



CONTRACT C631

Platform Screen Doors Systems

BOOK 1

Contents

(Book 1 Page 1 of 2)

<p>Book 1</p>	<p>Volume 1 - Commercial</p> <p>Form of Agreement</p> <p>Annexure 1 Conditions of Contract</p> <p>Annexure 2 Contract Data Parts 1 and 2</p> <p>Attachment 1 to the Contract Data – Price Adjustment Indices</p> <p>Attachment 2 to the Contract Data – Summary of Insurances provided by the Employer</p> <p>Attachment 3 to the Contract Data – SLNT Output</p> <p>Attachment 4 to the Contract Data – Key People CVs</p> <p>Attachment 5 to the Contract Data – Activity Schedule</p> <p>Attachment 6 to the Contract Data – Option – Additional Resources</p> <p>Attachment 7 to the Contract Data – Not Used</p> <p>Attachment 8 to the Contract Data – Rates – Clause 63.13</p> <p>Annexure 3 Works Information (See Book 2)</p> <p>Annexure 4 Form of Novation</p> <p>Annexure 5 Forms of Performance Bond</p> <p>Annexure 6 Forms of Warranty</p> <p>Annexure 7 Form of Parent Company Guarantee</p> <p>Annexure 8 Legal Opinion Letter</p> <p>Annexure 9 Site Information (See Book 3)</p> <p>Annexure 10 Not Used</p> <p>Annexure 11 Works Information for the <i>Contractor's</i> design</p> <p>Annexure 12 Maintenance Support Contract</p>
<p>Book 2</p>	<p>Volume 2 - Works Information</p> <p>Vol 2A Works Information and Appendices</p> <p>Vol 2B Works Information</p> <p>Vol 2B Works Information Appendix</p>
<p>Book 3</p>	<p>Volume 2 - Works Information</p> <p>Vol 2C & 2D Works Information – Document Index</p> <p>Volume 3 - Site Information</p> <p>Vol 3 Site Information – Document Index</p>

Contents

(Book 1 Page 2 of 2)

**DVD C631
Works
Information
&
Site
Information**
(Appended to
Book 3)

Volume 2C - Works Information

Specifications

Drawings

Volume 3 - Site Information

Drawings

Main Systems Contract

Priced contract with activity schedule

Crossrail Limited

(the *Employer*)

and

Knorr Bremse Rail Systems (UK) Limited,

(the *Contractor*)

Contract No. C631

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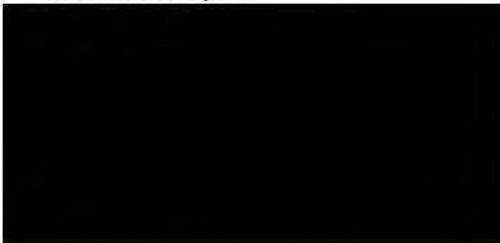
This agreement is made on the 25th day of September 2014

Between **CROSSRAIL LIMITED** (company number 4212657) of 25 Canada Square, London E14 5LQ (the *Employer*)

and **KNORR BREMSE RAIL SYSTEMS (UK) LIMITED** (company number 3974921) of Westinghouse Way, Hampton Park East, Melksham, Wiltshire, SN12 6TL (the *Contractor*)

1. The *Employer* wishes to procure the carrying out of certain Platform Screen Doors system works in relation to the Crossrail project, London.
2. The *Employer* will pay the *Contractor* the amount due and carry out his duties in accordance with this contract and the conditions of contract at Annexure 1 to this contract ("the conditions of contract").
3. The *Contractor* will Provide the Works in accordance with this contract and the conditions of contract.
4. The contract and the conditions of contract and the documents referred to in them form this contract. References in the conditions of contract to "the contract" are references to this contract. The order of precedence of the contract documents in descending priority is:
 - This form of agreement;
 - The conditions of contract;
 - Contract Data;
 - Works Information and Site Information (which shall have joint precedence).

Executed as a deed and delivered on the
date above by:



(signed)
(name of Director)
(signed)
(name of ~~Director~~ or Company Secretary)

On behalf of Crossrail Limited (the *Employer*)



(signed)
(name of Director)
(signed)
(name of ~~Director~~ or Company Secretary)

On behalf of Knorr Bremse Rail Systems (UK) Limited (the *Contractor*)

Index of Annexures to Form of Agreement

Annexure 1 – Conditions of contract

Annexure 2 – Contract Data

Annexure 3 – Works Information Parts 2A, 2B, and 2C

Annexure 4 – Form of Novation

Annexure 5 – Forms of Performance Bond

Annexure 6 – Forms of Warranty

Annexure 7 – Form of Parent Company Guarantee

Annexure 8 - Legal Opinion

Annexure 9 – Site Information

Annexure 10 - Not used

Annexure 11 – Works Information in connection with the *Contractor's* Design – Part 2D

Annexure 12 – Maintenance Support Contract

ANNEXURE 1 - CONDITIONS OF CONTRACT

NEC 3

Conditions of Contract

Engineering and Construction Contract

Terms and Conditions

CONTENTS

Core clauses	1	General
	2	The <i>Contractor's</i> main responsibilities
	3	Time
	4	Testing and Defects
	5	Payment
	6	Compensation events
	7	Title
	8	Risks and insurance
	9	Termination Option W2A
Dispute resolution	W	
Secondary Option clauses		
	X1	Price adjustment for inflation
	X2	Changes in the law
	X4	Parent company guarantee
	X5	Sectional Completion
	X7	Delay damages
	X8	Collateral warranty agreements
	X13	Performance bond
	X18	Limitation of liability
	Y(UK)3	The Contracts (Rights of Third Parties) Act 1999
Additional conditions of contract	Z1	
	Z2	Training
	Z3	Equality and diversity
	Z4	Assignment
	Z5	Novation
	Z6	Not used
	Z7	Interface
	Z8	The Parties' use of material
	Z9	Publicity
	Z10	Data protection
	Z11	Access to information
	Z12	Freedom of information
	Z13	Confidential information
	Z14	Not used
	Z15	Value engineering
	Z16	Omissions
	Z17	Conflict of interest
	Z18	Best value
	Z19	Claims against TfL and DfT
	Z20	Register of undertakings and assurances
	Z21	Not used
	Z22	Not used
	Z23	Not used
	Z24	Transparency
	Z25	Common Plant and Materials
	Z26	Legal opinion

Z27	Delay damages for Key Dates and Milestone Dates
Z28	Subcontract conditions of contract
Z29	Correction of Critical Defects
Z30	Loss of or damage to the <i>works</i> , Plant and Materials
Z31	Other contracts with the <i>Employer</i>
Z32	Rejection of Works
Z33	Deferred System Performance
Z34	Milestones
Z35	Not used
Z36	Maintenance Support Contract
Z37	Early Access Dates
Z38	Price for Work Done to Date in respect of activities involving Plant and Materials outside the Working Areas
Z39	Principal Contractor for Work Zone
	LUL Optional Clause

**Shorter Schedule of
Cost Components**

CORE CLAUSES

1 General

Actions 10

10.1

The *Employer*, the *Contractor*, the *Project Manager* and the *Supervisor* shall act as stated in this contract and in a spirit of mutual trust and co-operation.

Identified and defined terms 11

11.1

In these conditions of contract, terms identified in the Contract Data are in italics and defined terms have capital initials.

11.2

- (1) The Accepted Programme is the programme identified in the Contract Data or is the latest programme accepted by the *Project Manager*. The latest programme accepted by the *Project Manager* supersedes previous Accepted Programmes. Neither the Accepted Programme, nor any method statement attached to the Accepted Programme, form part of the Works Information.
- (2) The Act is the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009.
- (3) Act of Insolvency has the meaning given to it in clause 91.1.
- (4) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract.
- (5) Applicable Law means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom.
- (6) Canary Wharf Works means the permanent and temporary works to be carried out by the CWG SPV (as defined in the PDA) under the CWG Agreement (as defined in the PDA).
- (7) Completion is when the *Contractor* has
 - done all the work which the Works Information states he is to do by the Completion Date and
 - corrected notified Defects which would have prevented the *Employer* from using the *works* and Others from doing their work.

If the work which the **Contractor** is to do by the Completion Date is not stated in the Works Information, Completion is when the **Contractor** has done all the work necessary for the **Employer** to use the **works** and for Others to do their work.

- (8) The Completion Date is the **completion date** unless later changed in accordance with this contract.
- (9) Construction Data means Personal Data of employees of the **Contractor** and employees of subcontractors or suppliers of any tier working at construction sites owned or controlled by the **Employer**.
- (10) The Contract Date is the date of execution by the Parties of this contract.
- (11) Contractor Confidential Information means any information (in whatever form and whether or not recorded in any way) relating to the **Contractor** or a subcontractor or supplier of any tier which falls within the following categories:
 - Personal Data;
 - hourly rates; details of Fee breakdowns, information relating to actual costs including general ledger transactions and management accounts, internal transfer prices of manufactured equipment and estimation calculations;
 - details of subcontractor prices and other terms of subcontracts;
 - details of the **Contractor's** or a **subcontractor's manufacturing processes** (including manufacturing drawings, specifications and manuals);
 - Source Code Materials; and
 - any other information which the **Contractor**, acting reasonably, brings to the attention of the **Employer** as being considered to be confidential.
- (12) Contractor Information means information provided or made available to the **Employer** by the **Contractor** and recorded in any form held by the **Employer** or held by the **Contractor** on behalf of the **Employer**.
- (13) Crossrail Data means Personal Data of which the **Employer** is the Data Controller.
- (14) Crossrail Data Policy means the **Employer's** data

protection policy relating to construction sites.

- (15) CWG is Canary Wharf Group plc of One Canada Square, Canary Wharf, London E14 5AB.
- (16) Data Controller shall have the same meaning as in the DPA.
- (17) Data Processor shall have the same meaning as in the DPA.
- (18) Data Subject shall have the same meaning as in the DPA.
- (19) A Defect is
- a part of the **works** which is not in accordance with the Works Information or
 - a part of the **works** designed by the **Contractor** which is not in accordance with this contract or the Applicable Law or the **Contractor's** design which the **Project Manager** has accepted.
- (20) The Defects Certificate is either a list of Defects that the **Supervisor** has notified before the **defects date** which the **Contractor** has not corrected or, if there are no such Defects, a statement that there are none.
- (21) Defined Cost is the cost of the components in the Shorter Schedule of Cost Components whether work is subcontracted or not excluding the cost of preparing quotations for compensation events.
- Defined Cost does not include the cost of taking out any insurances or the cost of any subcontract performance bonds unless agreed in advance by the **Project Manager** or the additional cost of employing both a key person and a replacement pursuant to clause 24.1A for a handover period.
- (22) Depot Works means the permanent and temporary works to be carried out by the Depot Contractor (as defined in the PDA) under the Depot Contract (as defined in the PDA).
- (23) DfT is Department for Transport of Great Minster House, 76 Marsham Street, London SW1P 4DR.
- (24) DLR is Docklands Light Railway Limited whose registered office is at Operations and Maintenance Centre, P.O. Box 154, Castor Lane, Poplar, London E14 0DX.
- (25) DPA means the Data Protection Act 1998.
- (26) Employer Confidential Information means any information of whatever kind (whether commercial,

technical, financial, operational or otherwise, in whatever form and whether or not recorded in any way) relating to the **Employer** or the Programme.

- (27) Equipment is items provided by the **Contractor** and used by him to Provide the Works and which the Works Information does not require him to include in the **works**.
- (28) The Fee is the sum of the amounts calculated by applying the **subcontracted fee percentage** to the Defined Cost of subcontracted work and the **direct fee percentage** to the Defined Cost of other work.
- (29) 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 in relation to such legislation.
- (30) Group Company is any holding company or subsidiary of an entity (within the meaning of section 1159 of the Companies Act 2006) or a company in which an entity or any such holding company or subsidiary holds more than 25% of the issued equity share capital (as defined by section 548 of the Companies Act 2006)
- (31) Information Request means a request for information under the FOI Legislation.
- (32) A Key Date is the date by which work is to meet the Condition stated. The Key Date is the **key date** stated in the Contract Data and the Condition is the **condition** stated in the Contract Data unless later changed in accordance with this contract.
- (33) LUL is London Underground Limited whose registered office is 55 Broadway, London SW1H 0BD.
- (34) Losses means any expense, liability, loss, claims, fines, damages, costs (including reasonable legal and other professional fees and disbursements), penalties, settlements and judgments whatsoever or howsoever incurred.
- (35) Milestone is the **milestone** stated in the Contract Data (where clause Z34 applies to this contract) unless later changed in accordance with this contract.
- (36) Milestone Date is the **milestone date** stated in the Contract Data (where clause Z34 applies to this contract) unless later changed in accordance with this contract.

- (37) Network Rail is Network Rail Infrastructure Limited whose registered office is at Kings Place, 90 York Way, London N1 9AG.
- (38) New Employer means TfL, DfT, Network Rail or any company which is a holding company or subsidiary (within the meaning of Section 1159 of the Companies Act 2006) of TfL or DfT or Network Rail or is a company in which TfL or DfT or Network Rail or any such holding company or subsidiary holds more than 25% of the issued equity share capital (as defined by Section 548 of the Companies Act 2006).
- (39) On-Network Works means the Crossrail Project Works (as defined in the PDA) to be undertaken by Network Rail (as defined in the PDA) pursuant to the NR Regulatory Protocol (as defined in the PDA): (i) between Maidenhead in the County of Berkshire and Royal Oak in the City of Westminster; (ii) between Pudding Mill Lane in the London Borough of Newham and Shenfield in the County of Essex; and (iii) between Plumstead and Abbey Wood, both in the London Borough of Greenwich.
- (40) Others are people or organisations who are not the **Employer**, the **Project Manager**, the **Supervisor**, any adjudicator appointed pursuant to clause W2A, the **Contractor** or any employee, subcontractor or supplier of any tier.
- (41) The Parties are the **Employer** and the **Contractor**.
- (42) PDA is the Project Development Agreement between the **Employer**, TfL and the Secretary of State for Transport dated 3 December 2008.
- (43) Personal Data shall have the same meaning as in the DPA.
- (44) Plant and Materials are items intended to be included in the **works**.
- (45) The Price for Work Done to Date is the total of the Prices for
- each group of completed activities and
 - each completed activity which is not in a group.
- A completed activity is one which is without Defects which would either delay or be covered by immediately following work.
- (46) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

- (47) Processing shall have the same meaning as in the DPA and Process and Processed shall be construed accordingly.
- (48) The Programme means the development, design, procurement, construction, commissioning, integration and completion of a railway transport system that is capable of operating services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the County of Essex and Abbey Wood in the London Borough of Greenwich in accordance with the Sponsors' Requirements.
- (49) A Prohibited Act means:
- (a) offering, giving or agreeing to give to any officer or agent of the **Employer**, any gift or consideration of any kind:
 - (i) as an inducement or reward; or
 - (ii) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this contract or any other contract with the **Employer**; or
 - (iii) for showing or not showing favour or disfavour for any person in relation to this contract or any other contract with the **Employer**; or
 - (iv) for entering into this contract in connection with which commission has been paid or has been agreed to be paid by him or on his behalf, or to his knowledge unless before this contract is made, particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the **Employer**; or
 - (b) the commission of an offence under the Prevention of Corruption Acts 1889 – 1916;
 - (c) entering into any form of collusion with other suppliers of works similar to the **works** or with other actual or potential bidders for this contract; or
 - (d) the commission of an offence under the Bribery Act 2010.
- (50) The Project means the project for the development, design, procurement, construction, commissioning,

integration and completion of a railway transport system that is capable of operating services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the County of Essex and Abbey Wood in the London Borough of Greenwich in accordance with the Sponsors' Requirements excluding:

- On-Network Works;
- Canary Wharf Works;
- Woolwich Works; and
- Depot Works.

(51) To Provide the Works means to do the work necessary to complete the **works** in accordance with this contract and all incidental work, services and actions which this contract requires.

(52) Register of Undertakings and Assurances means the **Employer's** undertakings and assurances register as referred to in the Works Information.

(53) The Risk Register is a register of the risks which are listed in the Contract Data and the risks which the **Project Manager** or the **Contractor** has notified as an early warning matter. It includes a description of the risk and a description of the actions which are to be taken to avoid or reduce the risk.

(54) The Site is the area within the **boundaries of the site** and the volumes above and below it which are affected by work included in this contract.

(55) Site Information is information which

- describes the Site and its surroundings and
- is in the documents which the Contract Data states it is in.

(56) The Sponsors' Requirements are set out in the PDA and shall apply as amended from time to time.

(57) A Subcontractor is a person or organisation who has a contract with the **Contractor** to

- construct or install part of the **works** or
- provide a service necessary to Provide the Works or
- supply Plant and Materials which the person or organisation has wholly or partly designed specifically for the **works** or

- supply Equipment which has been designed in whole or in part specifically for the **works**.

(58) TfL is Transport for London of Windsor House, 42-50 Victoria Street, London SW1H 0TL and "**TfL Group**" is Transport for London and all its subsidiaries (as defined in Section 1159 of the Companies Act 2006) from time to time.

(59) Woolwich Works means the permanent and temporary works to be carried out by Berkeley Homes (as defined in the PDA) under the Woolwich Station Box Deed (as defined in the PDA).

(60) The Working Areas are those parts of the **working areas** which are

- necessary for Providing the Works and
- used only for work in this contract

unless later changed in accordance with this contract.

(61) Works Information is information which either

- specifies and describes the **works** or
- states any constraints on how the **Contractor** Provides the Works

and is either

- in the documents which the Contract Data states it is in or
- in an instruction given in accordance with this contract.

Interpretation and the law 12

- 12.1 In this contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way round and words in the masculine also mean in the feminine and neuter. Words denoting persons include individuals, partnerships, firms and corporations and their successors and permitted assignees or transferees.
- 12.2 This contract is governed by the **law of the contract**.
- 12.3 No change to this contract unless provided for by the **conditions of contract** has effect unless it has been agreed, confirmed in writing and signed by the Parties.
- 12.4 This contract is the entire agreement between the Parties and supersedes all previous agreements between the

Parties relating to the subject matter of this contract and each Party acknowledges that in entering into this contract it has not relied on any representation or undertaking, whether oral or in writing, save such as are expressly incorporated in this contract.

12.4A If any clause or part of this contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from this contract and will be ineffective without, as far as is possible, modifying any other clause or part of this contract and this will not affect any other provisions of this contract which will remain in full force and effect.

12.4B In this contract any reference to:

- any enactment, order, regulation or other similar instrument references the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;
- a public organisation references any successor (statutory or otherwise) public organisation which has taken over the functions and duties of such public organisation;
- laws includes any applicable legislation, judgments of a relevant court of law changing a binding precedent and Applicable Law;
- words preceding "include", "includes", "including", and "included" are construed without limitation to the words which follow those words; and
- this contract includes any permitted variation, amendment, or supplement to this contract.

12.4C A period of time stated in days is a period calculated in accordance with Section 116 of the Act.

12.4D The terms and conditions of this contract and the warranties and undertakings which it contains apply to all works performed and to be performed by the **Contractor** in relation to the project to which the **works** relate both before and after the Contract Date.

12.5 Any reference in this contract to subcontractors or suppliers of any tier means all those subcontractors and suppliers that are engaged by the **Contractor**, by Subcontractors or by subsubcontractors within the supply chain of the **Contractor**.

Communications 13

- 13.1 Each instruction, certificate, submission, proposal, record, acceptance, notification, reply and other communication which this contract requires is communicated in a form which can be read, copied and recorded or is available for access on the hosted web server referred to in the Works Information (save in the case of the notification of a Dispute which shall be notified in hard copy only). Writing is in the *language of this contract*. Electronic mail is not a valid means of communication in accordance with this contract.
- 13.2 A communication has effect when it is received at the last address notified by the recipient for receiving communications or, if none is notified, at the address of the recipient stated in the Contract Data. Alternatively, an electronic communication has effect when it is posted on the hosted web server referred to in the Works Information. Communications relating to the notification of a Dispute shall have no effect under this contract unless served in hard copy.
- 13.3 If this contract requires the *Project Manager*, the *Supervisor* or the *Contractor* to reply to a communication, unless otherwise stated in this contract, he replies within the *period for reply*.
- 13.4 The *Project Manager* replies to a communication submitted or resubmitted to him by the *Contractor* for acceptance. If his reply is not acceptance, the *Project Manager* states his reasons and the *Contractor* resubmits the communication within the *period for reply* taking account of these reasons. A reason for withholding acceptance is that more information is needed in order to assess the *Contractor*'s submission fully.
- 13.5 The *Project Manager* may extend the *period for reply* to a communication if the *Project Manager* and the *Contractor* agree to the extension before the reply is due. The *Project Manager* notifies the *Contractor* of the extension which has been agreed.
- 13.6 The *Project Manager* issues his certificates to the *Employer* and the *Contractor*. The *Supervisor* issues his certificates to the *Project Manager* and the *Contractor*.
- 13.6A The *Contractor* retains copies of drawings, specifications, reports and other documents which record the *works* for the *period for retention* set out in the Contract Data. The copies are retained in the form stated in the Works Information.
- 13.7 A notification which this contract requires is communicated separately from other communications.
- 13.8 The *Project Manager* may withhold acceptance of a submission by the *Contractor*. Withholding acceptance for a reason stated in this contract is not a compensation

event.

The *Project Manager* 14 and the *Supervisor*

- 14.1 The *Project Manager's* or the *Supervisor's* or the *Employer's* acceptance, approvals, comments, instructions, consents or advice or indication of satisfaction, or any enquiry or inspection which the *Project Manager* or the *Supervisor* or the *Employer* makes or has carried out for its benefit or on its behalf at any time shall not operate to reduce, extinguish, exclude, limit or modify the *Contractor's* duties and obligations under this contract.
- 14.2 The *Project Manager* and the *Supervisor*, after notifying the *Contractor*, may delegate any of their actions and may cancel any delegation. A reference to an action of the *Project Manager* or the *Supervisor* in this contract includes an action by his delegate.
- 14.3 The *Project Manager* may give an instruction to the *Contractor* which changes the Works Information, a Key Date or a Milestone Date (where applicable).
- 14.4 The *Employer* may replace the *Project Manager* or the *Supervisor* after he has notified the *Contractor* of the name of the replacement.

Adding to the Working 15 Areas

- 15.1 The *Contractor* may submit a proposal for adding an area to the Working Areas to the *Project Manager* for acceptance. A reason for not accepting is that the proposed area is either not necessary for Providing the Works or used for work not in this contract.

Early warning 16

- 16.1 The *Contractor* and the *Project Manager* give an early warning by notifying the other as soon as either becomes aware of any matter which could
- increase the total of the Prices,
 - delay Completion,
 - delay meeting a Key Date or a Milestone Date (where applicable)
 - impair the performance of the *works* in use,
 - affect the work of the *Employer* or an Other or
 - lead to a breach by the *Employer* of any undertaking or assurance contained in the Register of Undertakings and Assurances.

Either the *Project Manager* or the *Contractor* may give an early warning by notifying the other of any other matter which could increase the total cost. The *Project Manager* enters early warning matters in the Risk Register. Early warning of a matter for which a compensation event has previously been notified is not required.

16.2 Either the *Project Manager* or the *Contractor* may instruct the other to attend a risk reduction meeting. Each may instruct other people to attend if the other agrees.

16.3 At a risk reduction meeting, those who attend co-operate in

- making and considering proposals for how the effect of the registered risks can be avoided or reduced,
- seeking solutions that will bring advantage to all those who will be affected,
- deciding on the actions which will be taken and who, in accordance with this contract, will take them and
- deciding which risks have now been avoided or have passed and can be removed from the Risk Register.

16.4 The *Project Manager* revises the Risk Register to record the decisions made at each risk reduction meeting and issues the revised Risk Register to the *Contractor*. If a decision needs a change to the Works Information, the *Project Manager* instructs the change at the same time as he issues the revised Risk Register. For the avoidance of doubt, the *Contractor's* only entitlement to a change in the Prices, the Completion Date, a Key Date or Milestone Date (where applicable) as a result of any revision to the Risk Register is in accordance with clauses 60 and 65.

Ambiguities and inconsistencies 17

17.1 The *Project Manager* or the *Contractor* notifies the other as soon as either becomes aware of an ambiguity or inconsistency in or between the documents which are part of this contract. The *Project Manager* gives an instruction resolving the ambiguity or inconsistency.

Illegal and impossible requirements 18

18.1 The *Contractor* notifies the *Project Manager* as soon as he considers that the Works Information requires him to do anything which is illegal or impossible. If the *Project Manager* agrees, he gives an instruction to change the Works Information appropriately.

Prevention 19

Not used.

2 The *Contractor's* main responsibilities

Providing the Works 20

- 20.1 The *Contractor* Provides the Works in accordance with the Works Information and Applicable Law and such that only materials which at the time of use are not known within the UK civil engineering industry as being deleterious to health and safety or to durability and which accord with the guidelines contained in the publication Good Practice in Selection of Construction Materials (Ove Arup & Partners) current at the date of use are used in the *works*.
- 20.2 The *Contractor* advises the *Project Manager* on the practical implications of the design of the *works* and on subcontracting arrangements.

The *Contractor's* design 21

- 21.1 The *Contractor* designs the parts of the *works* which the Works Information states he is to design. He integrates and co-ordinates his design with the designs of the *Employer* and Others in accordance with the Works Information and any instructions of the *Project Manager* and where further necessary to Provide the Works.
- 21.2 The *Contractor* submits the particulars of his design as the Works Information requires to the *Project Manager* for acceptance. A reason for not accepting the *Contractor's* design is that it does not comply with the Works Information or
- Applicable Law or
 - the *Contractor's* design which the *Project Manager* has accepted or
 - this contract or
 - it is not integrated and co-ordinated with the designs of the Employer and/or Others where the *Contractor* is required by the Works Information or instructions of the *Project Manager* to integrate and/or co-ordinate his design with the designs of the Employer and Others, or such integration is necessary for the *Contractor* to Provide the Works or
 - it is such that if constructed the *works* will not be capable of Completion.

The *Contractor* does not proceed with the relevant work until the *Project Manager* has accepted his design.

- 21.3 The *Contractor* may submit his design for acceptance in parts if the design of each part can be assessed fully.

21.3A The **Contractor's** obligation in respect of his design of any part of the **works** is to use the standard of skill, care and diligence to carry out and complete such design to be reasonably expected from a properly qualified professional consultant experienced in providing design in respect of works similar in size, scope and complexity to the **works** and for projects similar in size, scope and complexity to the Project. The **Contractor** will use the standard of skill and care set out in this clause 21.3A to ensure that any part of the **works** designed by the **Contractor** will interface and integrate fully with any design prepared by, or on behalf of, the **Employer**. The **Contractor** warrants and undertakes to the **Employer** that at Completion the **works** will be compliant with the requirements specified in this contract.

21.4 The **Contractor** in designing and specifying the parts of the **works** which he is required to design and specify, warrants, undertakes and represents to the **Employer** that the **works** comply with the:

- the Works Information,
- any performance or output specification or requirements contained or referred to in this contract, and
- all relevant spatial and structural constraints specified in the Works Information and/or Site Information.

21.5 The **Contractor** accepts entire responsibility for his design and specification and for any mistake, inaccuracy, discrepancy or omission contained therein.

Using the Contractor's design 22

Not used

Design of Equipment 23

23.1 The **Contractor** submits particulars of the design of an item of Equipment to the **Project Manager** for acceptance if the **Project Manager** instructs him to. A reason for not accepting is that the design of the item will not allow the **Contractor** to Provide the Works in accordance with

- the Works Information,
- the **Contractor's** design which the **Project Manager** has accepted,
- Applicable Law or
- this contract.

People 24

- 24.1 The **Contractor** either employs each key person named to do the job stated in the Contract Data for so long as they remain under the **Contractor's** control (unless the **Contractor** is prevented from doing so by circumstances outside the **Contractor's** reasonable control)_or employs a replacement person who has been accepted by the **Project Manager** in accordance with this sub-clause 24.1. If any key person (or his replacement) is proposed to be removed in accordance with this sub-clause 24.1. the **Contractor** submits (as soon as reasonably practicable and so as to minimise any adverse effect on the progress of the **works**)_the name, relevant qualifications and experience of a proposed replacement person to the **Project Manager** for acceptance. A reason for not accepting the person is the **Employer** or the **Project Manager** believes he is a security risk or that his relevant competency, qualifications and experience are not as good as those of the person who is to be replaced.
- 24.1A If a replacement key person is accepted by the **Project Manager**, the **Contractor** arranges for there to be a minimum handover period of 4 weeks during which both the original key person and his replacement perform the job stated in the Contract Data.
- 24.1B Save where a key person is removed pursuant to sub-clause 24.2 or for other reasons which the **Project Manager** considers are outside the **Contractor's** reasonable control, if a key person (or his replacement) ceases to be employed to do the job stated in the Contract Data, the **Employer** may deduct the **key person compensation amount** applicable to such key person (or his replacement) from any sum otherwise due or which at any time may otherwise become due to the **Contractor** under this contract.
- 24.2 The **Project Manager** may instruct the **Contractor** to remove a person. The **Contractor** then arranges that, after one day, the person has no further connection with the work included in this contract.

Working with the Employer and Others 25

- 25.1 The **Contractor** co-operates with Others in obtaining and providing information which they need in connection with the **works**. The **Contractor** co-operates with Others and as required to Provide the Works. The **Contractor** shares the Working Areas with Others as stated in the Works Information.
- 25.1A Where necessary to Provide the Works, the **Contractor** holds or attends meetings with Others. The **Contractor** informs the **Employer** and the **Project Manager** of these meetings beforehand and the **Employer** and the **Project Manager** may attend them.

25.2 The **Employer** and the **Contractor** provide services and other things as stated in the Works Information. Any cost incurred by the **Employer** as a result of the **Contractor** not providing the services and other things which he is to provide is assessed by the **Project Manager** and paid by the **Contractor**.

25.3 If the **Project Manager** decides that the work does not meet the Condition stated for a Key Date or that the **Contractor** has not achieved a Milestone (where applicable) by the date stated and, as a result, the **Employer** incurs any loss expense or additional cost either

- in carrying out work or
- by paying an additional amount to Others in carrying out work

the additional cost including that arising in relation to other parts of the Programme which the **Employer** has paid or will incur is paid by the **Contractor**. The **Project Manager** assesses the additional cost within four weeks of the date when the Condition for the Key Date is met or the Milestone is achieved.

Subcontracting 26

26.1 If the **Contractor** subcontracts work he is responsible for Providing the Works as if he had not subcontracted. This contract applies as if the employees and equipment of a subcontractor or supplier of any tier were the **Contractor's**.

26.2 The **Contractor** submits the name of each proposed Subcontractor to the **Project Manager** for acceptance. A reason for not accepting the Subcontractor is that his appointment will not allow the **Contractor** to Provide the Works. The **Contractor** does not appoint a proposed Subcontractor until the **Project Manager** has accepted him.

26.3 The **Contractor** submits the proposed conditions of contract (excluding commercial terms and financial calculations) for each subcontract to the **Project Manager** for acceptance unless the **Project Manager** has agreed that no submission is required.

The **Contractor** does not appoint a Subcontractor on the proposed subcontract conditions submitted until the **Project Manager** has accepted them. A reason for not accepting them is that

- they will not allow the **Contractor** to Provide the Works or
- they do not include a statement that the parties to the subcontract shall act in a spirit of mutual trust and co-operation or

- they are not consistent with the terms of this contract.

Once the subcontract conditions have been accepted by the *Project Manager* the *Contractor* shall not agree to vary or amend the same or terminate the engagement of the Subcontractor unless such variation, amendments or termination has been accepted by the *Project Manager*. A reason for not accepting such a variation or amendment is that

- it will not allow the *Contractor* to Provide the Works or
- it removes any statement that the parties to the subcontract shall act in a spirit of mutual trust and cooperation or
- it is not consistent with the terms of this contract.

26.4 The *Contractor* submits the proposed contract data for each subcontract for acceptance to the *Project Manager* if

- an NEC contract is proposed and
- the *Project Manager* instructs the *Contractor* to make the submission.

A reason for not accepting the proposed contract data is that its use will not allow the *Contractor* to Provide the Works.

26.4A The *Contractor* shall procure that it and each Subcontractor shall (unless instructed to the contrary by the *Project Manager* at the date of the *Project Manager's* acceptance pursuant to clauses 26.3 or 26.4) enter into collateral warranties in the form set out in Annexure 6 to this contract in favour of:

- the *Employer* within 14 days of the date of the subcontract being entered into and
- the other parties specified in the Contract Data within 14 days of the identity of the beneficiary being given to the *Contractor*.

Other responsibilities 27

27.1 The *Contractor* obtains approval of his design from Others where necessary.

27.2 The *Contractor* provides access to work being done and to Plant and Materials being stored for this contract for

- the *Project Manager*,
- the *Supervisor* and

- Others notified to him by the *Project Manager*.

- 27.3 The *Contractor* obeys an instruction which is in accordance with this contract and is given to him by the *Project Manager* or the *Supervisor*.
- 27.4 The *Contractor* acts in accordance with the health and safety requirements stated in the Works Information.
- 27.4A The *Contractor* at all times co-operates, so far as is reasonably practicable, with all parties having health and safety responsibilities on or adjacent to the Site for the effective discharge of those responsibilities.
- 27.4B The *Contractor* at all times prevents any public or private nuisance (including, without limitation, any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights of any adjoining or neighbouring landowner, tenant, or occupier or any statutory undertaker arising out of the carrying out of the *works* or of any obligation under clause 43 and assists the *Employer* in defending any action or proceedings which may be instituted in relation to the same. The *Contractor* is responsible for and indemnifies the *Employer* from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever to the extent resulting from any such nuisance or interference.
- 27.4C Without prejudice to the *Contractor's* obligation under clause 27.4B, the *Contractor* ensures that there is no trespass over any adjoining or neighbouring property arising out of the *works* or of any obligation under clause 43. If the carrying out of the *works* or of any obligation under clause 43 is likely to necessitate interference (including, without limitation, the oversailing of tower crane jibs) with the rights of adjoining or neighbouring owners or occupiers, then the *Contractor*, at no cost to the *Employer*, obtains the prior written agreement of such owners and/or occupiers to the work, and such agreement will be subject to the approval of the *Employer* before execution. The *Contractor* complies in every respect with any conditions in any such agreement.

3 Time

Starting, Completion and Key Dates 30

- 30.1 The **Contractor** does not start work on the Site until the first **access date** and proceeds with the work regularly and diligently so that Completion is on or before the Completion Date.
- 30.2 The **Project Manager** decides the date of Completion. The **Project Manager** certifies Completion within two weeks of Completion.
- 30.3 The **Contractor** does the work so that the Condition stated for each Key Date is met by the Key Date and (where applicable) so that each Milestone is achieved by the Milestone Date.

The programme 31

- 31.1 If a programme is not identified in the Contract Data, the **Contractor** submits a first programme to the **Project Manager** for acceptance within the period stated in the Contract Data.
- 31.2 The **Contractor** shows on each programme which he submits for acceptance
- the **starting date**, **access dates**, Key Dates, Milestone Dates (where applicable) and Completion Date,
 - planned Completion,
 - the order and timing of the operations which the **Contractor** plans to do in order to Provide the Works,
 - the order and timing of the work of the **Employer** and Others as last agreed with them by the **Contractor** or, if not so agreed, as stated in the Works Information,
 - the dates when the **Contractor** plans to meet each Condition stated for the Key Dates and Milestones (where applicable) and to complete other work needed to allow the **Employer** and Others to do their work,
 - the dates on which necessary consents and approvals are to be obtained (including those to be obtained by the **Employer**),
 - provisions for
 - float,
 - time risk allowances,
 - health and safety requirements and
 - the procedures set out in this contract,
 - the dates when, in order to Provide the Works in accordance with his programme, the **Contractor**

will need

- access to a part of the Site if later than its **access date**,
 - acceptances,
 - Plant and Materials and other things to be provided by the **Employer** and
 - information from Others,
- for each operation, a statement of how the **Contractor** plans to do the work identifying the principal Equipment and other resources which he plans to use and
 - other information which the Works Information requires the **Contractor** to show on a programme submitted for acceptance.

31.3 Within two weeks of the **Contractor** submitting a programme to him for acceptance, the **Project Manager** either accepts the programme or notifies the **Contractor** of his reasons for not accepting it. A reason for not accepting a programme is that

- the **Contractor's** plans which it shows are not practicable,
- it does not show the information which this contract requires,
- it does not represent the **Contractor's** plans realistically,
- it does not allow the **Employer** or Others to start or carry out and complete their works as planned and subsequently to maintain any assets or facilities delivered as a result of such work or
- it does not comply with the Works Information.

31.4 The **Contractor** provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance.

Revising the programme 32

32.1 The **Contractor** shows on each revised programme

- the actual progress achieved on each operation and its effect upon the timing of the remaining work,
- the effects of implemented compensation events,
- how the **Contractor** plans to deal with any delays and to correct notified Defects and
- any other changes which the **Contractor** proposes to make to the Accepted Programme.

32.2 The **Contractor** submits a revised programme to the **Project Manager** for acceptance

- within the *period for reply* after the *Project Manager* has instructed him to,
- when the *Contractor* chooses to and, in any case,
- at no longer interval than the interval stated in the Contract Data from the *starting date* until Completion of the whole of the *works*.

Access to and use of the Site 33

33.1 Subject to the access provisions contained in the Works Information, the *Employer* allows access to and use of each part of the Site to the *Contractor* which is necessary for the work included in this contract. Access and use is allowed on or before the later of its *access date* and the date for access shown on the Accepted Programme.

Instructions to stop or not to start work 34

34.1 The *Project Manager* may instruct the *Contractor* to stop or not to start any work and may later instruct him that he may re-start or start it.

Take over 35

35.1 The *Employer* need not take over the *works* before the Completion Date if it is stated in the Contract Data that he is not willing to do so. Otherwise the *Employer* takes over the *works* not later than three weeks after Completion.

35.2 The *Employer*, and where provided in the Works Information, Others may use any part of the *works* before Completion has been certified. If they do so, the *Employer* takes over the part of the *works* when he or Others begin to use it except if the use is

- for a reason stated in the Works Information or
- for the purposes of testing and commissioning or
- to correct a Defect which the *Contractor* has failed to correct in accordance with this contract or
- to suit the *Contractor's* method of working.

If any of the above exceptions apply, the *Contractor* remains responsible for the care and protection of that part of the *works* whilst being used by the *Employer* and/or Others and the *works* remain at the *Contractor's* risk.

35.3 The *Project Manager* certifies the date upon which the *Employer* takes over any part of the *works* and its extent within one week of the date.

Acceleration 36

36.1 The *Project Manager* may instruct the *Contractor* to accelerate the *works* to achieve Completion before the Completion Date.

4 Testing and Defects

Tests and inspections 40

- 40.1 The subclauses in this clause only apply to tests and inspections required by the Works Information or the Applicable Law.
- 40.2 The *Contractor* and the *Employer* provide materials, facilities and samples for tests and inspections as stated in the Works Information.
- 40.3 The *Contractor* and the *Supervisor* each notifies the other of each of his tests and inspections before it starts and afterwards notifies the other of its results. The *Contractor* notifies the *Supervisor* in time for a test or inspection to be arranged and done before doing work which would obstruct the test or inspection. The *Supervisor* may watch any test done by the *Contractor*.
- 40.4 If a test or inspection shows that any work has a Defect, the *Contractor* corrects the Defect and the test or inspection is repeated.
- 40.5 The *Supervisor* does his tests and inspections without causing unnecessary delay to the work or to a payment which is conditional upon a test or inspection being successful. A payment which is conditional upon a *Supervisor*'s test or inspection being successful becomes due at the later of the *defects date* and the end of the last *defect correction period* if
- the *Supervisor* has not done the test or inspection and
 - the delay to the test or inspection is not the *Contractor*'s fault.
- 40.6 The *Project Manager* assesses the cost incurred by the *Employer* in repeating a test or inspection after a Defect is found. The *Contractor* pays the amount assessed.

Testing and inspection before delivery 41

- 41.1 The *Contractor* does not bring to the Working Areas those Equipment, Plant and Materials which the Works Information states are to be tested or inspected before delivery until the *Supervisor* has notified the *Contractor* that they have passed the test or inspection.

Searching for and notifying Defects 42

- 42.1 Until the *defects date*, the *Supervisor* may instruct the *Contractor* to search for a Defect. He gives his reason for the search with his instruction. Searching may include
- uncovering, dismantling, re-covering and re-erecting work,

- providing facilities, materials and samples for tests and inspections done by the *Supervisor* and
- doing tests and inspections which the Works Information does not require.

42.2 Until the *defects date*, the *Supervisor* notifies the *Contractor* of each Defect as soon as he finds it and the *Contractor* notifies the *Supervisor* of each Defect as soon as he finds it.

Correcting Defects 43

43.1 The *Contractor* corrects a Defect whether or not the *Supervisor* notifies him of it.

43.2 The *Contractor* corrects a notified Defect before the end of the *defect correction period*. The *defect correction period* begins at Completion for Defects notified before Completion and when the Defect is notified for other Defects.

43.3 The *Supervisor* issues the Defects Certificate at the later of the *defects date* and the end of the last *defect correction period*. The *Employer's* rights in respect of a Defect which the *Supervisor* has not found or notified are not affected by the issue of the Defects Certificate.

43.4 The *Project Manager* arranges for the *Employer* to allow the *Contractor* access to and use of a part of the *works* which he has taken over if they are needed for correcting a Defect. In this case the *defect correction period* begins when the necessary access and use have been provided.

Accepting Defects 44

44.1 The *Contractor* and the *Project Manager* may each propose to the other that the Works Information should be changed so that a Defect does not have to be corrected.

44.2 If the *Contractor* and the *Project Manager* are prepared to consider the change, the *Contractor* submits a quotation for reduced Prices or an earlier Completion Date or both to the *Project Manager* for acceptance. If the *Project Manager* accepts the quotation, he gives an instruction to change the Works Information, the Prices and the Completion Date accordingly.

Uncorrected Defects 45

45.1 If the *Contractor* is given access in order to correct a notified Defect but he has not corrected it within its *defect correction period*, the *Project Manager* assesses the cost to the *Employer* of having the Defect corrected by other people and the *Contractor* pays this amount. The Works Information is treated as having been changed to accept the Defect.

45.2 If the *Contractor* is not given access in order to correct a notified Defect before the *defects date*, the *Project Manager* assesses the cost to the *Contractor* of correcting

the Defect and the **Contractor** pays this amount. The Works Information is treated as having been changed to accept the Defect.

5 Payment

Assessing the amount due 50

- 50.1 The *Project Manager* assesses the amount due at each assessment date. The first assessment date is decided by the *Project Manager* to suit the procedures of the Parties and is not later than the *assessment interval* after the *starting date*. Later assessment dates occur
- at the end of each *assessment interval* until eight weeks after the *Supervisor* issues the Defects Certificate and
 - at Completion of the whole of the *works*.
- 50.2 The amount due is
- the Price for Work Done to Date,
 - plus other amounts to be paid to the *Contractor*,
 - less amounts to be paid by or retained from the *Contractor*.
- Any tax which the law requires the *Employer* to pay to the *Contractor* is included in the amount due.
- 50.3 If no programme is identified in the Contract Data, one quarter of the Price for Work Done to Date is retained in assessments of the amount due until the *Contractor* has submitted a first programme to the *Project Manager* for acceptance showing the information which this contract requires. If the *Contractor* does not submit a revised programme showing the required information to the *Project Manager* within the time required by clause 32.2 five percent of the Price for Work Done to Date is retained in assessments of the amount due until the *Contractor* has submitted such revised programme.
- 50.4 In assessing the amount due, the *Project Manager* considers any application for payment the *Contractor* has submitted on or before the assessment date.
- 50.5 The *Project Manager* corrects any wrongly assessed amount due in a later payment certificate.
- 50.6A If the *Contractor* fails to deliver any collateral warranty, parent company guarantee or bond in accordance with this contract the *Employer* may withhold any payment or further payment (as the case may be) which would otherwise be due to the *Contractor* under this contract until such time as such collateral warranty, guarantee, or bond has been so delivered. In the case of a failure to provide a collateral warranty from a Subcontractor in accordance with this contract, the *Employer* may only withhold such amount of any payment which relates to the part of the *works* which are the subject of the relevant subcontract.

50.6B In addition to any other rights of the *Employer* whether at law or equity or under this contract, whenever

- under any other contract between the *Employer* and the *Contractor* any sum of money is recoverable by the *Employer* under such contract or
- (1) the *Employer* is a member of the TfL Group and (2) the *Contractor* has committed an Act of Insolvency and (3) any sum of money is recoverable from or payable by the *Contractor* to any member of the TfL Group under any contract between any such member of the TfL Group and the *Contractor*

then, subject to the *Employer* serving an effective pay less notice in accordance with clause 51.2A the same may be deducted from any sum otherwise due or which at any time may otherwise become due to the *Contractor* under this contract.

Payment 51

51.1 The *Project Manager* certifies a payment within seven days of each assessment date. The *Project Manager's* certificate is the notice of payment to the Contractor specifying the amount due (the notified sum) and stating the basis on which the amount was calculated. The first payment is the amount due. Other payments are the change in the amount due since the last payment certificate. A payment is made by the *Contractor* to the *Employer* if the change reduces the amount due. Other payments are made by the *Employer* to the *Contractor*. Payments are in the *currency of this contract* unless otherwise stated in this contract. The date on which a payment becomes due is seven days after the assessment date.

51.2 The final date for payment of each certified payment is sixteen days after the date on which payment becomes due. If a certified payment is late, or if a payment is late because the *Project Manager* does not issue a certificate which he should issue, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made.

51.2A If either Party intends to pay less than the notified sum, he notifies the other Party not later than five days (the prescribed period) before the final date for payment by stating the amount considered to be due and the basis on which that sum is calculated.

A Party does not pay less than the notified sum unless he has notified his intention to pay less than the notified sum as required by this contract.

- 51.2B (1) If:
- any payment has not been paid in full by the final date for payment; and
 - notification of intention to pay less has not been given in accordance with clause 51.2A

the **Contractor** may suspend his performance under this contract.

(2) The **Contractor** does not exercise his right to suspend his performance under this contract unless he has first given at least seven days' notice in writing to the **Project Manager** of:

- his intention to suspend his performance under this contract and
- the grounds for suspending his performance under this contract.

(3) The right of the **Contractor** to suspend his performance ends when the amount that should be paid to the **Contractor** is paid to him in full.

51.2C If the **Contractor** exercises his right under the Act to suspend his performance, it is a compensation event.

- 51.3 If an amount due is corrected in a later certificate either
- by the **Project Manager** in relation to a mistake or a compensation event or
 - following a decision of an adjudicator appointed pursuant to clause W2A or the courts of England and Wales,

interest on the correcting amount is paid. Interest is assessed from the date when the incorrect amount was certified until the date when the correcting amount is certified and is included in the assessment which includes the correcting amount.

51.4 Interest is calculated on a daily basis at the **interest rate** and is compounded annually.

Defined Cost 52

52.1 All the **Contractor's** costs which are not included in the Defined Cost are treated as included in the Fee. Defined Cost includes only amounts calculated using rates and percentages stated in the Contract Data and other amounts at open market or competitively tendered prices with deductions for all discounts, rebates and taxes which

can be recovered.

52.2 The **Contractor** keeps these records

- accounts of payments of Defined Cost,
- proof that the payments have been made,
- communications about and assessments of compensation events for Subcontractors and
- other records as stated in the Works Information.

52.3 The **Contractor** allows the **Project Manager** to inspect at any time within working hours the accounts and records which he is required to keep.

The Activity Schedule 54

54.1 Information in the Activity Schedule is not Works Information or Site Information.

54.2 If the **Contractor** changes a planned method of working at his discretion so that the activities on the Activity Schedule do not relate to the operations on the Accepted Programme, he submits a revision of the Activity Schedule to the **Project Manager** for acceptance.

54.3 A reason for not accepting a revision of the Activity Schedule is that

- it does not comply with the Accepted Programme,
- any changed Prices are not reasonably distributed between the activities or
- the total of the Prices is changed.

6 Compensation events

Compensation events 60

60.1

The following are compensation events.

- (1) The **Project Manager** gives an instruction changing the Works Information except
 - a change made in order to accept a Defect or
 - a change to the Works Information provided by the **Contractor** for his design which is made either at his request or to comply with other Works Information provided by the **Employer** or a change made in order to accept a value engineering proposal under clause Z15.
- (2) The **Employer** does not allow access to and use of a part of the Site by the later of its **access date** and the date shown on the Accepted Programme.
- (3) The **Employer** does not provide something which he is to provide by the date for providing it shown on the Accepted Programme.
- (4) The **Project Manager** gives an instruction to stop or not to start any work or to accelerate the **works** to achieve Completion before the Completion Date or to change a Key Date or a Milestone Date (where applicable).
- (5) The **Employer** or Others
 - do not work within the times shown on the Accepted Programme,
 - do not work within the conditions stated in the Works Information or
 - carry out work on the Site that is not stated in the Works Information.
- (6) The **Project Manager** or the **Supervisor** does not reply to a communication from the **Contractor** within the period required by this contract.
- (7) The **Project Manager** gives an instruction for dealing with an object of value or of historical or other interest found within the Site.
- (8) The **Project Manager** or the **Supervisor** changes a decision which he has previously communicated to the **Contractor**.
- (9) The **Project Manager** withholds an acceptance (other than acceptance of a quotation for acceleration or for not correcting a Defect or acceptance of a proposal which does not comply with this contract) for a reason not stated in this contract.

- (10) The **Supervisor** instructs the **Contractor** to search for a Defect and no Defect is found unless the search is needed only because the **Contractor** gave insufficient notice of doing work obstructing a required test or inspection.
- (11) A test or inspection done by the **Supervisor** causes unnecessary delay.
- (12) The **Contractor** encounters physical conditions which
- are within the Site,
 - are not weather conditions and
 - an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for them.
- Only the difference between the physical conditions encountered and those for which it would have been reasonable to have allowed is taken into account in assessing a compensation event.
- (13) A **weather measurement** is recorded
- within a calendar month,
 - before the Completion Date for the whole of the **works** and
 - at the place stated in the Contract Data
- the value of which, by comparison with the **weather data**, is shown to occur on average less frequently than once in ten years.
- Only the difference between the **weather measurement** and the weather which the **weather data** show to occur on average less frequently than once in ten years is taken into account in assessing a compensation event.
- (14) An event which is an **Employer's** risk stated in this contract.
- (15) The **Project Manager** certifies take over of a part of the works before both Completion and the Completion Date.
- (16) The **Employer** does not provide materials, facilities and samples for tests and inspections as stated in the Works Information.
- (17) The **Project Manager** notifies a correction to an assumption which he has stated about a compensation event.
- (18) A breach of contract by the **Employer** which is not one of the other compensation events in this contract.

60.2 In judging the physical conditions for the purpose of assessing a compensation event under 60.1(12), the **Contractor** is assumed to have taken into account

- the Site Information,
- publicly available information referred to in the Site Information,
- information obtainable from a visual inspection of the Site and
- other information which an experienced contractor could reasonably be expected to have or to obtain.

60.3 If there is an ambiguity or inconsistency within the Site Information (including the information referred to in it), the **Contractor** is assumed to have taken into account the physical conditions more favourable to doing the work.

60.4 The **Contractor** takes all reasonable steps to mitigate the effects of any compensation event.

Notifying compensation events 61

61.1 For compensation events which arise from the **Project Manager** or the **Supervisor** giving an instruction or changing an earlier decision, the **Project Manager** notifies the **Contractor** of the compensation event at the time of giving the instruction or changing the earlier decision. The **Project Manager** also instructs the **Contractor** to submit quotations, unless the event arises from a fault of the **Contractor** or quotations have already been submitted. The **Contractor** puts the instruction or changed decision into effect.

61.2 The **Project Manager** may instruct the **Contractor** to submit quotations for a proposed instruction or a proposed changed decision. The **Contractor** does not put a proposed instruction or a proposed changed decision into effect.

61.3 Subject to clause 61.7, the **Contractor** notifies the **Project Manager** of an event which has happened or which he expects to happen as a compensation event if

- the **Contractor** believes that the event is a compensation event and
- the **Project Manager** has not notified the event to the **Contractor**.

If the **Contractor** does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices, the Completion Date, a Key Date or a Milestone Date (where applicable) unless the **Project Manager** should have notified the event to the **Contractor** but did not.

61.4 If and to the extent the *Project Manager* decides that an event notified by the *Contractor*

- arises from or is contributed to by a fault of the *Contractor* or arises by reason of any error, omission, negligence, default, breach of contract or breach of statutory duty of the *Contractor* or any of its employees or agents or of any subcontractor or supplier of any tier or any of their employees or agents
- has not happened and is not expected to happen,
- has no effect upon Defined Cost, Completion or meeting a Key Date or a Milestone Date (where applicable) or
- is not one of the compensation events stated in this contract

he notifies the *Contractor* of his decision that the Prices, the Completion Date, the Key Dates and the Milestone Dates (where applicable) are not to be changed.

If the *Project Manager* decides otherwise, he notifies the *Contractor* accordingly and instructs him to submit quotations or more information.

If the *Project Manager* does not notify his decision to the *Contractor* within either

- two weeks of the *Contractor's* notification or
- a longer period to which the *Contractor* has agreed,

the *Contractor* notifies the *Project Manager* to this effect. A failure by the *Project Manager* to reply within two weeks of this notification is treated as acceptance by the *Project Manager* that the event is a compensation event and an instruction to submit quotations.

61.5 If the *Project Manager* decides that the *Contractor* did not give an early warning of the event which an experienced contractor could have given, he notifies this decision to the *Contractor* when he instructs him to submit quotations.

61.6 If the *Project Manager* decides that the effects of a compensation event are too uncertain to be forecast reasonably, he states assumptions about the event in his instruction to the *Contractor* to submit quotations. Assessment of the event is based on these assumptions. If any of them is later found to have been wrong, the *Project Manager* notifies a correction.

61.7 A compensation event is not notified after the *defects date*. No change in Prices is made in respect of any matter notified after the *defects date*.

Quotations for compensation events 62

- 62.1 After discussing with the **Contractor** different ways of dealing with the compensation event which are practicable, the **Project Manager** may instruct the **Contractor** to submit alternative quotations. The **Contractor** submits the required quotations to the **Project Manager** and may submit quotations for other methods of dealing with the compensation event which he considers practicable.
- 62.2 Quotations for compensation events comprise proposed changes to the Prices and any delay to the Completion Date, Key Dates and Milestone Dates (where applicable) assessed by the **Contractor**. The **Contractor** submits details of his assessment with each quotation. If the programme for remaining work is altered by the compensation event, the **Contractor** includes the alterations to the Accepted Programme in his quotation.
- 62.3 The **Contractor** submits quotations within three weeks of being instructed to do so by the **Project Manager**. The **Project Manager** replies within two weeks of the submission. His reply is
- an instruction to submit a revised quotation,
 - an acceptance of a quotation,
 - a notification that a proposed instruction will not be given or a proposed changed decision will not be made or
 - a notification that he will be making his own assessment.
- 62.4 The **Project Manager** instructs the **Contractor** to submit a revised quotation only after explaining his reasons for doing so to the **Contractor**. The **Contractor** submits the revised quotation within three weeks of being instructed to do so.
- 62.5 The **Project Manager** extends the time allowed for
- the **Contractor** to submit quotations for a compensation event and
 - the **Project Manager** to reply to a quotation
- if the **Project Manager** and the **Contractor** agree to the extension before the submission or reply is due. The **Project Manager** notifies the extension that has been agreed to the **Contractor**.
- 62.6 If the **Project Manager** does not reply to a quotation within the time allowed, the **Contractor** notifies the **Project Manager** to this effect. If the **Contractor** submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the **Project Manager** does not reply to the notification within two weeks, and unless the quotation is for a proposed instruction or a proposed changed decision, the **Contractor's** notification is treated as an

acceptance of the quotation by the *Project Manager*.

Assessing compensation events 63

- 63.1 The changes to the Prices are assessed as the effect of the compensation event upon
- the actual Defined Cost of the work already done,
 - the forecast Defined Cost of the work not yet done and
 - the resulting Fee.
- The date when the *Project Manager* instructed or should have instructed the *Contractor* to submit quotations divides the work already done from the work not yet done.
- 63.2 If the effect of a compensation event is to reduce the total Defined Cost
- the Prices are proportionately reduced (save in relation to any value engineering proposals accepted under clause Z15) and
 - the *Contractor* shall not be entitled to any payment in respect of loss of profit or loss of opportunity in respect of the same save in relation to any omission pursuant to clause Z16.1 that does not fall into the categories of the omissions referred to in clause Z16.2.
- 63.3 A delay to the Completion Date is assessed as the length of time that, due to the compensation event, planned Completion is later than planned Completion as shown on the Accepted Programme. A delay to a Key Date or Milestone Date is assessed as the length of time that, due to the compensation event, the planned date when the Condition stated for a Key Date or a Milestone will be met is later than the date shown on the Accepted Programme.
- 63.4 The rights of the *Employer* and the *Contractor* to changes to the Prices, the Completion Date, the Key Dates and the Milestone Dates (where applicable) are their only rights in respect of a compensation event.
- 63.5 If the *Project Manager* has notified the *Contractor* of his decision that the *Contractor* did not give an early warning of a compensation event which an experienced contractor could have given, the event is assessed as if the *Contractor* had given early warning thereby enabling the *Project Manager* to have taken action to minimise or avoid the effects of such compensation event.
- 63.6 Assessment of the effect of a compensation event includes risk allowances for cost and time for matters which have a significant chance of occurring and are at the *Contractor*'s risk under this contract.

- 63.7 Assessments are based upon the assumptions that the **Contractor** reacts competently and promptly to the compensation event, that any Defined Cost and time due to the event are reasonably incurred and that the Accepted Programme can be changed.
- 63.8 A compensation event which is an instruction to change the Works Information in order to resolve an ambiguity or inconsistency is assessed as if the Prices, the Completion Date, the Key Dates and the Milestone Dates (where applicable) were for the interpretation most favourable to the Party which did not provide the Works Information.
- 63.9 If a change to the Works Information makes the description of the Condition for a Key Date or of a Milestone incorrect, the **Project Manager** corrects the description. This correction is taken into account in assessing the compensation event for the change to the Works Information.
- 63.11 Not used.
- 63.12 Assessments for changed Prices for compensation events are in the form of changes to the Activity Schedule.
- 63.13 If the **Project Manager** and the **Contractor** agree, rates and lump sums may be used to assess a compensation event instead of Defined Cost .

The Project Manager's assessments 64

- 64.1 The **Project Manager** assesses a compensation event
- if the **Contractor** has not submitted a quotation and details of his assessment within the time allowed,
 - if the **Project Manager** decides that the **Contractor** has not assessed the compensation event correctly in a quotation and he does not instruct the **Contractor** to submit a revised quotation,
 - if, when the **Contractor** submits quotations for a compensation event, he has not submitted a programme or alterations to a programme which this contract requires him to submit or
 - if, when the **Contractor** submits quotations for a compensation event, the **Project Manager** has not accepted the **Contractor's** latest programme for one of the reasons stated in this contract.
- 64.2 The **Project Manager** assesses a compensation event using his own assessment of the programme for the remaining work if
- there is no Accepted Programme or

- the *Contractor* has not submitted a programme or alterations to a programme for acceptance as required by this contract.

64.3 The *Project Manager* notifies the *Contractor* of his assessment of a compensation event and gives him details of it within the period allowed for the *Contractor's* submission of his quotation for the same event. This period starts when the need for the *Project Manager's* assessment becomes apparent.

64.4 If the *Project Manager* does not assess a compensation event within the time allowed, the *Contractor* notifies the *Project Manager* to this effect. If the *Contractor* submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the *Project Manager* does not reply within two weeks of this notification the notification is treated as acceptance of the *Contractor's* quotation by the *Project Manager*.

Implementing 65 compensation events

65.1 A compensation event is implemented when

- the *Project Manager* notifies his acceptance of the *Contractor's* quotation,
- the *Project Manager* notifies the *Contractor* of his own assessment or
- a *Contractor's* quotation is treated as having been accepted by the *Project Manager*.

65.2 The assessment of a compensation event is not revised if a forecast upon which it is based is shown by later recorded information to have been wrong.

65.4 The changes to the Prices, the Completion Date, the Key Dates and Milestone Dates (where applicable) are included in the notification implementing a compensation event.

7 Title

The Employer's title to Plant and Materials and Equipment 70

70.1 Whatever title the *Contractor* has to Plant and Materials passes to the *Employer* if it has been brought within the Working Areas. Notwithstanding the foregoing, title passes to the *Employer* on payment being made by the *Employer* to the *Contractor* for Plant and Materials outside the Working Areas. Title to Equipment purchased for work included in this contract passes to the *Employer* on payment being made by the *Employer* to the *Contractor* for such Equipment.

70.2 Not used.

70.3 No payment is made to the *Contractor* on account of Plant and Materials which are outside the Working Areas unless the *Project Manager* has given his permission and the *Contractor* has provided an on demand form of bond in the full amount of such payment in the form set out in Annexure 5, Part B to this contract provided by a bank or insurer which the *Project Manager* has accepted. If the rating of the provider of the bond as published by Standard & Poors falls below "A" and if the *Employer* so requests, the *Contractor* provides to the *Employer* within 35 days of such request a bond in the same form and amount (net of any claims previously made on the bond) as that originally provided and from a bank or insurer which the *Project Manager* has accepted provided always that failure by the *Contractor* to provide to the *Employer* a replacement bond will not of itself constitute default under the contract sufficient to enable the *Employer* to make a demand under the original bond or terminate the contract.

A reason for not accepting a bank or insurer is that it is not licensed to carry out surety business in the United Kingdom or that its commercial position is not strong enough to carry the bond. Its commercial position will not (unless the *Project Manager* agrees otherwise) be strong enough if it does not have a rating of "A" (Standard & Poors) or equivalent.

70.4 In addition immediately on payment and without any further act being necessary title shall pass to the *Employer* and the *Contractor* shall ensure that the Plant and Materials are clearly tagged, identified as the *Employer's* and set aside for the *Employer*. Risk in such Plant and Materials does not pass on payment.

Marking Equipment, Plant and Materials outside the Working Areas 71

71.1 The *Supervisor* marks Equipment and Plant and Materials

which are outside the Working Areas if

- this contract identifies them for payment and
- the **Contractor** has prepared them for marking as the Works Information requires.

Removing Equipment 72

72.1 The **Contractor** removes Equipment from the Site when it is no longer needed unless the **Project Manager** allows it to be left in the *works*.

Objects and materials within the Site 73

73.1 The **Contractor** has no title to an object of value or of historical or other interest within the Site. The **Contractor** notifies the **Project Manager** when such an object is found and the **Project Manager** instructs the **Contractor** how to deal with it. The **Contractor** does not move the object without instructions.

73.2 The **Contractor** has title to materials from excavation and demolition only as stated in the Works Information.

8 Risks and insurance

Employer's risks 80

80.1 The following are *Employer's* risks.

- Claims, proceedings, compensation and costs payable which are, subject to the *Contractor's* obligations under clause 27.4B and 27.4C, due to
 - use or occupation of the Site by the *works* or for the purpose of the *works* which is the unavoidable result of the *works*,
 - negligence, breach of statutory duty or interference with any legal right by the *Employer* or by any person employed by or contracted to him except the *Contractor* or
 - a fault of the *Employer* or a fault in his design.
- Loss of or damage to Plant and Materials supplied to the *Contractor* by the *Employer*, or by Others on the *Employer's* behalf, until the *Contractor* has received and accepted them.
- Loss of or damage to the *works*, Plant and Materials due to
 - war, civil war, rebellion, revolution, insurrection, terrorism, military or usurped power,
 - strikes, riots and civil commotion not confined to the *Contractor's* employees or
 - radioactive contamination.
- Loss of or wear or damage to the parts of the *works* taken over by the *Employer*, except loss, wear or damage occurring before the issue of the Defects Certificate which is due to
 - a Defect,
 - an event occurring before take over which was not itself an *Employer's* risk or
 - the activities of the *Contractor* on the Site after take over.
- Loss of or wear or damage to the *works* and any Equipment, Plant and Materials retained on the Site by the *Employer* after a termination, except loss, wear or damage due to the activities of the *Contractor* on the Site after the termination.
- Additional *Employer's* risks stated in the Contract

Data.

80.2 Except as provided above, the **Employer** carries no risk in relation to Equipment notwithstanding the passing of title to the **Employer** in accordance with this contract.

The Contractor's risks 81

81.1 From the **starting date** until the Defects Certificate has been issued, the risks which are not carried by the **Employer** are carried by the **Contractor**.

Repairs 82

82.1 Until the Defects Certificate has been issued and unless otherwise instructed by the **Project Manager**, the **Contractor** promptly replaces loss of and repairs damage to the **works** and Plant and Materials.

Indemnity 83

83.1 Each Party indemnifies the other against claims, proceedings, compensation and costs due to an event which is at his risk.

83.2 The liability of each Party to indemnify the other is reduced if events at the other Party's risk contributed to the claims, proceedings, compensation and costs. The reduction is in proportion to the extent that events which were at the other Party's risk contributed, taking into account each Party's responsibilities under this contract.

Insurance cover 84

84.1 The **Contractor** provides the insurances stated in the Insurance Table except any insurance which the **Employer** is to provide as stated in the Contract Data. The **Contractor** provides additional insurances as stated in the Contract Data.

84.2A The first and third insurances in the Insurance Table are in the joint names of the Parties and all subcontractors and suppliers of any tier. The second insurance in the Insurance Table is in the joint names of the Parties.

84.2B The insurances provided by the **Contractor** provide cover for events which are at the **Contractor's** risk from the **starting date** until the Defects Certificate or a termination certificate has been issued or until any other date stated in the Contract Data.

84.2C The insurance requirements under this contract do not relieve the **Contractor** from any of his other obligations and liabilities under this contract.

84.2D The insurances provided by the **Contractor** are placed with a reputable insurer or insurers which the **Project Manager** has accepted. A reason for not accepting an insurer is **that it does not have a rating of "A" (Standard & Poors) or equivalent or is not authorised to underwrite such risks in the European Union.**

INSURANCE TABLE

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage to the <i>works</i> , Plant and Materials	The replacement cost subject to the amount stated in the Contract Data
Loss of or damage to Equipment	The replacement cost subject to any amount stated in the Contract Data
Liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) caused by activity in connection with this contract	The amount stated in the Contract Data for any one occurrence with cross liability so that the insurance applies to the Parties separately
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The greater of the amount required by the Applicable Law and the amount stated in the Contract Data for any one event
Liability for failure of the <i>Contractor</i> to use the skill and care normally used by professionals providing services similar to the services provided by the <i>Contractor</i> in connection with the <i>works</i>	The amount stated in the Contract Data in respect of each claim without limit to the number of claims
Loss of or damage to Plant and Materials in transit outside the territorial limits of the <i>Employer's</i> insurance or in transit by sea and air to the Site.	The replacement cost

Insurance policies 85

- 85.1 Before the *starting date* and on each renewal of the insurance policy until the *defects date*, the *Contractor* submits to the *Project Manager* for acceptance certificates and policies which state that the insurance required by this contract is in force and the terms on which it is held. The certificates and policies are signed by the *Contractor's* insurer or insurance broker. A reason for not accepting the certificates and policies is that they do not comply with this contract.
- 85.2 Insurance policies include a waiver by the insurers of their subrogation rights against directors and other employees

of every insured except where there is fraud.

85.3 The Parties comply and the **Contractor** shall procure that all subcontractors and suppliers of any tier shall comply with the terms and conditions of the insurance policies.

85.4 Any amount not recovered from an insurer (including any deductible under an insurance policy provided by the **Employer**) and any loss adjuster fees relating to claims within any deductible is borne by the **Employer** for events which are at his risk and by the **Contractor** for events which are at his risk.

If the Contractor does not insure 86

86.1 The **Employer** may insure a risk which this contract requires the **Contractor** to insure if the **Contractor** does not submit a required certificate. The cost of this insurance to the **Employer** is paid by the **Contractor**.

Insurance by the Employer 87

87.1 The **Project Manager** submits policies for insurances provided by the **Employer** to the **Contractor** for acceptance before the **starting date** and afterwards as the **Contractor** instructs. The **Contractor** accepts the policies if they comply with this contract.

87.2 The **Contractor's** acceptance of an insurance policy provided by the **Employer** does not change the responsibility of the **Employer** to provide the insurances stated in the Contract Data.

87.3 The **Contractor** may insure a risk which this contract requires the **Employer** to insure if the **Employer** does not submit a required policy. The cost of this insurance to the **Contractor** is paid by the **Employer**.

9 Termination

Termination

90

90.1 If either Party wishes to terminate the *Contractor's* employment he notifies the *Project Manager* and the other Party giving details of his reason for terminating. The *Project Manager* issues a termination certificate to both Parties promptly if the reason complies with this contract.

90.2 The *Contractor* may terminate only for a reason identified in the Termination Table. The *Employer* may terminate for any reason. The procedures followed and the amounts due on termination are in accordance with the Termination Table.

TERMINATION TABLE

Terminating Party	Reason	Procedure	Amount due
The <i>Employer</i>	A reason other than R1–R22	P1, P2, P3 and P5	A1, A2 and A4
	R1–R15 or R18 or R22	P1, P2, P3 and P5	A1 and A3
	R17 or R20	P1, P2, P3 and P5	A1 and A2
	R21	P1, P2, P3 and P5	A1 and A2
	R23	P1, P2, P3 and P5	A5
The <i>Contractor</i>	R1–R10	P1, P4 and P5	A1 and A2
	R16 or R19	P1, P4 and P5	A1, A2 and A4
	R17 or R20	P1, P4 and P5	A1 and A2

The procedures for termination are implemented

- 90.3 immediately after the *Project Manager* has issued a termination certificate.
- 90.4 Within thirteen weeks of termination, the *Project Manager* certifies a final payment to or from the *Contractor* which is the *Project Manager's* assessment of the amount due on termination less the total of previous payments. Payment is made within three weeks of the *Project Manager's* certificate.
- 90.5 After a termination certificate has been issued, the *Contractor* does no further work necessary to Provide the Works.

Reasons for termination 91

- 91.1 Either Party may terminate if the other Party has done one of the following or its equivalent in any applicable jurisdiction.
- If the other Party is an individual and has
 - presented his petition for bankruptcy (R1),
 - had a bankruptcy order made against him (R2),
 - had a receiver appointed over his assets (R3) or
 - made an arrangement with his creditors (R4).
 - If the other Party is a company or partnership and has
 - had a winding-up order made against it (R5),
 - had a provisional liquidator appointed to it (R6),
 - passed a resolution for winding-up (other than in order to amalgamate or reconstruct) (R7),
 - had an administration order made against it (R8),
 - had a receiver, receiver and manager, administrator or administrative receiver appointed over the whole or a substantial part of its undertaking or assets (R9) or
 - made an arrangement with its creditors (R10).

any such reason shall be known as an **"Act of Insolvency"**.

- 91.2 The **Project Manager** notifies and the **Employer** may terminate (whether or not such notification is provided) if the **Contractor** has defaulted in one of the following ways and not put the default right within four weeks of notification of such default by the **Project Manager** or the **Employer**.
- Failed to comply with his obligations (R11).
 - Not provided a bond or guarantee which this contract requires (R12).
 - Appointed a Subcontractor for substantial work before the **Project Manager** has accepted the Subcontractor (R13).
- 91.3 The **Employer** may terminate immediately if the **Contractor** has defaulted in one of the following ways.
- The **Contractor** commits a Prohibited Act (R22)
 - Broken a health or safety regulation or a health or safety requirement of this contract (R15).
- 91.3A The **Employer** may terminate immediately if the **Contractor** has substantially hindered the **Employer** or Others (R14) and not stopped such hindrance within four weeks of a notification by the **Project Manager** to the **Contractor** of such hindrance.
- 91.4 Save where the **Employer** has complied with clause 51.2A, the **Contractor** may terminate if the **Employer** has not paid an amount certified by the **Project Manager** within thirteen weeks of the date of the certificate (R16) provided always that the **Contractor** has given written notification to the **Employer** of such intention to terminate at least four (4) weeks prior to any such termination and the **Employer** has not paid the amount due within that period.
- 91.5 Either Party may terminate if the Parties have been released under the law from further performance of the whole of this contract (R17).
- 91.6 If the **Project Manager** has instructed the **Contractor** to stop or not to start any substantial work or all work and an instruction allowing the work to re-start or start has not been given within thirteen weeks,
- the **Employer** may terminate if the instruction was due to a default by the **Contractor** (R18),
 - providing the **Contractor** has given written notification to the **Employer** of an intention to terminate at least four (4) weeks prior to expiry of the above 13 weeks and no instruction allowing the work to restart or start has been given within that period, the **Contractor** may terminate if the instruction was due to a default by the **Employer**

(R19) and

- providing written notification of an intention to terminate is given to the other Party at least four (4) weeks prior to expiry of the above 13 weeks and no instruction allowing the work to restart or start has been given within that period, either Party may terminate if the instruction was due to any other reason (R20).

91.7 The *Employer* may terminate if an event occurs which

- stops the *Contractor* completing the *works* or
- stops the *Contractor* completing the *works* by the date shown on the Accepted Programme and is forecast to delay Completion by more than 13 weeks,

and which

- neither Party could prevent and
- an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it (R21).

91.7A The *Employer* may terminate at any time if he exercises his right to reject the *works* under clause Z32 (if applicable to this contract) (R23).

Procedures on termination 92

92.1 On termination, the *Employer* may complete the *works* and may use any Plant and Materials and Equipment to which he has title (P1).

92.2 The procedure on termination also includes one or more of the following as set out in the Termination Table.

P2 The *Employer* may instruct the *Contractor* to leave the Site and the Working Areas, remove any Equipment, Plant and Materials from the Site and the Working Areas and assign the benefit of any subcontract or other contract related to performance of this contract to the *Employer*.

P3 The *Employer* may use any Equipment to which the *Contractor* has title to complete the *works*. The *Contractor* promptly removes the Equipment from Site when the *Project Manager* notifies him that the *Employer* no longer requires it to complete the *works*.

P4 The *Contractor* leaves the Working Areas and removes the Equipment to which the *Contractor* has

title.

P5 The *Contractor* gives to the *Employer* or the *Employer's* nominee all information in its possession relating to the *works* or this contract that the *Employer* may reasonably request.

Payment on termination 93

93.1 The amount due on termination includes where set out in the Termination Table (A1)

- an amount due assessed as for normal payments,
- the Defined Cost for Plant and Materials
 - within the Working Areas or
 - to which the *Employer* has title and of which the *Contractor* has to accept delivery,
- other Defined Cost reasonably incurred in expectation of completing the whole of the *works*,
- any amounts retained by the *Employer* and
- a deduction of any un-repaid balance of an advanced payment.

93.2 The amount due on termination also includes one or more of the following as set out in the Termination Table. For the avoidance of doubt the *Contractor* is not entitled to claim any loss of profit (save to the extent such loss might be included in any amount recoverable under A4) or other costs or losses arising from any termination.

A2 The forecast Defined Cost of removing the Equipment.

A3 A deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *works* together with the amount of any loss or expense or additional cost incurred or suffered by the *Employer* and arising out of the termination in relation to the event entitling the *Employer* to terminate.

A4 A sum equivalent to 25% of the sum calculated by applying the *direct fee percentage* to any excess of the total of the Prices at the Contract Date over the Price for Work Done to Date.

A5 The *Contractor* pays to the *Employer* any amounts paid by the *Employer* to the *Contractor* up to the date of termination in respect of the rejected *works* and, where the *Contractor* fails to remove the rejected *works* in accordance with clause Z32, the forecast cost to the *Employer* of removing the

rejected *works*.

- 93.3 The amount due on termination is assessed without taking grouping of activities into account.

DISPUTE RESOLUTION

Option W2A

- Dispute Resolution** W2A.1 Any dispute or difference between the Parties as to the construction of this contract or any matter or thing of whatsoever nature arising under this contract or in connection therewith (a "Dispute") shall be resolved pursuant to the terms of this clause W2A.
- Managerial Discussions** W2A.2 Without prejudice to the Parties' rights at any time to refer Disputes to adjudication in accordance with this clause W2A the Parties shall each use their reasonable endeavours to resolve any Dispute which may arise and notwithstanding any referral in accordance with clause W2A.3 shall refer any Dispute which may lead to a claim in excess of 7 days or [REDACTED] (a "Significant Dispute") to the relevant *nominated representative* of each Party for prompt, bona fide discussion of the Significant Dispute in question.
- Adjudication Procedure** W2A.3 Either party may give notice at any time of its intention to refer to adjudication a Dispute arising out of or in connection with this contract and such adjudication shall be conducted in accordance with The Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) Regulations 2011. The adjudicator shall be agreed between the Parties from the *panel of adjudicators* whose identities are referred to in the Contract Data (or such replacements or additional members as are notified to the *Contractor*) or failing which the adjudicator shall be nominated by the President or Vice President of the Institution of Civil Engineers from such panel provided that prior to such nomination either Party shall have the right to identify not more than one member of the panel who is not to be nominated to conduct that adjudication. If the Contract Data does not specify the identities of the *panel of adjudicators* the adjudicator shall be either agreed by the Parties or nominated by the President or Vice President of the Institution of Civil Engineers.
- Joinder** W2A.4 (a) If a Dispute arising under this contract raises issues of fact or law which are the same as, or relate to issues raised in an unresolved dispute between the *Employer* and any Other (a "Related Dispute"):
- (i) the *Employer* may require a representative of the parties in the Related Dispute to meet with the parties under this contract and endeavour to resolve both the Related Dispute and the Dispute; and
 - (ii) the *Employer* may refer the Related Dispute to an adjudicator or court to which the Dispute has been referred under this contract or may refer the Dispute to an adjudicator or court to which the Related Dispute had been referred

and the proceedings shall be consolidated, save where the adjudicator or court shall in its absolute discretion determine that it is not possible to consolidate the proceedings; and

- (iii) any dispute as to whether the Dispute raises issues of fact or law or fact and law which are the same as or related to issues of fact or law in the Related Dispute shall be resolved by the adjudicator or court to which the Dispute and the Related Dispute have been referred, provided that, if the adjudicator or court decides that such issues of fact or law do not arise in the Related Dispute this clause W2A.4 shall cease to apply; and
 - (iv) the adjudicator or court to whom the Dispute and the Related Dispute have been referred shall have power to make such decisions, directions and all necessary orders and awards in respect of the Dispute and the Related Dispute in the same way as if the procedure of the High Court as to joining one or more defendants or joining co-defendants or third parties was available to the parties and to him.
- (b) The **Employer** may only refer a Related Dispute to the adjudicator appointed in relation to a Dispute if the adjudicator receives particulars of the Related Dispute within seven days of the referral of the Dispute to the adjudicator under this contract and may only refer a Dispute to the adjudicator appointed in relation to a Related Dispute if the adjudicator receives particulars of the Dispute within seven days of the referral of the Related Dispute to the adjudicator.

**Final and Binding
Decision**

W2A.5

The Parties may agree that the adjudicator's decision shall be final and binding and shall finally determine any Dispute, or in the absence of such agreement may otherwise refer such Dispute to the courts of England and Wales for further determination

SECONDARY OPTION CLAUSES

Option X1: Price adjustment for inflation

Defined terms	X1	
	X1.1	<p>(a) The Base Date Index (B) is the latest available index before the <i>base date</i>.</p> <p>(b) The Latest Index (L) is the latest available index before the date of assessment of an amount due.</p> <p>(c) The Price Adjustment Factor is the total of the products of each of the proportions stated in the Contract Data multiplied by $(L - B)/B$ for the index linked to it.</p>
Price Adjustment Factor	X1.2	<p>If an index is changed after it has been used in calculating a Price Adjustment Factor, the calculation is repeated and a correction included in the next assessment of the amount due.</p> <p>The Price Adjustment Factor calculated at the Completion Date for the whole of the <i>works</i> is used for calculating price adjustment after this date.</p>
Compensation events	X1.3	<p>The Defined Cost for compensation events is assessed using the</p> <ul style="list-style-type: none">• Defined Cost current at the time of assessing the compensation event adjusted to <i>base date</i> by dividing by one plus the Price Adjustment Factor for the last assessment of the amount due and• Defined Cost at <i>base date</i> levels for amounts calculated from rates stated in the Contract Data for employees and Equipment.
Price adjustment	X1.5	<p>Each time the amount due is assessed, an amount for price adjustment is added to the total of the Prices which is the sum of</p> <ul style="list-style-type: none">• the change in the Price for Work Done to Date since the last assessment of the amount due multiplied by $(PAF/(1 + PAF))$ where PAF is the Price Adjustment Factor for the date of the current assessment and• correcting amounts, not included elsewhere, which arise from changes to indices used for assessing previous amounts for price adjustment.

Option X2: Changes in the law

Changes in the law	X2	
	X2.1	<p>A change in the Applicable Law is a compensation event if it occurs after two years from the Contract Date. The <i>Project Manager</i> may notify the <i>Contractor</i> of a compensation event for a change in the law and instruct him to submit quotations. If the effect of a compensation event which is a change in the law is to reduce the total Defined Cost, the Prices are reduced.</p>

Option X4: Parent company guarantee

Parent company X4 guarantee

- X4.1 If a parent company owns the *Contractor*, the *Contractor* gives to the *Employer* a guarantee by the ultimate parent company of the *Contractor's* performance in the form set out in Annexure 7 to this contract. The guarantee is given at the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.
- X4.2 If the *Contractor* is an incorporated joint venture, the ultimate parent company of each shareholder in the *Contractor* gives to the *Employer* a guarantee of the *Contractor's* performance in the form set out in Annexure 7 to this contract. The guarantee is given at the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.
- X4.3 If the *Contractor* comprises two or more companies acting in an unincorporated joint venture, consortium, partnership or otherwise, each such company gives to the Employer a guarantee by its ultimate parent company of such company's performance in the form set out in Annexure 7 to this contract. The guarantee is given at the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.
- X4.4 If the guarantor providing a guarantee required pursuant to this clause X4 is not a company registered in England and Wales, such guarantor shall provide to the *Employer* a legal opinion in the form set out in Annexure 8 on the guarantor's execution of any such guarantee.
- X4.5 Upon any novation of this contract in accordance with clause Z5 the *Contractor* shall give to the *Employer* further guarantees and legal opinions on identical terms as any guarantees and legal opinions required pursuant to clause X4.1 to X4.4.

Option X5: Sectional Completion

Sectional Completion X5

- X5.1 In these *conditions of contract*, unless stated as the whole of the *works*, each reference and clause relevant to
- the *works*,
 - Completion and
 - Completion Date

applies, as the case may be, to either the whole of the *works* or any *section* of the *works*.

Option X7: Delay damages

Delay damages X7

- X7.1 The *Contractor* pays delay damages at the rate stated in the Contract Data from the Completion Date for each day until the earlier of
- Completion and
 - the date on which the *Employer* takes over the *works*.
- X7.2 If the Completion Date is changed to a later date after delay damages have been paid, the *Employer* repays the overpayment of damages with interest. Interest is assessed from the date of payment to the date of repayment and the date of repayment is an assessment date.
- X7.3 If the *Employer* takes over a part of the *works* before Completion, the delay damages are reduced from the date on which the part is taken over. The *Project Manager* assesses the benefit to the *Employer* of taking over the part of the *works* as a proportion of the benefit to the *Employer* of taking over the whole of the *works* not previously taken over. The delay damages are reduced in this proportion.

Option X8: Collateral warranty agreements

Collateral warranty agreements X8

- X8.1 The *Contractor* enters into *collateral warranty agreements* in the forms set out in Annexure 6 to this contract in favour of each of the parties identified in the Contract Data on execution of this contract or within 14 days of the identity of the beneficiary being given to the *Contractor*.

Option X13: Performance bond

Performance bond X13

- X13.1 The *Contractor* gives the *Employer* a performance bond, provided by a bank or insurer which the *Project Manager* has accepted, for the amount stated in the Contract Data and in the form set out in Annexure 5, Part A to this contract.

- X13.2 If the bond was not given by the Contract Date, it is given to the **Employer** within four weeks of the Contract Date.
- X13.3 After Completion of the whole of the **works** the **Contractor** may give the **Employer** a replacement performance bond in an amount equivalent to 2.5% of the tendered total of the Prices specified in the Contract Data provided always that such replacement bond shall be in the same form and be provided by the same bank or insurer as the original performance bond. On receipt of such replacement bond the **Employer** shall release the original bond to the **Contractor** provided that the **Employer** may retain the original bond if a Dispute exists on or after Completion of the whole of the works.
- X13.4 If the rating of the provider of a performance bond as published by Standard & Poors falls below "A" and if the **Employer** so requests, the **Contractor** provides to the **Employer** within 35 days of such request a bond in the same form and amount (net of any claims previously made on the bond) as that originally provided and from a bank or insurer which the **Project Manager** has accepted provided always that failure by the **Contractor** to provide to the **Employer** a replacement bond will not of itself constitute default under the contract sufficient to enable the **Employer** to make a demand under the original bond or terminate the contract.
- X13.5 A reason for not accepting a bank or insurer is that it is not licensed to carry out surety business in the United Kingdom or that its commercial position is not strong enough to carry the bond. Its commercial position will not (unless the **Project Manager** agrees otherwise) be strong enough if it does not have a rating of "A" (Standard & Poors) or equivalent.

Option X18: Limitation of liability

Limitation of liability X18

- X18.1 The **Contractor's** total liability to the **Employer** for all matters arising under or in connection with this contract, other than the excluded matters (but including, for the avoidance of doubt, any delay damages if Option X7 and/or clause Z27 applies), is limited to the amount stated in the Contract Data and applies in contract, tort or delict and otherwise to the extent allowed under the **law of the contract** (the "Total Liability Cap").

The excluded matters are amounts payable by the **Contractor** for

- liability of the **Contractor** in the event of abandonment or suspension by the **Contractor**,
- costs of rectifying Defects (whether or not they are listed on the Defects Certificate),
- liability of the **Contractor** under clause Z8F,

- any other liability for Losses against which the **Contractor** is indemnified under any policy of insurance, and
- any other items stated in the Contract Data as being excluded matters.

For the avoidance of doubt, sums recovered under the performance bond referred to in Option X13, the parent company guarantee referred to in Option X4 or any collateral warranty referred to in Option X8 shall count towards the Total Liability Cap.

X18.2 The **Contractor** shall not be held liable for any Defect arising from

- misuse of the **works** (except by the **Contractor** or its subcontractors or suppliers of any tier or where such misuse occurred at a time when the **Contractor** or a subcontractor or supplier of any tier was in custody or control of the **works** or was responsible for their security);
- lack of maintenance (save to the extent the **Contractor** or its subcontractors or suppliers of any tier are responsible for such lack of maintenance);
- modifications made to, or assembly, disassembly, or re-siting of the **works** (or any part thereof) outside of the parameters allowed for in the **Contractor's** maintenance manuals which are carried out other than by the **Contractor** or its subcontractors or suppliers of any tier except where the failure has resulted from adopting any advice given by the **Contractor** in relation to the manner in which such modifications, assembly, disassembly or re-siting should be carried out;
- fair wear and tear occurring after Completion; or
- failures occurring after Completion which are correctable by the replacement of a consumable item such as a fuse, light-bulb or similar item which is generally available from suppliers other than the **Contractor**.

OPTION Y

Option Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Third party rights Y(UK)3

Y3.1

A person or organisation who is not one of the Parties may enforce a term of this contract under the Contracts (Rights of Third Parties) Act 1999 only if the term and the person or organisation are stated in the Contract Data.

OPTION Z

Option Z: *Additional conditions of contract*

Additional conditions of contract Z1

Z1.1 The *additional conditions of contract* stated in the Contract Data are part of this contract.

Training Z2

Z2.1 The *Employer* is not responsible for the adequacy or otherwise of the training of any staff of the *Contractor* or a subcontractor or supplier of any tier whether or not such staff were trained at any academy established by the *Employer*. For the avoidance of doubt the *Employer* is under no obligation to establish any such academy and in the event any such academy is established but is unable to offer adequate training the *Employer* shall have no responsibility for the same.

Equality and diversity Z3

Z3.1 Without limiting the generality of any other provision of the contract, the *Contractor*:

- complies with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- acknowledges that the *Employer* is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
 - promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - eliminate unlawful discrimination; and
 - promote good relations between persons of different racial groups, religious beliefs and sexual orientation,and in Providing the Works, the *Contractor* assists and co-operates with the *Employer* where possible to enable the *Employer* to satisfy its duty; and
- assists and co-operates with the *Employer* where possible to enable the *Employer* to comply with its duties under section 1 and section 149 of the Equality Act 2010 as and

when section 1 and/or section 149 come into force, including any amendment or re-enactment of section 1 or section 149, and any guidance, enactment, order, regulation or instrument made pursuant to these sections.

Crime and disorder Z3.2

The *Contractor* acknowledges that the *Employer* is under a duty under Section 17 of the Crime and Disorder Act, 1998 to

- have due regard to the impact of crime, disorder and community safety in the exercise of the *Employer's* duties,
- where appropriate, identify actions to reduce levels of crime and disorder, and
- without prejudice to any other obligation imposed on the *Employer*, exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Assignment Z4

The *Contractor* does not assign the contract or any part thereof or any benefit or interest therein or thereunder without the prior written consent of the *Employer*. The *Employer* may assign the contract or any part thereof or any benefit or interest therein or thereunder.

Novation Z5

Z5.1 The *Contractor* shall within fourteen days of the *Employer's* request execute and deliver to the *Employer*:

- any guarantees required by clause X4.5;
- any legal opinions required by clause X4.4 and Z26.2; and
- a deed of novation in the form annexed at Annexure 4 with:
 - the *Employer* and any New Employer, or any nominee of such New Employer;
 - the *Employer* and any other contractor of the *Employer*; and/or
 - the *Employer* and any operator of any depot or of the railway transport system the subject of the Programme (as the *Employer* directs).

Z5.2 If the *Contractor* does not execute and deliver such deed of novation to the *Employer* within such time period then no further payment is due to the *Contractor* until the *Contractor* has executed and delivered such deed of novation to the *Employer*.

Not used Z6

Interface Z7

The *Contractor* pays to the *Employer* amounts paid by the *Employer* to Others who are engaged or required by the *Employer* to carry out works (other than the *works*), to provide services or from whom consents, licences, or releases are required by the *Employer* on or in connection with the Project or the Programme because of any: -

- default;
- negligence; or
- failure to comply with this contract,

by the *Contractor*.

The Parties' use of material Z8

Defined Terms Z8A

(1) 60% Design Gate Review is the design gate review to be undertaken when a design is 60% complete as further detailed in the Works Information Volume 2B Part 29 - **Contractor's Design, Assurance, Records and Certification** (Systemwide).

(2) 90% Design Gate Review is the design gate review to be undertaken when a design is 90% complete as further detailed in the Works Information Volume 2B Part 29 - **Contractor's Design, Assurance, Records and Certification** (Systemwide).

(3) Contractor IPR means all Intellectual Property rights used by the *Contractor* or a subcontractor or supplier of any tier in connection with Providing the Works (including in supplying the Materials) and complying with the *Contractor's* obligations under this contract, including all Intellectual Property rights subsisting in the *works* and in any equipment used or to be used in conjunction with development, operation and maintenance of the *works*, in all cases:

- whether created before or after the date of this contract,
- excluding the Employer IPR.

(4) Employer IPR means Intellectual Property rights:

- owned by or otherwise in the possession of the *Employer* at the Contract Date;
- developed by or on behalf of the *Employer*, other than by the *Contractor* pursuant to this contract, following the date of this contract;
- in any modifications or enhancements made

by the **Contractor** or a subcontractor or supplier of any tier to the **Employer's** materials licensed under clause Z8E.1; and

- as specified in clause Z8H.1.
- (5) Escrow means the deposit with, and retention by, the Escrow Agent of, the Escrow Information.
- (6) Escrow Agent means NCC Escrow International Limited or any successor or replacement to all or any of its functions.
- (7) Escrow Agreement means an agreement in the form of the NCC Group Single Licensee Software Escrow Agreement between the **Contractor**, the **Employer** and the Escrow Agent, subject to any amendments required to give effect to the requirements of clause Z8K.
- (8) Escrow Information means the Software, the Source Code and the Hardware Information and shall include without limitation:
- all source code files;
 - files defining the various configuration parameters for the compiler, linker and assembler;
 - compiler, linker and assembler tool set (may be more than one);
 - documentation defining the compiler environment and full instructions on how to compile the source code and create the binary images that the equipment will run; and
 - a method to test that the final result is actually what is expected (as in the software binary image is identical to the one originally supplied),

but shall not include any Software, Source Code or Hardware Information which the **Contractor** demonstrates is uncustomised and available off-the-shelf on arm's length terms from suppliers other than the **Contractor**.

- (9) Hardware means all electronic hardware and IT system components comprised in, installed in, or used for the operation, maintenance, servicing, repairing or overhauling of, the **works** or any equipment to be used in conjunction with the **works** and supplied by the **Contractor** under this contract.
- (10) Hardware Information means all information necessary to enable a reasonably skilled technician to operate, maintain, support, service, repair, overhaul and

enhance the Hardware, including details of its system architecture.

- (11) Intellectual Property means any and all patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software (including source codes) and databases, topography rights (in each case whether registered or not and including any applications to register or rights to apply for registration of any of the foregoing), rights in inventions, Know-How, trade secrets and other confidential information, rights in databases and other intellectual property rights of a similar or corresponding character which may now or in the future subsist in any part of the world.
- (12) Know-How means information and know-how whether patentable or not including but not limited to all patented techniques, operating instructions, machinery designs, raw material or product specifications, drawings, blueprints, and any other technical and commercial information relating to design, development, manufacture, assembly, use or sale.
- (13) Maintenance Release means a release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Release.
- (14) Materials means all documents, items information, data, reports, drawings, specifications, plans, software, designs, inventions and/or other material produced or supplied by the **Contractor** as part of or in connection with the **works** and/or this contract.
- (15) Modifications means any Maintenance Release or New Release.
- (16) New Release means a new release of all or any part of the Software suitable for use by the **Employer** in which previously identified faults have been remedied or to which any modification, enhancement, revision or update has been made, or to which a further function or functions have been added.
- (17) Software is any computer programme installed in, or used for the operation, maintenance, servicing, repairing or overhauling of, the **works** or any equipment to be used in conjunction with the **works** and supplied by the **Contractor** under this contract.
- (18) Source Code means, with respect to any Software, all logic, logic diagrams, flow charts, orthographic representations, algorithms, routines, sub-routines, utilities, models, file structures, coding sheets, coding, source codes, listings, functional specifications and program specifications and all other materials and documents necessary to enable a reasonably skilled

programmer to support, maintain, amend and enhance that Software without reference to any other person or document, all in human eye-readable or machine-readable form.

(19) Third Party Rights means all Intellectual Property rights in the Contractor IPR which are not owned by the *Contractor*.

Ownership of Rights Z8B

Z8B.1 As between the Parties, the Contractor IPR shall vest in and be the property of the *Contractor* and the Employer IPR shall vest in and be the property of the *Employer*. No Party will make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of any of the IPR of the other Party except under the terms of this contract, and each Party acknowledges that nothing contained in this contract shall give it any right, title or interest in or to the IPR of the other Party save as granted in this contract.

Licence from the Contractor Z8C

Z8C.1 The *Contractor* grants the *Employer* a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the *works*) and the training of personnel in connection with any of the above activities (the "Permitted Purposes").

The licence shall be capable of assignment (but only as part of the assignment of this contract as a whole in accordance with clause Z4) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the *Contractor*.

Such licence does not include:

- the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software except on the occurrence of a Release Event as defined in clause Z8K.6 and on such occurrence only for the Permitted Purposes; nor
- the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the *works* without the prior written consent of the *Contractor* (not to be unreasonably withheld or delayed in the event the *Contractor* is unable or unwilling, on competitive terms and conditions, to supply such spare part or

part of the *works* or a suitable alternative) except on the occurrence of a Release Event as defined in clause Z8K.6,

and any sub-licence granted by the *Employer* shall carry similar restrictions. Provided always that such restrictions shall not prevent the *Employer* obtaining uncustomised off-the-shelf products from suppliers other than the *Contractor*.

Z8C.2 For the avoidance of doubt, the *Contractor* shall not be liable to the *Employer* in respect of any use by the *Employer* of the Contractor IPR in a manner or for a purpose not specified in this clause Z8C.

Third Party Rights Z8D

Z8D.1 The *Contractor* shall be responsible for obtaining all necessary consents, authorities or approvals required to use any Third Party Rights necessary for performing its obligations under this contract.

Z8D.2 The *Contractor* shall ensure that it is a condition of any licence into which the *Contractor* or any subcontractor or supplier of any tier enters with a third party that the *Employer* shall be entitled to a licence in respect of such Third Party Rights on the terms set out in clause Z8C.

Licence from the Employer Z8E

The *Employer* hereby grants to the *Contractor* for the term of this contract and free of charge a non-exclusive, royalty-free licence to use such of the *Employer's* data, reports, drawings, specifications, plans, software, designs, inventions and/or other material of the *Employer* as are required by the *Contractor* to Provide the Works and to fulfil its other obligations pursuant to this contract and which relate to the *works*. This licence is limited to use of such materials for the purpose of, and solely as necessary for, the *works* during the term of this contract. To the extent that any modifications or enhancements to materials licensed by the *Employer* to the *Contractor* under this clause Z8E are carried out by or on behalf of the *Contractor* in Providing the Works, the *Contractor* hereby assigns (or shall procure that the *Employer* is granted an assignment of) all present and future Intellectual Property in those modifications and enhancements. By virtue of this clause Z8E all such Intellectual Property rights shall vest in the *Employer* on their creation.

Warranties and Indemnity Z8F

Z8F.1 The *Contractor* warrants that:

(a) it is the beneficial owner or authorised licensee of the

Contractor IPR; and

- (b) the **Employer's** authorised use, including any use specified in clause Z8C.1, of the Contractor IPR and any other Intellectual Property rights developed or supplied by the **Contractor** pursuant to this contract will not infringe Intellectual Property owned by any third party.

Z8F.2 The **Contractor** will indemnify and hold harmless the **Employer** against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the **Employer** (whether direct or consequential) in respect of any claim or action that the **Employer's** authorised use of the Contractor IPR and any other Intellectual Property rights developed or supplied by the **Contractor** pursuant to this contract infringes the Intellectual Property rights of any third party.

Infringements Z8G

The **Contractor** shall exercise good commercial discretion in watching for Intellectual Property rights and the publication of any applications for the registration of Intellectual Property rights owned or controlled by third parties which may be relevant to the intentions of the **Employer** and the **Contractor** as expressed in this contract. Should any such Intellectual Property rights of a third party come to the notice of the **Contractor**, then the **Contractor** shall inform the **Employer** promptly and the parties shall decide jointly what action is to be taken. In the event of an agreement not being reached by the **Employer** and the **Contractor**, the **Employer** shall make the final decision in respect of Employer IPR. The **Employer** and the **Contractor** shall at all times have regard when making their decision to the Patents Act 1977 and any subsequent amendment or enactment of such legislation and any other Applicable Law.

Copyright and Publication Z8H

Z8H.1 The **Employer** shall be the proprietor of the copyright in this contract and any data provided by the **Employer** relating to this contract which shall constitute Employer IPR. The **Employer** reserves the right to determine whether any Materials in which Employer IPR is subsisting shall be published and if so on what conditions provided such Materials are not also Contractor Confidential Information and/or Contractor IPR, in which event the **Employer** shall, if so requested by the **Contractor**, redact all or part of the Materials which is Contractor Confidential Information and/or Contractor IPR prior to publication. The **Contractor** shall provide any reports in connection with such Materials that the **Employer** shall request and shall enclose with the report the following disclaimer:

"The authors of this report are employed by []. The work reported herein was carried out under a deed placed on [date of this contract] by Crossrail Limited and should not be

relied upon as authoritative by any third party.

This report shall not be copied or reproduced in whole or in part except with the express consent of Crossrail Limited."

The following disclaimer shall be included by the **Contractor** only if the relevant Material contains Contractor Confidential Information and/or Contractor IPR:

"This report contains Contractor Confidential Information and/or Contractor IPR and shall not be communicated, copied or reproduced in whole or in part except with the express written consent of [the Contractor] and if necessary only following agreed redactions of all or part of the Contractor Confidential Information and/or Contractor IPR."

Z8H.2 The following copyright statement shall be included by the **Contractor** on all copyright items incorporating Employer IPR and intended for reproduction :

"© Crossrail Limited".

Z8H.3 The **Contractor** hereby waives irrevocably and shall procure that any Group Company of the **Contractor** and all of the **Contractor's** and any Group Company of the **Contractor's** officers, employees, agents, subcontractors and suppliers of any tier involved in Providing the Works at any time during the term of this contract shall waive irrevocably all moral rights (including without limitation such rights of the **Contractor**, its officers, employees, agents, subcontractors and suppliers of any tier under sections 77 to 85 of the Copyright Designs and Patents Act 1988 or any similar laws of any jurisdiction to the extent permitted in that jurisdiction) in respect of any Materials which do not incorporate Contractor IPR.

Further Assurances Z8I

Z8I.1 The **Contractor** shall (at its own cost) upon the request of the **Employer** promptly execute all documents and do all acts and things which may be necessary to bring into effect or confirm any assignment or the terms of any of the licences contained or referred to in this clause Z8.

Z8I.2 The Parties shall, when appropriate, execute a formal licence or licences for the purpose of registering any licences granted pursuant to this clause Z8 in such form as may be necessary to give effect to this contract and to conform with the laws for the time being existing in respect of Intellectual Property rights. Such licence or licences shall be subject to all the terms and conditions of this contract.

General Z8J

Z8J.1 The **Contractor** shall not sell, copy or use the Intellectual Property referred to in this clause Z8 if this might compromise the **works** and/or Materials (or any part thereof) or the **Employer's** use of them as permitted by this clause Z8.

- Z8J.2 The **Contractor** shall notify any proposed assignee of this contract of the licences granted to the **Employer** under or in accordance with this contract.
- Z8J.3 Not used.
- Z8J.4 The **Contractor** agrees to provide all assistance reasonably requested by the **Employer** on termination of this contract to hand over to the **Employer** all Materials due to be delivered to the **Employer** under this contract and/or the provision of the **works** to a third party nominated by the **Employer**, both in whatever state they may be at the date of termination.

Escrow Z8K

- Z8K.1 The **Employer** and the **Contractor** shall enter into the Escrow Agreement no later than the 60% Design Gate Review to which the Escrow Information relates (or first 60% Design Gate Review to which the Escrow Information relates, if more than one).
- Z8K.2 The **Contractor** shall place the relevant Escrow Information in Escrow with the Escrow Agent on the terms set out in the Escrow Agreement no later than the 60% Design Gate Review to which the Escrow Information relates and further additional or updated Escrow Information no later than the 90% Design Gate Review to which it relates and shall ensure that all Escrow Information has been placed in Escrow no later than Completion. The **Contractor** acknowledges that it shall be a condition of achieving any Key Date or Milestone which relates to any 60% Design Gate Review and/or 90% Design Gate Review and a condition of achieving Completion that all relevant Escrow Information have been deposited in Escrow in accordance with this clause.
- Escrow Information shall be accompanied by supporting documentation and data of a nature and level which is sufficient to enable a reasonably competent software engineer to use the Source Code to recreate or modify the Software.
- Z8K.3 The **Contractor** undertakes to ensure that the Escrow Information deposited in Escrow are up to date at all times (including as a minimum at any relevant 60% Design Gate Review, 90% Design Gate Review and at Completion) up to and including the issue of the Defects Certificate and that the **Employer** has been notified of any updates including, without limitation, to take account of any Modifications.
- Z8K.4 The **Contractor** and the **Employer** mutually undertake to abide by the terms of the Escrow Agreement.
- Z8K.5 The **Employer** shall pay all fees of the Escrow Agent in connection with the Escrow Agreement including but not limited to placement, auditing, storage and release of the Escrow Information.
- Z8K.6 The Parties agree that, for the purposes of the Escrow

Agreement, the Release Events are:

(a) a material breach by the **Contractor** in Providing the Works;

(b) a material failure by the **Contractor** to correct a Defect;

provided always that under clause Z8K.6(a) or (b):

- any such breach or failure is not remedied within such reasonable period of time (which shall not in any event be less than 60 days) as the **Employer** may reasonably specify in a written notice of such breach or failure, having regard to the nature of the breach or Defect, its impact on the **works** and the Programme and the nature of any corrective works or actions required; and
- any such breach or failure to correct a Defect must prevent the **Employer** from using the **works** or Others from doing their work

(c) not used;

(d) termination of this contract for any reason arising from a default of the **Contractor** and subject always to the provisos applicable to Z8K.6(a) and (b);

(e) termination by the Escrow Agent of the Escrow Agreement, if such termination is occasioned by any breach or default by the **Contractor** of its obligations under the Escrow Agreement;

(f) an Act of Insolvency of the **Contractor** but only if such insolvency occurs as part of an Act of Insolvency of the guarantor under clause X4; or

(g) the **Contractor** assigns its Intellectual Property rights in **any Escrow Information to a third party ("Assignee")** and the Assignee fails, within 60 days of such assignment, to continue escrow protection for the benefit of the **Employer** by failing to enter into either:

(i) a novation agreement with the Escrow Agent for the assumption of the **Contractor's rights and obligations** under the Escrow Agreement in respect of the relevant Escrow Information by the Assignee; or

(ii) a new escrow agreement with the **Employer** for the relevant Escrow Information which offers the **Employer** substantially similar protection to that provided by the Escrow Agreement without significantly increasing the overall cost to the **Employer**.

Z8K.7 The **Employer** may only use any Escrow Information delivered to it in accordance with the terms of the Escrow Agreement for all purposes connected with the exercise of its rights or the

performance of its obligations under this contract and the exercise of the rights and performance of the obligation of the “Employer” under the Maintenance Support Contract.

Z8k.8 The *Employer* must provide prior written notice to the *Contractor* of any intention to apply for any release of Escrow Information pursuant to the Escrow Agreement and the *Employer* may not make any application for release of Escrow Information until the expiry of at least 30 days from the date of such notice. The *Contractor* may refer the matter for prompt bona fide discussions between senior management representatives of the Parties and the *Employer* will not apply for any release of Escrow Information whilst any such discussions are ongoing.

Publicity Z9

Z9.1 The *Contractor* shall not, except with the consent of the *Employer*, make any press announcements or publicise this contract or the Programme in any way unless the purpose of such disclosure is to allow compliance with a requirement to disclose information concerning this contract as required by law or the requirement of the stock exchange. The provisions of this clause shall not apply to any information relating to this contract, which is or which pursuant to this clause Z9 is public knowledge (otherwise than by breach of this clause) or which is limited to the fact of the *Contractor* being a party to this contract.

Data Protection Z10

Z10.1 The *Contractor*

- (a) collects the Construction Data as required by the Works Information Data Policy in accordance with the Crossrail Data Policy
- (b) ensures that all individuals whose Personal Data are collected by the *Contractor* in accordance with the Crossrail Data Policy are provided with a copy of the information statement specified in the Crossrail Data Policy setting out how their Personal Data will be Processed
- (c) transfers the Construction Data to the *Employer* or *Project Manager* as required by the Works Information, at which point the *Employer* becomes the Data Controller of such Personal Data and such Personal Data shall become Crossrail Data. For the avoidance of doubt the Crossrail Data shall comprise of Personal Data collected from a number of sources and shall not be limited to the Construction Data.

Z10.2 The *Contractor* may retain a copy of the Construction Data for its own purposes provided that it remains responsible at all times for all Processing other than that which is undertaken

on behalf of the **Employer**.

- Z10.3 Unless the **Employer** takes appropriate steps to widen the Processing which can be undertaken by it, the **Employer** shall only Process the Construction Data for the purposes specified in the information statement specified in the Crossrail Data Policy setting out how their Personal Data will be Processed.
- Z10.4 The Crossrail Data may be processed by the **Contractor** to enable the **Contractor** to undertake the Processing specified in the Crossrail Data Policy. In such circumstances the **Contractor**
- (a) complies with the requirements of the DPA and any equivalent applicable legislation in any other country and in accordance with good industry practice. In particular, the **Contractor** complies with the provisions of the DPA in respect of the Processing of the Crossrail Data as if it were a Data Controller
 - (b) collects, compiles, manipulates and stores or otherwise processes the Crossrail Data only as instructed in writing in advance by the **Employer** or **Project Manager**. The **Contractor** does not carry out any other processing, use or disclosure of the Crossrail Data and
 - (c) where and when requested by the **Employer** or **Project Manager**, provides a copy of all or any part of the Crossrail Data which has been collected by the **Contractor** or provided to the **Contractor** by the **Employer** or a third party, to the **Employer**.
- Z10.5 The **Employer** or **Project Manager** may request by written notice that any specific item of data contained in the Crossrail Data held by the **Contractor** be amended or deleted by the **Contractor** and the **Contractor** immediately fulfils such a request.
- Z10.6 The **Contractor** in particular but without limiting its obligations under Z10.4 above:
- (a) maintains comprehensive registrations or notifications under the DPA or equivalent legislation in any other country in relation to the processing of Personal Data by the **Contractor**
 - (b) is aware at all times of the registerable particulars of the **Employer** under the DPA, and ensures that it does not use, disclose or process the Crossrail Data in any way that is outside the scope of those particulars, provided that the **Employer** notifies the **Contractor** of any alterations in its registerable particulars
 - (c) keeps the Crossrail Data fully up to date on a timely basis at all times during the continuance of this contract
 - (d) assists the **Employer** to respond to any request for

information under Section 7 of the DPA made by an individual which complies with the requirements of the DPA

- (e) at all times has in place appropriate technical, procedural and organisational security measures, to protect the Crossrail Data including but not limited to the protection of:
 - (i) database software and equipment;
 - (ii) the Crossrail Data against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to the Crossrail Data
- (f) ensures that any employees, Data Processors or sub-Data Processors involved in the Processing of the Crossrail Data are bound by the security measures specified in Z10.6(e);
- (g) provides details of the security measures specified in Z10.6(e) to the **Employer** or **Project Manager** in writing within 10 days of a written request from the **Employer** or **Project Manager**; and
- (h) notifies the **Employer** or **Project Manager** immediately if it receives any notice of non-compliance with, or a request for information under the DPA or any equivalent legislation in any other country.

Z10.7 The **Employer** may, at its discretion and on reasonable written notice, require access to the **Contractor's** premises and the provision of sufficient relevant information in order to assess the adequacy of the **Contractor's** security measures.

Z10.8 If any of the Crossrail Data or the Construction Data collected by or in the sole possession of the **Contractor** are either lost or sufficiently degraded to be unusable, the **Contractor** provides replacement and or corrected data within three working days.

Z10.9 The **Contractor** agrees and undertakes to indemnify the **Employer** and hold the **Employer** harmless against all and any costs, liabilities and losses whatsoever incurred by the **Employer** arising out of any action or inaction of the **Contractor** that results in the **Employer** being in breach of any of its obligations or duties under the DPA or equivalent applicable legislation in any other country.

Z10.10 The **Contractor** may not, in any circumstances, transfer any of the Crossrail Data to any country or territory outside the European Economic Area without the **Employer's** prior written consent, which may be withheld in its absolute discretion.

Z10.11 Upon the termination of this contract for whatever reason, the **Contractor**, unless notified otherwise by the **Employer** or **Project Manager** or required by law, immediately ceases all processing of the Crossrail Data and, as requested by the

Employer or *Project Manager*, destroys, sends, or returns to the *Employer* on suitable media all copies of the Crossrail Data held in whatever form by the *Contractor* or any sub-Data Processor.

Z10.12 The Crossrail Data and any rights subsisting in them, including without limitation any database rights, are and shall remain at all times the property of the *Employer*, and the *Contractor* assigns to the *Employer* the copyrights, database rights and all other rights of a like nature in the Crossrail Data conferred under the laws of the United Kingdom and all other countries of the world that will be created by the *Contractor* during the term of this contract for the full term during which those rights and any renewals or extensions subsist.

Z10.13 The *Contractor* warrants that it:

- (a) has maintained and will continue to maintain comprehensive registrations under the DPA or equivalent legislation in any other country in relation to the Processing of Personal Data by the *Contractor*;
- (b) has not received any notice of non-compliance with, or a request for information under the DPA;
- (c) has in place adequate technical and organisational security measures, including database software and equipment, governing the Processing of the Crossrail Data and any employees involved in such Processing; and
- (d) shall carry out the Processing of the Crossrail Data with due skill and care.

Access to Information Z11

Z11.1 The *Contractor* shall free of charge disclose to the *Employer* and allow the *Employer* and/or those nominated by him to inspect all information relating to the *works* (but excluding, at the *Contractor's* discretion, accounts and other financial records) as the *Employer* shall require in order to satisfy itself that the provisions of this contract are being observed and performed, and/or in order to facilitate the operation of this contract, and the *Contractor* shall provide all reasonable assistance required by the *Employer* and/or those nominated by him in order to allow such information to be inspected and shall ensure that the *Employer* and/or those nominated by him have access (including access to the *Contractor's* premises) to inspect such information in order to facilitate the operation of this clause but the *Contractor* shall not be obliged to divulge any information which would be treated as privileged in any proceedings. The *Employer* and/or those nominated by him shall be entitled to request copies of information seen during an audit and, subject to the *Contractor* having the final decision, such request shall not be unreasonably refused. Any information copied shall be treated by the *Employer* and/or those nominated by him as

Contractor Confidential Information.

Freedom of Information Z12

- Z12.1 The **Contractor** acknowledges that the **Employer** is subject to the FOI Legislation and agrees to assist and co-operate with the **Employer** to enable the **Employer** to comply with its obligations under the FOI Legislation. The foregoing shall not preclude the **Contractor** from objecting to a disclosure of Contractor Information.
- Z12.2 The **Employer** shall be responsible for determining whether Contractor Information is exempt information under the FOI Legislation and for determining what Contractor Information will be disclosed in that respect to an Information Request in accordance with the FOI Legislation. The **Contractor** shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the **Employer**.
- Z12.3 The **Contractor** acknowledges that the **Employer** may be obliged under the FOI Legislation to disclose Contractor Information.

Confidential Information Z13

- Z13.1 Subject to the other provisions of and as expressly permitted by this clause Z13, the **Contractor**:
- (a) may not use any Employer Confidential Information for any purpose other than the performance of its obligations under this contract;
 - (b) may not disclose any Employer Confidential Information to any person except with the prior written consent of the **Employer**; and
 - (c) shall make every effort to prevent the use or disclosure of the Employer Confidential Information.
- Z13.2 Notwithstanding clause Z13.1, the **Contractor** may disclose any Employer Confidential Information to the following parties in the following circumstances:
- (a) to any officer or servant of the **Contractor** or any person engaged in the provision of goods or services to or for him if disclosure is necessary to enable the **Contractor** to Provide the Works or to enforce its rights under this contract, upon obtaining an undertaking of strict confidentiality from such officer, servant or person;
 - (b) to the extent required by any Applicable Law, the rules of any stock exchange or regulatory body or any written request of any taxation authority; and
 - (c) pursuant to the order of any court or tribunal of

competent jurisdiction.

- Z13.3 The provisions of clause Z13.1 above shall not apply to any Employer Confidential Information which:
- (a) is at the date of this contract or any time thereafter becomes publicly known other than by breach of this contract or of an obligation of confidence;
 - (b) can be shown by the **Contractor** to the **Employer's** satisfaction to have been known by the **Contractor** before disclosure by the **Employer**.
- Z13.4 Before disclosure of any Employer Confidential Information, the **Contractor** shall ensure that the recipient is made aware of and complies with the **Contractor's** obligations of confidentiality under this contract as if the recipient was a party to this contract.
- Z13.5 Without prejudice to any other rights or remedies which the **Employer** may have, the **Contractor** acknowledges and agrees that in the event of breach of this clause Z13 the **Employer** shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.
- Z13.6 If this contract is terminated, the **Contractor** shall, return to the **Employer** all of the Employer Confidential Information then within its possession or control or destroy such Employer Confidential Information using a secure and confidential method of destruction and furnish to the **Employer** sufficient evidence of such destruction, save that the **Contractor** may retain one copy of the Employer Confidential Information if required to do so by law.
- Z13.7 Subject to the other provisions of and as expressly permitted by this clause Z13, the **Employer**:
- (a) may not use any Contractor Confidential Information for any purpose other than for the purposes of the Programme;
 - (b) may not disclose any Contractor Confidential Information to any person except with the prior written consent of the **Contractor**; and
 - (c) shall make every effort to prevent the use or disclosure of the Contractor Confidential Information.
- Z13.8 Notwithstanding clause Z13.7, the **Employer** may disclose any Contractor Confidential Information to the following parties in the following circumstances:
- (a) to TfL, a member of the TfL Group, DfT and/or Network Rail, or any person engaged in the provision of goods or services to or for the **Employer** if disclosure is necessary for the proper purposes of the Programme or for the **Employer** to enforce its rights under this contract, upon

obtaining an undertaking of confidentiality from any such person;

- (b) to the extent required by any Applicable Law (including without limitation the FOI Legislation as described in clause Z12), the rules of any stock exchange or regulatory body or any written request of any taxation authority or public audit authority with which the **Employer** is required to comply; and
- (c) pursuant to the order of any court or tribunal of competent jurisdiction.

Z13.9 The provisions of clause Z13.7 above shall not apply to any Contractor Confidential Information which:

- (a) is at the date of this contract or any time thereafter becomes publicly known other than by breach of this contract or of an obligation of confidence;
- (b) can be shown by the **Employer** to the **Contractor's** satisfaction to have been known by the **Employer** before disclosure by the **Contractor**.

Z13.10 Before disclosure of any Contractor Confidential Information to a party listed in clause Z13.8(a) above, the **Employer** shall ensure that the recipient is made aware of and complies with the **Employer's** obligations of confidentiality under this contract as if the recipient was a party to this contract.

Z13.11 Without prejudice to any other rights or remedies which the **Contractor** may have, the **Employer** acknowledges and agrees that in the event of breach of this clause Z13 the **Contractor** shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.

Not used Z14

Value Engineering Z15

Z15.1 The **Contractor** may propose to the **Project Manager** that the Works Information provided by the **Employer** should be changed so as to result in a reduction to the Prices and/or result in a saving in the time required to Provide the Works or any part thereof. In such event the **Contractor** submits details of the proposal to the **Project Manager** in accordance with the requirements set out in the Works Information. The **Project Manager** may provide the **Contractor** with details of the **Employer's** estimated additional costs resulting from a **Contractor's** proposal.

Z15.2 If the **Project Manager** accepts the proposal referred to in clause Z15.1 above, he gives an instruction changing the Works Information and:

- the Prices are proportionately reduced and the **Contractor** is paid 50% of the amount of the reduction

in the Prices resulting from the change to the Works Information subject to any adjustment agreed between the *Project Manager* and the *Contractor* in order to reflect the *Employer's* estimated additional costs; and

- the Completion Date is not changed.

Omissions Z16

- Z16.1 Without prejudice to any other provision in this contract, in the event that the *Contractor* has failed to comply with the Accepted Programme or is in material breach of this contract, the *Project Manager* may remove or withdraw all (meaning termination in accordance with clauses 90 and 91) or part of the *works* from the *Contractor* and arrange for the *works* or that part of the *works* to be undertaken and/or completed by a third party.
- Z16.2.1 Where the *Project Manager* has removed or withdrawn all or part of the *works* from the *Contractor* where the *Contractor* failed to comply with the Accepted Programme or was in breach of the contract (except where such failure or breach has arisen due to an event which would qualify as a reason for termination under clause 91.7 (R21)), the *Employer* may recover from the *Contractor* costs resulting from the same in excess of the cost of such works provided for in the total of the Prices and the *Contractor* shall not be entitled to make any claim in respect of such omission including for any loss of profit or loss of opportunity.
- Z16.2.2 Where the *Project Manager* has removed or withdrawn all or part of the *works* from the *Contractor* where such removed or withdrawn *works* are identified in the Works Information as part of the *works* capable of being removed or withdrawn without the *Employer* incurring any liability for loss of profit or loss of opportunity, the *Contractor* shall not be entitled to make any claim in respect of such omission including for any loss of profit or loss of opportunity.
- Z16.3 Under any other circumstance under which the *Employer* wishes to remove or withdraw all or part of the *works* from the *Contractor* this shall be treated as a compensation event.

Conflict of Interest Z17

- Z17.1 The *Contractor* confirms that as at the date of this contract neither it nor any subcontractor or supplier of any tier has any interest in any matter and does not act and has not acted for any party in respect of any matter which would (in either case) create a conflict of interest in Providing the Works. The *Contractor* will undertake ongoing conflict of interest checks and will notify the *Employer* immediately if any conflict or potential conflict of interest arises (including notification of any instructions from a party with whom the *Employer* has or has had any dealings with respect to the Programme).
- Z17.2 To the extent that an actual or potential conflict may arise involving the *Employer*, the *Contractor* shall where required

continue to act for and advise the *Employer* and if required will cease to act for any other party where to act so would constitute a conflict of interest.

Best Value Z18

Z18.1 The *Contractor* acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the *Employer* 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 *Contractor* assists the *Employer* to discharge the *Employer's* duty where possible, and in doing so, inter alia carries out any reviews of the Project or the Programme requested by the *Employer* or the *Project Manager* from time to time.

Claims against TfL and DfT Z19

Z19.1 The *Employer* is a wholly owned subsidiary of TfL. For the avoidance of doubt the *Contractor* shall not be entitled to bring any claim in tort or in contract under or relating to this contract against TfL or DfT except following any novation of this contract to TfL or DfT respectively.

Register of undertakings and assurances Z20

The *Contractor* acknowledges that it has access to the *Employer's* Register of Undertakings and Assurances. The *Contractor* notifies the *Project Manager* if it has any doubt as to the application of any undertaking or assurance contained in the Register of Undertakings and Assurances to the *works*. The *Project Manager* gives an instruction clarifying the application of the undertaking or assurance to the *works*.

Not used Z21

Not Used Z22

Not Used Z23

Transparency Z24

Defined terms Z24.1

- (1) Transparency Commitment means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which the *Employer* is committed to publishing its contracts, tender documents and data from applications for payment and/or invoices received.
- (2) Contract Information means (i) this contract in its entirety (including from time to time agreed changes to the contract) and (ii) data extracted from applications for payment and/or invoices submitted pursuant to this contract which shall consist of the *Contractor's* name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount.

- Data transparency Z24.2 The **Contractor** acknowledges that the **Employer** is subject to the Transparency Commitment. Accordingly, notwithstanding any other provision of this contract, the **Contractor** hereby gives its consent for the **Employer** to publish the Contract Information to the general public.
- Z24.3 The **Employer** 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 **Employer** may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The **Employer** may in its absolute discretion consult with the **Contractor** regarding any redactions to the Contract Information to be published pursuant to clause Z24.2. The **Employer** makes the final decision regarding publication and/or redaction of the Contract Information.

Common Plant and Materials Z25

- Z25.1 The Works Information may specify and/or the **Project Manager** may instruct the **Contractor** to enter into a subcontract for any of the design, supply, installation, testing and/or commissioning of Common Plant and Materials as defined in and in accordance with the Works Information. The **Contractor** enters into a subcontract with and may not object to any such Subcontractor.
- Z25.2 The **Contractor** is as responsible for Providing the Works which are the subject of such a subcontract as if he had not subcontracted.
- Z25.3 If any event arises which in the opinion of the **Contractor** entitles him to terminate a subcontract for Common Plant and Materials or to treat such a subcontract as repudiated by the Subcontractor, the **Contractor** at once notifies the **Project Manager** who instructs the **Contractor** how to proceed. The **Contractor** complies with any such instruction.
- Z25.4 The **Contractor** shall not agree to vary or amend the terms of any such subcontract unless such variation or amendment has been accepted by the **Project Manager**. Reasons for not accepting a variation or amendment are the reasons stated in clause 26.3.
- Z25.5 If a Subcontractor for any of the design, supply, installation, testing and/or commissioning of Common Plant commits an Act of Insolvency this is a compensation event under this contract.

Legal opinion Z26

- Z26.1 If the **Contractor** or any company comprising part of the **Contractor** is not a company registered in England and Wales, the **Contractor** provides to the **Employer** on the Contract Date a legal opinion in the form set out in Annexure 8.

Z26.2 Upon any novation of this contract in accordance with clause Z5 the **Contractor** provides to the **Employer** within 2 weeks of the date of such novation a further legal opinion in identical terms.

**Delay damages for
Key Dates and
Milestone Dates** **Z27**

Z27.1 The Contract Data identifies the Key Dates and Milestone Dates to which this clause Z27 applies. Clause 25.3 of the **conditions of contract** does not apply to such Key Dates and Milestone Dates.

Z27.2 If the **Project Manager** decides that the work does not meet the Condition stated for a Key Date or that the Contractor has not achieved the Milestone by the date stated, the **Contractor** pays delay damages at the rate stated in the Contract Data from the Key Date or Milestone Date for each day until the date on which the work meets the Condition stated.

Z27.3 If the Key Date or Milestone Date is changed to a later date after delay damages have been paid, the **Employer** repays the overpayment of damages with interest. Interest is assessed from the date of payment to the date of repayment and the date of repayment is an assessment date.

**Subcontract
conditions of contract** **Z28**

Z28.1 The **Contractor** uses all reasonable endeavours to ensure that any subcontract of any tier imposes obligations on the subcontractor or supplier of any tier which are identical in effect to the obligations imposed on the **Contractor** under the following clauses of this contract

- Z3 (Equality and diversity) and
- Z18 (Best Value).

Z28.2 The **Contractor** ensures that any subcontract of the first tier and uses reasonable endeavours to ensure that any subcontract of any tier imposes obligations on the subcontractor or supplier of any tier which are identical in effect and in proportion to the obligations imposed on the **Contractor** under the following clauses of this contract

- 85.3 (Insurance policies),
- **Z8 (The Parties' use of material)**,
- Z9 (Publicity),
- Z10 (Data Protection),
- Z11 (Access to Information),
- Z12 (Freedom of Information),

- Z13 (Confidentiality),
- Z17 (Conflicts of Interest), and
- Z24 (Transparency).

Correction of Critical Defects Z29

- Z29.1 For the purpose of this clause Z29 a Critical Defect means any Defect which:
- prevents the work of Others; or
 - affects the safety and/or operation, trial operation or trial running of the Project or the Programme or of any other railway network.
- Z29.2 Notwithstanding any other provision of this contract the **Contractor** acknowledges and agrees that the **Project Manager** may arrange for a Critical Defect to be corrected by other people. The **Project Manager** assesses the cost to the **Employer** of having the Critical Defect corrected by other people and the **Contractor** pays this amount. The Works Information is treated as having been changed to accept the Critical Defect.
- Z29.3 The **Project Manager** may seek to agree with the **Contractor** in respect of any Critical Defect an appropriate *defect correction period* and start date for such *defect correction period*.

Loss of or damage to the works, Plant and Materials Z30

- Z30.1 Notwithstanding any other provision of this contract, in the event of any loss of or damage to the **works**, Plant and Materials which is covered by insurances provided by the **Employer**, whether such loss or damage is an **Employer's** risk or a **Contractor's** risk, the following applies:
- (a) The **Contractor** notifies the **Project Manager** as soon as it becomes aware of any such loss or damage;
 - (b) The Parties follow the process for quotation and assessment set out in clauses 62, 63 and 64 of this contract as if the loss or damage were a compensation event provided that, if such loss or damage is a **Contractor's** risk:
 - (i) the **Contractor** is not entitled to any delay to the Completion Date, Key Dates and Milestone Dates (where applicable); and
 - (ii) the assessment of the effect of such loss or damage does not include risk allowances for cost

and time pursuant to clause 63.6; and

- (iii) the changes to the Prices shall not exceed the cost of replacement and/or repair and/or making good which is recovered by the **Employer** under the insurances provided by the **Employer**.
- (c) The assessment made under Z30.1(b) in respect of any delay to the Completion Date and Key Dates and Milestone Dates is implemented in accordance with the process set out in clause 65 of this contract.
- (d) The assessment made under Z30.1(b) in respect of changes to the Prices is an initial assessment which may be adjusted by the **Project Manager** following receipt of a final report from the appointed loss adjusters to reflect actual Defined Cost of the work done and the resulting Fee.
- (e) Following receipt of such report and any adjustment to the initial assessment, the changes (if any) to the Prices are implemented in accordance with the process set out in clause 65 of this contract.

Other contracts with the Employer Z31

An event shall not be a compensation event under this contract if and to the extent that it arises from any matter occurring under another contract between the **Employer** and the **Contractor** which does not constitute a compensation event under that contract.

Rejection of Works Z32

Z32.1 In respect of the period up to and including the Completion Date for the whole of the **works**, if for reasons attributable to the **Contractor** the whole of the **works** or any substantial part of the **works** or any system or sub-system forming part of the **works** fails to pass any acceptance or performance test specified or referred to in the Works Information within the period allowed for passing such test, the **Employer** may reject such **works** or such substantial part of the **works** or system or sub-system forming part of the **works**. If the **Employer** has paid the **Contractor** for the rejected **works** the **Employer** may recover the amount paid as a debt due from the **Contractor**. The **Contractor** removes at his own expense such rejected **works** from the Site in accordance with the instructions of the **Project Manager**. In the event that the **Contractor** fails to remove the rejected **works** in accordance with this clause, the **Employer** may arrange for the removal of the rejected **works**. The **Project Manager** assesses the cost to the **Employer** of removing the rejected **works** and the **Contractor** pays this amount.

Deferred System Performance Z33

- Z33.1 After the Price for Work Done to Date exceeds the *deferred system performance free amount* each amount due is reduced by the Deferred System Performance Payment which is an amount equivalent to the *deferred system performance percentage* applied to the Price for Work Done to Date above the *deferred system performance free amount* and the *Contractor* is not entitled to payment in respect of the Deferred System Performance Payment until:
- (a) Completion at which point the *Contractor* is entitled to 25% of the Deferred System Performance Payment; and
 - (b) issue of the Reliability Period Certificate under clause Z33.2 at which point the *Contractor* is entitled to 95% of the Deferred System Performance Payment; and
 - (c) issue of the Defects Certificate at which point the *Contractor* is entitled to 100% of the Deferred System Performance Payment

in each case in accordance with this contract.

Z33.2 The *Project Manager* issues a certificate (the "Reliability Period Certificate") when he is satisfied that the *works* have complied with the Reliability Requirements for a period of 3 consecutive calendar months after commencement of Revenue Service.

Z33.3 In clauses Z33 the following terms have the following meanings:

- (a) Reliability Requirements are the requirements set out in the Works Information Volume 2C – Part 12 (RAM).
- (b) Revenue Service means train services where the paying public is being carried.

Milestones Z34

Z34.1 Any payment due to the *Contractor* under this contract is conditional upon the achievement of those Milestones for which the Milestone Dates fall on or before the relevant assessment date and therefore no payment shall be due unless and until all such Milestones have been achieved. The *Project Manager* decides whether a Milestone has been achieved.

Not used Z35

Maintenance Support Contract Z36

Z36.1 The *Contractor* shall, on request by the *Employer* or any other member of the TfL Group, enter into the agreement relating to the provision of maintenance, maintenance support and/or spares for the *works* in substantially the form of the draft contained at Annexure 12 hereto subject

to such amendments as may be agreed in writing (the "**Maintenance Support Contract**").

Z36.2 Notwithstanding any other provision of this contract the **Contractor** shall not be relieved from any responsibility or liability under this contract or be able to avoid any obligation under this contract or otherwise obtain any relief from its obligations under this contract or make any claim (whether in contract, tort or otherwise) against or require any payment by the **Employer** (including in respect of a compensation event) in connection with:

- a) a delay in entering into the Maintenance Support Contract;
- b) its or the counterparty's performance or failure to perform in accordance with the Maintenance Support Contract; or
- c) any of its obligations under and in accordance with the Maintenance Support Contract,

and any claim against or liability of the **Contractor** under or in connection with the Maintenance Support Contract shall not count towards any limitation of liability applicable to this contract, and vice versa.

Early Access Dates Z37

Z37.1 The **Employer** intends to provide access to the Site or part of the Site on the date falling 45 days before the relevant **access date stated in the Contract Data ("early access date")**, and the **Contractor** shows on each programme the early access dates and the **access dates**.

Z37.2 The **Project Manager** gives an early warning under clause 16.1 if he becomes aware that access could be delayed beyond an early access date. If the **Project Manager** does not give such an early warning by the date falling 3 months before an early access date, that early access date is deemed to be the **access date** in place of the date stated in the Contract Data. If such early warning is given, there is no compensation event if access to the Site or part of the Site is provided on or before the later of the **access date** stated in the Contract Data and the date shown on the Accepted Programme.

Price for Work Done to Date in respect of activities involving Plant and Materials outside the Working Areas Z38

Without prejudice to any other provision of this contract, in respect of any activity involving Plant and Materials which are outside of the Working Areas, an activity is not completed for the purpose of clause 11.2(45) (Price for Work Done to Date) unless:

- all relevant Plant and Materials are in their final manufactured form and are ready for

transportation to the Site,

- all Phase 1 factory acceptance tests as described in the Works Information have been successfully completed on all components of relevant Plant and Materials,
- all relevant Plant and Materials which are outside the Working Areas have been properly marked in accordance with clause 71, and
- the **Contractor** has provided an on demand bond in respect of all relevant Plant and Materials which are outside of the Working Areas in accordance with clause 70.3.

**Principal Contractor for Z39
Work Zone**

- Z39.1 For the purposes of this clause Z39 the following terms have the following meanings:
- (a) CDM Regulations means the Construction Design and Management Regulations 2007 as the same may be updated from time to time.
 - (b) Optional Price List is appended to the Price List.
 - (c) Optional Works Information is at Appendix 5 to Volume 2A of the Works Information.
 - (d) Work Zone is defined in the Optional Works Information.
- Z39.2 The **Project Manager** may instruct the **Contractor** to be the Principal Contractor pursuant to the CDM Regulations for a Work Zone.
- Z39.3 The **Contractor** is not entitled to object to any instruction issued pursuant to clause Z39.2.
- Z39.4 An instruction issued pursuant to clause Z39.2 is not a compensation event.
- Z39.5 In the event of an instruction pursuant to clause Z39.2:
- (a) The Optional Works Information shall apply; and
 - (b) The Optional Price List shall apply.

LUL Optional Clause

A1. Definitions used in this Optional Clause

- A1.1 Available (IW) means in respect of Interface Works:
- (a) the applicable Interface Works comply with the LUL Standards;
 - (b) the applicable Interface Works are safe;
 - (c) the applicable Interface Works are, to the extent that they have been designed by the **Contractor**, fit for purpose;
 - (d) there are no foreseeable hazards to the use of the applicable Interface Works except insofar as a risk assessment has been carried out and any risk is expressly accepted by LUL; and
 - (e) the applicable Interface Works are readily accessible and operable by LUL throughout the periods stipulated and agreed;
- A1.2 Interface Works means those parts of the **works** that are on or impact on or are in the vicinity of LUL Property or systems forming part of or interfacing with the Underground Network including without limitation protective works required as a result of the Crossrail Project;
- A1.3 LUL means London Underground Limited whose registered office is at 55 Broadway, London SW1H 0BD;
- A1.4 LUL's Engineer means the engineer appointed by LUL from time to time whose appointment has been notified to the **Contractor**;
- A1.5 LUL Property means all land, buildings and structures (and contents thereof) owned by or leased or licensed to LUL (including the Underground Network);
- A1.6 LUL Standards means the rules and regulations including codes of practice and standards relating to the operation of LUL's railway and/or the requirements for undertaking works on or in the vicinity of LUL station and railway infrastructure (including any or all of LUL Category 1 and 2 Standards as may be adjusted in accordance with "Standards Change Control Mechanism for Category 1 Standards 1-627" (in the case of Category 1 Standards) and "Standards Change Mechanism for Category 2 Standards 1-626" (in the case of Category 2 Standards)) included in the Works Information or issued to the **Contractor**;
- A1.7 Underground Network means the stations, depots, assets, systems, track and buildings and structures of whatsoever kind which are used in the operation, maintenance and **provision of the service known as the "London Underground."**

A2 Warranties

- A2.1 The **Contractor** warrants, undertakes and represents that the Interface Works will:
- A2.1.1 comply with the reasonable instructions of LUL's Engineer;
 - A2.1.2 comply with all LUL Standards;
 - A2.1.3 only include substances and materials for incorporation into the Interface Works which are in accordance with relevant codes of practice, general good

building practice and which have not been declared deleterious in any publication of the Building Research Establishment current at the time of such specification or incorporation; and

A2.1.4 be carried out using only materials that are new sound and of good quality.

A2.2 The **Contractor** warrants, undertakes and represents that any plant, equipment or other product of the Interface Works that becomes a fixture on, or part of, LUL Property as a result of the Interface Works will at and following takeover by or on behalf of LUL:

A2.2.1 be capable of being used, operated and maintained in a safe, economic and efficient manner, free from any unreasonable risk to the health and well-being of persons using it and free from any unreasonable or available risk of pollution, nuisance, interference or hazard;

A2.2.2 not deteriorate at a greater rate than that reasonably to be expected of high quality, reliable, well-designed plant of a similar nature and manufacture;

A2.2.3 operate safely and efficiently in combination with any plant, equipment and/or system to which it is to be connected (save where LUL agrees otherwise in writing);

A2.2.4 be electromagnetically compatible with existing LUL systems; and

A2.2.5 be Available (IW).

A3 Vesting

Save as specifically provided to the contrary in the Works Information, title in all assets comprising fixtures on, or part of, LUL Property as a result of the Interface Works will vest in LUL on instalment free from any charge, lien or encumbrance of any kind, and the **Contractor** shall obtain such appropriate manufacturer's guarantees in favour of LUL (and its assignees) in respect of those assets as LUL may reasonably require.

SHORTER SCHEDULE OF COST COMPONENTS

An amount is included only in one cost component and only if it is incurred in order to Provide the Works.

People 1

The following components of the cost of

- people who are directly employed by the **Contractor** and whose normal place of working is within the Working Areas,
- people who are directly employed by the **Contractor** and whose normal place of working is not within the Working Areas but who are working in the Working Areas and
- people who are not directly employed by the **Contractor** but are paid for by him according to the time worked while they are within the Working Areas.

11 Amounts paid by the **Contractor** including those for meeting the requirements of the law and for pension provision.

12 The cost of people, whether employed directly or not by the **Contractor**, in the following functions or roles are included in the Fee and do not form part of the component of the cost of people:

- Human Resources;
- Community Relations Representative;
- IT;
- Finance including commercial and cost management;
- Procurement Management;
- Environmental Auditor; and
- Manufacturing Lead.

Equipment 2

The following components of the cost of Equipment which is used within the Working Areas (including the cost of accommodation but excluding Equipment cost covered by the percentage for people overheads).

21 Amounts for Equipment which is in the published list stated in the Contract Data. These amounts are calculated by applying the percentage adjustment for listed Equipment stated in the Contract Data to the rates in the published list and by multiplying the resulting rate by the time for which the Equipment is required.

22 Amounts for Equipment listed in the Contract Data which is not in the published list stated in the Contract Data. These amounts are the rates stated in the Contract Data

multiplied by the time for which the Equipment is required.

23 The time required is expressed in hours, days, weeks or months consistently with the list of items of Equipment in the Contract Data or with the published list stated in the Contract Data.

24 Unless the item is in the published list and the rate includes the cost component, payments for

- transporting Equipment to and from the Working Areas other than for repair and maintenance,
- erecting and dismantling Equipment and
- constructing, fabricating or modifying Equipment as a result of a compensation event.

25 Unless the item is in the published list and the rate includes the cost component, the purchase price of Equipment which is consumed.

26 Unless included in the rate in the published list, the cost of operatives is included in the cost of people.

27 Amounts for Equipment which is neither in the published list stated in the Contract Data nor listed in the Contract Data, at competitively tendered or open market rates, multiplied by the time for which the Equipment is required.

28 Payments for Equipment purchased for work included in this contract at the purchase price of the Equipment.

Cost is credited with the open market sale price of Equipment purchased under item 28 at the end of the period for which the Equipment is required or is available for use within the Working Area, whichever is the earlier.

Plant and Materials 3 The following components of the cost of Plant and Materials.

31 Payments for

- purchasing Plant and Materials,
- delivery to and removal from the Working Areas,
- providing and removing packaging and
- samples and tests.

32 Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed.

Charges 4 The following components of the cost of charges paid by the *Contractor*.

41 A charge calculated by applying the percentage for people overheads stated in the Contract Data to people item 11 to cover the costs of

- payments for the provision and use in the

		<ul style="list-style-type: none"> • Working Areas of water, gas and electricity, payments for buying or leasing land, compensation for loss of crops or buildings, royalties, inspection certificates, charges for access to the Working Areas, facilities for visits to the Working Areas by Others and • payments for equipment, supplies and services for offices, drawing office, laboratories, workshops, stores and compounds, labour camps, cabins, catering, medical facilities and first aid, recreation, sanitation, security, copying, telephone, telex, fax, radio, CCTV, surveying and setting out, computing, and hand tools not powered by compressed air.
	42	Payments for cancellation charges arising from a compensation event.
	43	Payments to public authorities and other properly constituted authorities of charges which they are authorised to make in respect of the <i>works</i> .
	44	Consumables and equipment provided by the <i>Contractor</i> for the <i>Project Manager's</i> and <i>Supervisor's</i> office.
	45	Specialist services.
Manufacture and fabrication	5	<p>The following components of the cost of manufacture and fabrication of Plant and Materials, which are</p> <ul style="list-style-type: none"> • wholly or partly designed specifically for the <i>works</i> and • manufactured or fabricated outside the Working Areas.
	51	The total of the days worked by employees multiplied by the daily rates stated in the Contract Data for the categories of employees listed.
	52	An amount for overheads calculated by multiplying this total by the percentage for manufacturing and fabrication overheads stated in the Contract Data.
Design	6	The following components of the cost of design of the <i>works</i> and Equipment done outside the Working Areas.
	61	The total of the days worked by employees multiplied by the daily rates stated in the Contract Data for the categories of employees listed.
	62	An amount for overheads calculated by multiplying this total by the percentage for design overheads stated in the Contract Data.
	63	The cost of travel to and from the Working Areas for the categories of design employees listed in the Contract Data.

Insurance 7

The following do not constitute Defined Cost:

- the cost of events for which this contract requires the *Contractor* to insure, and
- other costs paid to the *Contractor* by insurers.

Other 8

The following do not constitute Defined Cost:

- currency exchange hedging costs.

ANNEXURE 2 – CONTRACT DATA

CONTRACT DATA**Part one – Data provided by the *Employer*****Statements given in all contracts**

- 1 General
- The *conditions of contract* are the core clauses, dispute resolution W2A, secondary Options X1, X2, X4, X7, X8, X13, X18 and Y(UK)3 of the Crossrail Main Systems Contract (Version 1) – Option A Priced contract with activity schedule at Annexure 1 to the contract.
 - The *additional conditions of contract* are Z1 to Z5, Z7 to Z13, Z15 to Z20, Z24, Z26 to Z32, Z36, Z37 to Z39 and the LUL Optional Clause of the Crossrail Main Systems Contract – Option A C631 Priced contract with activity schedule at Annexure 1 to the contract.
 - The *works* are the design, installation, testing and commissioning of platform screen doors to Crossrail stations as more fully described in the Works Information.
 - The *Employer* is:
Name: Crossrail Limited
Address 25 Canada Square, London E14 5LQ
Communications to the *Employer* are sent to the Programme Director
 - The *Project Manager* is:
Name: [REDACTED]
Address: 25 Canada Square, London E14 5LQ
 - The *Supervisor* is:
Name: [REDACTED]
Address: 25 Canada Square, London E14 5LQ
 - The *Employer's nominated representative* is:
Name: [REDACTED] – CRL's Programme Director
Address: 25 Canada Square, London E14 5LQ
 - The Works Information is in **Volumes 2A, 2B and 2C at Annexure 3 to this contract and includes any information referred to in these Volumes.**
 - The Site Information is in **Volume 3 at Annexure 9 to this contract and includes any information referred to in this Volume.**

- The *boundaries of the site* are:
 - At the access date AD2 the C610 contractor's site boundaries at the railhead at Plumstead as shown on the following drawing:
 - C122-OVE-T-DDA-CR148_1-80113

The location of the *boundaries of the site* at the Plumstead railhead will change during the contract. Part of the C610 contractor's site will be handed over to Others on 30 June 2017. At this date the *boundaries of the site* will be as the C610 contractor's site boundary as shown on the following drawing:

 - C122-OVE-T-DDA-CR148_1-80114
 - The C610 contractor's site boundaries within the new running tunnels and surface track sections from the Plumstead railhead to the Westbourne Park railhead as generally shown on the following drawings:
 - C122-OVE-R4-DDE-CR001_Z-11099
 - C122-OVE-R4-DDE-CR001_Z-11199
 - The C405 contractor's site boundaries at Paddington station as listed in Volume 2C;
 - The C412 contractor's site boundaries at Bond Street station as listed in Volume 2C;
 - The C422 contractor's site boundaries at Tottenham Court Road station as listed in Volume 2C;
 - The C435 contractor's site boundaries at Farringdon station as listed in Volume 2C;
 - The C502 contractor's site boundaries at Liverpool Street station as listed in Volume 2C;
 - The C512 contractor's site boundaries at Whitechapel station as listed in Volume 2C;
 - The C610 contractor's site boundaries at Canary Wharf station as listed in Volume 2C; and
 - The C530 contractor's site boundaries at Woolwich station as listed in Volume 2C.
- The *language of this contract* is **English**.
- The *law of the contract* is the law of **England and Wales**.
- The *period for reply* is **14 days**, subject to any other period specifically identified in the Works Information and except in relation to the following:
 - *Project Manager* reply to the *Contractor's* design submissions – **28 days**.

- *Project Manager* to reply to the *Contractor's* submission that requires an approval from Network Rail or London Underground – **28 days**.
- *Project Manager* reply to *Contractor's* method statements – **35 days**.
- The following matters will be included in the Risk Register:
 - Lack of qualified *Contractor's* resources;
 - Integration of customer information displays with the PSD system;
 - Loss of a supplier and/or lack of manufacturing capacity;
 - Long lead delivery on components;
 - Poor quality control;
 - Systems integration challenges with communication and signalling systems;
 - The interfaces change between the *Contractor* and the *Employer's* other contracts;
 - Design or manufacturing errors discovered during testing and commissioning;
 - Inherent fault in the PSD system design; and
 - Failure to meet the requirements of the Engineering Safety Management system for the PSD system or its components.
- The *period for retention* is 15 years following Completion of the whole of the works.
- The *key person compensation amounts* are as follows:

<i>key person</i>	<i>compensation amounts</i>
Project Manager	
Design Manager	
Commercial Manager	
Project Controls Manager	
Construction Manager	
Testing and Commissioning Manager	
Integration Manager	
Quality Manager	
Health and Safety Manager	

Environmental Manager	■■■■■
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- The other parties requiring Subcontractor collateral warranty agreements pursuant to clause 26.4A are:
 - London Underground Ltd.
 - Rail for London Ltd.
- 3 Time
- The *starting date* is 01 October 2014.
 - The *access dates* are:

Ref:	Part of the Site	Date
AD1	Not Used.	
AD2	Access to Railhead facilities; shared site office accommodation and warehousing facilities at Plumstead within the limits of the C610 Principal Contractor’s site as shown on drawing C122-OVE-T-DDA-CR148_1-80113.	30-Sep-15
AD3	Access to the east bound tunnel and platform at Paddington station within the limits of the C610 site.	07-Jan-17
AD4	Access to the west bound tunnel and platform at Paddington station within the limits of the C610 Principal Contractor’s site.	07-Jan-17
AD5	Access to Paddington station within the limits of the C405 Principal Contractor’s site.	07-Jan-17
AD6	Access to the east bound tunnel and platform at Bond Street station within the limits of the C610 Principal Contractor’s site.	07-Jan-17
AD7	Access to the west bound tunnel and platform at Bond Street station within the limits of the C610 Principal Contractor’s site.	07-Jan-17
AD8	Access to Bond Street station within the limits of the C412 Principal Contractor’s site.	07-Jan-17

AD9	Access to the east bound tunnel and platform at Tottenham Court Road station within the limits of the C610 Principal Contractor's site.	07-Jan-17
AD10	Access to the west bound platform at Tottenham Court Road station within the limits of the C610 Principal Contractor's site.	07-Jan-17
AD11	Access to Tottenham Court Road station within the limits of the C422 Principal Contractor's site.	07-Jan-17
AD12	Access to the east bound tunnel and platform at Farringdon station within the limits of the C610 Principal Contractor's site.	18-Feb-17
AD13	Access to the west bound tunnel and platform at Farringdon station within the limits of the C610 Principal Contractor's site.	18-Feb-17
AD14	Access to Farringdon station within the limits of the C435 Principal Contractor's site.	18-Feb-17
AD15	Access to the east bound tunnel and platform at Liverpool Street station within the limits of the C610 Principal Contractor's site.	18-Feb-17
AD16	Access to the west bound tunnel and platform at Liverpool Street station within the limits of the C610 Principal Contractor's site.	18-Feb-17
AD17	Access to Liverpool Street station within the limits of the C502 Principal Contractor's site.	18-Feb-17
AD18	Access to the east bound tunnel and platform at Whitechapel station within the limits of the C610 Principal Contractor's site.	18-Feb-17
AD19	Access to the west bound tunnel and platform at Whitechapel station within the limits of the C610 Principal Contractor's site.	18-Feb-17

AD20	Access to Whitechapel station within the limits of the C512 Principal Contractor's site.	18-Feb-17
AD21	Access to the east bound tunnel and platform at Canary Wharf station within the limits of the C610 Principal Contractor's site.	22-Apr-17
AD22	Access to the west bound tunnel and platform at Canary Wharf station within the limits of the C610 Principal Contractor's site.	22-Apr-17
AD23	Access to Canary Wharf station within the limits of the C610 Principal Contractor's site.	22-Apr-17
AD24	Access to the east bound tunnel and platform at Woolwich station within the limits of the C610 Principal Contractor's site.	26-Mar-17
AD25	Access to the west bound tunnel and platform at Woolwich station within the limits of the C610 Principal Contractor's site.	26-Mar-17
AD26	Access to Woolwich station within the limits of the C530 Principal Contractor's site.	26-Mar-17
AD27	Access to the Train Manufacturer's test track facility to commence installation of testing equipment for the functional testing of the PSD system with the train and S&CS.	11-Apr-16

- If no programme is identified in part two of the Contract Data the *Contractor* is to submit a first programme for acceptance within **4** weeks of the Contract Date.
- The *Contractor* submits revised programmes at intervals no longer than **4** weeks.
- The *Employer* is not willing to take over the *works* prior to the Completion Date.
- The completion date for the whole of the works is **03 August 2018**.
- The *key dates* and *conditions* to be met are:
The following comprise *key dates* and *conditions* to be met to which clause

25.3 and associated clauses of the *conditions of contract* apply:

	<i>condition to be met</i>	<i>key date</i>
KD1	Design Statement for all Elementary Systems (including design deliverables list).	24-Dec -14
KD2	Complete factory prototype as described in the Works Information.	31-Jul-15
KD3	Complete installation of the Plant and Materials for the static operational testing at the Train Manufacturer's facility as described in the Works Information.	30-Sept-15
KD3A	Complete installation of the PSD mock-up, as described in the Works information, within the <i>Employer's</i> station platform mock-up at the <i>Employer's</i> facility.	31-Jan-16
KD4	Not Used	
KD6	Completion of Static Integration Testing (phase3)	10-Apr-18
KD7	Completion of Dynamic Tests	05-Jul-18
KD8	Complete demobilisation of the <i>Contractor's</i> people, Equipment and facilities from the Plumstead Railhead.	03-Aug-18
KD9	Completion of Trial Running Tests	03-Aug-18

The following comprise *key dates*, *conditions* to be met and delay damages to which clause Z27 and associated clauses of the *conditions of contract* apply:

	<i>condition to be met</i>	<i>key date</i>	amount per day
KD5	Last date for the issue to the <i>Supervisor</i> of an Installation Release Notice by the <i>Contractor</i> for the PSD system.	30-Nov-17	██████████

4 Testing and Defects

- The *defects date* is **70** weeks after Completion of the whole of the *works*. .
- The *defect correction period* is:
 - 1 week in respect of Critical Defects as defined in clause Z29 or such other Defects deemed necessary by the *Project Manager* in the circumstances.
 - 4 weeks in respect of all other Defects

5 Payment

- The *currency of this contract* is **pounds sterling**.
- The *assessment interval* is **every four week accounting period of the Employer, such periods to be advised to the Contractor annually**.
- The *interest rate* is **■** per annum (not less than 2) above the **base rate in force of the Bank of England**.

6 Compensation events

- The place where weather is to be recorded is **the Met Office's St. James's recording station in London (with the exception of snow data which shall be recorded at the Met Office's recording station at Heathrow Airport)**.
- The *weather measurements* to be recorded for each calendar month are:
 - the cumulative rainfall (mm)
 - the number of days with rainfall more than 5 mm
 - the number of days with minimum air temperature less than 0 degrees Celsius
 - the number of days with snow lying at 09:00 hours GMT
- The *weather measurements* are supplied by **the Met Office, FitzRoy Road, Exeter, Devon, EX1 3PB**.
- The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at **the Met Office's St. James's recording station in London and the Met Office's recording station at Heathrow Airport**.

- 8 Risks and insurance
- The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is [REDACTED]
 - The minimum limit of indemnity for insurance in respect of failure of the *Contractor* to use the skill and care normally used by similar contractors providing services similar to those provided by the *Contractor* in connection with the *works* is [REDACTED] for each occurrence. Such insurance policy shall contain provision for jurisdiction for claims made in the United Kingdom in addition to jurisdiction for claims made in the domicile of the *Contractor* or its Ultimate Parent Company.

The *Employer* provides these insurances from the Insurance Table:

1. Insurance against loss of or damage to the works, Plant and Materials including any Plant and Materials provided by the *Employer*.

Cover/indemnity is: This contract is one of many insured under an Owner Controlled Insurance Programme with a total sum insured of [REDACTED] in the aggregate for all claims. There is no separate sum insured for this contract.

The deductibles are [REDACTED] increased to [REDACTED] for wet works and defects liability claims, and [REDACTED] for tunnelling works. [REDACTED] of any claim with a minimum of [REDACTED] for tunnelling works.

2. Insurance against liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) caused by activity in connection with .the *Contractor's* on site activities only.

Cover/indemnity is: The minimum limit of indemnity is [REDACTED] for any one accident.

The deductibles are:

- Third Party Property Damage - [REDACTED] increased to [REDACTED] for claims arising out of vibration, removal and/or weakening of support.
- Third Party Bodily Injury – Nil.

The insurance policy giving details of the insurances provided by the *Employer* is included in Attachment 2 to this Contract Data.

**W2A Dispute
Resolution**

The *panel of adjudicators* comprises the following members:

[REDACTED]

Optional statements

If Option X1 is used

- The proportions used to calculate the Price Adjustment Factor are set out in Attachment 1 to the Contract Data.

If Option X7 is used (but not if Option X5 is also used)

- Delay damages for Completion of the whole of the *works* are [REDACTED] per day.

If Option X8 is used

- The *collateral warranty agreements* are to be provided in favour of:
 - **London Underground Ltd.**
 - **Rail for London Ltd.**

If Option X13 is used

- The amount of the performance bond is [REDACTED] of the **tendered total of the Prices.**

If Option X18 is used

- The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to [REDACTED] of the final total of the Prices (the "Total Liability Cap").
- The additional excluded matters to those stated in clause X18 are: **None stated.**
- The *Contractor's* total liability to the *Employer* for all delay damages pursuant to Option X7 and/or clause Z27 is limited to [REDACTED] of the final total of the Prices and, for the avoidance of doubt, is included within and not additional to the Total Liability Cap.
- The *Contractor's* total liability to the *Employer* for any and all losses, costs, damages, charges and claims under the contract that are indirect or consequential in nature, howsoever arising, shall be limited in the aggregate to [REDACTED] of the final total of the Prices and, for the avoidance of doubt, is included within and not additional to the Total Liability Cap.

If Option Y(UK)3 is used

- For the purpose of secondary Option Y(UK)3 the terms and persons or organisations are:

term	person or organisation
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All terms of this contract	TfL Group
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All terms of this contract	DfT
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Part two – Data provided by the Contractor

Statements given in all contracts

- The *Contractor* is
 Name: Knorr-Bremse Rail Systems (UK) Limited
 (Trading under its business brand name of Westinghouse Platform Screen Doors).

 Address: Westinghouse Way, Hampton Park East,
 Melksham, Wiltshire, SN12 6TL.
- The *Contractor's nominated representative* is
 Name: ██████████, Manager of Projects
 Address: Westinghouse Way, Hampton Park East,
 Melksham, Wiltshire, SN12 6TL.
- The *direct fee percentage* is ██████████
- The *subcontracted fee percentage* is ██████████
- The *working areas* are the Site and
 1. The Train Manufacturer's Factory for testing purposes
 2. The Train Manufacturer test track facility for testing purposes
 3. The *Employer's* station platform mock-up facility
 4. The offices and facilities of the *Employer* when visited by the *Contractor*

.....

- The key people are:
 (1) Name ██████████
 Role Project Manager
 Qualifications Refer to Attachment 4.
 Experience Refer to Attachment 4

 (2) Name ██████████
 Role Design Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

 (3) Name ██████████
 Role Commercial Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

 (4) Name ██████████
 Role Project Controls Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

(5) Name [REDACTED]
 Role Construction Manager
 Qualifications Refer to Attachment 4.
 Experience Refer to Attachment 4

(6) Name [REDACTED]
 Role Testing and Commissioning Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

(7) Name [REDACTED]
 Role Integration Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

(8) Name [REDACTED]
 Role Quality Manager
 Qualifications Refer to Attachment 4.
 Experience Refer to Attachment 4

(9) Name [REDACTED]
 Role Health and Safety Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

(10) Name [REDACTED]
 Role Environmental Manager
 Qualifications Refer to Attachment 4
 Experience Refer to Attachment 4

- The following matters will be included in the Risk Register:

The following are a selection of risks having potentially a not insignificant impact on the programme. This is not a full list of risks.

1. Integration of third party products (PID and Advertising Display).
2. Civil interface not as specified requiring redesign of PSD.
3. Signalling interface not as specified.
4. Delayed access to site (initial access delayed, and during installation; e.g. lack of works trains; others working within the Site Work Area).
5. Disruption to working whilst on site (e.g. lack of trackside access).
6. Late delivery from suppliers.

Optional statements If the *Contractor* is to provide Works Information for his design

- The Works Information for the *Contractor's* design is in Volume 2D of the Works Information in Annexure 11 to the Form of Agreement

If a programme is to be identified in the Contract Data

- The programme identified in the Contract Data is
The Programme is not identified in the Contract data.
- The *activity schedule* is in Attachment 5 to this Contract Data
- The tendered total of the Prices is [REDACTED]

Optional Price List

- The Optional Price List, in accordance with clause Z39 of the conditions of contract, to undertake the duties of a Principal Contractor for a Work Zone at any one of the sub-surface stations during the *Contractor's* installation and testing activities as described in the Optional Works Information is as follows:
 - Mobilisation and installation of resources, services and facilities [REDACTED]
 - Activity of undertaking the role of Principal Contractor for a period of 4 weeks:
[REDACTED]
 - Demobilisation and removal of resources, services and facilities: [REDACTED]

Priced Options

The *Project Manager* may within 10 days after the Contract Date, or by any later date as may subsequently be agreed, notify the *Contractor* that the *Employer* wishes to exercise the option set out below. Any such instruction is not a compensation event under the contract but is dealt with as follows:

- In the event that the *Employer* exercises the option set out below, the contract is changed only by the agreed adjustment to the total of the Prices as set out below and corresponding changes to the Activity Schedule.

Option: Additional Resources.

Description: The *Contractor* agrees to provide the following additional Key People and other resources as described in Attachment 6 to the Contract Data.

Adjustment to the total of the Prices: [REDACTED]

**Data for the Shorter
Schedule of Cost
Components**

- The percentage for people overheads is [REDACTED]
- The published list of Equipment is the last edition of the list published by:
Not applicable.
- The percentage for adjustment for Equipment in the published list is:
Not Applicable. % (state plus or minus).
- The rates for other Equipment are:

Equipment	size or capacity	rate £
.....None identified.....
.....
.....
.....
- The daily rates for Defined Cost of manufacture and fabrication outside the Working Areas are:

category of employee	daily rate £ (8hr day)
Electrical or Mechanical Engineer.	[REDACTED]
Electrical/Mechanical Fitter (Melksham).	[REDACTED]
Skilled Labour (non subcontract).	[REDACTED]
Semi-skilled Labour (non subcontract).	[REDACTED]
- The percentage for manufacture and fabrication overheads is [REDACTED]
- The daily rates for Defined Cost of design outside the Working Areas are

category of employee	daily rate £ (8hr day)
Design Engineer.	[REDACTED]
Systems Engineer.	[REDACTED]
Software Engineer.	[REDACTED]
Electrical or Mechanical Engineer.	[REDACTED]
Design Manager / Integration Manager	[REDACTED]
- The percentage for design overheads is [REDACTED]
- The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:

category of employee

...None.....

Data for Strategic Labour Needs and Training Output Breakdown

- The Strategic Labour Needs and Training output to be delivered under the contract is as shown in **Attachment 3** to the Contract Data.

Works Train Requirements for the works

- The number of Works Trains to be provided by the *Employer's* C610 Systemwide main works contractor to undertake the *works* are:

Type	Quantity Required
	87 train movements

Works trains to consist of 3 or 4 flatbed wagons with drop down sides that, if possible, provide a working surface flush with the platform structure. If possible, each end of the Works Train to be equipped with a Hi-Ab type hydraulic crane. At one end of the train there should be a wagon equipped to provide mobile welfare services for up to twenty men and at the other end of the train there should be a wagon equipped with storage for tools/consumables and a small workshop facility. The train should include motive power units at each end to enable bi-directional movement.

Clause 63.13 rates

- Where clause 63.13 of the *conditions of contract* applies the rates to be used for compensation events are set out in Attachment 8 to this Contract Data.
- If and when required additional items and rates may be added to, or removed from, the list in Attachment 8 by agreement between the *Project Manager* and the *Contractor*.
- The rates in Attachment 8 are current at the *base date*.

ATTACHMENT 1 TO THE CONTRACT DATA

The proportions used to calculate the Price Adjustment Factor are:

Index Ref	Group	Name	Source name	%
A	Construction	Labour	BCIS Labour Cost Index	
B		Plant	BERR 90/2 Plant & Road Vehicles	
C		Materials	BCIS Materials Cost Index	
I	All	All	Non Adjustable Element	
	Total			

- The *base date* for indices is: 01 March 2014
- The BCIS Labour Cost and Materials Cost Indices are prepared by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors and are available through the BCIS.
- The PAFI Indices are available through the BCIS.

For Index A
BCIS Labour Cost Index.
Base Date = 1985 = 100

For Index B
Price Adjustment Formulae Indices (PAFI) Civil Engineering 1990 Series.
90/2 Plant and Road Vehicles.
Base Date = June 1990 = 100

For Index C
BCIS Materials Cost Index
Base Date = 1985 = 100

ATTACHMENT 2 TO THE CONTRACT DATA – SUMMARY OF INSURANCES PROVIDED BY THE EMPLOYER

The insurance policy summary giving details of the insurances provided by the *Employer* is included in this Attachment 2 to this Contract Data. A full copy of the policy is available on request.

CROSSRAIL LIMITED

Summary of Owner Controlled Insurance Programme

PROGRAMME POLICY (CONSTRUCTION/ERECTION "ALL RISKS", EXISTING STRUCTURES/COMPULSORY PURCHASED PROPERTY, TUNNEL BORING MACHINES, COMPLETED WORKS AND THIRD PARTY LIABILITY INSURANCE)

Scope of Cover

Sect.1-a) Contract Works b) Completed Structures
 Sect.2-Existing/ compulsorily purchased properties
 Sect.3- Tunnel Boring Machines (if insured hereunder)
 Sect.4- Third Party Liability

INSURED:

(Sections 1a, 3 and 4 only)

- (i) **The Client**
 Crossrail Limited (CRL)
 Address:
 25 Canada Square,
 London E14 5LQ,
 United Kingdom
- (ii) **The Sponsors**
 Department for Transport (DfT)
 Transport for London (TfL)
- (iii) **The Programme Partner**
 Transcend Partners Limited
- (iv) **The Industry Partners (to be finalised)**
 Network Rail Infrastructure Limited (NR)
 London Underground Limited (LUL)
 Rail for London (RfL)
 Canary Wharf Properties (Crossrail) Limited
 Canary Wharf Group plc
 Berkeley Homes (East Thames) Limited
 Berkeley Homes plc
 Docklands Light Railway Limited (DLR)
- (v) **The Project Delivery Partner**
- (vi) **Delivery Contractors, Main Contractors, Trade Contractors, Nominated Contractors , Co-Contractors and/or Sub-Contractors** of any tier and any other contractor including advance works and enabling works contractors and maintenance contractors
- (vii) **Architects and/or Engineers and/or Consultants and/or Manufacturers and/or Suppliers** as regards their on-site activities only
- (viii) **Local Authorities and utility providers** including private utility owners as required.

- (ix) **Lenders/Financiers** as required.
- (x) **Any other party** having an insurable interest to the extent that the Insured is required by contract or agreement to provide insurance to such parties.

each for their respective rights and interests.

(Section 1b and 2)

- (i) **The Client**
Crossrail Limited (CRL)
Address:
25 Canada Square,
London E14 5LQ,
United Kingdom
- (ii) **The Sponsors**
Department for Transport (DfT)
Transport for London (TfL)

each for their respective rights and interests.

PERIOD OF INSURANCE FOR SECTIONS 1,2 AND 4:

From 31st December 2009 to the planned date of commencement of passenger operations on the final part of the Insured Programme, being 31st December 2018 plus the balance of any unexpired Defects Liability Period thereafter

PERIOD OF INSURANCE FOR SECTION 3

CRL to declare if cover is to be included for TBM's under the Policy, with or without transit cover. Dates to be declared prior to TBMs commencing transit or arriving on site.

INTEREST:

The interest insured by this Policy includes all

- (i) activities associated with the Insured Programme commencing during the Period of Insurance (or prior thereto with approval of Insurers) including all associated and ancillary works connected therewith and all activities and operations forming part of the Insured Programme.
- (ii) Liabilities towards third parties arising from (i) above.

THE PROGRAMME:

All works and activities in connection with the development, design, procurement, engineering, preparation, demolition, enabling, fabrication, construction, tunnelling, erection, installation, testing, commissioning, fitting out, integration, systemwide integration, trial running, completion, trial operations, asset management, ownership, occupation and defects correction in connection with the Crossrail Programme including all ancillary and associated works and activities related thereto of whatsoever nature including publicity events.

The Insured Programme shall exclude works and activities in connection with the Isle of Dogs Station (being undertaken by Canary Wharf Group) and Woolwich station box (being undertaken by Berkeley Homes) other than works in respect of integration risks and works undertaken by Insured (vi) but the Insured Programme shall include cover under Section 1b in respect of the Woolwich station. The Insured Programme shall also exclude works and activities in connection with all surface rail works (described as Branch Extension 3, Branch Extension 4 and Branch Extension 5) but includes all interface works as set out in the Insured Contracts.

SUMS INSURED/LIMITS OF INDEMNITY FOR SECTIONS 1, 2 AND 3:

any one Occurrence and in the aggregate during the Period of Insurance in excess of the Deductibles.

Note: This aggregate limit does not apply to Section 4 of this Policy.

Inner Limits

Inner Limits, subject to an aggregate limit of [REDACTED] for all claims under inner limit items and extensions, (but the Damage to Tunnelling Works inner limits are outside this aggregate).

Section 1a:-

- Damage to Tunnelling Works – [REDACTED] or [REDACTED] of the original construction cost of the immediate damaged area whichever is the greater any one Occurrence and [REDACTED] in the aggregate
- Suppliers' Sites - [REDACTED] any one Occurrence and in the aggregate per supplier
- Off-Site Storage – [REDACTED] any one Occurrence
- Transit – [REDACTED] any one Occurrence
- Expediting Expenses – [REDACTED] of the amount of the loss; maximum [REDACTED] any one Occurrence

Sections 1a and 1b:-

- Loss Minimisation Costs – [REDACTED] any one Occurrence
- Professional Fees – [REDACTED] of the amount of the loss; maximum [REDACTED] any one Occurrence
- Debris Removal – [REDACTED] of the amount of the loss; maximum [REDACTED] any one Occurrence

Section 2 - [REDACTED] any one Occurrence

- Tunnel Clause for Connaught Tunnel - [REDACTED] any one Occurrence and [REDACTED] in the aggregate.
- Property Due For Demolition – [REDACTED] per Occurrence and [REDACTED] per property in the aggregate
- Fly Tipping – [REDACTED] any one Occurrence

Section 3: –

- TBM Recovery Costs – [REDACTED] any one Occurrence and [REDACTED] in the aggregate
- Transit – [REDACTED] any one Occurrence

Sections 1, 2 and 3: –

- Undamaged Foundations – [REDACTED] of the amount of the loss; maximum [REDACTED] any one Occurrence and in the aggregate
- Plans, Models or Other Documents including Computer Records – [REDACTED] any one Occurrence
- Fire Brigade and/or Metropolitan Police Charges – [REDACTED] per Occurrence, [REDACTED] in the aggregate
- EU/Public Authorities/Railway Authorities Clause – [REDACTED] of the amount of the loss; maximum [REDACTED] in the aggregate

LIMIT OF INDEMNITY SECTION 4:

Section 4 – Third Party Liability

[REDACTED] any one Occurrence/unlimited in number of Occurrences.

[REDACTED] in the aggregate for the period of the Insured Programme in respect of Pollution or Contamination plus one automatic reinstatement without additional premiums

EXCESS LIABILITY

In excess of the primary limit shown above, Crossrail purchase Third Party Liability cover up to [REDACTED] any one occurrence in similar terms to the primary insurance in Section 4 above.

WORKING DEDUCTIBLES:	All figures in GBP
<ul style="list-style-type: none"> • Section 1a, 1b and 2 each & every Occurrence 	<p>Tunnelling Works Tunnels and related Section 1a Exclusion 1 claims and Maintenance (Section 1a Exclusion 2 claims)</p> <p>██████████</p>
•	Stations, Wet Works and other Section 1a Exclusion 1 claims and Maintenance (Section 1a Exclusion 2) claims
•	All other Works
<ul style="list-style-type: none"> • Section 3 each & every Occurrence 	<p>Tunnel Boring Machines</p> <p>██████████ of adjusted claim, minimum ██████████</p>
•	
<ul style="list-style-type: none"> • Section 4 each & every Occurrence 	<p>Loss of or damage to property or Nuisance, other than below,</p> <p>██████████</p> <p>Vibration, Removal, Weakening of Support</p> <p>Bodily Injury</p> <p>NIL</p>
TERRITORIAL LIMITS:	<p>Sections 1 – 3 - Anywhere in Europe arising out of the Insured Programme.</p> <p>Section 4 – Worldwide, excluding USA and Canada (other than in respect of non-manual visits in connection with the Insured Programme)</p>
JURISDICTION:	Anywhere in the world, excluding claims brought within the USA or Canada.
WORDING	Policy Wording is the HLG Project Policy wording including (but not limited to) the following terms, conditions and exclusions.
CONDITIONS	<p><u>Section 1 Construction/Erection All Risks and Completed Works</u></p> <p>Defects Liability Period 24 months - guarantee maintenance civil engineering works; extended maintenance all other works</p> <p>Tunnelling works</p> <p>Wet Works</p> <p>Foundations, Casings and Sheet Piles</p> <p>Electronic Data</p> <p>Automatic Increase Clause – ██████████</p> <p>Additional Costs of Construction</p> <p>Operator error (rolling stock)</p> <p>Emergency Braking (rolling stock)</p> <p>Free Issue Materials</p> <p>Rectification of Defects</p> <p><u>Section 2a & b – Existing Property/Compulsory Purchased Property or Property in the Insured’s (i) and (ii) Care, Custody or Control</u></p> <p>Tunnel Clause</p> <p>Property due for Demolition</p>

ADDITIONAL MEMORANDA applicable to Sections 1,2 and 3

Marine 50/50 Clause

Section 4 – Third Party Liability

Cross Liability
Additional Indemnities
Health & Safety at Work Act
Consumer Protection Act and Food Safety Act
Defence Costs [REDACTED]
Personal Representatives
Compensation for Court Attendance
Defective Premises Act
Data Protection Act
Additional Indemnity
Site Visitors
Unauthorised movement of vehicles
Corporate Manslaughter defence costs [REDACTED] per occurrence [REDACTED]
in the aggregate
Contractual Liability
Damage to LUL/DLR Assets
Vibration/Removal/Weakening of support
Revenue claims against CRL by LUL or DLRL

General

Primary Insurance
Mediation/Arbitration
Change in Circumstances
Advice of Loss
Non-cancellation
Payments on Account
Rights of Recourse/Subrogation Provision
Premium adjustment
Due Observance of Policy terms
Reasonable Precautions
TCOP compliance
Deductible Inflation Review Clause
Multiple Insured – LEG MIC Standard
Additional Interest

EXCLUSIONS:

Section 1 Construction/Erection All Risks and Completed Works

Defects – LEG3
Wear Tear and Corrosion
Inventory Losses
Plant and Equipment

Section 2a & b – Existing Property/Compulsory Purchased Property or Property in the Insured's (i) and (ii) Care, Custody or Control

Defects, Wear and Tear
Wharves, Piers and Jetties

Section 3- Tunnel Boring Machines

Mechanical or Electrical Breakdown
Wear, Tear and/or Corrosion

Section 4 – Third Party Liability

Road Traffic Act other than tool of trade risk and excess liability
Losses recoverable under Section(s) 1,2 or 3
Employers Liability
Deliberate Acts
Asbestos Work
Pollution and Contamination
Consequential Financial Loss
Professional Advice other than bodily injury or damage to property
Exclusion of USA/Canada jurisdiction

General

Nuclear and Associated Risks
War and Associated Risks
Fines and Penalties
Terrorism
Wilful Acts

NOTICES: Complaints Procedure Notice (Commercial).

**CHOICE OF LAW
AND POLICY
DISPUTES
JURISDICTION:** This insurance shall be governed by and construed in accordance with the laws of England & Wales in respect of Policy disputes.

**ATTACHMENT 3 TO THE CONTRACT DATA – THE STRATEGIC LABOUR NEEDS AND TRAINING
OUTPUT**

The *Contractor's* response to the Strategic Labour Needs and Training requirements in the Works Information is to be provided with its Responsible Procurement Plan.

ATTACHMENT 4 TO THE CONTRACT DATA – Qualifications and experience of key people

ATTACHMENT 5 TO THE CONTRACT DATA – The Activity Schedule

ACTIVITY SCHEDULE

Activity Nr	Activity Description	Definition of Activity Completion	TOTALS £
1.000	Project Management and Administration		
	This section of the Activity Schedule provides those project management and administration activities that the Contractor determines are necessary to Provide the Works in accordance with the requirements of the Works Information. In addition to its own requirement to manage, plan, procure and control the delivery of the works the Contractor is to ensure that any services or deliverables described in the Works Information are included in an activity.	Note: Where "PSD plant" is referred to in the definition of the activity completion it shall mean Plant and Materials as defined in the conditions of contract.	
1.010	Project Management and Administration of the works		
1.011	Production and delivery of the Project Execution Plan		
1.0111	Submit & Acceptance of Project Execution Plan	Notification of Code 1 acceptance by the Project Manager of the initial Execution Plan	
1.0112	Update & Issue Project Execution Plan - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0113	Update & Issue Project Execution Plan - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0114	Update & Issue Project Execution Plan - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0115	Update & Issue Project Execution Plan - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0116	Update & Issue Project Execution Plan - manufacturing phase	Submission of updated Execution Plan to Employer upon completion of component manufacturing phase at time of receipt of delivery of components for assembly of the last platform set of PSD plant	
1.0117	Update & Issue Project Execution Plan - logistics & build phase	Submission of updated Execution Plan to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0118	Update & Issue Project Execution Plan - installation phase	Submission of updated Execution Plan to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0119	Update & Issue Project Execution Plan - testing & commissioning phase	Submission of updated Execution Plan to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.012	Project Management		
1.0121	Project Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0122	Project Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0123	Project Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0124	Project Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0125	Project Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0126	Project Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0127	Project Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0128	Project Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.013	Project Controls and Planning		
1.0131	Four Weekly Dashboard Report - 51 reports @ ██████████ (invoiced every 4 weeks)	Four Weekly Dashboard Report - 51 reports @ ██████████ (invoiced every 4 weeks)	
1.014	Contract Administration		
1.0141	Contract Administration - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0142	Contract Administration - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0143	Contract Administration - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0144	Contract Administration - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0145	Contract Administration - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0146	Contract Administration - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0147	Contract Administration - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0148	Contract Administration - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.015	Risk Management		
1.0151	Risk Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0152	Risk Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0153	Risk Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0154	Risk Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0155	Risk Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0156	Risk Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0157	Risk Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0158	Risk Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.016	Document Control and Management		

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
1.0161	Document Control and Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0162	Document Control and Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0163	Document Control and Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0164	Document Control and Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0165	Document Control and Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0166	Document Control and Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0167	Document Control and Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0168	Document Control and Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.020 Responsible Procurement			
1.021	Responsible Procurement - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.022	Responsible Procurement - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.023	Responsible Procurement - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.024	Responsible Procurement - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.025	Responsible Procurement - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.030 Health and Safety Management			
1.031	Health & Safety Management - design of the works	Submission of Project Report to Employer at completion of Design prior to commencement of manufacturing.	
1.032	Health & Safety Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.033	Health & Safety Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.034	Health & Safety Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.035	Health & Safety Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.040 Quality Management			
1.041	Quality Management - design to gate review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.042	Quality Management - design from Gate Review 1 to gate review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.043	Quality Management - design from Gate Review 2 to gate review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.044	Quality Management - design from Gate Review 3 to completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.045	Quality Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.046	Quality Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.047	Quality Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.048	Quality Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.050 Environmental Management			
1.054	Environmental Management - design phase to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.055	Environmental Management - manufacturing, assembly & logistics & phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.058	Environmental Management - installation, testing & commissioning phase	Submission of Project Report to Employer at completion of commissioning of the complete works.	
1.060 Logistics Management			
1.061	Logistics Management - prototype logistics & build phase	Completion of delivery to site and installation of the last of the various Prototype PSD Systems under 7.010, 7.020 or 7.030, and the issue of the Installation Release Notice in accordance with Works Information Part 28.	
1.062	Logistics Management - mass manufacturing mobilisation	Submission of Project Report to Employer at completion of Design prior to commencement of manufacturing.	
1.063	Logistics Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.064	Logistics Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.065	Logistics Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.066	Logistics Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.070 Engineering Safety Management			
1.071	Engineering Safety Management - design to gate review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.072	Engineering Safety Management - design from Gate Review 1 to gate review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
1.073	Engineering Safety Management - design from Gate Review 2 to gate review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.074	Engineering Safety Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.075	Engineering Safety Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.076	Engineering Safety Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.077	Engineering Safety Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.078	Engineering Safety Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.080	Construction Management		
1.081	Construction Management - mobilisation, logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.082	Construction Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.083	Construction Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
2.000	Contract Provisions		
2.010	Provision of Performance Bond (clause X13)		
2.011	Charges for 2014 - 2015	Submission by Contractor of Performance Bond and notification of acceptance by the Employer,	
2.012	Charges for 2015 - 2016	First anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.013	Charges for 2016 - 2017	Second anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.014	Charges for 2017 - 2018	Third anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.015	Charges for 2018 - 2019	Fourth anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.016	Charges for 2019 (to end of Defects Liability Period)	Fifth anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.020	Provision of Insurances (Professional Indemnity) by the Contractor as required by the conditions of contract.		
2.021	Charges for 2014 - 2015	Submission by Contractor of evidence of insurance policy being taken out with approved insurance provider.	
2.022	Charges for 2015 - 2016	Submission by Contractor of evidence of continuation of insurance policy on first anniversary of the insurance policy being taken out with approved insurance provider.	
2.023	Charges for 2016 - 2017	Submission by Contractor of evidence of continuation of insurance policy on second anniversary of the insurance policy being taken out with approved insurance provider.	
2.024	Charges for 2017 - 2018	Submission by Contractor of evidence of continuation of insurance policy on third anniversary of the insurance policy being taken out with approved insurance provider.	
2.025	Charges for 2018 (to Completion Date)	Submission by Contractor of evidence of continuation of insurance policy on fourth anniversary of the insurance policy being taken out with approved insurance provider.	
2.026	Charges for Professional Indemnity Insurance for 12 years from Completion Date. (Payable in advance)	Submission by Contractor of evidence of continuation of insurance policy on fifth anniversary of the insurance policy being taken out with approved insurance provider, and each year thereafter upto 12 years from the Completion Date.	
3.000	Head Office, Manufacturing, Storage and Other Facilities provided by the Contractor; outside of the Site		
	This section of the Activity Schedule is provided for the Tenderer to list any additional facilities and supporting services he determines are necessary to Provide the Works. Separate activities are to be provided by the Tenderer for any support labour provided at the facilities that are not included elsewhere in the Activity Schedule.		
3.010	Pre-Installation Work Facility (Warehouse and Final Module assembly and test) - Rent		
3.011	Rent for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.012	Rent for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.013	Rent for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.014	Rent for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.015	Rent for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.016	Rent for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.020	Pre-Installation Work Facility (Warehouse and Final Module assembly and test) - Rates		
3.021	Rates for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.022	Rates for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.023	Rates for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.024	Rates for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.025	Rates for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.026	Rates for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.030	Pre-Installation Work Facility (Warehouse and Final Module assembly and test) - Services		
3.031	Services Charges for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.032	Services Charges for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.033	Services Charges for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.034	Services Charges for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.035	Services Charges for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.036	Services Charges for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
3.040	Fittingout / Reinstatement of Pre-Installation Work Facility		
3.041	Fitting Out	Receipt of the first deliveries of components for modular assembly of the PSD plant following completion of the fitting out of the temporary assembly facility.	
3.042	Reinstatement	Completion of the cleaning out and reinstatement of the temporary assembly facility to its original condition ready for handing back to the landlord.	
3.050	Agent / Legal fees (Mobilisation)		
		Completion of mobilisation, signified by the delivery to the temporary assembly facility of the first sets of components ready for assembly into modules.	
3.060	Attendant Labour (2 Plant operators)		
3.061	Attendant Labour for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.062	Attendant Labour for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.063	Attendant Labour for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.064	Attendant Labour for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.065	Attendant Labour for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.066	Attendant Labour for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.070	Warehouse Management		
3.071	Management costs for 1st 12-week period	Completion of first 12 week period from commencement of occupation of facility.	
3.072	Management costs for 2nd 12-week period	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.073	Management costs for 3rd 12-week period	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.074	Management costs for 4th 12-week period	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.075	Management costs for 5th 12-week period	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.076	Management costs for 6th 12-week period	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.080	Warehouse Administration		
3.081	Warehouse administration costs for 1st 12-week period	Completion of first 12 week period from commencement of occupation of facility.	
3.082	Warehouse administration costs for 2nd 12-week period	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.083	Warehouse administration costs for 3rd 12-week period	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.084	Warehouse administration costs for 4th 12-week period	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.085	Warehouse administration costs for 5th 12-week period	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.086	Warehouse administration costs for 6th 12-week period	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
4.000	Design and Assurance, Records and Certification		
4.010	Design Management and Integration Management		
4.011	Design Management - asset management & traceability activities - design phase up to Gate Review 3.	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
4.012	Integration Management - integration testing at the train manufacturer's factory	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's facility.	
4.013	Integration Management - operational testing	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
4.014	Design Management and Integration Management - design to gate review 1	Submission to, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.015	Design Management and Integration Management - design from Gate Review 1 to gate review 2	Submission to, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.016	Design Management and Integration Management - design from Gate Review 2 to gate review 3	Submission to, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.017	Design Management and Integration Management - design from Gate Review 3 to completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
4.018	Design Management and Integration Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
4.019	Design Management and Integration Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
4.020	Design Management and Integration Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
4.021	Design Management and Integration Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
4.020	Design required up to and including close out of Design Gate Review 1; including all deliverables as required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.021	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.022	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.030	Design required from Design Gate Review 1 up to and including close out of Design Gate Review 2; including all deliverables as required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.031	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.032	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.040	Design required from Design Gate Review 2 up to and including close out of Design Gate Review 3; including all deliverables required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.041	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.042	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.050	Design from Design Gate Review 3 up to and including the Completion Date; including all deliverables required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.051	PSD System	Completion of Design activities, and issue by the Project Manager of a Certificate upon Project Completion.	
4.052	Entrapment detection system	Completion of Design activities, and issue by the Project Manager of a Certificate upon Project Completion.	
4.060	Provision of as-built and operational records - Part 29.2.8		
		Completion of submission of 'as-built' and 'operational' records as required by Works Information, Volume 2B, Part 29.2.8.	

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
4.070	Asset Management and Traceability activities - Part 29.2.10	Completion of Asset Management and Traceability activities as required by Works Information, Volume 2B, Part 29.2.10.	
5.000	Equipment		
5.010	Equipment; purchased and/or manufactured for the works, comprising assembly and transportation jigs for the pre-assembled PSD modules. Cost includes, if required, the disposal of the jigs upon Completion.	Bringing onto Site, for the first time, Equipment purchased and/or manufactured for the works which becomes the property of Crossrail Limited.	
5.020	Equipment; various small tools and other portable equipment which is either pre-owned, leased or hired for the works.	Issue by the Project Manager of a Certificate upon Completion of the works.	
5.030	Equipment; transportation to and from Site.		
6.000	Plant and Materials - Procurement, Manufacture, Fabrication and Factory Acceptance Testing of PSD system and delivery to Site.		
6.010	PSD System Factory prototype; set-up at the Contractor's factory.	Completion of the post-installation commissioning of the PSD System Factory Prototype ready for inspection by the Employer's Supervisor.	
6.020	Elements provided at the Train Manufacturer's manufacturing facilities to test system interfaces.	Completion of the post-installation commissioning of the PSD System Prototype at the Train Manufacturer's facility.	
6.030	Elements provided at the Train Manufacturer's test track facility to test system interfaces.	Completion of the post-installation commissioning of the PSD System Prototype at the Train Manufacturer's test track facility.	
6.040	Elements of the PSD System for the Employer's station platform mock-up.	Completion of the post-installation commissioning of the PSD System Prototype within the Employer's station mock-up.	
6.050	Provision on site of Plant and Materials for PSD system for westbound platforms for:		
6.051	Paddington Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.052	Bond Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.053	Tottenham Court Road Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.054	Farringdon Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.055	Liverpool Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.056	Whitechapel Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.057	Canary Wharf Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.058	Woolwich Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.060	Provision on site of Plant and Materials for PSD system for eastbound platforms for:		
6.061	Paddington Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.062	Bond Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.063	Tottenham Court Road Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.064	Farringdon Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.065	Liverpool Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.066	Whitechapel Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.067	Canary Wharf Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.068	Woolwich Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.070	Entrapment detection system for:		
6.071	Tottenham Court Road Station; eastbound platform	Completion of delivery to Site of plant and materials required for the installation of one platform set of Entrapment Detection system.	
6.080	PSD system training simulator	Completion of the delivery to Site, setting up and commissioning of the PSD System Training Simulator.	
6.090	Delivery of Plant and Materials to the Train Manufacturer's manufacturing facilities to test system interfaces.	Completion of the delivery of the PSD System Prototype at the Train Manufacturer's facility.	
6.100	Delivery of Plant and materials to the Train Manufacturer's test track facility to test system interfaces.	Completion of the delivery of the PSD System Prototype at the Train Manufacturer's test track facility.	
6.110	Delivery of Plant and Materials to the Employer's station platform mock-up.	Completion of the delivery of the PSD System Prototype at the Employer's station mock-up.	
6.120	Delivery to Site of the PSD system for westbound platforms:		
6.121	Paddington Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.122	Bond Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.123	Tottenham Court Road Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.124	Farringdon Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.125	Liverpool Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.126	Whitechapel Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.127	Canary Wharf Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.128	Woolwich Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.130	Delivery to Site of the PSD system for eastbound platforms:		

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
6.131	Paddington Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.132	Bond Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.133	Tottenham Court Road Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.134	Farringdon Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.135	Liverpool Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.136	Whitechapel Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.137	Canary Wharf Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.138	Woolwich Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.140	Training Simulator	Completion of the delivery of the PSD System Training Simulator.	
7.000	Installation		
7.010	Installation of PSD system Plant and Materials at the Train Manufacturer's factory and removal on completion of testing.		
	Installation of PSD system Plant and Materials at the Train Manufacturer's factory	Completion of the installation of the PSD System Prototype at the Train Manufacturer's facility, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
	Decommissioning and removal of the PSD System plant and Materials at the Train Manufacturer's factory.	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's facility.	
7.020	Installation of PSD system Plant and Materials at the Train Manufacturer's test track and removal on completion of testing.		
	Installation of PSD system Plant and Materials at the Train Manufacturer's test track facility	Completion of the installation of the PSD System Prototype at the Train Manufacturer's test track facility, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
	Decommissioning and removal of the PSD System plant and Materials at the Train Manufacturer's test track facility.	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's test track facility.	
7.030	Installation of the PSD system at the Employer's station platform mock-up.	Completion of the installation of the PSD System Prototype at the Employer's station platform mock-up, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
7.040	Installation of the PSD system to westbound platform to:		
7.041	Paddington Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.042	Bond Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.043	Tottenham Court Road Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.044	Farringdon Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.045	Liverpool Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.046	Whitechapel Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.047	Canary Wharf Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.048	Woolwich Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.050	Installation of the PSD system to eastbound platform at:		
7.051	Paddington Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.052	Bond Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.053	Tottenham Court Road Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.054	Farringdon Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.055	Liverpool Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.056	Whitechapel Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.057	Canary Wharf Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.058	Woolwich Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.060	Installation of entrapment detection system at:		
7.061	Tottenham Court Road Station, eastbound platform	Completion of the installation of the PSD System, Entrapment Detection System, at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.070	Installation of PSD system training simulator	Completion of the installation of the PSD System Training Simulator, and issue of the Installation Release Notice in accordance with Work Information Part 28.	

ACTIVITY SCHEDULE

Activity Nr	Activity Description	Definition of Activity Completion	TOTALS £
7.080	Supervision of Installation		
7.0801	Installation Supervision - Integration Testing at the Train Manufacturer's Factory	Submission of Project Report to Employer upon completion of Integration Testing at the Train Manufacturer's Factory.	
7.0802	Installation Supervision - Asset Management & Traceability Activities - Manufacturing Phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
7.0803	Installation Supervision - Asset Management & Traceability Activities - Installation Phase	Submission of Project Report to Employer upon completion of all installation activities.	
7.0804	Installation Supervision - Operational Testing	Submission of Project Report to Employer upon completion of Operational Testing.	
7.0805	Installation Supervision - Maintenance of Installed Assets Prior to Completion	Completion of Maintenance of Installed Assets upon issue of Completion Certificate.	
7.0806	Installation Supervision - Site Installation Mobilisation	Completion of Site Mobilisation at time of delivery to Site of the first platform set of Plant and Material.	
7.0807	Installation Supervision - Paddington Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0808	Installation Supervision - Bond Street Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0809	Installation Supervision - Tottenham Court Road Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0810	Installation Supervision - Farringdon Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0811	Installation Supervision - Liverpool Street Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0812	Installation Supervision - Whitechapel Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0813	Installation Supervision - Canary Wharf Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0814	Installation Supervision - Woolwich Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0815	Installation Supervision - Paddington Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0816	Installation Supervision - Bond Street Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0817	Installation Supervision - Tottenham Court Road Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0818	Installation Supervision - Farringdon Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0819	Installation Supervision - Liverpool Street Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0820	Installation Supervision - Whitechapel Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0821	Installation Supervision - Canary Wharf Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0822	Installation Supervision - Woolwich Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0823	Installation Supervision - testing and commissioning - phase 2.1 - Intermediate Static Tests per Sub-System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.1, and issue of the Testing and Commissioning Certificate.	
7.0824	Installation Supervision - testing and commissioning - phase 2.2 - Static Tests per Elementary System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.2, and issue of the Testing and Commissioning Certificate.	
7.0825	Installation Supervision - testing and commissioning - phase 3 (Static Integration Tests) support	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 3, and issue of the Testing and Commissioning Certificate.	
7.090	Manual Labour within the Site (where not priced in another activity)		
7.100	Equipment operatives within the Site		
8.000	Testing and Commissioning		
8.010	Testing at the Train Manufacturer's factory	Completion of the scheduled testing at the at the Train Manufacturer's facility.	
8.020	Testing at the Train Manufacturer's test track	Completion of the scheduled testing at the at the Train Manufacturer's test track facility.	
8.030	Testing and Commissioning - Works Information Part 28 - Phases 2.1, 2.2 and 3		
8.031	Testing and Commissioning - phase 2.1 - Intermediate Static Tests per Sub-System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.1, and issue of the Testing and Commissioning Certificate.	
8.032	Testing and Commissioning - phase 2.2 - Static Tests per Elementary System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.2, and issue of the Testing and Commissioning Certificate.	
8.033	Testing and Commissioning - phase 3 (Static Integration Tests) support	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 3, and issue of the Testing and Commissioning Certificate.	
8.040	Testing and Commissioning - Works Information Part 28 - Phase 4 - Dynamic Tests	Completion of Testing & Commissioning as defined for phase 4, and issue of the Testing and Commissioning Certificate.	
8.050	Testing and Commissioning - Works Information Part 28 - Phase 5 - Trial Running Tests	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
8.060	Non-operational spare parts and special tools for testing and commissioning.	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
9.000	Operation and Maintenance		
9.010	Operation and Maintenance Documents	Submission to, and acceptance of O & M manuals by the Project Manager.	
9.020	Maintenance of installed assets prior to Completion Date		

ATTACHMENT 6 TO THE CONTRACT DATA – Option - Additional Resources

The following describes the changes to the provision of key people and additional resources to be implemented by the *Contractor* upon the exercise of the Option – Additional Resources as instructed in accordance with the Contract Data.

Health & Safety Manager

A Site Manager will be provided at each station who will have a degree of responsibility for Health & Safety for the *works* at the particular station under his responsibility. The Site Managers will report to the Installation Project Manager and liaise with the *Contractor's* Health & Safety Manager who will have overall responsibility for Health & Safety requirements for the *works*. The Site Managers and Installation Project Manager may be provided by a subcontractor.

Upon the exercise of this Option the *Contractor* shall employ a further health and safety 'specialist' with knowledge and experience consistent with the installation activities for the *works*. This health & safety 'specialist' will liaise with the *Contractor's* Site Managers, Installation Project Manager and the Health & Safety Manager. The health & safety specialist will be employed commencing three months before the start of the installation and the testing and commissioning phases of the *works*. The health & safety specialist will be dedicated full-time to the *works* during the installation and testing and commissioning phases.

Testing & Commissioning Manager

Upon exercising this Option the Testing & Commissioning Manager shall be employed by the *Contractor* on the *works* on a full time basis during the periods that cover the following areas of the Testing & Commissioning Manager's responsibility:

1. early involvement in the creation of the testing & commissioning [plans] and specifications;
2. from the commencement of installation of the *works* through to the start of trial running.

During these periods the Testing and Commissioning Manager will be supported by an Electrical/Electronic Engineer and a Mechanical Engineer.

The Test and Commissioning Manager shall be available as necessary at all other times during the *works*.

Integration Manager

Upon the exercise of this Option the Integration Manager shall be employed by the *Contractor* on a full time basis during the design of the *works*. The Integration manager shall be supported by an Electrical/Electronic Engineer and a Mechanical Engineer during the *works*.

The Integration Manager shall be available as necessary at all other times during the *works*.

Appended to Attachment 6 is a revised Activity Schedule that shows highlighted the changes to the Prices that will be effected upon the exercise of the Option – Additional Resources.

ACTIVITY SCHEDULE

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
1.000	Project Management and Administration		
	This section of the Activity Schedule provides those project management and administration activities that the Contractor determines are necessary to Provide the Works in accordance with the requirements of the Works Information. In addition to its own requirement to manage, plan, procure and control the delivery of the works the Contractor is to ensure that any services or deliverables described in the Works Information are included in an activity.	Note: Where "PSD plant" is referred to in the definition of the activity completion it shall mean Plant and Materials as defined in the conditions of contract.	
	Note to Tenderers: A separate section has been provided for design activities.		
1.010	Project Management and Administration of the works		
1.011	Production and delivery of the Project Execution Plan		
1.0111	Submit & Acceptance of Project Execution Plan	Notification of Code 1 acceptance by the Project Manager of the initial Execution Plan	
1.0112	Update & Issue Project Execution Plan - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0113	Update & Issue Project Execution Plan - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0114	Update & Issue Project Execution Plan - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0115	Update & Issue Project Execution Plan - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0116	Update & Issue Project Execution Plan - manufacturing phase	Submission of updated Execution Plan to Employer upon completion of component manufacturing phase at time of receipt of delivery of components for assembly of the last platform set of PSD plant	
1.0117	Update & Issue Project Execution Plan - logistics & build phase	Submission of updated Execution Plan to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0118	Update & Issue Project Execution Plan - installation phase	Submission of updated Execution Plan to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0119	Update & Issue Project Execution Plan - testing & commissioning phase	Submission of updated Execution Plan to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.012	Project Management		
1.0121	Project Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0122	Project Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0123	Project Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0124	Project Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0125	Project Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0126	Project Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0127	Project Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0128	Project Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.013	Project Controls and Planning		
1.0131	Four Weekly Dashboard Report - 51 reports @ [REDACTED] (invoiced every 4 weeks)	Four Weekly Dashboard Report - 51 reports @ [REDACTED] (invoiced every 4 weeks)	
1.014	Contract Administration		
1.0141	Contract Administration - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0142	Contract Administration - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0143	Contract Administration - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0144	Contract Administration - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0145	Contract Administration - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0146	Contract Administration - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0147	Contract Administration - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0148	Contract Administration - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.015	Risk Management		
1.0151	Risk Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.0152	Risk Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0153	Risk Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0154	Risk Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0155	Risk Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0156	Risk Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0157	Risk Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0158	Risk Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.016	Document Control and Management		
1.0161	Document Control and Management - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
1.0162	Document Control and Management - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.0163	Document Control and Management - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.0164	Document Control and Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.0165	Document Control and Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.0166	Document Control and Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.0167	Document Control and Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.0168	Document Control and Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.020	Responsible Procurement		
1.021	Responsible Procurement - design to Gate Review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.022	Responsible Procurement - design from Gate Review 1 to Gate Review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.023	Responsible Procurement - design from Gate Review 2 to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.024	Responsible Procurement - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.025	Responsible Procurement - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.030	Health and Safety Management		
1.031	Health & Safety Management - design of the works	Submission of Project Report to Employer at completion of Design prior to commencement of manufacturing	
1.032	Health & Safety Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.033	Health & Safety Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.034	Health & Safety Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.035	Health & Safety Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.040	Quality Management		
1.041	Quality Management - design to gate review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.042	Quality Management - design from Gate Review 1 to gate review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.043	Quality Management - design from Gate Review 2 to gate review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.044	Quality Management - design from Gate Review 3 to completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.045	Quality Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.046	Quality Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.047	Quality Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.048	Quality Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.050	Environmental Management		
1.054	Environmental Management - design phase to Gate Review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.055	Environmental Management - manufacturing, assembly & logistics & phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.058	Environmental Management - installation, testing & commissioning phase	Submission of Project Report to Employer at completion of commissioning of the complete works.	
1.060	Logistics Management		
1.061	Logistics Management - prototype logistics & build phase	Completion of delivery to site and installation of the last of the various Prototype PSD Systems under 7.010, 7.020 or 7.030, and the issue of the Installation Release Notice in accordance with Works Information Part 28.	
1.062	Logistics Management - mass manufacturing mobilisation	Submission of Project Report to Employer at completion of Design prior to commencement of manufacturing	
1.063	Logistics Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.064	Logistics Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.065	Logistics Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.066	Logistics Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.070	Engineering Safety Management		
1.071	Engineering Safety Management - design to gate review 1	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 1	
1.072	Engineering Safety Management - design from Gate Review 1 to gate review 2	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 2	
1.073	Engineering Safety Management - design from Gate Review 2 to gate review 3	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
1.074	Engineering Safety Management - design from Gate Review 3 to Completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
1.075	Engineering Safety Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
1.076	Engineering Safety Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
1.077	Engineering Safety Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.078	Engineering Safety Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
1.080	Construction Management		
1.081	Construction Management - mobilisation, logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
1.082	Construction Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
1.083	Construction Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
2.000	Contract Provisions		
2.010	Provision of Performance Bond (clause X13)		
2.011	Charges for 2014 - 2015	Submission by Contractor of Performance Bond and notification of acceptance by the Employer.	
2.012	Charges for 2015 - 2016	First anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.013	Charges for 2016 - 2017	Second anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.014	Charges for 2017 - 2018	Third anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.015	Charges for 2018 - 2019	Fourth anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.016	Charges for 2019 (to end of Defects Liability Period)	Fifth anniversary of the date of acceptance by the Employer of the Performance Bond.	
2.020	Provision of Insurances (Professional Indemnity) by the Contractor as required by the conditions of contract.		
2.021	Charges for 2014 - 2015	Submission by Contractor of evidence of insurance policy being taken out with approved insurance provider.	
2.022	Charges for 2015 - 2016	Submission by Contractor of evidence of continuation of insurance policy on first anniversary of the insurance policy being taken out with approved insurance provider.	
2.023	Charges for 2016 - 2017	Submission by Contractor of evidence of continuation of insurance policy on second anniversary of the insurance policy being taken out with approved insurance provider.	
2.024	Charges for 2017 - 2018	Submission by Contractor of evidence of continuation of insurance policy on third anniversary of the insurance policy being taken out with approved insurance provider.	
2.025	Charges for 2018 (to Completion Date)	Submission by Contractor of evidence of continuation of insurance policy on fourth anniversary of the insurance policy being taken out with approved insurance provider.	
2.026	Charges for Professional Indemnity Insurance for 12 years from Completion Date. (Payable in advance)	Submission by Contractor of evidence of continuation of insurance policy on fifth anniversary of the insurance policy being taken out with approved insurance provider, and each year thereafter upto 12 years from the Completion Date.	
3.000	Head Office, Manufacturing, Storage and Other Facilities provided by the Contractor; outside of the Site		
	This section of the Activity Schedule is provided for the Tenderer to list any additional facilities and supporting services he determines are necessary to Provide the Works. Separate activities are to be provided by the Tenderer for any support labour provided at the facilities that are not included elsewhere in the Activity Schedule.		
3.010	Pre-Installation Work Facility (Warehouse and Final Module assembly and test) - Rent		
3.011	Rent for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.012	Rent for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.013	Rent for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.014	Rent for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.015	Rent for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.016	Rent for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.020	Pr-Installation Work Facility (Warehouse and Final Module assembly and test) - Rates		
3.021	Rates for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.022	Rates for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.023	Rates for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.024	Rates for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.025	Rates for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.026	Rates for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.030	Pre-Installation Work Facility (Warehouse and Final Module assembly and test) - Services		
3.031	Services Charges for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	
3.032	Services Charges for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.033	Services Charges for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.034	Services Charges for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.035	Services Charges for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.036	Services Charges for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.040	Fittingout / Reinstatement of Pre-Installation Work Facility		
3.041	Fitting Out	Receipt of the first deliveries of components for modular assembly of the PSD plant following completion of the fitting out of the temporary assembly facility.	
3.042	Reinstatement	Completion of the clearing out and reinstatement of the temporary assembly facility to its original condition ready for handing back to the landlord.	
3.050	Agent / Legal fees (Mobilisation)		
		Completion of mobilisation, signified by the delivery to the temporary assembly facility of the first sets of components ready for assembly into modules.	
3.060	Attendant Labour (2 Plant operators)		
3.061	Attendant Labour for 1st 12-week period.	Completion of first 12 week period from commencement of occupation of facility.	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
3.062	Attendant Labour for 2nd 12-week period.	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.063	Attendant Labour for 3rd 12-week period.	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.064	Attendant Labour for 4th 12-week period.	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.065	Attendant Labour for 5th 12-week period.	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.066	Attendant Labour for 6th 12-week period.	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.070	Warehouse Management		
3.071	Management costs for 1st 12-week period	Completion of first 12 week period from commencement of occupation of facility.	
3.072	Management costs for 2nd 12-week period	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.073	Management costs for 3rd 12-week period	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.074	Management costs for 4th 12-week period	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.075	Management costs for 5th 12-week period	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.076	Management costs for 6th 12-week period	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
3.080	Warehouse Administration		
3.081	Warehouse administration costs for 1st 12-week period	Completion of first 12 week period from commencement of occupation of facility.	
3.082	Warehouse administration costs for 2nd 12-week period	Completion of second 12 week period, 24 weeks from commencement of occupation of facility.	
3.083	Warehouse administration costs for 3rd 12-week period	Completion of third 12 week period, 36 weeks from commencement of occupation of facility.	
3.084	Warehouse administration costs for 4th 12-week period	Completion of fourth 12 week period, 48 weeks from commencement of occupation of facility.	
3.085	Warehouse administration costs for 5th 12-week period	Completion of fifth 12 week period, 60 weeks from commencement of occupation of facility.	
3.086	Warehouse administration costs for 6th 12-week period	Completion of sixth 12 week period, 72 weeks from commencement of occupation of facility.	
4.000	Design and Assurance, Records and Certification		
4.010	Design Management and Integration Management		
4.011	Design Management - asset management & traceability activities - design phase up to Gate Review 3.	Submission and acceptance of the Design Gate Review Report by the Project Manager following Design Gate Review 3	
4.012	Integration Management - integration testing at the train manufacturer's factory	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's facility.	
4.013	Integration Management - operational testing	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
4.014	Design Management and Integration Management - design to gate review 1	Submission to, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.015	Design Management and Integration Management - design from Gate Review 1 to gate review 2	Submission to, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.016	Design Management and Integration Management - design from Gate Review 2 to gate review 3	Submission to, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.017	Design Management and Integration Management - design from Gate Review 3 to completion of works	Issue by the Project Manager of a Certificate upon Completion of the works.	
4.018	Design Management and Integration Management - manufacturing phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
4.019	Design Management and Integration Management - logistics & build phase	Submission of Project Report to Employer at completion of delivery to Plumstead Railhead of the last platform set of PSD plant ready for installation	
4.020	Design Management and Integration Management - installation phase	Submission of Project Report to Employer at completion of installation of the last of 16 platform sets of PSD Plant and Materials as confirmed by the issue of the last Installation Release Notice in accordance with Works Information Part 28.	
4.021	Design Management and Integration Management - testing & commissioning phase	Submission of Project Report to Employer at completion of Testing & Commissioning as defined for Works Information Part 28 Phase 5, and issue of the relevant Certificate, prior to the operator conducting Trial Operations.	
4.020	Design required up to and including close out of Design Gate Review 1; including all deliverables as required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.021	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.022	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 1 Report.	
4.030	Design required from Design Gate Review 1 up to and including close out of Design Gate Review 2; including all deliverables as required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.031	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.032	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 2 Report.	
4.040	Design required from Design Gate Review 2 up to and including close out of Design Gate Review 3; including all deliverables required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.041	PSD System	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.042	Entrapment detection system	Completion of Design activities, and acceptance by the Project Manager of the Design Gate Review 3 Report.	
4.050	Design from Design Gate Review 3 up to and including the Completion Date; including all deliverables required in the Works Information (including but not limited to Volume 2B Parts 29, 30, 31 and 32)		
4.051	PSD System	Completion of Design activities, and issue by the Project Manager of a Certificate upon Project Completion.	
4.052	Entrapment detection system	Completion of Design activities, and issue by the Project Manager of a Certificate upon Project Completion.	
4.060	Provision of as-built and operational records - Part 29.2.8		
		Completion of submission of 'as-built' and 'operational' records as required by Works Information, Volume 2B, Part 29.2.8.	
4.070	Asset Management and Traceability activities - Part 29.2.10		
		Completion of Asset Management and Traceability activities as required by Works Information, Volume 2B, Part 29.2.10.	
5.000	Equipment		
5.010	Equipment; purchased and/or manufactured for the works, comprising assembly and transportation jigs for the pre-assembled PSD modules. Cost includes, if required, the disposal of the jigs upon Completion.	Bringing onto Site, for the first time, Equipment purchased and/or manufactured for the works which becomes the property of Crossrail Limited.	
5.020	Equipment; various small tools and other portable equipment which is either pre-owned, leased or hired for the works.	Issue by the Project Manager of a Certificate upon Completion of the works.	
5.030	Equipment; transportation to and from Site.		

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
6.000	Plant and Materials - Procurement, Manufacture, Fabrication and Factory Acceptance Testing of PSD system and delivery to Site.		
6.010	PSD System Factory prototype; set-up at the Contractor's factory.	Completion of the post-installation commissioning of the PSD System Factory Prototype ready for inspection by the Employer's Supervisor.	
6.020	Elements provided at the Train Manufacturer's manufacturing facilities to test system interfaces.	Completion of the post-installation commissioning of the PSD System Prototype at the Train Manufacturer's facility.	
6.030	Elements provided at the Train Manufacturer's test track facility to test system interfaces.	Completion of the post-installation commissioning of the PSD System Prototype at the Train Manufacturer's test track facility.	
6.040	Elements of the PSD System for the Employer's station platform mock-up.	Completion of the post-installation commissioning of the PSD System Prototype within the Employer's station mock-up.	
6.050	Provision on site of Plant and Materials for PSD system for westbound platforms for:		
6.051	Paddington Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.052	Bond Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.053	Tottenham Court Road Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.054	Farringdon Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.055	Liverpool Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.056	Whitechapel Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.057	Canary Wharf Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.058	Woolwich Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.060	Provision on site of Plant and Materials for PSD system for eastbound platforms for:		
6.061	Paddington Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.062	Bond Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.063	Tottenham Court Road Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.064	Farringdon Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.065	Liverpool Street Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.066	Whitechapel Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.067	Canary Wharf Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.068	Woolwich Station	Completion of delivery to Site of plant and materials required for the installation of one platform set of PSD system.	
6.070	Entrapment detection system for:		
6.071	Tottenham Court Road Station; eastbound platform	Completion of delivery to Site of plant and materials required for the installation of one platform set of Entrapment Detection system.	
6.080	PSD system training simulator	Completion of the delivery to Site, setting up and commissioning of the PSD System Training Simulator.	
6.090	Delivery of Plant and Materials to the Train Manufacturer's manufacturing facilities to test system interfaces.	Completion of the delivery of the PSD System Prototype at the Train Manufacturer's facility.	
6.100	Delivery of Plant and materials to the Train Manufacturer's test track facility to test system interfaces.	Completion of the delivery of the PSD System Prototype at the Train Manufacturer's test track facility.	
6.110	Delivery of Plant and Materials to the Employer's station platform mock-up.	Completion of the delivery of the PSD System Prototype at the Employer's station mock-up.	
6.120	Delivery to Site of the PSD system for westbound platforms:		
6.121	Paddington Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.122	Bond Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.123	Tottenham Court Road Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.124	Farringdon Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.125	Liverpool Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.126	Whitechapel Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.127	Canary Wharf Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.128	Woolwich Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.130	Delivery to Site of the PSD system for eastbound platforms:		
6.131	Paddington Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.132	Bond Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.133	Tottenham Court Road Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.134	Farringdon Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.135	Liverpool Street Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.136	Whitechapel Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.137	Canary Wharf Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.138	Woolwich Station	Completion of delivery to Site of Plant and Materials required for the installation of one platform set of PSD system.	
6.140	Training Simulator	Completion of the delivery of the PSD System Training Simulator.	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
7.000	Installation		
7.010	Installation of PSD system Plant and Materials at the Train Manufacturer's factory and removal on completion of testing.		
	Installation of PSD system Plant and Materials at the Train Manufacturer's factory	Completion of the installation of the PSD System Prototype at the Train Manufacturer's facility, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
	Decommissioning and removal of the PSD System plant and Materials at the Train Manufacturer's factory	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's facility.	
7.020	Installation of PSD system Plant and Materials at the Train Manufacturer's test track and removal on completion of testing.		
	Installation of PSD system Plant and Materials at the Train Manufacturer's test track facility	Completion of the installation of the PSD System Prototype at the Train Manufacturer's test track facility, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
	Decommissioning and removal of the PSD System plant and Materials at the Train Manufacturer's test track facility.	Completion of the de-commissioning and removal of the PSD System Prototype at the Train Manufacturer's test track facility.	
7.030	Installation of the PSD system at the Employer's station platform mock-up.	Completion of the installation of the PSD System Prototype at the Employer's station platform mock-up, and issue of the Installation Release Notice in accordance with Works Information Part 28.	
7.040	Installation of the PSD system to westbound platform to:		
7.041	Paddington Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.042	Bond Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.043	Tottenham Court Road Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.044	Farringdon Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.045	Liverpool Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.046	Whitechapel Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.047	Canary Wharf Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.048	Woolwich Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.050	Installation of the PSD system to eastbound platform at:		
7.051	Paddington Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.052	Bond Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.053	Tottenham Court Road Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.054	Farringdon Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.055	Liverpool Street Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.056	Whitechapel Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.057	Canary Wharf Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.058	Woolwich Station	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.060	Installation of entrapment detection system at:		
7.061	Tottenham Court Road Station; eastbound platform	Completion of the installation of the PSD System, Entrapment Detection System, at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.070	Installation of PSD system training simulator	Completion of the installation of the PSD System Training Simulator, and issue of the Installation Release Notice in accordance with Work Information Part 28.	
7.080	Supervision of Installation		
7.0801	Installation Supervision - Integration Testing at the Train Manufacturer's Factory	Submission of Project Report to Employer upon completion of Integration Testing at the Train Manufacturer's Factory.	
7.0802	Installation Supervision - Asset Management & Traceability Activities - Manufacturing Phase	Submission of Project Report to Employer upon completion of component manufacturing phase at time of receipt of the last delivery of components for assembly of the last platform set of PSD plant	
7.0803	Installation Supervision - Asset Management & Traceability Activities - Installation Phase	Submission of Project Report to Employer upon completion of all installation activities.	
7.0804	Installation Supervision - Operational Testing	Submission of Project Report to Employer upon completion of Operational Testing.	
7.0805	Installation Supervision - Maintenance of Installed Assets Prior to Completion	Completion of Maintenance of Installed Assets upon issue of Completion Certificate.	
7.0806	Installation Supervision - Site Installation Mobilisation	Completion of Site Mobilisation at time of delivery to Site of the first platform set of Plant and Material.	
7.0807	Installation Supervision - Paddington Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0808	Installation Supervision - Bond Street Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0809	Installation Supervision - Tottenham Court Road Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
7.0810	Installation Supervision - Farringdon Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0811	Installation Supervision - Liverpool Street Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0812	Installation Supervision - Whitechapel Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0813	Installation Supervision - Canary Wharf Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0814	Installation Supervision - Woolwich Station - Westbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0815	Installation Supervision - Paddington Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0816	Installation Supervision - Bond Street Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0817	Installation Supervision - Tottenham Court Road Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0818	Installation Supervision - Farringdon Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0819	Installation Supervision - Liverpool Street Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0820	Installation Supervision - Whitechapel Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0821	Installation Supervision - Canary Wharf Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0822	Installation Supervision - Woolwich Station - Eastbound	Completion of the installation of the PSD System at the station platform Site, and issue of the Installation Release Notice in accordance with Works Information Part 28, prior to Testing & Commissioning.	
7.0823	Installation Supervision - testing and commissioning - phase 2.1 - Intermediate Static Tests per Sub-System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.1, and issue of the Testing and Commissioning Certificate.	
7.0824	Installation Supervision - testing and commissioning - phase 2.2 - Static Tests per Elementary System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.2, and issue of the Testing and Commissioning Certificate.	
7.0825	Installation Supervision - testing and commissioning - phase 3 (Static Integration Tests) support	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 3, and issue of the Testing and Commissioning Certificate.	
7.090	Manual Labour within the Site (where not priced in another activity)		
7.100	Equipment operatives within the Site		
8.000	Testing and Commissioning		
8.010	Testing at the Train Manufacturer's factory	Completion of the scheduled testing at the at the Train Manufacturer's facility.	
8.020	Testing at the Train Manufacturer's test track	Completion of the scheduled testing at the at the Train Manufacturer's test track facility.	
8.030	Testing and Commissioning - Works Information Part 28 - Phases 2.1, 2.2 and 3		
8.031	Testing and Commissioning - phase 2.1 - Intermediate Static Tests per Sub-System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.1, and issue of the Testing and Commissioning Certificate.	
8.032	Testing and Commissioning - phase 2.2 - Static Tests per Elementary System	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 2.2, and issue of the Testing and Commissioning Certificate.	
8.033	Testing and Commissioning - phase 3 (Static Integration Tests) support	Completion of Testing & Commissioning as defined for Works Information Part 28 Phase 3, and issue of the Testing and Commissioning Certificate.	
8.040	Testing and Commissioning - Works Information Part 28 - Phase 4 - Dynamic Tests	Completion of Testing & Commissioning as defined for phase 4, and issue of the Testing and Commissioning Certificate.	
8.050	Testing and Commissioning - Works Information Part 28 - Phase 5 - Trial Running Tests	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
8.060	Non-operational spare parts and special tools for testing and commissioning.	Completion of Testing & Commissioning as defined for phase 5, and issue of the final Testing and Commissioning Certificate, prior to the operator conducting Trial Operations.	
9.000	Operation and Maintenance		
9.010	Operation and Maintenance Documents	Submission to, and acceptance of O & M manuals by the Project Manager.	
9.020	Maintenance of installed assets prior to Completion Date		
9.021	Maintenance of installed assets prior to Completion Date. Initial period commencing after installation of the first platform PSD System, ending upon completion of installation of the 16th platform PSD System.	Completion of Installation of 16th (last) platform PSD System prior to Testing and Commissioning.	
9.022	Maintenance of installed assets prior to Completion Date. Second period commencing after installation of the 16th platform PSD System, ending 12 weeks later.	Completion of Maintenance of Installed Assets at 12 weeks from completion of Installation of 16th (last) PSD System prior to Testing and Commissioning.	
9.023	Maintenance of installed assets prior to Completion Date. Third period commencing 24 weeks after installation of the 16th platform PSD System, ending 12 weeks later.	Completion of Maintenance of Installed Assets at 24 weeks from completion of Installation of 16th (last) PSD System prior to Testing and Commissioning.	
	Maintenance of installed assets prior to Completion Date. Fourth period commencing 36 weeks after installation of the 16th platform PSD System, ending 12 weeks later.	Completion of Maintenance of Installed Assets at 36 weeks from completion of Installation of 16th (last) PSD System prior to Testing and Commissioning.	
9.024	Maintenance of installed assets prior to Completion Date. Fifth period commencing 48 weeks after installation of the 16th platform PSD System, ending upon Completion of the works.	Completion of Maintenance of Installed Assets upon issue of Completion Certificate.	
10.000	Training		
10.010	Training operator's and maintainer's staff	Completion of training of operator's and maintainer's staff.	

ACTIVITY SCHEDULE

27/08/2014

			TOTALS £
Activity Nr	Activity Description	Definition of Activity Completion	
tendered total of the Prices £			

ATTACHMENT 7 TO THE CONTRACT DATA – Not Used

ATTACHMENT 8 TO THE CONTRACT DATA – Rates to be used for compensation events in accordance with clause 63.13 of the *conditions of contract*

Activity/Function	Role	Location	Overtime (Yes/No)	Length of normal shift	Shift Rate £	Shift Rate £	Shift Rate £	Shift Rate £	Shift Rate £	Shift Rate £	Overtime Rate	Overtime Rate
					Monday to Friday	Sunday to Thursday	Sat & Sunday	Fri & Saturday	Bank Holiday Days	Bank Holiday Nights		
	Time Range				8am - 5pm 8hrs	10pm - 6am 8hrs	8am - 5pm 8hrs	up to 8hrs	8am - 5pm 8hrs	up to 8hrs		
	Shift Title				Day	Night	W/E Day	W/E Night	BH Day	BH Night	Weekday O/T	Weekend O/T
Project Management	Project Manager	Melksham, UK	No	8hrs								
Project Controls & Planning	Project Controls Manager	Melksham, UK	No	8hrs								
	Project Schedule Lead	Melksham, UK	No	8hrs								
Contract Administration	Commercial Manager	Melksham, UK	No	8hrs								
	Procurement Manager	Melksham, UK	No	8hrs								
Risk Management	Manager	Melksham, UK	No	8hrs								
	Engineer	Melksham, UK	No	8hrs								
Document Control & Management	Manager	Melksham, UK	No	8hrs								
	Engineer	Melksham, UK	No	8hrs								
Responsible Procurement	Procurement Specialist (Contractor)	Melksham, UK	No	8hrs								
	Procurement Manager	Melksham, UK	No	8hrs								
Health & Safety Management	Health & Safety Manager	Melksham, UK	No	8hrs								
Quality Management	Quality Manager	Melksham, UK	No	8hrs								
Environmental Management	Environmental Manager	Melksham, UK	No	8hrs								
	Environmental Auditor	Melksham, UK	No	8hrs								
Logistics Management	Logistics Manager	Melksham, UK	No	8hrs								
Engineering Safety Management	Engineering Safety Manager	Melksham, UK	No	8hrs								
Construction Management	Construction Manager	London	No	8hrs								
Design Management	Design Manager	Melksham, UK	No	8hrs								
	Integration Manager	Melksham /London	No	8hrs								
	Design Engineer	Melksham, UK	No	8hrs								
	Systems Engineer	Melksham, UK	No	8hrs								
	Software Engineer	Melksham, UK	No	8hrs								
	Electrical Engineer	Melksham, UK	No	8hrs								
	Mechanical Engineer	Melksham, UK	No	8hrs								
	EMC Specialist	Melksham, UK	No	8hrs								
Manufacture, Fabrication and Assembly	Manufacturing Lead	Melksham, UK	No	8hrs								
	Supervisor	Melksham, UK	No	8hrs								
(Please insert roles as necessary for different grades or types of fabricator/assembler)	Fabricator/assembler	Melksham, UK	No	8hrs								
	Semi-Skilled Labourer	Melksham, UK	No	8hrs								
Installation	Site Supervisor	Site	No	8hrs								
(Please insert roles as necessary for different grades or types of installer)	Mechanical / Electrical Fitter	Site	No	8hrs								
	Method Statement Author	Site	No	8hrs								
	Access Planner	Site	No	8hrs								
	Surveyor / Setting out Engineer	Site	No	8hrs								
	Un-skilled Labour- (Grade 1)	Site	No	8hrs								
	Semi-skilled labour - (Grade 2)	Site	No	8hrs								
	Skilled Labour - (Grade 3)	Site	No	8hrs								
Testing & Commissioning	Testing & Commissioning Manager	Melksham, UK	No	8hrs								
	Testing & Commissioning Engineer	Melksham, UK	No	8hrs								
Training												
Operation & Maintenance	Maintenance Supervisor	Melksham	No	8hrs								
	Electrical Engineer	Melksham	No	8hrs								
	Mechanical Engineer	Melksham	No	8hrs								
Others	Community Relations Representative	Melksham, UK	No	8hrs								
(Please insert roles)												

ANNEXURE 3 – WORKS INFORMATION PARTS 2A, 2B AND 2C

Refer to Book 2 and attached DVD.

1.6 The New Employer undertakes to perform the Contract and to be bound by its terms in every way as if the New Employer were, and had been from the inception, a party to the Contract in lieu of the Employer.

[1.7 The obligations and liabilities hereunder of all parties comprising the Contractor shall be joint and several.]

2. **Proper Law and Jurisdiction**

This Agreement and the rights and obligations of the parties hereto shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

3. **Contracts (Rights of Third Parties) Act 1999**

Notwithstanding any other provision in this Agreement, nothing in this Agreement is intended to confer on any person any right to enforce any of the provisions of this Agreement which such person would not have had, but for the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed the day and year first before written.

Executed as a Deed by)
[])
acting by: -)

Director

Director/Secretary

Executed as a Deed by)
[])
acting by: -)

Director

Director/Secretary

Executed as a Deed by)
[])
acting by: -)

Director

Director/Secretary

ANNEXURE 5 - FORMS OF PERFORMANCE BOND

Part A: Performance Bond

THIS PERFORMANCE BOND is made as a deed this day of 20[●]

BETWEEN: -

- (1) [] whose registered office is at [] (the "**Surety**"); and
- (2) Crossrail Limited (Company registration No. 04212657) whose registered office is at 25 Canada Square, London E14 5LQ (the "**Employer**"); and
- (3) [] whose registered office is at [] (the "**Contractor**").

WHEREAS:-

- (A) The **Employer** and the **Contractor** have entered into the contract [*insert contract number*] (the "**Contract**") for works in connection with [*insert contract description*] (the "**Works**") as defined in the Contract.
- (B) The **Surety** has agreed with the **Employer** at the request of the **Contractor** to guarantee the performance of the obligations of the **Contractor** under the Contract upon the terms and conditions of this Performance Bond subject to the limitation set out in Clause 2.

NOW THIS DEED WITNESSETH as follows:-

- 1.1 In consideration of the **Employer** entering into the Contract with the **Contractor**, the **Surety** hereby unconditionally and irrevocably guarantees to the **Employer** the due and punctual performance by the **Contractor** of each and all of the obligations duties and undertakings of the **Contractor** under and pursuant to the Contract when and if such obligations, duties and undertakings shall become due and performable according to the terms of the Contract. In the event of a breach of the Contract by the **Contractor** (and for the purposes of this Performance Bond a termination by the **Employer** of the **Contractor's** employment for any of reasons R1 – R10 set out in clause 91 of the Contract shall constitute a breach), subject to the provisions of this Performance Bond the **Surety** shall promptly on request from time to time so to do by the **Employer** satisfy and discharge the costs and losses sustained or incurred by the **Employer** and due from the **Contractor** in respect of such breach as established and ascertained in accordance with the provisions of or by reference to the Contract and taking into account all sums due to the **Contractor** under the Contract.
- 1.2 For the purposes of this Performance Bond:
 - (a) no estimate, forecast or assessment of the **Project Manager** (as defined in the Contract) shall be binding and conclusive against the **Surety**; and
 - (b) the damages due and payable under this Performance Bond to the **Employer** following a termination of the **Contractor's** employment under condition 91.1 of the Contract (Reasons for termination - insolvency events) shall be such amount as shall represent the difference between:
 - i) the amounts actually paid by the **Employer** to complete the whole of the works together with all direct loss and expense caused to the **Employer** by reason of such termination; and

Employer shall thereafter be entitled to recover pursuant to clause 1 the sum due from the *Contractor* to the *Employer* in respect of such termination.

7. The *Employer* shall pursuant to the provisions of the Contract issue the Defects Certificate (as defined in the Contract) then upon the date named in such certificate (save to the extent of any claims notified by the *Employer* to the *Surety* in writing prior to such date) the obligations of the *Surety* under this Deed shall be null and void but otherwise shall remain in full force and effect.
8. Any notice, request, demand or other communication to be given or made under this Performance Bond shall be made to the address of the addressee within the United Kingdom set out below and marked for the attention of the person set out below: -
 - (a) in the case of the *Employer* by letter to it at 25 Canada Square, London E14 5LQ in each case marked for the attention of the Company Secretary;
 - (b) in the case of the *Surety* by letter to it at [] in each case marked for the attention of []; and
 - (c) in the case of the *Contractor* by letter to it at [] in each case marked for the attention of []

or at any other address within the United Kingdom or for the attention of such other persons as the parties hereto may from time to time notify to each other and shall be deemed to have been delivered, in the case of any notice, request, demand or other communication given or made by personal delivery, when despatched or delivered unless despatched or delivered outside normal business hours when it shall be deemed to have been delivered on the next normal working day following the date on which it was despatched or, in the case of any notice, request, demand or other communication given or made by letter, upon actual receipt.

9. The construction, validity and performance of this Performance Bond shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.
10. Notwithstanding any other provisions of this Performance Bond nothing in this Performance Bond confers or purports to confer any rights to enforce any of its terms on any person who is not a party to it and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Performance Bond.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed the day and year first before written.

Part B: Goods and Materials Bond

The parties to this Bond are:

- (1) [] whose registered office is at [] (the "**Surety**"), and
 - (2) Crossrail Limited (Company registration No. 04212657) whose registered office is at 25 Canada Square, London E14 5LQ (the "**Employer**").
 - (A) The **Employer** and [] (the "**Contractor**") have entered into a contract (the "Contract") for works in connection with the Project and Programme (the "Works") as defined in the Contract.
1. Subject to the relevant provisions of the Contract as summarised below but with which the Surety shall not at all be concerned:
 - (a) no payment is to be made to the **Contractor** on account of items to be included in the Works ("**Plant and Materials**") which are outside the Working Areas (as defined in the Contract) unless the **Project Manager** has given his permission and the Surety has entered into this Bond in favour of the **Employer**;
 - [(b) the **Contractor** has agreed to insure against loss or damage to the Plant and Materials to their replacement cost, including the amount stated in the Contract Data for any Plant and Materials received and accepted by the **Contractor** which are outside the Working Areas;]
 - (c) immediately on payment and without any further act being necessary title shall pass to the **Employer** and the **Contractor** shall ensure that the Plant and Materials are clearly tagged, identified as the **Employer's** and set aside for the **Employer**. Risk in such Plant and Materials does not pass on payment;
 - (d) this Bond shall exclusively relate to the amount paid to the **Contractor** in respect of the Plant and Materials which are outside the Working Areas.
 2. The **Employer** shall in making any demand provide to the Surety a Notice of Demand in the form of the Schedule attached hereto which shall be accepted as conclusive evidence for all purposes under this Bond.
 3. The Surety shall within 5 Business Days after receiving the demand pay to the **Employer** the sum so demanded. 'Business Day' means the day (other than a Saturday or a Sunday) on which commercial banks are open for business in London.
 4. Payments due under this Bond shall be made notwithstanding any dispute between the **Employer** and the **Contractor** and whether or not the **Employer** and the **Contractor** are or might be under any liability one to the other. Payment by the Surety under this Bond shall be deemed a valid payment for all purposes of this Bond and shall discharge the Surety from liability to the extent of such payment.
 5. The Surety consents and agrees that the following actions by the **Employer** may be made and done without notice to or consent of the Surety and without in any way affecting changing or releasing the Surety from its obligations under this Bond and the liability of the Surety hereunder shall not in any way be affected hereby. The actions are:
 - (a) waiver by the **Employer** of any of the terms, provisions, conditions, obligations and agreements of the **Contractor** or any failure to make demand upon to take action against the **Contractor**;
 - (b) any modification or changes to the Contract; and/or

(c) the granting of an extension of time to the *Contractor* without affecting the terms of clause 7 below.

6. The Surety's maximum aggregate liability under this Bond shall be ●.

[Note: Value of the relevant Plant and Materials to be inserted]

7. The obligations of the Surety under this Bond shall cease upon the date on which the Plant and Materials have been delivered to the Working Areas as certified in writing to the Surety by the *Employer* and any claims hereunder must be received by the Surety in writing on or before such date.

8. The Bond is transferable and assignable without the prior written consent of the Surety to any party to whom title is passed in the Plant and Materials subject to written notice to the Surety of any such transfer or assignment being made by the Employer.

9. Notwithstanding any other provisions of this Bond nothing in this Bond confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.

10. This Bond shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

IN WITNESS whereof this Bond has been executed as a Deed by the Surety and delivered on the date below:

Executed as a deed by [*insert name in*)
bold and upper case])
for and on behalf of the Surety:)

Director

Director/Secretary

Executed as a deed by [*insert name in*)
bold and upper case])
for and on behalf of the *Employer*:)

Director

Director/Secretary

SCHEDULE TO BOND

(clause 2 of the Bond)

Notice of Demand

Date of Notice: _____

Date of Bond: _____

Employer: _____

Surety: _____

We hereby demand payment of the sum of £_____

being the amount in respect of Plant and Materials included in an interim payment(s) under the Contract which has been duly made to the **Contractor** by the **Employer** but such Plant and Materials have not been delivered to the Working Areas.

Address for payment: _____

This Notice is signed by the following persons who are authorised by the **Employer** to act for and on his behalf:

Signed by _____

Name: _____

Official Position: _____

Signed by _____

Name: _____

Official Position: _____

ANNEXURE 6 FORMS OF WARRANTY

CONTRACTOR'S WARRANTY TO DLR

THIS DEED is made on 20[●]

BETWEEN:

- (1) **DOCKLANDS LIGHT RAILWAY LIMITED** company number 02052677 whose registered office is at Operations and Maintenance Centre, PO Box 154, Castor Lane, Poplar, London E14 0DX (the "**Beneficiary**" which expression shall include its successors and assigns); and
- (2) [] company number [] whose registered office is at [] (the "**Contractor**").

[NB1 – Where the Contractor is an unincorporated JV then each party comprising the Contractor to execute.]

[NB2 – Where the obligations of the Contractor under the contract are guaranteed, each guarantor is to be a party to this warranty and a guarantee in the form set out in Annexure 7 to this contract (mutatis mutandis) shall be included in this warranty.]

WHEREAS:

- (A) By a works agreement dated 8 February 2010 (the "**Works Agreement**"), Crossrail Limited ("**CRL**") agreed with the Beneficiary how certain works and services needed for the Crossrail project will be effected.
- (B) By a building contract dated [] (the "**Contract**") CRL appointed the Contractor to carry out certain works and/or services in relation to Replacement Works and/or Interface Works both as defined in the Works Agreement (the "**Works**").
- (C) The Contractor acknowledges that the Beneficiary has an interest in the proper carrying out of the Works and has agreed to enter into a direct contractual relationship with the Beneficiary on the terms contained in this Deed.

NOW IT IS AGREED:

INTERPRETATION

1. Terms and expressions defined in the Contract shall where the context so permits have the same meanings in this Deed.

SKILL, CARE AND DUTY

2. The Contractor warrants and undertakes to the Beneficiary that:

- 2.1 in the carrying out of the Works, it owes a duty of care to the Beneficiary;
 - 2.2 it has complied with and will continue to comply with the terms of and fulfil its obligations set out in the Contract; and
 - 2.3 it has and will Provide the Works in accordance with the Works Information and Applicable Law.
3. The Contractor recognises that the Beneficiary has relied or will rely exclusively upon the **Contractor's skill and care in the full and proper performance of the Contractor's obligations** under the Contract.

DELETERIOUS MATERIALS

4. The Contractor warrants and undertakes to the Beneficiary that it has and will Provide the Works such that only materials which at the time of use are not deleterious to health and safety or to durability and which accord with the guidelines contained in the publication Good Practice in Selection Of Construction Materials (Ove Arup & Partners) current at the date of use are used in the Works.

ENQUIRIES AND INSPECTION

5. The liability of the Contractor under this Deed shall not be released diminished or in any way affected by any independent enquiry into any relevant matter which may be made or carried out by the Beneficiary or by any third party on its behalf or by any act or omission of any such third party whether or not such action or omission might give rise to an independent liability of such third party to the Contractor.

INSURANCE

6. The Contractor warrants and undertakes to the Beneficiary that:
 - 6.1 it has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Contract; and
 - 6.2 insofar as it is responsible for the design of the Works, it has professional indemnity insurance with a limit of indemnity of not less than £[] in any period of insurance in respect of each and every claim which may be made against the Contractor in relation to the Works. The Contractor shall maintain such professional indemnity insurance for a period of twelve (12) years from Completion (as defined in the Contract) of the whole of the Works provided such insurance remains available at commercially reasonable rates and shall notify the Beneficiary forthwith if such insurance ceases to be so available in which case, the Contractor and the Beneficiary will discuss means of best protecting the respective positions of the Beneficiary and the Contractor in the absence of such insurance. 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 Contractor's insurance claims record.

7. As and when reasonably requested by the Beneficiary, the Contractor shall produce for inspection documentary evidence that the insurance referred to in Clause 6.2 above is being properly maintained and that payment has been made of the last premium due in respect of such insurance. The Contractor agrees that in default of such insurances being properly maintained, the Beneficiary shall be entitled to effect such insurance itself and the Contractor shall reimburse the Beneficiary of all of its costs in relation thereto.

COPYRIGHT

8. The Contractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the Works) and the training of personnel in connection with any of the above activities (the "Permitted Purposes").

The licence shall be capable of assignment (but only as part of the assignment of this Deed as a whole in accordance with clause 9 hereof) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the Contractor.

Such licence does not include:

- (a) the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract and on such occurrence only for the Permitted Purposes; nor
- (b) the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the Works without the prior written consent of the Contractor (not to be unreasonably withheld or delayed in the event the Contractor is unable or unwilling, on competitive terms and conditions, to supply such spare part or part of the Works or a suitable alternative) except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract,

and any sub-licence granted by the Beneficiary shall carry similar restrictions. Provided always that such restrictions shall not prevent the Beneficiary obtaining uncustomised off-the-shelf products from suppliers other than the Contractor.

ASSIGNMENT

9. This Deed may be assigned by the Beneficiary no more than two (2) times without the consent of the Contractor being required provided such assignment is to a member of the TfL Group.

LIABILITY

10. The Contractor shall have no greater liability to the Beneficiary under this Deed than it would have had if the Beneficiary had been named in its Contract as its joint employer.
11. The Contractor may use any defence that it would have had under the Contract if the Beneficiary had been named in the Contract as its joint employer in defence of any claim by the Beneficiary under this Deed.
12. The liability of the Contractor under this Deed shall cease twelve (12) years following Completion (as defined in the Contract) of the Works save in respect of claims commenced prior to the expiry of such period.
13. The Contractor shall have no liability under or in relation to this Deed in relation to any delay to Completion of the Works.
14. The Beneficiary shall not commence any proceedings against the Contractor under this Deed (save in respect of any claims arising under clauses 8 and 9 (Copyright)) prior to the date of issue of the Defects Certificate under the Contract.

RIGHTS AND OBLIGATIONS

15. Nothing in this deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this deed.

NOTICE

16. Any notice to be given hereunder shall be deemed to be duly given if it is in writing and delivered by hand at or sent by registered post to the registered office or principal place of business in the United Kingdom for the time being of the party to be served and in the case of any such notice sent by registered post shall be deemed to have been received forty-eight (48) hours after being posted

VARIATIONS AND AMENDMENTS TO THE CONTRACT

17. The Contractor acknowledges that no amendment to or variation of any provision of the **Contract relating to any limit on the Contractor's liability thereunder shall in any way affect the Contractor's obligations to the Beneficiary pursuant to this Deed except in circumstances where the Beneficiary has given its prior written consent to such amendment or variation.**

LAW AND DISPUTES

18. Any and all disputes and claims between the Beneficiary and the Contractor as to the construction, interpretation, validity and application of this Deed and any and all matters or things of whatsoever nature arising out of or in connection therewith shall be governed by and construed in accordance with English Law and the parties hereby submit to the jurisdiction of the Courts of England and Wales.

CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

19. Nothing in this Deed confers or is intended to confer on any third party any benefit or the right to enforce any term of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS whereof this Deed has been executed and unconditionally delivered as a Deed by the parties the day and year first above written.

Executed as a Deed by affixing
the common seal of
DOCKLANDS LIGHT RAILWAY LIMITED
in the presence of:

Signature of Director

Signature of Director/Secretary

Signed and delivered as a deed
for and on behalf of
[THE CONTRACTOR]
by:

Signature of Director

Signature of Director/Secretary

CONTRACTOR WARRANTY TO LUL

THIS DEED is made on

2014

BETWEEN:

- (1) **LONDON UNDERGROUND LIMITED** company number 01900907 whose registered office is at 55 Broadway, London SW1H 0BD (the "**Beneficiary**" which expression shall include its successors and assigns);
- (2) **KNORR BREMSE RAIL SYSTEMS (UK) LIMITED** company number 3974921 whose registered office is at Westinghouse Way, Hampton Park East, Melksham, Wiltshire, SN12 6TL (the "**Contractor**"); and
- (3) **KNORR BREMSE AG** of Moosacher Straße 80, 80809 Munich, Germany (District Court of Munich Trade Registration No. HR B 42 031) (the "**Guarantor**").

WHEREAS:

- (A) By a development agreement dated 3 December 2008 (the "**Development Agreement**"), Crossrail Limited ("CRL") agreed with the Beneficiary how certain works and services needed for the Crossrail project will be effected.
- (B) By a building contract (contract number C631) dated 25 September 2014 (the "**Contract**") CRL appointed the Contractor to carry out certain works covered by the scope of the Development Agreement (the "**Works**").
- (C) The Contractor acknowledges that the Beneficiary has an interest in the proper carrying out of the Works and has agreed to enter into a direct contractual relationship with the Beneficiary on the terms contained in this Deed.
- (D) The Guarantor has agreed to guarantee the performance of the obligations of the Contractor.

NOW IT IS AGREED:

INTERPRETATION

20. Terms and expressions defined in the Contract shall where the context so permits have the same meanings in this Deed.

SKILL, CARE AND DUTY

21. The Contractor warrants and undertakes to the Beneficiary that:
 - 21.1 in the carrying out of the Works, it owes a duty of care to the Beneficiary;

- 21.2 it has complied with and will continue to comply with the terms of and fulfil its obligations set out in the Contract; and
- 21.3 it has and will Provide the Works in accordance with the Works Information and Applicable Law.
22. The Contractor recognises that the Beneficiary has relied or will rely exclusively upon the **Contractor's skill and care in the full and proper performance of the Contractor's** obligations under the Contract.

DELETERIOUS MATERIALS

23. The Contractor warrants and undertakes to the Beneficiary that it has and will Provide the Works such that only materials which at the time of use are not deleterious to health and safety or to durability and which accord with the guidelines contained in the publication Good Practice in Selection Of Construction Materials (Ove Arup & Partners) current at the date of use are used in the Works.

ENQUIRIES AND INSPECTION

24. The liability of the Contractor under this Deed shall not be released diminished or in any way affected by any independent enquiry into any relevant matter which may be made or carried out by the Beneficiary or by any third party on its behalf or by any act or omission of any such third party whether or not such action or omission might give rise to an independent liability of such third party to the Contractor.

INSURANCE

25. The Contractor warrants and undertakes to the Beneficiary that:
- 25.1 it has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Contract; and
- 25.2 insofar as it is responsible for the design of the Works, it has professional indemnity insurance with a limit of indemnity of not less than [REDACTED] in any period of insurance in respect of each and every claim which may be made against the Contractor in relation to the Works. The Contractor shall maintain such professional indemnity insurance for a period of twelve (12) years from Completion (as defined in the Contract) of the whole of the Works provided such insurance remains available at commercially reasonable rates and shall notify the Beneficiary forthwith if such insurance ceases to be so available in which case, the Contractor and the Beneficiary will discuss means of best protecting the respective positions of the Beneficiary and the Contractor in the absence of such insurance. 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 Contractor's insurance claims record.
26. As and when reasonably requested by the Beneficiary, the Contractor shall produce for inspection documentary evidence that the insurance referred to in Clause 6.2 above is being properly maintained and that payment has been made of the last premium due in

respect of such insurance. The Contractor agrees that in default of such insurances being properly maintained, the Beneficiary shall be entitled to effect such insurance itself and the Contractor shall reimburse the Beneficiary of all of its costs in relation thereto.

INTELLECTUAL PROPERTY RIGHTS

27. The Contractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the Works) and the training of personnel in connection with any of the above activities (the "Permitted Purposes").

The licence shall be capable of assignment (but only as part of the assignment of this Deed as a whole in accordance with clause 9 hereof) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the Contractor.

Such licence does not include:

- (a) the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract and on such occurrence only for the Permitted Purposes; nor
- (b) the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the Works without the prior written consent of the Contractor (not to be unreasonably withheld or delayed in the event the Contractor is unable or unwilling, on competitive terms and conditions, to supply such spare part or part of the Works or a suitable alternative) except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract,

and any sub-licence granted by the Beneficiary shall carry similar restrictions. Provided always that such restrictions shall not prevent the Beneficiary obtaining uncustomised off-the-shelf products from suppliers other than the Contractor.

ASSIGNMENT

28. This Deed may be assigned by the Beneficiary no more than two (2) times without the consent of the Contractor being required provided such assignment is to a member of the TfL Group.

LIABILITY

29. The Contractor shall have no greater liability to the Beneficiary under this Deed than it would have had if the Beneficiary had been named in its Contract as its joint employer.

30. The Contractor may use any defence that it would have had under the Contract if the Beneficiary had been named in the Contract as its joint employer in defence of any claim by the Beneficiary under this Deed.
31. The liability of the Contractor under this Deed shall cease twelve (12) years following Completion (as defined in the Contract) of the Works save in respect of claims commenced prior to the expiry of such period.
32. The Contractor shall have no liability under or in relation to this Deed in relation to any delay to Completion of the Works.
33. The Beneficiary shall not commence any proceedings against the Contractor under this Deed (save in respect of any claims arising under clause 8 (Intellectual Property Rights)) prior to the date of issue of the Defects Certificate under the Contract.

RIGHTS AND OBLIGATIONS

34. Nothing in this deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this deed.

NOTICE

35. Any notice to be given hereunder shall be deemed to be duly given if it is in writing and delivered by hand at or sent by registered post to the registered office or principal place of business in the United Kingdom for the time being of the party to be served and in the case of any such notice sent by registered post shall be deemed to have been received forty-eight (48) hours after being posted.

VARIATIONS AND AMENDMENTS TO THE CONTRACT

36. The Contractor acknowledges that no amendment to or variation of any provision of the **Contract relating to any limit on the Contractor's liability thereunder shall in any way affect the Contractor's obligations to the Beneficiary pursuant to this Deed except in** circumstances where the Beneficiary has given its prior written consent to such amendment or variation.

LAW AND DISPUTES

37. Any and all disputes and claims between the Beneficiary and the Contractor as to the construction, interpretation, validity and application of this Deed and any and all matters or things of whatsoever nature arising out of or in connection therewith shall be governed by and construed in accordance with English Law and the parties hereby submit to the jurisdiction of the Courts of England and Wales.

CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

38. Nothing in this Deed confers or is intended to confer on any third party any benefit or the right to enforce any term of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

GUARANTEE

39.

- 20.1 The Guarantor agrees that if the Contractor shall in any respect fail to perform any of its obligations arising under or out of this Deed (as the same may be amended or varied from time to time) or shall commit any breach or fail to perform any warranty or indemnity set out in this Deed (as the same may be amended or varied from time to time), then the **Guarantor shall upon the Beneficiary's demand procure the performance of the Works and procure the fulfilment in the place of the Contractor of each and every obligation, warranty or indemnity in respect of which the Contractor has defaulted or as may be unfulfilled by the Contractor, within 10 business days of receipt of written notification from the Beneficiary to the Guarantor of such failure or breach by the Contractor and, if such liability of the Contractor to the Beneficiary has been contested by the Contractor under this Deed, substantiation of such claim by way of a first adjudication decision either according to the disputes resolution procedure under this Deed or, if there is no adjudication decision, of a court judgment for the amount of such claim, or a settlement in respect of such contested liability agreed by the Contractor and the Beneficiary, and provided the Guarantor shall have failed to procure the performance and fulfilment in the place of the Contractor within four weeks of such demand, subject always to clause 20.2, the Guarantor shall indemnify and save harmless the Beneficiary from any and all losses, damages, expenses, claims, costs or proceedings which the Beneficiary may suffer or incur by reason of the said failure or breach by the Contractor.**

- 20.2 **The Guarantor's obligations and liability hereunder shall be no greater than if it had been named in this Deed as a party comprising the Contractor with joint and several obligations and liability and the Guarantor shall be entitled in any action or proceedings by the Beneficiary to rely on any limitation, defences, set-offs and counterclaims under this Deed in relation to any such obligation or liability.**

40. The Guarantor confirms that it has full power and capacity to give the guarantee set out herein, and that the guarantee shall not be revocable and shall be a continuing guarantee.

41. The Guarantor agrees that, upon notice from the Beneficiary at any time, either

- (a) the Beneficiary may assign any of its rights under this guarantee to, or
- (b) the Guarantor will issue a replacement guarantee in terms identical to this guarantee in favour of,

any person who takes an assignment, novation or other transfer of this Deed or the benefit thereof in accordance with its terms. The Guarantor may decide whether the Guarantee ought to be assigned or a replacement guarantee issued.

42. As between the Guarantor and the Beneficiary, the Guarantor shall remain liable under clause 20 as if it were the sole principal obligor and not merely a guarantor, provided that nothing in this guarantee set out herein shall render the Guarantor liable in respect of any provision of this Deed that is illegal, invalid or unenforceable.
43. The Guarantor shall not be discharged nor shall its liability be affected by anything which would not discharge it or affect its liability if it were the sole principal obligor including, but not limited to:
- 24.1 any amendment, modification, waiver, consent or variation, express or implied, to the scope or the works under the Contract or to the Contract, this Deed or any related documentation;
 - 24.2 the granting of any extensions of time or forbearance, forgiveness or indulgences in relation to the Contractor;
 - 24.3 the enforcement, absence of enforcement or release of the Contract, this Deed or of any security, right of action or other guarantee or indemnity;
 - 24.4 the dissolution, amalgamation, reconstruction, reorganisation of the Contractor or any other person;
 - 24.5 the illegality, invalidity or unenforceability of or any defect in any provision of the Contract, **this Deed or any of the Contractor's obligations under the Contract or this Deed or;**
 - 24.6 any indulgence or additional or advanced payment, forbearance, payment or concession to the Contractor;
 - 24.7 any compromise of any dispute with the Contractor;
 - 24.8 any failure of supervision to detect or prevent any fault of the Contractor on the part of the Beneficiary or CRL;
 - 24.9 any assignment of the benefit of the Contract or this Deed or any novation of the Contract or this Deed.
44. The Guarantor agrees that any decision of any adjudicator appointed in accordance with this Deed and/or any court and/or any agreement reached between the Contractor and the Beneficiary in respect of or in connection with this Deed shall be binding on the Guarantor, provided always that the Guarantor shall have available to it such rights of appeal or challenge as the Contractor would have or would have had.
45. No proceedings may be commenced against the Guarantor by the Beneficiary more than 12 years after Completion under and as defined in the Contract.

IN WITNESS whereof this Deed has been executed and unconditionally delivered as a Deed by the parties the day and year first above written.

Executed as a Deed by affixing
the common seal of
LONDON UNDERGROUND LIMITED
in the presence of:

Signature of Director

Signature of Director/Secretary

Signed and delivered as a deed
for and on behalf of
KNORR BREMSE RAIL SYSTEMS (UK) LIMITED by:

Signature of Director

Signature of Director/Secretary

Signed and delivered as a deed
for and on behalf of
KNORR BREMSE AG by:

Signature of Director

Signature of Director/Secretary

CONTRACTOR'S WARRANTY TO NETWORK RAIL

THIS DEED is made the day of 20[]

BETWEEN:

- (1) [CONTRACTOR] whose registered office is at [], (the "**Contractor**") and
- (2) **NETWORK RAIL INFRASTRUCTURE LIMITED** registered in England and Wales under company number 2904587 and having its registered office at 90, York Way, London, NW1 9AG (the "**Beneficiary**").

[NB1 – Where the Contractor is an unincorporated JV then each party comprising the Contractor to execute.]

[NB2 – Where the obligations of the Contractor under the contract are guaranteed, each guarantor is to be a party to this warranty and a guarantee in the form set out in Annexure 7 to this contract (mutatis mutandis) shall be included in this warranty.]

WHEREAS

- (A) The Beneficiary has entered into an agreement dated 20 July 2009 with Crossrail Limited (the "**Employer**") in connection with the Works.
- (B) The Contractor has entered into the Contract with the Employer to carry out the Works.
- (C) The Contractor has agreed to enter into this Deed for the benefit of the Beneficiary.

NOW IT IS AGREED AS FOLLOWS:

1. Definitions and interpretation

1.1 In this Deed (including the recitals), except where the context otherwise requires, the following words and expressions shall have the following meanings:

"**Contract**" means the agreement dated [] between (1) the Employer and (2) the Contractor;

"**Network**" means the railway network of which Network Rail Infrastructure Limited is the facility owner (as defined in section 17(6) of the Railways Act 1993);

"**Network Licence**" means the licence relating to the Network granted to Network Rail pursuant to section 8 of the Railways Act 1993 (as amended); and

"**Works**" means [*insert description of relevant Network Rail Property Works*].

Terms and expressions defined in the Contract shall where the context so permits have the same meanings in this Deed.

1.2 In this Deed unless the context otherwise requires: -

- (a) words importing any gender include every gender;
- (b) words importing the singular number only include the plural number and vice versa;

- (c) words importing persons include firms, companies and corporations and vice versa;
- (d) any reference to any statute (whether or not specifically named) shall include any statutory modification or re-enactment of it for the time being in force and any order, instrument, plan, regulation, permission and direction made or issued under it or under any statute replaced by it or deriving validity from it;
- (e) references to paragraphs are references to the relevant paragraph in this Deed;
- (f) the words "include" and "including" are to be construed without limitation;
- (g) where any obligation is undertaken by two or more persons jointly those persons shall be jointly and severally liable in respect of that obligation; and
- (h) the headings to the paragraphs are for convenience only and shall not affect the interpretation of this Deed.

2. **Contractor's obligations**

2.1 The Contractor represents, warrants and undertakes to the Beneficiary:

- (a) that in performing the Works it has exercised and will continue to exercise all the skill, care and diligence to be reasonably expected of an appropriately qualified and competent contractor which is experienced in carrying out projects of a similar, scope, nature, complexity and size to the Works;
- (b) that it has complied with and will comply with each and all of the obligations, duties and undertakings of the Contractor under and pursuant to the Contract;
- (c) that on completion the Works will satisfy all performance specifications and requirements contained or referred to in the Contract; and
- (d) **that the Beneficiary shall be deemed to have relied upon the Contractor's skill and judgment** in respect of those matters relating to the Works as lie within the scope of the Contract and that the Contractor owes a duty of care in respect thereof to the Beneficiary (but not more onerous than that owed to the Employer under the Contract).

3. **Liability**

- 3.1 No agreements, comments, instructions, consents, attendance at meetings relating to the Works or advices from the Beneficiary shall in any way relieve the Contractor from its obligations under this Deed.
- 3.2 Notwithstanding anything that may be contained elsewhere in this Deed, the Contractor shall have no greater liability (whether in quantum or in scope) to the Beneficiary than it would have had if the Beneficiary had been named as joint employer under the Contract.
- 3.3 No action or proceedings for any breach of this Deed shall be commenced against the Contractor after the expiry of 12 years from the date of Completion of the Works.
- 3.4 In any action brought by the Beneficiary for alleged breach of this Deed the Contractor shall have available to it the right to all defences as may have been available to it under the Contract.
- 3.5 Nothing in this Deed shall render the Contractor liable to the Beneficiary hereunder in respect of any delay howsoever caused to the completion of the Works.

4. **Intellectual Property**

The Contractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the Works) and the training of **personnel in connection with any of the above activities (the "Permitted Purposes")**.

The licence shall be capable of assignment (but only as part of the assignment of this Deed as a whole in accordance with clause 9 hereof) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the Contractor.

Such licence does not include:

- (a) the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract and on such occurrence only for the Permitted Purposes; nor
- (b) the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the Works without the prior written consent of the Contractor (not to be unreasonably withheld or delayed in the event the Contractor is unable or unwilling, on competitive terms and conditions, to supply such spare part or part of the Works or a suitable alternative) except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract,

and any sub-licence granted by the Beneficiary shall carry similar restrictions. Provided always that such restrictions shall not prevent the Beneficiary obtaining uncustomised off-the-shelf products from suppliers other than the Contractor.

5. **Insurance**

- 5.1 The Contractor has effected and will maintain professional indemnity insurance in an amount of ██████████ for each and every claim or series of claims arising out of the same event or circumstances in any one period of insurance (which period shall not be more than one year) for a period of 12 years from the date of the issue of the certificate of Completion of the Works. As and when reasonably requested to do so by the Beneficiary, the Contractor shall produce for inspection documentary evidence that such insurance is being maintained and that payment has been made in respect of all premiums due under it.

6. **Notices**

- 6.1 Any notices to be given under this Deed shall be either delivered personally or sent by first class recorded delivery post. The address for service of the Beneficiary and of the Contractor shall be as stated in this Deed or such other address for service as the party to be served may have previously notified in writing to the other party. A notice shall be deemed to have been served as follows:

- (a) if personally delivered, at the time of delivery; or

- (b) if posted, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities.

In proving such service, it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authorities as a pre-paid first class recorded delivery letter.

7. **General**

- 7.1 The Contractor shall have no claim whatsoever against the Beneficiary in respect of any damage, loss or expense howsoever arising out of or in connection with the Contract or any amounts due to the Contractor thereunder.
- 7.2 The Beneficiary may assign the benefit of this Deed on a maximum of two occasions without the consent of the Contractor. The benefit of this Deed may also be assigned by way of security or charged without the consent of the Contractor to any mortgagee of the Beneficiary or its assignees on any number of occasions.
- 7.3 The parties to this Deed do not intend that any term of this Deed should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Deed.
- 7.4 If for any reason any paragraph in this Deed shall be found to be ineffective inoperable or unenforceable, it shall be severed and deemed to be deleted from this Deed and in such event the remaining provisions of this Deed shall continue to have full force and effect.
- 7.5 This Deed shall be governed by and construed in accordance with the law of England and any dispute or difference concerned with its terms shall be referred to the non-exclusive jurisdiction of the Courts of England.

IN WITNESS whereof the parties have caused this agreement to be executed (as a Deed in the case of the Contractor) on the date first before written.

EXECUTED AS A DEED by

[CONTRACTOR]

Director

Director/Secretary

The Common Seal of **NETWORK RAIL INFRASTRUCTURE LIMITED** was affixed to this DEED in the presence of

Authorised signatory

CONTRACTOR'S WARRANTY TO RAIL FOR LONDON LIMITED

THIS DEED is made on

2014

BETWEEN:

- (1) **RAIL FOR LONDON LIMITED** company number **05965930** whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Beneficiary**" which expression shall include its successors and assigns);
- (2) **KNORR BREMSE RAIL SYSTEMS (UK) LIMITED** company number 3974921 whose registered office is at Westinghouse Way, Hampton Park East, Melksham, Wiltshire, SN12 6TL (the "**Contractor**"); and
- (3) **KNORR BREMSE AG** of Moosacher Straße 80, 80809 Munich, Germany (District Court of Munich Trade Registration No. HR B 42 031) (the "**Guarantor**").

WHEREAS:

- (A) Crossrail Limited ("CRL") agreed with the Beneficiary how certain works and services needed for the Crossrail project will be effected.
- (B) By a building contract (contract number C631) dated 25 September 2014 (the "**Contract**") CRL appointed the Contractor to carry out certain works covered by the scope of the Development Agreement (the "**Works**").
- (C) The Contractor acknowledges that the Beneficiary has an interest in the proper carrying out of the Works and has agreed to enter into a direct contractual relationship with the Beneficiary on the terms contained in this Deed.
- (D) The Guarantor has agreed to guarantee the performance of the obligations of the Contractor.

NOW IT IS AGREED:

INTERPRETATION

1. Terms and expressions defined in the Contract shall where the context so permits have the same meanings in this Deed.

SKILL, CARE AND DUTY

2. The Contractor warrants and undertakes to the Beneficiary that:
 - 2.1 in the carrying out of the Works, it owes a duty of care to the Beneficiary;
 - 2.2 it has complied with and will continue to comply with the terms of and fulfil its obligations set out in the Contract; and

- 2.3 it has and will Provide the Works in accordance with the Works Information and Applicable Law.
3. The Contractor recognises that the Beneficiary has relied or will rely exclusively upon the **Contractor's skill and care in the full and proper performance of the Contractor's obligations** under the Contract.

DELETERIOUS MATERIALS

4. The Contractor warrants and undertakes to the Beneficiary that it has and will Provide the Works such that only materials which at the time of use are not deleterious to health and safety or to durability and which accord with the guidelines contained in the publication Good Practice in Selection Of Construction Materials (Ove Arup & Partners) current at the date of use are used in the Works.

ENQUIRIES AND INSPECTION

5. The liability of the Contractor under this Deed shall not be released diminished or in any way affected by any independent enquiry into any relevant matter which may be made or carried out by the Beneficiary or by any third party on its behalf or by any act or omission of any such third party whether or not such action or omission might give rise to an independent liability of such third party to the Contractor.

INSURANCE

6. The Contractor warrants and undertakes to the Beneficiary that:
- 6.1 it has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Contract; and
- 6.2 insofar as it is responsible for the design of the Works, it has professional indemnity insurance with a limit of indemnity of not less than [REDACTED] in any period of insurance in respect of each and every claim which may be made against the Contractor in relation to the Works. The Contractor shall maintain such professional indemnity insurance for a period of twelve (12) years from Completion (as defined in the Contract) of the whole of the Works provided such insurance remains available at commercially reasonable rates and shall notify the Beneficiary forthwith if such insurance ceases to be so available in which case, the Contractor and the Beneficiary will discuss means of best protecting the respective positions of the Beneficiary and the Contractor in the absence of such insurance. 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 Contractor's insurance claims record.
7. As and when reasonably requested by the Beneficiary, the Contractor shall produce for inspection documentary evidence that the insurance referred to in Clause 6.2 above is being properly maintained and that payment has been made of the last premium due in respect of such insurance. The Contractor agrees that in default of such insurances being properly maintained, the Beneficiary shall be entitled to effect such insurance itself and the Contractor shall reimburse the Beneficiary of all of its costs in relation thereto.

INTELLECTUAL PROPERTY RIGHTS

8. The Contractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the Works) and the training of **personnel in connection with any of the above activities (the "Permitted Purposes")**.

The licence shall be capable of assignment (but only as part of the assignment of this Deed as a whole in accordance with clause 9 hereof) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the Contractor.

Such licence does not include:

- (a) the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract and on such occurrence only for the Permitted Purposes; nor
- (b) the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the Works without the prior written consent of the Contractor (not to be unreasonably withheld or delayed in the event the Contractor is unable or unwilling, on competitive terms and conditions, to supply such spare part or part of the Works or a suitable alternative) except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract,

and any sub-licence granted by the Beneficiary shall carry similar restrictions. Provided always that such restrictions shall not prevent the Beneficiary obtaining uncustomised off-the-shelf products from suppliers other than the Contractor.

ASSIGNMENT

9. This Deed may be assigned by the Beneficiary no more than two (2) times without the consent of the Contractor being required provided such assignment is to a member of the TfL Group.

LIABILITY

10. The Contractor shall have no greater liability to the Beneficiary under this Deed than it would have had if the Beneficiary had been named in its Contract as its joint employer.
11. The Contractor may use any defence that it would have had under the Contract if the Beneficiary had been named in the Contract as its joint employer in defence of any claim by the Beneficiary under this Deed.

12. The liability of the Contractor under this Deed shall cease twelve (12) years following Completion (as defined in the Contract) of the Works save in respect of claims commenced prior to the expiry of such period.
13. The Contractor shall have no liability under or in relation to this Deed in relation to any delay to Completion of the Works.
14. The Beneficiary shall not commence any proceedings against the Contractor under this Deed (save in respect of any claims arising under clause 8 (Intellectual Property Rights)) prior to the date of issue of the Defects Certificate under the Contract.

RIGHTS AND OBLIGATIONS

15. Nothing in this deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this deed.

NOTICE

16. Any notice to be given hereunder shall be deemed to be duly given if it is in writing and delivered by hand at or sent by registered post to the registered office or principal place of business in the United Kingdom for the time being of the party to be served and in the case of any such notice sent by registered post shall be deemed to have been received forty-eight (48) hours after being posted.

VARIATIONS AND AMENDMENTS TO THE CONTRACT

17. The Contractor acknowledges that no amendment to or variation of any provision of the **Contract relating to any limit on the Contractor's liability** thereunder shall in any way affect **the Contractor's obligations to the Beneficiary pursuant to this Deed except in** circumstances where the Beneficiary has given its prior written consent to such amendment or variation.

LAW AND DISPUTES

18. Any and all disputes and claims between the Beneficiary and the Contractor as to the construction, interpretation, validity and application of this Deed and any and all matters or things of whatsoever nature arising out of or in connection therewith shall be governed by and construed in accordance with English Law and the parties hereby submit to the jurisdiction of the Courts of England and Wales.

CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

19. Nothing in this Deed confers or is intended to confer on any third party any benefit or the right to enforce any term of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

GUARANTEE

20.

20.1 The Guarantor agrees that if the Contractor shall in any respect fail to perform any of its obligations arising under or out of this Deed (as the same may be amended or varied from time to time) or shall commit any breach or fail to perform any warranty or indemnity set out in this Deed (as the same may be amended or varied from time to time), then the Guarantor shall upon the Beneficiary's demand procure the performance of the Works and procure the fulfilment in the place of the Contractor of each and every obligation, warranty or indemnity in respect of which the Contractor has defaulted or as may be unfulfilled by the Contractor, within 10 business days of receipt of written notification from the Beneficiary to the Guarantor of such failure or breach by the Contractor and, if such liability of the Contractor to the Beneficiary has been contested by the Contractor under this Deed, substantiation of such claim by way of a first adjudication decision either according to the disputes resolution procedure under this Deed or, if there is no adjudication decision, of a court judgment for the amount of such claim, or a settlement in respect of such contested liability agreed by the Contractor and the Beneficiary, and provided the Guarantor shall have failed to procure the performance and fulfilment in the place of the Contractor within four weeks of such demand, subject always to clause 20.2, the Guarantor shall indemnify and save harmless the Beneficiary from any and all losses, damages, expenses, claims, costs or proceedings which the Beneficiary may suffer or incur by reason of the said failure or breach by the Contractor.

20.2 The Guarantor's obligations and liability hereunder shall be no greater than if it had been named in this Deed as a party comprising the Contractor with joint and several obligations and liability and the Guarantor shall be entitled in any action or proceedings by the Beneficiary to rely on any limitation, defences, set-offs and counterclaims under this Deed in relation to any such obligation or liability.

21. The Guarantor confirms that it has full power and capacity to give the guarantee set out herein, and that the guarantee shall not be revocable and shall be a continuing guarantee.

22. The Guarantor agrees that, upon notice from the Beneficiary at any time, either

- (a) the Beneficiary may assign any of its rights under this guarantee to, or
- (b) the Guarantor will issue a replacement guarantee in terms identical to this guarantee in favour of,

any person who takes an assignment, novation or other transfer of this Deed or the benefit thereof in accordance with its terms. The Guarantor may decide whether the Guarantee ought to be assigned or a replacement guarantee issued.

23. As between the Guarantor and the Beneficiary, the Guarantor shall remain liable under clause 20 as if it were the sole principal obligor and not merely a guarantor provided that nothing in this guarantee set out herein shall render the Guarantor liable in respect of any provision of this Deed that is illegal, invalid or unenforceable.

24. The Guarantor shall not be discharged nor shall its liability be affected by anything which would not discharge it or affect its liability if it were the sole principal obligor including, but not limited to:

- 24.1 any amendment, modification, waiver, consent or variation, express or implied, to the scope or the **works** under the Contract or to the Contract, this Deed or any related documentation;
- 24.2 the granting of any extensions of time or forbearance, forgiveness or indulgences in relation to the Contractor;
- 24.3 the enforcement, absence of enforcement or release of the Contract, this Deed or of any security, right of action or other guarantee or indemnity;
- 24.4 the dissolution, amalgamation, reconstruction, reorganisation of the Contractor or any other person;
- 24.5 the illegality, invalidity or unenforceability of or any defect in any provision of the Contract, **this Deed or any of the Contractor's obligations under the Contract or this Deed or;**
- 24.6 any indulgence or additional or advanced payment, forbearance, payment or concession to the Contractor;
- 24.7 any compromise of any dispute with the Contractor;
- 24.8 any failure of supervision to detect or prevent any fault of the Contractor on the part of the Beneficiary or CRL;
- 24.9 any assignment of the benefit of the Contract or this Deed or any novation of the Contract or this Deed.
25. The Guarantor agrees that any decision of any adjudicator appointed in accordance with this Deed and/or any court and/or any agreement reached between the Contractor and the Beneficiary in respect of or in connection with this Deed shall be binding on the Guarantor, provided always that the Guarantor shall have available to it such rights of appeal or challenge as the Contractor would have or would have had.
26. No proceedings may be commenced against the Guarantor by the Beneficiary more than 12 years after Completion under and as defined in the Contract.

IN WITNESS whereof this Deed has been executed and unconditionally delivered as a Deed by the parties the day and year first above written.

Executed as a Deed by affixing
the common seal of
RAIL FOR LONDON LIMITED
in the presence of:

Signature of Director

Signature of Director/Secretary

Signed and delivered as a deed
for and on behalf of
KNORR BREMSE RAIL SYSTEMS (UK) LIMITED by:

Signature of Director

Signature of Director/Secretary

Signed and delivered as a deed
for and on behalf of
KNORR BREMSE AG by:

Signature of Director

Signature of Director/Secretary

SUBCONTRACTOR'S WARRANTY

THIS DEED is made the [] day of [] 20[]

BETWEEN:-

- (1) [] whose registered office is at [] ("the Subcontractor")
- (2) [] whose registered office is at [] ("the Beneficiary")
- (3) [] whose registered office is at [] ("the Contractor")

WHEREAS:-

- (A) By a construction contract dated [] day of [] ("**the Contract**") the Contractor has undertaken with Crossrail Limited to design and construct the Works as defined therein. The Contractor has engaged the Subcontractor pursuant to a Subcontract dated [] day of [] ("**the Subcontract**") to carry out the design and construction of the Subcontract Works as defined in the Subcontract.
- (B) The Subcontractor acknowledges that the Beneficiary has an interest in the proper design and construction of the Subcontract Works and has agreed to enter into a direct contractual relationship with the Beneficiary on the terms contained in this Deed.

NOW THIS DEED WITNESSETH as follows: -

1. The Subcontractor hereby warrants and undertakes to the Beneficiary that: -
 - 1.1 in respect of any design of the Subcontract Works it has exercised and will continue to exercise the standard of skill, care and diligence to carry out and complete such design to be reasonably expected from a properly qualified and competent designer experienced in providing design in respect of works similar in scope, size and complexity to the Subcontract Works;
 - 1.2 it has complied and shall continue to comply promptly and efficiently with the terms of and has fulfilled and will continue to fulfil its duties and obligations set out in the Subcontract.
2. The obligations of the Subcontractor under or pursuant to this Deed shall not be released diminished or in any other way affected by any independent enquiry into any relevant matter which may be made or carried out by or on behalf of the Beneficiary nor by the appointment by the Beneficiary of any independent firm company or party whatsoever to review the progress or otherwise report to it in respect of the Subcontract Works.
3. The Subcontractor warrants and undertakes to the Beneficiary that it has not and shall not specify for use or use in the construction of the Subcontract Works any prohibited or deleterious material as referred to in the Subcontract.
4. The Subcontractor has effected and will maintain professional indemnity insurance in an amount of £[] ([] million pounds) for each and every claim or series of claims arising out of the same event or circumstances in any one period of insurance (which period shall not be more than one year) for a period of twelve years from the date of Completion of the whole of the Works under the Contract provided always that such insurance is available at commercially reasonable rates and upon reasonable commercial terms in the UK market. If such insurance ceases to be available at commercially reasonable rates and upon reasonable commercial terms the Subcontractor shall inform the Beneficiary as soon as possible in which case the Subcontractor and the Beneficiary will discuss means of best

protecting their respective positions in the absence of such insurance. When deciding whether such insurances are available at commercially reasonable rates and on commercially reasonable terms, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Subcontractor's insurance claims record. As and when it is reasonably requested to do so by the Beneficiary, the Subcontractor shall produce for inspection documentary evidence in the form of a broker's letter or certificate (including details of the names of the insurer and the insured, the policy start and end date, limits of indemnity/sums insured and deductibles, territory and key extensions and key exclusions of cover) that its professional indemnity insurance is being maintained and confirm that payment has been made in respect of the last preceding premium due under it.

5. *[Clause 5 included in Employer warranty only]*

- 5.1 The Subcontractor agrees that in the event of the termination of the Contract by the Beneficiary the Subcontractor will, if so required by written notice given by the Beneficiary, and subject to clause 5.3, accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Subcontract Works upon the terms and conditions of the Subcontract, and upon the Beneficiary's request the Subcontractor will enter into an agreement for the novation of the Subcontract by the Contractor to the Beneficiary or its appointee, such agreement to be in terms reasonably required by the Beneficiary (but subject always to clause 5.3). The Subcontractor and Contractor represent and warrant that the form of novation prepared by the City of London Law Society (with the terms "Employer", "Contractor", "Consultant", "Services" and "Appointment" amended to read "Contractor", "Employer", "Subcontractor", "Subcontract Works" and "Subcontract" save in Recital B) is acceptable.
- 5.2 The Subcontractor further agrees that it will not without first giving the Beneficiary not less than 21 days' prior written notice exercise any right it may have to terminate the Subcontract (or its employment thereunder) or to treat the same as having been repudiated by the Contractor or to discontinue the performance of any duties and/or obligations to be performed by the Subcontractor pursuant thereto. Such right to terminate the Subcontract or treat the same as having been repudiated or discontinue performance shall cease if within such period of notice, and subject to clause 5.3, the Beneficiary shall give notice in writing to the Subcontractor requiring the Subcontractor to accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Subcontract Works upon the terms and conditions of the Subcontract, and upon the Beneficiary's request the Subcontractor shall enter into an agreement for the novation of the Subcontract by the Contractor to the Beneficiary or its appointee, such agreement to be in terms reasonably required by the Beneficiary (but subject always to clause 5.3).
- 5.3 It shall be a condition of any notice given or any new agreement proposed by the Beneficiary under clauses 5.1 or 5.2 that the Beneficiary or its appointee accepts liability for payment of the sums properly due to the Subcontractor under the Subcontract (including any sums outstanding at the date of such notice) and for the performance of the Contractor's obligations under the Subcontract. Upon the issue of any notice by the Beneficiary under clauses 5.1 and 5.2 the Subcontract shall continue in full force and effect as if no right of determination or to treat the same as repudiated or to discontinue performance on the part of the Subcontractor had arisen and the Subcontractor shall be liable to the Beneficiary or its appointee in lieu of its liability to the Contractor. If any notice given by the Beneficiary under clauses 5.1 or 5.2 requires the Subcontractor to accept the instructions of the Beneficiary's appointee and/or to novate the Subcontract to such appointee, the Beneficiary shall be liable to the Subcontractor as guarantor for the payment of all sums from time to time due to the Subcontractor from the Beneficiary's appointee.

- 5.4 The Contractor has agreed to be a party to this Deed for the purposes of acknowledging that the Subcontractor shall not be in breach of the Subcontract by complying with the obligations imposed on it by clauses 5.1 and 5.2. The Contractor acknowledges that the Subcontractor shall be entitled to rely on a notice given to the Subcontractor by the Beneficiary under clause 5.1 as conclusive evidence for the purposes of this Deed of the termination of the Contract by the Beneficiary.
6. Notwithstanding anything herein contained, the Subcontractor shall not be liable to the Beneficiary for any breach or breaches of this Deed which is or are the subject matter of arbitration or litigation proceedings commenced against the Subcontractor unless such proceedings are commenced before the expiry of 12 years from the date of Completion of the whole of the Works.
7. This Deed, the benefit hereof and/or the rights arising hereunder (whether or not accrued) may be assigned by the Beneficiary twice without the consent of the Subcontractor and the Contractor being required. No further assignment shall be permitted without the consent of the Subcontractor and the Contractor, such consent not to be unreasonably withheld or delayed. The Subcontractor and the Contractor shall do all such acts, deeds and things as may be reasonably necessary to give effect to any such assignment.
8. The Subcontractor shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 7 hereof is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening) by reason that such person is an assignee and not a named beneficiary under this Deed.
9. Notwithstanding any other provision of this Deed, the Subcontractor shall have no greater liability to the Beneficiary under this Deed than it would have had to the Beneficiary under the Subcontract if the Beneficiary had been named as a joint employer in the Subcontract and the Subcontractor shall be entitled in any action under this Deed to use any defence that it would have had under the Subcontract if the Beneficiary had been named as a joint employer in the Subcontract provided that in each such case the Subcontractor shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Subcontractor from the Contractor.
10. Save where the Beneficiary has exercised its rights under clause 5.1 and/or 5.2 the Subcontractor shall not be liable under this Deed for any delay in the completion of the Subcontract Works.
11. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person other than the parties to this Deed (which term shall for the purposes of this clause include all permitted assignees or transferees or successors in title) shall have any rights under it nor shall it be enforceable under the Act by any person other than the parties to it.
12. The Subcontractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Subcontractor IPR (including any Third Party Rights) for the purposes of the Programme, including the operation, maintenance, repair, renewal, decommissioning, extension and enhancement of the Programme (including the Subcontract Works) and the training of personnel in connection with any of the above **activities (the "Permitted Purposes")**.

The licence shall be capable of assignment (but only as part of the assignment of this Deed as a whole in accordance with clause 7 hereof) and includes the right to grant sub-licences provided that any such sub-licence is limited to the Permitted Purposes, in both cases without the consent of the Subcontractor.

Such licence does not include [(except on the occurrence of a Release Event as defined in clause Z8K.6 of the Contract and on such occurrence only for the Permitted Purposes)]²:

- (a) the right to decompile any computer software or derive any algorithms, techniques or other features of the Software or modify or attempt to create any derivative works from the Software; nor
- (b) the right to manufacture or produce (or have manufactured or produced) any spare parts or further quantities of any part of the Subcontract Works without the prior written consent of the Subcontractor (not to be unreasonably withheld or delayed in the event the Subcontractor is unable or unwilling, on competitive terms and conditions, to supply such spare part or part of the Subcontract Works or a suitable alternative),

and any sub-licence granted by the Beneficiary shall carry similar restrictions. Provided always that such restrictions shall not prevent the Beneficiary obtaining uncustomised off-the-shelf products from suppliers other than the Subcontractor.

- 13. Any notice to be given hereunder shall be deemed to be duly given if it is in writing and delivered by hand at or sent by registered post to the registered office or principal place of business in the United Kingdom for the time being of the party to be served and in the case of any such notice sent by registered post shall be deemed to have been received forty-eight (48) hours after being posted.
- 14. Any and all disputes and claims between the Beneficiary and the Subcontractor as to the construction, interpretation, validity and application of this Deed and any and all matters or things of whatsoever nature arising out of or in connection therewith shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

IN WITNESS WHEREOF this agreement has been duly executed and delivered as a Deed by the parties hereto on this day and year first before written.

EXECUTED AS A DEED by [SUBCONTRACTOR]

acting by two Directors/a Director and
its Secretary

Director

Director / Secretary

EXECUTED AS A DEED by [BENEFICIARY]

acting by two Directors/a Director and
its Secretary

Director

Director / Secretary

EXECUTED AS A DEED by [CONTRACTOR]

acting by two Directors/a Director and
its Secretary

² Wording in square brackets to be omitted in the Subcontractor Warranty from Siemens in the event that Siemens is accepted as a Subcontractor.

Director

Director / Secretary

ANNEXURE 7
FORM OF PARENT COMPANY GUARANTEE

This agreement is made on the day of 2014

Between

- (1) **CROSSRAIL LIMITED** of 25 Canada Square, London E14 5LQ (company number 4212657) (the *Employer*);
- (2) **KNORR BREMSE AG** of Moosacher Straße 80, 80809 Munich, Germany (District Court of Munich Trade Registration No. HR B 42 031) (the *Guarantor*); and
- (3) **KNORR BREMSE RAIL SYSTEMS (UK) LIMITED** of Westinghouse Way, Hampton Park East, Melksham, Wiltshire, SN12 6TL (company number 3974921) (the *Contractor*).

RECITALS

- (A) The *Employer* has entered into a contract (Contract No C631) dated 25 September 2014 with the *Contractor* (the "Contract").
- (B) The *Guarantor* has agreed to guarantee the performance of the obligations of the *Contractor* under the Contract.

In consideration of the *Employer* appointing the *Contractor* in accordance with the terms of the Contract, the *Guarantor* covenants with the *Employer* as follows:

1.

- 1.1 (a) The *Guarantor* agrees that if the *Contractor* shall in any respect fail to perform any of its obligations arising under or out of the Contract (as the same may be amended or varied from time to time) or shall commit any breach or fail to perform any warranty or indemnity set out in the Contract (as the same may be amended or varied from time to time), then the *Guarantor* shall upon the *Employer's* demand procure the performance of the Works and procure the fulfilment in the place of the *Contractor* of each and every obligation, warranty or indemnity in respect of which the *Contractor* has defaulted or as may be unfulfilled by the *Contractor*, within 10 business days of receipt of written notification from the *Employer* to the *Guarantor* of such failure or breach by the *Contractor* and, if such liability of the *Contractor* to the *Employer* has been contested by the *Contractor* under the Contract, substantiation of such claim by way of a first adjudication decision either according to the disputes resolution procedure under the Contract or, if there is no adjudication decision, of a court judgment for the amount of such claim, or a settlement in respect of such contested liability agreed by the *Contractor* and the *Employer*, and provided the *Guarantor* shall have failed to procure the performance and fulfilment in the place of the *Contractor* within four weeks of such demand, subject always to clause 1.1(b) the *Guarantor* shall indemnify and save harmless the *Employer* from any and all losses, damages, expenses, claims, costs or proceedings which the *Employer* may suffer or incur by reason of the said failure or breach by the *Contractor*.

- (b) The **Guarantor's** obligations and liability hereunder shall be no greater than if it had been named in the Contract as a party comprising the **Contractor** with joint and several obligations and liability and the **Guarantor** shall be entitled in any action or proceedings by the **Employer** to rely on any limitation, defences, set-offs and counterclaims under the Contract in relation to any such obligation or liability.
- 1.2 The **Guarantor** confirms that it has full power and capacity to give the guarantee set out herein, and that the guarantee shall not be revocable and shall be a continuing guarantee.
- 1.3 The **Guarantor** agrees that, upon notice from the **Employer** at any time, either
- (a) the **Employer** may assign any of its rights under this Guarantee to, or
- (b) the **Guarantor** will issue a replacement guarantee in terms identical to this Guarantee in favour of,
- any person who takes an assignment, novation or other transfer of the Contract or the benefit thereof in accordance with its terms. The **Guarantor** may decide whether the Guarantee ought to be assigned or a replacement guarantee issued.
2. As between the **Guarantor** and the **Employer**, the **Guarantor** shall remain liable under clause 1 as if it were the sole principal obligor and not merely a guarantor provided that nothing in this Guarantee set out herein shall render the Guarantor liable in respect of any provision of the Contract that is illegal, invalid or unenforceable.
3. The **Guarantor** shall not be discharged nor shall its liability be affected by anything which would not discharge it or affect its liability if it were the sole principal obligor including, but not limited to:
- 3.1 any amendment, modification, waiver, consent or variation, express or implied, to the scope or the **works** under the Contract or to the Contract or any related documentation;
- 3.2 the granting of any extensions of time or forbearance, forgiveness or indulgences in relation to time to the **Contractor**;
- 3.3 the enforcement, absence of enforcement or release of the Contract or of any security, right of action or other guarantee or indemnity;
- 3.4 the dissolution, amalgamation, reconstruction, reorganisation of the **Contractor** or any other person;
- 3.5 the illegality, invalidity or unenforceability of or any defect in any provision of the Contract or any of the **Contractor's** obligations under the Contract or;
- 3.6 any indulgence or additional or advanced payment, forbearance, payment or concession to the **Contractor**;
- 3.7 any compromise of any dispute with the **Contractor**;
- 3.8 any failure of supervision to detect or prevent any fault of the **Contractor** on the part of the **Employer**;
- 3.9 any assignment of the benefit of the Contract or any novation of the Contract.
4. The **Guarantor** agrees that any decision of any adjudicator appointed in accordance with the Contract and/or any court and/or any agreement reached between the **Contractor** and the **Employer** in respect of or in connection with the Contract shall be binding on the

Guarantor, provided always that the *Guarantor* shall have available to it such rights of appeal or challenge as the *Contractor* would have or would have had.

5. If the *Guarantor* is not a company registered in England and Wales, the *Guarantor* provides to the *Employer* a legal opinion in the form appended on the *Guarantor's* execution of this guarantee.
6. No proceedings may be commenced against the *Guarantor* by the *Employer* more than 12 years after Completion under and as defined in the Contract.
7. The construction validity and performance of this guarantee shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

Executed as a deed and delivered on the date above by:

..... (signed)
..... (name of director)
..... (signed)
..... (name of director or company secretary)

On behalf of **CROSSRAIL LIMITED**

..... (signed)
..... (name of director)
..... (signed)
..... (name of director or company secretary)

On behalf of **KNORR BREMSE RAIL SYSTEMS (UK) LIMITED**

..... (signed)
..... (name of director)
..... (signed)
..... (name of director or company secretary)

On behalf of **KNORR BREMSE AG**

**ANNEXURE 8
LEGAL OPINION LETTER**

[Insert letterhead]

Crossrail Limited

Dear Sirs

**[Contractor] [and Guarantor]
[●] works for the Crossrail project, London**

We have acted as **[relevant jurisdiction]** legal advisers to **[Contractor]** (the "**Contractor**") **[and Guarantor]** (the "**Guarantor**") in relation to **[Contractor]**'s obligations under and arising out of its appointment for the Crossrail project and associated collateral warranties **[and novation]** **[and the Guarantor's provision of a guarantee in respect of the same]** (the "**Documents**").

The **[Contractor][Guarantor]** is incorporated in **[]** (the "**Relevant Jurisdiction**") and for the purposes of this legal opinion "**Relevant Laws**" means the laws of the Relevant Jurisdiction and the laws of **[]** as they apply in the Relevant Jurisdiction.

1. OPINION

We are of the following opinion insofar as the Documents relate to the **[Contractor][Guarantor]**.

- (a) The **[Contractor][Guarantor]** is registered and validly existing under the **[relevant statute]** and is capable of being sued in its corporate name.
- (b) The execution and performance of each Document as a deed has been authorised by all appropriate action of the **[Contractor][Guarantor]** and will not breach any provisions of any Relevant Law or any regulation binding upon the **[Contractor][Guarantor]** **[or its Memorandum and Articles of Association or Constitution]**.
- (c) Each Document has been validly and properly executed and any power of attorney connected with the execution of any Document constitutes legal, valid and binding obligations of the **[Contractor][Guarantor]** enforceable in accordance with its terms.
- (d) Each person signing a Document as an attorney under a power of attorney is authorised pursuant to the power of attorney by which they were appointed an attorney of the **[Contractor][Guarantor]** to represent the **[Contractor][Guarantor]** and execute the applicable Document on its behalf.
- (e) Any consent from any Government Agency in the Relevant Jurisdiction required for and in connection with the validity and enforceability of each Document, or to enable the **[Contractor][Guarantor]** to perform its obligations under it, have been obtained and any filings and registrations required by any Government Agency have been made.
- (f) Under the Relevant Laws, the choice of the law of England and Wales to govern the validity and enforceability of each Document is a valid choice of law.

- (g) Any judgment in respect of a Document which is enforceable against the [Contractor][Guarantor] in the courts of England and Wales may be enforced in the Relevant Jurisdiction by registration of the judgment under the [relevant statute] and would be recognised and accepted by the courts of that jurisdiction without retrial or examination of the merits of the case.

2. **PURPOSE AND BENEFIT**

This opinion is given for the benefit solely of the parties to which this opinion is addressed.

Yours faithfully

[]

ANNEXURE 9

SITE INFORMATION

Refer to Book 3 and attached DVD

ANNEXURE 10

NOT USED

ANNEXURE 11

WORKS INFORMATION IN CONNECTION WITH THE *CONTRACTOR'S* DESIGN – PART 2D

Refer to Book 2 and attached DVD.

ANNEXURE 12
MAINTENANCE SUPPORT CONTRACT

Maintenance Support Contract

Rail for London Limited

and

[To be inserted]

in respect of the Platform Screen Doors System
for the Crossrail Project

CONTENTS

CLAUSE	PAGE
1. DEFINITIONS AND INTERPRETATION	4
2. JOINT APPROACH.....	18
3. CROSSRAIL PROJECT	19
4. TERM	19
5. COMMENCEMENT OF SERVICES	20
6. CONTRACTOR OBLIGATIONS	20
7. GUARANTEE	21
8. EMPLOYMENT MATTERS	21
9. RESPONSIBLE PROCUREMENT	23
10. ACCESS	23
11. COMPLIANCE WITH LAWS AND STANDARDS	23
12. CDM REGULATIONS	24
13. CONSTRUCTION INDUSTRY SCHEME	24
14. SAFETY.....	25
15. CHANGE IN LAW	26
16. WARRANTIES	26
17. VARIATION ORDERS	27
18. INTELLECTUAL PROPERTY	29
19. INSPECTION AND AUDIT.....	35
20. HANDBACK AND TRANSFER TO SUCCESSOR	35
21. PAYMENT AND INDEXATION	37
22. TERMS OF PAYMENT.....	38
23. REVIEWS	41
24. INSURANCE	43
25. INDEMNITIES	43
26. LIMITATION ON LIABILITY	44
27. TERMINATION AND ITS CONSEQUENCES	45
28. OBLIGATIONS ON EXPIRY OR FOLLOWING TERMINATION.....	47
29. FORCE MAJEURE EVENT.....	48
30. ENQUIRIES	49
31. BEST VALUE	50
32. SUB-CONTRACTING	50
33. CONFIDENTIALITY	50
34. FREEDOM OF INFORMATION AND DATA TRANSPARENCY	51
35. DATA PROTECTION	52
36. NOTICES	52
37. WAIVER.....	53
38. ASSIGNMENT	53
39. SURVIVAL	53
40. PUBLICITY	53
41. SEVERABILITY	54
42. FURTHER ASSURANCES	54
43. COSTS.....	54
44. ENTIRE AGREEMENT	54
45. MITIGATION.....	55
46. DEFAULT INTEREST.....	55
47. THIRD PARTY RIGHTS	55
48. COUNTERPARTS	55
49. GOVERNING LAW, DISPUTES AND JURISDICTION.....	55
SCHEDULE 1	57
Scope of Work	57
SCHEDULE 2	71
Dispute Resolution Procedure	71
SCHEDULE 3	73

Price List.....	73
SCHEDULE 4	75
Indexation	75
SCHEDULE 5	76
Not used.....	76
SCHEDULE 6	77
Employer IPR	77
SCHEDULE 7	78
Form of Warranty from Subcontractor to Employer.....	78
SCHEDULE 8	83
Form of Parent Company Guarantee.....	83
SCHEDULE 9	87
Responsible Procurement Principles.....	87
SCHEDULE 10.....	98
Fair Pricing Agreement	98
SCHEDULE 11	111
Initial Scope of Escrow Information	111

THIS DEED is made on ● 201●

BETWEEN:

- (1) **RAIL FOR LONDON LIMITED** (No. 05965930) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (or any other person to whom its rights and obligations under this Agreement are assigned, novated or transferred (as the case may be) in accordance with clause 38.2) (the "**Employer**");
- (2) [**TO BE INSERTED**] a company incorporated in [*to be inserted*] with registered number [*to be inserted*] and having its registered office at [*to be inserted*] (the "**Contractor**").

RECITALS:

- (A) Crossrail Limited and the Contractor have entered into a contract for the supply of the Platform Screen Doors System for the Crossrail Project (the "**Supply Contract**").
- (B) The Contractor has agreed with the Employer to provide certain maintenance and technical support services in respect of the Platform Screen Doors System in accordance with this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. **DEFINITIONS AND INTERPRETATION**

In this Agreement, unless the context otherwise requires, words and expressions will have the following meanings:

"Access Code" means any code of that name governing rights of access to the Crossrail Network and the London Underground in force and as amended from time to time;

"Additional Service Fee" means the amount set out in schedule 3 in relation to any Additional Services instructed by the Employer in accordance with schedule 1;

"Additional Services" means the services set out in Part B of schedule 1;

"Additional Updating Service" means the service described as such in paragraph 9 of schedule 1;

"Applicable Laws and Standards" means, depending on the context, all or any Laws and standards at any time or from time to time in force in the United Kingdom and which are or may become applicable to this Agreement, any agreement or document referred to in this Agreement, the Scope of Works, the Parts or the Operational Property, including, without prejudice to the generality of the foregoing, Industry Standards the requirements of the Regulator, Environmental Laws, HSWA, ROGS and the Interoperability Regulations;

"Applicable Rate" means a rate of interest expressed as a percentage being the sum of (i) the Royal Bank of Scotland Base Rate from time to time; and (ii) one per cent (1%), such interest to accrue daily on the basis of a 365 day year and to be compounded at six monthly intervals;

"Authorised Representatives" means the Employer's Representative or the Contractor's Representative (as the case may be);

"Authorised Third Parties" means Her Majesty's Inspectorate of Pollution, The London Fire and Emergency Planning Authority, British Transport Police, the Health & Safety Executive and any other body or person who is lawfully certified to inspect any part of the Crossrail Network in the performance of their functions, and "Authorised Third Party" will mean any one of them;

"Business Day" means any day but excluding Saturdays, Sundays and English bank holidays;

"Causal Information" means detailed information recording the cause of a fault resulting in failed Parts;

"Change in Law" means the coming into effect after the date of the Supply Contract of any Law;

"Commencement Date" means the date of this Agreement;

"Competent Authority" means any legislative, judicial, regulatory or administrative body or agency (or any subdivision of any of them) of the United Kingdom or of the European Union or any supranational body which has rule-making power or whose directives, decisions, instructions, rulings, laws or regulations are directly enforceable against either of the Parties in connection with this Agreement, the Platform Screen Doors System and/or the Supplied Equipment;

"Connected Person" means in relation to either Party, the Department for Transport or the TfL Group, that Party's or the Department for Transport's, or the TfL Group's, employees, directors, contractors, agents, subcontractors, (and in the case of the Contractor, the Subcontractors) suppliers, shareholders, professional advisors (including lawyers, auditors, financial advisers, accountants and technical consultants) or underwriters;

"Contract Information" means:

- (a) this Agreement in its entirety (including from time to time agreed changes to this Agreement); and
- (b) data extracted from the applications for payment and supporting information submitted pursuant to clause 22 which shall consist of the Contractor's name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount;

"Contractor Change in Law" means a Change in Law, which comes into force prior to the date which is two years following the date of the Supply Contract;

"Contractor IPR" means all IPR used by the Contractor or a Subcontractor in connection with the Platform Screen Doors System and the Scope of Works, and in complying with the Contractor's obligations under this Agreement, including all IPR subsisting in the Platform Screen Doors System and any equipment used or to be used in conjunction with development, operation and maintenance of the Platform Screen Doors System, but in all cases, and for the avoidance of doubt, does not include Employer's IPR;

"Contractor's Employees" means those persons employed or engaged by the Contractor or any Subcontractor from time to time in that part of the Contractor's or Subcontractor's undertaking which provides the Scope of Work;

"Contractor's Event of Default" means the events identified as such in clause 27.1(a);

"Contractor's Fault" means any Fault in relation to Parts which is not an Employer's Fault;

"Contractor Parties" has the meaning given to such term in clause 25.1;

"Contractor's Representative" means:

- (a) the individual whose appointment as such has been notified by the Contractor to the Employer in accordance with clause 8.1; or

- (b) any successor whose appointment by the Contractor is notified to the Employer in writing;

"Crossrail Network" means the stations and depots (wherever situated) assets, systems, track and other buildings which are used in the maintenance and operation of the Crossrail Project;

"Crossrail Project" means the project for the development, design, procurement, construction, commissioning, integration and completion of a railway transport system that is capable of operating services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the County of Essex and Abbey Wood in the London Borough of Greenwich in accordance with the requirements of the Secretary of State for Transport and TfL;

"Customer" means any customer or passenger on the Crossrail Network;

"Defaulting Party" has the meaning given to such term in clause 46;

"Dispute" means any dispute, controversy or claim of whatever nature between the Parties arising under, out of or in connection with this Agreement;

"Dispute Resolution Procedure" means the procedure for resolving Disputes set out in schedule 2;

"Documentation" means the operating manuals, user instruction manuals, technical literature, drawings and all other related materials in human-readable and/or machine-readable forms supplied by the Contractor under the Supply Contract and/or in the performance of the Scope of Work;

"DRACAS Information" means data reporting, analysis and corrective action system data regarding verification and validation observations, test failure observations, their root cause analysis and mitigation information in the possession of the Contractor and/or a manufacturer or supplier of a particular piece of Equipment and/or part of the Platform Screen Doors System, together with all performance and RAM Case related or safety related or safety critical design changes made by the Contractor and/or such a manufacturer or supplier, whether or not in the provision of the Platform Screen Doors Systems by the Contractor;

"Effective Date" means the date nominated by the Employer in the Effective Date Notice;

"Effective Date Notice" has the meaning given to it in clause 4.1(b);

"Employer Indemnitee" has the meaning given to such term in clause 25.1;

"Employer IPR" means any IPR:

- (a) owned by or otherwise in the possession of the Employer at the date of this Agreement;
- (b) developed by or on behalf of the Employer after the date of this Agreement, other than by the Contractor pursuant to this Agreement;
- (c) in any modifications or enhancements made by the Contractor or a Subcontractor to the Employer's materials licensed under clause 18.4;
- (d) as specified in clause 18.6(a);
- (e) listed in schedule 6, as amended by the Employer from time to time to:
 - (i) add further IPR to the list of Employer IPR; or

- (ii) remove from or otherwise amend the list of Employer IPR;

"Employer's Fault" means any Fault in relation to Parts which is caused by:

- (a) vandalism or damage to the Parts while in the Main Store (other than if caused by the Contractor, its Subcontractors, or their respective employees or agents);
- (b) a failure of the Employer to carry out maintenance in accordance with the Manuals;
- (c) default of the Employer or any of its employees or contractors (other than the Contractor or a Subcontractor); or
- (d) the inadequate carrying out of maintenance activities or misuse by or on behalf of the Employer, other than by the Contractor or a Subcontractor and other than where the training or training manuals or maintenance manuals provided by or on behalf of the Contractor under the Supply Contract and/or this Agreement were insufficient to enable the relevant activities to be properly performed;

"Employer's Parts" means all Parts as the Employer may purchase from the Contractor from time to time pursuant to paragraph 7 of schedule 1;

"Employer's Representative" means:

- (a) the individual whose appointment as such has been notified by the Employer to the Contractor in accordance with clause 8.1; or
- (b) any successor whose appointment by the Employer is notified to the Contractor in writing;

"Employer's Staff" means all employees, agents, representatives and contractors, from time to time, of the Employer;

"Environment" means all, or any, of the following media (including such media within buildings or other natural or man-made structures above or below ground): air, water, sewage systems and land and any living organisms or systems supported by those media;

"Environmental Harm" means any material injury, or damage to, or pollution or impairment of the Environment but will not include harm to any person or persons;

"Environmental Laws" means all Applicable Laws and Standards and all orders, regulations, ordinances, decrees or regulatory codes of practice, circulars, guidance notes and equivalent controls relating to or concerning the Environment;

"Environmental Losses" means any Losses (including the cost of Remedial Action) suffered or incurred by the Employer, its agents, officers and/or employees in respect of Environmental Harm;

"Equipment" means items provided by the Contractor, regardless of whether the item is manufactured by the Contractor, and/or used by it to provide the Scope of Work but which do not comprise Employer's Parts;

"Escrow" means the deposit with, and retention by the Escrow Agent of, the Escrow Information under and in accordance with the Escrow Agreement;

"Escrow Agent" means the NCC Group;

"Escrow Agreement" an escrow agreement to be entered into between the Parties, Crossrail Limited (if Crossrail Limited is not a Party) and the Escrow Agent on the terms and conditions required by the Supply Contract as supplemented or amended by this Agreement;

"Escrow Information" means the Software, the Source Code Materials and the Hardware Information and shall include without limitation:

- all source code files;
- files defining the various configuration parameters for the compiler, linker and assembler;
- compiler, linker and assembler tool set (may be more than one);
- documentation defining the compiler environment and full instructions on how to compile the course code and create the binary images that the equipment will run; and
- a method to test that the final result is actually what is expected (as in the software binary image is identical to the one originally supplied),

but excluding Excluded Materials;

"Excluded Materials" means IPR relating to Software, Hardware or Source Code Materials which the Contractor demonstrates to the Employer are uncustomised and available off-the-shelf on arm's length terms from suppliers other than the Contractor;

"Expedited Variation Order" has the meaning given to such term in clause 17.8;

"Expiry Date" means the earlier of:

- (a) either:
 - (i) (if the Services Commencement Notice is served by the Employer) the date falling 15 years after the Services Commencement Date; or
 - (ii) (if the Services Commencement Notice is not served by the Employer) the date of issue of the Defects Certificate under (and as such terms as defined in) the Supply Contract; or
- (b) the date on which this Agreement is terminated in accordance with the provisions hereof;

"Failing Party" has the meaning given to such term in clause 29.4;

"Fault" means any problem or deficiency with the Platform Screen Doors System or Part (including, without limitation, any non-conformance with its Specification);

"Fault Reporting Centre" has the meaning given to such term in paragraph 4.2(c) of schedule 1;

"Fixed Fee" means the amount described as such in schedule 3, as amended in accordance with this Agreement;

"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 in relation to such Legislation;

"Force Majeure Event" means the occurrence after the date of this Agreement of:

- (a) war, civil war or acts of terrorism;

- (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is the result of the actions of the Contractor; or
- (c) pressure waves caused by devices travelling at supersonic speeds,

which directly cause either Party to be unable to comply with all or a material part of its obligations under this Agreement;

"Good Industry Practice" means the exercise by the Contractor of that degree of skill, care, diligence, prudence, foresight and practice which would ordinarily be expected of a skilled and experienced contractor performing the Contractor's obligations under this Agreement;

"Greater London Authority Act" or "GLA Act" means the Greater London Authority Act 1999 relating to the formation of the Greater London Authority;

"Group" means in relation to either Party, that Party and any company which is a holding company or subsidiary of that company and any subsidiary of any such holding company, for which purposes "subsidiary" and "holding company" have the meanings respectively given to them by section 1159 of the Companies Act 2006;

"Guarantee" means a parent company guarantee in the form attached to this Agreement as schedule 8;

"Guarantor" means [*Guarantor to be as per Supply Contract*], or any replacement thereof as permitted under this Agreement;

"Hardware" means all electronic hardware and IT system components comprised in, installed in, or used for the operation, maintenance, servicing, repairing or overhauling of, the Platform Screen Doors System or any equipment to be used in conjunction with the Platform Screen Doors Systems;

"Hardware Information" means all information necessary to enable a reasonably skilled technician to operate, maintain, support, service, repair, overhaul and enhance the Hardware (including to manufacture Parts), including details of its system architecture;

"Hazardous Materials" means anything whether in solid, liquid or gaseous form or any form of energy noise, radiation, odour or vibration which alone or in combination with other things is capable of causing Environmental Harm;

"Health and Safety Executive" and "HSE" means the body established by section 10 of the HSWA which expression includes any successors of the functions of such body;

"HSWA" means the Health and Safety at Work Act 1974;

"Industry Standards" means all the laws, rules, regulations, guidance, directions, recommendations and instructions, including codes of practice and conduct which have the force of law or with which it is generally accepted within the rail industry in the United Kingdom that it is good practice to comply which are or have been issued by the Regulator, Network Rail, the Railway Safety Directorate, HSE, RSSB (in each case to the extent acting in its capacity as a relevant authority under the Applicable Laws and Standards) or any other Competent Authority or other person from time to time legally authorised to set standards in respect of the rail industry and shall include Railway Group Standards, Network Rail Standards and/or any equivalent standard or any standard amending, replacing or superseding any of the foregoing;

"Information" means any information recorded in any form held by or on behalf of the Employer;

"Information Request" means a request for information under the FOI Legislation;

"Infrastructure Manager" has the meaning ascribed to it in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;

"Insolvency Event" means any of the following (or any procedures or proceedings which are analogous thereto):

- (a) a court order is made or a resolution passed for the winding-up of a body (other than a winding-up whilst solvent for the purpose of amalgamation or reconstruction);
- (b) an administrator is appointed over any part of the material assets of a body or an administration order is made in respect of a body;
- (c) any receiver or manager in respect of a body is appointed or possession is taken by or on behalf of any creditor of any property that is the subject of a charge; or
- (d) a voluntary arrangement is made for a composition of debts or a scheme of arrangement is approved under the Insolvency Act 1986 or Companies Act 2006 respectively in respect of a body;

"Interoperability Regulations" means the Railways (Interoperability) Regulations 2011;

"IPR" means all rights in or in relation to any and all patents, utility models, trade and service marks, rights in designs, get-up, trade, business or domain names, copyrights, topography rights (whether registered or not and any applications to register or rights to apply for registration of any of the foregoing), rights in inventions, know-how, trade secrets and other confidential information, rights in databases and all other intellectual property rights of a similar or corresponding character which may now or in the future subsist in any part of the world;

"Key Posts" means those key roles within the Contractor's organisation, and the persons acting in those roles, that were involved in designing the Platform Screen Doors System and developing the coding for the Software comprised in it, as agreed between the Contractor and the Employer prior to the Services Commencement Date;

"Law" means any Legislation or common law of the United Kingdom, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of section 2 of the European Communities Act 1972 in each case enforceable in the United Kingdom or any other principles of law or equity established by the courts;

"Legislation" means any Act of Parliament or subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of section 2 of the European Communities Act 1972 in each case enforceable in the United Kingdom (and including any modification, amendment or re-enactment of such Legislation from time to time and any instruments, orders or regulations made pursuant thereto);

"Liability Cap" means

- (a) in respect of any matter arising out of or in connection with the Services, an amount equal to one hundred per cent (100%) of the aggregate of the Fixed Fee and the likely Additional Service Fee (as estimated by the Employer acting reasonably) for the relevant Payment Year; or
- (b) in respect of any matter arising out of or in connection with the One-Off Parts Supply, an amount equal to one hundred per cent (100%) of aggregate of the One-Off Parts Prices.

"Lifespan" means the lifespan of the Platform Screen Doors System being 30 years from the Works Completion Date;

"Losses" means all direct liabilities, damages, losses, costs, expenses, interest, charges and fees (including legal fees), including those arising out of actions, proceedings, adverse judgments orders or other sanctions or claims and **"Loss"** will be construed accordingly;

"Main Store" means the principal storage site located at Plumstead (or such other site of similar size and within the London M25 as advised by the Employer from time to time) from which Parts are to be stored, managed and issued for the purposes of supporting the maintenance of the Platform Screen Doors Systems, or any replacement location;

"Maintenance Release" means any release of the Supported Software to which any modification, enhancement, improvement, revision or update has been made (including but not limited to the correction of Faults, addition of functionality or otherwise amending or updating of the Supported Software, or releases of the Supported Software based on DRACAS Information or to manage obsolescence), or to which a further function or functions have been added;

"Major Maintenance Activities" means the carrying out of substantial maintenance work in relation to the Crossrail Network which involves the replacement or renewal of assets (such as major closures) but does not result in a different track, signal or infrastructure layout;

"Manuals" means documents that fully describe how the Platform Screen Doors System and its component Parts should be operated, serviced, maintained, dismantled, reassembled, repaired and overhauled;

"Meeting Service" means the meeting services described in paragraph 6 of schedule 1;

"Minimum Records" means:

- (a) all necessary information for the evaluation of claims or variations, whether or not relating to Subcontractors;
- (b) accounting records (in hard copy as well as computer readable data);
- (c) subcontract files (including proposals of successful and unsuccessful bidders, bids, re-bids, etc);
- (d) original estimates;
- (e) estimating worksheets;
- (f) correspondence;
- (g) variation files (including documentation covering negotiated settlements);
- (h) schedules covering timetable and progress towards completion;
- (i) commitments (agreements and leases) greater than ██████;
- (j) detailed inspection records;
- (k) accounts and records of the One-Off Parts Prices, the Fixed Fee and the Additional Service Fee for work done to date and all other amounts to be paid to the Contractor under this Agreement;
- (l) test and commissioning results; and

(m) help desk response records;

"Mitigating Party" has the meaning given to such term in clause 45;

"Moral Rights" means moral rights under Sections 77 to 85 of the Copyright Designs and Patents Act 1988 or any similar laws of any jurisdiction to the extent permitted in that jurisdiction;

"National Network Parties" means Network Rail, London Underground Limited, any of the train operating companies, Docklands Light Railway Limited and any person licensed under the Railways Act 1993;

"National Railway Network" means the national rail network infrastructure operated by Network Rail;

"Network Rail" means Network Rail Infrastructure Limited company number 02904587, whose registered office is Kings Place, 90 York Way, London N1 9AG which expression will include its successors;

"New Release" means any (i) planned or actual, technical or business developments whatsoever; or (ii) any updates, to any part of the Platform Screen Doors System, whether by the Contractor or any relevant third party, that are not Maintenance Releases;

"Notices" has the meaning given to such term in clause 36.1;

"Off-Site Technical Support Service" means the service described in paragraph 4.2 of schedule 1;

"On-Site Technical Support Service" means the service described in paragraph 8 of schedule 1;

"One-Off Parts" are defined in Part C of schedule 1;

"One-Off Parts Prices" means the amounts described as such in schedule 3;

"One-Off Parts Supply" means the supply described in Part C of schedule 1;

"Open Book" means that prices should be supplied on an open book basis and based upon a competitive procurement process where applicable;

"Open Source Code" means open source code (as defined by the Open Source Initiative) together with all free code (as defined by the Free Software Foundation);

"Operational Property" means the stations, depots and track that are part of the Crossrail Network and includes, but is not limited to, the Main Store;

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

"Parts" means any part, component or equipment forming part of the Platform Screen Doors System;

"Parts Service" means the service as such described in paragraph 7 of schedule 1;

"Parts Suppliers List" has the meaning given in paragraph 4.1(c) of schedule 1;

"Payment Period" means, following the Effective Date, each consecutive 28 day period, the first of which starts at midnight on 1 April in each year and, in respect of the first or last such period in any year, as may be varied by the Employer;

"Payment Year" means the period from and including 1 April in any calendar year up to and including 31 March in the following calendar year, provided that:

- (a) the first Payment Year will be the period from and including the Effective Date up to and including the following 31 March; and
- (b) the last Payment Year will be the period from and including 1 April in that calendar year up to and including the date of termination or expiry of this Agreement;

"Permitted Purpose" means for the purposes of:

- (a) delivering and maintaining the Platform Screen Doors System (including the Software) to meet the requirements of the Works Information;
- (b) ensuring the safe and economic operation of the Platform Screen Doors System (including the Software) in accordance with Applicable Laws and Standards, the Supply Contract and this Agreement;
- (c) operating, maintaining, renewing, repairing, modifying, altering, enhancing, re-figuring, correcting or replacing, building, commissioning, testing, integrating, supplementing, extending or decommissioning all or any part of the Platform Screen Doors System and the Scope of Work (including the Software) and any Parts, including the use of the Platform Screen Doors System (including the Software) on any extension to the Crossrail Network;
- (d) repairing, enhancing and improving the Platform Screen Doors System (including the Software) to address faults, deficiencies in performance, reliability, obsolescence and/or safety concerns that may arise from time to time;
- (e) modifying, extending, combining, interfacing with, integrating with, connecting into and adjusting all or any part of the Platform Screen Doors System (including the Software) including to integrate with other works, systems, equipment, hardware and/or software (including whether provided by the Employer or a third party) and/or areas where the Platform Screen Doors System and/or the Software interface with other networks, systems or works;
- (f) maintaining a reasonable number of back-up or test copies of the Software;
- (g) understanding the Platform Screen Doors System (including the Software);
- (h) ongoing training and development of an Employer team of competent operations, maintenance and engineering staff which may include third party contractors engaged by the Employer and including training in respect of any of the activities listed in this definition of Permitted Purpose;
- (i) enabling the Employer to perform the function and duties as Infrastructure Manager and Operator of the Crossrail Network;
- (j) enabling the Employer to act as and perform the function of the design authority for the Platform Screen Doors Systems (including the Software) in relation to changes to the Platform Screen Doors System (including the Software), to the extent the Contractor is not performing that role; and
- (k) the safe and economic decommissioning of the Platform Screen Doors System (including the Software) and/or the transition to a replacement system at the end of

the useful life of the Platform Screen Doors System (including the Software) (or parts of it),

but in all cases excluding (except on the occurrence of a Trigger Event when the following exclusions shall not apply):

- (i) for the purposes of manufacturing or producing (or having manufactured or produced) any spare parts or further quantities of any part of the Platform Screen Doors System without the prior written consent of the Contractor (not to be unreasonably withheld or delayed in the event the Contractor is unable or unwilling, on commercially reasonable terms, to supply such part or parts of a suitable alternative); and
- (ii) for the purposes of decompiling any computer software or deriving any algorithms, techniques or other features of the Software or modifying or attempting to create any derivative works from the Software,

Provided always that such exclusions shall not prevent the Employer obtaining uncustomised off-the-shelf products from suppliers other than the Contractor;

"Platform Screen Doors System" means the platform screen doors system for the Crossrail Project as supplied and installed by the Contractor under the terms of the Supply Contract;

"Price List" means the pricing information set out at schedule 3 as the Parties may agree to amend from time to time;

"Pricing Review" has the meaning given in clause 23.3;

"Prohibited Act" means:

- (a) offering, giving or agreeing to give to any servant, agent, contractor or representative of a Public Sector Body any gift or consideration of any kind as an inducement or reward:
 - (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with a Public Sector Body; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with a Public Sector Body;
- (b) entering into this Agreement or any contract with a Public Sector Body in connection with which commission has been paid or has been agreed to be paid by the Contractor or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Employer;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under any Law created in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with a Public Sector Body; or
- (d) defrauding or attempting to defraud or conspiring to defraud a Public Sector Body;

"Public Sector Body" means all Ministers of the Crown, government departments, Crown agencies and authorities, local authorities or similar public sector bodies and any body corporate owned or controlled by any of them (including for the avoidance of doubt the Employer, TfL and SoS);

"Railway Group Standards" means the body of standards which apply to the National Railway Network and which also apply to any part of the Crossrail Network and/or to adjacent parts of the National Railway Network;

"RAM Case" means the documented assessment of reliability and maintainability of the Platform Screen Doors System, including evidence of the Contractor's expectation of the in-service reliability of the Platform Screen Doors System and attainment of the Employer's reliability targets;

"RAMS Plan" has the meaning given in the Supply Contract and shall specify inter alia the Contractor's recommendations in respect of the One-Off Parts Supply;

"Regulator" means the office of rail regulation from time to time established under the Railways and Transport Safety Act 2003 and includes any successor to all or any of its functions;

"Remedial Action" means any environmental assessment or any works, measures or acts to remedy, prevent or mitigate Environmental Harm by way of removal, treatment, containment, abatement, cleaning-up or ameliorating the presence of Hazardous Materials;

"Responsible Procurement Principles" means the principles and obligations set out in schedule 9 or any other principles and obligations relating to responsible procurement as may be notified by the Employer to the Contractor from time to time;

"Review Date" has the meaning given to such term in Clause 23.1;

"Review Period" shall mean the period from a Review Date to the end of the Term;

"ROGS" means the Railways and Other Guided Transport Systems (Safety) Regulations 2006;

"Safety Breach" means a breach of any obligation of the Contractor under this Agreement caused by the Contractor or any Subcontractor (or anyone employed or acting on behalf of the Contractor or any Subcontractor) or any of its agents which has materially affected the safe operation of the Crossrail Network or the safety of any passengers, staff or any other person;

"Safety Management System" has the meaning given to such term under ROGS;

"Scope of Work" means all the Contractor's obligations under the terms of this Agreement as set out in schedule 1;

"Security Interest" means any mortgage, pledge, lien, hypothecation, encumbrance, charge, assignment, title retention, preferential right or trust arrangement or other arrangement or agreement of whatsoever nature the effect of which is the creation of security and includes any security as defined in section 248(b) of the Insolvency Act 1986;

"Services" means the Standard Services and the Additional Services described in Parts A and B of schedule 1;

"Services Commencement Date" means the date nominated by the Employer in the Services Commencement Date Notice;

"Services Commencement Date Notice" has the meaning given to it in clause 5.1(b);

"Significant Dispute" means any Dispute which may lead to a claim in excess of [REDACTED];

"Software" means any computer programme installed in, or used for the operation, maintenance, servicing, repairing or overhauling of, the Platform Screen Doors System or any equipment to be used in conjunction with the Platform Screen Doors System, as may be modified from time to time;

"SoS" means the Secretary of State for Transport from time to time or any successor to what are the current transport functions of the Secretary of State for Transport;

"Source Code Materials" means, with respect to any Software, the source code version of that Software, being all logic, logic diagrams, flow charts, orthographic representations, algorithms, routines, sub-routines, utilities, models, file structures, coding sheets, coding, source codes, listings, functional specifications and program specifications and all other materials and documents necessary to enable a reasonably skilled programmer to maintain, amend and enhance that Software without reference to any other person or document, and whether in eye-readable or machine-readable form;

"Specification" means the specifications of the Platform Screen Doors System contained within the Works Information and any Part;

"Standard Services" means the services set out in Part A of schedule 1;

"Subcontractor" means any person with whom the Contractor has contracted for the performance of any of the Scope of Work including for the supply of any Parts and includes a subcontractor or supplier (in each case of all tiers) of any such person;

"Subcontractor's Warranty" means an agreement substantially in the form attached in schedule 7 in favour of the Employer;

"Successor Provider" has the meaning given to it in clause 20.1;

"Supplied Equipment" means all or any part of the Platform Screen Doors System or Parts supplied or to be supplied by the Contractor under the terms of the Supply Contract (whether or not manufactured by the Contractor) including all Manuals and all work done or to be done on or in respect of the Platform Screen Doors System or Parts or the design, development, manufacture, supply, installation, testing or commissioning thereof or other property in compliance with the Scope of Work;

"Supply Contract" has the meaning given to it in Recital (A) of this Agreement;

"Supported Software" means the Software and all subsequent amendments and updates to and New Releases of the Software;

"Technical Support Services" means the Off-Site Technical Support Services and the On-Site Technical Support Services (if requested) and as further described in paragraph 4 of schedule 1;

"Technically Competent" means meeting the competency requirements and standards set out in the relevant competency framework approved by the Employer as are relevant to the role and/or activities to be undertaken by the relevant person and, to the extent that access to the Crossrail Network is required, duly accredited for such purposes;

"Term" means the period commencing on the Effective Date and expiring on the Expiry Date (except as otherwise provided in clause 4.2);

"Termination Date" has the meaning given to such term in clause 29.4;

"Termination Notice Date" means the date specified in a notice of termination given by the Employer under clause 27.1(c);

"TfL" or **"Transport for London"** means Transport for London, a statutory body set up by the Greater London Authority Act 1999;

"TfL Group" means Transport for London and any of its subsidiaries and their subsidiaries;

"Third Party Rights" means all IPR in the Contractor IPR which is not owned by the Contractor;

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

"Trigger Event" means an event as defined in clause 18.11(f), the occurrence of which will entitle the Employer to apply to the Escrow Agent for release of the Source Code Material and the Escrow Information from Escrow pursuant to the provisions of the Escrow Agreement;

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any other regulations enacted for the purpose of implementing the EC Acquired Rights Directive into English Law;

"TUPE Transfer Date" means the date on which the employment of all or some of the Contractor's Employees transfers to a third party (including the Employer or its nominee) by operation of TUPE, if applicable;

"Updating Service" means the service described as such in paragraph 2 of schedule 1;

"Value Added Tax" or **"VAT"** means any value added taxes;

"Variation Order" means a variation order initiated by the Employer in accordance with clause 17;

"Works Completion Date" means the certified date of Completion as such term is defined in the Supply Contract;

"Works Information" means the Works Information as defined, and set out, in the Supply Contract, and as amended from time to time pursuant to the Supply Contract; and

"Year" means each period of 13 consecutive Payment Periods during the Term.

1.2 In this Agreement unless the context otherwise requires:

- (a) words denoting persons or parties shall include individuals, partnerships, firms and corporations and any other person having legal capacity and will include the successors and permitted assigns of such persons;
- (b) a reference to any **"Party"** will mean either the Employer or the Contractor as the context requires, and **"Parties"** will mean both of them;
- (c) words in the singular also mean in the plural and the other way round;
- (d) words in the masculine also mean in the feminine and the neuter and the other way round;
- (e) the headings and table of contents are inserted for convenience only and will not affect the construction of this Agreement;

- (f) a reference to a statutory provision shall include a reference to:
 - (i) the statutory provision as modified or re-enacted or consolidated from time to time whether before or after the date of this Agreement; and
 - (ii) any subordinate legislation made under the statutory provision whether before or after the date of this Agreement;
- (g) any references to a clause or schedule is a reference to that clause or schedule of this Agreement and references in a schedule to a paragraph is a reference to that paragraph of that schedule;
- (h) references to this Agreement or to any other document or agreement is a reference to this Agreement or that document or agreement as the same may be amended, restated, varied, modified, supplemented, suspended, replaced or novated in accordance with its terms from time to time;
- (i) references to includes or including will mean without limitation;
- (j) references in this Agreement to costs and expenses which are to be reimbursed to or recovered by the person incurring the same will be construed as references to an amount equal to the amount of such costs and expenses together with any VAT (other than VAT in respect of which that person or any member of a Value Added Tax Group of which such person is a member is able to recover by way of credit or repayment pursuant to sections 25 and 26 of the Value Added Tax Act 1994) or other similar tax thereon in any jurisdiction;
- (k) wherever in this Agreement provision is made for the giving or issuing of any notice, consent, approval, certificate or determination by any person, then, unless otherwise specified, such notice, consent, approval, certificate or determination will be in writing and the words **"notify"** "consent" "approved" "certified" or "determined" will be construed accordingly;
- (l) the giving of any consent or approval or comment or the withholding of the same by or on behalf of the Employer will not in any way relieve the Contractor of any of its obligations or of its duty to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the consent, approval or comment.

2. **JOINT APPROACH**

The Contractor and the Employer will:

- (a) act as stated in this Agreement and in a spirit of mutual trust and cooperation, and co-ordination;
- (b) operate this Agreement on a mutually supportive basis with all parties involved sharing the commitment to the service and to the economic and efficient delivery and operation of the Crossrail Project;
- (c) after the Services Commencement Date, manage the activities under this Agreement through the Meeting Services; and
- (d) procure that their respective delivery teams recognise and continue to exhibit, for the duration of the Term, behaviours which recognise the partnering nature of this Agreement.

3. **CROSSRAIL PROJECT**

3.1 The Contractor acknowledges the Employer's role in providing maintenance services to support the operation of the Crossrail Network and will provide the Employer with such support as the Employer reasonably requires to assist it in the provision of such services. The Contractor will not act or omit to act in any way during the performance of its obligations under this Agreement in a manner that will:

- (a) prevent or hinder the Employer from carrying out such services;
- (b) prevent or hinder the Infrastructure Manager from discharging its responsibilities; or
- (c) hinder, obstruct or interfere with the operation of the Crossrail Network.

3.2 The Contractor further acknowledges that the Platform Screen Doors System has been supplied by it on the terms of the Supply Contract, and in particular that the Platform Screen Doors System and the Supplied Equipment benefit from certain warranties provided on the terms of the Supply Contract. Nothing contained in this Agreement will act to prejudice any claim that the Employer (or the employer under the Supply Contract, if not the Employer) may have in respect of such warranties and its ability to require the Contractor to perform its obligations (including its warranty obligations) under the Supply Contract.

4. **TERM**

4.1 **Entry into effect**

- (a) Clauses 1 (Definitions and Interpretation), 3 (Crossrail Project) 4 (Term), 6.3 (Contractor Obligations), 7 (Guarantee), 16 (Warranties), 17 (Variation Orders), 27 (Termination and its Consequences), (except 27.1(e)), 28.1(g) (Obligations on Expiry or Following Termination), 33 (Confidentiality), 34 (Freedom of Information and Data Transparency), 36 (Notices), 37 (Waiver), 38 (Assignment), those parts of 39 (Survival) as applicable, 40 (Publicity), 41 (Severability), 42 (Further Assurances), 43 (Costs), 44 (Entire Agreement), 47 (Third Party Rights), 48 (Counterparts) and 49 (Governing Law, Disputes and Jurisdiction) shall take effect on and from the Commencement Date. Any references to the Term in the abovementioned clauses will be a reference to the term of the Agreement commencing on the Commencement Date.
- (b) The Employer may by the date that is three months prior to the expected Works Completion Date give the Contractor notice:
 - (i) that it intends that this Agreement will become fully effective;
 - (ii) of the date that will be the Effective Date; and
 - (iii) of whether it wishes the Contractor to perform the One-Off Parts Supply (provided always that if the Employer wishes the Contractor to perform the One-Off Parts Supply it must serve the Effective Date Notice no later than [2] **months following the date of acceptance by the "Employer" or "Project Manager"** under the Supply Contract of the RAMS Plan).
- (c) (the "**Effective Date Notice**"). Subject to clause 5 below, this Agreement will come into full force and effect on the Effective Date and, subject to earlier termination in accordance with the terms of this Agreement, will continue for the Term.
- (d) If the Employer fails to provide the Effective Date Notice by the Works Completion Date, this Agreement will be deemed to have terminated and each Party will bear their own costs arising out of such termination.

- (e) Subject to clause 4.2, this Agreement shall terminate on the Expiry Date.
- (f) Following service of the Effective Date Notice but prior to the Effective Date the Parties will meet and seek to agree, each acting reasonably and in good faith, the following outstanding matters in relation to this Agreement which have not been finalised as at the Commencement Date:
 - (i) the final list of Escrow Information relevant to the One-Off Parts Supply for the purposes of clause 18.11(b).

4.2 **Extension of Term**

The Employer may, in its absolute discretion, no earlier than 10 months and no later than four months prior to the Expiry Date, provide notice to the Contractor extending the Term of this Agreement. Unless otherwise agreed by the Employer, in respect of any period of extension, the terms of this Agreement (including without limitation clause 21 in respect of payment) will continue to apply for such extended period.

5. **COMMENCEMENT OF SERVICES**

5.1 The Employer may by the date that is three months prior to the expected Works Completion Date give the Contractor notice:

- (a) that it intends that the **Contractor's obligation to provide the full Scope of Works** should commence; and
- (b) of the date that will be the Services Commencement Date,
- (c) (the "**Services Commencement Date Notice**").

5.2 Following service of the Services Commencement Date Notice but prior to the Services Commencement Date the Parties will meet and seek to agree, each acting reasonably and in good faith, the following outstanding matters in relation to this Agreement which have not been finalised as at the Commencement Date:

- (a) the final list of Escrow Information relevant to the Services for the purposes of clause 18.11(b); and
- (b) the Key Posts.

6. **CONTRACTOR OBLIGATIONS**

6.1 The Contractor shall perform:

- (a) if and to the extent notified in the Effective Date Notice, the One-Off Parts Supply in the manner set out in this Agreement from the Effective Date ; and
- (b) in the event that the Employer serves the Services Commencement Date Notice, the full Scope of Works in the manner set out in this Agreement from the Services Commencement Date until the Expiry Date.

6.2 Notwithstanding any other provision in this Agreement the Contractor acknowledges that the Employer is relying on the skill and judgment of the Contractor. The Employer's (including the Employer's Representative's) acceptance, approvals, comments, instructions, consents or advice or any enquiry or inspection which the Employer makes or has carried out for its benefit or on its behalf at any time shall not operate to reduce, extinguish, exclude, limit or modify the Contractor's duties and obligations under this Agreement.

- 6.3 The Contractor acknowledges and agrees that it does not, and will not for the duration of the Term, have any interest in any matter where there is, or is reasonably likely to be, a conflict of interest with it performing the Scope of Work, save to the extent fully disclosed to and approved in writing by the Employer. The Employer's approval may impose any conditions the Employer deems reasonably necessary.

7. **GUARANTEE**

- 7.1 The Contractor will deliver to the Employer on the Effective Date the Guarantee duly executed by the Guarantor. The Contractor shall not be entitled to any payment hereunder until the executed Guarantee has been delivered to the Employer.

- 7.2 If the Guarantor providing a Guarantee required pursuant to clause 7.1 is not a company registered in England and Wales the Contractor shall provide to the Employer a legal opinion in the form required by the Employer (acting reasonably) on the Guarantor's execution of any such Guarantee no later than the Effective Date.

8. **EMPLOYMENT MATTERS**

8.1 **Representatives**

- (a) Within seven days of the Effective Date:
- (i) the Employer will notify the Contractor of the name of the Employer's Representative; and
 - (ii) the Contractor will notify the Employer of the name of the Contractor's Representative.
- (b) Either Party shall be entitled, at any time, to replace its own representative provided that the Party wishing to replace its representative provides to the other Party:
- (i) at least seven days' notice of the change of identity of the relevant representative;
 - (ii) the credentials of the replacement representative; and
 - (iii) details of such representative's delegated authority.
- (c) Each Party shall ensure that it has a representative at all times during the Term.
- (d) Within seven days of receiving notice of the identity of the Contractor's Representative the Employer may, in its absolute discretion, provide notice to the Contractor that it rejects the proposed Contractor's Representative. If the Employer:
- (i) issues a rejection, the Contractor must, within seven days of receipt of such rejection, propose another Contractor's Representative; or
 - (ii) does not issue a rejection within seven days of receiving the Contractor's notice of its representative, the Employer will be deemed to have accepted the Contractor's Representative.
- (e) The Employer's Representative will have no authority to amend this Agreement nor to relieve the Contractor of any of its obligations under this Agreement.
- (f) The Contractor's Representative shall:
- (i) exercise overall superintendence of the performance of this Agreement on behalf of the Contractor;

- (ii) receive, on behalf of the Contractor, all consents, approvals, orders, instructions and information given by the Employer's Representative; and
- (iii) have the authority to act and to commit the Contractor as if he were the Contractor for the purposes of this Agreement.

8.2 **Contractor's Employees**

- (a) The Contractor shall employ and shall ensure that its Subcontractors employ only such persons as are properly qualified, experienced and competent to perform the work assigned to them and, where appropriate, duly licensed.
- (b) If in respect of any Contractor's Employees, the Employer reasonably believes that the Contractor has failed to comply with its obligations in clause 8.2(a), the Employer may request that a Contractor's Employee is removed from his role in respect of the Scope of Work and the Employer shall be entitled to refuse payment for any future labour of such Contractor's Employee.
- (c) The Contractor shall:
 - (i) not change the Key Posts or the identity of any person holding a Key Post without obtaining the Employer's prior written consent (not to be unreasonably withheld or delayed where the Contractor has suggested a replacement which is acceptable to the Employer);
 - (ii) put in place adequate contingency arrangements to deal with planned and unplanned temporary absences of persons from the Key Posts; and
 - (iii) provide the Employer with such information as it may reasonably request concerning the qualification and experience of such persons acting in a Key Post and any proposed temporary or permanent replacement.
- (d) The Employer's Representative may require the Contractor to remove or cause to be removed from the Scope of Work any person who:
 - (i) misconducts himself or is incompetent or negligent in the performance of his duties;
 - (ii) fails to comply with any provisions of this Agreement; or
 - (iii) persists in any conduct which is prejudicial to safety or health,and such person shall not be re-employed in connection with this Agreement without the permission of the Employer's Representative.

8.3 **London Living Wage**

- (a) The Contractor shall, and shall use reasonable endeavours to ensure that Subcontractors shall, pay their employees an hourly wage (or equivalent of an hourly wage) of not less than the London Living Wage where those employees are spending all of their working time on the Scope of Works within one of the London Boroughs.
- (b) The Contractor shall audit the records of its Subcontractors to ensure compliance with clause 8.3(a) and notify the Employer of any non-compliance.
- (c) The Contractor shall, and shall use reasonable endeavours to procure that its Subcontractors shall, allow the Employer access to their records for the purposes of auditing compliance with clause 8.3(a).

- (d) In the event that the Contractor or the Employer discovers any non-compliance with the requirements of this clause 8.3, the Contractor shall co-operate fully at its own cost with the Employer to resolve the non-compliance.
- (e) In this clause 8.3:
 - (i) **"Greater London Authority"** means the Greater London Authority, a body corporate established under the Greater London Authority Act 1999;
 - (ii) **"London Borough"** means the administrative area of Greater London (plus the City of London), containing 33 boroughs; and
 - (iii) **"London Living Wage"** means the basic hourly wage determined by the Greater London Authority for employees working full time within one of the London Boroughs.

9. **RESPONSIBLE PROCUREMENT**

- 9.1 The Contractor shall comply with the Responsible Procurement Principles and will comply at all times with the obligations contained in the Responsible Procurement Principles and/or as reasonably instructed by the Employer from time to time.

10. **ACCESS**

- 10.1 The Employer shall grant such access to the Operational Property as is required to allow the Contractor or its Subcontractors to perform the Scope of Works.
- 10.2 Whilst the Contractor or its Subcontractors (or any of its or their employees, agents, consultants, contractors or licensees) are on Operational Property, the Contractor shall and shall procure that its Subcontractors (or any of its or their employees, agents, consultants, contractors or licensees) shall observe and comply with the Transport and Works Act 1992 and with all policies, rules and instructions of the Employer, as amended from time to time.
- 10.3 The Contractor will not, and will procure its Subcontractors do not, cause any damage, destruction or loss to any part of any premises which are owned or occupied by the Employer or carry out any alterations to them without the prior written permission of the Employer.
- 10.4 To the extent that performance of the Scope of Work requires access to the Operational Property, such access will be scheduled in conjunction with, and by application through, the Employer's Staff, who will book access for the Contractor pursuant to the Access Code.
- 10.5 In accessing any Operational Property, the Contractor warrants the Contractor's Employees will comply with this clause 10 as if references to the Employer in this clause were also reference to any third party owner or operator of the accessed Operational Property.

11. **COMPLIANCE WITH LAWS AND STANDARDS**

- 11.1 In performing its obligations under this Agreement the Contractor will comply with all Applicable Laws and Standards.
- 11.2 The Contractor will not act (or fail to act) so as to place the Employer in breach of any conditions of, or otherwise jeopardise, the Employer's licences under or exemptions from the provisions of any Applicable Laws and Standards.
- 11.3 The Contractor shall not by any act or omission:
 - (a) prejudice the regulatory regime applicable; or
 - (b) cause a more onerous regulatory regime to become applicable,

to the activities of the Employer.

- 11.4 The Contractor acknowledges that the Employer has duties under the Crime and Disorder Act 1998 and in the performance of this Agreement the Contractor will assist and co-operate, and use reasonable endeavours to procure that its Subcontractors assist and co-operate, with the Employer where possible to enable the Employer to satisfy its duty.

12. **CDM REGULATIONS**

- 12.1 In respect of the Scope of Works only, the Employer hereby elects to act as the only client in accordance with regulation 8 of the CDM Regulations and undertakes to notify such other parties as may reasonably be regarded as clients (as that term is defined in the CDM Regulations) of such election as soon as is reasonably practicable in advance of the carrying out of the Scope of Works.
- 12.2 Where applicable to the Scope of Work, the Employer has appointed or will appoint the CDM Co-ordinator and the Principal Contractor in accordance with Regulation 14 of the CDM Regulations.
- 12.3 The Parties will provide each other with all necessary assistance as they may reasonably require in order to fulfil their respective obligations under the CDM Regulations and any changes to the appointments referred to in clause 12.2.

13. **CONSTRUCTION INDUSTRY SCHEME**

- 13.1 In this clause 13 (but not otherwise):
- (a) **"FA 2004"** means the Finance Act 2004;
 - (b) the **"Regulations"** means the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045);
 - (c) **"contract payment"** has the meaning set out in section 60 FA 2004; and
 - (d) **"HMRC"** means Her Majesty's Revenue and Customs.
- 13.2 Each of the Employer and the Contractor will comply with Chapter 3 Part 3 FA 2004 and the Regulations.
- 13.3 If any payment due from the Employer to the Contractor under this Agreement is a contract payment, then:
- (a) not later than 21 Business Days before the first contract payment under this Agreement is due to be made to the Contractor, the Contractor will provide the Employer with its unique taxpayer reference and any other information which the Employer may be required to give to HMRC in order to verify the Contractor's tax status; and
 - (b) the Employer, as contractor, will verify, in accordance with paragraph 6 of the Regulations, whether the Contractor is registered for gross payment or for payment under deductions or is not registered under Chapter 3 Part 3 FA 2004.
- 13.4 If any payment due from the Employer to the Contractor under this Agreement is a contract payment:
- (a) if the Contractor is registered for gross payment under section 63(2) FA 2004, the Employer will make payments to the Contractor without any deduction; or

- (b) if the Contractor is not registered for gross payments under section 63(2) FA 2004, the Employer will make the payment to the Contractor, subject to the deduction of the relevant percentage in accordance with section 61(1) FA 2004.

13.5 Where any error or omission has occurred in calculating or making the deduction referred to in clause 13.4:

- (a) in the case of an over-deduction, the Employer will correct that error by repayment of the sum over-deducted to the Contractor; and
- (b) in the case of an under-deduction, the Contractor will correct that error or omission by repayment of the sum under-deducted to the Employer.

14. **SAFETY**

14.1 In performing its obligations under this Agreement, the Contractor shall comply with the principles and guidance relating to safety published from time to time by any regulatory authority (including, for the avoidance of doubt, Railway Group Standards) which are applicable to the Contractor.

14.2 The Contractor will perform the Scope of Work so as not to knowingly put the Employer or National Network Parties in breach of their Safety Management System and/or safety verification and will co-operate with the Employer so as to enable the Employer to ensure that the Employer's Safety Management System and safety verification is properly co-ordinated.

14.3 The Contractor will provide all required assistance and will comply with all reasonable instructions of the Employer's Representative to:

- (a) enable the Employer to comply with Applicable Laws and Standards and its statutory fire safety obligations;
- (b) assist the emergency services;
- (c) assist and participate any safety related inquiries or simulation exercises undertaken by the Employer or any third party as and when stipulated by the Employer; and
- (d) assist the Employer to comply with planning for, training for and managing of:
 - (i) any event or situation which may threaten the safety and security of the Crossrail Network; and
 - (ii) any criminal act committed on the Crossrail Network.

14.4 The Contractor will render all reasonable assistance to the Employer for the purpose of the discharge by the Employer in relation to any safety or safety related inquiries instigated by any National Network Party or any statutory body, including making its employees available as witnesses and making any records, information and assets available for inspection and as evidence.

14.5 The Contractor will at all times co-operate with the Employer, the police, other emergency services and Authorised Third Parties in planning for, training for and managing of any event or situation which may threaten the safety and security of the Crossrail Network and for any criminal act committed on the Crossrail Network.

14.6 The Contractor will comply with all instructions issued by the Employer which implement any direction given by the Secretary of State pursuant to Sections 118 and 119 of the Railways Act 1993.

15. **CHANGE IN LAW**

- 15.1 On the occurrence of a Change in Law, the Parties shall as soon as is reasonably practicable meet to discuss and agree the effect of such Change in Law upon the Scope of Work. If the Parties are unable to agree the effect of the Change in Law, the matter may be referred by either Party for determination pursuant to the Dispute Resolution Procedure.
- 15.2 Within 15 Business Days of agreeing the effect of the Change in Law, or of a determination pursuant to the Dispute Resolution Procedure in accordance with clause 15.1, the Employer may issue a Variation Order in respect of any consequential amendment to the Scope of Works.
- 15.3 The Employer shall be responsible in accordance with clause 17 for the cost and time implications arising out of any Change in Law (other than a Contractor Change in Law) and the Contractor shall be responsible for the cost and time implications arising out of any Contractor Change in Law.
- 15.4 Subject to clause 15.3 above, the Contractor shall be responsible for any actions required to enable the Contractor to perform its obligations under this Agreement in compliance with any Change in Law.

16. **WARRANTIES**

- 16.1 The Contractor warrants and undertakes to the Employer that:
- (a) it has, and will continue to hold, all rights, consents and regulatory approvals necessary to perform its obligations under this Agreement except for those licences which the Employer is required to obtain hereunder or which it is only possible for the Employer to obtain; and
 - (b) it has disclosed, or will promptly disclose to the Employer, details of all material Subcontractors performing or providing a part of the Scope of Work.
- 16.2 The Contractor hereby warrants and undertakes to the Employer that, at the date property to any Part (including but not limited to any Employer's Part) passes to the Employer:
- (a) it is providing such Part with full title guarantee and free and clear of all Security Interest;
 - (b) it has taken all necessary action to provide such Part to the Employer;
 - (c) upon delivery in accordance with the terms of this Agreement each Part will be complete and in all respects in satisfactory working order and condition and all safety regulations in relation to each such Part have been complied with and all required or recommended safety apparatus or appliances (if any) will have been properly installed;
 - (d) there are in respect of such items no outstanding disputes, claims or proceedings relating to or arising from this Agreement or the construction, testing, supply, delivery, installation, condition, possession, operation or removal of such Part with any Subcontractor or any other person which may adversely affect the ability of the Contractor to pass title to such Part free of any encumbrance, lien or claim or otherwise hinder or impair the use or operation of such Part;
 - (e) it will, if required to do so by the Employer, extend to the Employer the benefit of any assignable guarantee, condition or warranty which may have been given to it or which is implied by law in favour of the Contractor in respect of each such Part; and

- (f) each such Part is compliant with the requirements of the Works Information and/or the terms of any relevant Variation Order.

17. **VARIATION ORDERS**

17.1 Subject to clause 17.2, the Employer may request a Variation Order in the following circumstances:

- (a) the Employer requires an amendment to the Scope of Work or requires the Contractor to undertake any additional works or services in relation to the Platform Screen Doors System;
- (b) the Employer wishes to implement an improvement or upgrade to the Platform Screen Doors System;
- (c) the occurrence of a Change in Law (except in the case of a Contractor Change in Law); or
- (d) changes are made to the Works Information which necessitate changes to this Agreement,

(a **"Variation Event"**).

17.2 If the Employer proposes a Variation Order in accordance with clause 17.1, it must give full and detailed particulars of the Variation Event and the proposed scope and basis for pricing (in accordance with schedule 10 and except in the case of a Contractor Change in Law) of the Variation, including a draft of the Variation Order.

17.3 Without prejudice to its obligations under clause 17.4, the Contractor will provide to the Employer within twenty (20) Business Days (or five (5) Business Days if the Employer (acting reasonably) notifies the Contractor the Variation Order is an emergency) of receiving any proposal by the Employer for a Variation Order, of its opinion of the following details (with appropriate supporting calculations, documentation and information):

- (a) the Contractor's proposal for implementing the variation including:
 - (i) the time (including the Contractor's response time (from the time the variation is approved by the Employer) to commence implementation of the variation) and place for carrying out any works required in implementing the variation;
 - (ii) any Parts to be replaced;
 - (iii) to the extent that the same is reasonably foreseeable, any effect on the Parts which are held or the Scope of Work and details of any additional Parts which it will be necessary to hold following the implementation of the variation including, without limitation, the Contractor's proposals concerning the purchase and categorisation of any such additional Parts;
 - (iv) details of any modifications required to be made to any Employer's Parts;
 - (v) details of any approvals that would be required under any Applicable Laws and Standards before the variation could be implemented and the Contractor's proposals for obtaining any such approvals;
 - (vi) details of any modifications to the Manuals and Specifications which are necessary or desirable as a consequence of the implementation of the variation, together with details of the costs associated with the implementation of those changes and the Contractor's proposals as to the carrying out of those changes (all in accordance with schedule 10);

(vii) the cost of implementing the proposed variation on the requested basis (calculated in accordance with schedule 10);

- (b) whether any changes to the terms of this Agreement are necessary to give effect to the Variation Order;
- (c) any estimated increase or decrease in the Fixed Fee or the Additional Service Fees, except in the case of a Contractor Change in Law;

including in each case, where relevant, full details of its proposed plan for addressing the proposed Variation Order.

17.4 As soon as practicable after providing the information required under clause 17.3 the Contractor will:

- (a) provide evidence that the Contractor is using reasonable endeavours to minimise any increase in costs or additional time required and to maximise any reduction in such costs;
- (b) demonstrate how any expenditure to be incurred is being measured in a cost effective manner, and
- (c) to the extent that it is able to do so, provide details of any anticipated savings in maintenance or operating costs consequent upon the Variation Event.

17.5 If the Parties are unable to agree (i) whether a Variation Event has occurred and/or (ii) the terms of any Variation Order within a period of two months after the proposal for the Variation Order submitted by the Contractor or, where the Contractor has requested additional information under clause 17.9, two months after such information is provided by the Employer, the matter may be referred by either Party for resolution under the Dispute Resolution Procedure.

17.6 As soon as the terms of a Variation Order have been agreed between the Parties, including any aspect of the same that has been resolved under the Dispute Resolution Procedure, such Variation Order will be drawn up by the Employer and signed by the Contractor and the Employer. Such signature by both Parties will constitute issuance of the Variation Order for the purposes of this Agreement.

17.7 The indexation applicable to the agreed cost of any Variation Order will be agreed by the Parties in accordance with schedule 10 at the time the terms of that Variation Order are agreed in accordance with the terms of this clause 17 or resolved pursuant to the Dispute Resolution Procedure.

17.8 The Employer will have the right to issue a Variation Order and to require compliance in advance of commercial agreement of the relevant Variation Order (an "**Expedited Variation Order**") in the following circumstances:

- (a) where there is a need to alter or modify the Platform Screen Doors System to comply with any Applicable Laws and Standards; or
- (b) to address a safety instruction issued by a Competent Authority in respect of the Platform Screen Doors System.

17.9 The Employer may require the Contractor to provide relevant information on the estimate of the costs or time impact of the Expedited Variation Order in accordance with schedule 10 to the extent that the Contractor is reasonably able to do so as soon as reasonably practicable but in any event within 20 Business Days of the Employer's request.

- 17.10 If the Parties are unable to agree the cost of the Expedited Variation Order, then the matter will be referred for resolution under the Dispute Resolution Procedure. Pending a determination of the costs of such Expedited Variation Order, the Contractor will perform the work specified in the Expedited Variation Order in accordance with the terms thereof, and the Employer will pay the Contractor an amount equal to the Employer's estimate of the cost of the Expedited Variation Order (except in the case of a Contractor Change in Law).
- 17.11 The Contractor or the Employer (as applicable) will implement and perform all of its obligations under this Agreement as varied by a Variation Order as soon as such Variation Order has been issued pursuant to the terms of this Agreement provided that the Contractor will not be obliged to implement any Variation Order other than an Expedited Variation Order before the terms of such order have been agreed by the Parties or resolved pursuant to the Dispute Resolution Procedure.
- 17.12 From the Commencement Date until the Services Commencement Date, the Parties shall meet on a six-monthly basis to discuss and agree any proposed Variation Orders in accordance with this clause 17 with a view to ensuring that such Variation Orders are dealt with efficiently and that this Agreement is kept up to date prior to the Services Commencement Date.

18. **INTELLECTUAL PROPERTY**

18.1 **General Ownership of IPR**

As between the Parties, the Contractor IPR shall vest in and be the property of the Contractor. The Employer IPR shall vest in and be the property of the Employer. No Party will make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of any of the IPR of the other Party except under the terms of this Agreement, and each Party acknowledges that nothing contained in this Agreement shall give it any right, title or interest in or to the IPR of the other Party save as granted in this Agreement.

18.2 **Licence from the Contractor**

- (a) The Contractor grants the Employer a non-exclusive, irrevocable, perpetual, and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Contractor IPR (including any Third Party Rights except in respect of the Excluded Materials) for the Permitted Purpose. The licence shall be capable of assignment (but only as part of assignment of this Agreement as a whole in accordance with clause 38) and includes the right to grant sub-licences provided any such sub-licence is limited to the Permitted Purpose, in both cases without the consent of the Contractor.
- (b) For the avoidance of doubt the Contractor shall not be liable to the Employer in respect of any use by the Employer of the Contractor IPR in a manner or for a purpose not specified in this clause 18.2.

18.3 **Third Party Rights**

- (a) The Contractor shall be responsible for obtaining all necessary consents, authorities or approvals required to use any Third Party Rights necessary for performing its obligations under this Agreement.
- (b) The Contractor shall use reasonable endeavours to secure a licence of equivalent scope to the licence granted in clause 18.2 in relation to the Excluded Materials and shall as a minimum secure such licence in relation to the Excluded Materials as is necessary for the Employer and any other user of the Platform Screen Doors System to use, operate, maintain and repair the Platform Screen Doors System in perpetuity. The terms of any such licence in relation to the Excluded Materials shall, as a

minimum, be no less favourable than the licence available to the Contractor from the relevant licensor of the Excluded Materials.

- (c) The Contractor shall ensure that it is a condition of any licence into which the Contractor or any Subcontractor enters with a third party that the Employer shall be entitled to a licence in respect of such Third Party Rights (except in respect of Excluded Materials) on the terms set out in clause 18.2.

18.4 **Licence from the Employer**

The Employer hereby grants to the Contractor for the Term and free of charge a non-exclusive, royalty-free licence to use such of the Employer's data, reports, drawings, specifications, plans, software, designs, inventions and/or other material of the Employer as are required by the Contractor solely for the purpose of providing the Scope of Works and fulfilling its other obligations pursuant to this Agreement. To the extent that any modification or enhancements to materials licensed by the Employer to the Contractor under this clause 18.4 are carried out by or on behalf of the Contractor, the Contractor hereby assigns (or shall procure that the Employer is granted an assignment of) all present and future IPR in those modifications and enhancements. By virtue of this clause 18.4, all such IPR shall vest in the Employer on their creation.

18.5 **Infringements**

The Contractor shall exercise good commercial discretion in tracking the publication of any applications for the registration of IPR owned or controlled by third parties which may be relevant to the intentions of the Employer and the Contractor as expressed in this Agreement. Should any such IPR of a third party come to the notice of the Contractor, then the Contractor shall promptly inform the Employer and the Parties shall jointly decide (acting reasonably) what action is to be taken. The Employer and the Contractor shall at all times have regard when making their decision to the Patents Act 1977 and any subsequent amendment or enactment of such legislation and any other applicable Law.

18.6 **Copyright and publication**

- (a) The Employer shall be the proprietor of the copyright in this Agreement and any data generated provided by the Employer relating to this Agreement. The Employer reserves the right to determine whether any information or document in which Employer IPR is subsisting shall be published and any conditions to be imposed on its publication provided such information or document is not also Contractor IPR in which event the Employer shall, if so requested by the Contractor, redact all or part of the information or document which comprises Contractor IPR prior to publication. The Contractor shall provide any reports in connection with such Documentation that the Employer shall reasonably request and shall enclose with the report the following disclaimer:

"The authors of this report are employed by []. The work reported herein was carried out under a deed placed on [date of this contract] by Rail for London Limited and should not be relied upon as authoritative by any third party.

This report shall not be copied or reproduced in whole or in part except with the express consent of Rail for London Limited."

The following disclaimer shall be included by the Contractor only if the relevant Documentation contains Contractor IPR:

"This report contains Contractor IPR and shall not be communicated or reproduced in whole or in part except with the express written consent of [the Contractor] and if necessary only following agreed redactions of all or part of the Contractor IPR."

- (b) The following copyright statement shall be included by the Contractor on all copyright items incorporating Employer IPR and intended for reproduction :

"© Rail for London Limited".

- (c) The Contractor hereby irrevocably waives and shall procure that any Group company of the Contractor and all of their respective officers, employees, agents and Subcontractors involved in providing the Scope of Works at any time during the Term shall irrevocably waive all moral rights (including without limitation such rights of the Contractor, its officers, employees, agents, Subcontractors under sections 77 to 85 of the Copyright Designs and Patents Act 1988 or any similar laws of any jurisdiction to the extent permitted in that jurisdiction) in respect of any Documentation which do not incorporate Contractor IPR.

18.7 **Further assurances**

- (a) The Contractor shall (at its own expense) upon the request of the Employer promptly execute all documents and do all acts and things which may be necessary to bring into effect or confirm any assignment or the terms of any of the licences contained or referenced in clauses 18.2 or 18.3.
- (b) The Parties shall, when appropriate, execute a formal licence or licences for the purpose of registering any licences granted pursuant to this clause 18 in such form as may be necessary to give effect to this Agreement and to conform with the laws for the time being existing in respect of IPR. Such licence or licences shall be subject to all the terms and conditions of this Agreement.

18.8 **General**

- (a) The Contractor shall not sell, copy or use the IPR referred to in clause 18.1 if this might compromise the Scope of Works and/or Documentation (or any part thereof) or the Employer's use of them as permitted under this Agreement.
- (b) The Contractor shall notify any proposed assignee of this Agreement of the licences granted to the Employer under or in accordance with this Agreement.

18.9 **IPR Warranties and Indemnity**

- (a) The Contractor warrants that:
 - (i) it is the beneficial owner or authorised licensee of the Contractor IPR;
 - (ii) the Employer's authorised use, including any use specified in clause 18.2, of the Contractor IPR and any other IPR developed or supplied by the Contractor pursuant to this Agreement will not infringe IPR owned by any third party, including Moral Rights;
 - (iii) all Open Source Code and associated licences used in providing the Scope of Work (including the Software) or contained in any Documentation has been, or will promptly be, disclosed in writing to the Employer;
 - (iv) no Open Source Code is, or will be, included in the Scope of Work that would:
 - (A) impose any requirements on how the Contractor IPR, or any portion thereof, is licensed to third parties or is to be disclosed or distributed (including in source code form);
 - (B) create, or purport to create, obligations for the Employer with respect to the Contractor IPR; or

- (C) have the effect of restricting the Employer from using any Contractor IPR for a Permitted Purpose.
- (b) The Contractor will indemnify and hold harmless the Employer against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer in respect of any claim or action that the Employer's authorised use of the Contractor IPR and any other IPR developed or supplied by the Contractor pursuant to this Agreement infringes the IPR of any third party.
- (c) The Employer will give to the Contractor, and the Contractor will give to the Employer, prompt notice of any claim for infringement which may give rise to a claim under clause 18.9(a). The Employer will allow the Contractor to take over and retain the conduct of the defence of any claim referred to in clause 18.9(b) and to deal with such claim as the Contractor sees fit subject to the Contractor:
 - (i) keeping the Employer fully and effectively indemnified as to costs including its own reasonable costs;
 - (ii) conducting all such claims in a proper, expeditious and business-like manner;
 - (iii) keeping the Employer informed of the progress of the handling of the claim;
 - (iv) using reasonable endeavours to resolve the claim including where appropriate by obtaining the right for the Employer to continue to use the relevant IPR until such time that an alternative non-infringing right with no reduction in the functionality or performance of the relevant Documentation and/or the Platform Screen Doors System can be used instead or that a licence is granted to the Employer; and
 - (v) consulting the Employer prior to accepting liability, settling or compromising the claim.

18.10 **Employer's Rights to Use Documentation**

- (a) Notwithstanding and without prejudice to clause 18.2, in respect of any Documentation in which there is no subsisting Contractor IPR, the Employer may use the Documentation delivered to it from time to time under this Agreement:
 - (i) for any Permitted Purpose;
 - (ii) to comply or co-operate with any enquiries or inquiries raised by the British Transport Police, London Underground, Network Rail, the Health and Safety Executive or any other Competent Authority; and
 - (iii) if there is a Trigger Event, for the purpose of having performed by another person any of the Contractor's obligations under this Agreement,and the Employer shall comply with the confidentiality obligations in clause 33 in relation to such matters.
- (b) The Contractor will produce, will procure that any company in the Contractor's Group produces, and will use all reasonable endeavours to procure that each of its Subcontractors produces Documentation in a format agreed between the Contractor's Representative and the Employer's Representative or otherwise reasonably directed by the Employer.
- (c) The Contractor will take no action and will procure that no company in the Contractor's Group takes any action (including disposal of any of the Contractor IPR) which would

prevent the Contractor from complying with its obligations under clauses 18.1 to 18.10.

- (d) The Contractor will execute, will use best endeavours to procure that any company in the Contractor's Group will execute, and will use reasonable endeavours to procure that any Subcontractor other than a company in the Contractor's Group will execute such further documents, and do such other things, as the Employer may reasonably request in order for the Employer to obtain the full benefit of clauses 18.1 to 18.10.
- (e) Notwithstanding the provisions of any other clause, the Parties' rights and obligations under this clause 18.10 will survive the termination of this Agreement howsoever arising.

18.11 **Escrow**

- (a) (Except where an Escrow Agreement has already been entered into by both the Employer (being the Employer under this Agreement) and the Contractor under the terms of the Supply Contract and remains in force at the Effective Date and at the Services Commencement Date) the Employer and the Contractor will enter into the Escrow Agreement on or about the Effective Date.
- (b) The Contractor will ensure that all materials, software, source code and any other document or data held in escrow under the Supply Contract will be transferred (if held under a separate escrow agreement) and held in escrow under the terms of the Escrow Agreement and those materials, software, source code, documents and data will immediately form part of the Escrow Information. The initial agreed scope of the Escrow Information as at the Commencement Date is as set out in schedule 11 to this contract. Such scope shall be updated at the Effective Date and the Services Commencement Date to reflect the final scope of Escrow Information agreed under the Supply Contract and the Parties shall, each acting reasonably, agree from time to time any further or amended items arising from any changes to the Scope of Work or the Platform Screen Doors System or otherwise which are in the nature of Escrow Information and which shall be deposited in Escrow. In the event agreement cannot be reached in accordance with the terms of this Agreement (if not specified therein) within a reasonable time, the scope of the Escrow Information may be determined by the Dispute Resolution Procedure.
- (c) The Contractor undertakes to ensure that the Escrow Information deposited in Escrow is always up to date and that the Employer has been notified of any updates including, without limitation, to take account of any Updates.
- (d) The Contractor and the Employer mutually undertake to abide by the terms of the Escrow Agreement.
- (e) The Employer shall pay all fees of the Escrow Agent in connection with the Escrow Agreement including but not limited to placement, auditing, testing, storage and release of the Escrow Information.
- (f) The Parties agree that, for the purposes of the Escrow Agreement, the Trigger Events are:
 - (i) a material breach by the Contractor of this Agreement;
 - (ii) **a material failure by the Contractor to correct a Contractor's Fault;**provided always that under clauses 18.11(f) (i) and (ii):
 - any such breach or failure is not remedied within such reasonable period of time (which shall not in any event be less than 60 days) as the

Employer may reasonably specify in a written notice of such breach or failure, having regard to the nature of the breach or **Contractor's Fault**, its impact on the Platform Screen Doors System and the Crossrail Network and the nature of any corrective works or actions required; and

- any such breach or failure to correct a **Contractor's Fault** must prevent the Employer from using the Platform Screen Doors System or others from doing their work;
- (iii) termination of this Agreement due to Contractor's Event of Default pursuant to clause 27.1 and subject always to the provisos applicable to 18.11(f)(i) and (ii);
- (iv) termination by the Escrow Agent of the Escrow Agreement, if such termination is occasioned by any breach or default by the Contractor of its obligations under the Escrow Agreement;
- (v) an Insolvency Event occurs in relation to the Contractor but only if such insolvency occurs as part of an Insolvency Event of the Guarantor;
- (vi) the Contractor assigns its IPR in any Escrow Information to a third party ("**Assignee**") and the Assignee fails, within 60 days of such assignment, to continue escrow protection for the benefit of the Employer by failing to enter into either:
- (A) a novation agreement with the Escrow Agent for the assumption of the Contractor's rights and obligations under the Escrow Agreement in respect of the relevant Escrow Information by the Assignee; or
 - (B) a new escrow agreement with the Employer for the relevant Escrow Information which offers the Employer substantially similar protection to that provided by the Escrow Agreement without significantly increasing the overall cost to the Employer; or
- (vii) where the same Escrow Agreement is to be entered into under the Supply Contract and is to continue in force for the purposes of this Agreement, any additional events defined as "Release Events" under the terms of the Supply Contract.
- (g) The Employer may only use any Escrow Information delivered to it in accordance with the terms of the Escrow Agreement for all purposes in connection with the exercise of its rights or performance of its obligations under this Agreement or the Supply Contract as the Employer may determine appropriate in its absolute discretion.
- (h) The Contractor shall maintain a catalogue, in a format approved by the Employer, of all Escrow Information deposited in Escrow and update that catalogue whenever any such material is deposited in Escrow. The catalogue must identify all the Escrow Information deposited in Escrow, a brief description of its purpose or function, its owner and, where applicable, its version number and its configuration state (including where relevant the configuration baseline for the software or hardware with which such material interfaces).
- (i) The Employer may request the Escrow Agent to audit the contents of the material deposited in Escrow against the catalogue established pursuant to clause 18.11(h) and if the audit reveals that any Escrow Information is incomplete, the Contractor shall deposit within seven days of completion of such audit the missing Escrow Information.
- (j) The Employer must provide prior written notice to the Contractor of any intention to apply for any release of Escrow Information pursuant to the Escrow Agreement and the Employer may not make any application for release of Escrow Information until the

expiry of at least 30 days from the date of such notice. The Contractor may refer the matter for prompt bona fide discussions between senior management representatives of the Parties and the Employer will not apply for any release of Escrow Information whilst any such discussions are ongoing.

19. **INSPECTION AND AUDIT**

19.1 The Contractor undertakes, and will use reasonable endeavours to procure that its Subcontractors will undertake, to allow the Employer and its nominees and any Authorised Third Party (**together or singularly the "Auditors"**) to audit or check information regarding any matter related to the performance of or compliance with this Agreement, including without limitation, any aspect of the Contractor's operations, method statements, , subcontracts (excluding commercial terms), technical records or any document referred to therein or relating thereto. The Auditors shall be entitled to request copies of information seen during an audit and, subject to the Contractor having the final decision, any such request shall not be unreasonably refused. Any information copied shall be treated by the Auditors as confidential information.

19.2 The Contractor will promptly on request provide (and will use reasonable endeavours to procure that its Subcontractors provide) all reasonable co-operation in relation to any such audit or check including:

- (a) granting or procuring the grant of access to any premises used in the Contractor's performance of this Agreement, whether the Contractor's own premises or otherwise;
- (b) granting or procuring the grant of access to any equipment (including all computer hardware and software and databases) used (whether exclusively or non-exclusively) in the performance of the Contractor's obligations under this Agreement, wherever situated and whether the Contractor's own equipment or otherwise; and
- (c) making relevant personnel, records and documents available.

The Auditors shall observe all health and safety requirements of the Contractor or other party responsible for the relevant premises.

For the avoidance of doubt, access to computer hardware and software and databases shall mean that the Auditors have a right to view such information held on hardware and within databases but they shall not be given free access to browse such hardware and databases at will.

19.3 The Contractor will maintain and retain the Minimum Records, and will use reasonable endeavours to procure that its Subcontractors will maintain and retain the Minimum Records, for the Term and for a minimum of 12 years following termination for whatever reason or expiry of this Agreement with respect to all matters for which the Contractor and its Subcontractors are responsible under this Agreement.

19.4 Without prejudice to its rights under this clause 19, the Employer may audit and check and all such records as are necessary in order to monitor compliance with this clause at any time during performance of this Agreement and during the 12 years thereafter.

19.5 The provisions of this clause 19 are entirely without prejudice to the provisions of clause 23 (Reviews).

20. **HANDBACK AND TRANSFER TO SUCCESSOR**

20.1 The Contractor agrees that at least 14 days prior to any TUPE Transfer Date it will provide the Employee Liability Information (as defined in TUPE) to any third party (including where relevant the Employer) to whom the Contractor's Employees are transferred under TUPE (a **"Successor Provider"**), and that within a reasonable period following any relevant TUPE

Transfer Date it will, subject to the requirements of the Data Protection Act 1998, transfer all records and data relating to the Contractor's Employees to any third party (including where relevant the Employer) to whom the Contractor's Employees are transferred under TUPE.

20.2 The Parties acknowledge that on the Expiry Date TUPE may have effect. If TUPE does have effect the following provisions will apply:

- (a) the contract of employment of each of the Contractor's Employees (save insofar as such contract relates to any occupational pension scheme) may transfer to the Employer, or to a Successor Provider;
- (b) each Party shall bear its own costs incurred in connection with giving effect to the transfer of contracts of employment of the Contractor's Employees under TUPE;
- (c) the Contractor will perform and discharge all its obligations in respect of all the Contractor's Employees for its own account up to and including the Expiry Date including, without limitation, discharging all wages and salaries of the Contractor's Employees, all employer's contributions due from the Contractor to any relevant occupational pension scheme and all other costs and expenses related to their employment (including, without limitation, any taxation, accrued holiday pay, accrued bonus, commission or other sums payable in respect of service prior to the close of business on the Expiry Date) and will indemnify the Employer and keep the Employer indemnified against any and all Losses arising from the Contractor's failure so to discharge;
- (d) the Contractor will indemnify the Employer and keep the Employer indemnified against any and all Losses which relate to or arise out of any act or omission by the Contractor or any other event or occurrence after the Effective Date and prior to the Expiry Date which the Employer may incur in relation to the employment of any of the Contractor's Employees by operation of the provisions of TUPE save where such Losses relate to or arise out of any act or omission by the Employer or a Successor Provider. For the purposes of this clause 20.2(d), Losses incurred by a Successor Provider are deemed to be Losses incurred by the Employer.

20.3 At any time during the six month period before the Expiry Date, the Employer may require the Contractor to provide to the Employer (or any third party or parties nominated by the Employer, subject to such party providing a confidentiality undertaking in similar terms to clause 33 in favour of the Contractor) such information as is reasonably required by the Employer or such other third party or parties relevant to the potential employment liabilities of the Employer or any such third party or parties arising under TUPE including, but not limited to, information on the following:

- (a) a description of all employees providing the Scope of Work, their salaries and other conditions of employment, ages, lengths of service and grades;
- (b) the method of organisation of the employees providing the Scope of Work and documentary evidence relating to such organisation;
- (c) any proposals for consultation with affected employees; and
- (d) details of collective agreements and union recognition agreements,

and will in addition, provide to the Employer or such other third party or parties on request any communication with the Contractor's Employees or their representatives relating to the effect on such employees of the expiry or termination of this Agreement. Upon request, the Contractor will provide the Employer with the name and address of a person within its organisation to whom all queries and requests for information may be addressed.

20.4 The Contractor undertakes and agrees that it will not, without the Employer's prior written consent (other than where such reorganisation, alteration or change is in the normal course of business and is not related to the transfer of the Contractor's Employees) in the six months prior to the Expiry Date (or if earlier, at any time after notice has been served to terminate this Agreement):

- (a) reorganise or substantially alter the numbers or method of organisation or identity of any Contractor's Employees, except to the extent that any such change is the result of a bona fide business reorganisation of the Contractor which is not related or confined to the Contractor's Employees or the expected Expiry Date; or
- (b) make any significant change to the terms and conditions of employment of the Contractor's Employees, including extending notice periods and increasing severance arrangements, except where such increase, extension or change:
 - (i) is consistent with market practice;
 - (ii) is economic and efficient;
 - (iii) would have arisen in the ordinary course of the Contractor's business; and
 - (iv) is not related to the expected Expiry Date either because they are applied to all of the Contractor's employees (whether providing the Scope of Work or otherwise) or are the result of a bona fide business reorganisation of the Contractor which is not related or confined to the employees providing the Scope of Work,

and will indemnify and hold harmless the Employer against all Losses suffered by it as a consequence of any breach by the Contractor of this clause.

20.5 The Contractor will take all reasonable steps to keep in safe custody and maintain reasonable employment records in relation to the Contractor's Employees.

21. **PAYMENT AND INDEXATION**

21.1 **Payment**

The Employer shall pay to the Contractor:

- (a) in respect of the One-Off Parts Supply, the One-Off Parts Prices in respect of each Payment Period from the Effective Date;
- (b) in respect of performing the Standard Services, the Fixed Fee in respect of each Payment Period from the Services Commencement Date;
- (c) the Additional Service Fee in respect of performing any Additional Services instructed by the Employer in accordance with schedule 1; and
- (d) in respect of any Variation Order, the amount payable according to the terms of that Variation Order.

21.2 **Indexation**

- (a) The Fixed Fee, the Additional Service Fee and the One-Off Parts Prices and any other payment rates set out in this Agreement will be indexed on 1 April each Year in accordance with the methodology set out in this clause 21.2.
- (b) For the purposes of this clause 21.2, the following definitions apply:

- (i) the base date is the 1 April in the year immediately prior the adjustment to occur in accordance with this clause 21.2;
 - (ii) the Latest Index (L) is the latest available index set out in schedule 4 before 1 April for each annual indexation calculation under clause 21.2(e)(i); and
 - (iii) the Tender Base Date Index (T) is the relevant index as set out in schedule 4 published at 1 March 2014;
- (c) The Price Adjustment Factor ("**PAF**") is in the event of the first application of the indexation required by this clause 21.2 and annually on 1 April thereafter, $((L - T)/T)$ for the index linked to it. If an index is changed after it has been used in calculating a PAF, the calculation is repeated and a correction included in the next annual indexation calculation.
- (d) Each time the indexation calculation is made in accordance with this clause 21.2, an amount for price adjustment is added to the total of the Fixed Fee, the Additional Service Fee, the One-Off Parts Prices and other rates which is equal to the Fixed Fee, the Additional Service Fee, the One-Off Parts Prices and other rates multiplied by PAF where PAF is the PAF for the date of the current assessment.
- (e) For the avoidance of doubt:
- (i) a single indexation calculation shall be applied on an annual basis, on 1 April each Year, not during the course of any Year; and
 - (ii) any correction due to provisional indices becoming firm indices will be adjusted in the subsequent annual indexation.

22. **TERMS OF PAYMENT**

22.1 **Contractor's Payment Request**

- (a) Within five days of the first day of each Payment Period in respect of which a payment is due and on not more than one occasion during each Payment Period, the Contractor will submit to the Employer's Representative in such form as the Employer's Representative may reasonably require, an application for payment confirming:
- (i) the amounts which in the Contractor's opinion are due in respect of the performance of its obligations under this Agreement during the previous Payment Period;
 - (ii) any other amounts which in the Contractor's opinion are due in accordance with the terms of this Agreement;
 - (iii) the cumulative value of all amounts for which the Contractor has previously applied for payment indicating amounts paid and amounts which the Contractor considers to be outstanding; and
 - (iv) any calculations necessary to arrive at the amount applied for together with a reasonable level of documentary evidence to confirm that amounts included in the application for payment have been properly calculated, that the relevant obligations have been discharged and that the Contractor is entitled to any other amounts identified pursuant to clause (ii) or (iii) (including, but not limited to, amounts which are to be paid in relation to any Variation Order for which the Contractor claims an entitlement to be paid under clause 17 (Variation Orders)),

(a "**Contractor's Payment Request**").

- (b) Within five days before the Final Date for Payment (as defined in clause 22.1(d), the Employer's Representative shall issue to the Employer, with a copy to the Contractor, an **"Employer Payment Notice"** certifying:
 - (i) the amount (including VAT) of the sum claimed by the Contractor in the Contractor's Payment Request which is determined by the Employer's Representative to be due and payable and by the Employer to the Contractor as at the date of issue of the Employer Payment Notice;
 - (ii) any other amounts (including VAT) which the Contractor is entitled to be paid under this Agreement; and
 - (iii) any amounts (including VAT) certified as being due and payable (including any underpayments) but not yet paid in respect of any Employer Payment Notices previously issued (but not paid),less
 - (iv) any sums due to the Employer from the Contractor (including, without limitation, any overpayment in respect of a previous Employer Payment Notice and/or any sum due to the Employer from the Contractor pursuant to any indemnity under this Agreement) and the grounds for withholding or retaining any such sums.
- (c) If the Employer's Representative fails to issue an Employer Payment Notice prior to the date being five days before the Final Date for Payment, he shall be deemed to have issued an Employer Payment Notice in the full amount of the Contractor's Payment Request.
- (d) Following receipt of an Employer Payment Notice and provided that the Contractor has submitted a valid VAT invoice to the Employer for the sum certified as payable with a copy of the Employer Payment Notice attached, the Employer shall pay the amount certified by the Employer's Representative as due to the Contractor on the last Friday of the Payment Period in which the Contractor's application for payment was submitted (the **"Final Date for Payment"**).
- (e) If the Employer fails properly to pay the amount specified in the Employer Payment Notice, or any part thereof, by the relevant Final Date for Payment, the Employer shall pay to the Contractor in addition to the amount not properly paid interest thereon in accordance with clause 46 (Default Interest).

22.2 Within five days of the first day of each Payment Period following the Payment Period to which the amount expressed to be payable relates and on not more than one occasion during each Payment Period, the Employer shall submit to the Contractor an application for payment which shall be accompanied by:

- (a) the original and one copy of the Employer's invoice for the amount claimed;
 - (b) any calculations necessary to arrive at the amount applied for; and
 - (c) complete and detailed documentary evidence to confirm that amounts included in the application for payment have been properly calculated, and that the and that the Employer is entitled to any other amounts identified pursuant to this clause 22.2,
- (an **"Employer's Payment Request"**).
- (d) Within five days before the Final Date for Payment (as defined in clause 22.3), the Contractor's Representative shall issue to the Contractor, with a copy to the Employer, a **"Contractor Payment Notice"** certifying:

- (i) the amount of the sum (including VAT) claimed by the Employer in the Employer's Payment Request which is determined by the Contractor's Representative to be payable and due by the Contractor to the Employer as at the date of issue of the Employer's Payment Request;
- (ii) any other amounts (including VAT) which the Employer is entitled to be paid under this Agreement, and
- (iii) any amounts (including VAT) certified as being due and payable (including any underpayments) but not yet paid in respect of any Contractor Payment Notices previously issued (but not paid),

less

- (iv) any other sums due to the Contractor from the Employer (including, without limitation, any sum due to the Contractor from the Employer pursuant to clause 22.1 and the grounds for withholding or retaining any such sums.

If the Contractor's Representative fails to issue a Contractor Payment Notice prior to the date being five days before the Final Date for Payment, he shall be deemed to have issued a Contractor Payment Notice in the full amount of Employer's Payment Request.

- (e) The Contractor's Representative may adjust any previous over or under payment in any Contractor Payment Notice subsequently issued.

22.3 Following receipt of a Contractor Payment Notice, the Contractor shall pay the amount certified by the Contractor's Representative as due to the Employer on the last Friday of the Payment Period in which the Employer's application for payment was submitted (the "**Final Date for Payment**").

22.4 If the Contractor fails properly to pay the amount, or any part thereof that is due to the Employer by the relevant Final Date for Payment, the Contractor shall pay to the Employer in addition to the amount not properly paid interest thereon in accordance with clause 46 (Default Interest).

22.5 The Contractor may not withhold payment after the Final Date for Payment of a sum due under this Agreement unless an effective notice of intention to withhold payment has been given to the Employer not later than five Business Days prior to the final date for payment specifying:

- (a) the amount proposed to be withheld and the ground for withholding that payment; or
- (b) if there is more than one ground, each ground and the amount attributable to it,

provided always and notwithstanding any right which the Contractor may otherwise have under this Agreement or at law the Contractor will only be entitled to withhold payment under this clause in respect of an amount certified as due to the Employer under clause 22.2(d).

22.6 For the purposes of this clause 22 any amount which falls due on a day or date which is not a Business Day, such amount will be deemed to be payable on the next following Business Day.

22.7 All amounts stated to be payable to either Party under this Agreement will be exclusive of VAT properly chargeable thereon. The Party making such payment (the "**payer**") will pay to the Party receiving such payment (the "**recipient**") the total amount of any VAT properly chargeable by the recipient on any supply to the payer of any goods or services under this Agreement upon delivery to the payer of a valid VAT invoice (as defined in Section 6(5) of the Value Added Tax Act 1994 and containing all such particulars as are required to be contained

therein in accordance with Part III of the Value Added Tax (General) Regulations 1995). Wherever any sum of money will be recoverable from or payable by the payer to the recipient in respect of supplies made by or on behalf of the recipient under this Agreement the payer may deduct the same from any sum then due to the recipient where entitled to do so in accordance with the terms of this Agreement but, for the avoidance of doubt, the value of the supplies chargeable to VAT will, save as otherwise directed by HM Revenue and Customs, be the value before any deduction of any sum due to either Party.

- 22.8 If any payment is not made in full by the applicable Final Date for Payment and no effective notice of withholding payment is issued to the Contractor, the Contractor may (subject to clauses 22.9 to 22.11) suspend the performance of the relevant aspects of the Scope of Work.
- 22.9 The Contractor may not exercise its right to suspend performance of the relevant aspects of the Scope of Work unless it has given notice to the Employer stating:
- (a) its intention to suspend the performance of relevant aspects of the Scope of Work, and
 - (b) the grounds for suspending such performance.
- 22.10 The Contractor must notify the Employer not less than seven days prior to the date on which it intends to suspend the performance of the relevant aspects of the Scope of Work.
- 22.11 The Contractor's right to suspend performance will end when the amount that should have been paid to the Contractor is paid to it in full. The Contractor will resume performance of the relevant aspects of the Scope of Work on the next working day after payment is made, unless the Employer instructs otherwise. The Contractor's reasonable demobilisation and mobilisation costs in relation to such suspension shall be reimbursed by the Employer.

23. **REVIEWS**

- 23.1 The Employer may require and the Contractor may request a review of the basis on which the Services are performed, and the pricing arrangements for them, every three years after the Services Commencement Date (each a "**Review Date**").
- 23.2 In respect of the Parts Service (excluding for the avoidance of doubt the One-Off Parts Supply), a Review Date shall occur following issue by the Employer of the Services Commencement Date Notice and prior to the Services Commencement Date to which the following additional provisions shall apply:
- (a) The Contractor shall be entitled to an adjustment to the relevant amounts set out in schedule 3 applicable to the Parts Service to reflect any actual and properly substantiated change in cost to the Contractor **provided that the Contractor's Margin** (as defined in schedule 3) may not be increased;
 - (b) The Contractor shall demonstrate any such change in cost to the satisfaction of the Employer which shall include but not be limited to the provision, on an open Book basis, of full breakdowns and substantiations of any change in cost to the applicable amounts set out in schedule 3 (including a demonstration of all quoted Subcontractor costs);
 - (c) The relevant amounts in schedule 3 shall be adjusted to the extent the Employer is satisfied that the Contractor has demonstrated an actual change in cost;
 - (d) The amounts set out in schedule as adjusted pursuant to this clause 23.2 shall remain firm for a period of 3 years (subject to clause 21.2 (Indexation) following which a further review on the basis set out in this clause 23.2 shall take place;

- (e) For the avoidance of doubt, to the extent that any review conducted under this clause 23.2 demonstrates a reduction in cost to the Contractor the amounts set out in schedule 3 (as may previously have been adjusted) shall be reduced.
- 23.3 Commencing no later than six months prior to the relevant Review Date, the Parties agree to review in good faith the cost to the Contractor of providing the Scope of Work (a "**Pricing Review**") based upon the Employer's requirement for each service comprised in the Scope of Work, with the objective of agreeing whether then current arrangements should continue or if alternative arrangements should apply. The Parties acknowledge that the day rates for the Contractor's Employees as specified in schedule 3 will not be subject to review but that the indexation applicable to the pricing hereunder may be reviewed.
- 23.4 Commencing no later than four months prior to the relevant Review Date, the Parties agree to seek to resolve any remaining issues following the Pricing Review, and to agree any variations to the Scope of Work and/or its pricing arrangements.
- 23.5 If the Parties are unable to agree any variations to the Scope of Work and/or its pricing arrangements within one month of the commencement of the review referred to at clause 23.3, the Employer may serve a notice on the Contractor setting out:
 - (a) any proposed amendments to the Scope of Work and/or its pricing arrangements; and
 - (b) full details of the reasons for the proposed amendment.
- 23.6 The Contractor will serve on the Employer not later than two months before the relevant Review Date, a notice setting out:
 - (a) whether the Contractor disputes the proposed amendments to the Scope of Work and/or its pricing arrangements, and if so, in what specific respects; and
 - (b) its proposals (if any) for any amendment to any of the terms contained within the Employer's notice.
- 23.7 The Parties agree to discuss their respective notices issued in accordance with clause 23.55 and 23.6 in good faith with the objective of agreeing the proposed amendments to the Scope of Work and/or its pricing arrangements for the Review Period. If the Parties are not able to agree the proposed amendments to the Scope of Work and/or its pricing arrangements for the Review Period, either Party may require that the relevant matter is referred to the Parties' respective chief executives for resolution. The chief executives will meet to seek to resolve the matter.
- 23.8 Where the Parties agree on the proposed amendments to the Scope of Work and/or its pricing arrangements, then such amendments will be firm and binding upon the Parties and will be deemed to replace the previous arrangements with effect from the Review Date and the Parties will enter into a Variation Order to record such revised terms.
- 23.9 In the event that the Parties are unable to agree the proposed amendments to the Scope of Work and/or its pricing arrangements by the relevant Review Date, the Employer may elect by written notice to the Contractor:
 - (a) to continue with the relevant elements of the Scope of Works (save in respect of the Parts Service) on the then existing terms; or
 - (b) to terminate all or some of the elements of the Standard Services.
- 23.10 Where the Employer elects to terminate all or some of the elements of the Standard Services in accordance with clause 23.9(b), the Parties will agree a variation pursuant to clause 17 to reflect such changes to the Standard Services. The Employer shall have no liability to the Contractor in connection with such termination except that the Employer shall pay the costs

described in clauses 27.2(b)(ii) in relation to the elements of the Standard Services which have been terminated.

24. **INSURANCE**

24.1 The Contractor will be required to maintain the following minimum insurances, at the levels, for a basic term and with a reputable insurer to be approved by the Employer:

- (a) professional indemnity insurance of ██████████ for any one occurrence and in the aggregate per annum, with such policy to allow for claims to be made in the United Kingdom in addition to in the country of domicile of the Contractor or its ultimate parent company (if applicable) from the Effective Date;
- (b) employer's liability insurance of ██████████ for any one occurrence in respect of death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this Agreement;
- (c) insurance in respect of liability for property damage and liability for bodily injury to or death of a person (not an employee of the Contractor) and including arising out of products is ██████████ to include a specific indemnity in favour of the Employer, naming Transport for London, with worldwide jurisdiction and representation in English courts;
- (d) insurance in respect of all risks of physical loss or damage to the Parts while in the **Contractor's custody and control, for the full replacement value of the Parts;** and
- (e) transit insurance for the full replacement value of the Parts, and any other plant and/or materials to be supplied by the Contractor in accordance with this Agreement.

24.2 The Employer shall be a named and/or additional insured on the **Contractor's** property damage policy.

24.3 The Contractor shall ensure that in the event of the amount of available cover being eroded below the amount required by clause 24.1(a) by claims other than in connection with this Agreement, such amount of available cover shall be reinstated to the limit required by this Agreement at the Contractor's cost.

25. **INDEMNITIES**

25.1 Without prejudice to any other provision of this Agreement the Contractor will be (subject to the exceptions set out in clause 25.3) liable for, and will indemnify the Employer, its successors, permitted assigns, employees, directors, agents and officers (each an **"Employer Indemnitee"**) against all Losses suffered by such Employer Indemnitee in respect of:

- (a) the personal injury or death of any person (including, without limitation, each Employer Indemnitee);
- (b) any Loss of, or damage to, any property;
- (c) third party actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis);
- (d) the discharge, spillage, leak or release of Hazardous Materials caused by the Contractor Parties,

arising out of any breach of this Agreement, wrongful act or omission, negligence or breach of any Applicable Laws and Standards by the Contractor or its Subcontractors or their respective agents, consultants, delegates, licensees or employees (the **"Contractor Parties"**).

- 25.2 The Contractor will indemnify the Employer against all Environmental Losses to the extent caused by or contributed to by the wrongful acts or omissions of the Contractor Parties in the performance of their respective obligations in relation to this Agreement.
- 25.3 The exceptions referred to in clause 25.1 are:
- (a) death of or injury to persons or loss of or damage to property or any claim (including for breach of any Law) resulting from any act, omission, neglect or breach of statutory duty done or committed by the Employer or its agents, servants or contractors (other than any Contractor Party); and
 - (b) damage or loss to any asset due to:
 - (i) any wilful act or omission of the Employer, its employees, agents, representatives or contractors; or
 - (ii) use by the Employer, its employees, agents, representatives or contractors of the asset outside its operating or design parameters.
- 25.4 The Contractor will not be liable to indemnify an Employer Indemnitee against any Loss to the extent that such Loss results from negligence on the part of that Employer Indemnitee.
- 25.5 All rights expressed to be granted to each Employer Indemnitee under this Agreement (other than the Employer) are given to the Employer as trustee on behalf of that Employer Indemnitee.
- 25.6 Each of the indemnities in this clause 25 and all of the other indemnities contained in this Agreement is in addition to, and not in substitution for, and will not be affected or prejudiced by, any other guarantee, indemnity (including the other indemnities aforesaid) or security now or hereafter held by the relevant indemnitee, save that the Contractor shall not be liable to indemnify a party twice for the same loss
- 25.7 Notwithstanding anything to the contrary contained in this Agreement and without prejudice to any right to damages or other claim which the Parties may have against each other under this Agreement, the indemnities contained in this Agreement will continue in full force and effect notwithstanding any breach of the terms of this Agreement by an indemnitee, the repudiation or termination of this Agreement by an indemnitee, the expiry of the term of this Agreement by effluxion of time or any other circumstance whatsoever.
- 25.8 Any amount paid directly by an insurer to an Employer Indemnitee in respect of any loss shall be deducted from the amount payable by the Contractor in respect of the same loss pursuant to any indemnity.

25.9

26. **LIMITATION ON LIABILITY**

- 26.1 Subject to clause 26.2, the Contractor's maximum aggregate liability to the Employer for all matters arising out of, under or in connection with this Agreement shall not, in any Payment Year, exceed an amount equal to the Liability Cap.
- 26.2 Clause 26.1 will not apply to:
- (a) liability in respect of death of, or personal injury to, any person;
 - (b) liability in respect of any breach of, or under any indemnity under, clauses 16 or 18;
 - (c) **the cost of correcting any Contractor's Fault;**

- (d) liability in the event of abandonment or suspension by the Contractor;
- (e) any liability for Losses against which the Contractor is indemnified under any policy of insurance;
- (f) liability for fraud or wilful default;
- (g) liability for any payment of interest on sums payable pursuant to this Agreement and remaining unpaid; and
- (h) liability arising as a result of a termination pursuant to clause 27.1(a)(v).

27. **TERMINATION AND ITS CONSEQUENCES**

27.1 **Termination for Contractor's Events of Default**

- (a) The following will be **"Contractor's Events of Default"**:
 - (i) termination of the Supply Contract for breach by the Contractor;
 - (ii) an Insolvency Event occurs in relation to the Contractor or the Guarantor;
 - (iii) the Contractor commits a material breach of this Agreement (which will include a failure to a material extent to perform or comply with any of its material obligations under this Agreement and minor failures or non-compliance which through persistence become material) and where such material breach is capable of remedy fails to correct such material breach within four (4) weeks' notice by the Employer of the requirement to correct such material breach bringing the Contractor's attention to this clause 27.1(a)(iii);
 - (iv) without prejudice to clause 27.1(d), the Contractor commits a Prohibited Act or Safety Breach;
 - (v) the Contractor wholly or substantially abandons performance of the Scope of Work, or suspends performance of all or part of the Scope of Work without reasonable cause for a period exceeding two (2) months;
 - (vi) the amount of the liability of the Contractor to the Employer in respect of any liabilities that are the subject of the limits specified in clause 26.1 has met or exceeded the Liability Cap; or
 - (vii) the Guarantee ceases to be in full force and effect for whatever reason unless within twenty (20) Business Days of the occurrence of such event the Contractor replaces such guarantee to the reasonable satisfaction of the Employer.
- (b) The Contractor's Representative will notify the Employer's Representative promptly on the Contractor becoming aware of the occurrence of a Contractor's Event of Default and the Employer's Representative will notify the Contractor's Representative promptly on the Employer becoming aware of the occurrence of any Contractor's Event of Default.
- (c) Subject to clause 39, at any time after the occurrence of a Contractor's Event of Default, the Employer may by fifteen (15) Business Days prior notice in writing to the Contractor, terminate this Agreement without recourse by the Contractor with effect from the date specified in the Termination Notice Date and the Employer may at any time thereafter appoint another person to carry out such performance obligations of the Contractor as the Employer may designate in its sole discretion.

- (d) If a Prohibited Act or Safety Breach is committed by an employee or agent of the Contractor or by any Subcontractor (or an employee or agent of such Subcontractor) then the Employer may (at its sole discretion) choose to serve a warning notice upon the Contractor instead of exercising its right to terminate with immediate effect and unless, within thirty (30) days of receipt of such warning notice, the relevant employee, agent or Subcontractor (as the case may be) is removed from any further involvement with the performance of the Agreement and (if necessary) procures the provision of the affected element of the Scope of Work by another person or subcontractor, this will constitute a material breach of this Agreement and will entitle the Employer to terminate this Agreement in whole or in part with immediate effect in accordance with this clause 27.
- (e) On the exercise by the Employer of its termination rights under clause 27.1(c):
 - (i) (except in the case of termination following termination of the Supply Contract in accordance with clause 27.1(a)(i)) the Contractor will be liable for all Loss suffered by the Employer as a result of the termination of this Agreement or the Contractor's Event of Default giving rise to the termination and will hold the Employer harmless against and keep it whole in respect of such Loss naturally arising from these circumstances;
 - (ii) the Contractor will comply with the provisions of clause 28.
- (f) Where the Employer exercises any of its rights under clause 27.1(c) then the Employer will be under no further obligation to make any payment to the Contractor under this Agreement except to the extent provided for in clause 28.1(a) and the Employer may withhold any sum due and payable to the Contractor as at the Termination Notice Date and set off such sum against any sum due and payable by the Contractor to the Employer (including without limitation under clause 27.1(e)) in consequence of the exercise by the Employer of its rights under clause 27.1(c).
- (g) Any termination of this Agreement (including without limitation under this clause 27) will be without prejudice to all other rights of the Employer or the Contractor which have accrued prior to termination.

27.2 **Voluntary Termination**

- (a) The Employer may terminate this Agreement at any time for any reason by giving six (6) months' notice in writing to the Contractor.
- (b) If the Employer terminates this Agreement pursuant to clause 27.2(a), the Employer will pay to the Contractor, within 30 days of the Termination Notice Date:
 - (i) those amounts payable by the Employer under clause 28.1(a); and
 - (ii) the Contractor's reasonable costs for demobilisation.
- (c) Prior to making any payments in accordance with clause 27.2(b), the Employer may request, and the Contractor must provide, evidence of the amounts claimed by the Contractor.
- (d) On the exercise by the Employer of its termination rights under clause 27.2(a), the Parties will promptly comply with their obligations under clause 28.

27.3 **Termination by the Contractor**

- (a) The Contractor shall be entitled to terminate this Agreement by giving seven (7) Business Days prior notice in writing to the Employer in the event that the Employer has failed to pay sums exceeding an amount equal to the Fixed Fee in respect of two

Payment Periods for a period of 60 days following the date such payment became due (other than where there is a bona fide dispute as to whether such payment is due), and the Employer has failed, within a period of 30 days following notice from the Contractor that such circumstances have arisen, to make such payment.

- (b) On the exercise by the Contractor of its termination rights under this clause 27.3, the Parties will promptly comply with their obligations under clause 28.

28. **OBLIGATIONS ON EXPIRY OR FOLLOWING TERMINATION**

28.1 Upon expiry of the Term or termination in accordance with the terms of this Agreement:

- (a) subject to the Employer's right to set-off, the Employer will pay to the Contractor the aggregate of all amounts payable to the Contractor under this Agreement which have fallen due at the date of termination but remain unpaid;
- (b) the Contractor will provide all assistance reasonably requested by the Employer in relation to the hand over of the Documentation and/or the provision of the Scope of Works to a third party nominated by the Employer;
- (c) the Contractor will promptly transfer to the Employer (or its nominee) title (to the extent not already transferred) in and deliver to the Employer:
- (i) the Parts Suppliers List;
 - (ii) subject to any Parts not yet paid for by the Employer being paid for by the Employer, all Parts or materials intended to be fixed or incorporated into the Platform Screen Doors System which the Contractor then holds or subsequently receives; and
 - (iii) all Employer's Parts made available to the Contractor free from any Security Interest (other than any Security Interest created by the Employer) in a fully serviceable condition, free from Faults and fit for use on the Platform Screen Doors System in accordance with the Manuals and Specifications (and in the case of Parts which are in an overhaul or repair cycle at the time as part of the Scope of Work, in good repair, complete and free from Faults, to be delivered in a reasonable period of time based upon the relevant repair lead times),

and in the event of the Contractor failing to deliver such items within twenty (20) Business Days of receipt of the notice from the Employer the Employer may enter upon the Contractor's premises, or those of any Subcontractor, to remove such items and for this purpose the Contractor grants a licence to the Employer to enter upon any premises belonging to or in the occupation or under the control of the Contractor or such Subcontractor;

- (d) the Contractor will forthwith deliver or procure the delivery to the Employer of one copy of such of the Documentation as is required by the Employer for any of the purposes set out in clause 18.10;
- (e) the Contractor will leave any premises owned or occupied by the Employer on which it is performing any part of the Scope of Work in a condition consistent in all respects with its obligations under this Agreement and, in particular, will ensure that any Supplied Equipment installed in or on any such premises is not left in a condition so as to constitute a danger to health and safety;
- (f) the Contractor will assign to the Employer the benefit of any legally binding and assignable contracts to the extent they relate to the supply, maintenance, or disposal of Parts under this Agreement, particularly in respect of suppliers' or manufacturers' warranties related to the Parts and any other rights it may have in respect of the

Parts, where this is requested by the Employer and subject to the Employer agreeing to assume the burden of obligations under such contracts from the date of assignment;

- (g) subject as set out in clause 27, the Contractor and the Employer will each bear their own costs arising out of such termination.

28.2 On any termination of this Agreement howsoever arising, each Party will remain responsible for the performance of all its obligations hereunder up to and including the date of termination. In addition, the Parties will liaise and co-operate together so that the termination is effected with the minimum of operational disruption to the operation of the Crossrail Network and Customer services. Such liaison will include provision by the Contractor of such information on how the Scope of Work is provided as the Employer may reasonably request in connection with the award of any subsequent contract for the provision of the Scope of Work (or part of it) and facilitating the smooth handover of the provision of the Scope of Work (or part of it) to a successor provider.

28.3 Without prejudice to the Contractor's obligations under clause 29.7, on any termination of this Agreement the Contractor will offer, at a reasonable cost payable by the Employer (unless the termination is as a result of a Contractor Event of Default where this will be at the Contractor's sole cost), all reasonable co-operation and support to the Employer to assist it in ensuring an orderly hand over of the provision of the Scope of Work (or part of it) from the Contractor to a successor provider of the Scope of Work (or part of it).

29. **FORCE MAJEURE EVENT**

29.1 If the Contractor is unable to comply with its obligations under this Agreement due to a Force Majeure Event, the Contractor will be entitled to relief from liability in relation to the breached obligation and shall not be liable for any cost or losses incurred by the Employer as a result of the Force Majeure Event. Any cost incurred by the Contractor during any period of suspension of the whole or any part of the performance of the Scope of Work by reason of the Force Majeure Event will not be recoverable by the Contractor.

29.2 The Contractor will inform the Employer as soon as practicable after becoming aware of any Force Majeure Event on which the Contractor seeks to rely on the occurrence of such Force Majeure Event giving full details of its expected effect and duration and the Contractor will:

- (a) at all times following the occurrence of the Force Majeure Event use all reasonable endeavours in accordance with Good Industry Practice to mitigate the effects of such Force Majeure Event relating to the performance of its obligations under this Agreement;
- (b) forthwith consult with the Employer regarding alternative means of performance of its obligations under this Agreement and liaise at regular intervals with the Employer so as to keep the Employer fully informed of the continuing effects of the Force Majeure Event;
- (c) at all times following the occurrence of the Force Majeure Event use all reasonable endeavours in accordance with Good Industry Practice to protect any Supplied Equipment which is within the possession or control of the Contractor or its Subcontractors; and
- (d) use all reasonable endeavours to resume performance of the Scope of Work as soon as practical and consult with the Employer regarding the steps to be taken to achieve this.

29.3 If the Employer is unable to comply with its obligations under this Agreement due to a Force Majeure Event, the Employer will be entitled to relief from liability in relation to the breached obligation.

- 29.4 If either Party is unable or fails to perform its obligations under this Agreement to a material extent for a continuous period of one hundred and eighty (180) days as a result of a Force Majeure Event (the "**Failing Party**") the other Party may subject to the provisions of the following sentence serve a notice on the Failing Party terminating this Agreement on the date specified in that notice, which will not be less than seven (7) days or more than thirty (30) days after the date of the notice (the "**Termination Date**"). The Employer may, at the end of the one hundred and eighty (180) day period referred to above request the Contractor to be in a position to be able to perform and complete its obligations under this Agreement for a further period of one hundred and eighty (180) days provided that the Employer will reimburse to the Contractor its reasonable holding costs for maintaining such position.
- 29.5 Following a termination in accordance with clause 29.4 neither Party will have any further liability to pay to the other Party any sum which would have been due and payable to the other or perform any obligation under this Agreement after the Termination Date. This will be without prejudice to all other rights of the Parties accrued prior to the Termination Date including without limitation any right to liquidated damages accrued prior to the Termination Date and this clause 29.5 will survive termination of this Agreement.
- 29.6 Any amounts paid by the Employer to the Contractor as at the Termination Date in respect of any obligation of the Contractor which the Contractor has not performed prior to the Termination Date will be reimbursed to the Employer. If the Contractor has performed any obligations prior to the Termination Date for which the Employer has not paid, the Employer will pay to the Contractor that part of the Fixed Fee and other fees specified in clause 21.1 which relate to the performance of such obligations, provided in each case that the Employer has received the benefit of the performance of the relevant obligation.
- 29.7 Without prejudice to the other provisions of this clause 29, where the Contractor is affected by a Force Majeure Event in relation to which it is relieved of liability under this clause 29, the Employer may make at its own cost such alternative arrangements as it thinks fit for the provision of the Scope of Work and the Contractor will offer, at a reasonable cost payable by the Employer, all reasonable co-operation and support to the Employer to assist it in making those alternative arrangements. This may include (without limitation) provision of personnel and release of Parts and equipment that would otherwise be used by the Contractor in the provision of the Scope of Work. Such alternative arrangements (and all payments of associated costs) shall cease when the relevant Force Majeure Event ends and at such time the Contractor shall resume performance of the Scope of Work in accordance with clause 29.2(d).
- 29.8 In the event of any termination pursuant to clause 29.4 the Contractor will perform its obligations under clauses 28.1(e) and 28.1(f) and the Employer will pay the Contractor the cost of materials or goods reasonably ordered for the performance of the Scope of Work which have been delivered to the Contractor or of which the Contractor is legally obliged to accept delivery (any such materials or goods becoming the property of the Employer upon such payment being made to the Contractor) or at the Employer's option, the cost which the Contractor is legally obliged to incur and has incurred to avoid delivery.

30. **ENQUIRIES**

- 30.1 In connection with the performance of or failure to perform this Agreement, if the Contractor becomes aware or has reason to believe that it may become subject to any formal or informal enquiry or prosecution by a statutory body, the Contractor will, without delay, notify the Employer and without charge to the Employer provide copies of any relevant communication in connection with the same and will thereafter provide to the Employer such update at such frequency as is appropriate in order to keep the Employer properly informed of the same.

31. **BEST VALUE**

- 31.1 The Contractor acknowledges that the TfL Group is a best value authority for the purposes of the Local Government Act 1999 and as such the TfL Group and the Employer are required to make arrangements to secure continuous improvement in the way they exercise their functions, having regard to a combination of economy, efficiency and effectiveness. The Contractor will reasonably assist the Employer (and, where appropriate, the TfL Group) to discharge this duty and agrees to negotiate in good faith any changes to this Agreement in order for the Employer (and, where appropriate, the TfL Group) to achieve best value.
- 31.2 The Contractor will maintain an effective and economical quality control programme in accordance with the requirements set out in this Agreement.

32. **SUB-CONTRACTING**

- 32.1 The Contractor shall not subcontract the whole of the Scope of Work or terminate any subcontract in respect of the Scope of Work without the prior written consent of the Employer (such consent not to be unreasonably withheld).
- 32.2 The Contractor will be and shall remain fully liable under this Agreement for all design and work subcontracted and for acts, defaults or neglects of all its Subcontractors and/or their respective agents, servants or employees.
- 32.3 Where the Contractor wishes to commence legal proceedings of any kind (including adjudication) against a Subcontractor or make a counterclaim in any proceedings (including adjudication) brought by a Subcontractor against the Contractor or where a Subcontractor brings or threatens to bring proceedings of any kind (including adjudication) against the Contractor, the Contractor will consult with the Employer as to the reason for such proceedings, their cost, their probable outcome and all other risks and contingencies attendant upon such proceedings. The Contractor will take any comments provided by the Employer into account before commencing proceedings or making a counterclaim in any proceedings but will not be prevented by this clause 32.3 from taking such action as it sees fit in the circumstances. The Contractor will consult with the Employer at regular intervals during the conduct of any proceedings and will keep the Employer informed of any material developments in the proceedings. The Contractor will consult with the Employer as to the terms of settlement of any such proceedings and will without obligation take any comments by the Employer into account.
- 32.4 The Contractor shall procure that any material Subcontractor ("material" being reasonably determined by the Employer) enters into a Subcontractor's Warranty. The Contractor shall provide confirmation of the agreement to do so in writing from the Subcontractor at the Employer's request prior to entry into the subcontract and shall provide the original executed Subcontractor's Warranty to the Employer no later than ten (10) Business Days following entry into the subcontract. Failure by the Contractor to procure such a Subcontractor's Warranty is a reason for the Employer to not accept any such future material Subcontractor.

33. **CONFIDENTIALITY**

- 33.1 The Parties undertake to keep confidential, and not to disclose to any third party (without the other Party's prior consent in writing), any information which is contained in this Agreement or which is supplied by a Party under or in connection with this Agreement or which the disclosing Party indicates is confidential or which the recipient should reasonably deem to be confidential. Either Party may require, as a precondition for the granting of such consent, that any such third party provides a confidentiality undertaking to the consenting Party in terms satisfactory to the consenting Party.
- 33.2 Clause 33.1 will not apply:

- (a) to any information which is already in the public domain at the time of its disclosure other than by breach of this clause 33; or
- (b) to disclosure of any information by the Employer to any Connected Persons, provided that such recipients agree to be bound by the terms of clause 33.1; or
- (c) to the extent required by any applicable Law or statutory requirement, the regulations of any recognised stock exchange, any taxation authorities or by an order of a court or other tribunal of competent jurisdiction or any relevant regulatory body or in relation to the conduct of a dispute under the Dispute Resolution Procedure.

34. **FREEDOM OF INFORMATION AND DATA TRANSPARENCY**

34.1 **Freedom of Information Act**

- (a) The Contractor acknowledges that the Employer:
 - (i) is subject to FOI Legislation, and agrees to assist and co-operate with the Employer to enable the Employer to comply with its obligations under the FOI Legislation; and
 - (ii) may be obliged under the FOI Legislation to disclose Information without consulting and/or obtaining consent from the Contractor.
- (b) Without prejudice to the generality of clause 34.1, the Contractor will and will procure that its Subcontractors will:
 - (i) transfer to the Employer or such other persons as may be notified by the Employer to the Contractor each Information Request relevant to this Agreement or any member of the TfL Group that the Contractor or its Subcontractor (as the case may be) receive as soon as practicable, and in any event within three days of receiving such Information Request; and
 - (ii) in relation to Information held by the Contractor on behalf of the Employer, provide the Employer with details about and/or copies of all such Information that the Employer requests, and will supply such details and/or copies to the Employer within six days of its request (or such other period as the Employer may reasonably specify), and in such forms as the Employer may reasonably specify.
- (c) The Employer (as may be directed by the TfL Group) is 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 but shall where reasonably practicable or appropriate notify the Contractor of any Information Request which may result in the disclosure of Information which includes any confidential information of the Contractor in advance of any such disclosure and provide the Contractor with a reasonable opportunity to provide reasons why such information should not be disclosed in accordance with the exemptions under the FOI Legislation. The Contractor will not respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so in writing by the Employer.
- (d) The Contractor acknowledges that the Employer (as may be directed by the TfL Group) may be obliged under FOI Legislation to disclose Information without consulting with, or obtaining the consent of, the Contractor.
- (e) Notwithstanding anything to the contrary in this Agreement, the provisions of this clause 34 will continue in full force and effect notwithstanding the breach by either Party of the terms of this Agreement, the repudiation or termination of this Agreement

by either Party, the expiration of the term of this Agreement by effluxion of time or any other circumstance whatsoever.

34.2 **Data Transparency**

- (a) The Contractor acknowledges that the Employer is subject to the Transparency Commitment. Accordingly, notwithstanding clause 33, the Contractor hereby gives its consent for the Employer to publish the Contract Information to the general public.
- (b) The Employer may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing the Employer shall take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The Employer may in its absolute discretion consult with the Contractor regarding any redactions to the Contract Information to be published pursuant to clause 34.2(a). The Employer shall make the final decision regarding publication and/or redaction of the Contract Information.

35. **DATA PROTECTION**

35.1 The Contractor will at all times comply with the Data Protection Act 1998 (including any subordinate Law made under that Act from time to time) and any policies issued by the Employer from time to time in relation to the processing of data and will not by any act, omission or default cause the Employer to be in breach of these requirements. The Contractor will:

- (a) take appropriate technical and organisational security measures satisfactory to the Employer against unauthorised or unlawful Processing of Personal Data of which the Employer is the Data Controller (as those terms are defined in the Data Protection Act 1998) and against accidental loss, destruction of, or damage to such Personal Data;
- (b) provide the Employer with such information as it may reasonably require to satisfy itself of compliance by the Contractor with the requirements of this clause 35.1; and
- (c) cooperate with the Employer in complying with requests or enquiries made pursuant to the Data Protection Act 1998.

36. **NOTICES**

36.1 Any notice affecting this Agreement or required to be given under this Agreement (together, "**Notices**") will be in writing and signed by the a representative for each Party (such representative having been confirmed in writing by the Authorised Representative for each Party) and will be served by leaving it at, or sending it by prepaid recorded delivery or special delivery registered post to the address specified below. Notices will be deemed to have been received:

- (a) in the case of delivery by hand, when delivered; or
- (b) in the case of recorded delivery or special delivery registered post the date of delivery.

36.2 Notices or communications referred to in clause 36.1 will in the case of the Contractor be addressed to:

[]

and in the case of the Employer be addressed to:

[]

Notices will be marked for the attention of the relevant company secretary or such person or at such other address as the relevant Party may from time to time notify in writing to the other.

37. **WAIVER**

37.1 A waiver of any term, provision or condition of, or consent granted under, this Agreement shall be effective only if given in writing and signed by the waiving or consenting Party and then only in the instance and for the purpose for which it is given.

37.2 No failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

37.3 No breach of any provision of this Agreement shall be waived or discharged except with the express written consent of the Parties.

37.4 The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law (except that, without prejudice to any express warranties, conditions or undertakings given by the Contractor in this Agreement, any warranties, conditions or undertakings as may be implied at law in relation to the quality, condition or standards of work and supplies provided under this Agreement shall be excluded, to the fullest extent permitted by law).

38. **ASSIGNMENT**

38.1 The Contractor will not assign, novate or transfer this Agreement (or any or all of its rights or obligations under this Agreement) without the prior written consent of the Employer.

38.2 The Employer may assign, novate or transfer this Agreement (or any or all of its rights or obligations under this Agreement) to any member of the TfL Group or to Network Rail, and otherwise to any person with the Contractor's prior written consent (such consent not to be unreasonably withheld or delayed).

38.3 If the Employer assigns, novates or transfers this Agreement it will provide the Contractor with notice of such assignment, novation or transfer and the Contractor will do all such things (including executing any deed of novation or other document) reasonably required by the Employer to give effect to this clause 38.

39. **SURVIVAL**

Those provisions of this Agreement (including any appropriate schedules) which by their nature or implication (including in respect of any accrued rights and liabilities) are required to survive termination or expiry of this Agreement (including the provisions of clauses 18, 25 to 28 and 33 to 49) will so survive and continue in full force and effect along with any other clauses or schedules of this Agreement necessary to give effect to them.

40. **PUBLICITY**

40.1 The Contractor will (and will procure that its Subcontractors will) not without the prior written approval of the Employer:

- (a) make or procure to be made any public announcement or disclosure; or
- (b) communicate with representatives of the press, television, radio or other communications media,

on any matter concerning this Agreement save to the extent required by any applicable law or the regulations of any recognised stock exchange.

40.2 The provisions of this clause 40 will continue in full force and effect notwithstanding the breach by either Party of the terms of this Agreement, the repudiation or termination of this Agreement by either Party, the expiration of the term of this Agreement by effluxion of time or any other circumstance whatsoever.

41. **SEVERABILITY**

Should any provision of this Agreement be held to be invalid or unenforceable or illegal or void, then such provision will, so far as it is invalid or unenforceable or becomes illegal or void, be given no effect and will be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement. The Parties will then use all reasonable endeavours to replace the invalid, unenforceable, illegal or void provision with a valid provision, the effect of which is the closest possible to the intended effect of the invalid, unenforceable, illegal or void provision.

42. **FURTHER ASSURANCES**

The Parties will with all due diligence on or after the Effective Date execute all such deeds and documents and perform all such acts and things and provide such assistance and information as may reasonably be required to carry out the terms of this Agreement.

43. **COSTS**

Unless expressed to the contrary in this Agreement, each Party will bear its own costs and expenses in connection with the preparation, negotiation, execution, registration, carrying into effect and performance of its obligations under this Agreement and all matters related to or connected with it.

44. **ENTIRE AGREEMENT**

44.1 This Agreement and any other document to be entered into or initialled for identification purposes as between the Parties as contemplated by this Agreement set out the entire agreement and understanding between the Contractor and the Employer and supersede all previous agreements in relation to its subject matter (but not the Supply Contract). It is agreed between the Parties (for themselves and for the purposes set out in clause 44.2) that:

- (a) neither Party has entered into the aforementioned documents in reliance upon any representation, warranty or undertaking of the other Party or given on the other Party's behalf which is not expressly set out or referred to in the aforementioned documents; and
- (b) neither Party will have any remedy in respect of misrepresentation or untrue statement made by the other Party unless and to the extent that a claim lies for breach of warranty under the aforementioned documents.

44.2 The Contractor for itself and as agent and trustee for and on behalf of its respective employees, directors, representatives, advisers, servants and agents hereby agrees:

- (a) that, without prejudice to the generality of clause 44.1, no representation, warranty or undertaking is or was given in or in relation to any documentation, reports or data provided or made available prior to the Commencement Date or any information, expression of opinion or future intention or any forecast, speculation, assessment, projection, illustration, estimate or budget or advice contained or referred to in such documentation, reports, surveys or data or otherwise provided; and

- (b) that the Contractor, its respective employees, directors, representatives, advisers, servants and agents waive and will not enforce any right which they might otherwise have against the Employer or its employees, advisers or agents by virtue or any misstatement, inaccuracy or omission in or from or otherwise in relation to any information or expressions of opinion or future intention or any forecast, speculation, assessment, projection, illustration, estimate, budget or advice supplied or given to the Contractor or any related party or any other person in connection with the subject matter of this Agreement prior to the Commencement Date.

44.3 Nothing in clauses 44.1 and 44.2 will exclude any liability for fraudulent misrepresentation.

45. **MITIGATION**

If any clause under this Agreement operates in relation to one Party (the "**Mitigating Party**") to the detriment of the other Party, such Mitigating Party will, upon the request of the other Party, enter into discussions with the other Party with a view to determining what mitigating action might be taken by such Mitigating Party. Without limiting or reducing the obligations of the other Party, the Mitigating Party will, upon the written request and at the expense of the other Party, take such reasonable steps as may be practical to mitigate or remove the effects of such circumstances, provided that nothing in this clause will oblige the Mitigating Party to take any such step if, in the opinion of such Mitigating Party (such opinion being conclusive), any such step might reasonably be expected to have an adverse effect upon its business, operations or financial condition or the management of its affairs.

46. **DEFAULT INTEREST**

If either Party (the "**Defaulting Party**") fails to pay to the other Party any amount which has become due and payable in accordance with this Agreement then the Defaulting Party will pay to the other Party interest on the amount from the final date for payment of the amount to actual payment (as well after as before judgment) at the Applicable Rate.

47. **THIRD PARTY RIGHTS**

47.1 Subject to clause 47.2, nothing in this Agreement is intended to confer on any person any right to enforce any term which that person would not have but for the Contracts (Rights of Third Parties) Act 1999. Accordingly a person who is not a Party will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of their respective terms.

47.2 The Contracts (Rights of Third Parties) Act 1999 applies to this Agreement to the extent that any member of the TfL Group, or, in the event the Infrastructure Manager is not a member of the TfL Group, the Infrastructure Manager, has the right to enforce any provisions contained in this Agreement against the Contractor where such provision confers any benefit or purports to confer a benefit on such member.

48. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts each of which when executed and delivered will constitute an original, but all the counterparts will together constitute but one and the same instrument.

49. **GOVERNING LAW, DISPUTES AND JURISDICTION**

49.1 This Agreement (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation) shall be governed by and construed in accordance with English law.

49.2 Any Dispute will be resolved in accordance with the Dispute Resolution Procedure.

49.3 Subject to the terms of this Agreement, both Parties agree that the courts of England are to have exclusive jurisdiction to settle any Dispute and for such purposes irrevocably submit to the jurisdiction of the courts of England.

IN WITNESS whereof this agreement has been executed and delivered as a deed on the date first above written.

EXECUTED AS A DEED by **RAIL FOR LONDON LIMITED**

acting by two Directors/a Director and
its Secretary

Director

Director / Secretary

EXECUTED AS A DEED by [**CONTRACTOR**]

acting by two Directors/a Director and
its Secretary

Director

Director / Secretary

SCHEDULE 1

Scope of Work

This schedule describes the Scope of Work which comprises:

- The Services comprising the Standard Services (contained in Part A of this schedule) and the Additional Services (contained in Part B of this schedule); and
- The One-Off Parts Supply (Part C of this schedule).

In the event of any inconsistency between this schedule and clauses within the Agreement, the clauses will prevail.

Except where expressly stated otherwise:

- (a) the Contractor must carry out the One-Off Parts Supply if so notified within the Effective Date Notice from the Effective Date and for the remaining duration of the **Term, and the Contractor's remuneration for carrying out the One-Off Parts Supply shall be the One-Off Parts Prices as described in schedule 3;**
- (b) if the Employer serves the Services Commencement Date Notice, the Contractor must carry out the Standard Services from the Services Commencement Date and for the remaining duration of the Term, and the Contractor's remuneration for carrying out such Standard Services shall be the Fixed Fee; and
- (c) if the Employer serves the Services Commencement Date Notice, the Contractor must carry out Additional Services as and when instructed by the Employer after the Services Commencement Date, and the Contractor's remuneration for carrying out such Additional Services shall be the Additional Service Fee as calculated in accordance with schedule 3.

PART A: STANDARD SERVICES

1. RECORDS, TEST BED AND/OR SIMULATION EQUIPMENT SERVICE

1.1 The Contractor will ensure that:

- (a) orderly auditable records of the progress and monitoring of each line replaceable unit of the Platform Screen Doors System, during any further development from the functional requirements set out in the Works Information, are maintained for the duration of this Agreement, and provide for regular verification and testing at each stage of the design process;
- (b) the documentation for any further development of the Platform Screen Doors System is such as to enable an appropriately qualified independent auditor (who was not involved in the original design) to relate the Platform Screen Doors System to the performance of the relevant equipment under normal and fault conditions as set out in the Works Information and to enable an appropriately skilled person to operate the Platform Screen Doors System without the assistance of the Contractor or any of its Subcontractors;
- (c) any further developments of the Platform Screen Doors System are designed, developed and documented following an industry recognised standard (where no particular standard is required by the Works Information), using recognised quality control methods or as reasonably specified by the Employer; and
- (d) any further developments of the Platform Screen Doors System will be carried out by the Contractor so that they do not impair or compromise the Platform Screen Doors System being suitable for the Lifespan.

1.2 The Contractor will retain detailed information for the life of the Platform Screen Doors System on the design rationale for each of the systems and sub-systems of the Platform Screen Doors System in terms of how they were designed, including all drawings and relevant design calculations. The information will be updated as appropriate for any modifications undertaken on the supplied Platform Screen Doors System and the delivered Documentation updated as appropriate and provided to the Employer as soon as reasonably practicable following such update.

1.3 The Contractor will retain, manage and update records for configuration design changes for the Platform Screen Doors System and drawings, specifications and all other information affected by the configuration change including without limitation manuals, instructions and parts lists for all systems, sub-systems and components and the Parts listed in schedule 3 to enable operational and safety assessments to be made for the Platform Screen Doors System as they exist at the relevant time and from time to time, rather than as they were originally designed. Any changes requiring an update to the originally delivered Documentation will be provided to the Employer as and when it is updated.

1.4 The Contractor will retain, maintain and preserve all test bed and/or simulation equipment relating to the Platform Screen Doors System so that they are available at all times, in full working order, following the Services Commencement Date and for the remainder of the Term. They will be retained to enable the testing of Faults or revisions to the Platform Screen Doors System, and may be used by the Employer to develop business cases for future modifications to the operational elements of the Platform Screen Doors System.

1.5 The Contractor will provide an electronic change control and management service which will conform with industry recognised standards and permit the Employer to be able to review and audit changes to relevant aspects of the Platform Screen Doors System by way of unique Parts references and version/Part numbers and dates during which relevant versions and/or

Part numbers were current and the Contractor shall update such information on an on-going basis, within three (3) Business Days of the relevant change or update.

1.6 At all times following the Services Commencement Date and for the remainder of the Term, the Contractor will:

(a) retain:

(i) "as-made" copies, in machine readable form, of the final structure of the executable files of the Software, and of the intermediate stages leading to it; and

(ii) usable copies of any ancillary computer programs used to generate the code (such as compilers),

in each case updated from time to time to incorporate all modifications carried out by the Contractor or any Subcontractor;

(b) provide copies of the materials referred to in paragraph 1.6(a) above (excluding the Source Code Materials and the Escrow Information which will be dealt with in accordance with the Escrow arrangements set out in clause 18 of the Agreement and excluding any Excluded Materials) to the Employer and will keep such copies updated in line with current industry practice so that a skilled person can access the Software and maintain it as may be reasonably necessary; and

(c) retain the Software designed by or for the Contractor and implement and document changes to the same to implement any Maintenance Release, using an effective change control procedure.

2. **UPDATING SERVICE**

2.1 The Contractor will prepare and have available for issue Maintenance Releases as and when required in the reasonable opinion of the Contractor, or the Employer, or as is necessary for the operation of the Platform Screen Doors System.

2.2 The Contractor will inform the Employer of:

(a) any planned or completed Maintenance Releases and make a recommendation to the Employer as to whether or not the Employer should acquire and install the Maintenance Release; and

(b) any New Releases likely to affect or improve the Platform Screen Doors System.

2.3 The cost of Maintenance Releases is included in the Fixed Fee but, for administrative purposes, Maintenance Release shall be instructed by way of Variation Order and shall be implemented by the Contractor at no additional cost to the Employer.

2.4 The Contractor will offer to the Employer the opportunity to examine any Maintenance Release and any tests or results of tests of such Maintenance Release that the Contractor may carry out, or may have carried out.

2.5 Regardless of any recommendation made by the Contractor, the Employer can accept or reject any Maintenance Release in its discretion.

2.6 If accepted by the Employer, the Contractor will install and integrate Maintenance Releases to the Platform Screen Doors System.

2.7 If the Employer decides not to install any Maintenance Release, such decision will not give rise to any right to terminate this Agreement, nor will it result in any adverse effect on the

Technical Support Services (including in relation to any particular version of the Supported Software that the Employer has in operation) or the performance of the Contractor's obligations under this Agreement. If the Contractor advises the Employer that such Maintenance Release is critical to the operation, reliability or safety of the Platform Screen Doors System and having provided full and proper detail of those grounds so as to enable the Employer to make an informed choice, the Contractor shall have no liability for the **consequences of the Employer's decision not to install such Maintenance Release.**

- 2.8 Where the Employer requests or accepts that a Maintenance Release is to be installed and integrated into the Platform Screen Doors System, the Contractor will test the same in order to ensure that it performs fully in accordance with the Works Information and/or the applicable Documentation.
- 2.9 The Contractor will, in accordance with the Employer's direction, install, integrate and test any Maintenance Release which the Employer wishes to add to the Platform Screen Doors System (or, as the case may be, may replace the Supported Software or any part of it with the Maintenance Release), and will, if so required by the Employer, assist the Employer in testing the same.
- 2.10 The Contractor will inform the Employer of the completion of any testing of any Maintenance Release in connection with paragraph 2.4 above and will supply the Employer, with all test results and verifications, including but not limited to the operational safety verification. The Employer can accept or reject the Maintenance Release following the receipt of the tests and verifications in its discretion, acting reasonably.
- 2.11 If, following testing, any Maintenance Release fails to achieve acceptance by the Employer, the Contractor will co-operate with the Employer in decommissioning such Maintenance Release and returning the Platform Screen Doors System to its state prior to the acceptance tests, so that the Employer can continue to operate the Platform Screen Doors System until a time for repeat installation, integration and testing, or if in the sole opinion of the Employer, such Maintenance Release cannot achieve acceptance within a reasonable period:
- (a) the Employer may within a reasonable time, require the Contractor to supply, at the Contractor's cost, such additional services as are required to rectify any Fault in the Supported Software which the Maintenance Release was intended to rectify; or
 - (b) the Employer may reject the Maintenance Release and recover any sum which it may have paid to the Contractor in respect thereof.
- 2.12 The Contractor will be responsible, at its own cost, for training the Employer's maintenance staff in respect of any changes to the Platform Screen Doors System arising out of a Maintenance Release.
- 2.13 If the Employer requests or accepts that a Maintenance Release is to be installed and integrated into the Platform Screen Doors System, the Contractor will, within ten (10) Business Days of the Maintenance Release being produced or updated (or twenty-four (24) hours in the event the Maintenance Release is safety related) ensure that such Maintenance Release is installed and integrated into the Platform Screen Doors System and shall within ten (10) Business Days ensure all revisions of the Software and any Source Code Materials are placed in Escrow on the terms of the Escrow Agreement and in accordance with the terms of this Agreement.

3. **OBsolescence AND TECHNOLOGY MANAGEMENT SERVICE**

- 3.1 The Contractor will provide the Employer by 1 September in each year following the Services Commencement Date with a five-year rolling obsolescence and technology management plan to be agreed with the Employer (each Party acting reasonably), which will:

- (a) detail the obsolescence risks and issues which are expected to arise in respect of the Platform Screen Doors System including the software similar to the Software over the five-year period;
 - (b) consider the impact of these risks and issues for the back up system, where applicable, comprised in the Platform Screen Doors System;
 - (c) outline the obsolescence risks for the next two years in respect of each component of the Platform Screen Doors System including the Software; and
 - (d) include the Contractor's recommendations as to how to mitigate obsolescence risks.
- 3.2 The plan will detail the steps being taken, and to be taken, by the Contractor to mitigate the risks and will report on progress.
- 3.3 The plan will cover both equipment manufactured by the Contractor and equipment manufactured by its subcontractors or third parties.
- 3.4 If the Parties are not able to agree on any aspect of the plan, the Employer's determination (acting reasonably) shall prevail.
- 3.5 The Contractor will be fully responsible for the costs of managing obsolescence following the Services Commencement Date and for the remainder of the Term , and for implementing actions up to the end of the Term, to ensure continuous availability, supply and support of components of the Platform Screen Doors System (including Software) in accordance with the then current two and five-year obsolescence plans.
- 3.6 The Contractor will ensure, as far as possible, that all updated components are fully backward compatible to the installed components in form, fit and function. Where this is not possible, the Contractor shall propose to the Employer the closest possible solutions and the Employer shall decide the appropriate course of action.
- 3.7 The Contractor will notify the Employer in writing where it proposes to cease to supply or support any component of the Platform Screen Doors System, where possible not less than six (6) months prior to the lead time for ordering or manufacturing the relevant components but in any event as soon as the Contractor becomes aware that a component will or is likely to become obsolete. The Employer will be entitled at its entire discretion to purchase such amount of components as it deems appropriate, at the prices set out in schedule 3. Where the Employer does purchase components for obsolescence management reasons, the Employer may require the Contractor to store such components in conditions satisfactory to the Employer (at the Contractor's cost) at a location managed by the Contractor and approved by the Employer, and such components will constitute Employer's Parts.
- 3.8 The Contractor acknowledges and agrees that this paragraph 3 applies to all components of the Platform Screen Doors System, including without limitation any replacement Parts.
- 3.9 Notwithstanding paragraph 3.7 of this schedule 1 the Contractor warrants that (to the best of its knowledge and belief at the Commencement Date, and, where the Term is extended, at the date of extension of the Term) none of the Equipment manufactured by the Contractor or Subcontractors or third parties will be obsolete during the Term (including, where the Term is extended, during the extended Term), or where obsolescence may occur compatible alternative Equipment will be provided by the Contractor.

4. **TECHNICAL SUPPORT SERVICES**

4.1 **Technical Support and Advice Services**

- (a) The Contractor will provide reports and recommendations for the support and maintenance of the Platform Screen Doors System on a continuous basis, as required.

The Employer will provide appropriate support to ensure that data required by the Contractor in respect of this role is provided as soon as reasonably practicable.

- (b) The Contractor will provide preliminary advice on how Major Maintenance Activities might be carried out (such as organising blockades) to assist the Employer in determining the best way of carrying out the maintenance work and shall provide maintenance and technical support in relation to Major Maintenance Activities.
- (c) On the Services Commencement Date the Contractor will provide the Employer with a list of all suppliers of Parts, showing the name, contact details and principal place of business of each such supplier, the types of Parts supplied by it, and the delivery lead times for each category of Parts (the **"Parts Suppliers List"**). The Contractor will keep a control copy of the Parts Suppliers List and will update the Parts Suppliers List from time to time as required.

4.2 **Off-Site Technical Support Services**

- (a) The Employer will provide the Contractor with access to, or copies of reports generated from, the Employer's continual remote monitoring of the Platform Screen Doors System.
- (b) The Contractor will provide the Employer with access to any remote monitoring system for the Platform Screen Doors System which has been supplied pursuant to the Supply Contract.
- (c) Subject to paragraph (d), the Contractor will provide off-site telephone support Monday to Friday, between 8 am and 6 pm comprising of a telephone help desk to provide technical support to the Employer's Staff to assist in correcting any Faults in the Platform Screen Doors System (the **"Fault Reporting Centre"**) and provide remote diagnosis and, where possible, correction of Faults.
- (d) The Employer may, by giving 30 days' notice to the Contractor, reduce the days and hours the Contractor is to provide off-site support. Any reduction in support will adjust the Fixed Fee in accordance with schedule 3. Following a reduction the Employer may, by giving 30 days' notice to the Contractor, increase the days and hours the Contractor is to provide off-site telephone support. Any such increase in support will adjust the Fixed Fee in accordance with schedule 3.
- (e) The Contractor shall ensure that initial calls will be answered by an operator within 1 minute.
- (f) All calls will be logged with unique reference numbers, with such numbers being provided to the caller.
- (g) The Contractor will ensure a Technically Competent engineer, with competence relevant to the Fault identified by the Employer, contacts the Employer within thirty (30) minutes of the Fault being logged.

5. **TRAINING SERVICE**

5.1 The Contractor will provide training courses/competency assessments for those maintenance staff nominated to by the Employer that will lead to those staff being assessed and certified as competent to, following the Services Commencement Date and for the remainder of the Term:

- (a) maintain, diagnose and rectify all Faults on the Platform Screen Doors System; and

- (b) provide training, assessment and certification to other members of the Employer's Staff to a level leading them to be competent to maintain, diagnose and rectify all Faults on the Platform Screen Doors System.

5.2 The Contractor shall provide initial training, and any updated training in accordance with paragraph 2.12, to ten of the Employer's Staff as part of the Fixed Fee.

5.3 All training shall be accompanied by relevant documentation provided by the Contractor.

6. **MEETING SERVICE**

6.1 The Contractor will conduct regular meetings, at a meeting frequency of at least one meeting every six months, with the Employer to discuss the Scope of Works in accordance with this paragraph 6. The Contractor acknowledges and agrees that all costs associated with this Meetings Service are incorporated in the Fixed Fee.

6.2 The Contractor will ensure that appropriately qualified and briefed Contractor's Employees attend each meeting.

6.3 The Employer may invite guests to attend any meetings. The Contractor may, by giving prior notice to the Employer (which the Employer may accept or reject in its discretion), invite guests to the meeting, provided such guests are invited for the purpose of supplying specialist insight or information.

Yearly Meetings

6.4 Every 12 months after the Services Commencement Date (or at such other times the Employer deems reasonably necessary), the Contractor will provide the Employer with detailed reports containing the following minimum information:

- (a) a summary of the Updating Services and Additional Updating Services provided or suggested in the previous 12 months and the Updating Services and Additional Updating Services the Contractor reasonably believes will arise in the future;
- (b) an analysis of the information that has been provided to the Contractor by the Employer's continual remote monitoring of the Platform Screen Doors System, including but not limited to suggestions as to how the Employer can better manage the Platform Screen Doors System to reduce the instances of Faults;
- (c) details of any accidents, including but not limited to any near misses, affecting safety occurring during the Contractor's performance of this Agreement and the measures the Contractor is taking in relation to them;
- (d) details of any improvements to the delivery of the Scope of Works; and
- (e) any other information that the Employer may reasonably require for the purposes of monitoring the performance of the Contractor in the performance of its obligations under this Agreement.

6.5 If the Employer is not satisfied with the Contractor's report, or requires further information, the Employer will notify the Contractor and the Contractor will, within five (5) days, submit a revised report in the form and containing the information required by the Employer.

6.6 The Employer will use all reasonable endeavours to notify the Contractor prior to the date a report is due, if the Employer requires special information that has not been previously displayed in a report.

- 6.7 Within 10 days of the Employer receiving a report it deems acceptable, the Parties will meet at a location determined by the Employer (but in all instances in London) and will, at a minimum, discuss:
- (a) and review all aspects of performance under this Agreement, resolve outstanding issues and determine any actions that are to be taken, based on the reports issued in accordance with paragraph 6.4;
 - (b) the Faults that have occurred in the previous 12 months, the Contractor's analysis of the Faults and how the Employer can reduce the number of Faults in the Platform Screen Doors System (if there are Faults);
 - (c) the Updating Services and Additional Updating Services that have been provided in the previous 12 months, if possible the Updating Services and Additional Updating Services that are likely to arise in the future and the status of any Updating Services and Additional Updating Services discussed at the previous meeting; and
 - (d) any other matter associated with the Scope of Works or the Platform Screen Doors System that the Employer, in its discretion, deems appropriate.

Half Yearly Meetings

- 6.8 Every six months following the Services Commencement Date, the Contractor will provide the Employer with a report detailing the DRACAS data collected by the Contractor and any improvements the Contractor can suggest to address issues raised by the DRACAS data.
- 6.9 Within 10 days of receiving the report in paragraph 6.8, the Parties will meet at a time and location nominated by the Employer (but in any event in London), and, at a minimum, will:
- (a) discuss and consider DRACAS matters and the performance and reliability, availability and maintainability of the Platform Screen Doors System;
 - (b) determine improvements which may be required to the Platform Screen Doors System; and
 - (c) discuss improvement proposals.

PART B: ADDITIONAL SERVICES

7. PARTS SERVICE

Employer's Parts

- 7.1 The Employer will have the right to order and purchase Employer's Parts from the Contractor on the basis of the relevant price set out in the Price List. Within five (5) Business Days of receipt of the order, the Contractor will issue an acknowledgement of the order, confirming the expected delivery date or dates for each of the relevant Parts at the Main Store or other agreed location. Such Parts will, upon delivery, constitute Employer's Parts.
- 7.2 The Employer may at its option, provide to the Contractor the Employer's Parts for maintenance or repair during the Term at the Employer's cost (on an Open Book basis). After any relevant repair or maintenance work is completed the Contractor will return the Employer's Parts to the Employer.
- 7.3 All Employer's Parts will be sold to the Employer with the benefit of a twelve (12) month warranty from the date of their acceptance by the Employer (and such acceptance will be deemed to be granted for the purposes of this paragraph unless the Employer rejects such Employer's Parts within three Business Days from delivery) in relation to any Contractor's Fault affecting such Employer's Parts, and will otherwise be in such a condition as to be fit for use on the Platform Screen Doors System in accordance with the Manuals and Specification, and the Contractor will at its sole cost during such period either rectify any such Contractor's Fault, or provide the Employer with a replacement Part.
- 7.4 Nothing in this Agreement is intended to operate in any way so as to limit or restrict the Employer's right to return Supplied Equipment to the Contractor in any circumstances in which the Employer is entitled to do so under the terms of this Agreement and/or the Supply Contact. The Employer's rights in relation thereto will continue to apply to the Employer's Parts (to the extent that they constitute Supplied Equipment) and the Parties will give effect to the rights of the Employer and the obligations of the Contractor thereunder.
- 7.5 The Contractor warrants that upon completion of any repair or maintenance work by the Contractor or a Subcontractor on Employer's Parts, such Employer's Parts will, in respect of such work, conform to the relevant Specification. If any Employer's Part does not so conform, and the Employer's Representative so requires by notice to the Contractor's Representative, the Contractor will promptly remedy that non-conformity at no cost to the Employer.

Location of Parts

- 7.6 The Contractor shall deliver the Employer's Parts to the Main Store for the purposes of the Parts Service.
- 7.7 For the avoidance of doubt, clause 10 of this Agreement shall apply to the Contractor's access of the Main Store.

Recording of Parts

- 7.8 The Contractor is responsible for providing the Employer with a factory acceptance test certificate for each Employer's Part to support that Employer's Part's compliance with the specification. This certificate will include the manufacturing date, **Contractor's part number** reference and version and, if not previously provided, any storage requirements of the relevant Employer's Part, together with a statement of its shelf life, after which recalibration, overhaul, remanufacturing or replacement will be required. The Contractor shall ensure that, to the extent not previously provided, the certificate will be accompanied by Documentation which will specify any special requirements as to whether the Employer's Part is for use only in conjunction with another specific Employer's Part (and if so will specify which other

Employer's Part), and whether Employer's Parts which appear to be identical differ in their set up.

- 7.9 The Contractor will ensure full traceability for Employer's Parts, which the Employer has requested the Contractor to repair ("**Repairable Employer's Parts**") and will provide detailed Causal Information for failed Employer's Parts from its supply chain into the reliability analysis. The Contractor will further keep a record of all maintenance, refurbishment and other work carried out by it pursuant to this Agreement on any Repairable Employer's Parts, such records to be retained for at least 12 years from the date of completion of such maintenance, refurbishment and other works under this Agreement.
- 7.10 In order to enable the Contractor to comply with its obligations under paragraphs 7.10 and 7.11, the Employer will provide the Contractor with such relevant data of exchanged Employer's Parts in the course of the Employer's maintenance activities as is reasonably required. The Employer will update such data within 72 hours of a relevant change and make that data available in such electronic format as the Employer may specify from time to time.

Repair of Parts

- 7.11 Where a Fault is identified on any Part, the Employer shall be entitled to require the Contractor to repair any such Part. The Contractor will accept delivery or arrange for collection of the relevant Part at/from (as relevant) any location specified by the Employer (acting reasonably). The Contractor will arrange for the Part to be repaired and will advise the Employer of all test results from the tests carried out on that Part. The Contractor will repair all Parts within reasonable timescales as agreed with the Employer.
- 7.12 Where the Contractor repairs any Part, the Contractor shall provide such Part with the benefit of a twelve (12) month warranty, from the date of its acceptance by the Employer (and such acceptance will be deemed to be granted for the purposes of this paragraph unless the Employer rejects such Part within three Business Days from redelivery) in relation to any Contractor's Fault affecting such Part, and will ensure that such repaired Part is otherwise in such a condition as to be fit for use on the Platform Screen Doors System in accordance with the Manuals and Specification, and the Contractor will at its sole cost during such period either rectify any Contractor's Fault in such Part, or provide the Employer with a replacement Part.

Title of and contracts for Parts

- 7.13 Notwithstanding that any Parts, models, mock-ups or test pieces or any item of the Platform Screen Doors System may be in the possession of the Contractor from time to time, title in Employer's Parts will pass immediately to the Employer upon delivery to the Employer (including to the Main Store) or payment in respect thereof by the Employer (whichever is earlier).
- 7.14 Any Part at any time removed from the Platform Screen Doors System will remain the property of the Employer.

Liability

- 7.15 For the avoidance of doubt, the Employer shall not be liable under this Agreement in respect of the cost of purchasing, using or replacing any Part which is used in order to remedy a defect for which the Contractor is liable under the Supply Contract.

8. ON-SITE TECHNICAL SUPPORT SERVICES

- 8.1 If requested by the Employer, the Contractor will provide an on-site presence to support the Employer's maintenance staff in rectifying Faults and will diligently maintain such presence and continue work until the Employer advises the Contractor that they are no longer required on-site.

- 8.2 If the presence requires transition between members of the Contractor's staff, the Contractor shall ensure that such transition is effected so as to provide a seamless service.
- 8.3 A Technically Competent engineer with competence relevant to the Fault, or the service required, will report on site as soon as possible and in any event within forty eight (48) hours of the support being requested.
- 8.4 In respect of these On-Site Technical Support Services, unless otherwise expressly directed by the Employer, the Contractor's Employees will not directly interface with the Platform Screen Doors System or its components whilst present on the Employer's sites. The role of the Contractor's Employees is principally advisory and they are to operate at arms' length from the operational equipment, and are not to have direct involvement with this unless they are supervised by an appropriately qualified member of the Employer's Staff. The Contractor's Employees will comply with each and every direction given by the Employer or the Employer's Staff whilst undertaking an On-Site Technical Support Service and shall undertake such directions with reasonable skill and care. Accordingly any decision to accept changes to the Platform Screen Doors System or install or use Parts in the Platform Screen Doors System shall be the Employer's but this shall not in any way operate to undermine or reduce the Contractor's liability in respect of the provision of services under this Agreement.
- 8.5 The Contractor will provide the On-Site Technical Support Service at the hourly rates set out in schedule 3 and any reasonable travelling and accommodation costs will be paid by the Employer at cost, provided that the travelling and accommodation costs shall be agreed with the Employer .

9. **ADDITIONAL UPDATING SERVICES**

- 9.1 If the Employer chooses to acquire and install a New Release, it shall be instructed by way of Variation Order.
- 9.2 The Contractor will offer to the Employer the opportunity to examine any New Release and any tests or results of tests of such New Release that the Contractor may carry out, or may have carried out.
- 9.3 Regardless of any recommendation made by the Contractor, the Employer can accept or reject any New Release in its discretion. Should the Employer reject any New Release which the Contractor recommends should be implemented on grounds of reliability, operational performance or safety (and having provided full and proper detail of those grounds so as to enable the Employer to make an informed choice), the Contractor shall have no liability for **the consequences of the Employer's decision not to install the New Release.**
- 9.4 If accepted by the Employer, the Contractor will install and integrate New Releases to the Platform Screen Doors System.
- 9.5 If the Employer decides not to install any New Release, such decision will not give rise to any right to terminate this Agreement, nor will it result in any adverse effect on the Technical Support Services (including in relation to any particular version of the Supported Software that the Employer has in operation) or the performance of the Contractor's obligations under this Agreement.
- 9.6 Where the Employer requests or accepts that a New Release is to be installed and integrated into the Platform Screen Doors System, the Contractor will test the same in order to ensure that it performs fully in accordance with the Works Information and/or the applicable Documentation.
- 9.7 The Contractor will, in accordance with the Employer's direction, install, integrate and test any New Release which the Employer wishes to add to the Platform Screen Doors System (or, as the case may be, may replace the Supported Software or any part of it with the New Release), and will, if so required by the Employer, assist the Employer in testing the same.

- 9.8 The Contractor shall, following the implementation of any New Release, retain the Software designed by or for the Contractor and implement and document changes to the same to implement any New Release, using an effective change control procedure.
- 9.9 The Contractor will inform the Employer of the completion of any testing of any New Release in connection with paragraph 9.2 above and will supply the Employer, with all test results and verifications, including but not limited to the operational safety verification. The Employer can accept or reject the New Release following the receipt of the tests and verifications in its discretion, acting reasonably.
- 9.10 If, following testing, any New Release fails to achieve acceptance by the Employer, the Contractor will co-operate with the Employer in decommissioning the New Release and returning the Platform Screen Doors System to its state prior to the acceptance tests, so that the Employer can continue to operate the Platform Screen Doors System until a time for repeat installation, integration and testing, or if in the sole opinion of the Employer, such New Release cannot achieve acceptance within a reasonable period:
- (a) the Contractor will pay any sums to be paid to the Employer pursuant to the terms of the Variation Order for the installation and integration of a New Release, in the circumstances specified in such Variation Order; or
 - (b) the Employer may reject the New Release and recover any sum which it may have paid to the Contractor in respect thereof.
- 9.11 If the Employer deems that a Maintenance Release or a New Release is required that has not been developed by the Contractor or a third party (an **"Employer Directed Update"**), the Employer can require the Contractor to implement the Employer Directed Update with specifications provided to the Contractor by the Employer.
- 9.12 Should the Contractor recommend to the Employer that an Employer Directed Upgrade should not be implemented on grounds of reliability, operational performance or safety and having provided full and proper detail of those grounds so as to enable the Employer to make an informed choice, the Contractor may:
- (a) if the proposed upgrade does not affect safety, implement the Employer Directed Upgrade as directed and in which event the Contractor shall have no liability for the consequences of implementation of the upgrade; or
 - (b) if the proposed upgrade does affect safety, decline to implement the Employer Directed Upgrade.
- 9.13 The cost of any Employer Directed Update will be implemented by way of a Variation Order.
- 9.14 If the Employer accepts or requests that a New Release or an Employer Directed Update is to be installed and integrated into the Platform Screen Doors System, the Contractor will, within ten (10) Business Days of the New Release or Employer Directed Update being produced or updated (or twenty-four (24) hours in the event the New Release or Employer Directed Update is safety related) ensure that such New Release or Employer Directed Update is installed and integrated into the Platform Screen Doors System and shall within ten (10) Business Days ensure all revisions of the Software and any Source Code Materials are placed in Escrow on the terms of the Escrow Agreement and in accordance with the terms of this Agreement.
10. **ADDITIONAL TRAINING SERVICES**
- 10.1 Following the Services Commencement Date and for the remainder of the Term, the Contractor will provide additional training to any Employer's Staff as an Additional Service at the rates set out in schedule 3 as required by the Employer from time to time.

- 10.2 All such training shall be accompanied by relevant documentation provided by the Contractor.
- 10.3 If required by any Employer Directed Update, the Contractor will provide training for the Employer's maintenance staff in respect of the changes to the Platform Screen Doors System for the costs agreed in any relevant Variation Order.
- 10.4 The Contractor will be responsible for training the Employer's maintenance staff at the Employer's cost in respect of any changes to the Platform Screen Doors System arising out of:
- (a) a New Release; and
 - (b) any Employer Directed Update, provided that such training is specified as a requirement in the Variation Order relating to such Employer Directed Update.

PART C: ONE-OFF PARTS SUPPLY

11. ONE-OFF PARTS SUPPLY

- 11.1 The Employer may (but is not obliged to) **order Employer's Parts** on a one-off basis which shall be provided **by the Contractor prior to the Works Completion Date ("One-off Parts")** on the basis of the relevant prices set out in schedule 3.
- 11.2 The Employer will, following the Effective Date Notice, provide details to the Contractor of those One-Off Parts which it wishes to order.
- 11.3 The Contractor will deliver the One-off Parts to the Main Store or other agreed location within such reasonable period following the Works Completion Date or such other date as the Employer may specify. The Contractor will be entirely responsible for (including the provision of secure storage for) the One-off Parts until delivery to the Main Store at its own cost.
- 11.4 The provisions of paragraph 7 of this schedule (Parts Service) shall apply to the One-Off Parts Supply.
- 11.5 Payment by the Employer in respect of One-Off Parts will only become due following the delivery of the Parts to the Main Store or other agreed location in accordance with this paragraph 11 **and the Employer's acceptance of the same.**

SCHEDULE 2

Dispute Resolution Procedure

1. DISPUTE RESOLUTION

- 1.1 Any Dispute or difference between the Parties as to the construction of this Agreement or any matter or thing of whatsoever nature arising under this Agreement or in connection therewith shall be resolved pursuant to the terms of this schedule 2.

2. MANAGERIAL DISCUSSIONS

- 2.1 Without prejudice to the Parties' rights at any time to refer Disputes to adjudication in accordance with this schedule 2 the Parties shall each use their reasonable endeavours to resolve any Dispute which may arise and notwithstanding any referral in accordance with paragraph 10 shall refer any Significant Dispute which may arise to the nominated representative of each Party for prompt, bona fide discussion of the Significant Dispute in question

3. ADJUDICATION PROCEDURE

- 3.1 Either Party may give notice at any time of its intention to refer to adjudication a Dispute arising out of or in connection with this Agreement and such adjudication shall be conducted in accordance with The Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) Regulations 2011. The adjudicator shall be agreed between the Parties or failing which, shall be nominated by the President or Vice President of the Institution of Civil Engineers.

4. JOINDER

- 4.1 If a Dispute arising under this Agreement raises issues of fact or law which are the same as, or relate to issues raised in an unresolved dispute between the Employer and any Other (a "**Related Dispute**"):
- (a) the Employer may require a representative of the Parties in the Related Dispute to meet with the Parties under this Agreement and endeavour to resolve both the Related Dispute and the Dispute; and
 - (b) the Employer may refer the Related Dispute to an adjudicator or court to which the Dispute has been referred under this Agreement or may refer the Dispute to an adjudicator or court to which the Related Dispute had been referred and the proceedings shall be consolidated, save where the adjudicator or court shall in its absolute discretion determine that it is not possible to consolidate the proceedings; and
 - (c) any dispute as to whether the Dispute raises issues of fact or law or fact and law which are the same as or related to issues of fact or law in the Related Dispute shall be resolved by the adjudicator or court to which the Dispute and the Related Dispute have been referred, provided that, if the adjudicator or court decides that such issues of fact or law do not arise in the Related Dispute this paragraph 11 shall cease to apply; and
 - (d) the adjudicator or court to whom the Dispute and the Related Dispute have been referred shall have power to make such decisions, directions and all necessary orders and awards in respect of the Dispute and the Related Dispute in the same way as if the procedure of the High Court as to joining one or more defendants or joining co-defendants or third parties was available to the parties and to him.

- 4.2 The Employer may only refer a Related Dispute to the adjudicator appointed in relation to a Dispute if the adjudicator receives particulars of the Related Dispute within seven days of the referral of the Dispute to the adjudicator under this Agreement and may only refer a Dispute to the adjudicator appointed in relation to a Related Dispute if the adjudicator receives particulars of the Dispute within seven days of the referral of the Related Dispute to the adjudicator.

5. **FINAL AND BINDING DECISION**

- 5.1 The Parties may agree that the adjudicator's decision shall be final and binding and shall finally determine any Dispute, or in the absence of such agreement may otherwise refer such Dispute to the courts of England and Wales for further determination

SCHEDULE 3

Price List¹

Part A: Fixed Fee (Standard Services)

See attached

Part B – Other rates and prices (Additional Services)

See attached

Contractor's Margin: [xxxxxx]

Part C – One-Off Parts Prices

See attached

¹ To be populated with the prices of the successful bidder.

SCHEDULE 3

PLATFORM SCREEN DOORS

SCHEDULE 3 - PRICE LIST - Parts A, B and C

					£	
Nr	Description					
1.000	Scope of Work Parts B and C - Parts and One-Off Parts Service					
	<u>Scope of Work - Part B - Parts.</u>					
	<u>Scope of Work - Part C - One-Off Parts Supply.</u>					
1.100	Parts List	Recommended Initial Quantity of Spares				
	The price for each Part is for a single unit supplied to the Employer's main store.	<u>Unit</u>	<u>Recommended Initial Quantity</u>	<u>Price Each £</u>	<u>Total Price £</u>	<u>Unit</u>
	The prices are exclusive of VAT.					
1.101	Solenoid Operated Lock Assembly	Each	2			Each
1.102	Solenoid Lock Switch	Each	5			Each
1.103	Drive Belt Assembly	Each	4			Each
1.104	Isolation / Bypass Switch	Each	2			Each
1.105	Door Trolley Roller	Each	64			Each
1.106	Carbon Brush Assembly	Each	2			Each
1.107	Drive Supply Circuit Breaker - 10A Type C	Each	2			Each
1.108	ATEB Extension Device	Each	2			Each
1.109	Door Control Unit	Each	4			Each
1.110	Motor/Gearbox Assembly	Each	4			Each
1.111	Transformer Assembly	Each	2			Each
1.112	24v Power Supply	Each	2			Each
1.113	PSCC - Isolation Transformer	Each	2			Each
1.114	PSCC - Ammeter	Each	2			Each
1.115	PSCC - Voltmeter	Each	2			Each
1.116	PSCC - Current Transformers	Each	2			Each
1.117	PSCC - Circuit Breaker - 25A Type D	Each	2			Each
1.118	PSCC - Circuit Breaker - 6A Type C	Each	2			Each
1.119	PSCC - Circuit Breaker - 4A Type C	Each	2			Each
1.120	PSCC - Circuit Breaker/RCD - 6A Type C	Each	2			Each
1.121	PSCC - Control Transformer	Each	2			Each
1.122	PSCC - 3 Conductor Terminal Block	Each	2			Each
1.123	PSCC - 4 Conductor Terminal Block	Each	2			Each
1.124	PSCC - 3 Conductor Carrier Terminal Block	Each	2			Each
1.125	Platform Edge Door Controller	Each	2			Each
1.126	Relay Slave Unit	Each	2			Each
1.127	Local (Platform Staff) Control Unit	Each	1			Each

SCHEDULE 3

PLATFORM SCREEN DOORS

SCHEDULE 3 - PRICE LIST - Parts A, B and C

				£
Nr	Description			
1.128	Driver's Control Unit	Each	1	
1.129	Local Power Supply (Transformer)	Each	2	
1.130	Bi-Parting Door Leaf - Left Hand with Emergency Release	Each	2	
1.131	Bi-Parting Door Leaf - Right Hand	Each	2	
1.132	Emergency Egress Door Leaf - LH	Each	3	
1.133	Emergency Egress Door Leaf - RH	Each	3	
1.134	Driver's Access Door Leaf - LH	Each	1	
1.135	Driver's Access Door Leaf - RH	Each	1	
1.136	Media Cassette Access Door Leaf	Each	4	
1.137	Fixed Panel - 1.998m wide	Each	5	
1.138	Fixed Panel - 0.748m wide	Each	1	
1.139	Leading Edge Rubber for Bi-Parting Door Leaf - Female - RH	Each	5	
1.140	Leading Edge Rubber for Bi-Parting Door Leaf - Male - LH	Each	5	
1.141	Automatic Door Closer for Emergency & Driver's Doors	Each	2	
1.142	Door Seals for Emergency Egress Door	Door Set	2	
1.143	Glazed Front Cover - To suit doorway and PIS - 2.150 wide	Each	4	
1.144	Glazed Front Cover - To suit Emergency Egress Doors - 1.340 wide	Each	2	
1.145	Glazed Front Cover - To suit Driver's Doors & Controls Panel - 1.578 wide	Each	1	
1.146	Glazed Front Cover - To suit Media Cassette Doors - 1.350 wide	Each	2	
1.147	Glazed Front Cover - Fixed Panel - 1.998m wide	Each	3	
1.148	Glazed Front Cover - Fixed Panel - 0.770m wide	Each	1	
1.149	Line Map	Each	5	
1.150	Media Cassette	Each	2	
1.151	Anti-Graffiti Film	sq. m.	1,000	
1.152	Threshold Sacrificial Edge Strip	Each	72	
1.153	Door Status Indicator (Door Open)	Each	22	
1.154	Door Status Indicator (Ready-To-Depart)	Each	22	
1.155	Doorway Downlighter	Each	22	
1.156	Tunnel Lamp	Each	2	
1.157	Emergency Egress & Driver's Door Monitoring Switch	Each	5	
1.158	Anti-Entrapment Equipment - Tottenham Court Road	Door Set	2	
1.159	Staff Door Key	Each	6	
Total Of Recommended Initial Spares =				

SCHEDULE 3

PLATFORM SCREEN DOORS

SCHEDULE 3 - PRICE LIST - Parts A, B and C

				£
Nr	Description			
2.000	Scope of Work Part B - On-site Technical Support Services			
2.010	Personnel titles and hourly rates for on-site Technical Support Services.			
2.011	The rates are exclusive of travelling and accommodation expenses.			
2.012				
2.013	The rates are exclusive of VAT.			
2.020				
	<u>Title</u>		<u>Location</u>	<u>Hourly Rate £</u>
	Design Engineer		Melksham	
	Systems Engineer		Melksham	
	Software Engineer		Melksham	
	Electrical or Mechanical Engineer		Melksham	
	Manager (Design, Project, Programme, Commercial, HS&E, Quality etc.)		Melksham	
	Mechanical / Electrical Fitter		London	
	Working Supervisor		London	
3.000	Scope of Work Part B - Training Service			
3.010	Personnel titles and hourly rates for Training Services.			
3.011	The rates are exclusive of travelling and accommodation expenses.			
3.012				
3.013	The rates are exclusive of VAT.			
3.020				
	<u>Title</u>		<u>Location</u>	
	Training Engineer		Melksham	
3.030	<u>Training Course</u>			
	Additional Training Courses over and above those provided for within the Fixed Fee. Each course will be for 10 days for 10 trainees, and will be conducted by two trainers. The quoted price includes all course materials but excludes the expenses of the trainers, and excludes any expenses of the trainees.		London	
4.000	Scope of Work Part A - Fixed Fee			
4.010				
4.011	The amounts are exclusive of VAT.			
4.020	<u>Fixed Fee</u>			
4.021	Amount per Payment Period			
4.022	Amount per Year (Payment Period rate multiplied by 13Nr payment periods)	13		6,216.00

SCHEDULE 4

Indexation

INDEX TABLE

The indices and proportions used to calculate the Price Adjustment Factor are:

Index Ref	Group	Name	Source name	%
A	Construction	Labour	BCIS Labour Cost Index	
B	Construction	Plant	BERR 90/2 Plant and Road Vehicles	
C	Construction	Materials	BCIS Materials Cost Index	
I	All	All	Non-adjustable element	
Total				

- The BCIS Labour Cost and Materials Cost Indices are prepared by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors and are available through the BCIS.
- The PAFI Indices are available through the BCIS.

For Index A
 BCIS Labour Cost Index
 Base Date = 1985 = 100

For Index B
 Price Adjustment Formulae Indices (PAFI) Civil Engineering 1990 Series.
 90/2 Plant and Road Vehicles.
 Base Date = June 1990 = 100

For Index C
 BCIS Materials Cost Index
 Base Date = 1985 = 100

SCHEDULE 5

Not used

SCHEDULE 6

Employer IPR



SCHEDULE 7

Form of Warranty from Subcontractor to Employer

THIS DEED is made the [] day of [] 20[]

BETWEEN:

- (1) [] whose registered office is at [] (the "**Subcontractor**");
- (2) **RAIL FOR LONDON LIMITED** whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL (company number 05965930) (or any other person to whom its rights and obligations are assigned) (the "**Beneficiary**"); and
- (3) [] whose registered office is at [] (the "**Contractor**")

WHEREAS:

- (A) By a maintenance support contract dated [] day of [] (the "**Contract**") the Contractor has undertaken with the Beneficiary to provide maintenance support for the Platform Screen Doors System as defined therein. The Contractor has engaged the Subcontractor pursuant to a subcontract dated [] day of [] (the "**Subcontract**") to carry out the Subcontract Works as defined in the Subcontract.
- (B) The Subcontractor acknowledges that the Beneficiary has an interest in the proper performance of the Subcontract Works and has agreed to enter into a direct contractual relationship with the Beneficiary on the terms contained in this Deed.

NOW THIS DEED WITNESSETH as follows:

1. The Subcontractor hereby warrants and undertakes to the Beneficiary that:-
 - 1.1 in respect of any component of the Subcontract Works it has exercised and will continue to exercise the standard of skill, care and diligence to carry out and complete the Subcontract Works to be reasonably expected from a properly qualified and competent provider experienced in providing works similar in scope, size and complexity to the Subcontract Works;
 - 1.2 it has complied and shall continue to comply promptly and efficiently with the terms of and has fulfilled and will continue to fulfil its duties and obligations set out in the Subcontract.
2. The obligations of the Subcontractor under or pursuant to this Deed shall not be released diminished or in any other way affected by any independent enquiry into any relevant matter which may be made or carried out by or on behalf of the Beneficiary nor by the appointment by the Beneficiary of any independent firm company or party whatsoever to review the progress or otherwise report to it in respect of the Subcontract Works.
3. The Subcontractor warrants and undertakes to the Beneficiary that it has not and shall not specify for use or use in the construction of the Subcontract Works any prohibited or deleterious material as referred to in the Subcontract.
4. The Subcontractor has effected and will maintain professional indemnity insurance in an amount of ten (10) million pounds for any one occurrence and in the aggregate per annum and including provision for jurisdiction for claims made in the United Kingdom in addition to jurisdiction for claims made in the domicile of the Subcontractor or its ultimate parent company for a period of twelve years from the Expiry Date under the Contract provided always that such insurance is available at commercially reasonable rates and upon reasonable commercial terms in the UK market. The Subcontractor shall ensure that

in the event of the amount of available cover being eroded below the amount required by this clause by claims other than in connection with the Subcontract (including this warranty), such amount of available cover shall be reinstated to the limit required by this warranty at the Subcontractor's cost. If such insurance ceases to be available at commercially reasonable rates and upon reasonable commercial terms the Subcontractor shall inform the Beneficiary as soon as possible in which case the Subcontractor and the Beneficiary will discuss means of best protecting their respective positions in the absence of such insurance. When deciding whether such insurances are available at commercially reasonable rates and on commercially reasonable terms, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Subcontractor's insurance claims record. As and when it is reasonably requested to do so by the Beneficiary, the Subcontractor shall produce for inspection documentary evidence in the form of a broker's letter or certificate (including details of the names of the insurer and the insured, the policy start and end date, limits of indemnity/sums insured and deductibles, territory and key extensions and key exclusions of cover) that its professional indemnity insurance is being maintained and confirm that payment has been made in respect of the last preceding premium due under it.

5.

5.1 The Subcontractor agrees that in the event of the termination of the Contract by the Beneficiary the Subcontractor will, if so required by written notice given by the Beneficiary, and subject to clause 5.3, accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Subcontract Works upon the terms and conditions of the Subcontract, and upon the Beneficiary's request the Subcontractor will enter into an agreement for the novation of the Subcontract by the Contractor to the Beneficiary or its appointee, such agreement to be in terms reasonably required by the Beneficiary (but subject always to clause 5.3). The Subcontractor and Contractor represent and warrant that the form of novation prepared by the City of London Law Society (with the terms "Employer", "Contractor", "Consultant", "Services" and "Appointment" amended to read "Contractor", "Employer", "Subcontractor", "Subcontract Works" and "Subcontract" save in Recital B) is acceptable.

5.2 The Subcontractor further agrees that it will not without first giving the Beneficiary not less than 21 days' prior written notice exercise any right it may have to terminate the Subcontract (or its employment thereunder) or to treat the same as having been repudiated by the Contractor or to discontinue the performance of any duties and/or obligations to be performed by the Subcontractor pursuant thereto. Such right to terminate the Subcontract or treat the same as having been repudiated or discontinue performance shall cease if within such period of notice, and subject to clause 5.3, the Beneficiary shall give notice in writing to the Subcontractor requiring the Subcontractor to accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Subcontract Works upon the terms and conditions of the Subcontract, and upon the Beneficiary's request the Subcontractor shall enter into an agreement for the novation of the Subcontract by the Contractor to the Beneficiary or its appointee, such agreement to be in terms reasonably required by the Beneficiary (but subject always to clause 5.3).

5.3 It shall be a condition of any notice given or any new agreement proposed by the Beneficiary under clauses 5.1 or 5.2 that the Beneficiary or its appointee accepts liability for payment of the sums properly due to the Subcontractor under the Subcontract (including any sums outstanding at the date of such notice) and for the performance of the Contractor's obligations under the Subcontract. Upon the issue of any notice by the Beneficiary under clauses 5.1 and 5.2 the Subcontract shall continue in full force and effect as if no right of determination or to treat the same as repudiated or to discontinue performance on the part of the Subcontractor had arisen and the Subcontractor shall be liable to the Beneficiary or its appointee in lieu of its liability to the Contractor (provided this shall not operate to extinguish or affect any claim the Contractor may have against

the Subcontractor for losses it has suffered as a result of breach or default of the Subcontractor prior to the date such notice is given). If any notice given by the Beneficiary under clauses 5.1 or 5.2 requires the Subcontractor to accept the instructions of the Beneficiary's appointee and/or to novate the Subcontract to such appointee, the Beneficiary shall be liable to the Subcontractor as guarantor for the payment of all sums from time to time due to the Subcontractor from the Beneficiary's appointee.

- 5.4 The Contractor has agreed to be a party to this Deed for the purposes of acknowledging that the Subcontractor shall not be in breach of the Subcontract by complying with the obligations imposed on it by clauses 5.1 and 5.2. The Contractor acknowledges that the Subcontractor shall be entitled to rely on a notice given to the Subcontractor by the Beneficiary under clause 5.1 as conclusive evidence for the purposes of this Deed of the termination of the Contract by the Beneficiary.
6. Notwithstanding anything herein contained, the Subcontractor shall not be liable to the Beneficiary for any breach or breaches of this Deed which is or are the subject matter of arbitration or litigation proceedings commenced against the Subcontractor unless such proceedings are commenced before the expiry of 12 years from the Expiry Date of the Contract.
7. This Deed, the benefit hereof and/or the rights arising hereunder (whether or not accrued) may be assigned by the Beneficiary twice to a member of the TfL Group without the consent of the Subcontractor and the Contractor being required. No further assignment shall be permitted without the consent of the Subcontractor and the Contractor, such consent not to be unreasonably withheld or delayed. The Subcontractor and the Contractor shall do all such acts, deeds and things as may be reasonably necessary to give effect to any such assignment.
8. The Subcontractor shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 7 hereof is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening) by reason that such person is an assignee and not a named beneficiary under this Deed.
9. Notwithstanding any other provision of this Deed, the Subcontractor shall have no greater liability to the Beneficiary under this Deed than it would have had to the Beneficiary under the Subcontract if the Beneficiary had been named as a joint employer in the Subcontract and the Subcontractor shall be entitled in any action under this Deed to use any defence that it would have had under the Subcontract if the Beneficiary had been named as a joint employer in the Subcontract provided that in each such case the Subcontractor shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Subcontractor from the Contractor.
10. Save where the Beneficiary has exercised its rights under clause 5.1 and/or 5.2 the Subcontractor shall not be liable under this Deed for any delay in the completion of the Subcontract Works.
11. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person other than the parties to this Deed (which term shall for the purposes of this clause include all permitted assignees or transferees or successors in title) shall have any rights under it nor shall it be enforceable under the Act by any person other than the parties to it.
- 12.
- 12.1 The Subcontractor grants the Beneficiary a non-exclusive, irrevocable, perpetual and royalty free licence to use, copy, develop, enhance, supplement, modify, interface, integrate and/or maintain the Subcontractor IPR (including any Third Party Rights) for the

Permitted Purpose. The licence shall be capable of assignment but only as part of assignment of this Deed as a whole and includes the right to grant sub-licences, in both cases without the consent of the Subcontractor provided such sub-licence is restricted to the Permitted Purpose.

12.2 In this clause 12 the following terms have the following meanings:

- (a) **"Intellectual Property"** means any and all patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software (including source codes) and databases, topography rights (in each case whether registered or not and including any applications to register or rights to apply for registration of any of the foregoing), rights in inventions, Know-How, trade secrets and other confidential information, rights in databases and other intellectual property rights of a similar or corresponding character which may now or in the future subsist in any part of the world.
- (b) **"Materials"** means all documents, items information, data, reports, drawings, specifications, plans, software, designs, inventions and/or other material produced or supplied by the Subcontractor as part of or in connection with the Subcontract Works and/or the Subcontract.
- (c) **"Permitted Purpose"** has the meaning given to it in the Contract.
- (d) **"Providing the Subcontract Works"** means doing the work necessary to complete the Subcontract Works in accordance with the Subcontract and all incidental work, services and actions which the Subcontract requires.
- (e) **"Trigger Event"** means an event upon the occurrence of which information held in escrow pursuant to the escrow agreement required under the Contract is required by the Contract to be released to the Beneficiary.
- (f) **"Platform Screen Doors System"** has the meaning given to it in the Contract.
- (g) **"Subcontractor IPR"** means all Intellectual Property rights used by the Subcontractor or a sub-subcontractor or supplier of any tier in connection with Providing the Subcontract Works (including in supplying the Materials) and complying with the Subcontractor's obligations under this contract, including all Intellectual Property rights subsisting in the Subcontract Works and in any equipment used or to be used in conjunction with development, operation and maintenance of the works, in all cases:
 - (i) whether created before or after the date of this contract; and
 - (ii) excluding the Intellectual Property rights which are owned by or to be owned by the Beneficiary as specified in the Contract and/or the Subcontract.
- (h) **"Third Party Rights"** means all Intellectual Property rights in the Subcontractor IPR which are not owned by the Subcontractor.

13. Any notice to be given hereunder shall be deemed to be duly given if it is in writing and delivered by hand at or sent by registered post to the registered office or principal place of business in the United Kingdom for the time being of the party to be served and in the case of any such notice sent by registered post shall be deemed to have been received forty-eight (48) hours after being posted.

14. Any and all disputes and claims between the Beneficiary and the Subcontractor as to the construction, interpretation, validity and application of this Deed and any and all matters or things of whatsoever nature arising out of or in connection therewith shall be governed

and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

IN WITNESS WHEREOF this agreement has been duly executed and delivered as a Deed by the parties hereto on this day and year first before written.

EXECUTED AS A DEED by [**SUBCONTRACTOR**]

acting by two Directors/a Director and

its Secretary

Director

Director / Secretary

EXECUTED AS A DEED by [**BENEFICIARY**]

acting by two Directors/a Director and

its Secretary

Director

Director / Secretary

EXECUTED AS A DEED by [**CONTRACTOR**]

acting by two Directors/a Director and

its Secretary

Director

Director / Secretary

proceedings by the Employer to rely on any limitation, defences, set-offs and counterclaims under the Contract in relation to any such obligation or liability and the Employer shall carry the same burden of proof as it would have carried for a claim arising against the Contractor under the Contract.

- 1.2 The Guarantor confirms that it has full power and capacity to give the guarantee set out herein, and that the guarantee shall not be revocable and shall be a continuing guarantee.
- 1.3 The Guarantor agrees that, upon notice from the Employer at any time, either
 - (a) the Employer may assign any of its rights under this Guarantee to, or
 - (b) the Guarantor will issue a replacement guarantee in terms identical to this Guarantee in favour of,

any person who takes an assignment, novation or other transfer of the Contract or the benefit thereof in accordance with its terms. The Guarantor may decide whether the Guarantee ought to be assigned or a replacement guarantee issued.
2. As between the Guarantor and the Employer, the Guarantor shall remain liable under clause 1 as if it were the sole principal obligor and not merely a guarantor provided that nothing in this Guarantee set out herein shall render the Guarantor liable in respect of any provision of the Contract that is illegal, invalid or unenforceable.
3. Subject to clause 1.1(b), the Guarantor shall not be discharged nor shall its liability be affected by anything which would not discharge it or affect its liability if it were the sole principal obligor including, but not limited to:
 - 3.1 any amendment, modification, waiver, consent or variation, express or implied, to the scope or the works under the Contract or to the Contract or any related documentation;
 - 3.2 the granting of any extensions of time or forbearance, forgiveness or indulgences in relation to time to the Contractor;
 - 3.3 the enforcement, absence of enforcement or release of the Contract or of any security, right of action or other guarantee or indemnity;
 - 3.4 the dissolution, amalgamation, reconstruction, reorganisation of the Contractor or any other person;
 - 3.5 the illegality, invalidity or unenforceability of or any defect in any provision of the Contract or any of the Contractor's obligations under the Contract;
 - 3.6 any indulgence or additional or advanced payment, forbearance, payment or concession to the Contractor;
 - 3.7 any compromise of any dispute with the Contractor;
 - 3.8 any failure of supervision to detect or prevent any fault of the Contractor on the part of the Employer; or
 - 3.9 any assignment of the benefit of the Contract or any novation of the Contract.
4. The Guarantor agrees that any decision of any adjudicator appointed in accordance with the Contract and/or any court and/or any agreement reached between the Contractor and the Employer in respect of or in connection with the Contract shall be binding on the Guarantor, provided always that the Guarantor shall have available to it such rights of appeal or challenge as the Contractor would have or would have had.

5. If the Guarantor is not a company registered in England and Wales, the Guarantor shall provide to the Employer a legal opinion in a form approved by the Employer on the Guarantor's execution of this guarantee.
6. No proceedings may be commenced against the Guarantor by the Employer more than 12 years after the Expiry Date of the Contract (such date being the "**Guarantee Expiry Date**"), and this guarantee shall expire and cease to have any force and effect beyond the Guarantee Expiry Date save in respect of any claims notified to the Guarantor prior to the Guarantee Expiry Date. The Employer shall return the original copy (or copies) of this guarantee held by it to the Guarantor within three months of the Guarantee Expiry Date.
7. The construction, validity and performance of this guarantee shall be governed and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute or difference arising out of or in connection herewith subject only to the rights of the parties to enforce a judgment obtained in the Courts of England and Wales in any other jurisdiction.

Executed as a deed and delivered on the date above by:

..... (signed)

..... (name of director)

..... (signed)

..... (name of director or company secretary)

On behalf of [**RAIL FOR LONDON LIMITED**]

..... (signed)

..... (name of director)

..... (signed)

..... (name of director or company secretary)

On behalf of the Contractor

..... (signed)

..... (name of director)

..... (signed)

..... (name of director or company secretary)

On behalf of [the Guarantor]

SCHEDULE 9

Responsible Procurement Principles

1 Introduction

The Contractor shall comply with the Employer's Responsible Procurement policy which is available at <http://www.london.gov.uk/rp/policy/>.

1.1 Not used

2 Responsible Procurement Representative

The Contractor shall appoint a Responsible Procurement Representative. The Contractor's Responsible Procurement Representative shall be the primary contact for all Responsible Procurement related matters under the contract.

3 Responsible Procurement Plan

Within 4 weeks of the Services Commencement Date, the Contractor shall produce a Responsible Procurement Plan and submit it to the **Employer's Representative** for acceptance. In the case of the first submission of the Responsible Procurement Plan the **Employer's Representative** replies within 4 weeks of the date of submission. Any further revisions, submissions and responses shall be made within 21 days. .

The Responsible Procurement Plan shall:

- describe the management processes and procedures for achieving compliance with each of the applicable Responsible Procurement objectives;
- describe Equality and Diversity objectives and Supplier Diversity objectives;
- describe how the processes and procedures for achieving compliance with the Responsible Procurement requirements will be imposed in a relevant and proportional manner on subcontractors and suppliers ;
- include supply chain risk assessments where there is a high risk of unethical labour practices; and
- include a programme of activities to support the Contractor's Responsible Procurement Plan with proposed dates for commencement and completion, including but not limited to:
 - o progress report submittal dates
 - o progress meeting scheduled dates; and
 - o dates for site inspections and internal audits required to evidence progress achieved.

4 Responsible Procurement Requirements

4.1 Encouraging a Diverse Base of Suppliers

4.1.1 Supplier Diversity

Supplier diversity **objectives shall form part of the Contractor's Responsible Procurement Plan and shall state the means by which the Contractor shall optimise supplier diversity and the participation of Diverse Suppliers in the supply chain for the contract through the use of SMART objectives. The Contractor's supplier diversity objectives shall as a minimum contain the following:**

- awareness of Diverse Suppliers available to undertake work required within the contract and **the Contractor's strategies to ensure that barriers preventing supplier opportunities are removed;**
- the means by which subcontractors and suppliers will provide supplier diversity data to the Contractor,
- how baseline evaluation will be undertaken;
- how the composition of the workforce will be monitored every quarter;
- the processes that will ensure that Diverse Supplier involvement is optimised within the contract and outline procedures for monitoring progress towards the objective.

4.1.2 CompeteFor

In order to maximise the number and diversity of businesses contributing to the Programme, the Contractor shall use the CompeteFor web-sourcing portal to advertise all appropriate subcontractor and supplier opportunities which arise throughout the contract. The Contractor shall use reasonable endeavours to ensure that, where it is appropriate, subcontractors and suppliers use the CompeteFor web-sourcing portal to advertise further opportunities within the supply chain.

The Contractor shall monitor the number, type and value of contract opportunities advertised and placed in its own supply chain.

4.1.3 Not Used

4.1.4 Meet the Contractor Event

In order to support the Employer's commitment to encourage employment, training and subcontractor opportunities across the Programme, the Contractor shall host or attend one 'Meet the Contractor' event per calendar year.

4.2 Promoting Fair Employment Practices

4.2.1 London Living Wage

The Contractor shall pay its employees, and shall use reasonable endeavours to ensure that subcontractors and suppliers of any tier pay their employees, an hourly wage (or equivalent of an hourly wage) of not less than the London Living Wage (the basic hourly wage determined by the Greater London Authority (GLA) London Living Wage Unit) for any hours they work in London.

The Contractor shall audit the records of subcontractors and suppliers of any tier to ensure compliance with payment of the London Living Wage and notify the **Employer's Representative** of any non-compliance.

The Contractor shall allow access to its records, and shall use reasonable endeavours to procure that subcontractors and suppliers of any tier allow access to their records, to the **Employer's Representative** for the purposes of auditing compliance with the requirement to pay employees for any hours they work in London the London Living Wage.

In the event that the Contractor or **Employer's Representative** discover any non-compliance with this requirement, the Contractor shall co-operate fully with the **Employer's Representative** to resolve the non-compliance.

4.2.2 Equality and Diversity

The Contractor shall develop and implement Equality and Diversity objectives for the works in London. **The objectives shall form part of the Contractor's Responsible Procurement Plan.**

The Contractor's Equality and Diversity objectives shall propose as a minimum describe how it will for the works in London:

- actively engage and secure a long term relationship with the Employer's jobs and skills brokerage;
- publicise vacancies in such a way that encourages applicants from protected groups or from deprived socio-economic backgrounds and adopts recruitment processes that ensure that all potential barriers to recruitment, particularly with regards to priority equality groups, have been removed;
- the Contractor shall encourage each of its subcontractors to adopt and implement an equality and diversity policy which is at least as extensive in scope as the Contractor's equality and diversity policy.
- the Contractor shall include the methods by which the Contractor proposes to monitor and report on the implementation of its equality and diversity policy and its effectiveness.

4.2.3 Diversity Training

The Contractor shall develop and implement diversity training objectives and strategies to ensure that all personnel employed in London are trained appropriately for their role, and understand, the equality and diversity issues which may arise. The objectives shall indicate the types and levels of training to be undertaken and how the training is to be monitored for its effectiveness.

The objectives should also identify those persons or organisations that will provide the training, the proposed content and the duration of the proposed training programmes.

Contractor's employees in managerial roles in London shall receive managing diversity training, which shall provide clear guidance on anti-discriminatory practices within recruitment, training and appraisal.

4.2.4 The Diversity Works for London (DWFL) 'Gold Standard Diversity System'

The Contractor shall register on the Gold Standard Diversity System and shall use reasonable endeavours to work towards attaining the gold standard accreditation.

4.3 Meeting Strategic Labour Needs and Enabling Training Opportunities

4.3.1 Employment Opportunities

The Contractor (including subcontractors), shall use the Employer's jobs and skills brokerage service in the first instance to source all external labour and staff vacancies for any London based staff. The Contractor shall cooperate with the Employer's Representative in supplying details of employment opportunities to be advertised through this service in accordance with Appendix 15C.

The Contractor shall allow the jobs and skills brokerage service 2 working days to identify potential candidates for a role prior to sourcing candidates for the role through alternative means.

4.3.2 Labour and Skills Gap Analysis

This shall form part of the Contractor's Responsible Procurement Plan and shall detail the labour and staff needs and skills gaps identified by the Contractor. The Contractor's Labour and Skills Gap Analysis shall demonstrate as a minimum:

- (a) job roles, and personnel required to deliver the works on Site (indicating those to be resourced in-house and those to be resourced through the supply chain);

(b) labour and staff needs (how many vacant roles the Contractor anticipates will require to be resourced within each job role).

4.3.4 Strategic Labour Needs and Training (SLNT)

4.3.4.1 Strategic Labour Needs and Training (SLNT) objectives

The Contractor's SLNT objectives shall include as a minimum the following:

- **delivery against the Employer's priority outputs defined in the table below including:**
 - the qualifications and training programmes identified;
 - external funding streams identified to support the activity; and
 - assumptions made in delivery of the SLNT objectives.

the Contractor's processes for ensuring the SLNT requirements will be met through the Contractor's subcontractors including:

- how SLNT considerations will be included in the selection, contracting and management of subcontractors;
- how subcontractors will be made aware of Project and government support and funding streams for any SLNT activity to be undertaken

the Contractor's processes for monitoring and co-ordinating the delivery of its SLNT outputs which shall include:

- details of the personnel responsible for implementing, managing and reporting SLNT activity **within the Contractor's** organisation;
- the required administration, management and reporting structures;
- how the Contractor will attract, develop and retain personnel with the skills (including numeracy and literacy) necessary to deliver the works.

the process for developing training plans for apprentices and trainees which shall include the following:

Strategic Labour Needs and Training Output Breakdown

The Contractor shall deliver the following minimum requirements for SLNT:

- one or more of the SLNT outputs in the equivalency table below for each three million pounds of Fixed Fee over the term of the contract (where the Fixed Fee over the term of the contract is less than three million pounds, the Contractor shall pro-rata the requirement) e.g. One Apprentice equates to 100 days of taster positions or one graduate or 200 days of placement positions.

Minimum requirements for SLNT

Crossrail Priorities (at least 50%)			Other outputs (50% or less)			
Apprentice (new)	Job Start	Graduate Training Scheme	Apprentice (existing)	Placement Positions (Nos)	Workforce Skills	Work Experience
1	1	1	0.5	Min of 2 placement positions that add up to 200 working days in one year	Min of 100 days of workforce training or development activity in one year	Min of 2 work experience placements which add up to a minimum of 100 working days work experience in one year

- The Contractor shall deliver a minimum of 50% of the above SLNT outputs in the following priority areas:

- Apprenticeship (new);

a value added apprenticeship that is contract **specific and additional to the Contractor's** annual intake.

- Job Start;

a sustainable job start for an individual from the Local Community that is workless/ unemployed/ out of education or training;

a sustainable job start for an individual who has been long-term workless/ unemployed/ out of education or training for 6 months plus.

4.3.5 Crossrail Skills Pledge

The Contractor and subcontractors shall sign and comply with the 'Crossrail Skills Pledge' (Refer to Appendix 15B.)

4.6 Ethical Sourcing Practices

The Contractor shall ensure that it complies with the following minimum requirements (derived from the Ethical Trading Initiative Base Code and shall use reasonable endeavours to ensure that subcontractors and suppliers comply with these minimum requirements.

- Employment is freely chosen:
 - There is no forced, bonded or involuntary prison labour; and
 - workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.
- Freedom of association and the right to collective bargaining are respected:
 - workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively;

- the employer adopts an open attitude towards the activities of trade unions and their organisational activities;
- workers representatives are not discriminated against and have access to carry out their representative functions in the workplace; and
- where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder the development of parallel means for independent and free association and bargaining.
- Working conditions are safe and hygienic:
 - A safe and hygienic working environment shall be provided, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Adequate steps shall be taken to prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment;
 - workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers;
 - access to clean toilet facilities and to potable water, and, if appropriate, sanitary facilities for food storage shall be provided;
 - accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers; and
 - the company observing the code shall assign responsibility for health and safety to a senior management representative.
- Child labour shall not be used:
 - There shall be no recruitment of child labour;
 - Companies shall develop or participate in and contribute to policies and programmes which provide for the transition of any child found to be performing child labour to enable her or him to attend and remain in quality education until no longer a child; **“child” and “child labour” being defined above;**
 - Children and young persons under 18 shall not be employed at night or in hazardous conditions; and
 - These policies and programmes shall conform to the provisions of the relevant ILO standards.
- Living wages are paid:
 - Wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmark standards, whichever is higher. In any event wages should always be enough to meet basic needs and to provide some discretionary income;
 - All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid; and
 - Deductions from wages as a disciplinary measure shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.

- Working hours are not excessive:
 - Working hours comply with national laws and benchmark industry standards, whichever affords greater protection.
- No discrimination is practised:
 - There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation.
- Regular employment is provided:
 - To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice; and
 - Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, subcontracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.
- No harsh or inhumane treatment is allowed:
 - Physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation shall be prohibited.

The Contractor shall manage and monitor adherence to these minimum requirements throughout its supply chain and report any non-compliance and remedial actions to the **Employer's** Representative.

The Contractor is required to comply with national and other applicable law and, where the provisions of law and these provisions address the same subject, the provision which affords the greater protection to the workers should be applied.

The Contractor shall undertake a risk analysis of its supply chain to identify any areas where unethical labour practices may occur. In the event that areas of high risk are identified by the Contractor, the Contractor shall detail in the Responsible Procurement Plan the action that will be taken to achieve compliance with the ETI Base Code. Where high risks are identified the Contractor shall register with SEDEX and undertake social audits of production sites.

5 Monitoring, Reporting & Management

5.1 Responsible Procurement Progress Report

The Contractor shall submit a Responsible Procurement progress report to the **Employer's** Representative at the meetings described in the Meeting Service in Schedule 1.

The Contractor shall provide as much detail as possible, providing documentary evidence, where necessary, to support each statement made.

5.3 Not Used

6 Appendices


Appendix 15A Labour & Skill Gap Analysis Template

Appendix 15B Crossrail Skills Pledge

Appendix 15C Crossrail Vacancy Template



Appendix 15B Crossrail Skills Pledge



Crossrail Skills Pledge

On behalf of

I

am making a commitment that we shall:

- Actively encourage and support our employees to gain the skills and qualifications that will meet the needs of Crossrail and our business, and will support their future employability
- Further support our employees to acquire basic literacy and numeracy skills and work towards their first full Level 2 qualification
- Demonstrably raise our employees' skills and competencies to improve our organisational performance through investing in economically valuable training and development

Signed Date

Name

Position

Company



Appendix 15C Crossrail Apprentice Starter Form

1. Name of Tier 1 Contractor
2. Name of Employer
3. Name of Apprentice
4. * Unique Apprentice identifier(L03)
5. Apprentice Date of Birth
6. Occupation
7. Start date with employer
8. Start date on Apprenticeship
9. Name of Training Provider or college.

Notes

* **NB . Unique identifier (L03).** This is a 12 character identifier, obtained from box L03 on the Apprentice's Individual Learner Record (ILR). This record is held by their respective Training Provider.

SCHEDULE 10

Fair Pricing Agreement

Part 1

1. BASIS OF PRICING FOR VARIATION ORDERS

1.1 A Variation Order shall specify on which of the following bases of payment (or combination thereof) the Contractor should calculate its costs:

- (a) fixed price established in accordance with Part 2 below;
- (b) cost reimbursable on the basis of time and materials used established in accordance with Part 3 below; or
- (c) cost reimbursable on the basis of time and materials used subject to a Target Cost established in accordance with Part 4 below.

2. GENERAL PRINCIPLES

No matter which pricing option or combination of pricing options is adopted the following general principles shall apply to any Variation Order.

Duty to avoid cost

2.1 The Contractor shall at all times:

- (a) minimise any increase in costs and maximise any reduction in costs and use reasonable endeavours to oblige its subcontractors to do the same; and
- (b) demonstrate how any cost to be incurred or avoided is being measured in a cost effective manner.

Sub-contracting with Affiliates

2.2 Where the Contractor subcontracts any element of a Variation Order to an Affiliate of the Contractor (or subcontracts to a third party who then subcontracts to an Affiliate of the Contractor) and such subcontract entitles the subcontractor to profit, the Contractor shall not claim any further profit in respect of that element of the Variation Order. For the purposes of this paragraph 2.2 "Affiliate" means, in relation to a person, a company or entity that directly or indirectly controls, or is controlled by, or is under common control with, that person. For the purposes of this definition, "control" shall mean:

- (a) ownership or control (whether directly or otherwise) of fifty percent (50%) or more of the equity share capital, voting capital or the like of the controlled entity; or
- (b) ownership of equity share capital, voting capital, or the like by contract or otherwise, conferring control of, power to control the composition of, or power to appoint, a majority of the members of the board of directors, board of management, or other equivalent or analogous body of the controlled entity.

Tender Protocol for subcontracts

2.3 The Contractor will submit a protocol (the "**Tender Protocol**") to the Employer for review, within three months from the Services Commencement Date. This Tender Protocol will include templates of tender documents and procedures for the tender process and save where the Employer agrees otherwise, shall require that the Contractor is to

obtain a minimum of three competitive quotations for any element of a Variation Order in order to achieve the best result in price, quality and other terms of contract.

- 2.4 Where the Contractor intends to sub contract elements of work comprised within any Variation Order and the value of such subcontract is likely to exceed [REDACTED] then any such contract for the provision of equipment, of materials, or services will be subject to the Tender Protocol. The Employer may also indicate to the Contractor in its Variation Order that it requires certain elements of the Variation Order irrespective of value to be put out for competitive tender in accordance with the Tender Protocol.
- 2.5 The Contractor will prepare each complete tender package in compliance with the agreed Tender Protocol, will submit the package and a list of proposed tenderers to the Employer and will ask the Employer to propose additional companies, if any, to be included in the list of tenders. The Contractor will add any such parties so proposed by the Employer.
- 2.6 The Employer may reject a tenderer proposed by the Contractor on the following grounds:
- (a) lack of relevant experience;
 - (b) manifest unsuitability of the tenderers products, goods, materials, systems or services for the activities which are the subject of the tender process;
 - (c) bad record of tenderer in relation to health and safety issues; and/or
 - (d) bad record of performance of tenderer.
- 2.7 The Contractor will prepare a complete tender package consistent with the agreed Tender Protocol and provide a copy of the tender package to the Employer for review prior to inviting tenders.
- 2.8 Tenders will be invited directly by the Contractor, and tenders should be returned to the Contractor. All communication with the tenderers shall be in writing and all such communication shall be copied to the Employer. The Contractor will give prior notice of the tender opening to the Employer, who may attend in person.
- 2.9 The Contractor will then review the tenders received technically, commercially and contractually and report the findings of this review to the Employer, along with the Contractor's recommendations on a strategy as to how to proceed with the tenders received to achieve a suitable award.
- 2.10 The Employer will be given the opportunity to attend any meetings with the tenderers and be copied in all correspondence to and from the tenderers. Once negotiations with the tenderers have been completed, the Contractor shall submit a detailed final tender evaluation report and final recommendation to the Employer for review and approval.
- 2.11 The tendered package may only be awarded if approval to do so is granted by the Employer which approval the Employer cannot unreasonably withhold.
- 2.12 Under no circumstances shall the approval or withholding of approval entitle the Contractor to any adjustment to any fixed price for a Variation Order established pursuant to Part 2 of this schedule 10 or any Target Cost established pursuant to Part 4 of this schedule 10 or entitle the Contractor to any extension of any time for completion other than as agreed pursuant to a Variation Order.

Open Book

- 2.13 Nothing in this schedule 10 shall limit or otherwise affect the Employer's rights pursuant to clause 19 (Inspection and Audit).

Part 2

Fixed Price

1. FIXED PRICE

- 1.1 Where the basis of paying for the Variation Order is to be by way of a fixed price that fixed price shall be established in accordance with this Part 2 of schedule 10.

2. CONTRACTOR'S ESTIMATE

- 2.1 The Contractor shall, within fifteen (15) Business Days, or such longer period as agreed by the Employer in its discretion prior to the expiry of the fifteen (15) Business Days, of receipt of a Variation Order from the Employer provide a written response to the Employer setting out the Contractor's opinion on the following pricing matters:

- (a) an estimate of the Contractor's price for performing the Variation Order (the **"Pricing Summary"**);
- (b) an estimate of the likely financial effects of the proposed variation;
- (c) a suggested milestone payment schedule for performing the Variation Order;
- (d) costs and details of any third party costs (that is, external costs of the Contractor and its subcontractors, including but without limitation the costs of consultants and advisers);
- (e) any amendment required to this Agreement; and
- (f) any other pricing information requested by the Employer in its Variation Order.

3. PRICING SUMMARY

- 3.1 In calculating the price for performing the Variation Order to be included in the Pricing Summary, the Contractor shall apply the following principles wherever applicable:

- (a) where the Variation Order requires the use of goods, plant and materials of the type referenced in Annex 1 (Unit Rates) to this Part 2 of schedule 10 and for which Annex 1 (Unit Rates) provides a cost, the unit cost of any construction or installation works or associated preliminaries (excluding any temporary or demolition works, professional fees, contingencies, overheads and profit margins) required to implement the Variation Order shall be the equivalent unit rates set out in Annex 1 (Unit Rates) to this Part 2 of schedule 10, uplifted using the relevant index as contained in schedule 4 and in accordance with clause 21.2 for construction cost inflation in the period between the Effective Date and the date the Variation Order is to be commenced;
- (b) where the Variation Order requires the use of consultancy services or other subcontracting arrangements of the type referenced in Annex 2 (Consultancy Fee) to this Part 2 of schedule 10 and for which Annex 2 (Consultancy Fees) provides a rate, the consultancy professional fees, contingencies, overheads and/or profit margins charged by any consultant, subcontractor or supplier in respect of construction and/or installation and/or service provision shall be the equivalent rates set out in Annex 2 (Consultancy Fees) of this Part 2 to schedule 10. If the Contractor can demonstrate to the satisfaction of the Employer, acting reasonably, that the professional fees, contingencies, overheads and profit margins being charged by consultants, subcontractors and/or suppliers in current market conditions have changed significantly from those set out in Annex 2 (Consultancy

Fees) of this Part 2 to schedule 10, then the Contractor may prepare the Pricing Summary using rates that reflect the then current market rates;

- (c) where elements of the Variation Order are not addressed by paragraphs 3.1(a) or 3.1(b), they shall be costed on a fair and reasonable basis reflecting the then current market rates and the Contractor shall demonstrate that it has used reasonable endeavours (including (where practicable) the use of competitive quotes) to minimise any increase in costs and maximise any reduction in costs.
- 3.2 Subject to paragraph 2.2 of Part 1 of this schedule 10, the Contractor may include in its Pricing Summary an allowance for its profit capped at [X] per cent of the costs referenced in paragraph 3.1.
- 3.3 Other than as referred to in paragraphs 3.1 and 3.2 of this Part 2 of schedule 10, no charge shall be made in respect of the Contractor's time spent processing, managing or monitoring the Variation Order (and no additional mark up or management fee shall be applied by the Contractor).

Annex 1- Unit Rates

Those prices listed in schedule 3 and the following additional Unit Rates:

Annex 2 - Consultancy Fees

Those prices listed in schedule 3 and the following additional Consultancy Fees:

Part 3

Cost Reimbursable

1. COST REIMBURSABLE

1.1 Where the basis of paying for a Variation Order is to be by way of reimbursement of the Contractor's Cost, this Part 3 of schedule 10 shall apply.

2. DEFINITIONS AND INTERPRETATION

For the purposes of this Part 3 of schedule 10 and wherever a Variation Order is implemented on a cost reimbursable basis, the following defined terms shall have the meanings set out below.

2.1 **"Cost"** means the cost properly and reasonably incurred by the Contractor in or in connection with the carrying out of the Variation Order to the extent that such Cost is further defined in Annex 1 (Further Definition of Cost) of this Part 3 to schedule 10, but excluding in all cases:

- (a) any item of cost included within the Fee;
- (b) any cost incurred in consequence of any breach of this Agreement by the Contractor (or by any subcontractor or other parties for whom the Contractor is responsible), which shall be deemed to include for avoidance of doubt:
 - (i) cost incurred before or after completion of the relevant work in the rectification, removal or replacement of any defective work; and
 - (ii) cost incurred in any attempt to recover delay resulting from a cause which does not entitle the Contractor to an extension of any time for completion or where the Employer has not expressly instructed such attempted recovery;
- (c) any cost in respect of any other risk or circumstance for which neither this schedule nor this Agreement expressly provide for the payment of Cost (for example costs incurred in respect of Force Majeure Event other than or in excess of those expressly recoverable pursuant to clause 29).

2.2 **"Fee"** means subject to paragraph 2.2 of Part 1 of this schedule 10, [X] per cent of the Cost and includes the Contractor's entire allowance in respect of the following items:

- (a) Head Office Overheads being the costs of running the Contractor's business in whole and not attributable to a particular contract. It includes but is not limited to: costs related to the premises of business and utilities costs; office equipment, machines and consumables; head office staff and director's salaries and pension fund contributions; legal, auditor's and other similar fees; cost of travelling, and expenses thereof including those related to head office staff or directors visiting the works comprising the Variation Order marketing and advertising costs; business development related costs; etcetera. The term "head office" includes the Contractor's registered office or offices and any other premises used by the Contractor in conducting its business other than the site office for the Variation Order and any premises exclusively dedicated to this Agreement whose use has been approved by the Employer; and
- (b) Contractor's Profit and Risk means the Contractor's gross profit in conducting his business. It includes the Contractor's own assessed risk cover including in particular any risk for which a right to the payment of Cost is not otherwise expressly provided in the Agreement. It also includes all Contractor's tax liabilities and employment or payroll taxes included in payroll costs but does not include VAT chargeable on the sums to be paid to the Contractor.

3. **COST FORECASTING**

- 3.1 The Contractor shall prepare a cost forecast in a format to be approved by the Employer, based upon the programme for the Variation Order. The cost forecast is to be updated by agreement with the Employer and at every revision to the programme for the Variation Order, and shall be reviewed and resubmitted by the Contractor at least every month.

4. **APPLICATIONS FOR PAYMENT OF COST PROPERLY INCURRED**

- 4.1 The Contractor may as a separate line item include within a Contractor's Payment Request issued pursuant to and in accordance with clause 22 (Terms of Payment) all items of Cost reasonably and properly incurred in connection with the implementation of a Variation Order and Fee thereon with a detailed breakdown as to the make-up of such Costs.

- 4.2 For the purposes of paragraph 4.1 of this Part 3 to schedule 10 an item of Cost shall be deemed to be reasonably and properly incurred (and thus eligible for inclusion in an application for payment) only after the following conditions have been fulfilled:

- (a) in the case of materials and plant which are intended for incorporation in the Employer's property the relevant items have been so incorporated;
- (b) in the case of materials or plant where the Contractor can establish that unencumbered title to the relevant items will vest in the Employer upon payment; and
- (c) in the case of materials, plant and all other items (including services) and in accordance with that the Contractor can establish that either (in the case of Cost which comprises payments to subcontractors or other external parties) the Contractor has already made the relevant payment to the subcontractor or party or that the Contractor is liable to make the same within 60 days after the submission of the relevant payment application to the Employer: or in the case of Cost directly and internally incurred by the Contractor, the said Cost is substantiated by timesheets, payrolls or other data reasonably acceptable to the Employer in accordance with generally accepted accounting principles.

- 4.3 Where a payment of Cost is made by the Employer in reliance on the Contractor's liability to pay within 60 days as set out in paragraph 4.2(c) above and the Contractor subsequently fails to establish that any such payment has been made within such period, the Employer shall be entitled to deduct from any certificate of the Employer the amount of any such payment (plus the Fee) until such time as the Contractor can substantiate as aforesaid that it has discharged the relevant liability to pay.

Annex 1

Further Definition of Cost

"Cost" are divided into the following four categories:

- (a) Contractor Design Cost
- (b) Preliminaries; and
- (c) Prime Cost.

"Contractor's Design Cost" means all costs and expenses of the Contractor in carrying out the design of the Variation Order, whether directly or by sub contracting. It includes but is not limited to design management; evaluation, and analysis of the Employer's proposed Variation Order and subsequent revisions thereto; schematic design; value engineering related design; detailed design; construction drawings; shop drawings; all technical studies, surveys and all other work; deemed necessary to obtain information required in order to carry out the design. It includes all drafting, calculations, renderings, drawings, models and issuance of all design documents in both soft and hard copies in a number and format as required by the Employer.

"Preliminaries" means the following items of cost:

- (a) Site overheads;
- (b) Quality Control of the Variation Order including but not limited to all samples, test, reinstatements, making good, analysis, reporting, etc;
- (c) Site office accommodation, any premises exclusively dedicated to the Contract whose use has been approved by the Employer, worker housing, kitchen and kitchen equipment, furniture, equipment, telephones, fax, internet connection, stationery etc;
- (d) Site sign boards;
- (e) Site Security and surveillance;
- (f) Provision of computers, computer software, modems, printers, photocopying;
- (g) Mock-ups and samples as required by the Employer;
- (h) fees, rates and all other charges properly paid by the Contractor to local and other authorities;
- (i) use and waste of small tools, protective clothing and office equipment;
- (j) photographs, videos, etc of site progress. All costs in relation to Contactor's progress reports to the Employer;
- (k) courier services;
- (l) site directional signage and sign boards;
- (m) provision of refreshments during meetings held at the Site and Site entertainment costs;
- (n) cost of compliance with provisions relating to Health & Safety in accordance with all Statutory requirements and of any statutory enactment thereof including the provision of welfare facilities and equipment;

- (o) travelling costs and accommodation expenses incurred in visiting premises of Contractor's subcontractors or suppliers and visiting local authorities, in relation to the Variation Order;
- (p) Mechanical plant and power operated tools;
- (q) scaffolding and scaffold boards including reasonable losses thereof where hired;
- (r) non-mechanical plant including hand tools; including their repair and sharpening;
- (s) transport including collection and disposal of rubbish and charges for tips and transportation of plant;
- (t) tarpaulins and dust sheets;
- (u) temporary roadways, shoring, planking and strutting, centring, hoardings etc, the extent applicable), temporary fans, temporary fencings, barriers footways, temporary partitions or the like;
- (v) fuel and consumables for plant and power-operated tools;
- (w) temporary buildings;
- (x) site welfare accommodation, protective clothing and other provisions for the welfare of persons engaged on the work and authorised visitors;
- (y) temporary plumbing, drainage, mechanical, electrical and gas installations for Contractor's facilities;
- (z) the provision of protection for any work comprising the relevant Variation Order;
- (aa) the provision of health and safety measures necessary to comply with the Statutory Requirements and good industry practice;
- (bb) erection, dismantling and maintenance of mechanical plant;
- (cc) builders clean in progress and on completion of the Works or part thereof as required by the Engineer;
- (dd) regular cleaning and maintenance of all site accommodation and temporary facilities;
- (ee) mechanical plant spares and consumables;
- (ff) Contractor's site staff salaries and eligible expenses;
- (gg) all Contractor's site management costs and expenses, including all Contractor's construction management staff related costs;
- (hh) Temporary waste and sewage treatment plant for Contractor's facilities;
- (ii) site running costs;
- (jj) Cost of food including canteen and kitchen facility;
- (kk) mobilisation and de-mobilisation costs in relation to site facilities, equipment and vehicles;
- (ll) vehicles, pick-ups, lorries;

(mm) travel expenses and cost of visas and permits for staff and labour;

(nn) rental equipment; and

(oo) temporary power generators and fuel

"Prime Cost" means the Contractor's cost excluding Preliminaries and the Contractor's Design Cost.

Part 4

Cost Reimbursable subject to a Target Cost.

1. COST REIMBURSABLE SUBJECT TO TARGET COST

- 1.1 Where the basis of paying for the Variation Order is to be by way of reimbursement of the Contractor's Cost and subject to a Target Cost this Part 4 of schedule 10 shall apply.

2. DEFINITIONS AND INTERPRETATION

- 2.1 For the purposes of this Part 4 of schedule 10 and wherever a Variation Order is implemented on a cost reimbursable basis and is the subject of a Target Cost the following defined terms shall have the meanings set out below:

"Cost" shall have the meaning given to it in Part 3 of schedule 10;

"Fee" shall have the meaning given to it Part of 3 of schedule 10;

"Target Cost" shall be the amount calculated and agreed pursuant to paragraph 4 of this Part 4 of schedule 10.

3. INCORPORATION OF COST REIMBURSABLE MECHANISM

- 3.1 The provisions of paragraphs 4.2 and 4.3 of Part 3 of this schedule 10 shall apply to this Part 4 mutatis mutandis.

4. CALCULATION OF TARGET COST

- 4.1 On receipt of a Variation Order proposed by the Employer which is to be priced by way of cost reimbursement subject to a Target Cost, the Contractor shall prepare a pricing summary setting out the Target Cost within which it expects to be able to deliver the Variation Order. The Parties shall meet to discuss the content of the Contractor's pricing summary with a view to agreeing the Target Cost for the purposes of the relevant Variation Order and any figure so agreed shall be the Target Cost for the relevant Variation Order for the purposes of this Part 4 of schedule 10.

5. COST FORECASTING

- 5.1 The Contractor shall prepare a cost forecast in a format to be approved by the Employer, based upon the programme for the Variation Order. The cost forecast is to be updated by agreement with the Employer and at every revision to the programme for the Variation Order, and shall be reviewed and resubmitted by the Contractor at least every month.

6. APPLICATIONS FOR PAYMENT OF COST PROPERLY INCURRED

- 6.1 Subject to paragraph 8 of this Part 4 of schedule 10, the Contractor may as a separate line item include within a Contractor's Payment Request issued pursuant to clause 22 (Terms of Payment) all items of Cost reasonably and properly incurred in connection with the implementation of a Variation Order and Fee with a detailed breakdown as to the make-up of such Costs (in accordance with and subject to the provisions of Part 3 of schedule 10).

7. PAINSHARE OF TARGET COST OVERRUNS

- 7.1 In the event the Cost plus Fee incurred by the Contractor in connection with a Variation Order exceeds the Target Cost for that Variation Order, the Employer shall be entitled to deduct from the part of the Contractor's application which exceeds the Target Cost (the **"Target Cost Overrun"**) an amount equal to 50 per cent of the Target Cost Overrun (as

set out in the table below) and the Contractor shall no longer be entitled to claim any entitlement to Fee in respect of such Target Cost Overrun.

8. **GAINSHARE OF TARGET COST UNDERSPEND**

- 8.1 In the event the actual Cost plus Fee incurred by the Contractor in connection with a completed Variation Order is less than the Target Cost for that Variation Order (such amount being a "**Target Cost Underspend**") the Contractor shall be entitled to include in the next applicable Contractor Payment Notice a claim for an amount equal to 50 per cent of the Target Cost Underspend.

SCHEDULE 11

Initial Scope of Escrow Information