of it achieving Bronze Accreditation or equivalent within the Alternative Scheme, the Supplier shall provide a written report to the Company at fors@tfl.gov.uk detailing its compliance with Clauses 41.9(e), 41.9(f) and 41.9(g) of this Agreement (the “**Safety, Licensing and Training Report**”). The Supplier shall provide updates of the Safety, Licensing and Training Report to the Company at fors@tfl.gov.uk on each three (3) month anniversary of its submission of the initial Safety, Licensing and Training Report.

(j) **Obligations of the Supplier regarding subcontractors**

The Supplier shall ensure that each of its subcontractors that operates the following vehicles shall comply with the corresponding provisions of this Agreement as if those subcontractors were a party to this Agreement:

- (i) For Lorries – Clauses 41.9(e), 41.9(f), 41.9(g) and 41.9(h); and
- (ii) For Vans – Clauses 41.9(e)(iv), 41.9(f), 41.9(g) and 41.9(h).

(k) **Failure to Comply with Freight-related Obligations**

Without limiting the effect of Clause 17, if the Supplier fails to comply with Clauses 41.9(b), (c), (d), (e), (f), (g), (h), (i) and (j):

- (i) the Supplier has committed a material breach of this Agreement and/or any Contract; and

- (ii) the Company may refuse the Supplier, its employees, agents and Freight Vehicles entry onto any property that is owned, occupied or managed by the Company for any purpose (including but not limited to deliveries).

42 COMPETEFOR

- 42.1 Without prejudice to Clause 26 the Supplier will, on a non-exclusive basis, use the CompeteFor electronic brokerage service (or such alternative web-based tool as the Company may direct from time to time) ("**CompeteFor**") to make available to other suppliers all appropriate opportunities, arising in connection with any Contract, to supply goods, works and services to the Supplier.
- 42.2 The Supplier will use all reasonable endeavours to ensure that its sub-contractors (for the purposes of this clause, the "**Supplier's Sub-contractors**") use CompeteFor, on a non-exclusive basis, to make available to other sub-contractors all appropriate opportunities, arising in connection with any Contract, to supply goods, works and services to the Supplier's Sub-contractors.
- 42.3 The Supplier will monitor (and maintain a record of) the number, type and value of opportunities, arising in connection with any Contract, made available to other suppliers via CompeteFor, whether by the Supplier or the Supplier's Sub-contractors, as required by this Clause 42, and will report this information on a quarterly basis by way of email to the Company Representative.

Schedule 1

Form of Order

THIS ORDER IS AGREED AND ENTERED INTO BY THE COMPANY AND THE SUPPLIER PURSUANT TO, AND STRICTLY SUBJECT TO THE TERMS OF, THE AGREEMENT REFERRED TO HEREIN (SEE CONTRACT REFERENCE NUMBER FOR DETAILS).

Notes:

1. Please confirm receipt of this Order immediately by signing and dating where indicated and returning to the Company's Representative.
2. Please quote the Contract Reference Number and the Order number in all correspondence and on all applications for payment.
3. Please address all correspondence and enquiries to the Company's Representative.

Company:	London Underground Limited
Supplier:	Direct Track Solutions Limited
Contract Reference Number:	TFL - 00161
Order Number:	
Order Title:	
Company's Representative: Address for service of notices: Telephone: Fax:	
Supplier Representative: Address for service of notices: Telephone: Fax:	
Delivery Address	
Expected Order Delivery Date and times for delivery:	
Standards	
Specification	<i>[As set out in Appendix 1] [Specification reference number []]</i>
Order Programme:	
Warranty Period	
Key Personnel:	The provisions of Clause Error! Reference source not found. <i>[apply] [do not apply]</i>

	<i>[The following Supplier Personnel are Key Personnel: []]</i>	
Order Price (exclusive of VAT):		
Order Payment Profile [and application for payment dates]:		
Insurance Against	Party Responsible for ensuring insurance is in place	Minimum amount of cover or minimum limit of indemnity
Product and Public Liability Insurance All sums for which the insured shall become legally liable to pay as damages in respect of death of or injury or illness or disease to third parties and/or loss of or damage to third party property, obstruction, loss of amenities, trespass, nuisance or any like cause happening during the period of insurance and arising out of or in connection with the Contract.	Supplier	£5,000,000 for each and every claim or series of claims arising out of one event (and in the aggregate per annum in respect of product liability insurance only).
Employer's Liability Insurance Liability for death of or bodily injury or illness sustained by employees of the Supplier arising out of or in the course of their employment in connection with the Contract.	Supplier	Not less than £5,000,000 for each and every claim or series of claims arising out of one incident.
Professional Indemnity Insurance Negligence omission or default in respect of the design of the Supply or other professional services for which the Supplier or its sub-contractors is responsible.	Supplier	£2,000,000 for each and every claim and in the aggregate per annum.
Transit Insurance Transit Insurance to cover Goods, Materials, materials supplied by the Supplier until safe receipt at the Premises by the Company.	Supplier	Not less than £25,000 for each and every claim or series of claims arising out of one incident.
Additional Comments/Special Instructions:		

Signed by:
Title:
On behalf of:
Tube Lines Limited

Signed by:
Title:
On behalf of:
[]

.....
Date:.....

.....
Date:.....

Appendix 1
Specification

Schedule 2
Framework Particulars

Initial Period:	04 years plus an additional year (Optional) Start date: 01/11/2015, initial end date: 31/10/2019
Term:	05 Years (Contract extension start date: 01/11/2019, contract extension end date: 31/10/2020 (In the event of the contract being extended by an additional year).



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1 Purpose

- 1.1 The purpose of this Specification is to specify the requirements for insulated rail joints.

NOTE: This document has been reclassified and reformatted as a Technical Specification. The requirements are unchanged.

2 Scope

- 2.1 This Specification applies to 56E1 and 95RBH insulated joints for use in CWR, LWR and jointed track.
- 2.2 This specification is renumbered from S-TR-0018, which superseded TE-DS-0324-A2.

3 Requirements

3.1 Joint performance and testing

- 3.1.1 Except as stated in the following clauses insulated rail joints shall comply with Network Rail standard NR/SP/TRK/023.
- 3.1.2 Glued insulated joints complying with Network Rail standard NR/SP/TRK/024 and Network Rail drawing RE/PW/268, and assembled and tested according to Network Rail standard NR/SP/TRK/064, are deemed to comply with NR/SP/TRK/023.
- 3.1.3 In replacement of requirements in NR/SP/TRK/023 regarding their electrical performance, insulated rail joints shall provide electrical insulation such that:
- a) the resistance across the joint is 10,000,000 at 500V DC;
 - b) the impedance is 10,000 ohms at 20V AC from 20 to 10,000 Hz.
- 3.1.4 In order to enable achievement of the criteria in clause 3.1.3:
- a) the volume resistivity of the insulating material after 24 hours immersion in water shall be not less than 1×10^{10} ohm-cm;
 - b) the comparative tracking index of the insulating material shall be not less than 125 when tested to BS EN 60112..
- 3.1.5 Insulating materials shall withstand a minimum compressive stress of 300 MPa.

3.2 Materials and dimensions

- 3.2.1 Plates and bolts shall comply with BS 47 and BS 64 or as otherwise agreed with LU.
- 3.2.2 Bolt-hole spacing shall be compatible with the standard rail-end drillings shown on drawing RE/PW/620 (56E1) or RE/PW/549 (95RBH). Bolt-hole diameters shall comply with those drawings or shall be as otherwise approved by LU, and bolt diameters shall be selected accordingly.
- 3.2.3 Insulated joints shall incorporate an end-post with a thickness selected from the range 6mm to 12.7mm (inclusive). When a design of insulated joint is accepted for use, all supplies of that joint shall be with end-posts only of the accepted thickness.

3.3 Quality assurance

- 3.3.1 Suppliers seeking product acceptance or tendering for supply shall submit a Quality Assurance Plan stating how consistent compliance with the requirements of this

specification will be ensured. In addition, the method of manufacture shall be described in sufficient detail to enable independent verification of compliance.

4 Competence

- 4.1 Any person to whom a responsibility related to this specification is assigned shall be qualified and appropriately certificated to undertake that responsibility. In particular they shall be fully conversant with this specification.

5 Supporting information

5.1 Safety considerations

- 5.1.1 The use of material other than defined in this specification may cause excessive wear, damage and premature failure of components, leading to poor rail alignment, incorrect track geometry and impaired performance of signalling systems, with the consequent risk of disruption of the train service, collision or derailment.

5.2 Other information

- 5.2.1 LU uses 56E1 dry insulated “Benkler” joints supplied by Tenconi and 56E1 glued insulated joints to the BR MkIII design, all of which have Network Rail acceptance and comply with the Network Rail standards referenced in clauses 3.1.1 and 3.1.2. LU also uses 95RBH dry insulated joints of a type which does not have Network Rail acceptance.
- 5.2.2 The electrical insulation properties of insulated joints are critical to the performance of the signalling system. Acceptance of joints into the LU infrastructure will require account to be taken of LU’s signalling system whether or not those joints have Network Rail acceptance; clauses 3.1.3 and 3.1.4 therefore set requirements which are specific to LU.

6 References

6.1 References

Where reference is made to a standard which is in the course of preparation, current approved, instructions, notices and specifications shall be followed.

The latest edition of the track standards bulletin shall be consulted for the current status of standards.

6.1.1 British Standards

Document no.	Title
BS 47	Specification for steel fishplates for bullhead and flat bottom railway rails
BS 64	Specification for steel fishbolts and nuts for railway rails
EN 13674-1	Railway applications – Track – Rail – Vignole railway rails 46 kg/m and above
EN 60112	Method for the determination of the proof and the comparative tracking indices of solid insulating materials

NOTE: Euronormes (EN) are prefixed “BS” when used in the United Kingdom

6.1.2 LU company documents

Document no.	Title
1-622	Glossary of terms

6.1.3 Network Rail Standards

Document no.	Title
NR/SP/TRK/023	Insulated rail joints
NR/SP/TRK/024	Components for BR MkIII insulated joints
NR/SP/TRK/064	Assembly of BR MkIII insulated joints
RE/PW/268	Insulated glued joint BR Mk III 4 & 6 hole type
RE/PW/549	95RBS rail with drilling details
RE/PW/620	Rail section BS113A and drilling details

6.2 Abbreviations

The following abbreviations are created:

- within London Underground's Glossary of Terms (1-622) (a Category 1 Standard);
- from published sources that are clearly identified.

Abbreviation	Definition	Source
56E1	56kg/m flat bottom rail (formerly BR113A)	b (BS EN 13674-1)
95RBH	95 lb/yd bull head rail	a
AC	Alternating Current	a
CWR	Continuous welded rail	a
DC	Direct current	a
LU	London Underground	a
LWR	Long welded rail	a

6.3 Definitions

A comprehensive list of track definitions is given in 1-622

6.4 Technical content manager

Paragraph number	Technical content manager
ALL	Head of Track Engineering, LU

6.5 Document history

Issue no	Date	Changes	Author
A1	Feb 2012	Reclassify from S-TR-0018 to technical specification T0405 in line with DRACCT sub 1023	Quentin Phillips

Schedule 2
Framework Particulars

Initial Period:	04 years plus an additional year (Optional) Start date: 01/11/2015, initial end date: 30/06/2019
Term:	05 Years (Contract extension start date: 01/11/2019, contract extension end date: 31/10/2020 (In the event of the contract being extended by an additional year)).

Schedule 3

Contract Variation Procedure

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

- 8 The Supplier shall at all times act reasonably and shall price each Variation Proposal at the least possible additional cost to the Company that it is reasonably and economically practicable for the Supplier to offer and which has the least possible impact on the terms of the relevant Contract, including, but not limited to the Specification.

- 9 Strict adherence to the procedure described in this 0 shall be a condition precedent to any addition to the price for the Goods. If the Supplier does not adhere to each paragraph in this 0 then the Supplier shall not be entitled to any addition to the price notwithstanding that the Supplier may have supplied additional or varied Goods.

Appendix 1
Form of Variation Proposal/Variation Order

To:	From:
------------	--------------

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

PART A (TO BE COMPLETED BY THE ORIGINATOR OF THE VO)	
Description of change:	
Reason for changes and impact (if any) on Contract:	
Variation Proposal Authorised by:	Proposal Date:

PART B (TO BE COMPLETED BY THE SUPPLIER)	
Price Breakdown Note: If a further breakdown is needed please append details as a separate sheet.	
Expected Delivery Date:	
Supplier's Representative:	
Print Name: Signature: Date:	
Completed document to be returned to the Company's Representative	

PART C (TO BE COMPLETED BY THE COMPANY'S REPRESENTATIVE)	
Comment on Parts A and B:	
Variation Authorisation	
Company's Representative:	
Print Name: Signature: Date:	

Schedule 4

Quality and Safety Plan

Schedule 5

Prices

Prices are fixed for year 1.

Prices for years 2-4 and year 5 (in the event of a contract extension) will be determined through the following mechanism:

Currency Exchange Rates: The exchange rate between the Swiss Franc CHF and the GBP is fixed at GBP1.00/CHF 1.48. The contract price can be varied if this rate fluctuates by +/- 5% for a period of 28 days. A contract review meeting will take place in October to specifically analyse currency performance and agree pricing structure.

Meetings schedule for:

October 2016

October 2017

October 2018

October 2019 (In the event of the contract being extended by an additional year)

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

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

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

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

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

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

EXECUTED as a Deed and delivered the day and year first above written.

THE COMMON SEAL of)
LONDON UNDERGROUND LIMITED)
was hereunto affixed in)
the presence of:-)

Authorised Signatory
Signature:
Name:

EXECUTED as a deed)
for and on behalf of)
[SUPPLIER])
acting by)

Authorised Signatory
Signature:
Name:

Authorised Signatory

Signature:
Name:

EXECUTED as a deed)
for and on behalf of)
[NEW COMPANY])
acting by)

Authorised Signatory

Signature:
Name:

Authorised Signatory

Signature:
Name:

Schedule 7

Form of Software Escrow Agreement]

[Note: If Schedule 7 is to be used a form of Software Escrow Agreement will need to be incorporated. This will usually be the NCC Single Licensee Software Escrow Agreement although there are other options for escrow arrangements available if the NCC Group does not present a suitable solution. If the NCC Group is used then TfL's regular contact at the NCC should be contacted and asked to provide the latest version of their standard form escrow agreement. The NCC Group will then need to be involved in agreeing the terms (including release events and levels of verification) and the payment of fees between the parties. If you have any queries or issues then please discuss with Legal.]

Schedule 8

Not used

Schedule 9

Form of Parent Company Guarantee and Performance Bond

FORM OF PARENT COMPANY GUARANTEE

LONDON UNDERGROUND LIMITED

THIS GUARANTEE is made the _____ day of _____ 201

BETWEEN:

- (1) [] (company registration number []) whose registered office/principal place of business is at [] (the "**Guarantor**");
- (2) [] (company registration number []) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**" which expression shall include its successors in title and assigns); and
- (3) [] (company registration number []) whose registered office/principal place of business is at [] (the "**Supplier**").

WHEREAS:

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

NOW IT IS HEREBY AGREED as follows:

1. The Guarantor unconditionally guarantees to the Company the proper and punctual performance and observance by the Supplier of all its obligations, warranties, duties, undertakings and responsibilities under the Contract and shall forthwith make good any default thereunder on the part of the Supplier and the Guarantor shall pay or be responsible for the payment by the Supplier to the Company of all sums of money, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Supplier.
2. This Guarantee shall be a continuing guarantee and indemnity and accordingly shall remain in full force and effect until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed or observed by the Supplier under or arising out of the Contract have been duly and completely performed and observed in full.

3. The Guarantee is in addition to and not in substitution for any other security or warranty which the Company may at any time hold for the performance of any obligations, warranties, duties and undertakings under the Contract and may be enforced by the Company without first taking any proceedings or exhausting any right or remedy against the Supplier or any other person or taking any action to enforce any other security, bond or guarantee.
4. The Guarantor shall be under no greater obligation or greater liability under this Guarantee than it would have been under the Contract if it had been named as the Supplier in the Contract.
5. The obligations and liabilities hereunder shall remain in full force and effect and shall not be affected, lessened, impaired or discharged by:
 - (a) any alteration or variation to the terms of the Contract;
 - (b) any alteration in the extent or nature or sequence or method or timing or scope of the works, services or supplies to be carried out under the Contract;
 - (c) any extension of time being given to the Supplier or any other indulgence or concession to the Supplier or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract;
 - (d) any other bond, security or guarantee now or hereafter held for all or any part of the obligations of the Supplier under the Contract;
 - (e) the release, modification, exchange or waiver of any such bond, security or guarantee;
 - (f) any amalgamation or reconstruction or dissolution including liquidation of the Supplier;
 - (g) the making of a winding up order, the appointment of a provisional liquidator, the passing of a resolution for winding up, liquidation, administration, receivership or insolvency of the Supplier;
 - (h) any legal limitation, disability or incapacity relating to the Supplier (whether or not known to you);
 - (i) any invalidity in, irregularity affecting or unenforceability of the obligations of the Supplier under the Contract;
 - (j) the termination of the Contract; or
 - (k) anything the Company or the Supplier may do or omit or neglect to do including, but without limitation, the assertion of or failure or delay to assert any right or remedy of the Company or the pursuit of any right or remedy by the Company.
6. Until all amounts which may be or become payable and all liabilities, obligations, warranties, duties and undertakings in respect of the Supplier's obligations have been irrevocably paid, performed or discharged in full, the Guarantor shall not, after a claim has been made or by virtue of any payment, performance or discharge by it under this Guarantee:

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

13. This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

14. No person other than TfL (as such term is defined in the Contract) and its subsidiaries (as defined in section 1159 of the Companies Act 2006) shall have any right to claim or remedy under or pursuant to this Guarantee and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.

15. This Guarantee, executed and delivered as a deed, shall be governed by and interpreted according to the laws of England and the Courts of England shall have exclusive jurisdiction save that the Company shall have the right to bring proceedings in the courts of any other jurisdiction in which any of the Guarantor's assets may be situated.

16. *[For non-UK resident Guarantors only:*

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

**EXECUTED as a DEED under
THE COMMON SEAL of
[GUARANTOR]**

in the presence of:-

Signature of Authorised Signatory
Print name of Authorised Signatory
Signature of Authorised Signatory
Print name of Authorised Signatory

**EXECUTED as a DEED under
THE COMMON SEAL of
[COMPANY]**

in the presence of:-

Signature of Authorised Signatory
Print name of Authorised Signatory

**EXECUTED as a DEED under
THE COMMON SEAL of
[SUPPLIER]**

in the presence of:-

Signature of Authorised Signatory

Print name of Authorised Signatory

Signature of Authorised Signatory

Print name of Authorised Signatory

TO:

Dear Sirs

I am general counsel to and I am giving this legal opinion in connection with the making by of the Document (as defined below) in your favour.

1. I have examined the Deed of Guarantee (the "**Document**") dated made between (the "**Guarantor**"), (the "**Supplier**"), and [] (the "**Company**"). Terms defined in or for the purpose of the Document have the same meanings in this opinion.
2. Having considered the Document and any other document, resolution or certificate I deemed necessary to enable me to give the opinion contained herein and having regard to all applicable laws of I am pleased to advise that in my opinion:
 - (a) the Guarantor was incorporated in on for an indefinite period as [a limited company] and is a separate legal entity, is subject to suit in its own name, and, to the best of my knowledge, no steps have been, or are being, taken to appoint a receiver or liquidator (or similar encumbrancer or officer) over, or to wind up, the Guarantor;
 - (b) the Guarantor has the necessary power and authority, and all necessary corporate and other action (including approvals and consents of members, stockholders, debenture holders or governmental or other regulatory authorities) in has been taken to enable the Guarantor to:
 - (i) sign and deliver the Document and perform the obligations undertaken by it thereunder; and
 - (ii) guarantee the Company in respect of the obligations of the Guarantor under the Document;and implementation by the Guarantor of the foregoing will not cause:
 - (iii) any limit on the Guarantor or its directors (whether imposed by the documents constituting the Guarantor, statute or regulation or, to the best of my knowledge, agreement or otherwise) to be exceeded;
 - (iv) any law or order to be contravened;
 - (v) any default under, or give rise to an obligation to create any security interest of any nature whatsoever pursuant to, any agreement or other instrument or any judgment or other requirement known to us to which the Guarantor is a party or by which it or any of its assets is bound;
 - (c) the Document has been properly signed and delivered on behalf of the Guarantor and the obligations on the part of the Guarantor contained in the Document, assuming them to be valid and binding according to English law by which they are expressed to be governed,

are valid and legally binding on and enforceable against the Guarantor under the laws of and in the courts of

- (d) the signature, delivery and performance of the Document by the Guarantor constitute private and commercial acts by it rather than public or governmental acts;
- (e) it is not necessary or advisable under the laws ofin order to ensure the validity, enforceability and priority of the obligations of the Guarantor or the rights of the Company under the Document that the Document be filed, registered, recorded or notarised in any public office or elsewhere or that any other instrument relating thereto be signed, delivered, filed, registered or recorded, that any tax or duty be paid or that any other action whatsoever be taken;
- (f) the obligations of the Guarantor under the Document rank at least equally and rateably (pari passu) in point of priority and security with all other unsecured obligations of the Guarantor;
- (g) there is no withholding in respect of duties, taxes or charges to be deducted from any payment, whether of principal, interest, fees or otherwise, to be made by the Guarantor pursuant to the Document, and the arrangements contemplated by the Document do not give rise to any charge whatsoever to taxes in
- (h) there are no registration, stamp or other taxes or duties of any kind payable in in connection with the signature, performance or enforcement by legal proceedings of the Document;
- (i) the Company will not violate any law or regulation in nor become liable to tax in by reason of entering into the Document or performing its obligations thereunder. It is not necessary to establish a place of business in in order to enforce any provisions of the Document;
- (j) to the best of my knowledge, information and belief and after having made due enquiry the choice of English law to govern the Document will be upheld as a valid choice of law in any action in the Courts;
- (k) the consent to the jurisdiction by the Guarantor contained in the Document is valid and binding on the Guarantor and not subject to revocation;
- (l) to the best of my knowledge, information and belief and after having made due enquiry any judgment for a definite sum given by the High Court of Justice in England against the Guarantor would be recognised and accepted by the Courts without re-trial or examination of the merits of the case.

3. I do not purport to be expert on and do not purport to be generally familiar with or qualified to express legal opinions based on any law other than the laws of and accordingly express no legal opinion herein based upon any law other than the laws of

FORM OF ON DEMAND PERFORMANCE BOND WITH ANNEXES 1A, 1B & 2

BOND

(Letterhead of Guarantor)

To: London Underground Limited (its successors in title and assigns)

Contract Bond No. [•]

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

PROVIDED THAT:

2. This Bond shall come into force on the date hereof.
3. Any demand hereunder shall be substantially in the form of either Annex 1A or Annex 2 to this Bond, and as between you and us the facts set out in that demand shall be: (a) deemed to be true and (b) accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due and payable to you hereunder, it being our intention that the event upon which payment must be made hereunder is the service of your demand without any rights on our part to raise any objections, irrespective of the validity or the effectiveness of the Contract and the obligations arising thereunder and irrespective of the underlying facts or their significance under the Contract.
4. Any demand in the form of Annex 1A to this Bond shall be accompanied by a copy of a letter from you sent to the Supplier by first class recorded post fourteen (14) or more days before the date of the demand, substantially in the form of Annex 1B to this Bond.
5. All sums payable under this Bond shall be paid in pounds sterling to such bank account as may be specified in your demand in immediately available funds, free of any restriction or condition and free and clear of and without any deduction or withholding whether for or on account of tax, by way of set-off, or otherwise, except to the extent required by law.
6. For the purpose of this paragraph 6, the expression “Expiry Date” means [•]. Our liability hereunder shall be limited as follows:
 - (a) we shall have no liability in respect of any demand received after the Expiry Date; and
 - (b) in respect of a demand or demands received on or before the Expiry Date, our liability shall not exceed the aggregate sum of £[•].
7. Our obligations hereunder shall remain in full force and effect and shall not in any way be affected, reduced or discharged by:
 - (a) any alteration to the terms of the Contract made by agreement between you and the Supplier; and/or
 - (b) any defence, counterclaim, set-off or other deduction available to the Supplier under the Contract; and/or
 - (c) any alteration in the extent or nature or sequence or method or timing of the works/services to be carried out under the Contract; and/or

- (d) any time being given to the Supplier or any other indulgence or concession to the Supplier or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract; and/or
 - (e) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Supplier under the Contract; and/or
 - (f) the release or waiver of any such other bond, security or guarantee; and/or
 - (g) any amalgamation or reconstruction or dissolution including liquidation or change in control or constitution of the Supplier; and/or
 - (h) the termination of the Contract; and/or
 - (i) any other event which might operate to discharge a guarantor at law or in equity.
8. Terms defined in the Contract and not otherwise defined herein shall have the same meaning in this Bond unless inconsistent with the context.
 9. This Bond shall be governed by, and interpreted according to, the laws of England and the Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Bond and any matter arising from it save that you shall have the right to bring proceedings in the Courts of any other jurisdiction in which any of our assets may be situated.
 10. This Bond may be assigned or transferred without our prior consent to any member of the TfL Group. Any other assignment of this Bond shall require our consent, such consent not to be unreasonably withheld or delayed.

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

EXECUTED AND DELIVERED AS

A DEED for and on behalf of

[THE GUARANTOR]

acting by:

Signature of Authorised Signatory

Print name of Authorised Signatory
.....

Signature of Authorised Signatory

Print name of Authorised Signatory
.....

**THE COMMON SEAL of
LONDON UNDERGROUND LIMITED**

was affixed to THIS DEED

in the presence of:

Signature of Authorised Signatory

Print name of Authorised Signatory
.....

Signature of Authorised Signatory

Print name of Authorised Signatory
.....

ANNEX 1A

Form of Demand from the Company to the Guarantor

To be sent by first class recorded delivery post

Dear Sirs

[Contract Title]

Contract No: [•]

We refer to the Bond given by you to us dated [•]. We enclose a copy of a letter from us to [•] (“the **Supplier**”) which was sent to the Supplier by first class recorded post on [•] which is more than fourteen (14) days before the date of this demand.

The Supplier has not taken steps to remedy the breach/breaches of the Contract.

We hereby demand payment from you of the sum of £[•] under your Bond. Please make payment by CHAPS in sterling payable to London Underground Limited[bank account details].

Yours faithfully

.....
London Underground Limited
Windsor House
42-50 Victoria Street
London
SW1H 0TL

ANNEX 1B

Form of letter from the Company to the Supplier

To be sent by first class recorded delivery post

Dear Sirs

[Contract Title]

Contract No: [•] (the “Contract”)

As explained in [previous letters to you/ our letter dated [•]], you are in breach of your obligations under the Contract and you have not proposed or implemented sufficient steps to remedy those breaches.

This letter therefore notifies you that, unless within the next fourteen (14) days you take steps to remedy the breach/breaches, we will be entitled without further notice to you to call for payment under the Bond given on your behalf by [• Guarantor].

Yours faithfully

.....

on behalf of
London Underground Limited
Windsor House
42-50 Victoria Street
London
SW1H 0TL

ANNEX 2

Alternative form of demand from the Company to the Guarantor

Dear Sirs

[Contract Title]

Contract No: [•] (the “Contract”)

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

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

We hereby demand payment from you of the sum of £[•] under the Bond. Please make payment by CHAPS made payable to London Underground Limited[bank account details].

Yours faithfully

.....
London Underground Limited
Windsor House
42-50 Victoria Street
London
SW1H 0TL

LEGAL OPINION

FOR USE WITH A PERFORMANCE BOND

TO: London Underground Limited
Windsor House
42-50 Victoria Street
London SW1H 0TL

Dear Sirs

I am general counsel to [•] and I am giving this legal opinion in connection with the making by [•] of the Document (as defined below) in your favour.

1. I have examined the Deed of Bond (the "**Document**") dated [•] made between [•] (the "**Guarantor**") and [•] (the "**Company**"). Terms defined in or for the purpose of the Document have the same meanings in this opinion.
2. Having considered the Document and any other document, resolution or certificate I deemed necessary to enable me to give the opinion contained herein and having regard to all applicable laws of [•] I am pleased to advise that in my opinion:
 - (a) the Document has been properly signed and delivered on behalf of the Guarantor and the obligations on the part of the Guarantor contained in the Document, assuming them to be valid and binding according to English law by which they are expressed to be governed, are valid and legally binding on and enforceable against the Guarantor under the laws of [•] and in the courts of [•];
 - (b) it is not necessary or advisable under the laws of [•] in order to ensure the validity, enforceability and priority of the obligations of the Guarantor or the rights of the Company under the Document that the Document be filed, registered, recorded or notarised in any public office or elsewhere or that any other instrument relating thereto be signed, delivered, filed, registered or recorded, that any tax or duty be paid or that any other action whatsoever be taken;
 - (c) the obligations of the Guarantor under the Document rank at least equally and rateably (*pari passu*) in point of priority and security with all other unsecured obligations of the Guarantor;

(d) there is no withholding in respect of duties, taxes or charges to be deducted from any payment, whether of principal, interest, fees or otherwise, to be made by the Guarantor pursuant to the Document, and the arrangements contemplated by the Document do not give rise to any charge whatsoever to taxes in [•];

(e) there are no registration, stamp or other taxes or duties of any kind payable in [•] in connection with the signature, performance or enforcement by legal proceedings of the Document;

(f) the Company will not violate any law or regulation in [•] nor become liable to tax in [•] by reason of entering into the Document or performing its obligations thereunder. It is not necessary to establish a place of business in [•] in order to enforce any provisions of the Document;

(g) to the best of my knowledge, information and belief and after having made due enquiry the choice of English law to govern the Document will be upheld as a valid choice of law in any action in the [•] Courts;

(h) the consent to the jurisdiction by the Guarantor contained in the Document is valid and binding on the Guarantor and not subject to revocation;

(i) to the best of my knowledge, information and belief and after having made due enquiry any judgment for a definite sum given by the High Court of Justice in England against the Guarantor would be recognised and accepted by the [•] Courts without re-trial or examination of the merits of the case.

3. I do not purport to be expert on and do not purport to be generally familiar with or qualified to express legal opinions based on any law other than the laws of [•] and accordingly express no legal opinion herein based upon any law other than the laws of [•].

Signed:

Schedule 10
Form of Collateral Warranty

FORM OF WARRANTY

THIS AGREEMENT is made the _____ day of _____ 201[]

BETWEEN : -

- (1) London Underground Limited (Company registration number: 01900907) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**");
- (2) [_____] (Company registration number: [.....]) whose registered office/principal place of business is at [.....] (the "**Sub-Contractor**"); and
- (3) [_____] (Company registration number: [.....]) whose registered office/principal place of business is at [.....] (the "**Supplier**").

WHEREAS :-

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

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

1. The Sub-Contractor warrants to the Company that:
 - (a) the Sub-Contract Services have been and will be carried out with the skill and care to be expected of appropriately qualified and experienced professional contractors with experience in carrying out works or services of a similar type, nature and complexity to the Sub-Contract Services;

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

For the purposes of construing the warranties in this Clause 1 references to the Sub-Contract Services shall include any part of the Sub-Contract Services. Each warranty shall be construed as a separate warranty and shall not be limited by reference to, or reference from, the terms of any other warranty or any other term of the Sub-Contract.

2. The Sub-Contractor shall, save in so far as he is delayed by any event in respect of which the Supplier is granted an extension of time under the Main Contract for completion of the Services:

- (a) execute, complete [and maintain] the Sub-Contract Services in accordance with the provisions of the Sub-Contract; and

Contract for the supply of Insulated Block Joints

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

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

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

- 5. The Sub-Contractor agrees:

- (a) on request at any time to give the Company or any persons authorised by the Company access to the material referred to in Clause 4 and at the Company's expense to provide copies of any such material; and
 - (b) at the Sub-Contractor's expense to provide the Company with a set of all such material on completion of the Sub-Contract Services.
- 6. The parties hereby agree that:
 - (a) this Agreement shall be personal to the Sub-Contractor;
 - (b) the Company may assign the benefit of this Agreement to any third party;
 - (c) the rights and remedies contained in this Agreement are cumulative and shall not exclude any other right or remedy available to either party in law or equity.
- 7. The Sub-Contractor warrants and undertakes to the Company that he has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Sub-Contract and that, insofar as he is responsible for the design of the Sub-Contract Services, he has professional indemnity insurance with a limit of indemnity of not less than *[two million pounds (£2,000,000)]* in respect of each and every claim which may be made against the Sub-Contractor in respect of the Sub-Contract Services. The Sub-Contractor shall maintain such professional indemnity insurance for a period of 12 years from completion of the Services provided such insurance remains available at commercially reasonable rates and shall notify the Company forthwith if such insurance ceases to be so available. When deciding whether such insurances are available at commercially reasonable rates, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Sub-Contractor's insurance claims record.
- 8. If any dispute of any kind whatsoever arises between the parties in connection with this Agreement or the Sub-Contract Services which raises issues which are in opinion of the Company the same as or substantially the same as issues raised in a related dispute (the "**Related Dispute**") between the Company and the Supplier and such Related Dispute has already been referred to a conciliator or arbitrator appointed under the provisions to that effect contained in the Main Contract, then the Sub-Contractor hereby agrees that the Company may at his discretion by giving notice in writing to the Sub-Contractor refer the dispute arising out of this Agreement or the Sub-Contract Services to the adjudicator, conciliator, arbitrator or other party (the "**Appointed Party**") appointed to determine the Related Dispute. In this event the Appointed Party shall have power to give such directions for the determination of the dispute and the Related Dispute as he may think fit and to make such awards as may be necessary in

the same way as if the procedure of the High Court as to joining one or more defendants or joint co-defendants or third parties was available to the parties and to him.

9. (a) Neither the Sub-Contractor nor the Supplier shall exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated the Sub-Contract or discontinue or suspend the performance of any of its duties or obligations thereunder or treat the Sub-Contract as determined without first giving to the Supplier or the Sub-Contractor (as applicable) not less than 35 days prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-Contractor's or Supplier's grounds for terminating or treating as terminated the Sub-Contract or discontinuing or suspending its performance thereof or treating the Sub-Contract as determined.
- (b) If the Main Contract is terminated for any reason, within 35 days of such termination the Company may give written notice to the Sub-Contractor and to the Supplier (a "**Step-in Notice**") that the Company or its appointee shall henceforth become the Supplier under the Sub-Contract in accordance with the terms of sub-clause (c) below.
- (c) With effect from the date of the service of any Step-in Notice:
 - (i) the Company or its appointee shall be substituted in the Sub-Contract as the Supplier thereunder in place of the Supplier and references in the Sub-Contract to the Supplier shall be construed as references to the Company or its appointee;
 - (ii) the Sub-Contractor shall be bound to continue with the performance of its duties and obligations under the Sub-Contract and any exercise or purported exercise by the Sub-Contractor prior to the date of the Step-in Notice of any right to terminate or treat as terminated the Sub-Contract or to discontinue or suspend the performance of any of its duties or obligations thereunder or to treat the Sub-Contract as automatically determined shall be of no effect;
 - (iii) the Company shall become bound by the terms and conditions of the Sub-Contract in respect of all obligations and duties of the Supplier thereunder which fall to be performed after the date of the Step-in Notice and shall promptly thereafter make payment of any amounts properly due to the Sub-Contractor as at the date of the Step-in Notice and still outstanding; and

- (iv) the Supplier shall be released from further performance of the duties and obligations of the Supplier under the Sub-Contract after the date of the Step-in Notice, but without prejudice to any rights and remedies of:
 - (1) the Sub-Contractor against the Supplier in respect of any matter or thing done or omitted to be done by the Supplier on or before the date of the Step-in Notice; and
 - (2) the Supplier against the Sub-Contractor in respect of any matter or thing done or omitted to be done by the Sub-Contractor on or before the date of the Step-in Notice.
 - (d) Notwithstanding anything contained in this Agreement and notwithstanding any payments which may be made by the Company to the Sub-Contractor, the Company shall not be under any obligation to the Sub-Contractor and the Sub-Contractor shall not be under any obligation to the Company unless the Company shall have served a Step-in Notice pursuant to Clause 9(b) above.
- 10. The Sub-Contractor's liabilities, duties and obligations hereunder shall be no greater and of no longer duration than the liabilities, duties and obligations which the Sub-Contractor owes to the Supplier under the Sub-Contract.
- 11. The Sub-Contractor further undertakes to indemnify the Company from and against the consequences of any breach by the Sub-Contractor of any of the warranties, covenants and undertakings contained in this Agreement.
- 12. The rights and benefits conferred upon the Company by this Agreement are in addition to any other rights and remedies that the Company may have against the Sub-Contractor including, without prejudice to the generality of the foregoing, any remedies in negligence.
- 13. Nothing contained in this Agreement shall in any way limit the obligations of the Supplier to the Company arising under the Main Contract or otherwise undertaken by the Supplier to the Company in relation to the Sub-Contract Services.
- 14. No amendment to this Agreement shall be valid unless it is in writing and signed by all parties.
- 15. Any person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 16. This Agreement shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

IN WITNESS whereof these presents have been executed and delivered as a deed the day and year first before written.

THE COMMON SEAL of)
LONDON UNDERGROUND LIMITED)
was hereunto affixed to this DEED in the)
presence of:-)

Authorised Signatory

Executed and Delivered as a DEED)
for and on behalf of)
[SUB-CONTRACTOR])
acting by)

Authorised Signatory

Authorised Signatory

Executed and Delivered as a DEED)
for and on behalf of)
[SUPPLIER])
acting by)

Authorised Signatory

Authorised Signatory

Contract for the supply of Insulated Block Joints

FORM OF LEGAL OPINION

FOR USE WITH A SUB-CONTRACTOR WARRANTY

TO: London Underground Limited
Windsor House
42-50 Victoria Street
London
SW1H 0TL

Dear Sirs

I am general counsel to and I am giving this legal opinion in connection with the making by of the Document (as defined below) in your favour.

1. I have examined the Sub-Contractor Warranty (the "**Document**") dated made between (the "**Sub-Contractor**"), (the "**Supplier**"), and London Underground Limited (the "**Company**"). Terms defined in or for the purpose of the Document have the same meanings in this opinion.
2. Having considered the Document and any other document, resolution or certificate I deemed necessary to enable me to give the opinion contained herein and having regard to all applicable laws of I am pleased to advise that in my opinion:
 - (a) the Sub-Contractor was incorporated in on for an indefinite period as [a limited company] and is a separate legal entity, is subject to suit in its own name, and, to the best of my knowledge, no steps have been, or are being, taken to appoint a receiver or liquidator (or similar encumbrancer or officer) over, or to wind up, the Sub-Contractor;
 - (b) the Sub-Contractor has the necessary power and authority, and all necessary corporate and other action (including approvals and consents of members, stockholders, debenture holders or governmental or other regulatory authorities) in has been taken to enable the Sub-Contractor to:
 - (i) sign and deliver the Document and perform the obligations undertaken by it thereunder; andand implementation by the Sub-Contractor of the foregoing will not cause:
 - (ii) any limit on the Sub-Contractor or its directors (whether imposed by the documents constituting the Sub-Contractor, statute or regulation or, to the best of my knowledge, agreement or otherwise) to be exceeded;
 - (iii) any law or order to be contravened;
 - (iv) any default under, or give rise to an obligation to create any security interest of any nature whatsoever pursuant to, any agreement or other instrument or any judgment or other requirement known to us to which the Sub-Contractor is a party or by which it or any of its assets is bound;
 - (c) the Document has been properly signed and delivered on behalf of the Sub-Contractor and the obligations on the part of the Sub-Contractor contained in the Document, assuming them to be valid and binding according to English law by which they are

Contract for the supply of Insulated Block Joints

expressed to be governed, are valid and legally binding on and enforceable against the Sub-Contractor under the laws of and in the courts of

- (d) the signature, delivery and performance of the Document by the Sub-Contractor constitute private and commercial acts by it rather than public or governmental acts;
- (e) it is not necessary or advisable under the laws ofin order to ensure the validity, enforceability and priority of the obligations of the Sub-Contractor or the rights of the Company under the Document that the Document be filed, registered, recorded or notarised in any public office or elsewhere or that any other instrument relating thereto be signed, delivered, filed, registered or recorded, that any tax or duty be paid or that any other action whatsoever be taken;
- (f) the obligations of the Sub-Contractor under the Document rank at least equally and rateably (pari passu) in point of priority and security with all other unsecured obligations of the Sub-Contractor;
- (g) there is no withholding in respect of duties, taxes or charges to be deducted from any payment, whether of principal, interest, fees or otherwise, to be made by the Sub-Contractor pursuant to the Document, and the arrangements contemplated by the Document do not give rise to any charge whatsoever to taxes in
- (h) there are no registration, stamp or other taxes or duties of any kind payable in in connection with the signature, performance or enforcement by legal proceedings of the Document;
- (i) the Company will not violate any law or regulation in nor become liable to tax in by reason of entering into the Document or performing its obligations thereunder. It is not necessary to establish a place of business in in order to enforce any provisions of the Document;
- (j) to the best of my knowledge, information and belief and after having made due enquiry the choice of English law to govern the Document will be upheld as a valid choice of law in any action in the Courts;
- (k) the consent to the jurisdiction by the Sub-Contractor contained in the Document is valid and binding on the Sub-Contractor and not subject to revocation;
- (l) to the best of my knowledge, information and belief and after having made due enquiry any judgment for a definite sum given by the High Court of Justice in England against the Sub-Contractor would be recognised and accepted by the Courts without re-trial or examination of the merits of the case.

3. I do not purport to be expert on and do not purport to be generally familiar with or qualified to express legal opinions based on any law other than the laws of and accordingly express no legal opinion herein based upon any law other than the laws of

Signed.....

Schedule 11
Employment Regulations]

[If the commencement of the supply of the Goods is expected to constitute a relevant transfer for the purposes of the Employment Regulations (TUPE) then pursuant to Clause 22.1 of the Contract, details of the terms and conditions of employment of the existing workforce should be provided in this Schedule 13.

Schedule 12 Supplier Performance

1. SUPPLIER PERFORMANCE

1.1 KEY PERFORMANCE INDICATORS

1.1.1 DELIVERY – The target is 100% on time delivery, to the agreed times included in the Material Contract Data Sheets. Failure to meet delivery times will attract the following abatements against the full order value of all parts due to be delivered in the measured period. This will be measured for each Accounting Period.

Delivery Performance by Value	Abatement Attracted on Full Value of all orders
>= 99.00%	0%
97.00% - 98.99%	1%
95.00% - 96.99%	2%
90.00% - 94.99%	3%
80.00% - 89.99%	4%
<80.00%	5%

1.1.2 VMI – To be measured each Accounting Period. Any empty bins will attract an abatement of 5% of the minimum stock level value for that bin. The abatement can only be applied once per bin per Accounting Period.

1.2 SDI PERFORMANCE CRITERIA / SERVICE DELIVERY INDICATORS (SDI's)

1.2.1 QUALITY – The Supplier will supply Goods with 0% Defects. When Defects are found the escalation process will begin in the following circumstances:

1.2.1.1 Non Safety Critical Goods

- Defects found in 3 or more Accounting Periods over a rolling six Accounting Periods; or
- Defects found in over 2% of Goods Delivered in an Accounting Period.

1.2.1.2 Safety Critical Goods

- Any single Defect

1.2.2 STOCK HOLDING – The Supplier shall maintain the value of agreed stock holding.

Where the stock holding is:

- below 100% for 4 or more Accounting Periods over a rolling six Accounting Periods;
- below 90% for 2 or 3 Accounting Periods over a rolling six Accounting Periods; or
- below 75% in any single Accounting Period

the escalation process shall begin.

2. ESCALATION PROCESS

In the event of unsatisfactory performance standards, including (but not limited to) failure to reach the targets set by the Service Delivery Indicators, failure to reach the targets set by the key performance indicators (in 1.1. above), faults open beyond the rectification time and any other deficiencies in performance, the escalation process shall be invoked by the Company in their absolute discretion.

The purpose of the escalation process is to provide a structured framework within which the Parties can address unsatisfactory performance standards against timescales and deliverable targets. For the purposes of this process notified levels of poor performance will be termed “Non-Conformances”.

This procedure operates with four levels; the lowest level Non-Conformance being Level 1. Should Non-Conformances escalate they will receive an appropriate level of management intervention from the Company and the Supplier. Level 3 gives final review and opportunity for remedial actions to resolve issues before the Non-Conformance reaches Level 4, which will entitle the Company to terminate in accordance with Clause 39.1.10 of the Conditions of Contract.

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

Summary of Escalation Process

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

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

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

Level 1

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

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

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

Level 2

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

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

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

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

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

Level 3

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

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

Level 4

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

EXECUTION PAGE:

IN WITNESS of which this document has been executed and, on the date set out above, delivered as a **DEED**.

The Common seal of)
LONDON UNDERGROUND LIMITED)
was affixed to this deed)
in the presence of:)



Authorised Signatory
Signature:
Name:

Executed as Deed)
for and on behalf of)
[])
acting by)

DIRECT TRACK SOLUTIONS LIMITED

Authorised Signatory
Signature:
Name:

and)
Authorised Signatory
Signature:
Name:

F0780 Contract Menu

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

Issue No.: A16

Issue date: November 2014

Review date: November 2019

MAYOR OF LONDON



Contract Menu

Contract No: TFL - 00161

Contract Name Supply of Insulated Block Joints

Client: Track and Signal Stores

Supplier: [Direct Track Solutions Limited](#)

Principal Contractor: Yes No

Guidance

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

How to complete the menu

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

Queries on the menu

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



Contract menu

Requirements in QUENSH

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
4	Agreement of the applicable QUENSH contract conditions				
5	Supplier's selection of sub-contractors		Y	Y	Tenconi - Approved For LU
6	Identification of Safety Critical Activities		N	Y	No physical or safety critical work(site work) to be carried out by DTS
7	Works Environmental Management		N	Y	ISO 14001, Managing the process at source
8	Emergency Plan		N	Y	Emergency Action Plan In place
9	Method Statements		N	Y	No Method Statement Required
10	Health, Safety and Environment File		N	Y	HSE Manual/Risk Assessment/Environmental Policy maintained
11	Pre-start health, safety and environment meeting		N	Y	To be arranged if required
12	Supplier's site induction		N	Y	Deliveries into LU depots, no site induction/attendance necessary
13	Site Person in Charge		N	Y	No Site Work Envisaged, therefore not



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					anticipated
14	Staff requirements				
14.1	Behaviours				
14.1.1	Alcohol and drugs		N	Y	DTS adhere to a Zero Tolerance Alcohol and Drugs Policy
14.1.2	Control of hours worked		N	Y	Day time deliveries to Depot
14.2	Knowledge				
14.2.1	English language		Y	Y	English is the first language of all staff and drivers
14.2.2	Access Card and Worksite Briefing		N	Y	Can be arranged if required for Depot Deliveries
14.2.3	Visitors to sites		Y	Y	Only required in the event of product development (application specific) or product issue
14.3	General competence				
14.3.1	Evidencing competence of safety critical staff		N	Y	No safety work, staff training matrix monitored
14.3.2	Identification of safety critical staff		N	Y	Not safety critical staff
14.3.3	Competent external safety critical personnel		N	Y	No external safety critical personnel
14.3.4	Training		N	Y	Staff training on-going
14.3.5	Asset specific competence		Y	Y	Certificates of



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					Conformity Supplied
14.4	Medical requirements		N	<u>Y</u>	N/A
14.5	Identification of Suppliers staff		N	<u>Y</u>	N/A
14.6	Clothing		N	<u>Y</u>	N/A
15	Permits and licences				
15.1	LU specific permits and licences		N	<u>Y</u>	No work undertaken that requires LU permits or licences
15.2	Permits, licences and certificates for Supplier's staff		N	<u>Y</u>	No permits required for depot deliveries
16	The Principles of Access				
16.1	Introduction		N	<u>Y</u>	Product already supplied
16.2	Access to Stations		N	<u>Y</u>	Not required, depot deliveries only
16.3	Access to Track		N	<u>Y</u>	Not required, depot deliveries only
16.4	Access to depots		N	<u>Y</u>	Depot Access Required for deliveries – FORS compliant
17	Applying for Planned Access				
17.1	Introduction		N	<u>Y</u>	Already introduced
18	Applying for Generic Access		N	<u>Y</u>	Can apply if necessary
18.1	Constraints that apply to Generic Access		N	<u>Y</u>	None known or foreseen
19	Access for fault repair		N	<u>Y</u>	Product is not repairable
20	Operational Assurance		N	<u>Y</u>	Operational



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					assurance guaranteed through testing and approval
21	Closures and possessions				
21.1	Requirements for closures		N	Y	None required, supply to depot only
21.2	Requirements for possessions		N	Y	None required, supply to depot only
22	Controls at point of access				
22.1	Publication of works		N	Y	Not required – supply only
22.2	Checks at point of access		N	Y	No checks required, goods delivered will be accompanied by all necessary paperwork and to client request
22.3	Signing-on with the Station Supervisor - The Station Visitors Record Sheet and Person in Charge Evacuation Register (PICER)		N	Y	No deliveries to stations, depots and stores only
22.4	Track specific requirements				
22.4.1	Protection Master		N	Y	Not required – supply only
22.4.2	Possessions (Possession Master, Technical Officer, Cable Lineman, Signal Operator, etc.)		N	Y	Not required, depot delivery only
23	Removal of supplier's personnel from LU Premises		N	Y	No supplier personnel on site
24	Incidents		N	Y	Not envisaged but would be logged



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
25	Notification of regulatory concern or action		N	Y	None foreseen. Any concern or action would be submitted in writing
26	Confidential Incident Reporting and Analysis System (CIRAS)		N	Y	Not anticipated, no site work, depot deliveries only
27	Monitoring				
27.1	LU inspections		Y	Y	No inspections will be necessary Inspections permitted
27.2	Monitoring the supply chain		N	Y	DTS will monitor the manufacturer and the manufactured goods
27.3	Health, safety and environmental audits, inspection and tours by the Supplier's personnel		N	Y	No audits, inspections or tours necessary
27.4	Work location inspection and audit		N	Y	No work location, depot deliveries only
27.5	Timescales for rectifying non-compliances		N	Y	7 days
28	Radio transmitters and transceivers		N	Y	Not present
29	Mobile phones		N	Y	Required by delivery drivers for delivery contact notifications
30	Knives		N	Y	Not present
31	Site health, safety and environment committee		N	Y	Not required for this supply
32	Site housekeeping and security		N	Y	No site work



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					undertaken
33	Accidental damage, obstruction or interference with assets		N	Y	Insurances in place covering depot deliveries
34	Delivery of materials		Y	Y	Scheduled deliveries to client requirement
35	Conveyance of loads				
35.1	Conveyance of loads on lifts and escalators		N	Y	No lifts or escalators present in depots
35.2	Conveyance of hazardous materials and substances		N	Y	Goods not hazardous
36	Asbestos (non asbestos removal projects)		N	Y	No asbestos present
37	Working in or near lifts and escalators		N	Y	No lifts or escalators present in depots
38	Work on or adjacent to utilities and High Voltage cables (buried services)		N	Y	No present in depots
39	Working on or about the track		N	Y	Depot deliveries only
40	Access to electrical sub-stations, working equipment, relay and other secure rooms		N	Y	Depot deliveries only
41	Entering areas with gaseous fire suppression systems		N	Y	Not anticipated, depot deliveries only
42	Fire prevention				
42.1	General requirements		N	Y	Will be met
42.2	Temporary fire points		N	Y	Vehicles carry fire extinguishing equipment
42.3	Timber		N	Y	No timber supplied



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
42.4	Composites		N	Y	No composites required
42.5	Sheeting materials		N	Y	No sheeting material required
42.6	Gas cylinders				
42.6.1	Use of gas cylinders in below ground locations		N	Y	No gas cylinders present
42.6.2	Storage of gas cylinders (above ground)		N	Y	No gas cylinders present
42.7	Flammable and highly flammable materials				
42.7.1	Use of flammable and highly flammable materials below ground		N	Y	No flammable materials present
42.7.2	Storage of flammable and highly flammable materials below ground		N	Y	No flammable materials present
43	Hot work and fire hazards				
43.1	Hot work		N	Y	No hot work
43.2	Reasonable notice of works		N	Y	1-2 days notice for depot deliveries
43.3	Precautions				
43.3.1	Buildings, assets etc.		N	Y	Buildings/assets not affected
43.3.2	Gas cylinders		N	Y	Not required
43.3.3	Gas detection		N	Y	Not Present
44	Storage				
44.1	General requirements for storage		Y	Y	Suitable pallet accomodation Pallet spaces
44.2	Trackside storage		N	Y	Trackside storage not required by supplier
44.3	Hazardous materials and substances		N	Y	No hazardous materials or



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					substances. Tested for compliance
44.4	Allocation of space on operational property		N	Y	Space allocation to be decided by delivery depot
45	Plant and equipment		N	Y	Depot off loading required by others
46	Clearance approvals		N	Y	Deliveries only no clearance requested
47	Access equipment		N	Y	No access equipment required
48	Temporary works		N	Y	No temporary works
49	Temporary fences and hoardings		N	Y	No temporary fences or hoardings required
50	Temporary lighting and power supplies				
50.1	General requirements		N	Y	No general requirements
50.2	Lighting in tunnels and shafts		N	Y	Surface, daytime depot deliveries
51	Screening of lights and positioning		N	Y	Daytime Deliveries
52	Environmental requirements				
52.1	General environmental requirements		N	Y	FORS compliant transport
52.2	Environmental nuisance		N	Y	No environmental nuisances involved
52.3	Water		N	Y	No water required
52.4	Waste management		N	Y	No waste at delivery point
52.5	Noise and vibration		N	Y	Low vehicle noise only



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
52.6	Archaeology, historical interest and listed buildings		N	Y	Depot deliveries only
52.7	Wildlife and Habitats		N	Y	Not affected
52.8	Resource Use		N	Y	Depot deliveries only
52.9	Pest control		N	Y	Not required
52.10	Land and water pollution prevention		N	Y	Not required
53	Quality requirements				
53.1	Records		Y	Y	Quality procedure adhered to
53.2	Retention period		Y	Y	7 years
53.3	Availability of records for inspection		Y	Y	At client convenience
53.4	Statistical process control, audit and inspection procedures		Y	Y	Regularly audited
53.5	General quality requirements		Y	Y	Quality Certificates Available
53.6	Quality Plan		Y	Y	Documented within internal manual
53.7	Testing and inspection		Y	Y	Testing and inspection at manufacturing plant
53.8	Certification of conformity		Y	Y	Supplied with all goods
53.9	Quarantine		Y	Y	Quarantine area at warehouse, to be arranged at depot
53.10	Traceability		Y	Y	Full batch traceability, through product identification
53.11	Maintenance and servicing		Y	YN	Maintenance where required and recommended by



Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
					manufacturer No maintenance or servicing of product required
53.12	Design		Y	Y	Design accepted through product acceptance
53.13	Computer aided design		Y	Y	All products designed with CAD
53.14	Asset commissioning and handover		Y	Y	Handover deemed to be on signing for goods at depot. No commissioning involved

Other requirements / comments

[The above answers confirm our agreement to the requirements of the client.](#)

[N/A](#)



Title: Contract Menu
Number: F0780
Issue no: A16
Issue date: November 2014



Client/Supplier approval

Client Menu (Invitation to Tender)

Prepared by: _____ Signature: _____

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

Title: Warehouse Manager, Track and Signal Stores

Address: Acton Works, 130 Bollo Lane, London, W3 8BZ

Phone No: 020 7918 6882

Email: Bob.Martin@tube.rfl.gov.uk

Revision of this menu: _____

Supplier Menu (Tender)

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

Title: Head of Sales Director

Address: Unit 1C, Midland Place, Midland Way, Barlborough Links, Chesterfield, S43 4FR

Phone No: 01246 810198

Email: Melanie@directtrack solutions.co.uk

Revision of this menu: _____

Contract Menu (Final Approval of Menu)

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

Client's representative approval: _____ Signature: _____



Supplier's
representative
acceptance:

Melanie Southwell

Signature:

[Redacted]

[Redacted Signature]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]