



DATED 25th April 2020

(1) TRANSPORT FOR LONDON

and

(2) SUZOHAPP (UK) LIMITED

CONTRACT

**relating to the Supply of Cash
Management Machines and the
Performance of Related Services**

CONTRACT NUMBER: TfL 94795

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THIS CONTRACT is made the 25th day of **April** 2020

BETWEEN

- (1) **TRANSPORT FOR LONDON** a statutory corporation established under the Greater London Authority Act 1999 of 5 Endeavour Square, Stratford, London E20 1JN ("**TfL**"); (the "**Company**" which expression shall include its successors in title and assigns); and;
- (2) **SUZHAPP (UK) LIMITED**, a company registered in England and Wales under number 00518609 and having its registered office at 110 Broadway, Salford, M50 1UW ("**the Supplier**").

WHEREAS:

- (A) The Company is responsible for the operation, repair and maintenance of the infrastructure of the Underground Network.
- (B) The Company wishes to enter into a contract with the Supplier for the supply by the Supplier of Equipment and Services of the types referred to in such contract.
- (C) The Supplier agrees to supply such Equipment and Services in accordance with the terms of such contract.
- (D) This Contract can be utilised by the Company and any other member of the TfL Group.

1. DEFINITIONS AND INTERPRETATION

THE PARTIES AGREE THAT:-

1.1 In the Contract (unless the context otherwise requires):-

1.1.1 "**Acceptance Certificate**" has the meaning given in Clause 7.1;

1.1.2 "**Acceptance Tests**" means the tests to be carried out to verify that the Equipment and Services comply with the Specification and with any other requirements of the Contract, including those tests set out in the

Specification and as may be otherwise specified by the Company from time to time;

- 1.1.3 **“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;
- 1.1.4 **“Affiliates”** means, in relation to a party, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that party from time to time;
- 1.1.5 **“Agent”** means any one (1) or more Third Parties as may be nominated or appointed by the Company from time to time to carry out the IPR Verification Exercises;
- 1.1.6 **“Aggregated Annual Spend”** means the total of all sums paid by the Company to the Supplier (exclusive of VAT) pursuant to the terms of the Contract annually calculated in accordance with Clause 31;
- 1.1.7 **“Agreed Qualifications”** has the meaning given in Clause 7.1A.2;
- 1.1.8 **“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.com;
- 1.1.9 **“Authority to Proceed”** a notice issued by the Company pursuant to paragraph 5.2 of Schedule 14 (Variation);
- 1.1.10 **“Background IPR”** means either or both of the Company Background IPR and Supplier Background IPR as the context requires;
- 1.1.11 **“Silver Accreditation”** means the minimum level accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk;
- 1.1.12 **“Business Day”** means any day from Monday to Friday inclusive, except public holidays in England;

- 1.1.13 **“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;
- 1.1.14 **“Cash in Transit (CIT) Contractor”** means the party contracted by the Company to deliver to and pick up from the cash management machines at Company premises;
- 1.1.15 **“Class VI Mirror”** means a mirror fitted that allows the driver to see what is immediately in front of the vehicle and that complies with Directive 2003/97/EC;
- 1.1.16 **“Close Proximity Sensor”** means a device consisting of 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;
- 1.1.17 **“Collision Report”** means a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;
- 1.1.18 **"Commercial Off-The-Shelf" or "COTS"** means Software or Hardware products to the extent that they are:
- (a) ready-made; or
 - (b) available for sale by a Third Party (other than the Supplier, any member of the Supplier Group or any Sub-Contractor or any employee, agent or contract worker of each of the foregoing) to persons generally on standard terms that are not normally negotiated (save in respect of the cost of such Software or Hardware products),
- but in any event excludes Proprietary Tools and any bespoke development, modification or enhancement to such Software or Hardware products by that Third Party or by the Supplier, any member of the Supplier Group or any Sub-Contractor;

1.1.19 "**Company**" means TfL and/or any member of the TfL Group which expression shall include their successors in title and assigns;

1.1.20 "**Company Assets**" any assets (whether tangible or intangible), materials (including consumables), resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Company or any member of the TfL Group;

1.1.21 "**Company Background IPR**" means the Intellectual Property Rights owned by or on behalf of one or more members of the TfL Group that:

- (a) are in existence at the Start Date; or
- (b) the Company or a member of the TfL Group obtains ownership of, separate and apart from performance of the Supply under this Contract,

and in both cases, including the Company Corporate IPR and changes to the Company Background IPR created by or on behalf of one or more members of the TfL Group (other than by the Supplier or a Sub-Contractor) in connection with the Supply;

1.1.22 "**Company Corporate IPR**" means any Intellectual Property Rights subsisting in:

- (a) the roundel;
- (b) the line map;
- (c) the New Johnston typeface; and
- (d) the Oyster Trade Marks,

in each case as such IPR may be updated by the Company from time to time, and any other registered or unregistered trade mark or service mark, trade name, logo or get-up of the TfL Group from time to time;

1.1.23 "**Company Depository**" means a secure storage facility for all Depositable IPR which utilises formalised processes for making and

structuring deposits and accessing stored content as operated by the Company or any the Company nominee from time to time;

- 1.1.24 "**Company Information**" means any information relating to the Company or any other member of the TfL Group or their business or operations including, without limitation, all processes, methods and techniques, operational, manufacturing or construction data, business policies, sales and marketing data, formulae, specifications, software specifications or applications, computer systems and any other information in any media used by or the property of the Company or any other member of the TfL Group;
- 1.1.25 "**Company Personnel**" means all Personnel employed or engaged by the Company;
- 1.1.26 "**Consequential Loss**" means in relation to a breach of this Contract or other circumstances in which a party is entitled to recover any costs, expenses or liabilities suffered or incurred, loss of profit, loss of revenue, loss of contract, loss of goodwill and/or other financial loss resulting from such breach and whether or not the party committing the breach knew, or ought to have known, that such loss would be likely to be suffered as a result of such breach;
- 1.1.27 "**Contract**" means this contract including the Schedules and any Appendices referred to in those Schedules, as may be amended in accordance with its terms from time to time;
- 1.1.28 "**Contract Information**" means; (i) the Contract in its entirety (including from time to time agreed changes to the Contract); and (ii) data extracted from the Invoices submitted pursuant to Clause 31 and Schedule 4 which shall consist of the Supplier's name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount;
- 1.1.29 "**Contract Manager**" means the person designated as such in Schedule 5A or such other person as may be notified in writing by the Company to the Supplier from time to time;

- 1.1.30 **“Corporate IPRs”** means those trade marks, trade names and other IPRs listed in Schedule 9, as may be amended by the Company from time to time by adding to or removing such IPRs from such list;
- 1.1.31 **“Data”** means data compiled, generated, collected, processed or stored during the performance of the Supply (or any part thereof), including Personal Data and data supplied to the Company, the TfL Group in connection with the Supply or this Contract;
- 1.1.32 **“Defect”** means, in relation to each item of Equipment, Services and any Manual, any fault, discrepancy or deficiency in quality in such Equipment, Services or Manual, including faulty design or materials, negligence or bad workmanship that constitutes or results in a breach by the Supplier of any of its obligations under this Contract;
- 1.1.33 **“Defects Liability Period”** means in relation to each item of Equipment, the period commencing on the date an Acceptance Certificate is issued for the relevant Equipment and ending on the date falling twelve (12) months thereafter;
- 1.1.34 **“Delivered”** has the meaning given in Clause 7 of the Contract as may be amended in accordance with the Contract;
- 1.1.35 **“Delivery”** means a specified quantity of specific Equipment and/or Services and/or the Depositable IPR Milestone (as applicable) to be Delivered by the Supplier in accordance with the terms of this Contract. **“Deliveries”** shall be construed accordingly;
- 1.1.36 **“Delivery and Servicing Vehicle”** means a Lorry, a Van or a Car-derived Van;
- 1.1.37 **“Delivery Date”** means in respect of each Delivery the date and time specified in the Notice of Delivery or Revised Notice of Delivery (as applicable) as may be amended or varied in accordance with this Contract;

- 1.1.38 **“Delivery Programme”** means the programme attached at Appendix 1 to Schedule 2 and as may be varied from time to time in accordance with this Contract;
- 1.1.39 **“Depositible IPR”** means all physical, electronic and other tangible manifestations of IPR which are reasonably capable of being deposited in the Company Depository, whether in human or machine-readable form or otherwise, including Software in Source Code form, program listings, circuit diagrams, narrative descriptions, transaction definitions, status definitions, encoding or command structures, encryption processes, operating instructions and user manuals, materials lists, parts lists, components specifications, build files, workshop documentation, helpdesk processes, test processes, workshop processes and other processes, procedures or methods created, developed, provided or used by or on behalf of the Supplier to provide the Supply, including any Variations to any of the foregoing from time to time, but in each case excluding Proprietary Tools;
- 1.1.40 **“Depositible IPR Milestone”** has the meaning given in Schedule 4 (Prices and Payment Procedure);
- 1.1.41 **“Dispute”** means any dispute, difference, controversy or claim that may arise out of or relate to the Contract before resorting to litigation;
- 1.1.42 **“Dispute Resolution Procedure”** means the procedure under Clause 36;
- 1.1.43 **“Documentation”** means operating manuals, program listings, data models, flowcharts, logic diagrams, input and output forms, instructions, technical literature (including, drawings, designs, blue prints, schematics and plans), equipment and component inventories, source codes, functional specifications, testing specifications, performance specifications, physical specifications, interface specifications, written processes and procedures, all documents required under this Contract and all other related materials in eye-readable or electronic form and

complete or partial copies of the foregoing (and “**Documents**” shall be interpreted accordingly);

1.1.44 “**Driver**” means any employee of the Supplier (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Supplier while delivering the Supply;

1.1.45 “**DVLA**” means the Driver and Vehicle Licensing Agency;

1.1.46 “**End Date**” means the date on which the Supplier ceases to be responsible for the provision of a particular Supply pursuant to the provisions of this Contract which shall be:

(a) the end of the Initial Term or any earlier effective date of termination in accordance with any notice to terminate under Clause 36 (Termination); or if later

(b) the end of the period during which any of the activities required under Schedule 16 (Handback of Supply) and/or the Handback Plan are or are to be carried out in relation to that Supply;

1.1.47 “**Equipment**” means the cash management machines and other equipment including modems and SIM cards, as more particularly described in the Specification;

1.1.48 “**Excepted Liabilities**” means the liability of the Supplier for:

(a) any abatements for performance levied in accordance with this Contract;

(b) Losses against which the Supplier is entitled to an indemnity under any policy of insurance (or would have been entitled but for any breach or failure to maintain such insurance);

(c) Losses caused by fraudulent acts or acts of a criminal nature; and

(d) Losses caused by the Supplier in breach of its obligations under Clause 28 (Corrupt Gifts and Safety Breach);

- 1.1.49 **“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 Supplier or Sub-Contractor) to the Company and/or any other member of the TfL Group;
- 1.1.50 **“Expiration Date”** means the date on which the Contract is due to expire five years from the start date of 25 April 2020 or such revised date as may be substituted therefore in accordance with the Contract;
- 1.1.51 **“Fault”** means an issue with the Equipment or the back office, communications and reporting systems provided by the Supplier, that affects the Services;
- 1.1.52 **“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;
- 1.1.53 **“Foreground IPR”** means all Intellectual Property Rights created or developed in any way, and from time to time, by or on behalf of the Supplier (or any Sub-Contractor or member of the Supplier Group) in connection with the performance of the Supply or other obligations under this Contract (including any Variations) BUT:
- (a) excluding any COTS elements where the Supplier is not able to obtain ownership of the relevant Intellectual Property Rights for the Company and which shall be dealt with pursuant to Clause 34 (Intellectual Property Rights);
 - (b) excluding the Company Background IPR;
 - (c) excluding Supplier Background IPR; and

- (d) excluding any Proprietary Tools;
- 1.1.54 **“FORS”** the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;
- 1.1.55 **“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;
- 1.1.56 **“Freight Vehicle”** means a Lorry, a Van or a Car-derived Van;
- 1.1.57 **“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;
- 1.1.58 **“Frustrated Access Conditions”** means:
- (a) the Supplier shall use any booked access remaining after any period of delay or disruption has ended, provided it is reasonable and practicable to do so;
 - (b) the access was requested by the Supplier in accordance with this Contract and the access booking had been confirmed as accepted, in writing, by the Company;
 - (c) the Supplier made a bona fide attempt to use the access (which includes having the appropriate physical presence on site required to utilise the access), unless otherwise instructed by the Company;
 - (d) the access was required by the Supplier for Delivery of the Equipment. For the avoidance of doubt, the Refused Access Process shall apply to any frustrated access required by the Supplier to perform Maintenance Services or to fix Faults;

- (e) the access was not delayed, disrupted or cancelled due to the default of the Supplier (including where the Supplier's default was the cause of an emergency);
- (f) the Supplier has notified the Company within three (3) hours that access has been delayed, disrupted or cancelled by the submission of a correctly completed Frustrated Access Form;

1.1.59 **"Frustrated Access Form"** means the form set out in Schedule 3;

1.1.60 **"Frustrated Access Reasons"** means:

- (a) the Company's station personnel (including the Company's track access controller) preventing access; or
- (b) the Company responding to an emergency,

provided that the Frustrated Access Conditions must also be satisfied in relation to the cancelled or delayed or disrupted access in question, failing which the cause of the delay, disruption or cancellation shall not be a Frustrated Access Reason;

1.1.61 **"GLA Act"** means the Greater London Authority Act 1999;

1.1.62 **"Greater London"** means that term as it is used in the GLA Act;

1.1.63 **"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;

1.1.64 **"Guarantee"** has the meaning given in Clause 26.1;

1.1.65 **"Guarantor"** has the meaning given in Clause 26.1;

1.1.66 **"Handback Item"** means items which are not otherwise available to the Company and which are, in the reasonable opinion of the Company, required in order to ensure the smooth operation and provision of the Supply (or supplies replacing the Supply) and/or the Equipment (or any relevant part thereof), including passwords, physical keys, IDs, badges,

passes, encryption codes, Software and security keys, telephone (including mobile telephone) numbers, email addresses, IP addresses and similar or equivalent identifiers and contact details but excluding any Proprietary Tools;

1.1.67 **“Handback Items Register”** means the register of Handback Items as further described in paragraph 2.7 of Schedule 17 (IPR Management);

1.1.68 **“Handback Period”** the period from the earlier of:-

(a) the end of the Initial Term; and

(b) the date on which any notice to terminate this Contract pursuant to Clause 39 (Termination) takes effect

until the Expiration Date;

1.1.69 **“Handback Plan”** the plan for the orderly handover of Supply to the Company or its nominee which is to be developed by the Parties pursuant to Schedule 16 (Handback of Supply);

1.1.70 **“Handback Programme”** shall have the meaning given in paragraph 2.2 of Schedule 16 (Handback of Supply);

1.1.71 **“Handback Status Report”** shall have the meaning given in paragraph 4.1.1 of Schedule 16 (Handback of Supply);

1.1.72 **“Hardware”** means all physical materials, associated with electronic processing and transmission of information, which are created, developed, provided or used in connection with the Supply, including computer equipment, telecommunications equipment (including wide area and local area equipment), chips, chipsets, firmware, fixtures, fittings and peripherals, but excluding any of the foregoing associated with publicly available telecommunications networks;

1.1.73 **“Holding Company”** means any company which from time to time directly or indirectly controls the Supplier where **“control”** is as defined by section 840 of the Income and Corporation Taxes Act 1988;

- 1.1.74 **“Information”** means information recorded in any form held by the Company or by the Supplier on behalf of the Company or any member of the TfL Group;
- 1.1.75 **“Information Request”** means a request for any Information under the FOI Legislation;
- 1.1.76 **“Infrastructure Manager”** has the meaning ascribed to it in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;
- 1.1.77 **“Initial Term”** has the meaning given in Clause 2.1.1;
- 1.1.78 **“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;
- 1.1.79 **“Intellectual Property Rights”** or **“IPR”** means any patents, rights to inventions, trade marks, service marks, trade names and domain names, rights in get-up, rights in goodwill and to sue for passing off, unfair competition rights, rights in designs, copyright and related rights, rights in computer software, database rights, moral rights, confidential information, commercial information and technical information (including Know-How), research and development data, manufacturing methods and data, specifications and drawings, formulae, algorithms, prototypes and research materials, and other intellectual property rights, whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, anywhere in the world;
- 1.1.80 **“IPR Management Plan”** means the plan developed in accordance with paragraph 2.1.1 of Schedule 17 (IPR Management);

- 1.1.81 **“IPR Plan”** means the plan for the deposit and verification of IPR meeting the requirements for a project plan as set out in Schedule 2 (Programme);
- 1.1.82 **“IPR Register”** means the register detailed in paragraph 2.2 of Schedule 17 (IPR Management);
- 1.1.83 **“IPR Review Committee”** means the committee described in paragraph 3.1 of Schedule 17 (IPR Management);
- 1.1.84 **“IPR Verification Exercise”** means the process as required from time to time by the Company to verify the completeness, clarity and accuracy of Intellectual Property Rights required for the Supply and such processes which may be tasked to Third Parties including the review of specifications, due-diligence on licences, rebuilding Software and tests of Manuals, as further described in paragraph 2.5 of Schedule 17 (IPR Management);
- 1.1.85 **“Key Personnel”** means the persons designated as such in Schedule 5A or such other persons as may be designated from time to time in accordance with a Contract;
- 1.1.86 **“Latent Defect”** means any Defect existing in an item of Equipment or part thereof or Manual at the date of expiry of the relevant Defects Liability Period that only becomes apparent to the Company in the period specified in Clause 16.6;
- 1.1.87 **“Licensed Materials”** means any Intellectual Property Rights owned or used by or on behalf of the Supplier in connection with the Supply or the Contract from time to time, whether pre-existing or created or developed during the Term, including:
- (a) Supplier Background IPR;
 - (b) all COTS; and
 - (c) Third Party IPR;

BUT excluding Proprietary Tools, Foreground IPR and the Company Background IPR;

- 1.1.88 “**London Living Wage**” means the basic hourly wage of £9.15 (before tax, other deductions and any increase for overtime) as may be revised from time to time by the Mayor or any other body or agency whose directives, decisions, instructions, rulings, laws; or regulations are directly enforceable against the Company;
- 1.1.89 “**Lorry**” means a vehicle with an MAM exceeding 3,500 kilograms;
- 1.1.90 “**Losses**” means any expenses, liability, losses, claims, proceedings, compensation and costs whatsoever or howsoever arising;
- 1.1.91 “**Maintenance Services**” has the meaning given in the Maintenance Specification attached at Schedule 1B;
- 1.1.92 “**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;
- 1.1.93 “**Manuals**” means the User Manuals and the O&M Manuals, as more particularly described in the Specification;
- 1.1.94 “**Mayor**” means the person from time to time holding the office of Mayor of London as established by the GLA Act;
- 1.1.95 “**Notice of Revised Delivery**” has the meaning given in Clause 9.7;
- 1.1.96 “**O&M Manual**” has the meaning given in the Specification;
- 1.1.97 “**Object Code**” means the representation of computer/machine programming code in machine readable form that a computer programme generates by processing Source Code;
- 1.1.98 “**Operational Day**” has the meaning given in Paragraph 1.2.3 of Schedule 1A;

- 1.1.99 **“Oyster Trade Marks”** means those trade marks described in the document "Transport for London OYSTER Trade Marks" (as updated from time to time);
- 1.1.100 **"Parties"** means the parties to the Contract and any permitted successors and **"Party"** means whichever of them is indicated by the context of the reference;
- 1.1.101 **“Permitted Delay Event”** has the meaning given in Clause 33.7 of the Contract;
- 1.1.102 **“Personal Data”** has the meaning given to it by section 1(1) of the DPA;
- 1.1.103 **“Personnel”** means employees, officers, suppliers, consultants, Sub-Contractors and agents;
- 1.1.104 **"Premises"** means the stations and other premises to which the Supplier will or may seek access in order to facilitate or comply with any of its obligations under the Contract this shall include (but not be limited to) those premises stated in the Specification and Programme;
- 1.1.105 **"Price"** means the aggregate amount payable by the Company to the Supplier in accordance with Clause 31 and Schedule 4 and as may be adjusted or varied in accordance with Clause 30;
- 1.1.106 **“Programme”** means the Delivery Programme as attached in Schedule 2 and as may be varied from time to time in accordance with this Contract;
- 1.1.107 **“Proposed Variation”** a Variation issued by the Authority where the preparation and agreement of the Supplier Response occurs prior to the implementation of the Variation;
- 1.1.108 **“Proposed Variation Notice”** shall have the meaning given to it in Schedule 14 (Variation Procedure);
- 1.1.109 **“Proprietary Tools”** means a tool, system, piece of Software, Software licence or equipment (a "tool") which is:

- (a) used by the Supplier in providing the Supply; and
- (b) not connected to, or does not form part of, the Supply (or, if connected to or forming part of the Supply, it was agreed in writing between the Parties, prior to the tool being connected to or forming part of the Supply, that the tool would be deemed to be a Proprietary Tool); and
- (c) a tool in respect of which a Successor Operator ought reasonably to be able to supply or procure a similar or equivalent tool from the open market;

and which:

- (1) is owned by a Third Party (that is not a Sub-Contractor or a member of the Supplier Group, nor holding the ownership as a result of any disposal, sale, assignment or transfer, or the granting of a Security Interest, by any member of the Supplier Group); or
- (2) is owned by a Sub-Contractor or a member of the Supplier Group and is required by the Sub-Contractor or the Supplier Group (as applicable) for use in the normal course of its business other than to provide the Supply (including for other customers of the Sub-Contractor or the Supplier Group (as applicable)), provided that:
 - (i) where there is only one such tool, that tool will fall outside of the scope of this definition; or
 - (ii) where there is more than one such tool, then the number of tools that the Company reasonably considers are required for the provision of the Supply will fall outside the scope of this definition;

1.1.110 **“Proprietary Tools Register”** means the register of Proprietary Tools as further described in paragraph 2.6 of Schedule 17 (IPR Management and Licences);

- 1.1.111 **“Refused Access Process”** means the process for managing frustrated access for Maintenance Services and Faults as further described in Schedule 8 Paragraph 2.2;
- 1.1.112 **“Relevant Conviction”** means any unspent criminal conviction relating to actual or potential acts of terrorism or acts which threaten national security;
- 1.1.113 **“Relevant Individual”** means any servant, employee, officer, consultant or agent of either the Supplier or any Sub-Contractor carrying out, or intended to carry out, any aspect of the Supply;
- 1.1.114 **“Required Variation”** means a Variation issued by the Company where the Supplier is required to proceed with the implementation of the Variation in parallel to the preparation and agreement of a Supplier Response in respect of that Variation;
- 1.1.115 **“Required Variation Notice”** shall have the meaning given to it in Schedule 14 (Variation Procedure);
- 1.1.116 **“Required Variation Settlement Notice”** means a notice issued by the Authority pursuant to paragraph 5.4 of Schedule 14 (Variation Procedure);
- 1.1.117 **“Responsible Procurement Policy”** means the GLA Group Responsible Procurement Policy dated March 2006 and updated in January 2008 located at:
http://www.tfl.gov.uk/assets/downloads/businessandpartners/GLA_Responsible_Procurement_Policy.pdf as may be further updated, amended or replaced from time to time and such guidance relating to the implementation of such policy as may be notified by the Company to the Supplier from time to time;
- 1.1.118 **“Responsible Procurement Principles”** mean the seven principles of responsible procurement more particularly described in the Responsible Procurement Policy as may further be described in the Specification;

- 1.1.119 **"Retention"** means in respect of each payment identified in Schedule 4, the corresponding amount in the column headed 'Retention';
- 1.1.120 **"Retention Balance"** means, for the time being, the aggregate of the amounts retained by the Company under Clause 31.5 less any deductions made by the Company pursuant to this Contract;
- 1.1.121 **"RPIX"** means the All Items Retail Prices Index as adjusted to exclude mortgage interest payments and published monthly by the Office for National Statistics or, failing such publication, such other index as may replace or supersede the same, or in the absence of a replacement or superseding index, such other index as the Parties may agree;
- 1.1.122 **"Safety Breach"** means a material breach of any obligation under the Contract caused by the gross incompetence or wilful default of the Supplier or by any Sub-Contractor (or anyone employed or acting on behalf of the Supplier or any Sub-Contractor) or any of its agents which has materially affected the safe operation of the Underground Network or endangered the safety of the employees of the Company or any member of the TfL Group or the public or any other person;
- 1.1.123 **"SDI Performance Criteria"** has the meaning given to it in Schedule 8;
- 1.1.124 **"Security Interest"** means any security interest of any nature whatsoever, including any mortgage, charge, pledge, lien, assignment by way of security or other encumbrance;
- 1.1.125 **"Security Materials"** means the Software, documentation and media created for the purposes of maintaining and monitoring the security of, and preventing and monitoring fraud in relation to the Supply;
- 1.1.126 **"Services"** means:
- (a) all or any part of the services to be provided to, or activities to be undertaken and completed for the Company by the Supplier under this Contract, including the Maintenance Services and the services to be provided pursuant to Schedule 8 (Supplier Performance), Schedule 11 (Training), Schedule 16 (Handback of Supply) and

Schedule 17 (IPR Management), as such services and/or activities may be varied pursuant to Clause 30; and

- (b) any services, functions or responsibilities which may reasonably be regarded as incidental to the supply of the Equipment or to the foregoing services or activities and which may reasonably be inferred from this Contract, including those set out in the Specification;

1.1.127 "**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;

1.1.128 "**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;

1.1.129 "**Software**" means all software, operating systems, applications, programs and procedures, tools to recreate or recompile any of the foregoing (including without limitation build files, compiler files, test scripts and configurations), and all updates and upgrades to any of the foregoing created, developed, provided or used in connection with the Supply and firmware that relates to or is comprised in Hardware, in each case in Object Code and Source Code forms together with all supporting documentation and materials necessary to enable a user to make full use of the functionality of, or to administer effectively such software and firmware;

1.1.130 "**Source Code**" means computer/machine programming code (other than Object Code) and related source code level system documentation, comments and procedural code such as utilities, libraries, job control, language, header files, parameter files, definitions files, build and make files, configuration files and any other included file referenced in any source file, in each case which may be printed out or displayed in an eye readable and understandable form by a competently skilled computer programmer and correctly and completely rebuilt without additional files

or information (and including embedded commentary procedures and ancillary documents in either paper or electronic format);

1.1.131 "**Specification**" means the specifications set out within Schedules 1A and 1B;

1.1.132 "**Standards**" means (i) the LU Category 1 and 2 Standards, the Draft Category 1 and 2 Standards, the European, British and International Standards and the associated codes of practice; and (ii) the various standards documents and associated codes of practice identified in the Specification or notified by the Company, in each case as applicable to the Supply under this Contract;

1.1.133 "**Start Date**" means the date specified in Schedule 2 of the Contract;

1.1.134 "**Sub-Contract**" means any contract or agreement (whether or not in writing) between the Supplier and a Third Party (other than members of the TfL Group) in relation to any activity arising out of or related to the provision of the Supply (including without limitation to the generality of the foregoing such contracts between the Supplier and a member of the Supplier Group);

1.1.135 "**Sub-Contractor**" means a person with whom the Supplier enters into a Sub-Contract;

1.1.136 "**Successor Operator(s)**" any person engaged by, or which may be engaged by the Company, in its absolute discretion, in order to provide the Supply or supplies which replace the Supply, which may be the Company or a member of the TfL Group where the Company so determines;

1.1.137 "**Successor Plan**" has the meaning given in Clause 41;

1.1.138 "**Supplier**" means the person, firm or company named as such in this Contract and its permitted assigns;

1.1.139 "**Supplier Background IPR**" means the Intellectual Property Rights owned by or on behalf of one or more members of the Supplier Group or a Sub-Contractor that are:

- (a) in existence at the Start Date; or
- (b) created or developed after the Start Date other than in connection with the performance of the supply or other obligations under this Contract,

but excluding Proprietary Tools;

- 1.1.140 **“Supplier Group”** the Supplier 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 with each Holding Company of the Supplier and any subsidiaries (as so defined) of any such Holding Company and reference to any **“member of the Supplier Group”** shall refer to the Supplier, any such Holding Company or any such subsidiary;
- 1.1.141 **“Supplier’s Materials”** means all appliances or materials of any kind whatsoever provided by the Supplier and required for the purposes of the Supply, but not including the Equipment forming part of the Supply;
- 1.1.142 **"Supplier's Personnel"** means the employees and agents of the Supplier and of the Supplier's Sub-Contractors or suppliers who are involved in the provision of the Supply;
- 1.1.143 **“Supplier’s Proposal Notice”** shall have the meaning given to it in Schedule 14 (Variation Procedure);
- 1.1.144 **“Supplier’s Response”** shall have the meaning given to it in Schedule 14 (Variation Procedure);
- 1.1.145 **"Supply"** means to supply the Equipment and to perform the Services and the term **"Supplies"** shall be construed accordingly;
- 1.1.146 **“Term”** means the period commencing on the Start Date and expiring on the Expiration Date;
- 1.1.147 **"TfL Group"** means Transport for London ("**TfL**"), a statutory body set up by the GLA Act and any of its subsidiaries and their subsidiaries;

- 1.1.148 "**Third Party**" means any person or entity which is not a Party to this Contract, including without limitation any government body other than the Company;
- 1.1.149 "**Third Party IPR**" means any Software, code for interfaces, databases or Hardware or any other IPR which are included in the Supply, or Variations thereto, used by or on behalf of the Supplier, any Sub-Contractor or any member of the Supplier Group in connection with the Supply or this Contract and in respect of which in each case the Intellectual Property Rights are owned by one or more Third Parties excluding any Sub-Contractor or any member of the Supplier Group, but in any event excludes Proprietary Tools and any bespoke development, modification or enhancement to such Software, Hardware or IPR products by that Third Party or by the Supplier, any member of the Supplier Group or any Sub-Contractor;
- 1.1.150 "**Training**" means the training requirements set out in Clause 18 and Schedule 11, including the User Training;
- 1.1.151 "**Tranche**" means the tranches of Equipment and Services to be Delivered at stations on the Underground Network as more particularly described in Schedule 2 (Programme);
- 1.1.152 "**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;
- 1.1.153 "**Underground Network**" means the stations and depots (wherever situate), assets, systems, track, and other buildings which are used in the maintenance and provision of the underground service known as "**London Underground**";
- 1.1.154 "**User**" has the meaning given in Appendix 1 to Schedule 1A;
- 1.1.155 "**User Manuals**" has the meaning given in the Specification;
- 1.1.156 "**User Training**" has the meaning given in Schedule 11;

- 1.1.157 **“Van”** means a vehicle with a MAM not exceeding 3,500 kilograms;
- 1.1.158 **“Variation”** means a variation to the Contract, the Supply or any other matters covered by the Contract pursuant to Clause 30;
- 1.1.159 **“Variation Procedure”** means the procedure set out in Schedule 14 (Variation Procedure);
- 1.1.160 **“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;
- 1.1.161 **“Vfm or Value for Money”** means the optimum combination of whole-of-life costs and quality in respect of the Supply;
- 1.1.162 **“Withdrawal notice”** a notice issued by the Authority pursuant to paragraph 5.4 of Schedule 14 (Variation);
- 1.1.163 **“Volume Discount”** is the figure calculated annually in accordance with Clause 31;
- 1.1.164 **“Volume Discount Percentage”** is the volume discount percentage set out in Schedule 4 to the Contract;
- 1.2 the Contract includes the Contract together with the Schedules to the Contract and any Appendices referred to in those Schedules;
- 1.3 words and expressions defined in the Schedules hereto shall have the meanings assigned to them there;
- 1.4 references to “Clauses” or to “Schedules” or to “Appendices” to those Schedules shall be to the Clauses, Schedules and the Appendices to the Schedules of the Contract and the Clauses, Schedules and Appendices to those Schedules and recitals shall be deemed to be part of the Contract;
- 1.5 references in the singular shall be deemed to include the plural and vice versa and references in either gender shall be deemed to include the other and the neuter;

- 1.6 a reference to any provision of a statute, enactment, order, regulation or other similar instrument shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time;
- 1.7 references to a person, firm or company includes any individual company, unincorporated association or body (including a partnership or joint venture) or other entity whether or not having a separate legal personality;
- 1.8 references to the Contract, or to any document are to such document as amended, novated, supplemented, varied or restated at the relevant time;
- 1.9 headings are inserted for convenience only and shall not affect the construction of the Contract;
- 1.10 in the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Contract, the order of priority for the purpose of construction in descending order is:
 - 1.10.1 the clauses of the Contract (including any documents referred to or incorporated into each Contract);
 - 1.10.2 the Schedules and Appendices to the Contract (equal priority, but subject to Clause 1.11); and
 - 1.10.3 any other document referred to in or incorporated by reference into the Contract.

The documents that make up the Schedules shall be taken as being mutually explanatory of one another.

- 1.11 In the event of any conflict between any provision of the clauses of the Contract and a provision of any other Schedule then the clauses of the Contract will take precedence except where the conflicting part of the other Schedule is explicitly expressed to take precedence over any specific part of the clauses of the Contract.
- 1.12 The Supply that may be requested by the Company and provided by the Supplier is of the type described in the Contract, including the Specification. The Contract

is not an exclusive arrangement and nothing in the Contract operates to prevent the Company from engaging any other organisation or person to supply equipment or services similar to or the same as the Supply.

1A. ACCEPTANCE OF THE COMPANY'S CONDITIONS OF CONTRACT

1A.1 The Supplier shall be deemed to have accepted all the terms and conditions of the Contract to the exclusion of any other terms or conditions contained in any quotation, tender, acknowledgement or acceptance of order or other document of the Supplier relating to the Supply.

2. COMMENCEMENT, DURATION AND OPTION TO RENEW

2.1 The Contract commences on the Start Date and shall continue, subject to earlier termination in accordance with Clause 39, until:

2.1.1 five (5) years and six (6) months from the date an Acceptance Certificate has been issued for the last Equipment and Services to be Delivered in accordance with the Contract ("Initial Term"); or

2.1.2 if later having regard to the duration of any Handback Period, until the Expiration Date.

2A. BEHAVIOUR

2A.1 In order to work together in a co-operative and collaborative manner, the Company and the Supplier encourage integrated team working and give to each other and welcome from the other, feedback on performance.

2A.2 The Company and the Supplier share information openly and highlight any difficulties at the earliest practicable time.

2A.3 The Parties support collaborative behaviour and confront behaviour that does not comply with the provisions of the Contract. The Supplier does not enter into any contractual agreements or arrangements that conflict with the principles of the Contract.

2A.4 The objective of the Contract is that by working together the Company and the Supplier will achieve the successful delivery of the Supply:

2A.4.1 to the standard and functionality that meets or exceeds the requirements defined in, or reasonably to be inferred from, the Contract;

2A.4.2 consistent with an economic and efficient whole-life cost approach and in a way which offers best Value for Money to the Company;

2A.4.3 to a timescale agreed between the Company and the Supplier without compromising health, safety or quality; and

2A.4.4 with risks allocated under the Contract to the Party best able to manage them.

3. **AGREEMENT TO SUPPLY**

3.1 The Supplier shall carry out the Supply in a regular and diligent manner in accordance with the terms of this Contract, including without limitation the Specification and the Programme.

3.2 The Supplier shall be responsible for the accuracy of all drawings, documentation and information supplied to the Company by the Supplier in connection with carrying out the Supply and shall pay the Company any extra costs occasioned by any discrepancies, errors or omissions therein.

3.3 The Supplier acknowledges that:

3.3.1 the Company relies on the skill and judgment of the Supplier in the performance of the Contract, including the Supply;

3.3.2 it has sufficient information about the Company and the Specification and that it has made all appropriate and necessary enquires to enable it to carry out the Supply in accordance with the Contract;

3.3.3 it shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation

or misunderstanding by the Supplier of any fact relating to the Contract;
and

- 3.3.4 it shall comply with all lawful and reasonable directions of the Company relating to carrying out the Supply.
- 3.4 Save as the Company may otherwise direct, the Supplier is deemed to have understood the nature and extent of the Contract to be carried out and be satisfied in relation to all matters connected with the performance of the Contract.
- 3.5 Notwithstanding anything else in the Contract the Supplier shall, where directed by the Company, provide at no cost all reasonable assistance, information and co-operation to any other third party with which the Company or any member of the TfL Group has a relationship subject to the signature of confidentiality agreements between the Supplier and those third parties.
- 3.6 The Supplier shall be paid by the Company such sums as are specified as due (if any) for the proper performance of such Supply in accordance with Schedules 4.

4. **GENERAL OBLIGATIONS**

- 4.1 The Supplier shall:
 - 4.1.1 make no delivery of Equipment, plant or other things nor commence any Services on the Company's Premises without obtaining prior approval in writing from the Contract Manager (as appropriate);
 - 4.1.2 provide all labour including supervision, the Supplier's Materials and all other resources required for the purposes of the Contract, whether the same is specified in or reasonably to be inferred from the Contract;
 - 4.1.3 carry out the Supply so as to meet the requirements set out in the Contract, including the Specification and the Programme and (at its own expense) upon the request of the Company prove to the Company's entire satisfaction that the Supply complies with the requirements of the Contract;

- 4.1.4 ensure the Equipment shall be fully compatible with the Company's equipment;
 - 4.1.5 employ the Key Personnel to supervise the performance of the Supply;
 - 4.1.6 apply in writing to the Contract Manager for approval prior to any changes to the Key Personnel;
 - 4.1.7 provide and execute the Supply such that the condition of the Premises and the site at which they are executed is either no worse than it was before the execution of the Supply or will meet the requirements set out in the Contract, including the Specification; and
 - 4.1.8 on completion of the Supply remove the Supplier's Materials, and all plant, equipment and unused materials and shall clear away from the Premises and from the area adjoining and surrounding the Premises all rubbish arising out of the Supply and the performance of the Contract and leave the Premises and the area adjoining and surrounding the Premises in a neat and tidy condition.
- 4.2 The Supply includes assisting other suppliers and contractors carrying out works, providing services or materials to the Company at no additional cost to the Company to the extent that such assistance or management of other contractors or suppliers is as described in, contemplated by or reasonably to be inferred from the Supply or the nature or manner of the execution or supply thereof.
- 4.3 The Company shall have the right at the cost of the Supplier at any time during the Supply and progress of the Contract to order in writing:
- 4.3.1 the removal from the Premises and/or any other site owned or occupied by the Company of any Supplier's Material, plant, equipment, materials or any other items relating to the execution of the Supply or performance of the Contract which in the opinion of the Company are either hazardous, noxious or not in accordance with the Contract; and/or
 - 4.3.2 the rectification of any such items referred to in Clause 4.3.1.

5. **SUPPLIER'S DESIGN**

5.1 The Supplier designs the Supply in accordance with the Specification and these Contract terms.

5.2 Where as part of the Supply the Supplier is required to produce any design, the Supplier submits the particulars of its design which the Specification requires to the Contract Manager for acceptance. The Supplier does not proceed with the Supply until the Contract Manager has accepted its design. Reasons for not accepting the Supplier's design include (without limitation):

5.2.1 it does not comply with the Specification or any other part of the Contract;

5.2.2 it does not comply with the applicable law or Standards;

5.2.3 it is not integrated and coordinated with the designs of others where the Supplier is required by the Specification or instructions of the Contract Manager to integrate and/or co-ordinate its design with the designs of others, or such integration is necessary for the Supplier to provide the Supply; or

5.2.4 it is not in a format which is accepted for use by the Contract Manager.

The Supplier is not entitled to any changes to the Price or Delivery Date of the Supply by reason of anything in this Clause 5.2.

5.3 The Supplier may submit its design for acceptance in parts if the design of each part can be assessed fully.

5.4 The Supplier integrates and coordinates its design with the designs of others in accordance with the Specification and instructions of the Contract Manager, and where necessary to provide the Supply.

5.5 The Supplier in designing and specifying the parts of the Supply which it is required to design and specify, warrants, undertakes and represents to the Company that the Supply:

- 5.5.1 is in accordance with the Specification and any other performance or output specification or requirements contained or referred to in the Contract;
 - 5.5.2 complies with all applicable law;
 - 5.5.3 complies with all relevant Standards; and
 - 5.5.4 is fit for the purpose defined in the Specification.
- 5.6 The Supplier warrants, undertakes and represents to the Company that it shall only specify substances and materials for incorporation into the Supply:
- 5.6.1 which are in accordance with the Standards and general good building and engineering practice, and
 - 5.6.2 which have not been declared deleterious in any publication of the Building Research Establishment current at the time of incorporation of such substances and materials into the Supply provided that this Clause 5A.6.2 shall not apply where an experienced supplier would have judged at the time of the substances or materials being specified that there was no reasonable prospect of them being declared deleterious by the scheduled date for their incorporation into the Supply.
- 5.7 The Supplier accepts entire responsibility for the design and specification of the Supply and for any mistake, inaccuracy, ambiguity, inconsistency or omission in or between its design and specification of the Supply and the documents which are part of the Contract.

6. **WARRANTIES AND REPRESENTATIONS**

- 6.1 For the purposes of construing the warranties in Clause 6.2 references to the Supply will include any part of the Supply. Each warranty will be construed as a separate warranty and will not be limited or restricted by reference to, or inference from, the terms of any other warranty or any other term of the Contract.

- 6.2 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Supplier warrants, represents and undertakes to the Company that:
- 6.2.1 it will provide the Supply in a good and workmanlike manner in accordance with the Contract;
 - 6.2.2 without prejudice to Clauses 6.2.3 to 6.2.7 (inclusive), the Supply shall be to the reasonable satisfaction of the Company;
 - 6.2.3 the Supply shall conform in all respects with any sample approved by the Company and in the absence of a sample, all the Supply provided shall be within the normal limits of industrial quality;
 - 6.2.4 the Supply shall operate in accordance with the relevant technical specifications, the approved design and shall comply with all requirements of the Contract;
 - 6.2.5 the Supply shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force, and shall conform fully to all relevant applicable Standards;
 - 6.2.6 all obligations of the Supplier pursuant to the Contract shall be performed and rendered by appropriately experienced, qualified and trained Supplier's Personnel with all due skill, care and diligence including but not limited to best industry practice, in accordance with its own established internal procedures, the Specification and Standards;
 - 6.2.7 the Supply will be provided using materials and equipment that are of sound and satisfactory design and quality and in accordance with the Specification and the Standards;
 - 6.2.8 the Supply will be provided in a safe manner and free from any unreasonable or avoidable risk to the health and well being of any persons using or subsequently maintaining the Equipment or using the Premises, or of any other person, and in a safe, economic and efficient

manner and free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard.

- 6.2.9 all Equipment supplied under the Contract and any of the Services (or any part thereof) designed or replaced by the Supplier will:
- (a) be new and designed and specified using the best modern engineering principles and practices;
 - (b) in all respects, be fit and sufficient for all the purposes for which they are ordinarily used or for which they are intended (awareness of which purposes the Supplier acknowledges) and for any particular purpose made known to the Supplier by or on behalf of the Company;
 - (c) be capable of operation as part of any system referred to in the Specification and be so fit at least for the Term or for any period stated in the Specification as the expected or intended life of the Supply or such system
 - (d) have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials, goods and equipment.
- 6.2.10 it has full capacity and authority and all necessary licences, permits, permissions, powers and consents to enter into and to perform the Contract, and that the Contract is executed by a duly authorised officer of the Supplier;
- 6.2.11 it is not in default in the payment of any due and payable taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under the Contract;
- 6.2.12 it is aware of the purposes for which the Supply is required and acknowledges that the Company is reliant upon the Supplier's expertise

and knowledge in the execution of the Services and the supply of the Equipment;

- 6.2.13 it has the right to grant to the Company and any member of the TfL Group all licences (including without limitation all rights to sub-license) of all and any Intellectual Property Rights contemplated by the Contract; and
 - 6.2.14 it has put into effect as from the date of the Contract the insurances detailed in Clause 29 and Schedule 7 and that the proceeds of such insurance will be used solely for the purposes of the Contract and for no other purpose.
- 6.3 The Supplier will (at its own expense) upon request by the Company prove to the Company's entire satisfaction that the Supply complies with the standards required by the Contract including without limitation, with the warranties in Clause 6.2.
- 6.4 The provisions of this Clause 6 are without prejudice to the Company's other rights under the Contract.

7. **DELIVERY, ACCEPTANCE, TITLE AND RISK**

- 7.1 The relevant Delivery shall be considered Delivered for the purposes of the Contract when:
- 7.1.1 the Contract Manager is satisfied that the Equipment and Services (excluding the Depositable IPR Milestone) have passed any Acceptance Tests (including the issue of a valid certificate of conformity pursuant to Clause 10.3);
 - 7.1.2 the Contract Manager is satisfied that the Equipment have been delivered, unloaded, installed and commissioned in accordance with the Contract;
 - 7.1.3 the Supplier has provided the User Manuals;

- 7.1.4 the Supplier has provided the User Training required pursuant to Clause 18.9 and Schedule 11;
- 7.1.5 the Supplier has satisfied any additional requirements for Delivery included within the Specification or the Contract;
- 7.1.6 the Equipment and Services (excluding the Depositable IPR Milestone) have no Defects, Faults or items missing, except those covered by Agreed Qualifications;
- 7.1.7 the Equipment and Services (excluding the Depositable IPR Milestone) have been in service and fully operational for a period of seven (7) days, commencing on the date the requirements in Clauses 7.1.1. to 7.1.6 have been satisfied;
- 7.1.8 the Supply has been provided in accordance with the requirements of the Contract; and
- 7.1.9 the Contract Manager has issued a certificate confirming he is satisfied that the requirements referred to in Clauses 7.1.1 to 7.1.8 above have been met (the “**Acceptance Certificate**”).

7.1A The Contract Manager may:

- 7.1A.1 refuse to issue an Acceptance Certificate for the Supply if it does not satisfy any of the requirements set out in Clause 7.1 in which case it shall, within five (5) Business Days of such refusal, notify the Supplier in writing of the reasons for refusing to issue the Acceptance Certificate; or
- 7.1A.2 accept Supply does not meet any or all of the requirements set out in Clause 7.1. Where this right is exercised the Contract Manager shall, when issuing the Acceptance Certificate, endorse the Acceptance Certificate accordingly and submit details of any failure(s) to meet the requirements set out in Clause 7.1 (including any necessary remedial work) on an attachment to the Acceptance Certificate. Such details shall constitute Agreed Qualifications.

7.1B Where the Contract Manager has submitted to the Supplier details of an Agreed Qualification under Clause 7.1A, the Contract Manager may (in its absolute discretion):

7.1B.1 provide written confirmation that the Supplier does not need to rectify the matter the subject of the Agreed Qualification, in which case the Supplier shall (without prejudice to any other right of the Company under this Contract) be under no obligation to rectify such matter; or

7.1B.2 state the period within which the Supplier is required to rectify the matter the subject of the Agreed Qualification, in which case the Supplier shall at its own cost rectify such matter within such period.

Where, in relation to any matter the subject of an Agreed Qualification, the Contract Manager has not issued an instruction under Clause 7.1B, the Supplier shall at its own cost rectify such matter within a reasonable period having regard to the circumstances.

7.1C Rectification of all matters the subject of Agreed Qualifications shall (unless the Contract Manager has provided confirmation under Clause 7.1B.1 in relation to such matter) be a condition precedent to payment of the Retention Balance.

7.2 The Supplier shall, if requested by the Contract Manager, store the Equipment at the Supplier's own premises and at its own cost until it is instructed to make Delivery. The procedures associated with such storage shall be dealt with as stated in the Specification and Schedule 4.

7.3 The Company shall be under no obligation to accept or pay for any Equipment delivered in excess of the quantity ordered. If the Company elects not to accept such over-delivered Equipment it shall be entitled to give notice in writing to the Supplier to remove them. Within 7 days of receipt by the Supplier of such notice the Supplier shall remove the excess and refund to the Company any expenses incurred by the Company as a result of such over-delivery (including but not limited to the costs of moving and storing them) failing which the Company shall be entitled to dispose of such Equipment and to charge the Supplier for the costs of such disposal. The risk in any over-delivered Equipment shall remain with the Supplier until they are collected by or on behalf of the Supplier or disposed of or purchased by the Company, as appropriate.

- 7.4 The Company shall be under no obligation to accept or pay for any Equipment supplied earlier than the date for Delivery determined in accordance with Clause 9.
- 7.5 Legal and beneficial title in the Equipment shall vest in the Company from the earlier of:
- 7.5.1 the date they are delivered on to the Premises and/or other premises agreed in writing by the Company; and
 - 7.5.2 the date the Company makes payment to the Supplier in relation to the Delivery of such Equipment.
- 7.6 Without prejudice to any of the Supplier's other obligations under this Contract, including pursuant to Clause 16, risk of loss or damage to the Equipment will remain with the Supplier until title in the relevant Equipment is transferred to the Company in accordance with the Contract.
- 7.7 The Supplier will not, and will ensure that neither its subcontractors, suppliers nor any other person will have, a lien, charge or encumbrance on or over any of the Equipment which are vested in the Company under Clause 7.5 for any sum due to the Supplier or its subcontractors, suppliers or other persons and the Supplier shall take all reasonable steps as may be necessary to ensure that the title of the Company and the exclusion of any such lien charge or encumbrance are brought to the notice of subcontractors and other persons dealing with any such Equipment.
- 7.8 Where the Specification requires the Supplier to supply or maintain any stocks of Equipment, whether on the Premises or at the Supplier's or any third party's premises, all title and property in all such stocks shall vest in the Company in accordance with Clause 7.5 of the Contract.

8. **DAMAGE IN TRANSIT**

- 8.1 On dispatch of any consignment of the Equipment the Supplier shall send to the Company at the Contract Manager's address (or such address as the Contract Manager may direct) an advice note specifying the means of transport, the place

and date of dispatch, the number of packages and their weight and volume. Where the Equipment have either been damaged in transit or having been placed in transit fail to be properly Delivered to the Company, the Company shall elect:

8.1.1 to reject the consignment; or

8.1.2 require the Supplier free of charge to the Company, to repair or replace the damaged or undelivered Equipment, and Deliver the repaired or replaced Equipment in accordance with the relevant Delivery Date for such Delivery provided that:

(i) in the case of damage to such Equipment in transit the Company shall within sixty days of any Delivery being Delivered give notice to the Supplier that the Equipment have been damaged;

(ii) in the case of a failure to have Delivered the relevant Equipment the Company shall (provided that the Company has been advised in writing of the dispatch of the Equipment) within sixty days of the date on which Delivery was purported to have been Delivered give notice to the Supplier that the Equipment have not been delivered.

8.2 The provisions of this Clause 8 are without prejudice to the Company's other rights and remedies.

9. **PROGRAMME & NOTICE OF DELIVERY**

9.1 The Supplier shall carry out the Supply in accordance with the Programme and any relevant Notices of Revised Delivery.

9.2 Notwithstanding Clause 9.1, the Supplier shall, if requested by the Company, use reasonable endeavours to expedite Delivery of the Equipment and completion of the Services in line with the reasonable requirements of the Company.

9.3 The Supplier shall provide the initial Programme and all subsequent revisions of the Programme for acceptance by the Company in accordance with the requirements of this Clause 9 and Schedule 2. Such further revisions of the

Programme, upon acceptance by the Company in accordance with this Clause 9, become the Programme for the purposes of this Contract.

9.4 The Supplier shall revise the current Programme and resubmit it for acceptance by the Company promptly following the occurrence of the following circumstances:

9.4.1 where the Company issues a Notice of Delivery or Revised Notice of Delivery;

9.4.2 where the Supply is amended pursuant to a Variation;

9.4.3 to reflect an extension of time granted by the Company pursuant to Clause 33 of the Contract; and

9.4.4 where required by Schedule 2 to this Contract.

9.5 Within a reasonable period of the Supplier submitting a Programme for acceptance, the Company shall either accept the Programme or shall notify the Supplier of its reasons for not accepting the relevant document. If the Company does not accept the Programme then the Supplier shall revise the Programme to incorporate the Company's comments and resubmit the revised programme for acceptance to the Company. Once a revised Programme is accepted by the Company this will supersede the previous accepted Programme.

9.6 The approval of the Programme pursuant to this Clause 9 shall be entirely without prejudice to any obligations of the Supplier pursuant to this Contract.

9.7 The Company may at any time amend the Delivery Date, Delivery location or number or type of any item of Equipment to be Delivered by providing the Supplier with not less than seven (7) days' notice of the same (the "Notice of Revised Delivery"). Such Notice shall specify (as applicable):

9.7.1 the revised Delivery location; and/or

9.7.2 the revised Delivery Date; and/or

9.7.3 the revised number and/or type of Equipment to be Delivered.

- 9.8 Notwithstanding Clause 9.7, in an emergency the Company may serve a Notice of Revised Delivery on not less than twenty-four (24) hours' notice.
- 9.9 Where the Company fails to comply with the timescales for serving a Notice of Revised Delivery as specified in Clauses 9.7 and 9.8 above, such failure shall constitute a Permitted Delay Event. Notwithstanding the foregoing, the Supplier shall continue to be obliged to provide the Supply in accordance with such Notice, subject to any adjustments to the relevant Delivery Dates made pursuant to Clause 33.
- 9.10 This Clause 9 shall be without prejudice to any other rights and remedies of the Company.

10. **INSPECTION, TESTING, REJECTION AND GUARANTEE**

- 10.1 Prior to Delivery of the Supply or at such other time as the Company may determine, the Supplier will carry out the Acceptance Tests. The Supplier shall provide the Company with not less than fifteen (15) Business Days' notice of the time, location and subject matter of such Acceptance Tests.
- 10.2 Notwithstanding any other right of audit, the Company shall be entitled to audit, inspect or witness any aspect of the manufacturing process and any Acceptance Tests. Except for Acceptance Tests carried out on the Underground Network, the Supplier shall be responsible for procuring such access as is required by the Company to exercise its rights under this Clause 10.2. Where Acceptance Tests are to be carried out on the Underground Network, Clause 13 shall apply.
- 10.3 For each individual Delivery (having passed the Acceptance Tests with the approval of the Company), the Supplier will issue a certificate of conformity, a copy of which (unless requested earlier) shall be sent immediately to the Contract Manager.
- 10.4 If any Supply fails any of the Acceptance Tests, the Supplier will take such action prior to Delivery as is necessary to ensure that the Supply passes the Acceptance Tests. No Supply will, without the prior written consent of the Company, be delivered to the Company or certified or indicated by the Supplier

as fit for use by the Company until they have passed the Acceptance Tests with the approval of the Company. The Supplier will provide such information to the Company as is requested by the Company in relation to failure of the Acceptance Tests including, without limitation, test sheets or test reports.

10.5 The Supplier shall not be entitled to any additional costs, extensions of time or any other relief in connection with the failure to pass any Acceptance Tests or any of its obligations under Clause 10.4.

10.6 This Clause 10 shall be without prejudice to any rights or remedies which the Company may have, including rights of rejection.

11. MAINTENANCE AND SUPPLIER PERFORMANCE

11.1 From the date the Equipment has been delivered pursuant to Clause 7.1.2, the Supplier shall perform the Maintenance Services (in relation to the Equipment so delivered) in accordance with this Contract.

11.2 At the end of the first full Accounting Period after the Start Date and (for the remainder of the Term) every 4 weeks after that date the Company assesses the Supplier's performance under the Contract in accordance with Schedule 8.

11.3 The Company shall have the right to:

11.3.1 abate the Supplier for failure to meet the key performance indicators stated in Schedule 8; and

11.3.2 use the escalation process stated in Schedule 8 to rectify any unsatisfactory performance by the Supplier in its performance of the Contract or any failure by the Supplier to meet the SDI Performance Criteria.

12. WORK RELATED ROAD RISK

Fleet Operator Recognition Scheme Accreditation

12.1 Where the Supplier operates Delivery and Servicing Vehicles to provide the Supply, it shall within 90 days of the executing the Contract:

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

Safety Equipment on Vehicles

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

Driver Licence Checks

12.3 Where the Supplier operates Delivery and Servicing Vehicles to provide the Supply the Supplier shall ensure that:

12.3.1 it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and

12.3.2 each of its Drivers engaged in the provision of the Supply has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Supply and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Supplier's risk scale, provided that the Supplier's risk scale has been Approved in writing by the Company within the last 12 months:

- (a) 0 – 3 points on the driving licence – annual checks;
- (b) 4 – 8 points on the driving licence – six monthly checks;
- (c) 9 – 11 points on the driving licence – quarterly checks; or
- (d) 12 or more points on the driving licence – monthly checks.

Driver Training

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

Collision Reporting

12.5 Where the Supplier operates Delivery and Servicing Vehicles to provide the Supply, the Supplier shall:

- 12.5.1 ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and
- 12.5.2 within 15 days of the execution of the Contract, provide to the Company a Collision Report. The Supplier shall provide to the Company an updated Collision Report within five working days of a written request from the more points on the driving licence – monthly checks.

Self Certification of Compliance

- 12.6 Where the Supplier operates Delivery and Servicing Vehicles to provide the Supply, within 90 days of execution of the Contract, the Supplier shall make a written report to the Company detailing its compliance with Clauses 12.2, 12.3 and 12.4 of this Contract (the “WRRR Self-certification Report”). The Supplier shall provide updates of the WRRR Self-certification Report to the Company on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Supplier Regarding Sub-Contractors

- 12.7 The Supplier shall ensure that those of its Sub-Contractors who operate Delivery and Servicing Vehicles to provide the Supply shall:
 - 12.7.1 comply with Clause 12.1; and
 - 12.7.2 where its Sub-Contractors operate the following vehicles to provide the Supply shall comply with the corresponding provisions of this Contract:
 - (a) For Lorries – Clauses 12.2, 12.3, 12.4, and 12.5; and
 - (b) For Vans – Clauses 12.3, 12.4 and 12.5,
- as if those Sub-Contractors were a party to this Contract.

Failure to Comply with Work Related Road Risk Obligations

12.8 Without limiting the effect of any other clause of this Contract relating to termination, if the Supplier fails to comply with Clauses 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7 and/or 12.8:

12.8.1 the Supplier has committed a material breach of this Contract; and

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

13. **ACCESS**

13.1 The Company shall use reasonable endeavours to allow the Supplier access to the Premises or any part thereof, in accordance with the terms of this Contract, to the extent required for carrying out the Supply.

13.2 Access to the Premises shall not be exclusive to the Supplier and shall be limited to such Supplier's Personnel and Sub-Contractors as are necessary to enable the Supply and the performance of the Contract concurrently with the execution of work by others. The Supplier shall co-operate with such others and with security procedures as the Company may reasonably require.

13.3 Without prejudice to the Supplier's obligations pursuant to the Specification, the Supplier shall apply for access at the earliest available opportunity and provide the Company without delay with such additional information as the Company may reasonably require in respect of the Supplier's access requests.

13.4 The Company shall confirm access bookings in accordance with the Specification, provided that the Supplier has complied with the requirements of this Contract. The Company does not warrant or guarantee to the Supplier that such requested access will be granted.

13.5 The Company may instruct the Supplier to use access booked by the Company, provided reasonable written notice is given by the Company.

- 13.6 If the Supplier fails to use any access that has been booked for Delivery of Equipment, for whatever reason, it shall within twenty-four (24) hours report each instance to the Company setting out all details including the part of the Premises affected, the duration of any delay and the reasons for the delay or cancellation so far as the Supplier is aware.
- 13.7 The Supplier shall undertake all preparation work required to ensure that all booked access is taken up promptly and efficiently and shall use booked access in an efficient and productive manner so as to ensure optimal use of the access with minimal disruption and disturbance to the Company or third parties or damage to the Site. The Supplier shall make good any such damage at its own cost at the earliest opportunity and to the reasonable satisfaction of the Company.
- 13.8 The Supplier shall indemnify and keep indemnified the Company in respect of any claims by third parties relating to the disruption, delay or cancellation of their access due to the actions or omissions of the Supplier.
- 13.9 The Supplier shall return the Premises or the part of the Premises to which any period of booked access relates to the Company at the end of such period when required under the terms of this Contract.
- 13.10 The Company may at all times access the Premises and all places where the Supply is being provided and the Supplier shall afford every facility for and every assistance in obtaining such rights of access.
- 13.11 Prior to returning the Premises or any part of the Premises to the Company at the end of any period of booked access, the Supplier shall clear away and remove all of its facilities, plant, equipment, rubbish and surplus goods and materials and shall leave the Premises in a clean and workmanlike condition to the satisfaction of the Company.
- 13.12 If the Supplier fails to remove any of its facilities, plant, equipment, goods or materials or otherwise fails to comply with the requirements of Clause 13.11 within such reasonable time as may be allowed by the Company, then the Company may dispose of those items as the Company sees fit and at the Supplier's cost, which cost if met by the Company shall become a debt due from

the Supplier to the Company and is deductible or recoverable by the Company from any monies due or which may become due to the Supplier under this Contract.

14. **NOT USED**

15. **OPERATING MANUALS**

15.1 Within the time or times stated in the Contract and in the Programme the Supplier shall supply the Manuals to support operation of the Equipment and receipt of the Services by the Company Personnel in accordance with the training specified in Clause 18 and Schedule 11 (Training). Unless otherwise approved by the Company, the Supply shall not be considered to be Delivered until such Manuals have been supplied to the Company.

15.2 Without prejudice to Clause 35.4, any Documentation and information supplied by the Company to the Supplier for the purposes of the Contract shall not without the consent of the Company be used, copied or communicated to a third party by the Supplier otherwise than as strictly necessary for the purposes of the Contract.

15.3 The Supplier shall be responsible for any errors, omissions or discrepancies in the documents or information referred to in Clause 15.1. If the Company notifies the Supplier of any such error, omission or discrepancy it will immediately be corrected by the Supplier at the Supplier's sole expense (subject only as aforesaid) and without affecting its duties to comply with the Contract.

15.4 The Supplier shall bear any costs it may incur as a result of delay in providing the documents or information referred to in Clause 15.1 or as a result of errors, omissions or discrepancies for which the Supplier is responsible.

15.5 The Supplier shall at its own expense carry out any alterations or remedial work necessitated by such errors, omissions or discrepancies for which it is responsible and modify the documents or information referred to in Clause 15.1 accordingly.

15.6 The submission by the Supplier of the documents or information referred to in Clause 15.1 and the inspection, review, comment, acceptance, approval or

disapproval of such documents or information by the Company shall not relieve the Supplier of any of its responsibilities under the Contract. Such inspection, submission, review, comment, approval or disapproval shall not constitute a variation of any Contract, nor will it entitle the Supplier to any extension of time.

16. **DEFECTS LIABILITY**

- 16.1 If any Defects appear in the Equipment or Documentation during the Defects Liability Period, the Contract Manager shall give written notice to the Supplier who shall (at its own expense) promptly rectify (which, for the purposes of this Clause 16, means repair, replace, modify or (as appropriate) amend) such Defects such that the Equipment or Documentation (as applicable) comply in all respects with the requirements of the Contract.
- 16.2 The Supplier shall carry out any work required under this Clause 16 at such time and in such manner as will minimise any disruption to the operation of the Underground Network and shall comply with the reasonable requirements of the Company in relation to access for and the timing and methods of, execution of any such works.
- 16.3 If any Defects are not rectified by the Supplier promptly and in any event within a reasonable time the Company may after giving written notice to the Supplier employ others to rectify the Defects. All costs and expenses incurred by the Company in procuring such rectification of Defects may (in its discretion) (i) be deducted from the monies it has withheld pursuant to Clause 31.5 and Schedule 4; or (ii) shall be recoverable by the Company from the Supplier within ten (10) days of demand as a debt due and owing and (in each case) the Company may at its option terminate the Contract pursuant to Clause 39.1.7.
- 16.4 Not used.
- 16.5 Upon the expiry of the Defects Liability Period and when any outstanding matters notified to the Supplier under Clause 16.1 have been made good to the complete satisfaction of the Contract Manager, the Contract Manager shall certify in writing the date on which the Supplier rectified the Defects in the relevant Equipment or Documentation.

16.6 Where, in respect of an item of Equipment or part thereof or Documentation, a Latent Defect arises, occurs or becomes apparent during the period commencing on the date of expiry of the relevant Defects Liability Period and ending on the date which is the tenth anniversary of the such date, the Supplier shall:

16.6.1 if required by the Company, conduct a detailed investigation to ascertain the cause of the Latent Defect;

16.6.2 develop and agree with the Company a plan to rectify the Latent Defect and comply with such plan; and

16.6.3 rectify and in accordance with the plan agreed pursuant to Clause 16.6.2, the Latent Defect and undertake all necessary rectification works to all items of Equipment and all Documentation (whether or not such Latent Defect has become apparent in all such items of Equipment or all such Documentation).

16.7 Where the Supplier rectifies a Latent Defect pursuant to Clause 16.6, the Supplier shall be liable for any Latent Defect arising, occurring or becoming apparent in the rectified Equipment or part or Documentation during the period from the date of such rectification until the later of:

16.7.1 expiry of the period referred to in Clause 16.6; and

16.7.2 the period ending twelve (12) months from the date of such rectification.

17. **LABELLING AND PACKAGING**

17.1 The Equipment shall be packed and marked in a proper manner and in accordance with any written instructions issued by the Company and any statutory requirements and any requirements of the carriers. In particular the Equipment shall be marked with the contract number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Equipment (and all documents relating thereto) shall bear prominent and adequate warnings.

17.2 No charges shall be made for any containers, cases or packaging. If the Supplier desires the return of any containers, cases or packaging the advice note shall be clearly marked to that effect and the Company, without incurring any legal liability, shall make such return at the Supplier's expense and risk to such address as may be specified in the advice note.

18. **TRAINING AND MEDICAL TESTS**

18.1 Subject to Clause 18.7, the Supplier will train the Supplier's Personnel for all aspects of its performance of any Contract. Bookings of the Supplier's training requirements shall be made in accordance with Clauses 18.6 and 18.7.

18.2 Each of the Supplier's Personnel requiring initial training shall be identified on or before the Start Date and listed in Part 1 of Schedule 11.

18.3 The cost of all initial safety training courses referred to in Clause 18.1 for all Supplier's Personnel listed in Part 1 of Schedule 11 on or before the Start Date shall be borne by the Company, save only that the Company will not be responsible for the remuneration, travel, sustenance, subsistence, accommodation or other similar costs or expenses of any of the Supplier's Personnel attending any training. The entire costs of all other training of Supplier's Personnel, whether or not listed in Part 1 of Schedule 11, (including without limitation the costs of any refresher courses, training required by the Company as a result of any changes in the Supplier's Personnel, any courses which are retaken due to non-attendance or failure to pass an examination, and all medical training) shall be borne solely by the Supplier.

18.4 If the Supplier is obliged in accordance with this Clause 18 to pay for a course which is changed at the discretion of the Supplier, then the costs resulting from any such changes shall be borne in full by the Supplier. If the Company is obliged in accordance with this Clause 18 to pay for a course which is changed at the discretion of the Company, then the costs resulting from any such changes shall be borne in full by the Company.

- 18.5 The entire cost of all training courses for Supplier's Personnel not identified on or before the Start Date by being listed in Part 1 of Schedule 11 shall be borne solely by the Supplier.
- 18.6 The costs and structure of courses are liable to change at the discretion of the Company, and the Supplier will be informed of any such changes.
- 18.7 Bookings of the Supplier's training requirements shall be made through the Company's training centre or other appropriate department of the Company from time to time advised by the Company.
- 18.8 The Supplier is liable for all the costs of medical tests required for the Supplier's Personnel under the provisions of the Contract.
- 18.9 The Supplier shall train at the sole cost of the Supplier any of the Company's employees, TfL employees and any of their contractors or agents as required by the Company in accordance with Part 2 of Schedule 11. Such Training may include (without limitation) the operation and ongoing maintenance of the Supply.
- 18.10 Without prejudice to the Supplier's other obligations under the Contract, where training of any or all of the Supplier's Personnel is required for the purposes of the performance of the Contract, the Supplier shall not assign any Supplier's Personnel to the performance of the Contract unless and until such Supplier's Personnel have satisfactorily completed all training required under this Clause 18.
- 18.11 The Supplier will have no claim against the Company if access to any part of the Underground Network or the Premises is denied due to incomplete training of the Supplier's Personnel.

19. **CONTRACT MANAGEMENT**

- 19.1 The Company authorises the Contract Manager to act as the Company's representative for all purposes of the Contract. The Supplier is bound by the appointment of the Contract Manager until written notice of revocation is given by the Company.

- 19.2 The Contract Manager may from time to time as he sees fit delegate any of the functions vested in him to an assistant or assistants or agent and may at any time revoke any such delegations. Any such delegation will be in writing signed by the Contract Manager and will state which function is thereby delegated and the person or persons to whom the same is delegated. The terms of such written delegated authority will be conclusive and the Supplier will have no claim if it relies on or takes instructions or directions from any person in the absence of such written delegated authority or disregarding any written revocation (as the case may be).
- 19.3 No act of, or omission by, or approval from either the Company or the Contract Manager in performing any of their respective duties under or in connection with the Contract will in any way operate to relieve the Supplier of any of its duties, responsibilities, obligations or liabilities under the Contract.
- 19.4 The Supplier will comply with the requirements as to contract management set out in Schedule 5A. The Supplier's obligations under Schedule 5A are in addition to and will not limit its obligations under the other provisions of the Contract.
- 19.5 The Supplier shall employ and provide the Key Personnel, and shall procure that they:
- 19.5.1 diligently supervise the execution of the Supply; and
 - 19.5.2 attend all contract meetings with the Company (the location, frequency and time of which shall be specified by the Company from time to time).
- 19.6 The Company may by notice in writing to the Supplier object to any of the Supplier's Personnel who has misconducted himself or been incompetent or negligent, and the Supplier will immediately remove such person from executing the Supply and provide a suitable replacement (such replacement to be approved by the Contract Manager) if they are Key Personnel.
- 19.7 For the avoidance of doubt, it is not the intention of the Parties that the Company will be the employer of any of the Supplier's Personnel by virtue of the provision of the Supply by the Supplier under the Contract, and the Supplier shall be

responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to its personnel.

20. SAFETY RULES AND COMPLIANCE WITH LAWS

- 20.1 Whilst present on any part of the Underground Network the Supplier will ensure that the Supplier's Personnel observe at all times all rules and safety requirements applicable to the Underground Network notified to the Supplier by the Company or any instructions given by the Contract Manager in relation to the Supply.
- 20.2 The Supplier will ensure that the Supply complies with all the requirements of any Act of Parliament, statutory instrument or order or any other regulation having the force of law or bye-law and all regulatory requirements relevant to the Supplier's business and/or the Company's business from time to time in force which are or may become applicable to the Supply. The Supplier shall promptly notify the Company if the Supplier is required to make any change to the Supply for the purposes of complying with its obligations under this Clause 20.2.
- 20.3 In addition to the general requirements of Clauses 0 and 0 the Supplier will comply and will ensure the compliance of its Sub-Contractors with all health and safety law applicable to the Supply or to the Supplier in providing the Supply and will enable and assist the Company to comply with all relevant health and safety law applicable to the Company.
- 20.4 The Supplier acknowledges the Company's statutory duty to provide a safe and efficient public passenger transport service and will at all times during the Contract have regard to those duties and the Supplier will not in the performance of the Contract in any manner endanger the safety of or interfere with the convenience or operation of the Underground Network or the public and will minimise any disruption to the same.
- 20.5 The Supplier:

- 20.5.1 shall promptly notify the Supplier's Personnel and the Company of any health and safety hazards that exist or may arise in connection with the Supply;
- 20.5.2 undertakes to procure that all the Supplier's Personnel comply with all of the Company's policies and Standards that are relevant to the Supply, and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Company for all Supplier's Personnel working at the Premises or accessing the Company computer systems. The Company shall (but without prejudice to the foregoing undertakings) provide the Supplier with copies of such policies Standards and regulations on request.
- 20.6 The Company reserves the right to refuse to admit to any part of the Underground Network any of the Supplier's Personnel who fail to comply with any of the requirements policies, Standards and regulations referred to in this Clause 0.
- 20.7 The Supplier shall comply and shall ensure its Sub-Contractors comply, with the QUENSH conditions attached at Schedule 15 to this Contract.
21. **EARLY WARNING**
- 21.1 The Supplier gives an early warning to the Contract Manager as soon as it becomes aware of any matter which could:
- 21.1.1 increase the total of the Price(s);
 - 21.1.2 delay delivery of the Supply or result in a missed Delivery Date;
 - 21.1.3 constitute a Defect;
 - 21.1.4 adversely affect the Company;
 - 21.1.5 result in a breach of the Contract or any subcontract;
 - 21.1.6 lead to the Supplier terminating or suspending any subcontract; or
 - 21.1.7 cause a breach of any applicable law or statutory requirement.

21.2 The Parties agree to co-operate in:

21.2.1 making and considering proposals for how the effect of the risks can be avoided or reduced,

21.2.2 seeking solutions that will bring advantage to all those who will be affected,

21.2.3 deciding on the actions which will be taken and who, in accordance with the Contract, will take them, and

21.2.4 deciding which risks have now been avoided or have passed.

21.3 Any failure by the Supplier to provide an early warning in accordance with Clause 21.1 shall be considered as part of the measurement of the Supplier's performance as part of the regime set out in Clause 11 and Schedule 8.

22. **QUALITY ASSURANCE**

22.1 Within twenty (20) days of the Start Date of the Contract, the Supplier shall provide the Contract Manager with a Contract-specific quality management system, which shall demonstrate the recognition of quality requirements of the Contract and a structured management system and the methods for satisfying these requirements.

22.2 The quality management system will ensure that the Supplier meets, as a minimum, the requirements of BS EN ISO 9000 / 9001, as replaced, updated or amended from time to time.

22.3 The Supplier shall demonstrate to the satisfaction of the Contract Manager that the quality management system has been developed through a structured review of the relevant Contract and that the quality management system is monitored through a programme of internal system and product audits.

22.4 The Supplier shall ensure that the quality management system is sufficient to monitor and control all aspects of the Contract.

22.4.1 Within twenty (20) days of the Start Date of the Contract, the Supplier shall prepare and maintain suitable written procedures, operating techniques, method statements, purchasing, manufacturing, processing, packaging, shipping, drawings, plans and technical literature and quality procedures incorporating inspection and test activities, as are necessary, to satisfy the quality requirements of the Contract (the "Work Instructions"). Such documents shall be provided to the Company on request for review.

22.4.2 The Supplier shall ensure that the Work Instructions are amended to reflect any amendments to the Contract.

- 22.4.3 The Work Instructions shall at all times be available for review by the Company.
- 22.4.4 The quality management system shall include a documented system which controls the distribution, use and withdrawal of all drawings, specifications, technical instructions, procedures and any other Documentation provided by the Company or produced by the Supplier in such a manner as to ensure that the most up to date version of such drawings, specifications, technical instructions, procedures and other Documentation is being used by the Supplier in the supply of the Equipment and the performance of the Services.
- 22.5 The Supplier will comply with the quality management system at all times.
- 22.6 Any increase in costs to the Company caused by failure of the Supplier to meet the quality management system or the Work Instructions shall be borne by the Supplier.
- 22.7 For the avoidance of doubt the provisions of this Clause 0 shall not release the Supplier from any of its obligations under the Contract.

23. **RECORDS, MANUALS, AUDIT AND INSPECTION**

- 23.1 The Supplier will, and will procure that its Sub-Contractors will:
- 23.1.1 maintain a true and correct set of documents and records including personnel and training records pertaining to all activities relating to their performance of or compliance with the Contract and a complete and orderly documentary record of all transactions entered into by the Supplier for the purposes of the Contract, including copies of any Documentation generated by or in the possession of the Supplier, all sub-contracts and all such other information reasonably required by the Contract Manager or specified in the Contract; and
- 23.1.2 maintain and retain the Documentation for a period of not less than twelve years (or such other longer period as may be required by law) after completion of performance under the Contract.

23.1A The Supplier shall provide the Manuals in accordance with the requirements of this Contract, including the Specification and the Programme.

23.2 The Company or its authorised representative may from time to time and without prior warning undertake any inspection of the Supply and shall have the right to audit or check any and all information and any documents and records, including those documents referred to in Clause 23.1, regarding any matter related to the Supplier's or any Sub-Contractor's performance of or compliance with the Contract including without limitation any aspect of the Supplier's or Sub-Contractor's operations costs and expenses, sub-contracts claims, related to variations and financial arrangements. The Company may in its or their absolute discretion but will not be obliged to inform the Supplier of the objective of the audit prior to its commencement.

23.3 The Supplier will, and will ensure that any Sub-Contractor will, promptly provide all reasonable co-operation in relation to any inspection, audit or check including:

23.3.1 granting access to any premises, materials, equipment, (including all computer hardware, software and databases) plant machinery or systems used (whether exclusively or non exclusively) in the Supplier's and/or any Sub-Contractor's performance of the Contract, or where such premises, materials, equipment, plant, machinery or systems are not the Supplier's own, using reasonable endeavours to procure such access;

23.3.2 ensuring that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit;

23.3.3 making any contracts, other documents and records referred to in Clause 23.1 above (whether exclusively or non exclusively) available for inspection;

23.3.4 providing a reasonable number of copies of any contracts, other documents or records referred to in Clause 23.1 above required by the auditor and/or granting copying facilities to the auditor for the purposes of making such copies;

- 23.3.5 providing such auditors with such office space, telephones, reasonable facilities and interviews with personnel engaged in the Supplier's performance of or compliance with the Contract at each site as are reasonably required to enable such auditors to perform each audit properly in accordance with this Clause 23;
 - 23.3.6 permitting such auditors to bring personal computers on to sites; and
 - 23.3.7 complying with the Company's reasonable requests for access to senior personnel engaged in the performance of the Contract.
- 23.4 Any audit referred to in this Clause 23 shall be conducted on an open book basis. The Supplier shall undertake any obligations and exercise any rights which relate to the performance of the Contract on an open book basis.
- 23.5 The Supplier shall comply with all of its obligations under the Data Protection Act 2018 ("DPA") and if processing personal data shall only carry out such processing for the purposes of supplying or installing the Equipment and/or providing the Services in accordance with the Contract. For the purposes of this Clause 23.5, the words "processing" and "personal data" shall have the meaning attributed to such words in the DPA.

24. **SPECIALIST TOOLING AND CONSUMABLES**

- 24.1 The Supplier shall be responsible for maintaining specialist tooling in good condition and fit for use, and save in respect of fair wear and tear shall immediately replace at its own cost any such items which are lost, damaged or destroyed. In addition the Supplier shall be responsible for adequate insurance for full replacement value of all specialist tooling against loss, damage or destruction when any such specialist tooling is not on the Company's Premises including where such specialist tooling is in transit. Whilst such specialist tooling is on the Supplier's premises the Supplier shall clearly label it as the Company's Assets.
- 24.2 All specialist tooling shall remain the Company's Assets. The Supplier may not at any time move specialist tooling from their premises or dispose of specialist

tooling belonging to the Company without written approval from the Contract Manager.

24.3 The Company shall have the option to purchase any specialist tooling which is not the Company's property as mentioned in the above clauses at a fair price less any sum already paid by the Company towards the cost of specialist tooling.

24.4 The Supplier may not use any such specialist tooling for the production, manufacture or design of any materials other than those contracted for under the Contract.

24.5 The Supplier shall supply the consumables in accordance with the Specification.

25. **OBSOLESCENCE**

25.1 The Supplier shall be fully responsible for the management of obsolescence in the Equipment throughout the Term of the Contract in accordance with the requirements stated in the Specification.

26. **SECURITY FOR DUE PERFORMANCE**

26.1 The Supplier will provide, at its expense, within twenty-eight (28) days of execution of this Contract, a duly executed parent company guarantee (from the Supplier's ultimate parent company unless otherwise agreed with the Company (the "Guarantor") substantially in the format contained in Schedule 13A (the "Guarantee"). The Supplier shall further provide, at the Company's request, a duly executed performance bond substantially in the format contained in Schedule 13B within 30 days of any such request by the Company. The Company will not be obliged to make any payments under the Contract after such twenty eight (28) day period and after such a request (as applicable) (even if such payments have fallen due to the Supplier) until the Guarantee and/or the performance bond (as applicable) have been provided in a form satisfactory to the Company.

27. **CRIME AND DISORDER**

27.1 The Supplier acknowledges that the Company is under a duty in accordance with Section 17 of the Crime and Disorder Act, 1998 to

27.1.1 have due regard to the impact of crime, disorder and community safety in the exercise of the Company's duties, and

27.1.2 where appropriate, identify actions to reduce levels of crime and disorder,

and in the performance of the Contract the Supplier assists and co-operates, and uses reasonable endeavours to procure that its Sub-Contractors assist and co-operate, with the Company where possible to enable the Company to satisfy its duty.

28. **CORRUPT GIFTS AND SAFETY BREACH**

28.1 The Supplier warrants that it and its Sub-Contractors and suppliers and its and their respective employees and agents have not committed, and shall not commit, any of the following acts:

28.1.1 offering or agreeing to give to any servant, employee, officer or agent of the Company or the TfL Group any gift or consideration of any kind as an inducement or reward:-

28.1.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Contract or any other contract or arrangement with the Company or any member of the TfL Group; or

28.1.1.2 for showing or not showing favour or disfavour to any person in relation to the Contract or any other such contract; or

28.1.2 entering into the Contract or any other such contract in connection with which commission has been paid or agreed to be paid or rebates granted or agreed to be granted by it or on its behalf or to its knowledge unless before the Contract is made, particulars of any such commission or rebate and of any agreement or document for the payment thereof have been disclosed in writing to the Company;

28.1.3 a Safety Breach.

28.2 The Supplier warrants that it and its Sub-Contractors and suppliers and its and their respective employees and agents have not committed, and shall not commit, any offence under legislation creating offences in respect of fraudulent acts including The Prevention of Corruption Acts 1889-1916 or at common law in

respect of fraudulent acts relating to the Contract or any other contract with the Company or any member of the TfL Group or defraud or make any attempt to defraud the Company or any member of the TfL Group.

- 28.3 The Company shall have the right in accordance with the audit rights set out in the Contract to audit and inspect the records of the Supplier and its Sub-Contractors and suppliers and its and their respective employees and agents in order to confirm and monitor compliance with this Clause 28 at any time during the performance of the Contract and thereafter until three years after the expiry of the Contract.
- 28.4 If requested by the Company, the Supplier shall ensure any of the Supplier's Personnel who are in breach of the provisions of this Clause 28 are immediately removed from the Premises and/or are no longer employed in the provision of any aspect of the Supply. The Supplier shall ensure a provision on the terms of this Clause 28.4 is included in each of its sub-contracts.
- 28.5 If the Supplier, any Sub-Contractor or anyone employed by either of them, or acting on behalf of either of the Supplier, any Sub-Contractor whether or not acting independently commits an act prohibited by this Clause 28, the Company may in its absolute discretion require the removal from the Contract and/or the Premises of any relevant person, and the Supplier shall promptly comply with, or procure compliance with, such requirement or the Company will terminate the Contract by giving to the Supplier not less than fourteen days' notice in writing.

28A. CONFLICT OF INTEREST

28A.1 The Supplier acknowledges and agrees that he does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Supply or any member of the TfL Group, save to the extent fully disclosed by the Supplier and approved in writing by the Company.

28A.2 The Supplier undertakes ongoing and regular conflict of interest checks throughout the duration of the Contract and in any event not less than once in every six months and notifies the Company in writing immediately on becoming aware of any actual or potential conflict of interest with the Supply or any member of the TfL Group

and works with the Company to do whatever is necessary (including the separation of staff working and/or data relating to the Supply from the matter in question) to manage such conflict to the Company's satisfaction and provided that, where the Company is not so satisfied (in its absolute discretion), the Company shall be entitled to terminate the Contract.

29. INDEMNITY AND INSURANCE

29.1 Indemnity

29.1.1 The Supplier is responsible for and indemnifies the Company, its employees and agents against all Losses in respect of the Supplier's performance, non-performance or part performance of the Contract including but not limited to:

29.1.1.1 loss caused by personal injury to or death of any person whomsoever arising out of or caused by the carrying out of the Supply by the Supplier;

29.1.1.2 loss of or damage to property real or personal (including but without limitation the property of the Company which includes those parts of the Underground Network that do not form part of the Premises) arising out of or caused by the carrying out of the Supply by the Supplier; and

29.1.1.3 any other loss, damage (other than to the property of the Company), cost or expense including but not limited to that incurred or suffered by the Company due to losses arising under its contracts with others,

to the extent that such Losses are due to any negligence, breach of contract, breach of statutory duty, error, act, omission or default by the Supplier, its employees, Sub-Contractors or agents,

29.1.2 The Supplier's indemnity under Clause 29.1.1 remains in force for the duration of the Contract and continues to survive expiry or termination of

the Contract along with any other Clauses or Schedules of the Contract necessary to give effect to them.

- 29.1.3 The Supplier is not responsible for and does not indemnify the Company, its employees and agents for Losses to the extent that such Losses are caused by the negligence of the Company.
- 29.1.4 Other than in respect of the Losses (i) described in Clauses 29.1.1.1 and 29.1.1.3 above and (ii) Excepted Liabilities, neither party shall have any liability to the other for any Consequential Loss arising out of the performance of its obligations under or in connection with the Contract. Each party respectively undertakes not to sue the other party, TfL or any member of the TfL Group in respect of Consequential Loss.
- 29.1.5 The Supplier's total liability to the Company for all matters arising under or in connection with the Contract, other than the excluded matters, is limited to the aggregate Price and applies in contract, tort and otherwise to the extent allowed under the law of the Contract. The excluded matters are amounts payable by the Supplier as stated in the Contract for:
- 29.1.5.1 Excepted Liabilities;
 - 29.1.5.2 loss of or damage to the Company's property; or
 - 29.1.5.3 any Losses against which the Company is indemnified under Clause 34.9 (Intellectual Property Rights).

29.2 Insurance

- 29.2.1 The Parties provide the insurances in accordance with the Insurance Table as stated in Schedule 7. Subject to Clause 29.2.2 and without prejudice to its liability to indemnify the Company under Clause 29.1 or any other provision of the Contract the insurances provide cover throughout the duration of the Contract (unless otherwise stated).
- 29.2.2 The Supplier shall bear the cost of all premiums in respect of the insurances it is obliged to provide.

- 29.2.3 The Supplier shall not by any act, omission or default prejudice, lose or forgo the Parties' right or the right of either of them to make or proceed with a claim against any insurer.
- 29.2.4 The Supplier shall procure that it and its Sub-Contractors of any tier maintain all insurances required by law.
- 29.2.5 The insurances provided pursuant to the Contract shall not relieve the Supplier from any of its obligations and liabilities under the Contract.
- 29.2.6 The Supplier shall submit documentary evidence for the insurances which it is to provide to the Contract Manager for acceptance before the Start Date. The Supplier shall continue to submit documentary evidence to the Contract Manager as required or necessary to prove that such insurances are being maintained in accordance with the Contract. Such documentary evidence shall state that the insurance required by the Contract is in force and be signed by the Supplier's insurer or insurance broker. A reason for not accepting the documentary evidence for the insurances is that the insurances or the documentary evidence do not comply with the Contract.
- 29.2.7 The Company may provide insurance which this Contract requires the Supplier to insure if the Supplier does not submit acceptable documentary evidence under Clause 29.2.6. The cost of the insurance (including all reasonable expenses incurred by the Company in respect of taking out such insurance) to the Company shall be paid by the Supplier. If the Company provides insurance which the Contract requires the Supplier to insure, this is without prejudice to any of the Company's other rights, powers or remedies under the Contract.
- 29.2.8 The Supplier shall co-operate with the Company regarding the handling and settlement of claims under the Company's insurances and shall comply with the requirements of the Company's insurers in connection with the handling and settlement of claims.

29.2.9 Unless the Company otherwise agrees, the Company submits all claims under its insurances and the Supplier provides on request by the Contract Manager such information, documents and records in connection with such claims as the Company and its insurers require.

30. **CONTRACT VARIATION**

30.1 Subject to Clause 33.9, any Variations or amendments to the Supply or any other matter covered by this Contract shall be in accordance with the Variation Procedure.

31. **PRICE AND TERMS OF PAYMENT**

31.1 In consideration of and subject to the due and proper performance by the Supplier of its obligations under the Contract, the Company will pay the Supplier the Price in accordance with this Clause 31 and Schedule 4. The Company is under no obligation to accept or pay for the Supply in advance of the Delivery Dates.

31.2 For the avoidance of doubt, where the Supplier sub-contracts any part of its obligations under the Contract to a third party, the Supplier is responsible for payments to that third party.

31.3 No payment made by the Company will indicate or be taken to indicate the Company's acceptance or approval of any part of the Supply or any act or omission of the Supplier or will absolve the Supplier from any obligation or liability imposed upon the Supplier by any provision of the Contract or otherwise.

31.4 Where the Supplier has incurred abatements pursuant to Clause 11 and Schedule 8, the Company shall be entitled, in its absolute discretion, to either (i) deduct such abatements from any milestone or maintenance payments due to the Supplier or (ii) require the Supplier to pay such abatements to the Company within 30 days of receipt of an invoice.

31.5 **Retention**

31.5.1 The Company shall be entitled to withhold and (subject to Clauses 31.5.2 and 31.5.3) retain the Retention from each payment of the Price under this Contract.

31.5.2 The Retention monies shall be retained by the Company without obligation to invest and without creating any fiduciary obligation or duty

on the part of the Company to the Supplier or any other person with whom the Supplier has contracted.

31.5.3 Within 28 (twenty eight) days after expiry of the Defects Liability Period for each item of Equipment and provided the Supplier has:

- (a) complied with its obligations under Clause 16; and
- (b) rectified all Agreed Qualifications for the relevant Equipment in accordance with this Contract,

the Company shall pay to the Supplier the Retention Balance for the relevant Equipment.

32. **LONDON LIVING WAGE**

32.1 The Supplier acknowledges and agrees that the Mayor, pursuant to section 155 of the GLA Act has directed the TfL Group (including the Company) to ensure that the London Living Wage is paid to anyone engaged by the TfL Group who is required to perform contractual obligations in Greater London or on the Underground Network.

32.2 Without prejudice to the generality of Clause 32.1, the Supplier shall and shall procure that its Sub-Contractors (if any) shall:

32.2.1 ensure that none of its employees engaged in the performance of the Supply in Greater London or on the Underground Network (but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;

32.2.2 ensure that none of its employees engaged in the performance of the Supply is paid less than the amount to which they are entitled in their respective contracts of employment;

32.2.3 co-operate and provide all reasonable assistance to the Company and any member of the TfL Group in monitoring the effect of the London Living Wage.

- 32.3 Where the London Living Wage is increased by an amount in excess of RPIX, the Company shall indemnify the Supplier from and against costs which the Supplier can demonstrate to the Company's reasonable satisfaction have actually been incurred by it in complying with Clause 32.1 above as a direct consequence of such increase, in an amount equal to the amount of such excess (before tax, other deductions and any increase for overtime).
- 32.4 The Supplier shall, so far as reasonably practicable, mitigate any increase in the amount payable to its employees as a direct result of the increase in London Living Wage. The Company's liability to indemnify the Supplier as provided for in Clause 32.3 shall be reduced proportionately to the extent that the Supplier has failed to mitigate such increases. Save for Clause 32.3, the Supplier shall not be entitled to make any claim in respect of any increases in the London Living Wage.
- 32.5 Any failure by the Supplier to comply with provisions of this Clause 32 shall be treated as a material breach entitling the Company to terminate the Contract in accordance with Clause 39.1.8.

33. **FORCE MAJEURE AND EXTENSIONS OF TIME**

33.1 In the Contract, "Force Majeure Event" means any of the following: -

33.1.1 war or civil war (whether declared or undeclared)

33.1.2 civil unrest

33.1.3 any act of terrorism

33.1.4 lightning, earthquake or extraordinary storm

33.1.5 fire or flooding (unless caused by the Affected Party or any other person for whom the Affected Party is responsible),

if and only to the extent that the Party claiming relief (the "**Affected Party**") can provide evidence to the satisfaction of the Contract Manager that such event is not caused by, and its effects are beyond the reasonable control of, the Affected Party and is not an event whose effect the Affected Party is otherwise required to avoid or provide against

under the Contract or which the Affected Party could reasonably have avoided or provided against.

33.2 If, but only for as long as, a Force Majeure Event prevents the Affected Party from complying with any of its obligations under the Contract and provided the Affected Party complies with the duty to notify and to mitigate contained in Clauses 33.4 and 33.5 in all respects, the Affected Party will be excused performance of those obligations, but this Clause 33.2 will be without prejudice to any liability the Affected Party may have under the Contract if and to the extent that such liability is required by the Contract to be covered by insurance.

33.3 If on the expiry of:-

33.3.1 Two months after the occurrence of a Force Majeure Event where the Supplier is the Affected Party, the Force Majeure Event is continuing and has a material adverse effect on the Supplier carrying out the Supply then for as long as such Force Majeure Event continues and has that effect, the Company will have the option to terminate all or part of the relevant Contract by notice.

33.3.2 Three months after the occurrence of a Force Majeure Event where the Company is the Affected Party, the Force Majeure Event is continuing and has a material adverse effect on the Company's performance of its obligations under the Contract, then for as long as such Force Majeure Event continues and has that effect, the Supplier may terminate the Contract in its entirety by notice.

33.4 The Affected Party will inform the other Party in writing as soon as practicable of the occurrence of a Force Majeure Event giving full details of its expected effect and duration. If the Force Majeure Event continues for more than 7 days the Affected Party will notify the other Party regularly and not less than once every 7 days of the steps it is taking pursuant to Clause 33.5.

33.5 The Affected Party will use its reasonable endeavours to resume performance of its obligations as soon as practicable and in the meantime to mitigate the effects

of any Force Majeure Event and will keep the other Party fully informed about the steps taken and proposed to be taken to achieve this.

33.6 If delay is caused, or either Party can reasonably foresee delay occurring, by reason of any Force Majeure Event then and in either such case the Company shall be entitled to suspend partially or totally the Delivery Date of the Supply until such time as the effects of the Force Majeure Event cease and in such an event the relevant Delivery Dates may be extended by such reasonable periods (either prospectively or retrospectively) as may be determined by the Company.

33.7 For the purposes of this Contract, the occurrence of one or more of the following shall constitute a "Permitted Delay Event":

33.7.1 any breach by the Company of an express obligation under this Contract;

33.7.2 subject to the requirements of the Contract and to proper coordination by the Supplier, access to or use of a part of the site is delayed, disrupted or cancelled for a Frustrated Access Reason; and

33.7.3 the suspension of this Contract in accordance with Clause 38 (other than where the suspension is necessary by reason of default by the Supplier;

but in each case only insofar as any of the events described in this Clause 33.7 has a direct and material adverse effect on the Supplier's ability to carry out the Supply by the relevant contractual Delivery Dates and has not been caused or contributed to by the act, omission or default of the Supplier.

33.8 Where any delay in achieving a contractual Delivery Date arises, the Supplier shall be entitled to an extension to such Delivery Date but only to the extent that such delay is directly caused by a Permitted Delay Event and provided that the Supplier:

33.8.1 notifies the Company of the Permitted Delay Event in accordance with Clause 33.9 and subsequently provides such further information as the Company may reasonably require regarding the nature and likely duration of such event;

- 33.8.2 provides the Company with reasonable access to the Supplier's premises or of its Sub-Contractors for investigating the validity of the potential Permitted Delay Event;
 - 33.8.3 uses its reasonable endeavours to mitigate the delay to the relevant Delivery Date; and
 - 33.8.4 shall not be entitled to an extension of time to the extent that the Permitted Delay Event was caused by or resulted from any act, neglect, default or breach of this Contract by the Supplier, its sub-contractors and/or employees.
- 33.9 No later than it should have reasonably foreseen the same, the Supplier shall give notice to the Company of the occurrence of a Permitted Delay Event or, if such event is not reasonably foreseeable, as soon as it becomes aware of such occurrence. Any notice given under this Clause 33.9 shall specify:
- 33.9.1 the Permitted Delay Event upon which the claim for an extension of time is based;
 - 33.9.2 full and detailed particulars of the cause and extent of the delay and the effect of the Permitted Delay Event on the Supplier's ability to comply with its obligations under this Contract;
 - 33.9.3 details of the documents and records which the Supplier will rely upon to support its claim for an extension of time; and
 - 33.9.4 details of the measures which the Supplier has adopted and/or proposes to adopt to mitigate the consequences of the Permitted Delay Event.

If the Supplier fails to notify the Company of any Permitted Delay Event within five (5) Business Days of becoming aware of it, the Supplier shall not be entitled to request an extension of time for that Permitted Delay Event and such event shall not constitute a Permitted Delay Event.

- 33.10 Subject to the Supplier complying with the requirements of this Clause 33 and the Company, acting reasonably, being satisfied that a Permitted Delay Event has

occurred, the Company shall, as soon as reasonably practicable, notify the Supplier of a a reasonable extension of time to the relevant Delivery Date and any such extension shall amend the Programme and the relevant contractual Delivery Date.

33.11 Any extension of time agreed by the Company and the Supplier under this Clause 33 to the relevant contractual Delivery Date shall not of itself entitle the Supplier to any extension to any other contractual Delivery Date.

33.12 Except as expressly provided elsewhere in this Contract, any extension of time agreed between the Company and the Supplier pursuant to this Clause 33 shall be in full compensation and satisfaction for any loss sustained or sustainable by the Supplier in respect of any Permitted Delay Event in connection with which that extension is granted.

34. INTELLECTUAL PROPERTY

34.1 Existing Contracts

This Contract 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.

34.2 Vesting of Foreground IPR

The Foreground IPR shall vest in the Company. The Supplier shall procure that each of its Sub-Contractors (of any tier) or other third party shall assign the Foreground IPR to the Company.

34.3 Ownership of the Supplier's Background IPR

Without prejudice to Clause 34.2, all Supplier Background IPR shall remain or be vested in the Supplier, its Sub-Contractors (of any tier) or other third party (as the case may be).

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

The Company shall have and the Supplier hereby grants and procures that its Sub-Contractors (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 Supplier Background IPR for the purposes of:-

- 34.4.1 understanding the Supply;
 - 34.4.2 operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and retendering the Supply;
 - 34.4.3 extending, interfacing with, integrating with, connecting into and adjusting the Supply;
 - 34.4.4 enabling the Company to carry out the operation, maintenance, repair, renewal and enhancement of the Underground Network;
 - 34.4.5 executing and completing the Supply; and
 - 34.4.6 enabling the Company to perform its function and duties as Infrastructure Manager and Operator of the LUL Network.
- 34.5 Provision of Supporting Documentation and Other Materials

The Supplier shall comply with the provisions of Schedule 17 (IPR Management).

34.6 **IPR Depository**

- 34.6.1 The Supplier shall deposit all Depositable IPR relating to Supplier Background IPR and Foreground IPR (including in whatever stage of development such Supplier Background IPR and Foreground IPR is in at the time of such initial use) in the Company Depository in accordance with the requirements, including the timeframes, set out in Schedule 17 (IPR Management) and in order to satisfy the Depositable IPR Milestone.
- 34.6.2 To the extent that the Supplier fails to deposit all Depositable IPR relating to Supplier Background IPR and Foreground IPR in the Company Depository in accordance with Clause 34.6.1 above, the Company shall be entitled to withhold payment of a proportion of the Price in accordance with Clause 44 (Set Off) in an amount equivalent to the reasonably

anticipated cost (as determined by the Company in its sole discretion) to the Company of creating, developing, licensing or otherwise obtaining such Supplier Background IPR and Foreground IPR, unless and until all Depositable IPR relating to such Supplier Background IPR and Foreground IPR is deposited in the Company Depository in accordance with the Contract.

34.6.3 If, within eighteen months of the Start Date, the Supplier has failed to deposit all Depositable IPR relating to such Supplier Background IPR and Foreground IPR in the Company Depository in accordance with Clause 34.11.1 above, then without prejudice to any other rights and remedies the Company may have, such failure shall be deemed to be a material breach of this Contract entitling the Company to terminate this Contract in accordance with Clause 39 (Termination).

34.7 Company's Rights to the Software

If the Supplier or any of its Sub-Contractors providing software for incorporation into or operation of the Equipment and/or the Services stops trading, is subject to an insolvency event equivalent to any of those events set out in Clause 39.1 (including their equivalent in any jurisdiction to which the Supplier or any of its Sub-Contractors is subject), makes known its intention to withdraw support of that software or fails to support that software in accordance with the terms of this 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.

34.8 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 34.5 above and anything in which the Foreground IPR or Supplier Background IPR subsist for the purposes of inviting tenders or of procuring equipment and/or services the same as or similar to the Supply or the carrying out of any activities in connection with the licence under Clause 34.4, subject always to the Company's requirements for tenderers to treat the same in the strictest confidence.

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

34.9.1 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 Sub-Contractor (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 Sub-Contractor (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.

34.9.2 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 Equipment and/or to the method of providing the Services as may be necessary to ensure that the use and provision of the Equipment and the provision of the Services continues in spite of such claim.

34.10 COTS Products

To the extent that the Supplier has utilised a COTS Product in the performance of the Supply, without limiting any other obligation of the Supplier under Clause 51 (Cooperation and Further Assurance) or Schedule 16 (Handback of Supply) the Supplier shall:-

34.10.1 as and when requested by the Company from time to time provide to the Company a copy of that COTS Product as configured by the Supplier for the purposes of the Contract (including of all Data held within the COTS Product for the purpose of the performance of the Supply or the Supplier's other obligations under this Contract); and

34.10.2 hereby grant a perpetual, irrevocable, royalty-free and transferable licence free of charge to use that configuration (it being acknowledged that the Company will be responsible for obtaining any required licence(s)

of the underlying COTS Product required for the Company's continued use of the same after the end of the Term).

34.11 Without prejudice to either Party's other rights and obligations under this Contract, neither Party (a "Disclosing Party") shall disclose to any Third Party any Intellectual Property Rights owned by the other Party (a "Non-Disclosing Party") or the Non-Disclosing Party's Third Party licensors without requiring each Third Party to whom such disclosure is made to first enter into a written confidentiality undertaking with the Disclosing Party substantially in the form set out in Schedule 18 (Form of Confidentiality Undertaking), provided that this restriction shall not apply to disclosures by the Disclosing Party to:

34.11.1 any of its directors, officers, employees, auditors, advisers, agents or any member of the TfL Group or the Supplier Group;

34.11.2 any Agent appointed to act as the Company Depository pursuant to Schedule 17 (IPR Management), whether acting in the capacity of depository or if such agent carries out any verification activities pursuant to Schedule 17 (IPR Management);

34.11.3 in the case of the Supplier, any Sub-Contractor in connection with the performance of the Supplier's obligations under this Contract, provided that the Supplier shall require that such Sub-Contractor complies with the provisions of Schedule 18 (Form of Confidentiality Undertaking) and the Supplier shall be responsible to the Company if that Sub-Contractor does not do so; and/or

34.11.4 any other persons or bodies having a statutory or regulatory right or duty to know (including, in the case of the Company, under FOIA Legislation subject to Clause 35A (Freedom of Information)) or a court, adjudicator or arbitrator of competent jurisdiction,

nor shall it apply to require the Disclosing Party to contract with each individual at the Third Party to whom such disclosure is made.

34.12 If the Disclosing Party has reasonable grounds to suspect that any Intellectual Property Rights owned by the Non-Disclosing Party or the Non-Disclosing Party's Third Party licensors are being used other than as expressly permitted under this

Contract by a person to whom disclosure of those Intellectual Property Rights may have been made by the Disclosing Party:

34.12.1 the Disclosing Party shall, upon having such suspicions or upon written request from the Non-Disclosing Party, immediately inform the Non-Disclosing Party in writing of all persons to whom those Intellectual Property Rights were disclosed by the Disclosing Party (including identifying details of the Intellectual Property Rights so disclosed and the dates of disclosure and supplying the Non-Disclosing Party with a copy of all relevant undertakings referred to in Clause 34.11), provided that, in the case of the Company, where the Company, determines in its discretion that an on-going procurement exercise may be prejudiced by the Company doing so:

- (a) the Company shall not be required to inform the Supplier of the persons to whom those Intellectual Property Rights were disclosed by the Company or supply those undertakings to the Supplier prior to award of the applicable contract or otherwise prior to the conclusion of the applicable procurement exercise; and
- (b) the Company shall, if the Supplier demonstrates to the Company's reasonable satisfaction that a particular Third Party has or is likely to have misused those Intellectual Property Rights, confirm whether or not the Company has disclosed those Intellectual Property Rights to that Third Party and supply the relevant undertaking to the Supplier if the Company has disclosed those Intellectual Property Rights to that Third Party; and
- (c) if the Disclosing Party believes that the relevant Third Party may also be misusing Intellectual Property Rights of the Disclosing Party or the Disclosing Party's Third Party licensors, the Disclosing Party may request in writing that the Non-Disclosing Party (and the Non-Disclosing Party shall thereafter), fully co-operate with the Disclosing Party, and promptly provide all information reasonably requested by the Disclosing Party at the Disclosing Party's reasonable cost, in connection with any investigation, claim,

demand, action or proceeding by the Disclosing Party in relation to that Third Party.

34.13 If the Disclosing Party, or any Third Party to whom the Disclosing Party makes disclosure, fails to keep confidential any Intellectual Property Rights owned by the Non-Disclosing Party or the Non-Disclosing Party's Third Party licensors as required by this Contract or under any relevant undertaking referred to in Clause 34.11 and as a direct result the Non-Disclosing Party is unable to perform its obligations under this Contract or incurs any material increased cost in performing its obligations under this Contract, then:

34.13.1 if but only for as long as, the Non-Disclosing Party is thereby unable to perform its obligations under this Contract, the Non-Disclosing Party shall be excused performance of those obligations; and

34.13.2 the Disclosing Party shall indemnify and keep indemnified the Non-Disclosing Party from and against any actual and demonstrable loss, damage, claims, demands, actions, costs, expenses, charges, liabilities and proceedings (including legal fees and expenses and on an after tax basis) whatsoever, suffered or incurred by the Non-Disclosing Party in performing its obligations under this Contract to the extent arising directly from such failure to keep confidential those Intellectual Property Rights,

provided, in each case, that:

34.13.3 the Non-Disclosing Party takes all reasonable steps to minimise and mitigate any such actual loss or damage of the Non-Disclosing Party and the effects of its inability to perform its obligations under this Contract;

34.13.4 the Non-Disclosing Party promptly takes all reasonable and necessary action (including remedial action and providing all necessary additional resources) to:

(a) prevent or remedy the effects of such disclosure, and any related fraud or dishonest conduct or the Non-Disclosing Party's inability to perform or increased cost; and

- (b) resume performance of its obligations as soon as practicable, it being agreed that all costs of such action and resources are costs which fall within the ambit of the indemnity given under Clause 34.13.2 (subject to the other provisions of this Clause 34.13);
- 34.13.5 at all times the Non-Disclosing Party otherwise continues to perform and comply with its other obligations under this Contract;
- 34.13.6 what constitutes reasonable steps or necessary action by the Non-Disclosing Party under Clause 34.13.3 and/or 34.13.4 will depend on the degree of disclosure of information and cooperation by the Disclosing Party as required under Clauses 34.11, 34.12, 34.13 and 34.14 and the extent to which the Disclosing Party has in fact complied with its obligations thereunder;
- 34.13.7 this Clause 34.13 shall be without prejudice to any liability the Supplier may have under this Contract if and to the extent that such liability is required by this Contract to be covered by insurance; and
- 34.13.8 Clauses 34.13.1 and 34.13.2 shall apply if and only to the extent that such disclosure, and any related fraud or dishonest conduct or the Non-Disclosing Party's inability to perform or material increased cost (and any effect of any of the foregoing):
 - (a) is not caused by, and is beyond the reasonable control of, the Non-Disclosing Party;
 - (b) is not otherwise required to be avoided or provided against (other than by way of insurance) by the Disclosing Party under this Contract; or
 - (c) could not reasonably have been avoided or provided against by the Non-Disclosing Party.

- 34.14 If the Non-Disclosing Party becomes aware of any matter which might give rise to any right or claim under Clauses 34.12 or 34.13, the Non-Disclosing Party shall:
- 34.14.1 immediately inform the Disclosing Party in writing giving full details and evidence necessary to justify any such right or claim;
 - 34.14.2 keep the Disclosing Party fully informed and consult with the Disclosing Party about the steps taken and proposed to be taken to deal with the relevant matter and notify the Disclosing Party regularly and not less than once every seven days of such steps (and, if the matter has become the subject of proceedings, the Non-Disclosing Party shall notify the Disclosing Party immediately of the matter but in any event within sufficient time to enable the Disclosing Party to contest the proceedings before final judgment);
 - 34.14.3 take any action and institute any proceedings, and give any information and assistance, that the Disclosing Party may reasonably request and the Non-Disclosing Party may reasonably be able to provide to: (i) dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; or (ii) enforce against a person (other than the Non-Disclosing Party) the Disclosing Party's rights in relation to the matter, it being agreed that all costs of such action, proceedings and assistance are costs which fall within the ambit of the indemnity given under Clause 34.13.2 (subject to the other provisions of Clause 34.13);
 - 34.14.4 in connection with proceedings related to the matter (other than against the Disclosing Party), use advisers chosen by the Disclosing Party; and
 - 34.14.5 not admit liability in respect of or settle the matter without first obtaining the Disclosing Party's written consent (not to be unreasonably withheld or delayed).

34.15 Each Party shall guard securely and keep safe the proprietary information of the Supplier Group (in the case of the Company) and TfL Group (in the case of the Supplier) to a standard at least as high as it protects its own proprietary information.

34.16 *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 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.

34.17 *Supplier's Licence to the Company's Intellectual Property Rights*

The Company hereby grants the Supplier a non-exclusive, non-transferable licence to use the Company Background IPR and Foreground IPR which is required by the Supplier for the purposes of the Supply. Such licence is granted for the duration of the Contract solely to enable the Supplier to comply with its obligations under the Contract and is conditional upon the Supplier using such Company Background IPR and Foreground IPR in accordance with the Standards, the Contract QUENSH Conditions and such other quality standards as the Company may from time to time notify. No Company Background IPR or Foreground IPR may be used in conjunction with any other trade marks without the prior written consent of the Company.

35. **CONFIDENTIALITY AND ANNOUNCEMENTS**

35.1 The Supplier acknowledges that:

35.1.1 it may receive or obtain Company Information;

35.1.2 it may prepare or create Company Information; and

35.1.3 Company Information is of a proprietary and confidential nature.

35.2 The Supplier shall not and shall ensure that its Sub-Contractors shall not:

35.2.1 use Company Information for any purposes whatsoever other than for the purpose of the Supply (and in particular shall not use Company Information to the detriment of the Company);

35.2.2 disclose Company Information to any third party (save as may be required by law or by order of a Court of competent jurisdiction and provided that prior to such disclosure the Supplier shall consult with the Company as to the proposed form of such disclosure) without the prior written consent of the Company except that the Supplier shall be entitled to the extent strictly necessary to disclose Company Information:

35.2.2.1 to such of the Supplier's Personnel who need to know the Company Information for the supply of the Equipment or the performance of the Services provided that the Supplier shall be responsible for any breach of its obligations hereunder occasioned by any act or omission of such Supplier's Personnel; and

35.2.2.2 to any governmental or regulatory agency or authority whose decisions, instructions or rulings may properly be enforced against a Party to the Contract;

35.2.3 without the prior written consent of the Company (except where provided in Clause 35.2.2) disclose to any third party the nature or content of any discussions or negotiations between the Parties relating to the Company Information or relating to the Contract.

35.3 The Supplier shall:

35.3.1 receive and/or maintain the Company Information in strictest confidence;

35.3.2 inform each of the persons referred to in Clause 35.2 above to whom Company Information is disclosed of the restrictions contained herein as to use and disclosure of the Company Information and shall use its best endeavours to ensure that each of them shall observe such restrictions;

- 35.3.3 on the request of the Company (made at any time) deliver to the Company all documents and other materials in its possession, custody or control (or the relevant parts thereof) that bear or incorporate all or any part of the Company Information.
- 35.4 The obligations set out in Clauses 35.2 and 35.3 will not apply to any Company Information which:
- 35.4.1 the Supplier can show by documentary evidence was already in its lawful possession and at its free disposal before the disclosure to the Supplier by the Company; or
- 35.4.2 is hereafter lawfully disclosed to the Supplier without any obligation of confidence, by a third party who has not derived it directly or indirectly from the Company; or
- 35.4.3 is or becomes generally available to the public in any printed publication in general circulation through no act or default on the part of the Supplier.
- 35.5 The Supplier acknowledges that damages would not be an adequate remedy for any breach of this Clause by the Supplier and that (without prejudice to all other remedies to which the Company may be entitled as a matter of law) the Company shall be entitled to any form of equitable relief to enforce the provisions of this Clause.
- 35.6 The Supplier shall not without the prior written consent of the Company advertise or announce that it is undertaking the Supply for the Company, or that it has entered into the Contract.
- 35.7 At the Company's request and in any event upon the termination or expiry of the Contract, the Supplier shall promptly deliver to the Company or destroy as the Company may direct all documents and other materials in the possession, custody or control of the Supplier (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Company Information and if instructed by the Company in writing, remove all electronically held Company

Information, including the purging of all disk-based Company Information and the reformatting of all disks.

35.8 The Company may disclose pursuant to Clause 35A any information disclosed by the Supplier to the Company.

35A. **FREEDOM OF INFORMATION**

35A.1 The Supplier acknowledges that the Company:

35A.1.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Company or any member of the TfL Group to enable the Company to comply with its obligations under the FOI Legislation; and

35A.1.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Supplier and, subject to the provisions of this Clause 35A, may ultimately at its discretion disclose such Information.

35A.2 Without prejudice to the generality of Clause 35A.1, the Supplier shall and shall procure that its Sub-Contractors (if any) shall:

35A.2.1 transfer to the Company each Information Request relevant to the Contract, the Equipment and/or the Services, the Company 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) Business Days of receiving such Information Request; and

35A.2.2 in relation to Information held 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) Business 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.

35A.3 The Company or any member of the TfL Group shall be responsible for determining whether Information is exempt or excepted information under the FOI Legislation and for determining what Information (if any) 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.

35B. RESPONSIBLE PROCUREMENT

35B.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.

35B.2 The Supplier shall and shall procure that its Sub-Contractors (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.

35B.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 Sub-Contractors shall comply with such the Ethical Sourcing Policy to the extent it does not conflict with the Responsible Procurement Policy.

35B.4 The Supplier acknowledges and agrees that it (and its Sub-Contractors) 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).

35B.5 The Supplier shall not be entitled to any addition to the 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).

35B.6 The Supplier shall procure that any Sub-Contractor (of any tier) is required to comply with the provisions of this Clause 35B and the provisions of this Clause 35B are included in any subcontract (of any tier).

35B.7 The Supplier shall not, and shall procure that any Sub-Contractor shall not, without the prior written consent of the Company, who shall not give such consent

without LUL approval, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause 35B.

35C. DATA TRANSPARENCY

35C.1 The Supplier acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clauses 35 and 35A, the Supplier hereby gives its consent for the Company to publish the Contract Information to the general public.

35C.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 35C.1. The Company shall make the final decision regarding publication and/or redaction of the Contract Information.

35D. CRIMINAL RECORDS DECLARATION

35D.1 The Supplier shall procure from each Relevant Individual (as the case may be) a declaration that he does not have any Relevant Convictions (“**Declaration**”) or disclosure of any Relevant Convictions he has committed. A Declaration shall be procured prior to a Relevant Individual carrying out any of the Supply. The Supplier shall confirm to the Company in writing on request and in any event not less than once a year that each Relevant Individual has provided a Declaration. The Supplier shall procure that a Relevant Individual notifies the Supplier immediately if he commits a Relevant Conviction and the Supplier shall notify the Company in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.

35D.2 The Supplier shall not engage or allow to act on behalf of the Supplier or any Sub-Contractor in the performance of any aspect of the Supply any Relevant Individual who has disclosed a Relevant Conviction.

35D.3 The Company shall have the right in accordance with the audit rights set out in the Contract to audit and inspect the records of the Supplier and its Sub-Contractors

and suppliers and its and their respective employees and agents in order to confirm and monitor compliance with this Clause 35D at any time during performance of the Contract.

35D.4 If the Supplier fails to comply with the requirements under Clauses 35D.1 and/or 35D.2 the Company may, without prejudice to its rights under Clause 39.1.7, serve notice on the Supplier requiring the Supplier to remove or procure the removal of (as the case may be) any Relevant Individual who has not provided a Declaration from the Contract with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the Supply unless (in the case of non-compliance with Clause 35D.2) within 7 days of receipt of the notice the Supplier confirms to the Company it has procured all of the Declarations required under Clause 35D.2.

35D.5 A persistent breach of Clause 35D.2 and/or 35D.3 by the Supplier, shall constitute a material breach of the Contract and shall entitle the Company to terminate the Contract in whole or in part with immediate effect in accordance with Clause 39.1.7.

35D.6 In the event the Company becomes aware that a Relevant Individual has committed a Relevant Conviction, the Supplier shall remove or procure the removal (as the case may be) of such Relevant Individual from the Contract with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the Supply.

35D.7 Nothing in this Clause 35D shall in any way waive, limit or amend any obligation of the Supplier to the Company arising under the Contract and the Supplier's responsibilities in respect of performance of the Supply remain in full force and effect and the Supplier cannot claim any extra costs or time as a result of any actions under this Clause 35D.

35E **COMPETEFOR**

35E.1 Without prejudice to Clause 46 the Supplier will, on a non-exclusive basis, use the CompeteFor electronic brokerage service (or such alternative web-based tool as the Company may direct from time to time) ("**CompeteFor**") to make available to other

suppliers all appropriate opportunities, arising in connection with the Contract, to supply goods, works and services to the Supplier.

35E.2 The Supplier will use all reasonable endeavours to ensure that its Sub-Contractors (for the purposes of this clause, the “**Supplier’s Sub-Contractors**”) use CompeteFor, on a non-exclusive basis, to make available to other Sub-Contractors all appropriate opportunities, arising in connection with the Contract, to supply goods, works and services to the Supplier’s Sub-Contractors.

35E.3 The Supplier will monitor (and maintain a record of) the number, type and value of opportunities, arising in connection with the Contract, made available to other suppliers via CompeteFor, whether by the Supplier or the Supplier’s Sub-Contractors, as required by this Clause 35E, and will report this information on a quarterly basis by way of email to the Contract Manager.

36. **DISPUTE RESOLUTION**

36.1 The Company and the Supplier shall use all reasonable endeavours to negotiate in good faith and settle any Dispute.

36.2 The Company and the Supplier shall comply with the Dispute Resolution Procedure set out in Schedule 6 in attempting to resolve any Dispute although the Parties may agree in writing to use any other method of dispute resolution to facilitate the settlement of any Dispute.

37. **FAILURE TO SUPPLY**

37.1 Without prejudice to its rights under Clause 0 (Termination) if the Supplier fails to supply the Equipment and/or to perform the Services or any part to the Company's reasonable satisfaction the Company may give the Supplier at least 7 days' notice in writing (except in an emergency when no notice need be given) requiring the Supplier to remedy such failure. If the Supplier fails to comply with the requirements of the Company specified in such notice the Company will be entitled to perform or procure the supply of the Equipment and/or the performance of the Services or part thereof itself or from a third party. Without prejudice to any other right or remedy of the Company hereunder or under the general law, all expenditure properly incurred by the Company exercising its

rights under this Clause 37 is recoverable by the Company from the Supplier and the Company will be entitled (in its discretion) to (i) deduct such amounts from any amount due or to become due to the Supplier under the Contract; or (ii) deduct such amounts from the monies it has withheld pursuant to Clause 31.5 and Schedule 4; or (iii) recover such amounts from the Supplier within ten (10) days of demand as a debt due and owing.

37.2 For the purposes of this Clause 37 the Supplier hereby grants to the Company and any third party the right to use any Intellectual Property Rights, Documentation, goods, materials and spares belonging to the Supplier or used by the Supplier in connection with the Contract as may be required by the Company to exercise its rights under Clause 37 and the Supplier will provide all co-operation and assistance as are required by the Company to enable the Company to exercise its rights under Clause 37.

38. **SUSPENSION**

38.1 Without prejudice to its rights under Clause 39, the Company will have the right to suspend the Contract as a whole or in respect of any part of the Supply on giving no less than one month's prior notice (except in an emergency when the Company will give as much notice as is possible in the circumstances) for any purpose connected with the safety or operation of the Underground Network.

38.2 The Supplier will resume the Supply or any part which may have been suspended under Clause 38.1 within a reasonable time and in any event within 7 days from receipt of a written request from the Company to so resume.

38.3 On suspension of the Supply the Company will pay to the Supplier that part of the Price due to the Supplier in relation to the Supply or the relevant part of the Supply performed up to the date of suspension calculated in accordance with Schedule 4.

38.4 The Supplier will comply with all reasonable instructions which the Company may give during any period of suspension and the Company will reimburse the Supplier's reasonable costs and expenses reasonably incurred in complying with such instructions.

39. **TERMINATION**

39.1 The Company will be entitled to terminate the Contract forthwith or on such period of notice as the Company in its discretion considers appropriate by giving written notice to the Supplier if:-

39.1.1 an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Supplier, or

39.1.2 the Supplier makes any voluntary arrangements with its creditors or an administrator is appointed in respect of the Supplier; or

39.1.3 (being a company) the Supplier goes into liquidation (except for the purposes of an amalgamation, reconstruction or other re-organisation and in such manner as the company or companies resulting therefrom effectively agrees to be bound by or to assume the obligations imposed on the Supplier and is capable of fulfilling those obligations provided the prior written consent of the Company has been obtained), or

39.1.4 (being an individual or firm) the Supplier becomes bankrupt, or

39.1.5 the Supplier ceases or threatens to cease to carry on business, or

39.1.6 the Supplier commits a breach of Clause 28, or

39.1.7 in the circumstances described in Clause 34.6.3, or

39.1.8 the Supplier commits any continuing or material breach of any provision of the Contract and in the case of such a breach which is capable of remedy fails to remedy the same within 7 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or

39.1.9 the Company is entitled to terminate the Contract by virtue of any other express provision of the Contract;

39.1.10 the Supplier undergoes a change of ownership in breach of Clause 46.4.1 or fails to give the notice of change of ownership required by

Clause 46.4.2, and in either such case the notice of termination may be served at any time up to 6 months following the breach or failure giving rise to the notice concerned; or

39.1.11 the Supplier's performance of the Contract fails to reach the level of SDI Performance Criteria required under Schedule 8 and having following the escalation procedure results in an entitlement for the Company to terminate; or

39.1.12 the Guarantee ceases to be valid and enforceable or the Guarantor fails to comply with any of the obligations expressed to be assumed by it in the Guarantee.

39.2 Either Party may terminate the Contract in accordance with Clause 33.3.

39.3 Without prejudice to the Company's rights under Clause 39.1 or to terminate the Contract at common law and unless the Parties otherwise agree in writing, the Company may at any time terminate the Contract by giving 90 (ninety) days' notice in writing to the Supplier.

40. **CONSEQUENCES OF TERMINATION**

40.1 On expiry or on any termination of the Contract howsoever caused the Supplier will take immediate steps to bring to an end the Supply in an orderly manner but with all reasonable speed and economy, and will deliver to the Company all Documentation and Depositable IPR (whether complete or incomplete) required under the Contract, including without limitation the documents and other materials that the Supplier is obliged to deliver to the Company under Clause 35.8. The Supplier hereby relinquishes any lien on the Documentation and such other documents and materials to which it may otherwise be entitled.

40.2 Where the Company has served a notice of termination under Clause 39 it shall be entitled to:

40.2.1 in the case of a notice of termination issued pursuant to Clause 39.1, either:

(i) procure the completion of the Supply so that it complies with the requirements of the Contract and, upon completion, pay to the Supplier that part of the Price for the Supply yet paid as at the date of termination less the cost of completion including procurement of the same. Where this gives rise to a negative figure, the corresponding positive amount will be payable by the Supplier to the Company together with interest at the rate specified in Schedule 4 to this Contract (calculated from the date of termination of this Contract to the date of payment by the Supplier); or

(ii) be reimbursed for all payments made to the Supplier in relation to the Supply (other than those in respect of which title has transferred to the Company pursuant to Clause 7). The amount to be reimbursed shall attract interest at the rate specified in Schedule 4 (calculated from the date of termination of this Contract to the date of payment by the Supplier);

40.2.2 in the case of a notice of termination issued pursuant to any part of Clause 39, require the Supplier to assign the benefit of any warranties which have been given by any third parties or Sub-Contractors to the Supplier in respect of the Supply; and

40.2.3 in the case of a notice of termination issued pursuant to any part of Clause 39, require the Supplier to provide all drawings, design, technical and maintenance records relating to the Supply including all Manuals save to the extent the same have already been provided in accordance with this Contract and any IPRs in such information shall be treated as licensed to the Company pursuant to the license set out in Clause 34.4 for the purposes of this Contract.

40.3 On termination of the Contract pursuant to Clause 39.3 the Company will (subject to Clauses 40.3 and 40.4) pay to the Supplier that part of the Price due to the Supplier in relation to Supply performed by the Supplier up to the date of termination calculated in accordance with Schedules 4.

40.4 On termination of the Contract in whole or in part by the Company as a result of a Force Majeure Event in accordance with Clause 33, the Company will acquire any partially completed Equipment that is directly

related to the Force Majeure Event (the "Acquired Equipment") at its fair market value less the amount of any progress or advance payments made in respect of such Acquired Equipment. Where this gives rise to a negative figure, the corresponding positive amount shall be payable by the Supplier to the Company together with interest at the rate specified in Schedule 4 to this Contract (calculated from the date of termination of this Contract to the date of payment by the Supplier).

40.5 On termination of the Contract howsoever caused, the Company will not be liable to the Supplier for any loss of profit, loss of contract or any other losses and/or expenses of whatsoever nature arising out of or in connection with such termination.

40.6 Any termination of the Contract shall be without prejudice to rights and remedies of either Party which accrued prior to termination.

40A. CONTRACTUAL INEFFECTIVENESS

40A.1 In the event that any court or other competent authority declares or orders that the Contract is ineffective or shortened pursuant to the law of the Contract from time to time including any applicable law, directive or requirement of the European Union:

40A.1.1 the Company notifies the Supplier in writing as soon as reasonably practicable of the declaration or order;

40A.1.2 the Company issues a notice to both Parties certifying the date the Contract became or is to become ineffective; and

40A.1.3 the Contract is deemed for all purposes to have been terminated by the Supplier on the date named in the notice.

Notwithstanding the declaration or order, the provisions of Clauses 39, 40 and 41 shall continue in full force and effect along with any other provisions of the Contract necessary to give effect to them. In addition, any provisions of the Contract which by their nature or implication are required to regulate, determine or limit the Parties' rights and liabilities that have accrued at the date the Contract became ineffective shall survive the declaration or order as aforesaid.

41. **HANDBACK OF SUPPLY**

41.1 The Supplier will comply with the Supplier's obligations under Schedule 16 (Handback of Supply) in order to ensure, amongst other things, continuity of Supply and minimisation of disruption to customers at the end of the Contract and during the Handback Period.

41.2 **Cooperation in relation to handback of Supply**

41.2.1 Without limiting the Supplier's obligations under Clauses 23 (Records, Manuals, Audit and Inspection) and 41A (TUPE), the Supplier shall proactively co-operate and work with the Company and any third party nominated by the Company as the Contract Manager may require:

41.2.2 from the earliest of:

41.2.1.1 within three (3) months of the Start Date; or

41.2.1.2 the date on which any notice to terminate this Contract is issued by the Company or the Supplier,
until the Expiration Date;

41.2.3 by providing such services, advice, assistance, support, information, documentation, data, access and taking such steps as are reasonably requested by the Company including;

41.2.2.1 as described in the Handback Plan and/or the Handback Programme;

41.2.2.2 in respect of the provision of the Supply (or supplies which are substantially similar to the Supply);

41.2.2.3 in relation to any Intellectual Property Rights within the scope of Clause 34 and subject always to Clause 34;

41.2.2.4 to enable the Company and any nominated third party to understand how to replace Proprietary Tools and how to transfer Data from Proprietary Tools to replacement tools and;

41.2.2.5 in respect of the Company otherwise drafting any notice, invitation, request or other tender or negotiation process and/or providing any due diligence or other information for recipients of such a notice, invitation, request or other process,

whether or not the Supplier or a member of the Supplier Group is a recipient of or invited by the Company to be involved in such process; and

41.2.4 in order to:

41.2.3.1 facilitate (i) the invitation of bids from, (ii) the selection of, and (iii) the appointment of, any Successor Operator(s);

41.2.3.2 prepare for an orderly and smooth transfer to the Company and/or any Successor Operator(s) of the provision of the Supply (or supplies substantially similar to the Supply);

41.2.3.3 minimise disruption, inconvenience or any risk to the provision of the Supply (or supplies substantially similar to the Supply) and any interfacing systems and supplies.

41.3 **Handback Plan and Supply End Dates**

41.3.1 The Company anticipates that the transfer of the Supplies to a Successor Operator may take place on the basis of a transition on a single “End Date” (which in those circumstances would also be the Expiration Date) or alternatively, on a phased step down of Supplies with completion of each phase being an “End Date” (and the last of such dates being the Expiration Date).

41.3.2 The Company may, in its absolute discretion and by giving written notice in the form of a Variation to the Supplier:

41.3.2.1 specify an End Date in relation to the termination of any particular Supply having regard for the proper management and transitioning of the relevant Supply and any phasing of various individual End Dates; and/or

41.3.2.2 revise or delay the relevant End Date for any reason including where the Company and/or any Successor Operator is not ready to take over responsibility for the Supply (or any replacing supply),

provided that the Company shall not specify or require as an End Date any date which is (a) prior to the effective date of any notice to terminate this Contract or any part thereof taking effect in relation to any termination of the Supply pursuant to Clause 39 or, (b) otherwise (where no such notice to terminate has been given) prior to the end of the Initial Term. The Supplier shall continue to provide the Supply and any other required activities pursuant to this Contract until the relevant End Date.

41.4 **Handback Procedure**

41.4.1 The Company shall provide to the Supplier as much information as is reasonably practicable regarding the Company's proposed arrangements for the provision of the Supply (or supplies similar to the Supply) by the Successor Operator(s) and/or the Company and any member of the TfL Group (as the case may be) (the "Successor Plan"). If there are changes to the Successor Plan, the Company shall update such information and shall provide such updated information to the Supplier.

41.4.2 The Supplier shall prepare and provide the following in accordance with Schedule 16 (Handback of Supply):

41.4.2.1 the Handback Plan and any updates thereto;

41.4.2.2 the Handback Programme and any updates thereto; and

41.4.2.3 the Handback Status Reports and any updates thereto.

41.5 No additional charges will be payable to the Supplier for the supplies provided pursuant to this Clause 41. However, carrying out the Handback Plan shall be a chargeable activity which is not included in the Price and shall be determined pursuant to Clause 30 (Contract Variation).

41A **TUPE**

41A.1 For the purpose of this Clause 41A:

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

"Company" means any member of the TfL Group;

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

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

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

“Subsequent Relevant Employee” means a person employed or engaged by the Supplier or relevant Sub-Contractor from time to time in respect of any part of the works who would transfer to a Replacement Company by virtue of the Transfer Regulations on termination of the contract (or part of it);

“Transfer Regulations” means all or any of the following:

- the Transfer of Undertakings (Protection of Employment) Regulations 2006;
- the Transfer of Employment (Pension Protection) Regulations 2005;
- any other or further regulations, order or statutory instrument which apply or are capable of applying to a person to whom section 257 of the Pensions Act 2004 applies,

as amended, replaced or extended from time to time and including any regulations or other legislation which (either with or without modification) re-

enacts, adopts, consolidates or enacts in rewritten form any such regulations;
and

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

41A.2 The Supplier complies and procures that its Sub-Contractors comply with any obligations which may arise out of a transfer to the Company or another person under the Transfer Regulations upon the Expiration Date or earlier termination of the Contract.

41A.3 At any time during the last eighteen (18) months of the Term and/or during any period of notice terminating the Contract, the Company may require the Supplier to provide, within a specified period of being requested, to the Company (or to any other person or persons nominated by the Company) such information as is reasonably required by the Company or such other persons relevant to the potential liabilities of the Company or any other person arising under the Transfer Regulations including but not limited to information on the following

41A.3.1 the names of employees (of the Supplier or its Sub-Contractors) engaged in providing the Supply, their salaries and other conditions of employment, ages and length of service;

41A.3.2 the method of organisation of the employees (of the Supplier or its Sub-Contractors) engaged in providing the Supply and documentary evidence relating to such organisation;

41A.3.3 the proposals for consultation with affected employees;

41A.3.4 details of collective agreements and union recognition agreements;
and

41A.3.5 any other employee liability information within the meaning of the Transfer Regulations, and will in addition provide copies to the Company upon request of any communication with any potential or intended new consultant or

the Supplier's employees or their representatives relating to the effect on such employees of the expiry or termination of the Contract.

41A.4 The Supplier will provide the Company upon request with the name and address of a person within its organisation to whom all queries and requests for information under this Clause 41A may be addressed. The Supplier will if required by the Company warrant that any information provided under Clause 41A is accurate, complete and not misleading, including any information supplied in relation to its Sub-Contractors.

41A.5 The Supplier will not and will procure that its Sub-Contractors will not in the ten (10) months prior to the Expiration Date or termination of the Contract (or, where notice of termination is given of less than ten (10) months, during any such period of notice) without the Company's written consent:

41A.5.1 re-organise or substantially alter the number or method of organisation or identity of the employees engaged in providing the Services, except to the extent that any such change is the result of a bona fide business re-organisation of the Supplier or the relevant Sub-Contractor which is not related or confined to the employees engaged in providing the Supply or the expected Expiration Date or termination of the Contract, or

41A.5.2 make any increase to the salaries or any significant change to the terms and conditions of employment of the employees engaged in providing the Services, except where such increases or changes would have arisen in the ordinary course of the Supplier's or the relevant Sub-Contractors business and are not related to the Expiration Date or termination of the Contract (either because they are applied to all of the Supplier's or the relevant Sub-Contractor's employees, whether or not engaged in providing the Services or otherwise) or are the result of a bona fide business reorganisation of the Supplier or the relevant Sub-Contractor which is not related or confined to the employees engaged in providing the works or relates to the Expiration Date or termination of the Contract.

41A.6 The Supplier shall indemnify the Company against all Relevant Claims and Liabilities arising from or incurred by reason of any act or omission of the Supplier, its servants or agents in connection with or arising from or incurred by reason of the

employment of the Transferring Employees, including but not limited to any claim against the Company or any other person for damages for breach of contract, or for compensation for unfair or wrongful dismissal or redundancy, or failure to provide comparable pension rates, or failure to provide information, or failure to inform or consult Transferring Employees, or in respect of death or personal injury, breach of statutory duty or any other claim in tort by a Transferring Employee, or by a person who would be a Transferring Employee but for any act or omission (including dismissal or constructive dismissal) of the Supplier, arising from the operation (or alleged operation) of the Transfer Regulations in relation to the works.

41A.7 The Supplier shall indemnify the Company and all Replacement Companies against all Relevant Claims and Liabilities arising from or related to:

41A.7.1 any claim by a Subsequent Relevant Employee in respect of any default, failure or omission (or alleged default, failure or omission) by any person whatsoever concerning or arising from employment before a Subsequent Transfer Date in respect of which the Company or the Replacement Company incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations; and

41A.7.2 any claim by any former or existing employee of the Supplier or relevant Sub-Contractor (other than a Subsequent Relevant Employee) in respect of which the Company or a Replacement Company incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations.

41A.7.3 In this Clause 41A.7 “Relevant Claims and Liabilities” include those incurred by the Company by reason of any contract term between the Company and a Replacement Company provided always that in relation to Relevant Claims and Liabilities which the Company may incur to a Replacement Company, the Supplier shall not be required to indemnify the Company or the Replacement Company for more than or with a greater scope than it would if such Relevant Claims and Liabilities were made against or incurred by the Company in providing an indemnity under this paragraph.

41A.8 The provisions of this Clause 41A are without prejudice to the Transfer Regulations. For the avoidance of doubt, any remedies available to the Company for any breach by the Supplier of any provision of this Clause 41A shall be in addition to and not in substitution for any remedies available to the Company under any provision of the Transfer Regulations.

42. **QUALITY AND BEST VALUE**

42.1 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 assists the Company to discharge the Company's duty where possible, and in doing so, inter alia carries out any reviews of the Supply reasonably requested by the Company from time to time. The Company shall have the rights and the Supplier shall comply with its obligations as set out in Schedule 14 (Variation Procedure) in order to deliver Value for Money ("VfM") to the Company in the performance of this Contract.

43. **SURVIVAL**

43.1 The provisions of Clauses 22, 23, 28, 34, 35, 35A, 35B, 35C, 36, 37, 40, 43, 47, 52 and 53 will survive the termination or expiry of the Contract and continue in full force and effect, along with any other Clauses or Schedules of the Contract necessary to give effect to them. In addition, any other provision of the Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination or the Expiration Date will survive such termination, or Expiration Date as aforesaid.

44. **SET OFF**

44.1 All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Company arising out of or attributable to the Contract or any other contract with the Supplier may be deducted by the Company from monies due or which may become due to the Supplier under the Contract.

45. **NON WAIVER OF RIGHTS**

45.1 The failure or delay by the Company at any time to insist upon strict performance of any of the provisions of the Contract, or delay in or failure to exercise any rights or remedies herein, or properly to notify the Supplier in the event of breach,

or the payment for any Equipment or Services hereunder will not be deemed to be a waiver of any right of the Company to insist upon strict performance hereof or of any rights or remedies, nor will any termination of the Contract by the Company operate as a waiver of any of its terms.

46. **ASSIGNMENT AND SUB-CONTRACTING**

46.1 The Supplier will not assign or otherwise dispose of the Contract or any or all of its rights or obligations under the Contract.

46.2 The Supplier will obtain the prior written consent of the Contract Manager (which consent may be refused or given subject to such conditions as the Contract Manager thinks fit) before appointing a Sub-Contractor for all or any part of the Supply to be provided under the Contract. No sub-contracting although made with such consent of the Contract Manager will relieve the Supplier from any liability or obligations under the Contract, including the responsibility for ensuring that the Supply is in accordance with the Contract.

46.3 Without prejudice to the generality of the foregoing, the Supplier will, within 14 days of the Company's request, procure that a permitted Sub-Contractor enters into a warranty agreement with the Company substantially in the form specified in Schedule 12 or in such other form as will have been previously approved in writing by the Company. The Company will not be obliged to make any payments under the Contract after such a request, in relation to the sub-contracted element of the Supply, until the warranty has been provided in a form satisfactory to the Company.

46.4 The Supplier shall:

46.4.1 not without the prior written consent of the Company come under the control directly or indirectly of any person who does not control the Supplier at the date of the Contract (for this purpose 'control' means the power to direct the management and the policies of the entity, whether through the ownership of share capital, contract or otherwise).; and

46.4.2 give notice to the Company in the event that 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, such notice to be given within 10 Business Days of the date on which such change takes effect.

46.5 Subject to the applicable legislation, the Company may assign the Contract to any person at any time without the consent of the Supplier provided it has given prior notice of the assignment to the Supplier.

47. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

47.1 Any person who is not a party to the Contract shall not have any benefit from or any rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999; provided that nothing shall prevent; (i) any member of the TfL Group from enforcing any rights granted for its benefit under the Contract; or (ii) any third party enforcing any right given to them pursuant to Clause 37.2.

48. **LANGUAGE**

48.1 English will be the language of the Contract and all documentation or information required or produced in the course or in connection with the Supplier's performance will be in English.

49. **NOTICES**

49.1 Any notices or other documents to be given under the Contract will be in writing and will be deemed to have been duly given if delivered by hand or by prepaid first class post or by facsimile to a Party at the address set out in Schedule 5A for such Party or such other address as one Party may from time to time designate by written notice to the other.

49.2 In the event of any postal or other strike or industrial action affecting postal communications in the United Kingdom, notices will be given personally or by facsimile.

49.3 Any such notices or other documents will be deemed to have been received by the addressee two Business Days following the date of despatch if the notice or other document is sent by prepaid first class post, or on the next Business Day after delivery if sent by hand or by facsimile.

50. **ENTIRE AGREEMENT**

- 50.1 This Contract constitutes the whole and only contract between the Parties relating to the subject matter thereof to the exclusion of any other terms and conditions (including terms and conditions contained in any other document or previous contract relating to the Supply) and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, relating thereto.
- 50.2 Each Party acknowledges that in entering into the Contract it is not relying upon any representation, warranty, promise or assurance made or given by any other party or any other person, whether or not in writing, at any time prior to the execution of the Contract that is not expressly set out herein.
- 50.3 Nothing in Clauses 50.1 and 50.2 or otherwise in the Contract will exclude any liability for fraudulent misrepresentation.

51. **COOPERATION AND FURTHER ASSURANCE**

- 51.1 In respect of all aspects of the performance of the Contract the Parties shall cooperate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights under the Contract.
- 51.2 At any time after the date hereof each of the Parties shall, with all due diligence and expedition at the request and cost of the requesting Party, execute or procure the execution of such documents, do or procure the doing of such acts and things and provide such assistance and information as the Party so requiring may reasonably require for the purpose of giving to the Party so requiring the full benefit of all the provisions of the Contract.

52. **SEVERABILITY**

- 52.1 If any provision of the Contract becomes or is declared illegal, invalid or unenforceable, in whole or in part, for any reason whatsoever by any competent tribunal or authority, such provision or part thereof will be divisible from the Contract and will be deemed to be deleted from the same in so far as the

continued operation of the Contract is concerned provided always that if such deletion substantially affects or alters the commercial basis of the Contract, the Parties will negotiate in good faith to amend and modify the provisions and terms of the Contract as may be necessary or desirable in the circumstances.

53. **GOVERNING LAW**

53.1 The construction, performance and validity of the Contract will be governed by English law.

53.2 Without prejudice to Clause 36, the Parties submit to the exclusive jurisdiction of the courts of England 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 assets of the Supplier may be situated.

54. **NOVATION OR TRANSFER**

54.1 Within 14 days of any written request by the Company to the Supplier, the Supplier will execute one or more agreements substantially in the form specified in Schedule 14 by which the Company shall transfer its rights and obligations under the Contract to one or more third parties to be nominated by the Company.

55. **PARTNERSHIPS, JOINT VENTURES**

55.1 Where the Supplier is a partnership the rights, obligations and liabilities of the partners in the partnership under the Contract are joint and several. The Contract and the liabilities of the partners under the Contract do not automatically terminate upon the death, retirement or resignation of any one or more members of such partnership or upon the admission of an additional partner or partners. The partners in the partnership use their reasonable endeavours to procure that any additional partner or partners enter into an agreement with the Company confirming his/her acceptance of the rights, obligations and liabilities of the Supplier under the Contract.

55.2 Where the Supplier comprises two or more parties in joint venture the rights, obligations and liabilities of each such party under the Contract are joint and several.

55.3 Nothing in the Contract constitutes, or is deemed to constitute, a partnership between the Parties. Except as expressly provided in the Contract, neither Party is deemed to be the agent of the other, and neither Party holds itself out as the agent of the other.

56. **COMPETITION LAW**

56.1 Nothing in this Contract constitutes a breach of the Competition Act 1998 or the Enterprise Act 2002 and the Supplier recognises that in carrying out the provisions of Contract its directors and employees must ensure that they comply with all relevant provisions of those Acts.

57. **EQUALITY AND DIVERSITY**

57.1 Without limiting the generality of any other provision of the Contract, the Supplier:

57.1.1 shall not unlawfully discriminate;

57.1.2 shall procure that its employees and agents do not unlawfully discriminate; and

57.1.3 shall use reasonable endeavours to procure that its Sub-Contractors 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.

57.2 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:

57.2.1 eliminate unlawful discrimination on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or believe, sex

and sexual orientation (all “Protected Characteristics”) and marriage and civil partnership;

57.2.2 advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it; and

57.2.3 foster good relations between persons who share a Protected Characteristic and persons who do not,

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

57.3 The Supplier shall ensure that its staff, and those of its Sub-Contractors who are engaged in the performance of the 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.

57.4 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.

58. **FURTHER ASSURANCE**

58.1 Each Party does or procures the doing of all acts and things and executes or procures the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of the Contract.

59. **AGENCY**

59.1 Nothing in the Contract shall be deemed to create a relationship of principal and agent between the Company and the Supplier.

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

SCHEDULE 1A: MAINTENANCE SPECIFICATION

CASH MANAGEMENT EQUIPMENT

Description of the Works

The Supplier shall be responsible for the maintenance of the Cash Management Equipment supplied and installed in accordance with Appendix 1 to this Schedule.

Scope of Services

2.1 The Equipment

The equipment to be maintained will be the Cash Management Equipment supplied and installed in accordance with Appendix 1 to this Schedule, and any added by means of Variation.

An Asset List shall be agreed with the Supplier which will detail the final type, numbers and installation locations of the equipment. The Asset List will be included as Appendix 1 to this Schedule. An updated Asset List shall be provided annually on each anniversary of the Contract Start Date, and on other dates if requested by the Company.

The Supplier is responsible for maintaining, updating and repairing the Equipment as described in the asset list.

2.2 Maintenance Requirements

2.2.1 Scope

The Supplier is responsible for maintaining the equipment such that the equipment performs in accordance with the requirements defined in [Schedule 1B, Supply and Install Specification].

The Supplier is responsible for maintaining the equipment such that the equipment performs in accordance with all design and operating parameters defined by the Supplier in their supply and installation proposal.

Maintenance of the cash management equipment is required on a fully inclusive basis including related no fault found, 3rd party damage, operator error or misuse.

The Supplier shall be responsible for all such requirements, including but not limited to the supply of all labour (including related no fault found visits), overheads, consumables, materials, access equipment and plant required to undertake the required tasks. The Supplier shall hold adequate stock to meet Reactive Services needs (and any fault reduction and preventative maintenance initiatives), in order to meet the required performance and minimise unavailability

of the systems. Provision of Services is for 24 hours a day, 7 days a week, every day of the year excluding Christmas Day.

2.2.2 Planned Preventative Maintenance

The Supplier shall provide proposals for undertaking planned preventative maintenance (PPM) activities such that the equipment performs in accordance with the scope defined in 2.2.1. A PPM activity plan shall be provided by the Supplier in accordance with the requirements in [Schedule 2, Contract Programme].

2.2.3 Testing

Routine testing of the equipment, and testing on completion of maintenance work, including portable electrical appliance testing and any other testing required in accordance with the Company's Standards, shall be carried out by the Supplier.

2.2.4 Materials and Consumables

The Supplier shall hold sufficient stocks of materials, spare parts replacement, components, tools, specialist equipment, temporary plant and consumables necessary to ensure the systems are maintained at the specified design and operating levels. This shall be a minimum of 3 months of these stocks at a UK location. The Supplier shall maintain a stock/spares management system including but not limited to: proposed minimum stock/spares levels (both central store and van stock); stock/spares replenishment procedure; service level arrangements with sub-suppliers; lead times for non stock items.

The Supplier shall provide all consumable items as part of the services which shall include cash pouches, transportation sacks for the collection of bank notes, receipt rolls for printing transaction receipts and any other consumable items required for the day to day operation of the machines as required by the manufacturer's specification within 7 days of an order being placed.

The Supplier shall provide sufficient stocks of materials, spare parts, and replacement components to maintain the systems at the specified design and operating levels for a period of one year after the end of the Contract. The level of such stocks shall be proposed as part of the Contract Handback Plan and agreed with the Company.

2.2.5 Modifications to Equipment

If the Supplier encounters or makes changes to any Equipment which is different to that recorded in the Asset List, the Supplier shall update the Asset List and inform the Company of the details of the amendments made. This shall include changes to any Software made by the Supplier. The operating system currently used by devices is in 'End of life support' which is due to expire in 2023. Within the life

of the contract we require devices to be updated to a more up to date operating system with software updated on an ongoing basis , which provides more flexibility for changing user screens and options available.

Where the Supplier is proposing changes to Software on Equipment on Company premises, this should be notified via the Company's Change and Release process. Any software deployment should follow the requirements set out in Section 3 of Schedule 1B.

Following any remedial works or minor work which may be required as part of the Services, the Supplier shall make good with minimum disturbance and consideration to any Railway Operating Equipment and the architectural decoration of the site.

The Company may require Equipment to be removed from site and then stored away from their premises for a period of time, to be notified by Variation. Where this occurs, such storage must be in suitable premises such that Equipment is not damaged. Should damage take place, the Supplier must make good such damage at its own expense.

2.2.6 Reactive Services

Reactive Services are required 24 hours a day, 7 days a week, every day of the year, excluding Christmas Day.

Wherever possible, end to end monitoring by the Supplier shall take place such that Faults are identified and logged for rectification. Prior to Service Commencement, the Supplier and Company shall agree where this applies.

All Faults shall be notified by the Company to the Supplier. For this purpose the Supplier shall provide a Service Desk, with suitably qualified personnel and all communication shall be in English. All Faults shall be rectified. The Supplier shall respond to and rectify Faults in accordance with [Schedule 8, Supplier Performance].

Faults that cannot be rectified on the initial visit must be left by the Supplier in a safe condition.

2.2.7 Condition Assessment

The Supplier shall carry out a full condition assessment on each asset at least once a year. The Supplier shall provide the results of this assessment to the Company.

Location of Works

The Company may order and request resources detailed above to work at locations across the London Underground network.

Hours of Work

Access will be obtained in accordance with the arrangements set out in Clause 13 of the Terms and Conditions of Contract and compliance with these arrangements is mandatory.

Standards

The Supplier shall comply with TfL and LUL category 1 and 2 standards and draft Category 1 and 2 Standards and such European, British and International Standards and associated Codes of Practice as required by the Company to perform the services in accordance with Good Industry Practice.

A full set of current standards is available for the Supplier's use on-line. The Supplier shall be responsible for completing and submitting to the Contract Manager the application for internet access to the Standards.

The following specific TfL and LUL category 1 and 2 standards have been identified as applicable to the requirement:

Standard Number	Standard Description
1-085	Fire Safety Performance of Materials
GU-085	Code of Practice – Fire Safety of Materials and Fire Safety of Specific Items and Materials used in the Underground
S1371	Station Planning
S1375	Planning for Ticket Issuing Facilities
G1008	LUCAS (London Underground Combined Access System)
1-066	Low voltage electrical installations
G-073	Electrical Guidance Document
S5072	Testing of Portable Electrical Appliances
1-106	Earthing and Bonding of LUL Electrical Networks
S1114	Safe Systems of work on or near Electrical Equipment
G1336	Electricity at Work

The Supplier shall also ensure that all Standards required for any deliveries by the Supplier or its sub-contractors meet the Work Related Road Risk standards, and that vehicles comply with the Ultra Low Emission ZON (ULEZ).

Compliance to Standards will not be required where there is written derogation from the Standard in place. In such cases Compliance is required to meet the derogation. The Supplier will not be required to be compliant where such requirement is a consequence of a physical design (of the Asset to which the Category 1 or 2 Standard or Draft Category 1 or 2 Standards apply).

Notwithstanding the above, the Supplier shall ensure that in relation to the risks to which the Standards are applicable there is compliance with the principle of safety risks being managed ALARP (as low as reasonable practicable).

The Supplier shall, should it become aware of any Standard anomalies, bring them to the Company's attention in writing within ten (10) working days of becoming aware of such anomalies. Such notices will contain details of the applicable standards and an impact assessment on cost and programme.

Skills and Competencies

Supervisors and Service Engineers must be able to demonstrate experience working with cash management equipment and/or satisfactory completion of a recognised training course. A competency certificate will then be issued by the Supplier.

Specific training requirements for working on the Company's premises are set out in Clause 18 of the Terms and Conditions of Contract and Schedule 11, Training. Compliance with these arrangements is mandatory.

Working Together

TfL will work with the supplier to develop an Active Asset Management Programme (AAMP) in years 1 and 2 of the contract to take effect from year 3. The objective of the AAMP is to ensure optimal performance of the Cash Handling Devices and to reduce operating cost to TfL. The programme will include swapping devices between sites and replacing faulty CHD modules following the Suppliers recommendation (backed with performance data).

TfL will work with the Supplier to swap equipment around and replace some modules, which may not necessitate in the requirement of an additional reactive engineer in Year 3. The latter decision (on whether an additional reactive engineer will be made by both Parties by the end of Year 2

APPENDIX 1 TO SCHEDULE 1A
CASH MANAGEMENT EQUIPMENT ASSET LIST

APPENDIX 2– COMPANY PERSONNEL & FUNCTIONS

The intent of the table below is to establish the different types of Company Administrators

Permission levels	Authorised User	Functions
Company Administrator	TfL Operations	<p>Monitors and assures the Suppliers delivery of the Services.</p> <p>Manages the process and authorises the Supplier to add and remove Company Administrator accounts.</p> <p>Provides a single point of Supplier escalation to the Company related to the delivery of Services.</p> <p>Is able to access the Supplier’s web service portal to assure the delivery of Services.</p> <p>Is able to set or change the operational permission levels of existing Company Administrators.</p>
Company Administrator	LU Operations	<p>Is able to Add/remove User accounts to individual Equipment via the Supplier’s web service portal.</p> <p>Configure Equipment into groups or areas to facilitate access restrictions to station staff Users.</p> <p>Interrogate Supplier’s web service portal for historic Data records by Equipment (location), station, area, network, user, User group, type of transaction, date and time.</p> <p>Set or change the operational permission levels of station staff Users</p> <p>Access the Supplier’s web service portal to view real time status of the Equipment, including hopper and/or tray levels (e.g. % full), total value of coins by denomination, total value of notes.</p> <p>Set or amend the Equipment for quick dispensing of specific value of coins and notes by denomination (for regular floating of ticket machines or filling bulk coin bags).</p> <p>Set or amend Equipment to establish a maximum dispense and daily dispense limits per station staff user / user group</p> <p>Access the Supplier’s web service portal to amend Equipment dispense limits by individual cash management machines or across all</p>

		Equipment and user group
Company Administrator	Financial Service Centre (FSC)	Access financial and historical Data records by cash management machine (location), station, area, network, User, user group, type of transaction, date and time from the Supplier's web service portal for financial reconciliation Interrogate Data via the Supplier's web service portal to generate a report of the current day's transactions (e.g. money in, money out, Users).
Company Administrator	Cash in Transit (CiT) Contractor	Ability to manage PIN access for cash management machines to cash in Transit contractors in conjunction with the Supplier Access Supplier's web service portal to centrally manage Cash in Transit contractors user accounts
User	Station staff	A User is the member of staff that operates the cash management machine at stations. Access the cash management machine with 6 digit numerical user ID reference number (matching current London Underground TSID reference), and additional 4 digit PIN to operate and access the device. Access the cash management machine to make cash withdrawals Access the cash management machine to make cash deposits Access the machine to check (on screen or via printed receipt) the total value of the various denominations stored in the equipment (this transaction is also captured and is auditable). Provides access to the secure suite for the Cash in Transit contractor. Provides access to the secure suite for the Supplier to undertake the Maintenance Services

SCHEDULE 1B: SUPPLY AND INSTALLATION SPECIFICATION

SCOPE

General Requirement

The Supplier shall deliver/install new Equipment and provide Services compliant with the Contract to meet the cash handling requirements of the London Underground managed stations (for a list of proposed sites refer to 'Station sites and Equipment categories' which is supplied as Part 1 of Attachment 3 - Data Pack). Please note, some of the stations have more than one ticket hall and the Supplier will need to maintain more than one cash management machine within the same station (e.g. King's Cross /St. Pancras).

The Equipment shall be able to quickly, accurately and efficiently count and reissue money to authorised and audited individuals (through a simple sign on process). The Equipment shall store money securely and enable controlled and safe collection by designated Cash in Transit contractors.

The Supplier shall reliably deliver the Services throughout the Term as set out in the relevant paragraphs below, in Schedule 1A (Maintenance Specification) and Schedule 8 (Supplier Performance).

The Supplier shall provide appropriate User Training and User Manuals as set out in the Contract with particular reference to Schedule 11. Training will be delivered to designated Company trainers and Company Personnel as part of an implementation package over a set period and covering an agreed number of people (to be agreed as part of the Delivery Programme). The Supplier shall provide on site support as each cash management machine is delivered and help desk support for Company Users and Company Administrators as part of business as usual Services.

The supplier will also be required to provide training to designated trainers from the Company's Cash in Transit (CIT) Contractors.

High-Level Business Requirements

The following requirements' tables contain general requirements, functional requirements, service requirements, technical requirements and constraints that the Supplier shall be compliant with in the Delivery of the Equipment and Services.

Unless it is otherwise stated against the requirement, please assume that the requirement is a 'must have'.

Cash handling

The cash handling functional requirements comprise the acceptance, rejection, counting, dispensing and storing requirements of the cash handling Services.

Ref	Key functionality	Description
1	Cash counting	The cash handling devices shall count cash quickly and efficiently and accurately
2	Coin storing and dispensing	The cash handling devices shall accept, count, store and re-dispense 5 denominations of counted coins (£2, £1, 50p, 20p, 10p) either in a specified value/composition or as a free float within specified limits.
3	Coin storing and dispensing	The cash handling devices shall accept, count and store 1p, 2p, and 5p coins. It is possible that these coins are stored together.
4	Secure storage	The cash handling devices shall have a security storage rating of at least Security Level 2 in accordance with the Loss Prevention Standard (LPS) LPS1175 as amended. Version 7 is attached as Part 7 of the Data Pack for reference.
5	Secure storage	The cash handling devices shall securely store coins deposited that can not be accommodated within the specified hoppers.
6	Secure storage	Bank notes shall be stored within the cash handling device in a uniquely numbered collectable container (e.g. pouch, transportation sack) for collection and shall be bar coded for reporting purposes
7	Secure storage	The total value of bank notes stored in the collectable container within the cash handling device shall contain a maximum of £20,000.
8	Secure storage	Category A Cash Handling Devices shall have at least two sacks or an alternative method of storing deposited notes so that notes can be deposited even if one note container is full or becomes defective.
9	Secure storage	Category B devices shall have at least one sack or an alternative method of storing deposited notes so that notes can be deposited even if one note container is full or becomes defective.
10	Acceptance of UK bank notes	The cash handling devices shall accept and store the following UK bank notes: Bank of England Bank of Scotland, Royal Bank of Scotland, Clydesdale Bank Bank of Ireland, First Trust Bank, Danske Bank, Ulster Bank with the exception of commemorative issue bank notes and the £100 bill issued by Scottish and Northern Irish banks.
11	Acceptance of UK currency	The cash handling device shall accept and store the following UK coinage: Bank of England States of Jersey and Guernsey Isle of Man Gibraltar All current notes issued by Scottish and Northern Irish Banks

Ref	Key functionality	Description
12	Acceptance of new UK currency	The Supplier is required to adapt the cash handling devices and Services, where necessary, to accept new designs of UK coins or banknotes.
13	Rejection of non-UK currency	The cash handling device shall reject all non-UK currency and counterfeit notes and coins.
14	Rejection of non-UK currency	The cash handling device shall not count any rejected currency (notes or coins).
15	Recycling of money	The cash handling device shall dispense specified quantities / values of specified coins to authorised Users.
16	Recycling of money	The cash handling device shall dispense a specified value of coins directly into a money tray.
17	Transaction receipts	The cash handling device shall print a receipt of total values collected by the security custodian broken down by denomination.
18	Transaction receipts	The cash handling device shall print a receipt for the User specifying the total values of coins and notes deposited into or dispensed out of the cash management machine.
19	Transaction receipts	The cash handling device shall print a summary of transactions made by the User during a traffic day if required by a User.
20	Transaction receipts	The cash handling device shall print and display the total amount and value of cash in the machine and the amount of coins within each hopper, any in the overflow vault, within the note container and note unit. On the device display, the monetary contents shall be able to be shown in a graph format.
21	Single User operation	The cash handling device shall support the principle of individual accountability and attribute all actions undertaken by a User to them.
22	Ergonomics	The cash handling device shall be easily accessed, ergonomically sound and able to be carried out within a potentially constrained environment.
23	Ergonomics	Dispensing of money shall be easily accessible, ergonomically sound and not too low or awkward to remove the cash within a potentially constrained environment.
24	Capacity	The capacity for bank note storage at Category B cash handling devices shall be a minimum total value of £37500.
25	Capacity	The capacity for bank note storage at Category A cash management machines shall be a minimum total value of £57500.
26	Capacity	The capacity for recyclable coin storage at Category B and Cat D (coin only) cash handling devices shall be a minimum of £7,700
27	Capacity	The capacity for recyclable coin storage at Category A cash handling devices shall be a minimum of £8700.

Ref	Key functionality	Description
28	Note storage	Where a cash handling device has a note re-cycler the Supplier shall provide a facility for an authorised User to transfer notes into the collectable container prior to a collection taking place.
29	Coin storage & dispensing capacity	The Category B and Category D (coin only) cash handling devices shall store for recycling (dispensing) a minimum capacity of: £2 = 2000 coins £1 = 2500 coins 50p = 1500 coins 20p = 1500 coins 10p = 1500 coins
30	Coin storage & dispensing capacity	The Category A cash handling devices shall store for recycling (dispensing) a minimum capacity of: £2 = 2500 coins £1 = 2500 coins 50p = 1500 coins 20p = 1500 coins 10p = 1500 coins
31	Identification of bags / containers	The cash handling device shall scan (or register) a container (bag) from which cash is to be deposited into the cash handling device and to identify a bag to be filled with cash from the cash handling device , or to be used to top-up the cash management machine with change.

Access for Users

The users' access functional requirements comprise the security arrangements, logging on / off requirements, permission types and capacity range of the users of the cash management Equipment and Services.

Ref	Key functionality	Description
101	User sign on	The cash handling device shall read and accept a current London Underground issued magnetic TSID swipe card and 4 digit PIN.
102	Access	User access shall be prevented from areas of the cash handling device where coins and notes are stored.
103	Access	Access to the note containers awaiting collection shall be restricted to the Cash in Transit(CIT) Contractor and cash handling device Supplier Personnel
104	Access	Engineering access shall be gained via a uniquely recognisable and logged ID.
105	Access	The cash handling device shall be secured with a locking mechanism to prevent unauthorised access to all parts of the Equipment where cash is stored.
106	Cash collections	The cash handling device shall be operated and cash collections made by the Cash in Transit (CIT) Contractor whenever required and without station staff intervention.
107	Cash collections	The Cash in Transit (CIT) Contractor(s) shall log onto the cash handling device using one or multiple PINs to collect notes and with an auditable transaction record (the CIT Contractor shall not need to use keys).

Ref	Key functionality	Description
108	Cash collections	The Cash in Transit Contractor shall log on to the cash handling device using individual PINs provided by the Supplier to the Company's authorised Cash in Transit (CIT) Contractor.
109	Audited transactions	The cash handling device shall capture auditable records of all individual users and transactions undertaken on the specific cash management machine.
110	Capacity of multi-Users	Each individual cash handling device shall be able to handle the number of potential different London Underground User ID's and PINs assigned to each cash management machine (up to 8000 authorised users) without affecting the performance of the Equipment or Services. .
111	Capacity of multi-Users	The Supplier shall ensure that the Equipment and Services are able to operate without Fault or degradation during periods when multiple concurrent Users are using the Equipment and Services concurrently.
112	Permission levels	The Equipment and Services shall facilitate different User permission levels (e.g. User and Company Administrators) for carrying out specific functions. The adding or removal of such Users and Company Administrators shall be undertaken by the Supplier once authorised by the Company. The addition of users shall be possible by Administrator level.
113	Remote addition of Users	Authorised Company Administrators shall be able to add/remove Users to all cash handling devices remotely and such changes shall take effect prior to the start of the next Operational Day.
114	Remote addition/removal of Users	The cash handling devices shall be configurable into groups or areas for reporting purposes only.
115	Remote modification of individual User permission levels	Company Administrators shall be able to set or change the operational permission levels of authorised Users on an individual cash handling device remotely. Such changes when applied by authorised Company Personnel will take effect prior to the start of the next Operational Day.
116	Ergonomics	Logging onto the cash handling device shall be ergonomically easy (clear and user-friendly), particularly given the constraints of the working environment in which the Equipment is located.
117	Alarm conditions	The cash handling device shall report unauthorised attempts to access it showing when the event occurred, and which part of the cash management machine was being tampered with. Such events will be logged by the Supplier in near real time and escalated to the Company.
118	Alarm conditions	The cash handling device shall have a duress alarm facility fitted, which shall provide an alarm to the Company in near real time.

Data / IT Interfaces

The table below sets out the high level Data / IT Interfaces, functional and reporting requirements of Data captured by the Equipment and Services.

The Company shall have four (4) types of Company Administrators:

LU Operations - a central function to add/remove Users to cash management machines and device monitoring

BSF – a central function accessing financial and usage information

TfL Operations – system monitoring and incident management assurance

Cash in Transit (CIT) Contractor – an ability to access the Services as defined in this Schedule and Appendix 1 for the purposes of cash collection.

The Supplier shall ensure that their solution enables separate user access provisions for each type of Company Administrator. The Supplier is responsible for adding/removing Company Administrators to the Equipment and Services, such changes will be affected within 24 hours by the Supplier after being notified by the authorised Company Personnel.

Ref	Key functionality	Description
201	Live data	The Equipment shall provide live (near real time) data for each function of the Equipment (current coin and note levels / values) both at local station and at head office.
202	Threshold levels	The Equipment shall set cash levels (coins & notes) to trigger notifications to facilitate cash collection.
203	Historic data	The Equipment shall provide historic data records by each cash management machine (location), station, area, network, User, User group, type of transaction, date and time.
204	Data	The Equipment shall interface and share Data with major industry known reporting systems e.g SAP, Boxi as limited examples.
205	Equipment status	Authorised Company Administrators shall be able to view remotely (e.g. via the internet) the real time status of the Equipment, including hopper and/or tray levels (e.g. % full), total value of coins by denomination, total value of notes.
206	Equipment status	Users shall be able to check (on screen or via printed receipt) the total value of the various denominations stored in the cash management device (this transaction shall be captured and auditable).

Ref	Key functionality	Description
207	Equipment reports	Company Administrators shall be able to view remotely a report of the current day's transactions (e.g. money in, money out, Users).
208	Intuitive screen functionality	Equipment operational screens shall be intuitive (they do not require additional training, or require minimal training) and easily updateable if changes are required.
209	Ability to preset or configure dispense values	The cash handling device can be 'preset' for quick dispensing of specific value of coins by denomination (for regular floating of ticket machines or filling bulk coin bags).
210	Ability to preset or configure dispense values	The cash handling device can be preset to dispense specific value of notes by denomination if note recycling is provided.
211	Ability to set maximum dispense levels	The cash handling device can be preset to establish a maximum dispense and daily dispense limits per user / user type.
212	Ability to set up additional dispense options	The Supplier for all devices shall be able to add and set up new dispensing values remotely to each cash management machine as defined in Appendix 1.
213	Ability to change preset dispense options (by equipment)	The Supplier for all devices shall be able to amend dispensing values remotely per individual cash management machine as defined in Appendix 1.
214	Ability to change preset dispense options (by User)	The Supplier shall be able to amend dispensing limits remotely by cash management machine or across all cash management machines as defined in Appendix 1.
215	Ability to change preset dispense options (by User type)	The Supplier can amend cash management machines dispensing limits remotely by User type as defined in Appendix 1.
216	Specified end of day reporting time	The Operational Day for the Services at the Start Date shall be: Start of day 04:30am End of day times 04:29am. every day excluding Christmas day
217	Specified end of day reporting time	The Supplier shall ensure that the specified start / end of day times across all Equipment, is configurable by the Supplier when such changes are authorised by the Company.

Ref	Key functionality	Description
218	Specified end of day reporting time	Each cash handling device shall generate an end of day report detailing total cash held within each cash management machine and within each coin hopper, note unit and any vaults for miscellaneous coins.
219	Specified end of day reporting time	Each cash handling device shall be able to print a local copy of the machine contents at the end of day.
220	Time changes	All Equipment shall automatically switch between GMT and BST and vice versa on designated dates, without the need for User or Company Administrator intervention.
221	Equipment Time Synchronisation	The Equipment shall accurately report the correct date and time to within one (1) minute throughout the Operational Day. The time clocks in each cash handling device shall operate with the Network Time Protocol (NTP) or equivalent to ensure that each cash management machine time is synchronised with the Back Office for accurate date and time reporting
222	Reporting requirements	All Equipment transaction and status Data is recorded and able to be reported by type of activity (deposit, dispense, cash collection and Fault type)
223	Reporting requirements	All Equipment permissions and User/ setting changes shall be recorded and able to be reported upon
224	Reporting requirements	All Equipment transactions are recorded and reported by each user.
225	Reporting requirements	All Equipment transactions are recorded and reported by each cash handling device , station, area or accounting unit.
226	Data reporting	The Supplier shall ensure that the Equipment and Services accurately capture and are able to report upon as a minimum the following details: Station ID Location User Transaction type Deposit – coins Deposit – notes

Ref	Key functionality	Description
		<p>Withdrawal – coins</p> <p>Withdrawal – notes</p> <p>Cash in Transit (CIT) Contractor collection</p> <p>User finger tip interventions</p> <p>Engineer Interventions and Faults reported</p> <p>Transaction date</p> <p>Value of the transaction</p> <p>Bag/seal ID for Cash in Transit(CIT) Contractor collections</p> <p>By each accounting Unit, traffic day opening balance, sum of transactions IN, Sum or transactions OUT, traffic day closing balance.</p> <p>For each accounting unit, reconciliation of opening to closing balance, detailing all transactions.</p>
227		The Equipment cash transaction Data shall be available in the latest version of the Microsoft Office products in use, as stated in clause 342.
228	Manual Data Transfer	<p>The Supplier shall develop and maintain a secure and auditable means to manually extract transaction and status Data from the cash handling device and transfer such Data to the back office systems for consolidated reporting.</p> <p>Such activities would only be undertaken during periods of extended communication Faults at stations and upon agreement with the Company.</p>
229	Data reporting	The Equipment shall be able to locally print reports of events by day or individual User.
230	Screen controlled device functions	Equipment functions, controlled by the software, should include: deposit or, dispensing of cash, status / money levels (stored in the Equipment).
231	Data reporting	The Equipment shall report all transactions by cash management machine (or location reference), station, individual Users, User group, date, time.
232	Notifications	Automatic notifications are able to be configured to provide an alert when set capacity thresholds are reached on an individual cash handling device to potentially prompt a cash collection, or User action.

Ref	Key functionality	Description
233	Barcode scanner	Each cash handling device shall have an interleaved 2/5 barcode scanner either interfaced to the cash management machine or part of the cash management machine.
234	Barcode scanning	The cash handling device shall read and record bar coded coin bags with the ability of logging amounts against the scanned and recorded bags.
235	Barcode recognition	The Equipment shall recognise previously record bar coded bags (and contents identified).
236	Software	The Supplier must supply and support non-proprietary software.
237	Hardware	The Supplier must supply and support non-proprietary hardware.
238	Reporting	The Supplier shall report a list of stations/devices which did not trigger the event to send daily transaction histories for the previous traffic day to the central system at 08.30 every day, to include the auto-generated Daily Transaction Histories Report. This is for all transactions between 04:30 and 04:29 for the previous traffic day.
239	Reporting	The Supplier shall provide the capability to download 'Service Calls' Histories for individual devices in Excel format.
240	Reporting	The Supplier shall report a daily list of open jobs, generated at the same time as the Daily Transactions Report. The report shall include the date and time of the job reported and the fault reported.
241	Reporting	On the back office portal, the Supplier shall show the sack number of where the cash is moved to.
242	Reporting	On the back office portal, the Supplier shall show when the cash has been removed by CIT or the Engineer and a record of the sack number. Note: If the CIT Collection reports show the Bag ID (Sack no), this would be a NICE TO HAVE REQUIREMENT.

Ref	Key functionality	Description
243	Reporting	The Supplier shall provide a daily report that indicates devices by station that have been offline for more than 24 hours, in order to make a preliminary check with the station that the modem is plugged in/switched on etc. before sending an engineer to site.
246	Reporting	If a data feed fails, the Supplier shall provide a manual report replacement within 48 hours of being notified of the data feed failure.
247	Reporting	The devices shall be configurable to ensure that the addition/amendment/deletion of accounting units (reporting field) can be identified and reported on.

General Service Provisions

The requirements in the following table capture the Company's Service requirements and guide the Supplier in how the Services should be delivered and managed.

Ref	Key functionality	Description
300	Access	The Supplier Personnel shall hold the requisite access permits necessary to work on Company Premises; as a minimum each person shall hold a valid Station Access, Fire Awareness Permits, Sentinel Cards and comply with Company Standards
301	Access	The Supplier shall ensure that each Supplier Personnel attending the Companies Premises carry with them appropriate method statements, risk assessment and COSHH sheets appropriate for the work planned in compliance with QUENSH
302	Access	Planned and preventative maintenance access requests shall be sent to the Company as a minimum 4 weeks in advance of such access requirements.
303	Company Administrator Access	The Supplier shall add/remove Company Administrators and their access provisions to the Services within 24 hours once such changes have been instructed by the Contract Manager or delegate.
304	Company Administrator Access	The Supplier shall report to the Company each Accounting Period all Company Administrator requests submitted and when changes have been affected. The Supplier shall provide a summary report of all Company Administrators and their respective access permissions to the Services each Accounting Period.

Ref	Key functionality	Description
305	Company Administrator Access	Authorised Company Administrators shall be able to access the Services throughout the Operating Day (starts 04:30 and ends at 04:29 – every day excluding Christmas day).
306	Asset Management	The Supplier shall provide Company Asset management reports to the Company every three (3) Accounting Periods (unless otherwise requested by the Company) detailing all Company Assets and Equipment and indicating where a change has occurred. The type of information requested include but is not limited to: Equipment installed Changes to said Equipment Serialised components or parts changed Asset life cycle predictions of the Equipment and serialised component parts and rationale Spare Parts held as stock Consumable parts stock holding Back office components Usage or capacity concerns Any devices held in storage
307	Asset Management	The Supplier shall maintain an accurate Company Asset list of all Company Assets and Equipment, including serialised components and consumable parts therein throughout the Term of the Contract.
308	Asset Management	The Supplier shall be responsible for maintaining the Equipment to ensure that the Company discharges its statutory responsibilities for H&S and Mandatory or Category 1 and 2 Standards. The Supplier shall provide suitable evidence to the Company at least annually for assurance purposes.
309	Asset Management	The Supplier shall provide to the Company as a minimum every three (3) Accounting Periods Company Asset plans which detail the reliability of the Equipment and Company Assets and where in the Asset life cycle each Company Asset and components are with the supporting rationale. Information will include but not be limited to remaining useful life and obsolescence issues for each Company Asset with the Suppliers proposals to remedy such issues.
310	CIT General Provision	The Supplier and Cash in Transit (CIT) Contractor will work together to enable a secure and auditable means to access the Equipment to deposit/remove monies from stations.
311	CIT	Where an Equipment Fault exists that will prevent a scheduled CIT Contractor delivery or pick up, this Fault shall be prioritised and repairs completed to prevent abortive CIT Contractor activities where practicable.
312	Dashboards	The Supplier shall develop and maintain suitable performance dashboards on the status of all open Faults and compliance with

Ref	Key functionality	Description
		contracted outputs, such dashboards shall be visible to the Company.
313	Dashboards	<p>The development of suitable dashboards that present information by exception to Supplier Personnel and the Company is considered essential for the reliable delivery of Services and assurance to the Company.</p> <p>If such dashboards are not available when the Equipment is installed they shall be delivered within 6 Accounting Periods of the first Equipment being Delivered and an Acceptance Certificate issued by the Company.</p>
314	BSF & LU Reporting Functional Requirement	The Supplier shall ensure that all status and transactional Data is transferred to the back office and processed as quickly as possible for the provision of complete and accurate reporting, the Data completeness targets are defined in Schedule 8 Table 3.
315	BSF & LU Reporting	The Supplier shall be responsible for the delivery of reports and reporting Data to the Company as defined in the Contract.
316	Functional	The Supplier is responsible for the Delivery and maintenance of the communications systems that connects each cash handling device to the back office systems provided by the Supplier to deliver the Services. The Supplier is in all cases responsible for the extract of data from all cash handling devices under the contract. At some locations, the Company provides fixed line services, and in these cases the Supplier remains responsible for the extract of data.
317	Functional	The Supplier shall be responsible for the Delivery and maintenance of suitable back office systems and components to operate the Equipment and reliably deliver the Services, including all Data, financial and service reports throughout the Term of this Contract.
319	General	The Supplier shall be responsible for the reliable Delivery of the end to end Maintenance Services.
320	General	All Information or Data shall be owned by the Company and all such Information and Data shall be maintained and available to the Company in accordance with the Contract.
321	General Provision	The Supplier shall fix all Faults without delay regardless of cause. Any commercial discussions about interfaces and/or responsibilities will be held at the Contract progress meeting
322	General Provision	Where ambiguity exists regarding a Fault across an interface, the Supplier shall work with the other party to effect a resolution at no additional cost to the Company
323	Service Desk	The Supplier shall establish a dedicated telephone number to accept Fault calls from the Company.
324	Service Desk	The Supplier shall establish a dedicated email inbox to accept reporting via email.

Ref	Key functionality	Description
325	Service Desk	90% of all such phone calls shall be answered by suitably qualified Supplier Personnel within 30 seconds
326	Service Desk	All Faults and threshold exceptions shall be identified, diagnosed and logged on an incident management system within 15 minutes of the Fault or threshold exception self reporting or the Fault being reported by the Company to the Supplier.
327	Service Desk	All reported faults shall be identified by a unique fault reference number to aid tracking.
328	Service Desk	The Supplier shall provide first Line telephone support to Company Users and Administrators to try and resolve faults without having to dispatch Supplier Personnel. Where a resolution by Company staff is not viable or has not proven effective then Supplier Personnel shall be assigned to effect repairs
329	Service Desk	The Suppliers service desk is responsible for arranging access to Company Premises where Faults have occurred and comply with the Company's access processes, adopting the Refused Access Process where applicable.
330	Service Desk	The Suppliers service desk shall be the single point of contact and escalation for Maintenance Services and Faults and shall keep the Company informed by pro-active updates where Faults have occurred. Where escalation to Level 2 or 3 support is required this will be managed by the Supplier service desk.
331	Service Desk	Where a Rectification Time has been exceeded as detailed in Schedule 8(Supplier Performance) Table 3 and paragraph 2.2 this shall be escalated immediately to the Company service desk, with a plan to address such failure and the time scales.
332	Incident Management	All reactive and planned and preventative maintenance activities will be recorded by the Supplier on a suitable service management system.
333	Incident Management	All reactive and planned preventative maintenance tasks and activities will be recorded by the Supplier within the incident record; all activities shall be time and date stamped. All Supplier Personnel working on the Companies Premises shall be recorded within the incident record.
334	Incident Management	The incident management data is owned by the Company and the Supplier shall make such information available to the Company when requested.
335	Incident Management	The Supplier shall where practicable develop an ability to monitor the Equipment and Services such that Faults can be identified and repairs affected without reliance upon Company Personnel to report such Faults.

Ref	Key functionality	Description
336	Incident Management	The Supplier shall develop and maintain suitable tools that allow the Company to have visibility in near real time of all Faults, their current status and activities being undertaken by the Supplier to affect repairs.
337	Processes	The Supplier shall work with the Company to develop integrated processes and procedures for service monitoring, incident and change management for the Term of the Contract. All such processes shall be agreed and documented by the Supplier during the Delivery of the Contract.
338	Service Reporting	<p>The Supplier shall prepare and deliver to the Company a Maintenance Services progress report every Accounting Period as part of their payment application. Such report will provide all necessary information for the Company to assure the contracted outputs have been delivered and process the Suppliers payment application.</p> <p>Such report will be made available to the Company within 5 business days of the end of the Accounting Period.</p>
339	Reporting	<p>The Supplier shall send to the Company a Daily Cumulative Faults Report each morning by 06:00 hours that details all open and closed Faults that have occurred in the previous Operating Day, as a minimum such report will contain:</p> <ul style="list-style-type: none"> Location – machine Fault type and service affected Date and Time fault occurred All Activities undertaken (time and date) Symptom, Cause and Actions Parts used Elapsed failure time Abatements if applicable Repeat Faults on the same item of Equipment within the last 12 rolling weeks
340	Reporting	<p>The Supplier shall provide availability reports of Services and/or Equipment each Accounting Period:</p> <ul style="list-style-type: none"> By each contracted Service each Accounting Period By each item of Equipment By each LU Station The Supply
341	Service Reporting	<p>The Supplier shall report upon all contracted outputs, KPIs and SDI Performance Criteria as a minimum each Accounting Period unless specified to the contrary by the Company.</p> <p>Please note this excludes the Supplier provided dashboards which will present information in near real time.</p>

Ref	Key functionality	Description
342	Service Reporting	The Supplier shall develop and maintain suitable management reports that detail all contracted outputs and management escalations. Such reports shall be provided to the Company as requested, but as a minimum once each Accounting Period to support the Contract progress meeting and the processing of Supplier Application for Payment.
343	Service Reporting	<p>The Supplier shall maintain and deliver to the Company each Accounting Period service trend reports for agreement and discussion with the Supplier at the Contract progress meeting.</p> <p>Limited examples of the type of information likely to be provided include:</p> <ul style="list-style-type: none"> Number of Faults By cash management machine By Equipment type By service By component part Repeat Faults for each item of Equipment Fault repair activities Average repair times Component parts replaced Renewed or returned to workshop for repair MCBF for each Equipment type averaged across the Supply Identify any Equipment falling below an agreed operational base line MCBF threshold Refused access to LU Stations and reasons Equipment usage Data
344	Reporting	<p>The Supplier must produce all reports in compatibility with TfL's latest version of Microsoft Office Suite.</p> <p>The Supplier must align compatibility requirements with TfL as necessary for the duration of the contract.</p>
345	Account Management	The Supplier must have a named Account Manager and notify the Company of this named individual.
346	Account Management – Movers, Leavers and Cover Staff	The Supplier must notify the Company if there is a change of Account Manager and notify them of the name of the new individual.
347	Account Management – Organisational Chart	The Supplier must supply the Company with an organisational chart detailing those who are managing and operating the contract.
348	Network Connectivity	The Supplier must be able to both remotely connect to maintain devices and also physically access some sites to maintain devices where remote connection is not possible.

Training / Support

The Training / Support functional requirements comprise the training required prior to and during Delivery of the Equipment and Services across the Company Premises and the further training and support requirements for Users and trainers throughout the Term of the Contract.

Ref	Key functionality	Description
401	Training	The Supplier shall provide suitable training/briefings to administrators and designated company trainers, in the event of major system or device changes.
402	Service desk	The Suppliers service desk will be available 24 x 7 to provide support to Company Personnel and log Faults as specified in the Specification and Schedule 8(Supplier Performance), excluding Christmas Day. Where such Faults may be resolved by local Company Personnel the Supplier shall provide telephone guidance to these Company Personnel to help repair Faults more quickly and reduce the Suppliers operational costs.
403	Help desk	Help desk support is available to Users (station staff) and/or Company Administrators between the hours of 05:00 – 20:00, Monday to Saturday.
404	Help desk	Help desk support is available to Users (station staff) and/or Company Administrators between the hours of 08:00 – 20:00, on Sundays and public Bank Holidays.
405	Help desk	Help desk availability for the CIT Contractor, cash collection support (issue resolution) shall be available between 7:00 – 17:00, Monday to Saturday.
406	Help desk	Help desk availability for CIT Contractor, cash collection support (issue resolution) shall be available between 10:00 – 16:00, on Sundays and Public Bank Holidays.
407	Training	The Supplier shall develop and maintain suitable training/briefing material to the company in the event of any major system or device changes.
408	Training	The Supplier shall develop and maintain as a minimum suitable Company Premises access courses, method statements, risk and COSHH assessments and ensure that all Supplier Personnel are suitably trained prior to attending any Company Premises. The first method statements, risk and COSHH assessments for Delivery of the Equipment are required two 2 weeks after the Start Date Accurate training records for all Supplier Personnel shall be maintained by the Supplier and made available to the Company upon request.
409	Training materials	The Supplier shall provide training materials to support an e-learning approach for new Users to understand how to use the Equipment.
410	Training materials	The Equipment may provide training and help screens and prompts to assist Users in rectifying problems on the Equipment.

Human Factors

The Supplier shall meet the following Human Factor requirements:

Type / Classification	Requirement	Description of Requirement	Source
Cash Handling	Human Factors 1 (HF 1)	Depositing money into the cash management machine needs to be easily accessed, and able to be carried out within a potentially constrained environment.	LU Human Factors: HF Engineer
Cash Handling	HF 2	Depositing money into the cash management machine should minimise the need for uncomfortable postures.	LU HF: HF Engineer
Cash Handling	HF 3	Depositing money into the cash management machine should not require manual handling of heavy items which are non compliant with Health and Safety guidance relating to manual handling.	LU HF: HF Engineer
Cash Handling	HF 4	Dispensing of money from the cash management machine needs to be easily accessible within a potentially constrained environment.	LU HF: HF Engineer
Cash Handling	HF 5	Dispensing money from the cash management machine should minimise the need for uncomfortable postures.	LU HF: HF Engineer
Cash Handling	HF 6	Dispensing money from the cash management machine should not require manual handling of heavy items which are non compliant with Health and Safety guidance relating to manual handling.	LU HF: HF Engineer
User interaction with Graphical User Interface	HF 7	Graphical User Interfaces (GUI) of cash management machines (such as touch screens) or keyboard and mouse operated screens, should be intuitive and not unnecessarily complex to use	LU HF: HF Engineer
User interaction with Graphical	HF 8	Touch screen and keyboard and mouse driven GUIs should be easily accessible for the 5 th percentile female to 95 th	LU HF: HF Engineer

Type / Classification	Requirement	Description of Requirement	Source
User Interface		percentile male in height.	

CONSTRAINTS

Physical, Environmental & Engineering Constraints

There are many constraints within the London Underground station environment that the Supplier needs to be aware of and consider when planning installing, and maintaining Equipment in these Premises. The physical size of the secure rooms (POM suite) present challenges to the installation, operation and maintenance of the Equipment that must be assessed and solutions implemented, such that all activities can be undertaken safely.

London Underground is currently undertaking a series of station surveys in order to provide detailed information, including room dimensions, access dimensions and weight constraints and 3G/4G signal strength for all station sites.

Ref	Key functionality	Description
501	Operating within spatial constraints	The cash handling device shall be accessed and operated from minimum angles (i.e. the front and top) and does not need full 360° access.
502	Maintained within spatial constraints	The cash handling device shall be accessed and maintained from minimum angles (i.e. front and top) and does not need full 360° access.
503	Security rating of equipment	The cash handling device shall have a minimum security rating of Level 2 in accordance with the Loss Prevention Standard (LPS) LPS1175 as amended. Version 7 is attached as Part 7 of the Data Pack for reference.
504	Maximum weight	Total weight of the cash handling device when empty of cash for a Category A cash management machine shall be less than 500kg
505	Maximum weight	Total weight of the cash handling device when empty of cash for a Category B cash management machine shall be less than 350kg
506	Maximum weight	Total weight of the cash handling device when empty of cash for a Category C cash management machine shall be less than 250kg
507	On site installation	If the above maximum loaded weights cannot be met then the cash management machine may require to be mounted on a load bearing base and / or fixed on the ground beneath. The supplier is to provide a proposed solution of spreading the load without the need for a concrete base to be installed). Note to bidders: The Contract or is to price such proposals as requested in the ITT guidance documentation.
508	Maximum dimensions	Maximum dimensions of a Category A cash handling device shall be less than 160cm x 150cm x 80cm (h x w x d)
509	Maximum dimensions	Maximum dimensions of a Category B cash handling device shall be less than 160cm x 80cm x 80cm (h x w x d)
510	Maximum dimensions	Maximum dimensions of a Category D cash handling device shall be less than 160cm x 80cm x 80cm (h x w x d)

Ref	Key functionality	Description
511	Operational dimensions	Each category of cash handling device shall be installed, set up, fully maintained and operated effectively and efficiently within the spatial dimensions of the station sites (which may be larger than the maximum dimensions provided in ref 508, 509 and 510).
512	Modular on-site installation	The cash handling device shall be split into modular components for Delivery and installation at various sites.
513	On site installation	All cash handling devices shall be secured to the floor or wall to prevent movement or tipping when servicing is undertaken.
514	On site installation	If the cash handling device requires a load bearing base it shall be delivered and installed at the same time.
515	Power requirements	The cash handling device shall be able to function on standard 240v single phase electricity supply
516	Transfer of data	The Equipment shall provide full software reporting and remote functionality through a suitable communication system to the Suppliers back office equipment
517	Access for installation	The cash handling device shall be delivered to, installed and set up in, POM suites below ground with narrow access passages / corridors.
518	Installation	As part of the Delivery, the Supplier shall take responsibility for the movement of cabinets and other ticket office furniture (including the removal of worktops and coin counting equipment) to make way for the installation of the cash handling device at the time of the installation.
519	Installation hours	Installation shall take place during engineering hours (non-train service hours or as agreed with the Company at individual stations).

Technical Interfaces and Security Provisions

The following business requirements set out the technical and security provisions that the Supplier shall comply with for the Equipment and Services.

Ref	Key Functionality	Description
601	Functional	The Company Administrators shall be able to access authorised Services by suitable user interfaces available via web browser (HTTPS). The user interface(s) shall not require any third party library to be installed on the Company Administrator's web browser to enable the Delivery of this requirement.
602	Functional	The web browsers supported by the cash handling solution shall be the latest version used by TfL and maintained in line with subsequent upgrades to TfL's systems. At time of contract tender, the latest versions are: Chrome 37 – Version 75 (only one Win10); Internet Explorer 9 – Version 11 (both Win 7&10); Firefox 16 – Version 60.7 (both Win 7&10); Safari 11 or 12 (iPads).
603	Security	The Supplier shall develop Services in compliance with the Company's Information Security Policy.
604	Security	The Supplier shall ensure that no generic user accounts are allowed or supported once any cash management machine has been installed and in service. All privileged and non-privileged account holders will be issued with their own, unique, logon credentials.
605	Security	The Supplier shall ensure that the Services operate on a least privilege access principle.
606	Security	All system Documentation relating to security features, user accounts, passwords and Equipment configuration shall be marked and treated as confidential information. System Documentation shall not be sent in unencrypted form. A minimum of 128-bit AES encryption shall be used if Documentation is sent in electronic form; passphrases must be exchanged out of band.
607	Security	The Supplier shall provide to the Company independent certification guaranteeing that the Suppliers Services have passed security vulnerability testing.
608	Security	The Supplier shall treat all personal and financial Data according to the Companies Restricted Data classification standard. TfL Restricted data classification applies to the data on the volume of cash collected.

Ref	Key Functionality	Description
609	Security	The Supplier shall ensure that the Equipment is not configured with default security passwords at go live.
610	Security	The Supplier shall prevent access via insecure PINs (Personal Identification Numbers) (e.g. 0000 or 1111).
611	Functional	The Equipment shall support 802.3 Ethernet and 802.11 Wi-Fi based IP networking in DHCP (static and dynamic) and non-DHCP modes.
612	Security	The Equipment shall not accept unauthorised connections to its technical interfaces. Attempts of this type of access shall be recorded as a security event with a corresponding alarm condition reported.
613	Functional	The service provider shall be responsible for providing the end to end network connectivity for the Services.
614	Security	Attempts to tamper with the technical interfaces between the Equipment and other systems delivering the Services will be reported as a security event with a corresponding alarm condition raised.
615	Security	The Equipment shall protect against unauthorised access to removable media ports using a physical access measures.
616	Functional	The cash management machine shall not act as a network bridge between data networks.
617	Functional	Transactional Data captured by the Equipment shall be centrally reported in near real time.
618	Functional	The Supplier shall inform the Company of technical changes of the Equipment and its associated components prior to them changing.
619	Functional	The Equipment shall periodically report network health statistics relating to its integrity and general performance in the delivery of Services to a central location for Supplier monitoring and Company assurance of the Services.
620	Functional	The Supplier shall provide an integrated domestic cellular radio (3g/4g) communication network option for the Equipment.
621	Functional	The cellular radio communication network option will include the capability of a fixed IP SIM with private APN and fixed for security. SIM cards will be configured such that they cannot roam and will only allow Data.
622	Functional	The Supplier shall ensure that they select a network operator with suitable signal strength at each location. The Supplier shall provide a solution at locations to boost signal strength to the required levels where signal strength is a particular issue.
623	Functional	The Equipment and associated architecture shall use TLS or SSL for securing system to system communication channels and data flows. All transactions and data flows between Equipment must be guaranteed confidential and authentic,
624	Functional	The cash management machine shall be able to be configured to operate standalone or with connection to its centralised server environment.
625	Functional	The Equipment shall use a central time service to synchronise all communications between Equipment

Ref	Key Functionality	Description																																																																								
626	Functional	Any deployed cellular communication option will utilise a single APN for all communications with the Equipment. The APN will be configured in such a way that a dedicated data pipe will be created between the cellular network operator's network and the Equipment. The APN naming of the APN shall follow an agreed convention between the service provider and the Company.																																																																								
627	Functional	<p>The Supplier shall where practicable ensure that the Equipment with specific reference to the SIM/cellular network shall comply with the requirements set out below</p> <table border="1"> <thead> <tr> <th>Item</th> <th>Description</th> <th>SIM</th> <th>network</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>SIM cards will have a PIN code that is derivable</td> <td>Y</td> <td></td> </tr> <tr> <td>2</td> <td>The Device will not receive SMS messages</td> <td></td> <td>Y</td> </tr> <tr> <td>3</td> <td>The Device will not be allowed to use CSD circuits</td> <td>Y</td> <td>Y</td> </tr> <tr> <td>4</td> <td>The device will not receive Voice calls</td> <td></td> <td>Y</td> </tr> <tr> <td>5</td> <td>The SIM card will be a member of a closed user group</td> <td></td> <td>Y</td> </tr> <tr> <td>6</td> <td>The SIM card will have no APN or URL preconfigured within it</td> <td>Y</td> <td></td> </tr> <tr> <td>7</td> <td>The Network will allow access to a restricted (predefined set of APN)</td> <td></td> <td>Y</td> </tr> <tr> <td>8</td> <td>A SIM will be received pre activated and registered on the Cellular Network</td> <td>Y</td> <td>Y</td> </tr> <tr> <td>9</td> <td>Network Service Commands will be inhibited</td> <td></td> <td>Y</td> </tr> <tr> <td>10</td> <td>New SIM will not be data usage inhibited</td> <td></td> <td>Y</td> </tr> <tr> <td>11</td> <td>The MSISDN of the SIM cards will not be listed in a public directory</td> <td></td> <td>Y</td> </tr> <tr> <td>12</td> <td>SIM cards will be M2M tuned</td> <td></td> <td>Y</td> </tr> <tr> <td>13</td> <td>SIM Cards will be identifiable as IOP contract (ie physical appearance will be altered to identify them as SIM from this contract) – HIGHLY DESIRABLE</td> <td>Y</td> <td></td> </tr> <tr> <td>14</td> <td>The SIM will not be subject to location tracking services</td> <td></td> <td>Y</td> </tr> <tr> <td>15</td> <td>The Devices will not be subject to Voice Mail & paging</td> <td></td> <td>Y</td> </tr> <tr> <td>16</td> <td>All SIM will be non roaming</td> <td></td> <td>Y</td> </tr> <tr> <td>17</td> <td>All SIM will be Call barred</td> <td></td> <td>Y</td> </tr> </tbody> </table>	Item	Description	SIM	network	1	SIM cards will have a PIN code that is derivable	Y		2	The Device will not receive SMS messages		Y	3	The Device will not be allowed to use CSD circuits	Y	Y	4	The device will not receive Voice calls		Y	5	The SIM card will be a member of a closed user group		Y	6	The SIM card will have no APN or URL preconfigured within it	Y		7	The Network will allow access to a restricted (predefined set of APN)		Y	8	A SIM will be received pre activated and registered on the Cellular Network	Y	Y	9	Network Service Commands will be inhibited		Y	10	New SIM will not be data usage inhibited		Y	11	The MSISDN of the SIM cards will not be listed in a public directory		Y	12	SIM cards will be M2M tuned		Y	13	SIM Cards will be identifiable as IOP contract (ie physical appearance will be altered to identify them as SIM from this contract) – HIGHLY DESIRABLE	Y		14	The SIM will not be subject to location tracking services		Y	15	The Devices will not be subject to Voice Mail & paging		Y	16	All SIM will be non roaming		Y	17	All SIM will be Call barred		Y
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Technical and Operating Standards

Ref	Key functionality	Description
701	Standard	The service provider shall operate and be certified for ISO/IEC27001 information security management framework.
702	Functional	The Equipment and end to end Services shall support both remote and on site software patching by the Supplier.
703	Functional	Software patching of the Equipment and its associated components/modules is the responsibility of the Supplier.
704	Functional	In relation to system communication, the Equipment and related modules/components shall utilise either: XML and JSON for definition of Data structures, REST or SOAP, file transfer as XML or flat file, or message queue styles for system to system communication with due consideration to factors such as volume, synchronous/asynchronous, batch/individual.
705	Functional	The Supplier shall ensure that the Equipment and end to end solution's technical interfaces are documented in an interface register with corresponding specifications.

Ref	Key functionality	Description
706	Functional	<p>The Company desires that the Equipment shall support SNMP V3 and be capable of being polled for status updates and the management of network Equipment</p> <p>The Company desire is to integrate the cash management machines with the Company's existing monitoring solution. Such integration will be instructed by the Company by means of a Variation.</p>
707	Functional	<p>The Supplier shall monitor all Equipment and Services. Where Equipment goes off line the Supplier shall report such disconnections and raise an alarm condition.</p>

TESTING

Cash Management Factory Acceptance Testing

This paragraph set outs how new or changed Services will be added to the Equipment and how the Company would seek to gain assurance of such changes, considering the end to end Services.

The Company will seek assurance in four (4) stages:
Factory Acceptance Test

The purpose of the Factory Acceptance Test (FAT) is to verify that the Delivery or proposed change meets the Companies business requirements in a test environment.

The Company will assure any changes in a system test environment.

Certificate to Install

The Company agrees to undertake a vanguard trial to assess the business functions and reliability of the Delivery or change on a limited part of the Premises

Site Acceptance Testing (SAT) testing to occur

Go or no go decision to extend vanguard or move to full roll out by issuance of an Acceptance Certificate

Early Life Support (ELS)

A period of time whereby the change or addition of new services or Equipment are assessed to gain service assurance against an agreed operational base line (OBL)

If the change has implications to the delivery of financial reports it is likely that the ELS period will be at least one Accounting Period.

Testing Criteria

The key criteria of the factory acceptance test for verification will include, but not be limited to, testing of the following:

counting – accuracy & speed (i.e. acceptance rates of fit notes and coins and rejection rates of foreign, counterfeit or unfit notes and coins)

functionality – ease and efficiency of hardware usage (access and ergonomics);

functionality – ease and efficiency of software usage on Equipment (access controls, keypad / screen & design ergonomics);

storage – capacity, security ratings;

data & reporting – data accuracy, transfer, interfaces and reporting, resilience;

reliability of services

security – secure storage level, access controls, back up (contingency);

physical specifications – weight, dimensions, dimension when fully open for maintenance, weight of modular parts, dimensions of modular parts;

User ergonomics

The test scripts shall be provided by the Supplier to the Company and the Company shall agree which tests it would like to witness as part of the Factory Acceptance Testing in accordance with the Programme in Schedule 2. The testing will confirm the Suppliers compliance with the requirements in the Specification.

The FAT shall include tests of the data communication and reporting requirements using the communication solution proposed by the Supplier. All functional and non functional business requirements shall be tested to assure the Equipment and Services.

Performance tests:

The system is tested against specified performance requirements.

The acceptance testing of the installation itself shall be conducted initially comparing the performance of reference sites with due consideration to any operational base line agreed with the Supplier. The evaluation will also include the installation criteria, such as dimensions, weights, modular construction and assembly and ergonomics.

The Supplier shall develop and maintain suitable test scripts for all Equipment and Services which shall be issued to the Company in accordance with the Programme in Schedule 2.

Cash Management Site Acceptance Testing (SAT)

The purpose of the site acceptance testing is to verify that the Equipment and Services meet all of the requirements in this Schedule as far as is reasonably possible, when installed in the London underground operational environment (station sites).

All specified functions and Services between the local installation and the back office systems shall be tested including the availability of Data and Delivery of all updated reports. The test shall as a minimum include the following parts:

System functions;

Technical documentation;

User Manuals and O&M Manuals;

Service operational processes;

Monitoring and reporting;

Equipment performance; and

User ergonomics

The Supplier shall develop and maintain suitable test scripts for all Equipments and Services and these will be issued to the Company in accordance with the Programme in Schedule 2.

MANUALS

The Supplier shall maintain and update Equipment and User Manuals and O&M Manuals as described below.

The Supplier is to provide User Manuals as part of the Delivery of the first tranche (set out in the Supply and Install programme) of Equipment and is a condition to achieving practical completion of Tranche 1 and, therefore, the first milestone payment.

The User Manuals shall as a minimum cover the functional requirements described in Schedule 11, and shall include all reasonable guidance to enable Users to undertake their functions and “fingertip maintenance” and Company Administrators to undertake their functions without a need to contact the Supplier.

O&M Manuals are to be of sufficient detail to enable the Company to take over any maintenance, operation or use of the cash management machines (hardware and software) and any related Data and to do so in a safe, effective and efficient manner and shall be Delivered as part of the Depositable IPR Milestone.

The scope of the information is to cover, as a minimum, the following:

Identification of Equipment / Facilities and their corresponding Locations

Equipment Specifications

Commissioning and testing

“As Constructed Costs” and Capitalisation of Financial Assets

Operations , Maintenance and Build Guides

Training

Warranties

Format

Manuals are to be updated in hard copy printed format and fully electronic format for Data transfer requirements.

APPENDIX 1 – COMPANY PERSONNEL & FUNCTIONS

The intent of the table below is to establish the different types of Company Administrators.

Permission levels	Authorised User	Functions
Company Administrator	TfL Operations	<p>Monitors and assures the Suppliers delivery of the Services. Manages the process and authorises the Supplier to add and remove Company Administrator accounts.</p> <p>Provides a single point of Supplier escalation to the Company related to the delivery of Services.</p> <p>Is able to access the Supplier's web service portal to assure the delivery of Services.</p> <p>Is able to set or change the operational permission levels of existing Company Administrators.</p>
Company Administrator	LU Operations	<p>Is able to Add/remove User accounts to individual Equipment via the Supplier's web service portal.</p> <p>Configure Equipment into groups or areas to facilitate access restrictions to station staff Users.</p> <p>Interrogate Supplier's web service portal for historic Data records by Equipment (location), station, area, network, user, User group, type of transaction, date and time.</p> <p>Set or change the operational permission levels of station staff Users</p> <p>Access the Supplier's web service portal to view real time status of the Equipment, including hopper and/or tray levels (e.g. % full), total value of coins by denomination, total value of notes.</p> <p>Set or amend the Equipment for quick dispensing of specific value of coins and notes by denomination (for regular floating of ticket machines or filling bulk coin bags).</p> <p>Set or amend Equipment to establish a maximum dispense and daily dispense limits per station staff user / user group</p> <p>Access the Supplier's web service portal to amend Equipment dispense limits by individual cash management machines or across all Equipment and user group</p>
Company Administrator	Business Services Function (BSF)	<p>Access financial and historical Data records by cash management machine (location), station, area, network, User, user group, type of transaction, date and time from the Supplier's web service portal for financial reconciliation</p> <p>Interrogate Data via the Supplier's web service portal to generate a report of the current day's transactions (e.g. money in, money out, Users).</p>
Company	Cash in Transit	Ability to manage PIN access for cash management

Administrator	(CiT) Contractor	<p>machines to cash in Transit contractors in conjunction with the Supplier</p> <p>Access Supplier's web service portal to centrally manage Cash in Transit contractors user accounts</p>
User	Station staff	<p>A User is the member of staff that operates the cash management machine at stations.</p> <p>Access the cash management machine with 6 digit numerical user ID reference number (matching current London Underground TSID reference), and additional 4 digit PIN to operate and access the device.</p> <p>Access the cash management machine to make cash withdrawals</p> <p>Access the cash management machine to make cash deposits</p> <p>Access the machine to check (on screen or via printed receipt) the total value of the various denominations stored in the equipment (this transaction is also captured and is auditable).</p> <p>Provides access to the secure suite for the Cash in Transit contractor.</p> <p>Provides access to the secure suite for the Supplier to undertake the Maintenance Services</p>

SCHEDULE 2: PROGRAMME – Not Used

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Appendix 1 Programme

NOT USED.

Appendix 2 Cash Management Machines and Stations



SCHEDULE 3: FRUSTRATED ACCESS FORM

FRUSTRATED ACCESS FORM - STATIONS



TO BE SUBMITTED TO THE PROJECT MANAGER BY MIDDAY OF THE FOLLOWING DAY

STATION LOCATION	CONTRACT REF	SUBMITTING CONTRACTOR	
NIGHT OF / MORNING OF	MONTH / YEAR	ACCESS TYPE (TICK AS APPROPRIATE)	
/		STATION <input type="checkbox"/>	TRACK <input type="checkbox"/>
STATION SABRE REF. NO	TRACK SABRE REF. NO	FAULT REF. NO	TAC REF. NO
DESCRIPTION OF WORK		TRACK CURRENT SECTIONS BOOKED OUT	
TIME BOOKED ON STATION	TIME BOOKED ON WITH TAC	CALL BACK TIME GIVEN BY TAC	
WORK SCHEDULE			
INTENDED START TIME	:	INTENDED FINISH TIME	:
ACTUAL START TIME	:	ACTUAL FINISH TIME	:
TOTAL TIME LOST	:	TICK BOX IF ENTIRE SHIFT WAS LOST <input type="checkbox"/>	
CAUSE OF DELAY			
CLASH WITH OTHER WORKS <input type="checkbox"/>	SABRE ISSUE <input type="checkbox"/>	LATE / EARLY CURRENT <input type="checkbox"/>	TAC <input type="checkbox"/>
LUL OPERATIONAL ISSUE <input type="checkbox"/>	LUL STAFF REFUSAL <input type="checkbox"/>	METRONET ISSUE <input type="checkbox"/>	
MRBCV (INTERNAL ISSUE) <input type="checkbox"/>	PROTECTION MASTER ISSUE <input type="checkbox"/>		
OTHER <input type="checkbox"/> (PLEASE SPECIFY)			
WHO PREVENTED YOU FROM WORKING?			
TITLE / ORG:	NAME:	TEL:	
PLEASE DESCRIBE THE INCIDENT. WORK ACTIVITIES AND AREAS AFFECTED IN AS MUCH DETAIL AS POSSIBLE			
DETAILS OF THE CONTRACTOR'S REPRESENTATIVE COMPLETING THIS FORM (PLEASE PRINT)			
NAME:	CONTACT DETAILS:	COMPANY:	
		SIGNED.....	
COUNTERSIGNATURES			
LUL STATION STAFF	NAME	SIGNED.....	
PROJECT MANAGER'S REPRESENTATIVE	NAME POSITION	SIGNED.....	

SCHEDULE 4: PRICES AND PAYMENT PROCEDURE

PRICING INTRODUCTION

This Schedule 4 sets out the Price for the Supplier's performance of this Contract in accordance with its terms.

PRICING CONCEPT

The Price is a fixed sum, for the duration of the Contract, exclusive of VAT and adjusted in accordance with the Variation Procedure.

2.2 The Price shall be inclusive of all costs and charges whatsoever and shall be deemed to include all costs, overheads, profit, risk allowances and the like required for the Supplier's performance of this Contract.

PRICING APPROACH

3.1 The Price shall be in pounds sterling excluding VAT and shall include all other applicable taxes including any import/export taxes and all other statutory costs and the like.

3.2 The rates and prices for all items required for the Supplier's performance of this Contract are deemed to be fully inclusive, and shall include (without limitation) the following:

3.2.1 Preliminaries

i) Head Office, Branch Office and Supplier's Works Support - All Head Office, Branch Office and Supplier's Works costs directly related to this Contract including, supervisory, liaison, engineering, planning, quality assurance and administrative

staff including all associated overheads, communications and data costs, stationery, printing, postage, etc. not included in the percentage addition for overheads and profit.

ii) All costs of temporary accommodation and sanitary facilities necessary for site staff including all associated costs including heating, lighting, furniture, first aid, associated consumables and all other safety, health and welfare facilities.

iii) Site Communications - All costs in connection with the provision of telephones and portable telephones including installation costs, rental and calls, costs of usage of public telephones and other communication equipment and consumables in connection with performing the Contract.

iv) Training Requirements - Course and examination fees and all costs of staff attending medical examinations and training courses in connection with performing the Contract. All costs of Supplier run courses and licensing of staff.

v) Insurance - All costs of complying with the insurance requirements as set out in the Contract.

3.2.2 Mobilisation

The mobilisation costs shall include (without limitation) staff costs, costs of training, recruitment, establishment of facilities, purchase of equipment and systems, establishment of process and procedures etc and all other items necessary for the successful commencement of the performance of the Contract. All costs in connection with mobilisation, set-up and the like and management thereof are deemed to be included.

3.2.3 Overheads and Profit - For the avoidance of doubt, overheads shall be deemed to include (without limitation):-

Corporate overhead contribution, profit recovery, headquarters staff costs, Supplier offices, yards, depots and other buildings and associated plant, Supplier's equipment and vehicles. rents, rates, insurances, running, maintenance and replacement costs for the above, general and administrative head and branch office staff salaries and wages, emoluments, expenses and allowances and all other costs of employment, including costs of and allowance for motor cars, subsistence, hotels, accommodation and the like, travel and associated expenses for directors and general and administrative head and branch office staff, legal and accountancy fees and costs, any financing costs and depreciation associated with all of the above, other non-job related costs and other indirect costs associated with the Contract.

3.2.4 Attendance and Reporting

The Price is deemed to be fully inclusive of the costs of the Supplier's recording and provision of information, Documentation and Depositable IPR in accordance with this Contract including as requested by the Company. The Price is also deemed to include the costs of the Supplier's personnel attending any meetings.

RETENTION

The Company shall be entitled to retain the amounts set out in Part 4 of this Schedule in accordance with the Contract.

VARIATIONS TO THE DELIVERY

Any revision to the Price arising from a Variation relating to the Delivery shall be identified separately in the Invoice and shall distinguish between capital and operating expenditure.

PART 2A - PAYMENT MECHANISM

PRICE FOR DELIVERY OF EQUIPMENT AND DEPOSITABLE IPR

The Company shall pay the Supplier the Price for Delivery of the Equipment, Services and Depositable IPR in accordance with this Schedule 4. The Company is under no obligation to accept or pay for Delivered Equipment, Services and Depositable IPR in advance of the Delivery Dates set out in the Programme.

The Supplier shall be entitled to submit a milestone payment application to the Company when the conditions in respect of the relevant payment milestone have been met provided that:

the milestone payment application contains details of the relevant payment milestone to which it relates; and

the milestone payment application sets out the value of the milestone payment being sought and such value is calculated in accordance with Schedule 4 and the value of payment milestones made to date.

The milestone payment application submitted by the Supplier will be clear, concise, accurate, and adequately descriptive and in the format set out in Appendix 1 to this Schedule (“Invoice and Supporting Application Templates”).

The Company shall review the milestone payment application and shall:

within 14 days of receiving the milestone payment application notify the Supplier in writing if it disputes the Suppliers entitlement to any part of the amount claimed (the 'Disputed Amount'), and shall submit to the Supplier any supporting information evidence as the Company may have; and

within 21 days of receiving the milestone payment application the Company shall issue a “Contract Payment Notice” in the format set out in Appendix 2 to the Supplier for the amount claimed in the milestone payment application, except to the extent any such amount or part of such amount is a Disputed Amount, (the ‘Undisputed Amount’). Such Contract Payment Notice shall authorise payment by the Company of the Undisputed Amount.

Following receipt of such payment certificate the Supplier shall issue a corresponding VAT Invoice for the Undisputed Amount, accompanied by a copy of such contract payment notice, to the Company. The Supplier shall ensure that such Invoice:

is dated and issued no earlier than the date that the payment milestone to which it relates was met; and

is submitted to:

Transport for London

Accounts Payable

PO Box 45276

14 Pier Walk

London SE10 1AJ; and

shall clearly state the SAP Purchase Order number.

is provided in the format set out in Appendix 1 to this Schedule.

Payment of such VAT Invoice shall become due 30 days following the date on which the Company receives the Supplier's VAT Invoice. If the Supplier's Invoice does not comply with the contractual requirements then the Company shall be under no obligation to pay the same.

Where a milestone payment application shows a net amount owed by the Supplier to the Company the Supplier shall pay the amount to the Company within 30 days of such application being provided to the Company or, at the option of the Company, carry forward that amount to the next milestone payment application in reduction of amounts which would otherwise have been owed by the Company to the Supplier.

The Company may withhold payment of any Disputed Amount pending agreement or determination of the Supplier's entitlement in relation to the Disputed Amount. If the determination of the dispute relating to the Disputed Amount shows that:

the Company has withheld any amount to which the Supplier was entitled to be paid then the Company shall pay such amount to the Supplier; or

the Supplier has claimed any amount which it was not entitled to be paid or has otherwise been paid any amount by the Company to which it was not entitled then the Supplier shall repay such amount to the Company.

in each case with interest on the relevant amount at the default interest rate from the date on which over payment was made (in the case of excessive claims by the Supplier) or the date on which payment should have been made (in the case of failure to pay by the Company) until all relevant monies have been paid in full and whether before or after judgement.

All amounts due under this Contract unless otherwise stated are exclusive of VAT and VAT, where applicable, must be shown as a separate amount.

Any payment made by the Company under this Contract does not prevent the Company from recovering any amount over-paid or wrongfully paid however such payment may have arisen, including but not limited to, those amounts paid to the Supplier by mistake of law or fact.

Save where otherwise specifically provided where any payment or sum of money due from one Party to the other Party under any provision of this Contract is not paid in accordance with the timescales set out in this Contract and providing that there has been no Dispute in respect of the sums therein, without prejudice to the Parties' other rights under the Contract, that sum shall bear simple interest thereon from the due date until payment is made in full at a rate of 4% per annum above the Bank of England Base Rate current at the date a payment under this Contract becomes overdue. The Parties agree that this is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) of the Late Payment of Commercial Debts (Interest) Act 1998. The Supplier is not entitled to suspend works under the Contract or Delivery of the Equipment and Services as a result of any sums being outstanding.

PART 2B – PAYMENT MECHANISM
PRICE FOR MAINTENANCE SERVICES

1. The Company will pay the Supplier the Price for Maintenance Services (the “**Service Payment**”) in the following manner:

1.1 At the end of each Accounting Period calculated from the Start Date, the Supplier will be entitled to submit a maintenance services payment application in respect of the Service Payment in the preceding Accounting Period.

1.2 The Supplier shall submit each maintenance services payment application within five (5) Business Days of the end of the Accounting Period to which the maintenance services payment application relates and should also reference the Accounting Period.

1.3 The Company shall review each maintenance services payment application within ten (10) Business Days and notify the Supplier of the sums it considers are properly due to the Supplier and any sums which it is entitled to deduct in accordance with Schedule 8 (Supplier Performance) and Schedule 14 (Variation Procedure) in the form set out in Appendix 2 to this Schedule (a “Contract Payment Notice”) and of the sums which it does not consider are properly due to the Supplier (“Service Credits”). Such Contract Payment Notice shall be accompanied by a justification in respect of each Service Credit.

1.4 For each Service Credit applied in accordance with Schedule 8 (Supplier Performance) the sum of twenty five pounds sterling (£25) subject to Indexation shall be deducted from the Service Payment for the Accounting Period in which the Service Credit was applied.

1.5 The Supplier shall submit an Invoice substantially in the form set out in Appendix 1 to this Schedule, hereto for the sums correctly specified in the Contract Payment Notice.

1.6 The Company shall pay the Service Payment correctly detailed in the Invoice within thirty (30) Business Days of receiving such an Invoice.

1.7 The maintenance services payment application submitted by the Supplier will be clear, concise, accurate, and adequately descriptive and in the format set out in Appendix 1 to this Schedule.

1.8 Failure on the part of the Supplier to submit a clear, concise, accurate and adequately descriptive statement in the required format may lead to delays in processing the maintenance services payment application and subsequent payment of Invoices. Any loss or additional expenses incurred by the Supplier in the correction or re-submission of a maintenance services payment application or Invoice will be at the Supplier's own expense.

1.9 The maintenance services payment application must be sent to the Contract Manager at the address given in Schedule 5 (Contract Management) Paragraph 1.

1.10 Without prejudice to any other rights of the Company, they may withhold payment (or any part thereof) to the Supplier if the Supplier fails to comply with the requirements of this Schedule 4.

2. The Company may alter the payment procedure set out in Paragraphs 1.1 to 1.10 in this Schedule at any time with the written agreement of the Supplier.

PART 3 – PRICE ANALYSIS

[REDACTED]

[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

1.5 [REDACTED]

[REDACTED]												
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1.8 Additional Works and Services

All inclusive rates for the following additional works and services which may be called off throughout the duration of the contract. The rates include all costs whatsoever in connection with the completion of the works and services including labour, materials, overhead, operating, profit

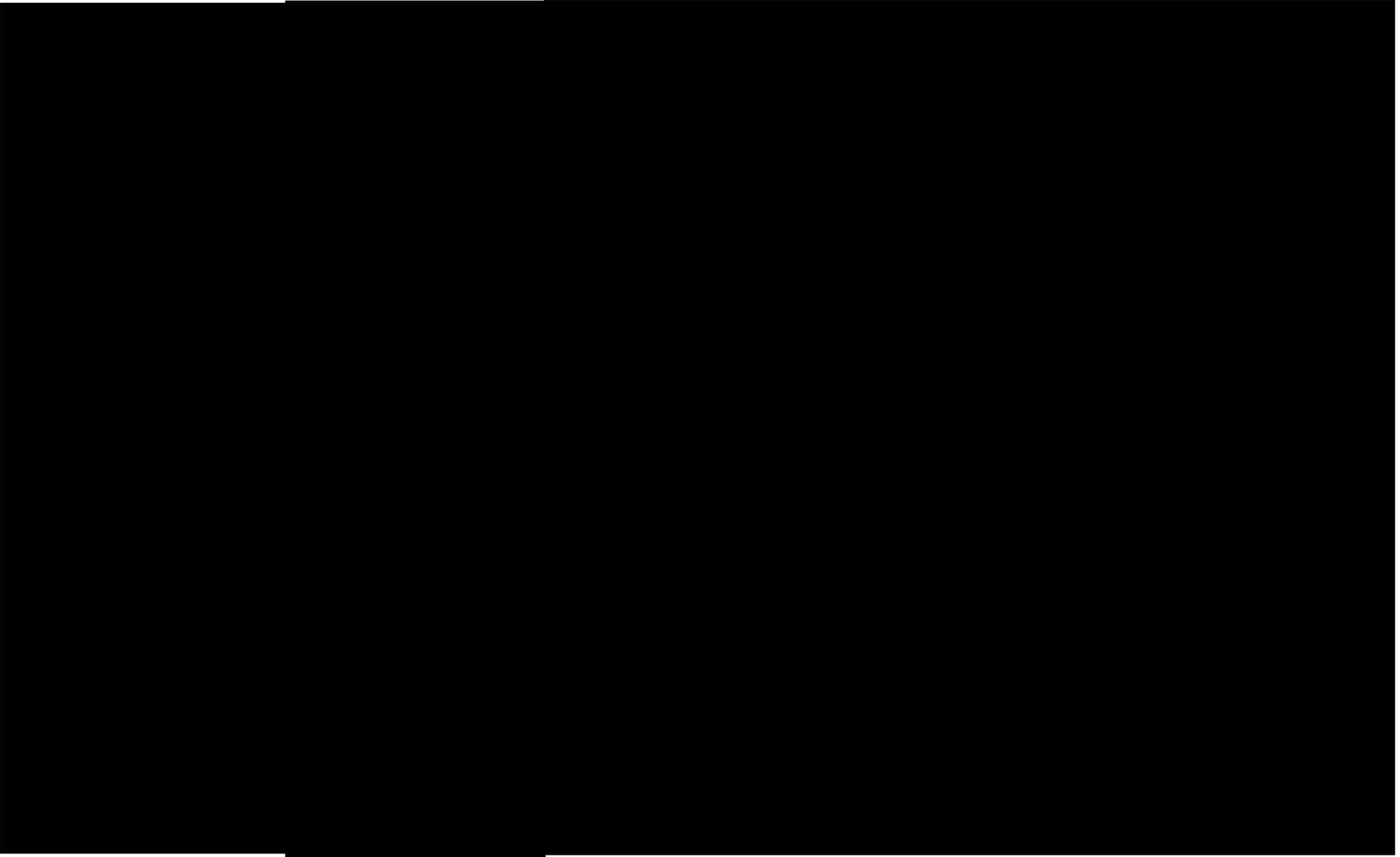


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1.9 Additional Works and Services

All inclusive rates for the following additional works and services which may be called off throughout the duration of the contract. The rates include all costs whatsoever in connection with the completion of the works and services including labour, materials, overhead, operating, profit and any other costs.



Cash Management Machines (supply, install and maintenance) contract

2.0 Additional Works and Services

All inclusive rates for the provision of labour which may be called off throughout the duration of the contract. The rates include all costs whatsoever in connection with the provision of labour including all employment and any other costs.

[REDACTED]										
[REDACTED]										
[REDACTED]										
[REDACTED]										

E	E									
	S									
S										

For the purposes of this section of the pricing table, the following definitions shall apply:-

"Monday to Friday" means the time from start of Traffic hours on Monday morning to the time at the end of Engineering hours on Friday night/ Saturday morning.

"Saturday" means the time from start of Traffic Hours on Saturday morning to the time at the end of Engineering Hours on Saturday night/Sunday morning.

"Sunday" means the time from start of Traffic Hours on Sunday morning to the time at the end of Engineering Hours on Sunday night/Monday morning.

"Bank Holiday" means a recognised UK Bank Holiday excluding Christmas and New Year Bank Holidays which are more particularly defined below. Start and end times as per definition for "Sunday" stated above.

"Christmas and New Year Bank Holidays" means the 25 December, 26 December and 01 January within each year. For the avoidance of doubt, each day is deemed to commence at the start of Engineering Hours with the previous Traffic Hours shift paid at the rate applicable for the day in question.

"Traffic Hours", are defined as being between start of traffic (when the track current is turned on) and close of traffic (when the track current is turned off); this being approximately between 05.00 hours and 01.00 hours.

These times may be amended from time to time and the contractor is required to refer to the Company's Traffic Circular, Engineering and Safety Arrangements Circular, nightly engineering notices, and any other notices.

“On/Off” times for track current are contained within the “Guide to Switching Traction Current On and Off”.

“Engineering Hours”, are defined as being between close of traffic (when the track current is turned off) and start of traffic (when track current is turned on); approximately 01.00 to 05.00 hours.

These times may be amended from time to time and the contractor is required to refer to the Company's Traffic Circular, Engineering and Safety Arrangements Circular, nightly engineering notices, and any other notices.

2.1 Additional Works and Services

Where materials and consumables are provided for activities which do not form part of the maintenance services or for activities not priced for as additional works and services, all materials and consumables will be charged at cost (supported by a manufacturer or supplier invoice) plus the following handling and overheads charge:-

[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						

[REDACTED] Machines (supply, install and maintenance) contract

2.3 Manufacture, Supply and Installation -Price Breakdown – Modules

This price is valid for the duration of the contract (5 years)

[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]
	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]

PART 4 - PAYMENT MILESTONES

This Part is only applicable to the Part 2A, Price for Delivery of the Equipment and Depositable IPR.

PART 4 - PAYMENT MILESTONES

APPENDIX 1 – Invoice and Supporting Application Templates



CME Schedule 4
Appendix 1 - Invoice

APPENDIX 2 - Contract Payment Notice

Our Ref:

Contractors Address:

Date:

Dear [Name],

Contract Reference
XXX _____ PAYMENT
NOTICE

I refer to your Application for Payment; reference [XXX], rendered on [Date of Application for Payment] in relation to the [Name of Contract].

I hereby give you notice that TfL has reviewed your Application for Payment and approves [£xxx] as detailed in the attached breakdown.

Yours sincerely

TfL Contract Manager, for and on behalf of
TRANSPORT FOR LONDON

cc.

SCHEDULE 5: CONTRACT MANAGEMENT

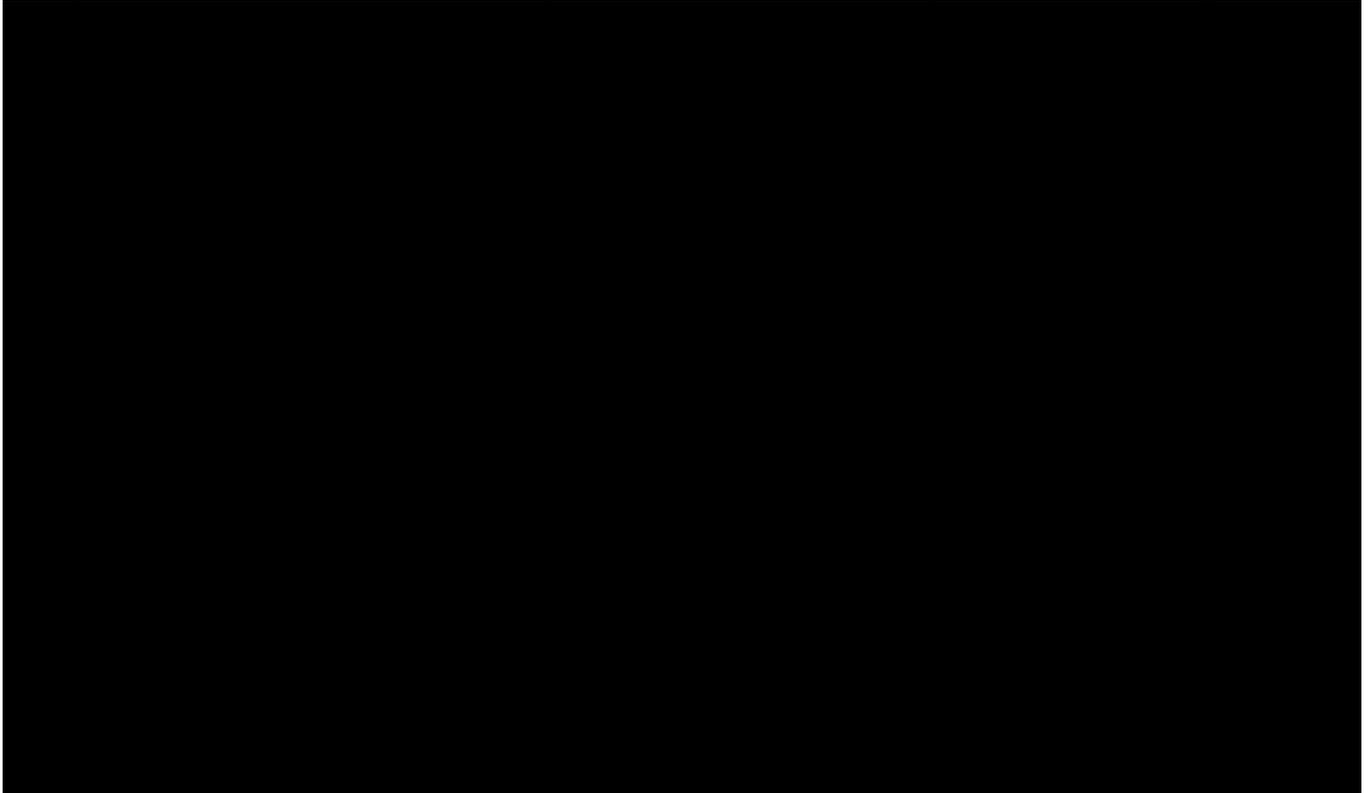
1. The name and address of the Contract Manager is [REDACTED] **14 Pier Walk, North Greenwich, LONDON, SE10 0ES.**

- 1A. The Premises include those detailed in Schedule 1. In addition, The Supplier may be required to deliver to anywhere where the TfL Group has a facility as part of its network and operations.

1. Not used.

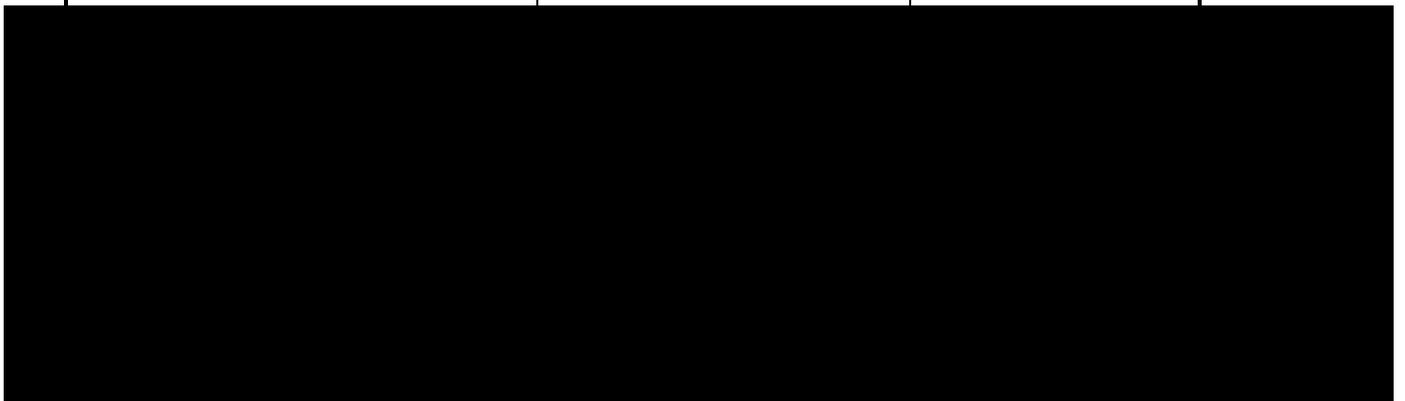
3. The name and address of the Key Personnel representing the Supplier with whom the Company will deal in respect of the Contract are as follows:

Name and Contact Details	[REDACTED]	[REDACTED] [REDACTED]



- The details for service of Notices and other documents in accordance with Clause 49 of the Contract are as follows:

	[REDACTED]	[REDACTED]



SCHEDULE 6: DISPUTE RESOLUTION

For the purposes of this Schedule 6:

“Adjudicator” means an independent person appointed to act as an adjudicator in accordance with this Schedule 6;

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

“Notice of Adjudication” means any notice given by a party to the Dispute to the other party or parties thereto requiring reference of a Dispute to the Adjudicator in accordance with paragraph 3.1.

The Notice of Adjudication includes:

- the nature and a brief description of the Dispute;
- details of where and when the Dispute arose; and
- the nature of the redress which is sought.

“Referral Notice” means a notice referring a Dispute to the Adjudicator in accordance with paragraph 3.5;

“Senior Representative” means a representative of a Party at senior executive level;

- 1 The Company and the Supplier follow the procedure below for the avoidance and resolution of Disputes.
 - 2.1 Subject to paragraph 3.1, any Dispute may in the first instance be referred in writing from the referring Party to the Senior Representatives by notice in writing to the other Party. The written notice from the referring party gives brief written particulars of the Dispute, the relief sought and the basis for claiming the relief sought (including the provisions of the Contract that are

relevant to the Dispute). The written notice also identifies the referring party's Senior Representative.

- 2.2 Within 14 days of receipt of the notice pursuant to paragraph 2.1, the responding Party provides the referring Party with a brief written response. The response includes identification of the responding party's Senior Representative.
- 2.3 The Senior Representatives meet and try to reach agreement to resolve the Dispute referred to them pursuant to paragraph 2.2.
- 2.4 If the Senior Representatives are unable to, or fail to, reach agreement to resolve the Dispute within 14 days after the date of the response under paragraph 2.2, court proceedings are not commenced unless and until the Dispute has first been referred to adjudication (and an Adjudicator's decision has been obtained) in accordance with the procedure in paragraphs 3.1-3.25 and notice has been given in accordance with paragraph 3.26.
- 2.5 Each Party bears its own costs and expenses in relation to any reference of a Dispute to the Senior Representatives. Discussions amongst the Senior Representatives and any documents prepared or exchanged in relation to the reference of the Dispute to the Senior Representatives (including, for the avoidance of doubt, the notice under paragraph 2.1 and any response under paragraph 2.2) are without prejudice and the Parties do not make use of or rely upon any without prejudice statements in any proceedings.
- 3.1 Notwithstanding the provisions of paragraphs 1 and 2 above, either Party may give notice at any time of its intention to refer a Dispute to adjudication under the procedure set out in this paragraph 3 by giving a Notice of Adjudication to the other parties to the Dispute.
- 3.2 Should either Party give a Notice of Adjudication then immediately thereafter the parties to the Dispute endeavour to agree upon a person whom they would consider suitable to act as the Adjudicator.

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

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

3.3 Any person requested or selected to act as the Adjudicator in accordance with paragraph 3.2:

- is a natural person acting in his personal capacity; and
- is not an employee of any of the parties to the Dispute and declares any interest, financial or otherwise, in any matter relating to the Dispute

3.4 The terms of remuneration of the Adjudicator are agreed by the parties to the Dispute and the Adjudicator with the object of securing the appointment of the Adjudicator within 7 days of the Notice of Adjudication. If any party to the Dispute (but not all parties to the Dispute) rejects the terms of the remuneration of the Adjudicator the same are settled (and binding upon the parties to the Dispute) by agreement between the Nominating Authority and the Adjudicator (provided that the level of the Adjudicator's fees does not exceed the level originally proposed to the parties to the Dispute by the Adjudicator). If all the parties to the Dispute reject the terms of remuneration proposed by an Adjudicator another person is selected as an Adjudicator in accordance with paragraph 3.2.

3.5 Where the Adjudicator has been selected in accordance with paragraph 3.2 the referring Party refers the Dispute in writing to the Adjudicator by the Referral Notice in accordance with paragraph 3.6 within 7 days of the date of the Notice of Adjudication.

3.6 The Referral Notice includes:

- the facts relied upon by the referring party in support of its claim(s);
- a statement of the contractual and/or other basis relied upon by the referring party in support of its claim(s);
- a calculation of the specific monetary amount (if any) that the referring Party is seeking to recover in relation to each and every claim that is the subject matter of the Dispute; and

is accompanied by copies of, or relevant extracts from, this contract and such

other documents on which the referring party relies.

- 3.7 If a matter disputed by the Supplier under or in connection with a subcontract is also a matter disputed under or in connection with the Contract, the Supplier may, with the consent of the Company, refer the subcontract dispute to the Adjudicator at the same time as the main contract referral. The Adjudicator then decides the disputes together and references to the parties for the purposes of the Dispute are interpreted as including the Sub-Contractor. The parties to the Dispute agree to consider and endeavour to agree in good faith any reasonable request by the Adjudicator for additional time to decide the main contract and subcontract disputes.
- 3.8 The parties to the Dispute may jointly terminate the Adjudicator's appointment at any time. In such a case, or if the Adjudicator fails to give notice of his decision within the period referred to in Clause 3.12, or if that period is extended in accordance with paragraph 3.13 or by agreement by the parties to the Dispute within such extended period, and the parties to the Dispute do not jointly extend time for his decision to be made in accordance with paragraph 3.13, or if at any time the Adjudicator declines to act or is unable to act as a result of his death, disability, resignation or otherwise, a person is appointed to replace the Adjudicator in accordance with the provisions of paragraph 3. In the event of the parties to the Dispute failing to jointly appoint a person willing and suitable to act as replacement Adjudicator within 3 days, any party to the Dispute may apply to the Nominating Authority to appoint a replacement Adjudicator.
- 3.9 The Nominating Authority and its employees and agents are not liable to any Party for any act or omission unless the act or omission is in bad faith. The Parties also agree that any employee or agent of the Nominating Authority is similarly protected from liability.
- 3.10 The referring party sends copies of the Referral Notice and the documents referred to in paragraph 3.6 to the other Party at the same time as he sends them to the Adjudicator.
- 3.11 The Party not making the referral may send to the Adjudicator within 14 days of the date of the referral, with a copy to the other Party, a written statement of the contentions on which it relies and any materials it wishes the

Adjudicator to consider.

- 3.12 The Adjudicator reaches his decision and gives notice of the decision to the parties to the Dispute within 28 days of the date of the Referral Notice mentioned in paragraph 3.5, or such longer period as is agreed by the parties to the Dispute after the Dispute has been referred to him.
- 3.13 The Adjudicator may extend the period of 28 days referred to in paragraph 3.12 by up to 14 days, with the consent of the Party by whom the Dispute was referred.
- 3.14 The Adjudicator's decision is binding upon the parties to the Dispute and the Adjudicator unless and until the Dispute is finally determined by legal proceedings, by arbitration (if the parties otherwise agree to arbitration) or by agreement.
- 3.15 The Adjudicator:
- acts impartially and as an expert (not as an arbitrator) in the conduct of the reference and in reaching his decision;
 - considers any relevant information submitted to him by any of the parties to the Dispute and makes available to them any information to be taken into account in reaching his decision provided in accordance with the procedure (if any) which the Adjudicator may decide;
 - reaches his decision in accordance with the law of the Contract;
 - may take the initiative in ascertaining the facts and the law in relation to the Dispute;
 - may review and revise any action or inaction of the Contract Manager related to the Dispute and/or alter a quotation which has been treated as having been accepted; and
 - may with the consent of the parties to the Dispute seek legal or technical advice from consultants whose appointment by the Adjudicator (including terms of remuneration) is subject to the approval of the parties to the Dispute.
- 3.16 The Adjudicator decides in his discretion on the procedure to be followed in

the adjudication. In particular he may, but is not obliged to:

(a) convene meetings upon reasonable notice to the parties to the Dispute at which such parties and their representatives are entitled to be present;

(b) submit lists of questions to the parties to the Dispute to be answered in such meetings or in writing within such reasonable time as he requires;

(c) require the parties to the Dispute to provide him with such information and other facilities as he reasonably requires for the determination of the Dispute;

(d) otherwise take such action and adopt such procedures as do not conflict with any of the provisions of the contract and are reasonable and proper for the just, expeditious and economical determination of the Dispute;

(e) inspect any part of the Underground Network.

3.17 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith. The Parties also agree that any employee or agent of the Adjudicator is similarly protected from liability.

3.18 All meetings are private and save as required by law the Adjudicator and the Parties keep confidential the Dispute, all information of whatever nature provided to him by or on behalf of any Party and his decision.

3.19 Notice of the Adjudicator's decision (stating that it is given under Schedule 6) is in writing and includes a summary of the Adjudicator's findings and a statement of the reasons for his decision.

3.20 The Parties to a contract to which the Dispute relates continue to observe and perform all the obligations contained in such contract, notwithstanding any reference to the Adjudicator, and insofar as the same is consistent with any safety review procedures to which the parties to the Dispute are bound, give effect forthwith to the Adjudicator's decision in every respect unless and until as hereinafter provided the Dispute is finally determined by a court in any legal proceedings, by arbitration (if the parties otherwise agree to arbitration) or by agreement. Any party to the Dispute may apply to any appropriate court for enforcement of the Adjudicator's decision. Neither any form of enforcement of the Adjudicator's decision nor any form of challenge to

the enforcement of the Adjudicator's decision nor any dispute arising out of or in connection with such enforcement or challenge are regarded and treated as a Dispute for the purposes of this Schedule 6.

- 3.21 In any case where the Adjudicator is appointed as a replacement pursuant to Clause 3.8, the parties to the Dispute each send to the Adjudicator, as soon as reasonably practicable, copies of all documents supplied by them to the Adjudicator he replaces.
- 3.22 Subject to any agreement of the Parties, the Adjudicator allocates the costs and fees of the adjudication as between the Parties. Unless the Parties otherwise agree, the Adjudicator awards such costs and fees on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of the costs or fees. The Parties agree to be bound by the Adjudicator's allocation of costs and fees and pay such costs and fees in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by a court pursuant to any legal proceedings.
- 3.23 Subject to any agreement of the Parties, the Adjudicator allocates payment of his remuneration and expenses as between the Parties. Unless the Parties otherwise agree, the Adjudicator awards the payment of his remuneration and expenses on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of his remuneration or expenses. The Parties agree to be bound by the Adjudicator's allocation of payment of his remuneration and expenses and pay such remuneration and expenses in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by a decision of the courts.
- 3.24 All notices, written submissions and any other written communications between the parties to the Dispute and the Adjudicator are either delivered by hand, sent by facsimile or sent by first class pre-paid post or recorded delivery and in each case are copied simultaneously (delivered or sent as aforesaid) to the other Parties. Copies by way of confirmation of all communications by facsimile between the parties to the Dispute and the Adjudicator are also sent by first class post not later than the business day next following the date of

the original facsimile transmission.

- 3.25 All information of whatever nature provided to the Adjudicator by any party to the Dispute is copied to the other parties simultaneously.
- 3.26 If either Party is dissatisfied with the Adjudicator's decision on a Dispute then either party may notify the other Party of the matter which he disputes and state that he intends to commence court proceedings for the final determination of the Dispute. Court proceedings may not be commenced unless this notification is given within six weeks of the notification of the Adjudicator's decision.

SCHEDULE 7: INSURANCE

Insurance Table

Please complete Appendix E to Instructions to Suppliers, Evidence of Insurance Details

Insurance Against	Party Responsible for ensuring insurance is in place	Minimum amount of cover or minimum limit of indemnity
<p>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.</p>	Supplier	
<p>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.</p>	Supplier	
<p>Product 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 a defect, fault or flaw in the Supply.</p>	Supplier	

SCHEDULE 8: SUPPLIER PERFORMANCE

1. Overview

- 1.1 This Schedule 8 sets out the performance measurement mechanism applied to the Supply and Maintenance Services. The performance measurement mechanism incorporates:
- (a) A range of performance measures that define required performance in respect of the Maintenance Services and Standards;
 - (b) An assessment of performance at the end of each Accounting Period against Key Performance Indicators (“**KPIs**”) and SDI Performance Criteria;
 - (c) Service Credits and Rectification Times;
 - (d) Non-financial remedies in respect of failure to meet SDI Performance Criteria; and
 - (e) Incentives for the Supplier to innovate to continuously improve the Services.
- 1.2 Financial deductions shall be applied when there is failure to meet target performance levels set in Key Performance Indicators. These deductions will take the form of Service Credits; each Service Credit value at the start of this contract will be £25. The value of Service Credits will increase each year on the anniversary of the Start Date by RPIX.
- 1.3 Key Performance Indicators as set out in paragraph 2.2 below measure:
- Performance levels for the Equipment and Services
 - Fault escalations thresholds to inform the Company
 - Fault Rectification Times
 - Service Credits applicable per hour or part hour
- 1.4 Financial deductions and incentives are not applied to SDI Performance Criteria.

1.5 The “**SDI Performance Criteria**” measure:

- Planned and preventative maintenance;
- Asset and Obsolescence management;
- Repeat Faults;
- Response Times;
- Meetings, reporting, IPR Management; and
- Adherence to health & safety, environmental and quality standards.

2. **Key Performance Indicators**

2.1 These are set out in Paragraph 2.2 and Table 3 below; the Supplier is required to develop suitable near real time reporting capabilities of the Services in the form of dashboards to keep the Company fully informed on performance. The Supplier shall also provide reports in the format and time scales described below.

2.1.2 At the end of each Accounting Period, the Supplier shall assess and report to the Company on all Key Performance Indicators and SDI Performance Criteria in a format agreed with the Company.

2.2 **Reactive Services KPIs**

2.2.1 The Supply is made up of various services, paragraph 2.2 and table 3 below set out the reactive services KPIs to measure the speed at which Faults are rectified “the **Rectification Time**”. Service Credits shall apply after the Rectification Time has been exceeded.

2.2.2 The Supplier shall respond to all Faults attending site where necessary, assessing the Fault and making safe or effecting repairs within the Rectification Time. The Rectification Time shall start when a Fault is reported to the Supplier or where the Supplier has or should have identified such Fault whilst monitoring the Supply. Failure time shall accumulate until the Fault is repaired and all Services are available to the Company.

Notwithstanding the Rectification Time for Faults set out in paragraph 2.2 and Table 3 below, any emergency Faults which would result in safety or environmental contravention orders being issued against the Company by the Health & Safety Executive (including HMRI), the London Fire and Civil Defence Authority, Local Authorities or any other regulatory body shall have a Rectification Time of 3 hours.

Table 3 – Fault Rectification Time

Fault Description	Service Affecting	TfL Management Escalation	Rectification Time and Service Credits Applicable
Equipment is Off Line and preventing station, cash collections and/or data reporting	Yes	After 24 Hours	Rectification Time 8 Hours 1 Service Credit per hour or part hour thereafter until fixed
Users(Station Staff) unable to log onto Equipment	Yes	After 24 Hours	Rectification Time 8 Hours 3 Service Credits Per hour or part hour thereafter until fixed for Category A cash management machines. 1 Service Credit Per hour or part hour thereafter until fixed for Category B and C cash management machines
Authorised personnel including CIT Contractor personnel unable to deposit or remove coins from the Equipment	Yes	After 24 Hours	Rectification Time 8 Hours 3 Service Credits per hour or part hour thereafter until fixed for Category A cash management machines. 1 Service Credit Per hour or part hour thereafter until fixed for Category B and C cash management machines
Authorised Staff unable to deposit or remove notes from the Equipment	Yes	After 24 Hours	Rectification Time 8 Hours 3 Service Credits per hour or part hour thereafter until fixed for Category A cash management machines.

			1 Service Credit per hour or part hour thereafter until fixed for Category B and C cash management machines.
Back Office functions are not available to authorised Company Personnel	Yes	Immediate Major Incident Declared	Rectification Time Zero Hours Immediate Service Credits 10 Service Credit Per hour or part hour until fixed
Failure to make available all Equipment transaction Data for reporting by Company Administrators	Yes	Immediate	Rectification Time Zero Hours Two (2) Service Credits Per hour or part hour applicable if transaction Data is not recovered and made available by the end of the second day.
< 90% Equipment transaction Data in back office by end of the Operational Day 100% Equipment transaction Data in back office by the end of the second Operational Day	Yes	Immediate	1 Service Credit Per hour or part hour thereafter until Data completeness targets achieved
Failure to be able to change settings and/or Add/Remove Company Administrators and Users to individual CMD's	Yes	After 24 Hours	Rectification Time 24 Hours 1 Service Credits per hour or part hour thereafter until fixed
Individual Equipment not correctly processing, storing or accounting for monies	Yes	After 8 Hours	Rectification Time 24 Hours 3 Service Credits per hour or part hour thereafter until fixed for Category A cash management machines. 1 Service Credit Per hour or part hour thereafter until fixed for Category B and C cash

			management machines.
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Where the Contractor can demonstrate to the Company's satisfaction that a single Fault has directly resulted in the Suppliers failure to meet multiple KPI's as a result of which multiple sets of Service Credits have been applied, the Parties agree that only the highest value single set of Service Credits shall be applied in that instance.

Where any of the functions detailed in the Specification are not being delivered by any individual piece of Equipment, then that Equipment shall be considered as Faulty. The Supplier shall attend and rectify any Fault regardless of whether this Fault type is specified in Table 3. For such Faults the Rectification Time is 8 service hours after which 1 Service Credit per hour or part hour shall be applicable until the Equipment is returned to full Service and compliant with the Specification.

Refused Access Process for Faults.

Where the Supplier attends the Companies Premises and are refused access to a Fault by authorised Company Personnel, the following process, the "**Refused Access Process**" shall be adopted:

- The Supplier shall contact the Companies service desk and advise them of the situation
- The Companies service desk shall try to facilitate access for the Supplier
- Where access is not possible the Company shall provide to the Supplier a reference (a "**Refused Access Reference**") which authorises a stop of the failure clock for a period of 4 hours.
- All such Refused Access References must be included within the Daily Cumulative Failure Report or relief will not be granted.

- After 4 hours (or time agreed with the Companies service desk) the failure clock will begin again and the Supplier must re-attend that location to affect repairs.

In order for the Supplier to obtain a Refused Access Reference, the following conditions must have occurred:

- The Fault is on the Equipment at that location
- The Supplier has logged the Fault and is recording all such events on their service management system
- The attending Supplier Personnel has all of the requisite documentation and permissions to comply with the access provisions to the Companies premises

2.2.3 The Supplier shall monitor the Equipment and Services throughout the Operational Day and shall where practical identify, log and take steps to rectify all Faults pro-actively without reliance upon Company Personnel. In addition the Company shall report any Fault that it becomes aware of to the Supplier.

The Supplier shall monitor the Equipment and Services and log Faults 24 hours per day, 7 days per week (excluding Xmas Day). The Supplier shall respond to all Faults and shall rectify such Faults within the Rectification Times shown in Table 3 above and paragraph 2.2. All rectified Faults shall be notified to the Company in near real time with Fault repair details. All Faults shall be reported to the Company at the Contract progress meeting every Accounting Period. The report (the “**Cumulative Failure Report**”) will contain all details that the Company requires to agree the performance of the Supplier; but as a minimum it shall contain:

- Date and Time the Fault occurred
- Description of the Fault or loss of Service
- The cause of such Fault or loss of Service

- Each action taken by the Supplier in rectifying such Fault
 - Each action shall be time and date stamped
- The location of such Fault
- The Equipment or Service affected
- Parts changed
- Fault resolution
- Elapsed failure time
- Any refused access relief sought
- Any additional Fault narrative as required

Where a Fault occurs that can be remedied by Company Personnel then the Supplier shall provide telephone guidance to authorised Company Personnel to try and affect repairs to the Equipment, providing that such Staff do not have to use tools but adopt a process similar to rectifying faults with a photocopier. In the event that such intervention by Company Personnel is unsuccessful the Rectification Time for the Fault begins from when the Fault was reported to them or where the Supplier was or should have been aware that the Fault had occurred if they had been monitoring the Equipment and Services.

2.2.4 Individual reactive services KPIs are set out in above. In addition there is an overall service measure detailed in Table 4 below.

Table 4 – Reactive Services KPIs

Service	Measure	Target
Service Maintenance	Faults to be rectified within specified timescale	100%

2.2.5 At the end of each Accounting Period, the Supplier shall report to the Company actual performance against the reactive services KPI targets set out in paragraph 2.2. Service Credits shall be applied for performance below target.

For the avoidance of doubt all Faults shall be included in the Cumulative Failure Report each Accounting Period.

2.3 Fault Reports

2.3.1 The Supplier shall track and report open Faults to the Company daily. The Daily Cumulative Faults Report shall also highlight Faults where the Rectification Time has not been met and shall incorporate the actual rectification time for such Faults.

2.3.2 Where a Fault remains open beyond the Rectification Time for more than a reasonable time (in the opinion of the Company), the Company shall reserve the right to invoke the procedure set out in Clause 37 (Failure to Supply) of the Contract.

2.3.3 Where the Supplier is notified of a Fault and responds but can find no Fault (“**No Fault Found**”), the Supplier shall incorporate these events into a No Fault Found report, which shall be issued to the Company weekly.

3. SDI Performance Criteria

3.1 The Supplier shall deliver to the Company the following reports on SDI Performance Criteria in the timescales specified.

- Planned and Preventative Maintenance
 - A plan that provides assurance to the Company that the Supplier is maintaining the Equipment in accordance with the manufacturer’s recommendations and is compliant with the Standards set out in the Contract. Such plan to be provided every 3 Accounting Periods and not more than 4 times a year.
- Asset and Obsolescence Management

- Details of all of the individual Company Assets comprising the Equipment, specialist tooling and serialised sub models and spares used to deliver the Supply in the form of a Company Asset list. To be provided every 3 Accounting Periods and not more than 4 times a year.
- Failure and reliability trend reports of each Company Asset comprising the Equipment. To be provided every 3 Accounting Periods and not more than 4 times a year
- Equipment life cycle reports forecasting where the individual Company Assets and serialised components are in their respective life cycle, identifying any obsolescence threats or issues; end of life components and the steps being taken by the Supplier to meet its obligation to manage and remove such obsolescence issues and threats. Such reports shall be provided every 3 Accounting Periods and not more than 4 times a year
- The availability of the Equipment at each location shall be reported each Accounting Period
- Repeat Faults
 - The Supplier shall monitor and report upon the failure trends of each Company Asset and shall agree with the Company reasonable repeat Fault thresholds for each category of Company Asset. Such events shall be reported to the Company in near real time.
 - Where a Service is failing beyond an agreed repeat Fault threshold the Supplier shall report each occurrence within a week of such occurrence and provide to the Company a plan to address the reliability concern. Should these actions not prove to be effective then the Escalation Process may at the Companies discretion be utilised.
- The Supplier shall deliver to the Company each Accounting Period a Contract progress report that summarises the Suppliers performance in

respect to this Contract. The Contract progress report shall be made available to the Company within 5 business days of the end of each Accounting Period supported by detailed performance data to enable the Company to agree the Service Payment and process the Suppliers Application for Payment.

- The Contract progress report shall be discussed at the Contract progress meeting described in paragraph 6.1 of Schedule 2 and shall be held within 10 working days of the end of each Accounting Period. The meetings will be held at the Companies Offices and the Company shall chair and minute these meetings. The Supplier shall attend all such meetings to discuss their performance in the delivery of the Supply and compliance with contracted standards.

3.2 Repeat Faults

3.2.1 At the end of each Accounting Period, the Supplier shall assess and report to the Company actual performance against the Repeat Fault SDI Performance Criteria set out in Table 6 below. Service Credits shall not apply to the SDI Performance Criteria. In the event that the Supplier fails to meet the SDI Performance Criteria, the escalation process set out in Paragraph 4 of this Schedule shall apply.

Table 6 – Repeat Faults

Service	Measure	Target
Repeat Faults SDI Performance Criteria	All Repeat Faults to be reported to the Company in accordance with agreed timescales	100%

3.3 Health, Safety, Environmental and Quality Standard SDI Performance Criteria

3.3.1 Adherence to health & safety, environmental and quality standards shall be measured by the SDI Performance Criteria shown in Table 7 below. At the end of each Accounting Period, the Supplier shall assess and report to the Company actual performance. Service Credits shall not apply to SDI Performance Criteria. In the event of failure to meet the SDI Performance Criteria the escalation process set out in Paragraph 4 of this Schedule shall apply.

Table 7 - Health, Safety, Environmental and Quality SDI Performance Criteria

Service	Measure	Target
Environmental Planned General Inspections	Achievement of required standard when inspected by Company	100%
Planned General Inspections	Achievement of required standard when inspected by Company	100%
Health & Safety Inspections	Achievement of required standard when inspected by Company	100%
Quality Inspections	Achievement of required standard when inspected by Company	100%

3.4 Meetings, Reporting and IPR Management SDI Performance Criteria

3.4.1 Adherence to the Programme and Service reporting requirements of Section 5, Schedule 2 [Programme] and adherence to Schedule 17 (IPR Management) shall be measured by the SDI Performance Criteria shown in Table 8 below. At the end of each Accounting Period, the Supplier shall assess and report to the Company actual performance. Service Credits shall not apply to SDI Performance Criteria. In the event of failure to meet the SDI Performance Criteria the escalation procedure set out in Paragraph 4 of this Schedule shall apply.

Table 8 – Reporting and IPR Management Requirements

SDI Performance Criteria	Measure	Target
IPR Management	Delivery of the obligations in paragraphs 2.2.2, 2.3, 2.6.2, 2.7.2 and 2.8.1 of Schedule 17 (IPR Management)	100%
Reporting	Delivery of reports by the Supplier in accordance with the requirements of Section 5, Schedule 2	100%

4. Escalation Procedure

- 4.1 In the event of unsatisfactory performance standards, including (but not limited to) failure to reach the targets set by the SDI Performance Criteria, failure to reach the targets set by the Key Performance Indicators, Faults open beyond the Rectification Time and any other deficiencies in performance, the escalation procedure shall be invoked by the Company in their absolute discretion.
- 4.2 The purpose of the escalation procedure 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 procedure notified levels of poor performance will be termed “Non-Conformances”.
- 4.3 This procedure operates with four Stages; the lowest level Non-Conformance being Stage 1. Should Non-Conformances escalate they receive an appropriate level of management intervention from the Company and the Supplier. Stage 3 gives final review and opportunity for remedial actions to resolve issues before the Non-Conformance reaches Stage 4, which will entitle the Company to terminate in accordance with Clause 39.1.10 of the Contract.
- 4.4 In the event that an unsatisfactory performance issue is not resolved between the Company and the Supplier then the Non-Conformance may be raised formally to a Stage 1 or Stage 2 Non-Conformance, depending upon the severity of the

performance failure. It is possible for a number of Stage 1 and/or Stage 2 Non-Conformances to be in hand at any one time.

Table 9 – Summary of Escalation Procedure

TRIGGER	STAGE	ACTION	BY	RESULT
Failure to rectify identified non-conformance issued as part of KPIs and/or SDIs	STAGE 1	Improvement plan with precise end date required. On going review dates specified.	The Supplier	Satisfactory - Stop Unsatisfactory - Stage 2
Stage 1 re-occurrence Consistent failure to meet required requirement Safety Condition infringements.	STAGE 2	Improvement plan with precise end date required. Ongoing review dates specified.	The Supplier	Satisfactory - Stop Unsatisfactory - Stage 3
Stage 2 re-occurrence	STAGE 3	Final review. Final opportunity for remedial action. Precise end date required.	The Supplier	Satisfactory - Stop Unsatisfactory - Stage 4
Stage 3 re-occurrence	STAGE 4	POSSIBLE TERMINATION		

4.5 Issues shall be resolved locally on a day-to-day basis to the mutual satisfaction of all Parties and shall not be raised to Stage 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 in order to determine the reasons for and best

method of addressing the Non-Conformance. Performance standards to be achieved and associated processes for measuring and recording Supplier's performance are detailed in Paragraphs 2 and 3 of this Schedule 8.

4.6 **Stage 1**

4.6.1 The Stage 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 Stage 1 Non-Conformance Report. Such report will contain:

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

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

4.7 **Stage 2**

4.7.1 Paragraph 4.7.2 shall apply where:

- (a) the Company determines, having regard to the gravity of the Non-Conformance, that a Non-Conformance should be treated as a Stage 2 Non-Conformance; or
- (b) the Supplier fails to notify the Company of the occurrence of a Stage 1 Non-Conformance prior to the Company notifying the same to the

Supplier (provided that the Company shall be entitled, having regard to the gravity of the Non-Conformance, to treat this as a Stage 3 Non-Conformance rather than a Stage 2 Non-Conformance); or

- (c) the Supplier fails to make available to the Company a Stage 1 Non-Conformance Report within 10 Business Days of service by the Company of the notice referred to in Paragraph 4.6.1; or
- (d) the Supplier fails to undertake the Stage 1 Required Action within the Stage 1 Rectification Period; or
- (e) the Supplier fails to rectify the Stage 1 Non-Conformance within the Stage 1 Rectification Period; or
- (f) a further Non-Conformance occurs after the Stage 1 Rectification Period but within 2 months of the end of the Stage 1 Rectification Period and that is a Non-Conformance in relation to the same SDI Performance Criteria or KPI ("Same Type") as the Stage 1 Non-Conformance; or
- (g) a further Non-Conformance occurs during the Stage 1 Rectification Period that is of the Same Type as the Stage 1 Non-Conformance and the Supplier has wilfully permitted the occurrence of such further Non Compliance; or
- (h) failure to meet the requirements of Schedule 15 (Quensh).

4.7.2 Where one or more of the circumstances described in Paragraph 4.7.1 applies, then this shall be a "Stage 2 Non-Conformance" and the Company may submit a notice to the Supplier. The Supplier shall determine (acting reasonably) the steps to be taken by the Supplier to ensure there is no repetition of such Stage 2 Non-Conformance (the "Stage 2 Required Action") and the time within which such Stage 2 Required Action is to be completed (which shall be a reasonable period and no longer than 10 Business Days (the "Stage 2 Rectification Period")), and prepare and make

available to the Company a report (the “Stage 2 Non-Conformance Report”), which shall set out the following information:

- (a) the date and details of the Stage 2 Non-Conformance;
- (b) the Stage 2 Required Action; and
- (c) the Stage 2 Rectification Period.

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

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

4.8 **Stage 3**

4.8.1 Paragraph 4.8.2 shall apply where:

- (a) the Company determines, having regard to the gravity of the Non-Conformance, that a Non-Conformance should be treated as a Stage 3 Non-Conformance; or
- (b) the Supplier fails to make available to the Company a Stage 2 Non-Conformance Report within 10 Business Days of service by the Company of the notice referred to in Paragraph 4.7.2; or
- (c) the Supplier fails to undertake the Stage 2 Required Action within the Stage 2 Rectification Period; or
- (d) the Supplier fails to rectify the Stage 2 Non-Conformance within the Stage 2 Rectification Period; or
- (e) a further Non-Conformance occurs after the Stage 2 Rectification Period but within 2 months of the end of the Stage 2 Rectification Period and which is of the Same Type as the Stage 2 Non-Conformance; or

- (f) a further Non-Conformance occurs during the Stage 2 Rectification Period that is of the Same Type as the Stage 2 Non-Conformance and the Supplier has wilfully permitted the occurrence of such further Non-Conformance.

4.8.2 Where one or more of the circumstances described in Paragraph 4.8.1 applies, then this shall be a “Stage 3 Non-Conformance” and the Company shall inform the Supplier of the same by written notice.

4.8.3 The notice referred to in Paragraph 4.8.2 shall set out:

- (a) the deadline by which it requires the Supplier to serve on the Company a 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 “Stage 3 Required Action”) (a “Stage 3 Non-Conformance Report”); and
- (b) the period (being no greater than 2 months from the time of occurrence of the Stage 3 Non-Conformance for the Supplier to put in place steps to ensure that no further Non-Conformances of the Same Type occur (the “Stage 3 Rectification Period”).

4.8.4 All Stage 3 Non-Conformances will be reviewed quarterly at a Director Level meeting. For TfL, the nominated Director is Shashi Verma, Director of Customer Experience or his equivalent from time to time.

4.9 **Stage 4**

4.9.1 Paragraph 4.9.2 shall apply where:

- (a) the Supplier fails to make available to the Company by the deadline notified under Paragraph 4.8.3 a Stage 3 Non-Conformance Report; or
- (b) the Supplier fails to undertake the Stage 3 Required Action within the Stage 3 Rectification Period; or

- (c) the Supplier fails to rectify the Stage 3 Non-Conformance within the Stage 3 Rectification Period; or
- (d) a further Non-Conformance occurs after the Stage 3 Rectification Period but within 2 months of the end of the Stage 3 Rectification Period and which is of the Same Type as the Stage 3 Non-Conformance; or
- (e) a further Non-Conformance occurs during the Stage 3 Rectification Period that is of the Same Type as the Stage 3 Non-Conformance and the Supplier has wilfully permitted the occurrence of such further Non-Conformance.

4.9.2 Where one or more of the circumstances described in Paragraph 4.9.1 applies, then this shall be a “Stage 4 Non-Conformance” and the Company will be entitled to terminate the Contract in whole or in part in accordance with Clause 39.1.10 of the Contract.

5. Exclusions

- 5.1 No down time for Faults will be attributed to the Supplier in the circumstances set out in (a) below provided that (i) when the Fault is identified or should reasonably be identified by the Supplier or reported by the Company, the Supplier shall commence and continue to make all reasonable endeavours to rectify the Fault so reported; and (ii) the Fault has not been caused or contributed to by the act, omission or default of the Supplier.
- (a) subject to the requirements of the Contract and to proper coordination by the Supplier, access to or use of a part of the site is delayed, disrupted or cancelled in accordance Refused Access Process.
- 5.2 The Supplier shall notify the Company within the Rectification Time that they believe that the Fault should be excluded from the performance calculation setting out:
- (a) the reason for the exclusion; and

- (b) the expected completion date; and
- (c) providing any relevant supporting documentation including the lead time for specialist equipment and / or materials and cancelled / delayed access forms.

5.3 Following receipt of each request for an exclusion, the Company shall notify the Supplier in writing that it:

- (a) approves the application for an exclusion; or
- (b) rejects the application for an exclusion.

6. Performance Reporting

6.1 The Supplier shall report on the performance of the Services against Key Performance Indicators and SDI Performance Criteria in accordance with Schedule 2 (Programme).

7. Payment Adjustments

7.1 Adjustments to the Service Payments to reflect performance shall be applied in accordance with Schedule 4 (Prices and Payment Procedure).

SCHEDULE 9: CORPORATE IPRs

The Roundel including the following registered trade marks:

Country	Registration/ Application	Trademark	Class
UK	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The New Johnston typeface of design type NJBook98, NJLight98 and NJMedium98 (the ***New Johnston Typeface***).

The Underground map.

The following registered trade marks:

Country	Registration/ Application	Trademark	Class
UK	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

SCHEDULE 10: NOVATION AGREEMENT

THIS DEED is made [] day of [] 201[]

BETWEEN:

- (1) [] a company registered in England and Wales under number [] whose registered office is at [] ("the **Company**"); and
- (2) [] a company registered in England and Wales under number [] and having its registered office at [] ("the **Supplier**"); and
- (3) [] a company registered in England and Wales under number [] and having its registered office at [] ("the **New Company**")

WHEREAS:

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

IT IS AGREED AS FOLLOWS:

1. In this Deed:
 - 1.1 "Transfer Date" means [];
2. With effect from the Transfer Date:
 - 2.1 the New Company undertakes to perform the obligations of the Company under the Contract and be bound by its terms in every way as if the New Company is and had been named at all times as a party to the Contract in lieu of the Company;

- 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, on, or subsequent to the date hereof shall include all or any claims, actions or proceedings or losses of the New Company in relation to the Contract as if the New Company was a party to, and had always been a party to, the Contract and shall be exercisable by the New Company against the Supplier; and
- 2.3.3 the Supplier shall not contend in any claim, action or proceeding that any loss of the New Company is not recoverable from or foreseeable by the Supplier prior to the date hereof.
- 2.4 The Company transfers its rights and obligations under the Contract to the New Company.
- 2.5 A person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

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

The Common Seal of
[the COMPANY]

was affixed to this Deed
in the presence of:-

.....

Authorised Signatory

Executed as a Deed)
for and on behalf of) Authorised Signatory
[CONTRACTOR])
acting by)
and) Authorised Signatory

Executed as a Deed)
for and on behalf of) Authorised Signatory
[NEW COMPANY])
acting by)
and) Authorised Signatory

SCHEDULE 11: TRAINING

PART 1 – TRAINING BY SUPPLIER OF SUPPLIER PERSONNEL

TRAINING REQUIREMENTS

COURSE	QUENSH REFERENCE	LUL TRAINING STANDARDS REFERENCE	NUMBER REQUIRED
LUCAS (London Underground Combined Access System) Smart Card or SENTINEL training	14.2.2. Access Card & Work Site Briefing	S1552 G1008 LU Rule Book 10 – Station Access	

**PART 2 – TRAINING BY THE SUPPLIER OF COMPANY PERSONNEL OR THE CASH
IN TRANSIT(CIT) CONTRACTOR.**

TRAINING REQUIREMENTS

COURSE	NUMBER REQUIRED
<p>Training Company trainers:</p> <p>Full training shall be provided to the Company trainers to cover the functions of the Users(station staff) as described in Appendix 1 of Schedule 1A . These training sessions shall enable the Company trainers to train Users (station staff) on key functions which must include the following as a minimum:</p> <ul style="list-style-type: none"> a. How to log on / off the cash management machine using the 6 digit numerical user ID (matching the current London Underground TSID reference) and the additional 4 digit PIN b. How to deposit notes and coins. c. How to dispense coins for: <ul style="list-style-type: none"> i. POM floating ii. Creating bulk coin bags for collection d. How to check the value of cash (broken down by denomination) in the cash management machine on the screen. e. How to check the value of cash (broken down by denomination) in the cash management machine on a printed receipt. 	

COURSE	NUMBER REQUIRED
<p>Training Company Administrators:</p> <p>The Supplier shall provide training to the following groups of Company Administrators to cover the key functions of the roles as described in Appendix 1 of Schedule 1A. As a minimum the training sessions shall cover the functions described for the role of each Company Administrator below.</p> <p>1. <u>LU Operations</u></p> <ul style="list-style-type: none"> • How to add/ remove Users (station staff) to/from an individual cash management machine via the Supplier's web service portal. • How to configure cash management machines into groups or areas to facilitate access restrictions to station staff Users within one particular group • How to interrogate Supplier's web service portal for historic Data records by Equipment (location), station, area, network, user, user group, type of transaction, date and time. • How to set or change the operational permission levels of station staff Users. • How to access the Supplier's web service portal to view real time status of the Equipment , including hopper and/or tray levels (e.g. % full), total value of coins by denomination, total value of notes. • How to set or amend the cash management machine for quick dispensing of specific value of coins and notes by denomination (for regular floating of ticket machines or filling bulk coin bags). • How to set or amend the cash management machine to establish a maximum dispense and daily dispense limits per station staff User / User group • How to access the Supplier's web service portal to amend dispense limits by cash management machine or across all cash management machines and user group. <p>2. <u>FSC</u></p> <ol style="list-style-type: none"> a. How to access financial and historical Data records by cash management machine (location), station, area, network, User, user group, type of transaction, date and time from the Supplier's web service portal for financial reconciliation. b. How to interrogate Data via the Supplier's web service portal to generate a report of the current day's transactions (e.g money in, money out, Users) <p>3. <u>TfL Operations</u></p> <ol style="list-style-type: none"> a. How to access Supplier's web service portal to centrally manage CE management team user accounts b. How to set or change the operational permission levels of existing Company Administrators. c. How to monitor the Supplier's delivery of services <p>Cash Management Machines (supply, install and maintenance) contract</p>	

COURSE	NUMBER REQUIRED
<p>Training Cash in Transit(CIT) Contractor trainers to cover the contractor's cash collection responsibilities as described in Appendix 1 of Schedule 1A. As a minimum the training shall cover the following:</p> <ul style="list-style-type: none"> a. How to manage PIN access for cash management machines. b. How to access Supplier's web service portal to centrally manage Cash in Transit(CIT) Contractor user accounts c. How to log on/off cash management machines for cash collection. d. How to collect notes from the cash management machines; e. How to fit empty transportation sack or pouch f. How to replace other consumables (if appropriate) g. What to do when a Fault occurs: <ul style="list-style-type: none"> i. who to contact and how; ii. access requirements to the cash management machines for Fault rectification 	

COURSE	NUMBER REQUIRED
<p>Floor walker / engineering support to be provided during the hours of 0700 to 2200, Monday to Saturday and 0800 to 1900, Sunday:</p> <ul style="list-style-type: none"> • provide onsite support in first 7 days of operation of the cash management equipment at each site • Provide additional support as requested in following weeks. 	<p>4 floorwalkers / engineers per 10 stations for the first three days of operation.</p> <p>1 floorwalkers / engineer per 30 stations after the first week of operation for 3 weeks</p>
<p>Early Training visit to support training development:</p> <p>Session with the Company's e-learning team to aid development of training for Users (station staff)</p>	<p>2 training sessions for 4 people</p>

SCHEDULE 12: SUB-CONTRACTOR WARRANTY AGREEMENT

FORM OF WARRANTY

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

BETWEEN : -

- (1) [_____] (Company registration number: [_____]) 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 [_____] (the "**Supply**").
- (B) The Sub-Contractor has submitted a tender to the Supplier for the carrying out and completion of certain parts (the "**Sub-Contract Supply**") of the Supply 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 Supply have been and will be carried out with the skill and care to be expected of appropriately qualified and experienced professional contractors with experience in carrying out works or services of a similar type, nature and complexity to the Sub-Contract Supply;
 - (b) reasonable skill and care has been and will continue to be exercised in connection with:
 - (i) the design of any goods, works or services to the extent that the Sub-Contractor has or will be responsible for such design;

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

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

2. The Sub-Contractor shall, save in so far as he is delayed by any event in respect of which the Supplier is granted an extension of time under the Main Contract for completion of the Supply:
 - (a) execute, complete [and maintain]¹ the Sub-Contract Supply in accordance with the provisions of the Sub-Contract; and
 - (b) ensure that the Supplier shall not become entitled to any extension of time for completion of the Supply or to claim any additional payment under the Main Contract due to any failure or delay by the Sub-Contractor.
3. The Sub-Contractor shall from time to time supply the Company and the Supplier with such information as either may reasonably require.
4. To the extent that the intellectual property rights in any and all Documents have not already vested in the Company or the Supplier, the Sub-Contractor hereby grants

¹ Depending on Sub-Contract Supply to be provided

to the Company an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any and all Documents and all amendments and additions to them and any works, designs or inventions of the Sub-Contractor incorporated or referred to in them for the following purposes:

- (a) understanding the Supply;
- (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Supply;
- (c) extending, interfacing with, integrating with, connecting into and adjusting the Supply;
- (d) enabling the Company to carry out the operation, maintenance repair, renewal and enhancement of the Underground Network (as such capitalised terms are defined in the Main Contract);
- (e) executing and completing the Supply; and
- (f) enabling the Company to perform 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 Supply.

6. The parties hereby agree that:

- (a) this Agreement shall be personal to the Sub-Contractor;
- (b) the Company may assign the benefit of this Agreement to any third party;

- (c) the rights and remedies contained in this Agreement are cumulative and shall not exclude any other right or remedy available to either party in law or equity.
7. The Sub-Contractor warrants and undertakes to the Company that he has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Sub-Contract and that, insofar as he is responsible for the design of the Sub-Contract Supply, he has professional indemnity insurance with a limit of indemnity of not less than two million pounds (£2,000,000) in respect of each and every claim which may be made against the Sub-Contractor in respect of the Sub-Contract Supply. The Sub-Contractor shall maintain such professional indemnity insurance for a period of 12 years from completion of the Supply provided such insurance remains available at commercially reasonable rates and shall notify the Company forthwith if such insurance ceases to be so available. When deciding whether such insurances are available at commercially reasonable rates, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Sub-Contractor's insurance claims record.²
8. If any dispute of any kind whatsoever arises between the parties in connection with this Agreement or the Sub-Contract Supply which raises issues which are in opinion of the Company the same as or substantially the same as issues raised in a related dispute (the "**Related Dispute**") between the Company and the Supplier and such Related Dispute has already been referred to a conciliator or arbitrator appointed under the provisions to that effect contained in the Main Contract, then the Sub-Contractor hereby agrees that the Company may at his discretion by giving notice in writing to the Sub-Contractor refer the dispute arising out of this Agreement or the Sub-Contract Supply to the adjudicator, conciliator, arbitrator or other party (the "**Appointed Party**") appointed to determine the Related Dispute. In this event the Appointed Party shall have power to give such directions for the determination of the dispute and the Related Dispute as he may think fit and to make such awards as may be necessary in the same way as if the procedure of the High Court as to joining one or more defendants or joint co-defendants or third parties was available to the parties and to him.
9. (a) Neither the Sub-Contractor nor the Supplier shall exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated the Sub-Contract or discontinue or suspend the performance of any of its duties or obligations thereunder or treat the Sub-Contract as determined without first giving to the Supplier or the Sub-Contractor (as applicable) not less than 35 days prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-Contractor's or Supplier's grounds for terminating or treating as terminated the Sub-Contract or discontinuing or suspending its performance thereof or treating the Sub-Contract as determined.
- (b) If the Main Contract is terminated for any reason, within 35 days of such termination the Company may give written notice to the Sub-Contractor and to the Supplier (a "**Step-in Notice**") that the Company or its appointee shall

² If the Sub-Contractor is not undertaking any design as part of the Sub-Contract Supply Clause 7 can be stated as "Not Used".

henceforth become the Supplier under the Sub-Contract in accordance with the terms of sub-clause (c) below.

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

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

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

THE COMMON SEAL of)
[COMPANY] 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

SCHEDULE 13A: PARENT COMPANY GUARANTEE

FORM OF PARENT COMPANY GUARANTEE

THIS GUARANTEE is made the _____ day of _____

BETWEEN

- (1) [_____] whose registered office/principal place of business is at [_____] ("the **Guarantor**");
- (2) Transport for London a statutory corporation established under the Greater London Authority Act 1999 of Windsor House, 42-50 Victoria Street, London SW1 0TL ("the **Company**" which expression shall include its successors in title and assigns); and
- (3) [_____] whose registered office/principal place of business is at [_____] ("the **Supplier**");

WHEREAS:

- A. This Guarantee is supplemental to a contract ("the **Contract**") for the supply of cash management machines 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 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 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 monies held, received or receivable by the Company or be entitled to any right of contribution or indemnity in respect of any payment made or monies 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 Guarantor 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 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 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 you have the right to bring proceedings in the courts of any other jurisdiction in which any of our assets may be situated.

[17. 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

of the 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

LONDON UNDERGROUND)

LIMITED 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

the Supplier in the)

presence of:-)

Signature of Authorised Signatory _____

Print name of Authorised Signatory _____

Signature of Authorised Signatory _____

Print name of Authorised Signatory _____

LEGAL OPINION 1

FOR USE WITH A GUARANTEE

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 [] 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 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

Signed.....

SCHEDULE 13B: PERFORMANCE BOND

FORM OF ON DEMAND PERFORMANCE BOND WITH ANNEX 1

BOND

(Letterhead of Guarantor)

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

Contract Bond No. [•]

1. Whereas our clients [•] (the “**Supplier**”) have entered into a contract with you dated [•] (the “**Contract**”) in respect of the supply of cash management machines and related services, 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 Annex 1 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. 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.
5. For the purpose of this paragraph 6, the expression “Expiry Date” means the date on which the Defects Liability Period expires (as such term is defined in the Contract) . 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 £[●].
6. 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.
7. Terms defined in the Contract and not otherwise defined herein shall have the same meaning in this Bond unless inconsistent with the context.
8. 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.
9. 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
[THE COMPANY]
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 1

Form of Demand from the Company to the Guarantor

To be sent by first class recorded delivery post

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 **[Company name / bank account details]**.

Yours faithfully

.....
[Company name]
5 Endeavour Square
Stratford
London
E20 1JN

SCHEDULE 14: VARIATION PROCEDURE

1. General

In this Schedule:

- 1.1. The Company's right to require the Supplier to implement a Variation, or to propose that the Supplier implements a Variation, is set out in paragraph 2.1;
- 1.2. the Supplier's right to propose Variations is set out in paragraph 2.2;
- 1.3. the procedures for notifying the other Party of, and specifying, Variations required by the Company or proposed by the Supplier (as the case may be) are set out in paragraphs 3 and 4;
- 1.4. the procedures for implementing Variations are set out in paragraph 5;
- 1.5. the Supplier's overriding obligations to minimise the cost and provide VfM of any Variation are set out in paragraph 6.1; and
- 1.6. the contract management procedures for developing and implementing Variations are set out in paragraph 8.

2. Variation Rights

- 2.1. The Company shall be entitled at any time to:
 - 2.1.1. require the Supplier to implement a Variation to the Supply;
or
 - 2.1.2. propose a Variation to the Supply to the Supplier, andthe Supplier shall implement each Variation required or authorised in accordance with this paragraph 2.
- 2.2. The Supplier may propose a Variation to the Supply. The Company shall not be obliged to consider or authorise any such proposal.

3. Proposed Variation Notice and Required Variation Notice

For a Variation under paragraph 2.1:

- 3.1. The Company shall give notice to the Supplier of a Proposed Variation (by submitting a "**Proposed Variation Notice**") or a Required Variation (by submitting a "**Required Variation Notice**") in substantially in the form set out at Appendix 1A. The Company may in its absolute discretion at any time issue a Required Variation Notice in respect of a Variation that has previously been the subject

of a Proposed Variation Notice or a Supplier's Proposal Notice (as the latter is defined in paragraph 4).

3.2. The Supplier shall, within 15 Business Days from the date of delivery of any Proposed Variation Notice or Required Variation Notice (or within any additional period requested by the Supplier and agreed to in writing by the Company, the Company acting reasonably), produce, sign and return a "Supplier's Response" substantially in the form set out in this Schedule 14 (Variation Procedure) which shall set out the proposed method of implementing the relevant Variation, specifying inter alia

3.2.1. the time scale for doing so;

3.2.2. the effect (if any) on the timing of the performance of other obligations under this Contract (including the affect (if any) on any relevant Delivery Dates);

3.2.3. the impact of effecting the Variation on the provision of the Supply;

3.2.4. the financial consequences of implementing the Variation (including, but not limited to, showing details of any pricing of the Variation including capital and operating costs);

3.2.5. anticipated Company and/or Third Party dependencies;

3.2.6. and the risks associated with the Variation,

provided that any savings made by the Supplier arising as a result of such Variation or payments to the Supplier shall be taken into account. Where a Variation is to be charged by reference to the time spent by Supplier Personnel in relation to the Variation, the rates for such Supplier Personnel shall not exceed those detailed in Schedule 4 (Prices and Payment Procedure).

3.3. In the case of a Required Variation Notice, the Company shall specify in the Required Variation Notice any requirements in relation to the implementation of the Required Variation.

4. Suppliers Proposal Notice

4.1. For a Variation under paragraph 2.2, the Supplier shall notify its proposals for a Variation to the Company by a notice substantially in the form set out in Appendix 1B (the "**Supplier's Proposal Notice**"). The Supplier shall set out the proposed method of implementing the Variation, specifying inter alia;

4.1.1. the time scale for doing so;

- 4.1.2. the effect (if any) on the timing of the performance of other obligations under this Contract (including the effect (if any) on any relevant Delivery Dates);
- 4.1.3. the impact of effecting the proposed Variation on the provision of the Supply;
- 4.1.4. the financial consequences of implementing the proposed Variation (including, but not limited to, showing details of any pricing of the Variation including capital and operating costs);
- 4.1.5. anticipated Company and/or Third Party dependencies;
- 4.1.6. and the risks associated with the Variation,

provided that any savings made by the Supplier arising as a result of such proposed Variation or payments to the Supplier shall be taken into account. Where a Variation is to be charged by reference to the time spent by Supplier Personnel in relation to the Variation, the rates for such Supplier Personnel shall not exceed those described in Schedule 4 (Prices and Payment Procedure). Within ten (10) Business Days of the delivery by the Supplier of a Supplier's Proposal Notice, the Company shall notify the Supplier whether it wishes to consider the Variation set out in the Supplier's Proposal Notice.

5. Implementation of the Variation

- 5.1. Following receipt of a Required Variation Notice and unless otherwise instructed by the Company, the Supplier shall forthwith implement the Variation required therein within the appropriate and achievable timescale specified in the Required Variation Notice. The Supplier shall notify the Company in writing within twenty four (24) hours of receipt of a Required Variation Notice if the Supplier believes that it is not possible for the Supplier to implement such Variation or to effect the Variation within the specified timescale. The Supplier shall ensure that such notification includes a detailed explanation as to why it is not possible for the Supplier to implement such Variation in the specified timescale.
- 5.2. Subject to paragraph 5.3, the Supplier shall not implement any Variation set out in any Proposed Variation Notice or Supplier's Proposal Notice until a notice substantially in the form set out in this Schedule 14 (the "**Authority to Proceed**") has been issued by the Company for that Variation. For the avoidance of doubt, the Supplier shall implement each Variation set out in a Required Variation Notice in accordance with paragraph 5.1 without any need for issuance of an Authority to Proceed. The Company shall not at any time be obliged to issue an Authority to Proceed in respect of any Proposed Variation Notice or Supplier's Proposal Notice.

- 5.3. The Company may issue an Authority to Proceed at any time following issue of a Proposed Variation Notice even if the details for implementing that Variation have not yet been determined. In that event the provisions of paragraph 5.1 shall apply with effect from the date of the Authority to Proceed as if the Proposed Variation Notice had been a Required Variation Notice.
- 5.4. Any terms (including costs) of implementing a Variation the subject of an Authority to Proceed issued under paragraph 5.2 or 5.3 or of a Required Variation Notice signed and returned by the Supplier pursuant to, and setting out the information specified in, paragraph 3.2 that are not agreed by the Parties within fourteen (14) days of the issue of the Authority to Proceed or of the return by the Supplier of the Required Variation Notice (as applicable) may be referred by either Party for determination in accordance with the Dispute Resolution Procedure. On final resolution of the outstanding terms of the Variation pursuant to the Dispute Resolution Procedure or the written agreement of the Parties, The Company shall either:
- 5.4.1. issue a notice substantially in the form set out in this Schedule 14 (the “**Required Variation Settlement Notice**”) setting out the terms of the Variation; or
- 5.4.2. withdraw the Required Variation Notice or Authority to Proceed (as applicable) by issuing a notice substantially in the form set out in this Schedule 14 (the “**Withdrawal Notice**”) in which case:
- 5.4.2.1. the Supplier shall immediately cease to implement the Variation; and
- 5.4.2.2. the Supplier shall be entitled to make a claim to recover from the Company any costs that the Supplier has reasonably and properly incurred exclusively in connection with implementing the Variation prior to the Supplier being sent the Withdrawal Notice.
- 5.4.3. The Company may withdraw any Required Variation Settlement Notice or Authority to Proceed at any time by issuing a Withdrawal Notice in which case the provisions of paragraph 5.4.2 shall apply.

6. Cost Minimisation and Standards

- 6.1. The Supplier shall make reasonable efforts to minimise the adverse and maximise the favourable impact on the Company of any change in timetable or costs resulting from the implementation of a Variation. In particular the Supplier shall, where appropriate, when submitting proposals in respect of any Proposed Variation Notice, Required

Variation Notice or Supplier's Proposal Notice or before referring any matter for determination pursuant to the Dispute Resolution Procedure and when implementing any Variation:

- 6.1.1. submit a statement to the Company of its proposed method of implementing the Variation demonstrating the steps that it has taken to minimise the costs of doing so;
 - 6.1.2. comply with its Value for Money obligations in paragraph 7;
 - 6.1.3. shall not in its proposal for the implementation of the Variation claim to be excused from any liability other than on the same grounds and to the same extent amended accordingly (*mutatis mutandis*) as it would have been excused from liability for performing its obligations under this Contract (before the proposed Variation took effect), provided that if the Supplier considers that the risk inherent in the implementation of the Variation means that the Supplier should be excused from any liability on other grounds or to a different extent, then the Supplier shall be entitled to provide contemporaneously to the Company alternative proposals for the implementation of the Variation. These alternative proposals shall not excuse the Supplier from any liability other than on the same grounds and to the same extent *mutatis mutandis* as it would have been excused from liability for performing its obligations under this Contract (before the proposed Variation took effect). The alternative proposal(s) shall give details of the extent to which the Supplier seeks to be excused from liability on other grounds or to a different extent in implementing the Variation and the corresponding change (if any) to the amount of the adjustment to the Price which would otherwise be required payable in respect of implementing the Variation.
- 6.2. Unless the Company requires otherwise, the Suppliers proposal shall be a fixed price lump sum based on the allocation of risk specified in the Variation. However, the Supplier may in addition include pricing for alternative options to be considered by the Company
 - 6.3. The Company may, from time to time, provide the Supplier with information in relation to possible future Variations for the express purpose of providing the Supplier with the means of taking such possible Variations into account in planning its operations and capital expenditure programmes and so as to reduce the costs of implementing such Variations in the future.

7. Value for Money

7.1. To enable the Company to effectively determine whether VfM is being achieved in respect of any Variation, it will be necessary for the Supplier to be transparent in the calculation of any proposed modification to the Price arising from that Variation in accordance with this Schedule and its general accounting in so far as these are relevant to demonstrating VfM associated with that Variation.

7.2. Proposed modifications to the Price in accordance with a Variation shall be priced on a transparent and "open book" basis in accordance with paragraph 7.3 below.

7.3. Open Book Accounting

7.3.1. The Supplier shall calculate any modifications proposed to the Price in accordance with this Schedule 14 on a "bottom up" basis.

7.3.2. All modifications to Prices shall represent the actual demonstrable costs to be incurred by the Supplier or savings to be achieved by the Supplier in each case with reasonable allowances for:

7.3.2.1. A reasonable level of target profit (having regard to what the Supplier has achieved and has been and is forecast to achieve under the Contract);

7.3.2.2. Overheads (with an explanation of the principles on which they have been appropriated to the Contract and to the Variation); and

7.3.2.3. Any additional risks being incurred or existing risks being reduced (as the case may be) having regards to the terms of paragraph 6.1.3.

7.3.2.4. If requested by the Company, the Supplier shall evidence the breakdown in relevant costs including by reference to operating expenditure, capital expenditure, human resource costs, third party costs (including any sub-contractor mark-up and any intra-group charges).

7.4. The Company's rights under Clause 23 (Records, Manuals, Audit and Inspection) shall include the right of audit to ensure that the Supplier has complied with its obligations under paragraph 6 above and this paragraph 7.

8. Contract Management of Variations

8.1. For a Variation under paragraph 2.1 and on receipt of a Supplier's Proposal Notice under paragraph 4, the Company shall allocate a unique number to the potential Variation and the Company shall also

maintain a sequentially numbered register of all potential and actual Variations. All subsequent correspondence between the Parties in connection with any potential or actual Variation shall bear the number allocated to such Variation.

- 8.2. For the avoidance of doubt, each of the Parties shall pay its own costs and expenses, in each case of any nature whatsoever, incurred in connection with the investigation, preparation or negotiation of each Proposed Variation Notice, Required Variation Notice, Supplier's Response, Supplier's Proposal Notice, Authority to Proceed, Required Variation Settlement Notice and Withdrawal Notice and otherwise in connection with any acts, omissions or correspondence in connection with agreement on, or determination in accordance with the Dispute Resolution Procedure of, the terms of any Variation and such costs and expenses shall not be taken into account (or included by the Supplier) in costing any Variation.

Required Variation Notice

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Insert Supplier name] (Contract name and reference no. to be included in header)	

Project Manager	Service Delivery Manager	Commercial Manager	Systems Manager
[Insert PM Name]	[Insert Service Delivery Manager Name]	[Insert CM Name]	[Insert System Owner's Name]

Summary
<p>➤ Scope of Variation to the Supply</p> <p><i>Insert a concise summary of the scope of the Variation to the Supply, including any specific deliverables to be provided by the Supplier</i></p> <p>Full details of the change to the Supply required are in Section A</p>
<p>➤ Performance Management</p> <p><i>Insert a concise summary of the changes to the performance regime including any new, or revised, SLA or performance regimes including any thresholds or trigger levels</i></p> <p>Full details of the performance regime is Section B</p>
<p>➤ Key constraints</p> <p><i>Insert a concise summary of the constraints on the implementation and/or delivery of the Variation to the Supply</i></p> <p>Full details of the key constraints are in Section C</p>
<p>➤ Key dates/milestone dates</p> <p><i>Provide a timetable for the implementation of the Variation including key dates or milestone dates (including the deliverables or Supply that the Supplier must provide by each relevant key date or milestone date)</i></p> <p>Full details of the key dates and milestone dates are in Section D</p>
<p>➤ Testing & Assurance</p> <p><i>Insert summary of the key testing and assurance requirements</i></p> <p>Full details of the testing and assurance requirements are in Section E</p>
<p>➤ Intellectual Property Rights</p> <p><i>Insert summary of any new IPR created, Or state that no new IPR will be created as part of this Variation</i></p> <p>Full details of the Intellectual Property Rights requirements and verification levels are in Section F</p>
<p>➤ Charges and payment terms</p> <p><i>Insert summary of key payment terms</i></p>

Full details of the proposed payment terms are in Section G

For the Company:

[Transport for London]

[insert name]

[insert job title]

Signed:

Proposed Variation Notice

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Inset Supplier name] (Contract name and reference no. to be included in header)	

Project Manager	Service Delivery Manager	Commercial Manager	Systems Manager
[Insert PM Name]	[Insert Service Delivery Manager Name]	[Insert CM Name]	[Insert System Owner's Name]

Summary
<p>➤ Scope of Variation to the Supply</p> <p><i>Insert a concise summary of the scope of the Variation to the Supply, including any specific deliverables to be provided by the Supplier</i></p> <p>Full details of the change to the Supply required are in Section A</p>
<p>➤ Performance Management</p> <p><i>Insert a concise summary of the changes to the performance regime including any new, or revised, SLA or performance regimes including any thresholds or trigger levels</i></p> <p>Full details of the performance regime is Section B</p>
<p>➤ Key constraints</p> <p><i>Insert a concise summary of the constraints on the implementation and/or delivery of the Variation to the Supply</i></p> <p>Full details of the Key constraints are in Section C</p>
<p>➤ Key dates/milestone dates</p> <p><i>Provide a timetable for the implementation of the Variation including key dates or milestone dates (including the deliverables or Supply that the Supplier must provide by each relevant key date or milestone date)</i></p> <p>Full details of the key dates and milestone dates are in Section D</p>
<p>➤ Testing & Assurance</p> <p><i>Insert summary of the key testing and assurance requirements</i></p> <p>Full details of the testing and assurance requirements are in Section E</p>
<p>➤ Intellectual Property Rights</p> <p><i>Insert summary of any new IPR created no new IPR will be created as part of this Variation</i></p> <p>Full details of the Intellectual Property Rights requirements and verification levels are in Section F</p>
<p>➤ Charges and payment terms</p> <p><i>Insert summary of key payment terms</i></p>

Full details of the proposed payment terms are in Section G

For the Company:

[Transport for London]

[insert name]

[insert job title]

Signed:

Supplier's Response

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Inset Supplier name]	
Contract name & reference number: [insert contract name & reference number as it appear on the front cover]	

Supplier's Project Manager:	Supplier Contract Manager:
[Insert PM Name]	[Insert Contract Manager Name]

Project Description

➤ **METHOD OF IMPLEMENTATION**

Detail the implementation schedule with milestone dates.

➤ **FINANCIAL CONSEQUENCES (INCLUDING CHARGES AND SAVING)**

Detail the financial consequences of implementing the Variation showing details of any pricing of the Variation including savings, project risk (with description), CAPEX and OPEX costs.

➤ **KEY COMMERCIAL ISSUES**

Detail the impact of effecting the Variation on the provision of the Supply.

➤ **KEY CONSTRAINTS**

Detail any constraints on the implementation and/or delivery of the Variation to the Supply

➤ **ASSUMPTIONS, DEPENDENCIES**

Detail any anticipated Company and/or Third Party assumptions and dependencies.

➤ **PERFORMANCE MANAGEMENT**

Detail the affect (if any) on the timing of the performance of other obligations under the Contract, including the affect (if any) on any relevant milestone dates.

➤ **RISKS**

Assessment of risks associated with the Variation, including those contained in other areas of the project description

➤ **TESTING & ASSURANCE**

Details how you plan to test and assure the Company that you will comply with the Contract obligations.

➤ INTELLECTUAL PROPERTY RIGHTS

Detail any new IPR created.

➤ EXTERNAL INTERFACES

Detail the interfaces with TfL or Third Party systems.

For the Supplier: [Supplier name] [insert name] [insert job title]	Signed:
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Supplier's Proposal Notice

Proposal Ref No. [XXXX]	Date [DD-MMM-YY]
PROPOSAL TITLE:	
Supplier: [Inset Supplier name]	
Contract name & reference number: [insert contract name & reference number as it appear on the front cover]	

Supplier's Project Manager:	Supplier Contract Manager:
[Insert PM Name]	[Insert Contract Manager Name]

Project Description

➤ REASON FOR PROPOSAL

Details the business need for the proposal

➤ METHOD OF IMPLEMENTATION

Detail the implementation schedule with milestone dates.

➤ FINANCIAL CONSEQUENCES (INCLUDING CHARGES AND SAVING)

Detail the financial consequences of implementing the Variation showing details of any pricing of the Variation including savings, Project risk (with description), CAPEX and OPEX costs.

➤ KEY COMMERCIAL ISSUES

Detail the impact of effecting the Variation on the provision of the Supply.

➤ KEY CONSTRAINTS

Details any constraints on the implementation and/or delivery of the Variation to the Supply

➤ ASSUMPTIONS, DEPENDENCIES

Detail any anticipated Company and/or Third Party assumptions and dependencies.

➤ PERFORMANCE MANAGEMENT

Detail the affect (if any) on the timing of the performance of other obligations under the Contract, including the affect (if any) on any relevant milestone dates.

➤ RISKS

Assessment of risks associated with the Variation, including those contained in other areas of the Project Description

➤ TESTING & ASSURANCE

Detail how you plan to test and assure the Company that you will comply with the Contract obligations.

➤ INTELLECTUAL PROPERTY RIGHTS

Detail any new IPR created.

➤ EXTERNAL INTERFACES

Detail the interfaces with TfL or Third Party systems.

For the Supplier: [Supplier name] [insert name] [insert job title]	Signed:
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Authority to Proceed

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Inset Supplier name] (Contract name and reference no. to be included in header)	

Project Manager	Service Delivery Manager	Commercial Manager	Systems Manager
[Insert PM Name]	[Insert Service Delivery Manager Name]	[Insert CM Name]	[Insert System Owner's Name]

Please Refer to Proposed Variation Notice dated [Insert Date] and Supplier's Response dated [Insert Date]. Authority is hereby given for the implementation of the Variation set out below.

Summary	
<p>➤ Summary of changes to the Supply <i>Insert a concise summary of the changes to the deliverables</i> Full details of the change to the Supply required are in Section A</p>	
<p>➤ Value of Variation <i>Insert value</i> Full details of the performance regime is Section B</p>	
<p>➤ Amended Terms <i>Insert summary of any changes agreed subsequent to the Supplier's Response. This is to include key constraints, key dates, assurances, IPR and performance management.</i> Full details of the Amended Terms are in Section C</p>	
<p>➤ Payment terms <i>Insert summary of key payment terms</i> Full details of the key dates and milestone dates are in Section D</p>	
<p>For the Company: [Transport for London] [insert name] [insert job title]</p>	<p>Signed:</p>

Required Variation Settlement Notice

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Inset Supplier name] (Contract name and reference no. to be included in header)	

Company Project Manager:	Company Commercial Manager:
[Insert PM Name]	[Insert Commercial Manager Name]

➤ **Nature of issue**

Company to detail the nature of the issue which is the subject of the Required Variation Settlement Notice

➤ **Agreed Variation terms**

Company to detail the terms of the Variation as agreed by the Parties in accordance with Clause 36 (Dispute Resolution Procedure)

For the Company: [Transport for London] [insert name] [insert job title]	Signed:
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Withdrawal Notice

Variation No. [XXXX]	Date [DD-MMM-YY]
VARIATION TITLE:	
Supplier: [Inset Supplier name]	

Company Project Manager:	Company Commercial Manager:
[Insert PM Name]	[Insert Commercial Manager Name]

Dear [Supplier Contract Manager],

RE: [Contract name and date]

We are hereby withdrawing Variation [Variation no.] – [Title] with immediate effect. Please cease implementation of the Variation and update your records accordingly.

[Please advise whether any abortive costs have been incurred and, if so, provide full details of such costs within 10 Business Days. - ***Not to be used for Proposed Variations unless an Authority to Proceed has already been issued***]

Copy to: [Company Contract Manager], [Company Project Manager]

For the Company: [Transport for London] [insert name] [insert job title]	Signed:
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SCHEDULE 15: QUENSH

Applicable requirements identified by Client				Identified by Supplier	
Section	Topic	Other documents / Comments	Y / N	Agreed? Y / N	Reference to explanation
█	█		█		
█	█		█		

SCHEDULE 16: HANDBACK OF SUPPLY

1. Introduction

1.1. Scope & Purpose

1.1.1. This Schedule 16 (Handback of Supply):

1.1.1.1. sets out the strategy to be followed on handback of the Supply (or supplies similar to the Supplies), where appropriate to the Company and/or any Successor Operator(s) nominated by the Company; and

1.1.1.2. requires the Supplier to support an orderly, controlled handover of responsibility for the provision of the Supply from the Supplier to the Company and/or any Successor Operator(s) (as applicable), at the Company's direction, with the minimum of disruption and so as to prevent or mitigate any inconvenience to the Company by means of the implementation of the Handback Plan.

1.1.2. It is recognised that the Contract needs to make provision for the Company and/or Successor Operator(s) not only to take responsibility for any supplies that are the same as the Supplies, but also to provide supplies which are similar to the Supplies (or any of the activities comprised within them) and/or which have the same or similar use, function, or application as the Supplies (in whole or part) or their outputs. This Schedule 16, and in particular references to "Handback of the Supplies" "supplies similar to the Supplies" and similar expressions shall be interpreted accordingly.

2. Handback

2.1. Handback Plan

2.1.1. The "**Handback Plan**" shall, in relation to all aspects of the handover of the Supplies (or supplies similar to the Supplies) to the Company and/or any Successor Operator(s), include details of the following as a minimum:

2.1.1.1. the organisation arrangements including roles and responsibilities for specific individuals and the allocation of resources for the Supplies (or supplies similar to the Supplies) and an organisational chart clearly showing how the Supplies are provided

(including details of Sub-Contractors and the element of the Supplies provided by any Sub-Contractors);

- 2.1.1.2. the rationale considered and any assumptions made in developing the Handback Plan;
- 2.1.1.3. the interface arrangements with the Company, any Interfacing Parties, or any other person;
- 2.1.1.4. a complete breakdown of all tasks and workstreams structured by the Supply as reasonably required by the Company;
- 2.1.1.5. the handback process for the Supply and the function of each of the foregoing;
- 2.1.1.6. time frames with milestones for the transfer of the provision of the Supplies (or supplies similar to the Supplies) from the Supplier to the Company and /or any Successor Operator(s) and transfer of or access to Data to the Company and/or any Successor Operator(s);
- 2.1.1.7. implications of the transfer of the relevant Supplies (or supplies similar to the Supplies) including any applicable third party software licences and configurations for the Supplier's requirements under the performance regimes;
- 2.1.1.8. details of the transfer of assets, where appropriate and a timetable for the handback of relevant assets including all Company Assets;
- 2.1.1.9. the approach to access to and the transfer of Intellectual Property Rights and Data, including provisions for enhanced information exchange and knowledge transfer to assist the Company personnel and/or any Successor Operator(s) to understand and operate the Supply and Supplies (or supplies similar to the Supplies);
- 2.1.1.10. details regarding the transfer of the relevant Supplier Personnel, as required by TUPE, and information regarding all the Supplier Personnel who are engaged in the performance of the Supplier's obligations under the Contract and such other information as set out at Clause 41A (TUPE), and ongoing access to Key Personnel or any other personnel who the Company considers key for a

smooth transition of Supplies (or supplies similar to the Supplies) to the Company and/or any Successor Operator(s);

- 2.1.1.11. all relevant Data regarding the Supplies including Supplier information in such form as the Company and/or any Successor Operator(s) may reasonably require;
 - 2.1.1.12. a description of the processes for the recording and storage of all the information referred to in paragraph 2; and
 - 2.1.1.13. such other details or information as the Company may reasonably require.
- 2.1.2. The Handback Plan shall, in accordance with the process set out in paragraphs 2.1.3 to 2.1.5 below:
- 2.1.2.1. make reasonable assumptions using the Supplier's experience under the Contract as to how the Supplies can be transferred to the Company and/or any Successor Operator(s) (at the Company's direction), with details of mitigation actions until such time when the Company and/or any Successor Operator(s) have defined what such arrangements will be implemented by the Company and/or any Successor Operator(s) in any future Company and/or Successor Operator(s) transition plan(s); and
 - 2.1.2.2. detail all the ongoing project and Programme type activities relating to this Contract.
- 2.1.3. The Supplier shall submit a draft Handback Plan to the Company no later than the earlier of two (2) years after the Start Date or as required by the Company in relation to termination of the Contract. The Supplier shall finalise the Handback Plan:-
- 2.1.3.1. not later than two (2) years and six (6) months after the Start Date, taking due account of the Company's comments;
 - 2.1.3.2. or as required by the Company in relation to a termination of the Contract pursuant to Clause 39 (Termination) (as applicable).
- 2.1.4. Save as specified in any Successor Plan, all Handback Plans delivered to the Company shall:

- 2.1.4.1. in respect of the first Handback Plan due by the Supplier:
 - 2.1.4.1.1. cater for all Supplies to have a phased End Date;
 - 2.1.4.1.2. unless otherwise specified by the Company, be based on handback to a single member of the TfL Group or Successor Operator; and
 - 2.1.4.1.3. be based on any other information reasonably specified by the Company and/or where necessary any other reasonable assumptions (which shall be explicitly set out in the Handback Plan); and
- 2.1.4.2. in respect of each Handback Plan thereafter, cater for different Supplies having phased or staggered End Dates to the extent specified by the Company in the most recent Successor Plan.
- 2.1.5. The Supplier shall, as soon as reasonably practicable and in any event within two (2) months of the first Successor Plan being provided to it, deliver to the Company an updated Handback Plan which shall reflect such Successor Plan. Thereafter, the Supplier shall, within one (1) month following its receipt of a change to the Successor Plan, review, update and submit to the Company for approval a revised Handback Plan which reflects such revised Successor Plan.
- 2.1.6. The Supplier shall consult fully with the Company in relation to the preparation of each version of the Handback Plan, and shall take full account of the Company's comments.
- 2.1.7. The Supplier shall, within fourteen (14) days of receipt of a notification from the Company, amend the latest Handback Plan to correct identified non-conformities, incorporate any other comments or feedback from the Company and resubmit it to the Company. The Company shall, within fourteen (14) days of resubmission of the Handback Plan, notify the Supplier of any remaining or new non-conformities. Subject to Clause 36 (Dispute Resolution) and without limiting the Company's right to issue a Required Variation (including in relation to any aspect of the Handback Plan), the procedure in this paragraph 2.1.7 shall be repeated twice or until the Handback Plan is free from non-conformities and agreed and confirmed by the Company in writing, whichever is the earlier.

2.2. Handback Programme

- 2.2.1. The Supplier shall prepare the “**Handback Programme**” and deliver it to the Company with each Handback Plan. The Handback Programme shall be consistent with the most up to date Handback Plan and shall detail the Supplier’s recommended approach, assumptions, sequencing, responsibilities and timescales for the handback of all Supplies (or supplies similar to the Supplies). The Handback Programme shall be updated to reflect the comments of the Company and any changes to the Handback Plan and any revised version of the Handback Programme shall be delivered to the Company with each update of the Handback Plan or, where no such Handback Plan is to be provided, such date as may be stipulated by the Company.
- 2.2.2. When developing the Handback Plan, the Supplier shall, unless otherwise directed in writing by the Company, assume that handback will be to an organisation similar in capability to the Supplier and will not necessitate significant changes to the Supplies.
- 2.2.3. The Supplier shall consult fully with the Company in relation to the preparation of the Handback Programme, and shall take full account of the Company’s comments in accordance with paragraph 2.2.4.
- 2.2.4. The Supplier shall, within five (5) days of receipt of a notification from the Company, amend the Handback Programme to correct identified non-conformities, incorporate any other comments or feedback from the Company which may include feedback from any Successor Operator(s), and resubmit it to the Company. The Company shall, within five (5) days of resubmission of the Handback Programme, notify the Supplier of any remaining or new non-conformities. Subject to Clause 36 (Dispute Resolution) and without limiting the Company’s right to issue a Required Variation (including in relation to any aspect of the Handback Plan, the procedure in this paragraph 2.2.4 shall be repeated until the Handback Programme is free from non-conformities, agreed and confirmed by the Company in writing.
- 2.2.5. The Handback Programme shall clearly identify when consultation shall begin for any Supplier Personnel who may be subject to TUPE and how this process should be managed if these people are to be transferred on or before the Expiration Date.

2.2.6. The Handback Programme shall detail all of the work-streams, activities and timescales identified in the Handback Plan.

3. Systems Integrator Role

3.1. Where relevant, the Supplier shall retain the role of system integrator until the Expiration Date or such earlier End Date as may be specified by the Company.

4. Reports and Meetings

4.1. Handback Status Report

4.1.1. The Supplier shall provide a report (a “**Handback Status Report**”) in the form of a RAG (being Red, Amber or Green) document which shall provide detailed status information on the handback activities identified in the Handback Plan and Handback Programme. The RAG document shall identify the relevant activity, a description of the activity, the lead person in charge of the activity, its RAG scoring (according to scoring criteria reasonably requested by the Company) and a commentary explaining the current status and reasons supporting the RAG scoring. The commentary shall also describe the dependencies on the Company, and/or any third parties and provide a detailed description of what they are required to do.

4.1.2. The Handback Plan, Handback Programme and Handback Status Report shall be ordered in the same sequence and be cross referenced with common activity identifiers and descriptions. The Supplier shall endeavour to structure these documents and reference the handback activities in a structured manner as and where reasonably required by the Company.

4.1.3. The Handback Status Report shall identify any dependencies or points of demarcation in relation to the handback of Supplies.

4.1.4. The Supplier shall update the Handback Status Report and deliver it to the Company at least every time when the Handback Plan and/or Handback Programme is updated to reflect the risks associated with the handback and record mitigation actions and fall back positions in case of operational difficulties during the Handback Period.

4.2. Performance Reports and Meetings

- 4.2.1. The Supplier shall report on progress of handback in the Supply Performance Report and matters affecting handback shall be discussed at the relevant contract review meeting.
- 4.2.2. As the volume of work increases, the Company shall at a time of its choosing convene a dedicated handback progress group ("**Handback Review Group**") (such meetings of the Handback Review Group being "**Handback Review Meetings**").
- 4.2.3. The purpose of the Handback Review Group is to oversee and provide overall direction in relation to handback and such group shall meet in accordance with the Company's reasonable requirements.

SCHEDULE 17: IPR MANAGEMENT

1. Introduction

1.1. Scope & Purpose

1.1.1. This Schedule 17 (IPR Management) sets out the requirements for the Supplier to develop an IPR Management Plan for the management of Intellectual Property Rights. Nothing in this Schedule shall affect the provisions relating to IPR contained in Clause 34 (Intellectual Property).

1.1.2. The Documentation to be submitted by the Supplier pursuant to this Schedule will be used to provide testing and assurance to the Company that the Supplier is fulfilling its contracted obligations with respect to the management of IPR issues as described in Clause 34 (Intellectual Property) and making available and visible all types of Proprietary Tools and Handback Items as required under this Contract. The Supplier acknowledges the principal requirements of this process are as follows:

- (a) the development and delivery of the IPR Management Plan;
- (b) the availability and visibility to the Company of information relating to all categories of IPR used in connection with the Supply which shall include the development and maintenance of the IPR Register;
- (c) the development and maintenance of the IPR Plan;
- (d) the depositing of Depositable IPR in the Company Depository;
- (e) the provision of support for the IPR Verification Exercises carried out by the Agent or other nominees;
- (f) the availability and visibility of all necessary information relating to Proprietary Tools and Handback Items, and including the development and maintenance of the Proprietary Tools Register and the Handback Items Register.

1.2. Documents to be submitted by the Supplier

1.2.1. The Supplier shall prepare or update (as applicable), submit to the Company for testing and assurance and maintain the

following documents in accordance with the provisions of this Schedule:

- (a) the IPR Management Plan;
- (b) the IPR Register;
- (c) the IPR Plan;
- (d) the Proprietary Tools Register; and
- (e) the Handback Items Register.

2. IPR Management Processes

2.1. IPR Management Plan

2.1.1. The Supplier shall prepare or update (as applicable), submit and maintain the "**IPR Management Plan**" for testing and assurance which shall set out the framework within which the Supplier shall manage Intellectual Property Rights to fulfil its contractual obligations as detailed in Clause 34 (Intellectual Property) and the requirements of this Schedule.

2.1.2. The IPR Management Plan shall as a minimum describe the process for:

- (a) logging details in, and maintaining, the IPR Register;
- (b) lodging the Depositable IPR in relation to the Supply (excluding Proprietary Tools) in the Company Depository;
- (c) conducting the IPR Verification Exercises; and
- (d) allocating roles and responsibilities.

2.2. IPR Register

2.2.1. The Supplier shall prepare or update (as applicable), submit and maintain the "**IPR Register**" for testing and assurance. The IPR Register shall include the following minimum information with respect to all Intellectual Property Rights used in or in connection with or relating to the (excluding any Intellectual Property Rights subsisting in Proprietary Tools or Handback Items):

- (a) the unique reference ID, referred to in paragraph 2.6.1, for each element;

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- (b) the type of each Intellectual Property Right:
 - (i) patent;
 - (ii) patent application;
 - (iii) registered design;
 - (iv) registered trade mark;
 - (v) copyrighted software;
 - (vi) copyrighted software library;
 - (vii) Third Party IPR licence/agreement;
 - (viii) copyrighted specification;
 - (ix) copyrighted guide/manual; or
 - (x) if none of the above types are applicable, a free-text description of the relevant Intellectual Property Right;
 - (c) the details of the legal and beneficial owner and the basis on which these are owned;
 - (d) the licensee(s);
 - (e) the date the entry was added to the IPR Register;
 - (f) whether Intellectual Property Rights relate to any element of the Supply which is Commercial Off-The-Shelf and/or is subject to any open source licence referred to under Clause 34 (Intellectual Property);
 - (g) when those Intellectual Property Rights were created if they were created after the Start Date and, where reasonably possible, if they were created before the Start Date;
 - (h) details of whether Intellectual Property Rights were created either:
 - (i) prior to the Start Date; or
 - (ii) under or in connection with this Contract;
 - (i) associated references for the entry (e.g. any licence agreement associated with software or patent, the licence number where the IPR is a Third Party IPR

licence, the patent number and territory in which the patent is granted where the IPR is a patent); and

- (j) all additions, deletions or modifications to the entry (which shall be highlighted).

2.2.2. The IPR Register shall be updated by the Supplier and issued to the Company ten (10) Business Days in advance of each IPR Review Committee meeting. Where the Supplier fails to submit the IPR Register in accordance with this paragraph, Schedule 8 (Supplier Performance) shall apply.

2.3. The IPR Plan

The Supplier shall prepare or update (as applicable), submit and maintain a detailed IPR Plan in accordance with the requirements for Depositable IPR set out in Schedule 2 (Programme and for assurance. If the Supplier fails to comply with this obligation, Schedule 8 (Supplier Performance) shall apply.

2.4. The IPR Deposit

2.4.1. The Supplier shall deposit all Depositable IPR in connection with the Supply into the Company Depository in accordance with the requirements of the Contract and for assurance but excluding the Handback Items and Proprietary Tools.

2.4.2. The Supplier shall deposit all new Depositable IPR in connection with the Supply (but excluding Handback Items and Proprietary Tools) within twelve (12) months from the Start Date and update such IPR at least every three (3) months thereafter. The Supplier shall notify the Company in writing within ten (10) Business Days of each such deposit being made.

2.4.3. The Supplier shall:

- (a) ensure that all Depositable IPR deposited or to be deposited in the Company Depository from time to time:
 - (i) includes all human-readable and non-human readable versions of that IPR; and
 - (ii) is on media suitable to enable a reasonably skilled programmer, technician or analyst to access and use the deposited Depositable IPR, and which is acceptable to the Company.
- (b) in respect of any Third Party object code, executables, application interfaces ("**APIs**") and all libraries that the

Supplier deposits or is required to deposit in the Company Depository, ensure that it has full right and authority to do so;

- (c) deliver with each deposit of Depositable IPR a complete list and reference of all the contents of that deposit in a form acceptable to the Company in its absolute discretion and in a human-readable and searchable electronic format, which shall include as a minimum the following information:
 - (i) details of the deposit including its full name (i.e. the original name together with any new names given to the applicable Depositable IPR by the Company and/or the Supplier), version details, media type, backup command/Software used, compression used, archive hardware and operating system details;
 - (ii) password/encryption details required to access the deposited Depositable IPR; and
 - (iii) identification (using the searchable keyword "CHANGED") of where any Depositable IPR deposit has been added, removed or modified with respect to any previous Depositable IPR deposit;
- (d) deliver a replacement copy of deposited Depositable IPR specified in a notice served upon it by the operator from time to time of the Company Depository within fourteen (14) days of receipt of such notice;
- (e) if requested by the Company, deposit a backup copy of the object code, executables, APIs and all libraries (subject to the Supplier having such rights to do so) of any Third Party software package required to access or otherwise use the deposited Depositable IPR;
- (f) ensure that the method of Depositable IPR deposit to the Company Depository shall meet the Company's reasonable requirements for information security, including authentication, confidentiality and integrity, which shall include, but not be limited to, the following requirements:
 - (i) all deposited Depositable IPR shall be encrypted when in transit and where practical, also in storage, in accordance with a method that is approved in writing by the Company;

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- (ii) the Company's preferred method of encryption referred to in paragraph 2.4.3(f)(i) above (which may be revised at the Company's discretion) is that the Company, the operator from time to time of the Company Depository and the Supplier will each have a PGP public/private key pair. The public keys will be distributed by secure physical means to each of the Company, the Supplier and the operator from time to time of the Company Depository and the Supplier will sign all Depositable IPR deposits with its private key and encrypt them using the public keys of both the Company and the operator from time to time of the Company Depository; and
 - (iii) in relation to any deposited Depositable IPR which constitutes Security Materials, the Company may request that the Supplier uses a separate PGP public/private key pair for all or some of those Security Materials;
- (g) ensure that the form of Depositable IPR deposit is structured to represent the logical hierarchy of the Supply and allows for ease of access, retrievability and verification, as specified by the Company from time to time. Scanned or otherwise captured images of documents shall only be used for the Depositable IPR deposit in circumstances where no electronic source document exists, unless otherwise agreed by the Company in writing;
 - (h) not instruct or authorise the operator of the Company Depository from time to time to remove or destroy any existing Depositable IPR deposit (whether added to, amended, updated or replaced pursuant to this Schedule or not) without the Company's prior written consent;
 - (i) ensure that, where the Supplier is obliged pursuant to this Contract to add to, amend, update or replace all or any part of an existing IPR deposit contained on a single item of media, then the Supplier shall replace that single item of media with a single item of media containing the additional, amended, updated or replaced IPR as well as all other existing IPR that was contained on the replaced item of media; and
 - (j) ensure that, where the Supplier is obliged pursuant to this Contract to remove part of an existing IPR deposit

contained on a single item of media, then the Supplier shall replace that single item of media with a single item of media that does not contain the relevant IPR but does contain all other existing IPR that was contained on the replaced item of media.

2.4.4. Without prejudice to Clause 23 (Records, Manuals, Audit and Inspection):

- (a) the Supplier will fully co-operate with the Company, each Agent and the operator from time to time of the Company Depository in relation to the deposit of Depositable IPR, IPR Verification Exercises and testing the deposit mechanism or revisions to it; and
- (b) the Company may from time to time carry out information security audits on each Agent and/or Supplier and the Supplier will fully co-operate with such the Company audits.

2.4.5. The Supplier acknowledges and agrees that:

- (a) the Company may, at its discretion, consult with the Supplier and agree such terms as it considers fit with each Agent in relation to the carrying out of IPR Verification Exercises, including in respect of access to and timings for release of IPR to the Company and/or Third Parties (subject to the provisions of Clause 34 (Intellectual Property)); and
- (b) it shall not enter into or require any agreement (including a non-disclosure or confidentiality agreement) with any Agent (or other the Company nominee), or block, delay or hinder any IPR Verification Exercise and/or the deposit of Depositable IPR in accordance with this Contract (including with respect to any off-site or on-site access or involvement by the Company or any Third Party relating to Supplier or Sub-Contractor premises required in relation to such verification or deposit, subject to the Company (or its nominee) giving the Supplier reasonable notice).

2.5. IPR Verification Exercises

2.5.1. Without prejudice to Clauses 23 (Records, Manuals, Audit and Inspection) and 34 (Intellectual Property), in order to ensure that the Depositable IPR deposits made by the Supplier into the Company Depository are an accurate representation of the IPR required for the Supply, the Company may from time to

time itself or using the Agent or another competent Third Party of its choosing carry out "**IPR Verification Exercises**" to ensure that the IPR complies with the requirements of the Contract and, in particular, that a competent Third Party could, if requested by the Company, use the Depositable IPR for the purposes set out in Clauses 34.4, 34.8 and 34.10 of the Contract.

2.5.2. The Supplier shall co-operate with the Company, its Agent or other nominee to describe to the Company, its Agent or other nominee the Software development, simulation and test environments relevant for performing the Supply.

2.5.3. The Supplier shall co-operate with the Company, its Agent or other nominee as reasonably required to carry out any IPR Verification Exercises and to make appropriate test facilities available to enable the Company, its Agent or other nominee to perform the Supply pursuant to any IPR Verification Exercises.

2.5.4. If any discrepancies are identified by an Agent or the Company's nominee, then the Supplier shall promptly make good the Depositable IPR deposit at the earliest opportunity or, as a minimum, by the time of the next deposit.

2.5.5. Any disputes shall initially be referred to the IPR Review Committee meeting.

2.5.6. Subject to paragraph 2.5.7, the Company shall bear the costs of each Agent in respect of any IPR Verification Exercise.

2.5.7. If a discrepancy is identified which is demonstrated to have arisen from the Supplier's failure to fulfil its obligations under Clause 34 (Intellectual Property) or this Schedule 17 (IPR Management) the Supplier shall assume all costs:

- (a) of the Agent(s) from the date on which the discrepancy was first identified; and
- (b) associated with remedying the failure and any subsequent further verification which the Company may reasonably require.

2.6. Proprietary Tools Register

2.6.1. The Supplier shall prepare or update (as applicable), submit and maintain the "**Proprietary Tools Register**" for assurance which shall include the following minimum information with respect to each type of Proprietary Tool (the level of detail for

each type to be reasonably determined by the Company):

- (a) the unique reference ID;
- (b) the description of the entry (if the entry is a document, the description will be the title of the document);
- (c) the details of the legal and beneficial owner and the basis on which these are owned;
- (d) the date the entry was added to the Proprietary Tools Register;
- (e) all additions, deletions or modifications to the entry (which shall be highlighted);
- (f) the functional area (e.g. field operations, stores, workshop);
- (g) the purpose; and
- (h) the alternatives to use (e.g. the Company purchase on open market).

2.6.2. The Proprietary Tools Register shall be updated and provided to the Company by the Supplier within two (2) months following the Start Date and thereafter at least every six (6) months following the anniversary of the Start Date. If the Supplier fails to comply with this obligation Schedule 8 (Supplier Performance) shall apply.

2.6.3. In the event that the Company disagrees with the Supplier's designation of any Intellectual Property Rights as Proprietary Tools or in relation to any entry on the Proprietary Tools Register, the Parties agree that any such disputes will be determined in accordance with Clause 36 (Dispute Resolution).

2.7. Handback Items Register

2.7.1. The Supplier shall prepare, submit and maintain the "**Handback Items Register**" for assurance in accordance with this paragraph 2.7. The Handback Items Register shall include the following minimum information with respect to each type of Handback Item (the level of detail for each type to be reasonably determined by the Company):

- (a) the unique reference ID;

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- (b) the description of the entry (if the entry is a document, the description will be the title of the document);
 - (c) the number/quantity per type;
 - (d) the date the entry was added to the Handback Items Register; and
 - (e) all additions, deletions or modifications to the entry (which shall be highlighted).

2.7.2. The Handback Items Register shall be provided to the Company by the Supplier within twelve (12) months following the Start Date and then provided and updated thereafter at least every six (6) months following the anniversary of the Start Date. If the Supplier fails to comply with this obligation Schedule 8 (Supplier Performance) shall apply.

2.8. Document Review and Updating

2.8.1. The Supplier shall review and update the IPR Management Plan for assurance at least every twelve (12) months from the anniversary of the Start Date through to the Expiration Date. If the Supplier fails to comply with this obligation Schedule 8 (Supplier Performance) shall apply.

2.8.2. All deliverables under this Schedule (e.g. IPR Management Plan, IPR Register, Proprietary Tools Register and Handback Items Register) shall be issue controlled and changes from the previous version shall be clearly identified.

2.8.3. The Supplier shall identify and explain the reasons for the changes and linking these where applicable to either:

- (a) changes referencing specific Variations;
- (b) changes initiated or undertaken by the Supplier; or
- (c) remedial actions following the Company verification exercises or audits.

2.8.4. IPR can only be removed by the Supplier from the IPR Register if approved by the IPR Review Committee meeting.

3. Reports and Meetings

3.1. IPR Review Committee meetings

3.1.1. The IPR Review Committee meeting shall be held every three (3) months following the Start Date and following achievement

of the Depositable IPR Milestone, every six (6) months. Additionally, the Company shall have the right to call a meeting of the IPR Review Committee within twenty (20) Business Days of:

- (a) the completion of each material change or Variation to the Supply; and
 - (b) the Expiration Date.
- 3.1.2. Such meetings shall take place at a location to be determined by the Company and notified to the Supplier no later than five (5) Business Days in advance of such IPR Review Committee meeting taking place.
- 3.1.3. The IPR Review Committee shall comprise five (5) persons: two (2) representatives from each of the Company and the Supplier and shall include the Contract Manager or his delegated representative.
- 3.1.4. The Supplier and the Company shall each nominate their lead representative to co-ordinate IPR matters.
- 3.1.5. At each meeting, the IPR Review Committee shall:
- (a) review the Intellectual Property Rights added to and removed from the IPR Register since the last meeting and updates to the IPR Plan; and
 - (b) review the Proprietary Tools Register and Handback Items Register.
- 3.1.6. The IPR Review Committee shall determine which category any new Intellectual Property Rights fall within, including:
- (a) Commercial Off-The-Shelf and/or subject to any open source licence referred to under Clause 34 (Intellectual Property);
 - (b) Foreground IPR;
 - (c) the Company Background IPR;
 - (d) the Company Corporate IPR; and/or
 - (e) Licensed Materials,

acknowledging that tangible IPR may fall into more than a single category and the determination of the IPR Review Committee shall be recorded on the IPR Register.

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- 3.1.7. At each of its meetings, the IPR Review Committee shall decide what Depositable IPR (excluding Proprietary Tools and Handback Items) it will be necessary for the Supplier to deposit with the Agent (or other Third Party nominated by the Company to operate and manage the Company Depository) in order that the total Depositable IPR (excluding Proprietary Tools and Handback Items) so deposited provides adequate information and instruction for the purpose of meeting the Company's IPR management requirements under this Schedule, and the Supplier shall carry out all such remedial actions as the IPR Review Committee may determine in order to meet these requirements.
- 3.1.8. Subject to the provisions of Clause 35 (Confidentiality and Announcements), each Party shall provide all information and Documentation reasonably requested by the other Party in order for the IPR Review Committee to decide the nature of each Intellectual Property Right and to identify the Depositable IPR required to be deposited by the Supplier with the Agent.
- 3.1.9. The Supplier shall provide to the IPR Review Committee any published or unpublished patent applications made by the Supplier Group or patents pending relating to the Supply.

SCHEDULE 18: FORM OF CONFIDENTIALITY UNDERTAKING

Confidentiality Undertaking

This confidentiality undertaking is entered into on 20[●] between:

- (1) [Transport for London a statutory corporation established under the Greater London Authority Act 1999 of Windsor House, 42-50 Victoria Street, London, SW1H 0TL / [[*insert Supplier name*] (company registration [●]) whose registered office is at [●]] (the "**Disclosing Party**"); and [*Drafting Note: Delete as applicable depending on whether TfL is disclosing information or whether the Contractor is disclosing information.*]
- (2) [*insert details of recipient party*] (the "**Recipient**").

1. Definitions

In this confidentiality undertaking the following words and expressions shall have the meanings given to them below:

"**Confidential Information**" means:

- (a) all information, data and any materials of whatever nature in any form, including documentary, electronic and oral form (the "**Materials**") and all notes, memos, analyses, evaluations, studies and other records which are derived from or incorporate any of the Materials and which:
 - (i) is/are marked as proprietary and confidential;
 - (ii) is/are by its/their very nature confidential; or
 - (iii) may otherwise reasonably be regarded as confidential;
- (b) [all Materials contained or embodied in any documentation relating to the Disclosing Party's transportation, ticket issue, validation, fare and revenue collection and enforcement system including, without limitation, IPR registers, asset registers, contract registers, handback items registers and proprietary tools registers] [*Drafting Note: Delete if not applicable.*]; and
- (c) any other information about the business, undertaking or affairs of the Disclosing Party[, Transport for London] [*Drafting Note: Delete if not applicable.*] or any subsidiary undertaking thereof that is not in the public domain,

and in all instances including, without limitation, Intellectual Property Rights of the Disclosing Party or its third party licensors, in each case, disclosed,

made known, or made available directly or indirectly, to the Recipient or to any Permitted Recipient by the Disclosing Party[, Transport for London] **[Drafting Note: Delete if not applicable.]** or any subsidiary undertaking thereof or any of its third party licensors whether before or after the date of this confidentiality undertaking, in connection with or relating to the Project or the business or affairs of the Disclosing Party and its employees and/or contractors;

"Intellectual Property Rights" means means any patents, rights to inventions, trade marks, service marks, trade names and domain names, rights in get-up, rights in goodwill and to sue for passing off, unfair competition rights, rights in designs, copyright and related rights, rights in computer software, database rights, moral rights, confidential information, commercial information and technical information (including Know-How), research and development data, manufacturing methods and data, specifications and drawings, formulae, algorithms, prototypes and research materials, and other intellectual property rights, whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, anywhere in the world;

"Permitted Purpose" means [●] **[Drafting Note: Specify permitted purpose(s) as applicable.];**

"Permitted Recipient" means [directors,] [officers,] [employees,] [auditors,] [advisers,] [contractors,] [sub-contractors,] [agents] [and] [consultants] of the Recipient who reasonably require access to the Confidential Information for the Permitted Purpose **[Drafting Note: Delete as applicable, but no further recipients should be added to the list.].**

"Project" means [●] **[Drafting Note: Specify applicable project.].**

2. Confidentiality

2.1.1 In consideration of the receipt of the Confidential Information, the Recipient acknowledges that such information is of a proprietary and confidential nature and undertakes to the Disclosing Party that:

- (A) it will comply or, as appropriate, procure compliance with the obligations and undertakings set out in this confidentiality undertaking;
- (B) it shall receive and maintain the Confidential Information at all times secret and in strictest confidence and ensure that the Confidential Information is protected with the degree of care and security measures that the Recipient would apply to its own confidential information;

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- (C) it will not make or permit any use of the Confidential Information or any part of it except for the Permitted Purpose;
 - (D) it shall not disclose the Confidential Information to any third party without the prior written consent of the Disclosing Party, except that it is entitled to disclose the Confidential Information to Permitted Recipients, provided that the Recipient ensures that any Permitted Recipient to whom access to the Confidential Information is to be given is fully aware of the Recipient's obligations and undertakings under this confidentiality undertaking and the Recipient shall procure that each Permitted Recipient complies with such obligations and undertakings as though the Permitted Recipient were a party to this confidentiality undertaking;
 - (E) it will not remove or tamper with any disclaimer or proprietary notice or other marking on the Confidential Information;
 - (F) it shall not disclose to any third party the nature or content of any discussions or negotiations between the parties relating to the Confidential Information, unless with the prior written consent of the Disclosing Party or where provided under Clause 2.1.1.(c) above[; and]
 - (G) [it shall not disclose to any third party any information about the tendering procedure adopted by the Disclosing Party in connection with the Project or any details relating to the status of any negotiations between the Disclosing Party and the Recipient other than the fact that the Recipient is investigating the possibility of submitting, or has submitted, a tender proposal in connection with the Project]. [**Drafting Note: Delete if not applicable.**]

2.1.2 The obligations set out in Clause 2.1.1 do not apply to any Confidential Information that:

- (A) the Recipient can show was in its lawful possession and at its free disposal independent of the disclosure to the Recipient by the Disclosing Party;
- (B) is lawfully disclosed to the Recipient, without any obligations of confidence, by a third party who has not derived it directly or indirectly from the Disclosing Party;
- (C) the Recipient can show has been independently developed by the Recipient without reference to the Confidential Information; or
- (D) is required by law or by order of a court of competent jurisdiction to be disclosed, in which case before it discloses any Confidential Information the Recipient shall (to the extent permitted by law) inform the Disclosing Party of the full circumstances and the information

required to be disclosed and consult with the Disclosing Party as to possible steps to avoid or limit disclosure and take such of those steps as the Disclosing Party may reasonably require.

- 2.1.3 The Recipient shall keep a record of the Confidential Information provided to it and of the location of that Confidential Information and of any persons to whom the Recipient has passed any Confidential Information. The Recipient shall, if requested by the Disclosing Party, deliver to the Disclosing Party a copy of such record and agrees that the Disclosing Party may disclose the identity of the Recipient and the record maintained under this Clause 2.1.3 to any third party that has directly or indirectly provided the applicable Confidential Information to the Disclosing Party or to which the applicable Confidential Information relates, at the request of such third party.
- 2.1.4 If the Recipient becomes aware that Confidential Information has been disclosed in breach of this confidentiality undertaking, it shall immediately inform the Disclosing Party of the full circumstances of any disclosure and fully cooperate with and assist the Disclosing Party, at the Recipient's cost, in connection with any investigation, claim, demand, action or proceeding relating to a breach of this confidentiality undertaking.
- 2.1.5 The Confidential Information shall be and shall remain the property of the Disclosing Party or its third party licensors.
- 2.1.6 The obligations and undertakings set out in this confidentiality undertaking shall remain in effect for a period of five (5) years from the date of disclosure of the Confidential Information.

3. Return or Destruction of Confidential Information

3.1.1 The Recipient shall, at the Disclosing Party's request:

- (A) deliver to the Disclosing Party, or destroy all documents and other materials in its possession, custody or control (or the relevant parts of such materials) that bear or incorporate any part of the Confidential Information; and
- (B) remove all computer records (and destroy copies, reproductions and recordings of them) derived or produced partly or wholly from any of the Confidential Information, including (without limitation) the purging of all disk-based Confidential Information and the permanent reformatting of all disks,

and shall provide to the Disclosing Party upon request a certificate signed by a duly authorised representative of the Recipient confirming compliance with this Clause 0.

4. Remedies

The Recipient acknowledges that damages would not be an adequate remedy for any breach of the provisions of this confidentiality undertaking and that (without prejudice to any other remedies to which the Disclosing Party may be entitled as a matter of law) the Disclosing Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief to enforce the provisions of this confidentiality undertaking and no proof of special damages shall be necessary for the enforcement of the provisions of this confidentiality undertaking.

5. Indemnity

The Recipient shall indemnify and keep indemnified the Disclosing Party, and any third party that has directly or indirectly provided Confidential Information to the Disclosing Party or to which the Confidential Information relates, from and against any loss, damage, claims, demands, actions, costs, charges, expenses, liabilities and proceedings (including legal fees and expenses and on an after tax basis) whatsoever arising out of or in connection with any breach by the Recipient of the terms of this confidentiality undertaking.

6. No Representations or Warranties

- 6.1.1 No representation or warranty is made or given as to the accuracy or the completeness of the Confidential Information or any other information supplied or as to the reasonableness of any assumptions on which any of the same is based, and the Recipient agrees with the Disclosing Party that (without prejudice to any liability for fraud) the Disclosing Party shall not have any liability to the Recipient resulting from the use of Confidential Information or any other information supplied, or for any opinions expressed by any of them, or for any errors, omissions or misstatements made by any of them in connection with the Project.
- 6.1.2 This confidentiality undertaking shall not be effective to transfer any interest in any Intellectual Property Rights to the Recipient.

7. Assignment

The rights and obligations of the Recipient under this confidentiality undertaking are personal and shall not be assigned, charged or otherwise dealt with.

8. No Waiver

No failure by the Disclosing Party in exercising any right, power or privilege hereunder shall constitute a waiver by the Disclosing Party of any such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise of any such right, power or privilege.

9. Announcements

Subject to Clause 2.1.2, the Recipient shall not make or permit or procure to be made any public announcement or disclosure (whether for publication in the press, trade periodicals or on radio, television, internet or any other medium or otherwise) of any Confidential Information without the prior written consent of the Disclosing Party.

10. Counterparts

This confidentiality undertaking may be executed in one or more counterparts. Any single counterpart or set of counterparts executed, in either case, by all the parties thereto shall constitute a full and original instrument for all purposes.

11. Entire Agreement and Severance

11.1.1 Each of the parties to this confidentiality undertaking confirms that this confidentiality undertaking represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

11.1.2 In the event that any part (including any sub-clause or part thereof) of this confidentiality undertaking shall be void or unenforceable by reason of any applicable law, it shall be deleted and the remaining parts of this confidentiality undertaking shall continue in full force and effect and if necessary, both parties shall use their best endeavours to agree any amendments to the confidentiality undertaking necessary to give effect to the spirit of this confidentiality undertaking.

11.1.3 No variation of this confidentiality undertaking shall be effective unless it is in writing and signed by the parties.

12. Contracts (Rights of Third Parties) Act

12.1.1 Subject to Clause 12.1.2, no term of this confidentiality undertaking is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this confidentiality undertaking.

12.1.2 The obligations and undertakings of the Recipient, the indemnity given by the Recipient and the remedies to which the Disclosing Party is entitled under this confidentiality undertaking shall be enforceable against the Recipient by any third party that has directly or indirectly provided Confidential Information to the Disclosing Party or to which the Confidential Information relates as a third party beneficiary under the Contracts (Rights of Third Parties) Act 1999.

13. Governing Law and Jurisdiction

This confidentiality undertaking shall be governed by, and construed in accordance with, the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

IN WITNESS of which, each of the parties has caused this confidentiality undertaking to be signed by their duly authorised representative on the date first above written.

**FOR AND ON BEHALF OF
[TRANSPORT FOR LONDON] / [THE
SUPPLIER]**

[Drafting Note: Insert details and/or delete as appropriate.]
Director/Authorised Representative

**FOR AND ON BEHALF OF [THE
RECIPIENT] *[Drafting Note: Insert
details.]***

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Director/Authorised Representative