

MAYOR OF LONDON



Agreement Reference Number: tfl_scp_1270

Date: 13 June 2016

Bus Origin & Destination Surveys

Lot 1 Huntress Group Limited

**Framework Agreement
for the Provision of Services**

between

Transport For London

and

Huntress Group Limited

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THIS AGREEMENT is made the 13 day of June 2016

BETWEEN:

- (1) Transport for London (“**the Contracting Authority**”); and
- (2) Huntress Group , a company registered in England and Wales (Company Registration Number 4041477) whose registered office is at Imperial House, 15-19 Kingsway, London, WC2B 6UN (“**the Service Provider**”).

RECITALS:

- A. The Parties wish to enter into a framework agreement which will enable the Authority, from time to time, to enter into a Call-Off Contract or a series of Call-Off Contracts with the Service Provider for some or all of the Services of the type described in Schedule 3.
- B. The terms and conditions of this Agreement shall apply to the Services to be provided by the Service Provider under any Call-Off Contract.
- C. This framework agreement can be utilised by the Contracting Authority or any other member of the TfL Group.
- D. The terms and conditions of this Agreement provide that the Greater London Authority or any of its other functional bodies may, if the Service Provider so agrees, contract with the Service Provider on the terms set out in this Agreement.

THE PARTIES AGREE THAT:

In consideration of the payment by the Authority to the Service Provider of £5.00 (the receipt and sufficiency of which is acknowledged by the Service Provider) and the mutual promises and covenants set out in this Agreement, the Parties agree as follows:

1. Definitions and Interpretations

In the Agreement (including the Recitals):

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

“Agreement” this framework agreement, including the Schedules and all other documents referred to in this Agreement;

“Agreement Commencement the date for commencement of this

Date	Agreement specified in Schedule 1;
“Agreement Reference Number”	the reference number for this Agreement as set out in Schedule 1;
“Authority”	the Contracting Authority and or any TfL Group member utilising this Agreement;
“Business Day”	any day excluding Saturdays, Sundays or public or bank holidays in England;
“Call-Off Contract”	a call-off contract in the form set out in Schedule 6 that has been executed by the Service Provider and the Authority, which incorporates this Agreement and includes any attachments and any documents expressly referred to in that Call-Off Contract;
“Call-Off Contract Number”	the reference number for a Call-Off Contract, as specified in the relevant Call-Off Contract;
“Call-Off Co-ordinator”	the person named as such in a Call-Off Contract or such other person as notified to the Service Provider by the Authority;
“Call-Off Term”	the duration of a Call-Off Contract, as set out in the relevant Call-Off Contract;
“Cessation Plan”	a plan agreed between the Parties or determined by the Authority pursuant to Clause 30: <ul style="list-style-type: none"> (a) to give effect to a Declaration of Ineffectiveness; or (b) to give effect to a Public Procurement Termination Event;
“Charges”	the charges payable by the Authority, in consideration of the due performance of the Services, as specified in or calculated in accordance with a Call-Off Contract;
“Confidential Information”	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential

to the Authority (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority;

“Contract Information”

- (i) the Agreement and any Call-Off Contract in their entirety (including from time to time agreed changes to the Agreement or to any Call-Off Contract); and
- (ii) data extracted from the invoices submitted pursuant to Clause 7 which shall consist of the Service Provider's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;

“Declaration of Ineffectiveness”

a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 45J the Utilities Contracts Regulations 2006;

“Force Majeure Event”

any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event (“Affected Party”) to perform its obligations in accordance with the terms of this Agreement but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

“Holding Company”

any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006;

“Insolvency Event”

any of the following:

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

“Intellectual Property Rights”	any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;
“Key Personnel”	the Service Provider's key personnel named as such in Schedule 1 or any relevant Call-Off Contract;
“Losses”	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;
“Milestone”	an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;
“Parties”	the Authority and the Service Provider (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be;
“Project Plan”	the plan (if any) set out in a Call-Off Contract in relation to the performance and timing of the Services under a Call-Off Contract which may include Milestones;
“Procurement Manager”	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
“Proposal”	the Service Provider's offer to provide

	Services in response to a Request Form. A Proposal must include a draft Call-Off Contract signed by the Service Provider;
“Public Procurement Termination Event”	if a court determines that one or more of the circumstances described in regulation 73(1) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25 has occurred;
“Request Form”	a document produced by the Authority pursuant to clause 3, setting out its request for a Proposal, which document shall be in the form set out in Schedule 5A or Schedule 5B or in such other form as may be notified to the Service Provider by the Authority from time to time;
“Required Date”	the date or dates on or by which each Milestone is required to be completed as set out in the Project Plan or, in the absence of any Milestones, the date or dates on or by which the Services are required to be provided as set out in the Project Plan;
“Service Provider Equipment”	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under any Call-Off Contract;
“Service Provider’s Manager”	the person who is identified as the Service Provider’s Manager in the Call-Off Contract for the relevant Services;
“Service Provider’s Personnel”	all such person, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Service Provider as are engaged in the performance of any of the Services and including the Key Personnel;
“Services”	(a) all or any part of the services to be

provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under a Call-Off Contract as detailed in such Call-Off Contract including any variations to such services and/or activities pursuant to Clause 32; and

- (b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Call-Off Contract;

“Specification”

the specification and other requirements set out in Attachment 1 of the Call-Off Contract;

“Term”

the period during which this Agreement continues in force as set out in Schedule 1;

“TfL”

Transport for London, a statutory corporation established under the Greater London Authority Act 1999;

“TfL Group”

TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **“member of the TfL Group”** shall refer to TfL or any such subsidiary;

“TfL Premises”

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

“Transparency Commitment”

means the Authority’s commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority’s own published transparency commitments; and

“VAT”

means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of this Agreement;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of this Agreement;
- 1.5 headings are included in the Agreement for ease of reference only and do not affect the interpretation or construction of the Agreement;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Agreement and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
 - 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or
 - 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Agreement), in which case the provisions in Schedule 2 shall prevail; or
 - 1.7.3 the conflict is with a provision in Attachment 3 (Special Conditions of Call-Off), in which case the provisions in Attachment 3 shall prevail;
- 1.8 except as otherwise expressly provided in any Call-Off Contract, and subject to Clause 1.7, if there is any inconsistency between any of these Clauses, the Schedules, any Call-Off Contract or any other document referred to in or incorporated into this Agreement or any Call-Off Contract, the order of priority for the purposes of construction is:
 - 1.8.1 each Call-Off Contract;

- 1.8.2 these Clauses;
- 1.8.3 the Schedules;
- 1.8.4 any other document referred to in or incorporated by reference into this Agreement or any Call-Off Contract;
- 1.9 the Schedules form part of the Agreement and will have the same force and effect as if expressly set out in the body of the Agreement;
- 1.10 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.11 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. Framework Agreement

- 2.1 The purpose of this Agreement is to:
 - 2.1.1 provide a mechanism whereby the Parties may enter into Call-Off Contracts;
 - 2.1.2 provide the framework to administer each Call-Off Contract; and
 - 2.1.3 set out the obligations of the Parties.
- 2.2 The Services that may be requested by the Authority and provided by the Service Provider are of the type described in Schedule 3 or as more particularly described in each Call-Off Contract. The Authority's requirements may vary and this Agreement shall not place the Authority under any obligation to procure the Services from the Service Provider at a particular time or at all. This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent the Authority from engaging any other organisations or persons to provide services similar to or the same as the Services.
- 2.3 Clause 3 sets out the procedure by which the Parties may enter into a Call-Off Contract. Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement.
- 2.4 The Service Provider shall commence provision of the relevant Services in accordance with the Call-Off Contract. The Service Provider must not commence any Services without an agreed Call-Off Contract.
- 2.5 All Charges in respect of a Call-Off Contract shall be set out in the relevant Call-Off Contract and shall not exceed the rates set out in Schedule 4.

3. Call-Off Procedure

- 3.1 At any time during the duration of this Agreement, the Authority may identify Services which at its sole discretion it wishes to let under the terms of this Agreement.
- 3.2 The Authority will issue to the Service Provider a Request Form substantially in the form set out in Schedule 5, specifying the Services to be provided, in which event:
 - 3.2.1 the Service Provider shall promptly confirm receipt of such Request Form;
 - 3.2.2 the Service Provider shall respond to the Request Form by completing a Proposal as an offer capable of acceptance, or by notifying the Authority in writing that it does not intend to submit a Proposal. The Service Provider shall so respond to the Authority by the date specified in the Request Form or, if no such date is specified, within 10 Business Days of receiving the Request Form, or by such other date as may be agreed with the Call-Off Co-ordinator. A Proposal must remain valid for at least 90 Business Days from the date it is submitted to the Authority;
 - 3.2.3 after receipt of an acceptable Proposal, the Authority will forward to the Service Provider two copies of the Call-Off Contract. The Service Provider shall sign both copies and return the same to the Authority within 10 Business Days of receipt. The Call-Off Co-ordinator will arrange for both copies of the Call-Off Contracts to be signed by the Authority and will send a completed signed Call-Off Contract to the Service Provider.
- 3.3 Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement, as may have been amended in such Call-Off Contract and such documentation shall together form a separate agreement between the parties.
- 3.5 A Request Form and anything prepared or discussed by the Authority shall constitute an invitation to treat and shall not constitute an offer capable of acceptance by the Service Provider. The Authority shall not be obliged to consider or accept any Proposal submitted by the Service Provider.
- 3.6 A draft Call-Off Contract shall only become a Call-Off Contract upon execution of the draft Call-Off Contract by the Authority.
- 3.7 The Authority is not obliged to approve or sign any Call-Off Contract.
- 3.8 Unless otherwise expressly agreed in writing with the Authority; the Service Provider shall not be entitled to charge under this Agreement for any work involved in any receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this clause 3.

- 3.9 Where reasonably requested to do so by the Greater London Authority (“GLA”) or any of its other functional bodies (currently, the London Legacy Development Corporation, the Mayor’s Office for Policing and Crime, the London Fire and Emergency Planning Authority and the Old Oak and Park Royal Development Corporation) (“Functional Bodies”) and provided the Service Provider is willing to so contract, the Service Provider shall contract with the GLA or appropriate Functional Body on the terms of this Agreement mutatis mutandis. The GLA or the Functional Bodies can not affect or amend this Agreement and that each Call-Off Contract is specifically between the Service Provider and the GLA or appropriate Functional Body and the TfL Group shall in no way be liable for the GLA or appropriate Functional Bodies obligations arising out of such Call-Off Contract.

4. Term of Agreement and Call-Off Contracts

- 4.1 This Agreement (but not a Call-Off Contract) commences on the Agreement Commencement Date and continues in force for the Term unless terminated earlier, either in whole or in part, in accordance with this Agreement.
- 4.2 Each Call-Off Term shall be set out in the relevant Call-Off Contract. Unless stated otherwise in a Call-Off Contract, the Call-Off Term and the Services provided pursuant to a Call-Off Contract may extend beyond the termination or expiry of this Agreement, in which case the provisions of this Agreement shall survive such expiry or termination to the extent that such provisions are relevant to any such Call-Off Contract.
- 4.3 A Call-Off Contract may expire or be terminated in accordance with its terms or Clause 28 but such expiry or termination shall not, in and of itself, give rise to an expiry or termination of any other Call-Off Contract or this Agreement.

5. The Services

5.1 The Service Provider:

- 5.1.1 shall provide the Services specified in a Call-Off Contract to the Authority in accordance with this Agreement and the terms of the relevant Call-Off Contract;
- 5.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the relevant Call-Off Contract;
- 5.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement or the terms of the relevant Call-Off Contract due to any misinterpretation or

misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Agreement or relevant Call-Off Contract; and

- 5.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services under any Call-Off Contract.
- 5.2 Notwithstanding anything to the contrary in this Agreement, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement or relevant Call-Off Contract.
- 5.3 The Service Provider shall provide the Services under each Call-Off Contract:
 - 5.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
 - 5.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification;
 - 5.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and
 - 5.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Call-Off Contract is not being or is unable to be performed.

6. Charges

- 6.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 7 and in consideration of, and subject to the due performance of the Services by the Service Provider in accordance with the relevant Call-Off Contract, the Authority shall pay the Service Provider the Charges in accordance with those procedures and any other terms and conditions of the relevant Call-Off Contract.
- 6.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in a Call-Off Contract or have been incurred with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.

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

LOT 2 ONLY

- 6.4 In the event of a variation to the Services due the to the volumes processed and in accordance with this Agreement or the relevant Call-Off Contract, the Service Provider shall pro rata the Charges for the Services.

7. Payment Procedures and Approvals

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

7.1.1 monthly in arrears during the Call-Off Contract Term; or

7.1.2 at such dates or at the end of such other periods as may be specified in the relevant Call-Off Contract; or

7.1.3 if specified in a Call-Off Contract, on completion of each Milestone. It is a condition precedent of the submission of an invoice on completion of a Milestone that all preceding Milestones specified in the relevant Call-Off Contract have been completed.

- 7.2 The Service Provider shall submit invoices to the address set out in each Call-Off Contract or where an electronic format for submission of invoices is set out in each Call-Off Contract, such electronic format shall, unless the Authority requires otherwise, be used. Each such invoice shall contain all information required by the Authority including the Agreement Number, relevant Call-Off Contract Number, SAP order number, the Authority account details, the Service Provider's name, address and bank account details to which payment should be made, a separate calculation of VAT and a brief description of the Services provided. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment.

- 7.3 In the event of a variation to the Services in accordance with this Agreement or the relevant Call-Off Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoice.

- 7.4 The Authority shall consider and verify each invoice, which is submitted in accordance with this Clause 7, in a timely manner. If the Authority considers that the Charges claimed by the Service Provider in any invoice have under the relevant Call-Off Contract:

7.4.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time

within 30 days of receipt of such invoice or such other time period as may be specified in the relevant Call-Off Contract;

- 7.4.2 not been calculated correctly and/or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.

The Authority shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.

- 7.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Procurement Manager or Call-Off Co-ordinator (whether related to payment or otherwise) shall:

- 7.5.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under this Agreement or a Call-Off Contract; or

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

- 7.6 Except where otherwise provided in a Call-Off Contract, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under the Call-Off Contract.

- 7.7 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Agreement or a Call-Off Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The Parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

8. Warranties and Obligations

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

8.1.1 the Service Provider:

8.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform the Agreement and any relevant Call-Off Contract; and

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

8.1.1.3 is entering into this Agreement and any relevant Call-Off Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Agreement and any relevant Call-Off Contract;

8.1.2 the Agreement and Call-Off Contract is executed by a duly authorised representative of the Service Provider;

8.1.3 all materials, equipment and goods under the relevant Call-Off Contract or supplied by the Service Provider shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification set out in the relevant Call-Off Contract; and

8.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the relevant Call-Off Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.

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

9. Contractual Management

9.1 The Contracting Authority authorises the Procurement Manager to act as the Contracting Authority's representative for all purposes of this

Agreement and the Service Provider shall deal with the Procurement Manager (or his or her nominated representative) in respect of all matters arising under this Agreement, unless notified otherwise. The Authority will appoint a Call-Off Co-ordinator in respect of each Call-Off Contract in relation to matters arising under a Call-Off Contract, unless otherwise notified by the Authority.

9.2 The Service Provider Manager shall act as the Service Provider's representative for all purposes of this Agreement. In respect of each Call-Off Contract, the Service Provider shall provide the Key Personnel. The Service Provider Manager and the Key Personnel shall procure that they:

9.2.1 diligently supervise the performance of the Services;

9.2.2 attend all contract meetings with the Authority (the location, frequency and time of which shall be specified by the Procurement Manager or the relevant Call-Off Co-ordinator from time to time); and

9.2.3 be available to the Authority to resolve any issues arising in connection with this Agreement or any relevant Call-Off Contract at such time periods as are specified in the relevant Call-Off Contract.

9.3 The Service Provider may only make any changes to the Service Provider Manager or Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of the Authority (which shall not be unreasonably withheld).

9.4 No act of or omission by or approval from either the Authority, the Procurement Manager, or any Call-Off Co-ordinator in performing any of their respective duties under or in connection with this Agreement or relevant Call-Off Contract shall in any way operate to relieve the Service Provider of any its duties, responsibilities, obligations or liabilities under this Agreement and relevant Call-Off Contract.

10. Service Provider's Personnel

10.1 The Parties agree that:

10.1.1 the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) do not apply on the Agreement Commencement Date or on the expiry or termination of this Agreement; and

10.1.2 where the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) apply to any Call-off Contract, the relevant optional clauses will be included in the Call-Off Contract.

10.2 Nothing in this Agreement or any Call-Off Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by

the Service Provider under this Agreement or Call-Off Contract and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.

- 10.3 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the relevant Call-Off Contract. All Service Provider Personnel deployed on work relating to the Call-Off Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.
- 10.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to such Service Provider's Personnel to any TfL Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by a relevant Call-Off Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Call-Off Co-ordinator's prior consent in the case of Key Personnel).
- 10.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the relevant Call-Off Contract and shall take all reasonable steps to avoid changes to any of its staff designated as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 10.2 shall apply to the proposed replacement personnel.
- 10.6 The Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or the TfL Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 8.4.
- 10.7 The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for this Agreement and the relevant Call-Off Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

11. Sub-Contracting and Change of Ownership

- 11.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority which may be refused or granted subject to such conditions as the Authority sees fit.
- 11.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
 - 11.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the relevant Call-Off Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
 - 11.2.2 be responsible for payments to that person; and
 - 11.2.3 remain solely responsible and liable to the Authority for any breach of the relevant Call-Off Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider;
 - 11.2.4 on or before the Agreement Commencement Date notify the Authority in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Service Provider to the Authority under the Agreement;
 - 11.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 11.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Agreement Commencement Date;
 - 11.2.6 without prejudice to the provisions of Clause 14, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;
 - 11.2.7 include a term in each sub-contract (of any tier):
 - 11.2.7.1 requiring payment to be made by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements; and
 - 11.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract

below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements.

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

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

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

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

Upon the occurrence of any of the events referred to at Clauses 11.3.1 – 11.3.3 above, the Authority shall have the right to terminate the Agreement and any relevant Call-Off Contract.

12. Conflict of Interest

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

12.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Contracting Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the TfL Group and shall work with the Contracting Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Contracting Authority's satisfaction, provided that, where the Contracting Authority is not so satisfied, it may terminate this Agreement and all Call-Off Contracts, in existence, in accordance with Clause 28.1.4.

13. Access to Premises

- 13.1 Subject to Clause 10.3 any access to any TfL Premises made available to the Service Provider in connection with the proper performance of the Call-Off Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Call-Off Contract Term, for the avoidance of doubt, the Service Provider shall be responsible for its own costs of travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:
- 13.1.1 have the use of such TfL Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such TfL Premises;
 - 13.1.2 vacate such TfL Premises upon the termination or expiry of the relevant Call-Off Contract or at such earlier date as the Authority may determine;
 - 13.1.3 not exercise or purport to exercise any rights in respect of any TfL Premises in excess of those granted under this Clause 13.1;
 - 13.1.4 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time; and
 - 13.1.5 not damage the TfL Premises or any assets on the TfL Premises.
- 13.2 Nothing in this Clause 13 shall create or be deemed to create the relationship of landlord and tenant in respect of any TfL Premises between the Service Provider and any member of the TfL Group.
- 13.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider except as may be specified in any Call-Off Contract.

14. Compliance with Policies and Law

- 14.1 The Service Provider, at no additional cost to the Authority:
- 14.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, including the provisions set out in Schedule 8 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at TfL Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request;

- 14.1.2 shall provide the Services in compliance and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Service Provider's business or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 14.1.2;
- 14.1.3 without limiting the generality of Clause 14.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 14.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "Relevant Protected Characteristic") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;
- 14.1.5 acknowledges that TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
- 14.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - 14.1.5.2 eliminate unlawful discrimination; and
 - 14.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,
- and in providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable TfL to satisfy its duty;
- 14.1.6 without prejudice to any other provision of this Clause 14.1 or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with

the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 14.1.6, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004; and

14.1.7 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services.

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

14.2 Without prejudice to Clause 14.1, the Service Provider shall comply with the Authority's workplace harassment policy as updated from time to time (copies of which are available on request from the Authority) and with the Authority's Code of Conduct (which is available on the Authority's website, www.tfl.gov.uk).

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

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

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

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

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

15. Corrupt Gifts and Payment of Commission

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