



Contract Reference Number: **4600001859**

Date: 29 August 2007

**CONTRACT FOR THE SUPPLY OF LONDON WIDE
REMOVAL SERVICES (LWRS)**

between

TRANSPORT FOR LONDON (TfL)

and

ONTIME AUTOMOTIVE LTD

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THIS CONTRACT is made on the 29th day of August 2007

BETWEEN:

- (1) **TRANSPORT for LONDON**; a statutory corporation whose principal office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL contracting for itself and for each member of the TfL Group ("**the Authority**"); and
- (2) **ONTIME Automotive Limited**; a company registered in England and Wales (Company Registration Number [1494731]) whose registered office is at 2nd Floor, 63 Curzon Street, London W1J 8PD ("**the Service Provider**").

RECITALS:

- A. This is a contract for the provision of removal trucks, operational vehicle compounds, and the infrastructure and staff to run the operation as set out in the following document. This includes, but is not exclusive to, drivers, pound/support staff, customer service staff, cashiers and enforcement staff throughout London.
- B. The Authority wishes the Service Provider to provide the Services and the Service Provider is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

THE PARTIES AGREE THAT:

Definitions and Interpretation

In the Contract (including the Recitals):

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

"Assistant Contract Manager" the person appointed as Assistant Contract Manager by the Service Provider or, in the event of the Assistant Contract Manager's

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| | temporary absence from work, that person's deputy; |
| “Authority Account Details” | the Authority's relevant account code and cost centre as set out in Schedule 1; |
| “Authority Personal Data” | personal data processed by the Service Provider on behalf of the Authority; |
| “Best Value” | TfL's duty to ensure continuous improvement in the way in which its functions are exercised having regard to economy, efficiency and effectiveness as that duty is defined in the Local Government Act 1999, all subsidiary legislation and government guidance made there under and relevant technical releases of the Audit Commission; |
| “Business Day” | any day excluding Saturdays, Sundays or public or bank holidays in England; |
| “Bond” | a bond to be given by a bank or reputable insurance company in the form set out in Annexes 3 -6; |
| “Change in Law” | <p>the coming into effect after the date of this Contract of:</p> <p>(a) Legislation, other than any Legislation which on the date of this Contract has been published:</p> <p>(i) Legislation in a draft Bill as part of a Government Department Consultation Paper;</p> <p>(ii) Legislation in a Bill;</p> <p>(iii) Legislation in a draft statutory instrument; or</p> <p>(iv) Legislation published as a proposal in the Official Journal of the European Communities;</p> <p>(b) Any Guidance, or</p> <p>(c) Any applicable judgement of a relevant court of law which changes a binding precedent</p> |
| “Charges” | the charges payable by the Authority, in consideration of the due and proper performance of the services in accordance with the Contract, as specified in or |

calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 26.5 and/or Clause 30.1;

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| “Confidential Information” | all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority or any other member of the TfL Group (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority or any member of the TfL Group; |
| “Contract” | this contract, including the Schedules and all other documents referred to in this contract; |
| “Contract Manager” | the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority; |
| “Contract Commencement Date” | the date for commencement of the Contract specified in Schedule 1; |
| “Contract Reference Number” | the reference number for the Contract as set out in Schedule 1 and referred to in Clause 7; |
| “Data Subject” | has the meaning given to it by section 1(1) of the DPA; |
| “DPA” | the Data Protection Act 1998; |
| “Euro Compliant” | means that the software, electronic or magnetic media, hardware or computer system (whichever is applicable) is capable of, and will not require any replacement or changes in order to be capable of supporting the introduction of, changeover to, and operation of the Euro as a currency and in dual currency (Sterling and Euro) and will not manifest any material error nor suffer a diminution in performance or loss of functionality as a result of such introduction, changeover or operation and it shall (if applicable) be capable of processing transactions calculated in Euros separately from or in conjunction with other currencies |

and is capable of complying with any legislative changes relating to the Euro;

“Euro 5 Engine”

means that the entire fleet of the Service Provider must be at least Euro 4 and all vehicles provided as part of this fleet Euro 5. The fleet will be used, in part, to enforce London’s Low Emission Zone.

“Equipment”

any tangible, nonexpendable, personal property having a useful life of more than one year and a monetary value, for example fax machine, photocopier, personal computer, telephone, monitor, keyboard, mouse, desk

“Fellow Service Provider”

any third party which has contracted with TfL in relation to the performance or provision of services or works for or to or rights granted or licensed to TfL;

“Force Majeure Event”

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

“Guarantee”

a guarantee to be given by the Service Provider’s holding company in the form set out in Annexes1 -3

“Health and Safety Guidelines”

all rules, procedures and requirements concerning health and safety at work notified to the Service Provider by TfL from time to time;

“Holding Company”

any company which from time to time directly or indirectly controls the Service Provider where “control” is as defined by section 840 of the Income and Corporation Taxes Act 1988;

“Insolvency Event”

any of the following:

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

“Intellectual Property Rights”

any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other

intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

“Internal Audit”

the independent appraisal within TfL for the investigation and review of systems of control and the quality of performance of a service incorporating the examination

“Key Performance Indicators”

the indicators by which TfL’s levels of performance of the Services are to be measured as set out in the tender documents and as amended from time to time by the agreement of the Parties whether following a Best Value Review or otherwise;

“Key Personnel”

the Service Provider’s key personnel named in Schedule 1;

“Losses”

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

“Method Statements”

the Service Provider’s method statements and proposals for the improvement of the Services (including its policies, procedures, practices and manuals) and of performing the Services to the Performance Standard as submitted pursuant to TfL’s tender documents, the best and final offer and as approved by TfL and from time to time amended by the agreement of the Parties;

“Milestone”

an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;

“On Board Enforcement Officer”

this may be a Metropolitan Police Service Traffic Warden (TW), Transport Police Community Support Officer (PCSO),

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| | Community Support Officer or a Civilian Parking Attendant (PA). |
| “Parties” | the Authority and the Service Provider (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be; |
| “Performance Default” | any material failure by the Service Provider properly to perform all terms and conditions of the Contract including (without limitation) any material failure to perform the Services or any of them to the Specification; |
| “Procurement Manager” | the person named as such in Schedule 1 and referred to in Clause 7 or such other person as notified to the Service Provider by the Authority; |
| “Performance Review Meeting” | the regular meetings between both parties to manage the Service Provider’s performance under this Agreement. |
| “Performance Standard” | the standard to which the relevant part of the Services is to be performed as set out in the Specification; |
| “Personal Data” | has the meaning given to it by section 1(1) of the DPA; |
| “Processing” | has the meaning given to it by section 1(1) of the DPA and “Process” and “Processed” will be construed accordingly; |
| “Project Plan” | the plan (if any) for implementation and/or project delivery set out in Schedule 5, developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include Milestones; |
| “Quality and Environmental Management Systems” | the system of operating and controlling the performance of the Services adopted by the Service Provider under Schedule 7; |
| “Relevant Review Date” | such dates, which shall be at the discretion of TFL to review the Contract; |

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| “Required Date” | subject to any extension of time granted by the Authority to the Service Provider in accordance with this Contract, the date or dates on or by which each Milestone is required to be completed as set out in the Project Plan or, in the absence of any Milestones, the date or dates on or by which the Services are required to be provided as set out in the Project Plan; |
| “Review Period” | a period of 4 weeks which shall be such dates as used in TfL’s accounting periods |
| “Sensitive Personal Data” | has the meaning given to it by section 2 of the DPA; |
| “Service Commencement Date” | the date for commencement of the Services set out in Schedule 1; |
| “Service Provider Equipment” | the equipment and materials of whatsoever nature used by the Service Provider in providing the services in which title is not intended to pass to the Authority under the Contract; |
| “Service Provider’s Personnel” | all such employees, officers, suppliers, sub-contractors and agents of the Service Provider as are engaged in the performance of any of the Services and including the Key Personnel; |
| “Services” | <p>(a) subject to Clause 26.5 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under the Contract as detailed in the Specification including any variations to such services and/or activities pursuant to Clause 30; and</p> <p>(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;</p> |
| “Specification” | the specification and other requirements set out in Schedule 3; |

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| “Supervisory Personnel” | personnel performing a supervisory or managerial function; |
| “Term” | the period during which the Contract continues in force as provided in Clause 2 and Schedule 1; |
| “TfL” | Transport for London; a statutory corporation established under the Greater London Authority Act 1999; |
| “TfL’s Computer Software” | computer software relating to or for use in connection with the Services licensed or used from time to time by TfL in respect of TfL’s Computer System; |
| “TfL’s Computer System” | the computer system variously owned leased and/or operated by TfL either wholly or partially in connection with the provision of the Services; |
| “TfL Group” | TfL and all its subsidiaries (as defined in section 736 of the Companies Act 1985) from time to time together with Cross London Rail Links Limited (company number 04212657) and reference to any “member of the TfL Group” shall refer to TfL or any such subsidiary; |
| “TfL Premises” | any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the TfL Group (including for the avoidance of doubt the Authority); |
| “Variation” | a variation to the Contract made by notice by the Contract Manager to the Service Provider in accordance with Schedule 6 (Form for Variation); |
| “VAT” | value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature; and |
| “Warning Notice” | a notice served under Schedule 2 of this Contract; |

a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;

a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of the Contract;

a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;

headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;

references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;

in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:

1.1.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or

1.1.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 shall prevail;

the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;

the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and

the words "including", "includes" and "included" will be construed without limitation unless inconsistent with the context.

Commencement and Duration

The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 26.

The Services

The Service Provider:

- 1.1.3 shall provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;
- 1.1.4 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;
- 1.1.5 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and
- 1.1.6 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.

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

The Service Provider shall provide the Services:

- 1.1.7 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced Service Providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
 - 1.1.8 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification; and
 - 1.1.9 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner.
- 3.4 Where reasonably requested to do so by the Greater London Authority or any of its other functional bodies (currently, the London Development Agency, the Metropolitan Police, the London Fire and Emergency Planning Authority) and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member of the GLA Group on the terms of this Contract mutatis mutandis.

Charges

The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 5 and in consideration of, and subject to the due and proper performance of the Services by the Service Provider in accordance with the Contract, the Authority shall pay the

Service Provider the Charges in accordance with those procedures and with the other terms and conditions of the Contract.

The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 4 or have been incurred with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.

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

Payment Procedures and Approvals

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

1.1.10 where no Milestones are specified in Schedule 4, at such dates or at the end of such periods as may be specified in Schedule 1; or

1.1.11 if specified in Schedule 4, on completion of each Milestone provided that any preceding Milestones have been completed in accordance with the Contract,

and shall not make any separate charge for submitting any invoice.

The Service Provider shall submit invoices to the address set out in Schedule 1, each such invoice shall contain all information required by the Authority including the Contract Reference Number, Purchase Order number, the Service Provider's name and address, a separate calculation of VAT and a brief description of the Services provided.

In the event of a variation to the Services in accordance with the Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoices.

If the Authority considers that the Charges claimed by the Service Provider in any invoice have:

1.1.12 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1;

1.1.13 not been calculated correctly and/or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall work together to resolve the

error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.

No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall:

- 1.1.14 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under or by virtue of the Contract; or
- 1.1.15 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Service Provider by mistake of law or fact. Without prejudice to Clause 17, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt.

Warranties and Obligations

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

- 1.1.16 the Service Provider:
 - 1.1.16.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its holding company as defined in section 736 of the Companies Act 1985) to enter into and to perform the Contract; and
 - 1.1.16.2 is aware of the purposes for which the Services are required and acknowledges that the Authority is reliant upon the Service Provider's expertise and knowledge in the provision of the Services; and
 - 1.1.16.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;
- 1.1.17 the Contract is executed by a duly authorised representative of the Service Provider;
- 1.1.18 all materials, equipment and goods used or supplied by the Service Provider in connection with the Contract shall be of

satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and

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

Each warranty and obligation in this Clause 6 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.

Operational Management

The Authority authorises the Contract Manager to act as the Authority's representative for the Contract and the Service Provider shall deal with the Procurement Manager (or his or her nominated representative) in respect of all matters arising under the Contract, unless otherwise notified by the Authority save in respect of issues relating to variations to the Contract, any matter concerning the terms of the Contract and any financial matter (including the issues in Schedule 4) which shall be referred to the Procurement Manager.

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

Service Provider's Personnel

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

Nothing in this Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by the Service Provider under the Contract and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.

The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract.

Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to

such Service Provider's Personnel to any TfL Premises if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Contract and/or are otherwise incompetent, negligent, and/or guilty of misconduct and/or who could be a danger to any person and shall notify the Service Provider of such denial in writing; the Service Provider shall immediately remove such Service Provider's Personnel from performing the Services and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).

Notwithstanding Clause 8.1, the Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all liabilities, costs, expenses, injuries, direct or indirect, or consequential loss, damages, claims, demands, proceedings and legal costs (on a full indemnity basis) ("Losses") which the Authority or the TfL Group incur or suffer, whenever such Losses may arise or be brought by the Service Provider's Personnel or any person who may allege to be the same.

The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for the Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

Sub-Contracting and Change of Ownership

The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority identifying the relevant sub-contractor which may be refused or granted subject to such conditions as the Authority sees fit.

Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:

- 1.1.20 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
- 1.1.21 be responsible for payments to that person; and
- 1.1.22 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider.

The Service Provider shall:

- 1.1.23 not without the prior written consent of the Authority undergo any change in the ownership of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; and
- 1.1.24 give notice to the Authority in the event that there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company, such notice to be given within 10 Business Days of the date on which such change takes effect.

Conflict of Interest

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

The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the TfL Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 26.1.4.

Access to Premises

Subject to Clause 8.2 any access to any TfL Premises made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, that the Service Provider shall be responsible for its own costs or travel including any congestion charging. The Service Provider shall:

- 1.1.25 have the use of such TfL Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such TfL Premises;
- 1.1.26 vacate such TfL Premises upon the termination or expiry of the Contract or at such earlier date as the Authority may determine;

- 1.1.27 not exercise or purport to exercise any rights in respect of any TfL Premises in excess of those granted under this Clause 11.1;
- 1.1.28 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time; and
- 1.1.29 not damage the TfL Premises or any assets on the TfL Premises.

Nothing in this Clause 11 shall create or be deemed to create the relationship of landlord and tenant in respect of any TfL Premises between the Service Provider and any member of the TfL Group.

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

Compliance with Policies and Law

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

- 1.1.30 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, including the provisions set out in Schedule 7 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at TfL Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request;
- 1.1.31 shall provide the Services in compliance with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), by-laws, treaties and other regulatory requirements relevant to the Service Provider's business and/or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 12.1.2;
- 1.1.32 without limiting the generality of Clause 12.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

- 1.1.33 acknowledges that the Authority is under a duty under section 71 of the Race Relations Act 1976 and under section 49A of the Disability Discrimination Act 1995 to have due regard to the need to eliminate unlawful discrimination on the grounds of race or disability (as the case may be) and to promote equality of opportunity between persons of different racial groups and between disabled people and other people (as the case may be). In providing the Services, the Service Provider shall assist and cooperate with TfL and/or the Authority where possible in satisfying this duty;
- 1.1.34 acknowledges that TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
- 1.1.34.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - 1.1.34.2 eliminate unlawful discrimination; and
 - 1.1.34.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,
- and in providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable TfL to satisfy its duty;
- 1.1.35 without prejudice to any other provision of this Clause 12.1 or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 12.1.6, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004; and
- 1.1.36 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services.

In all cases, the costs of compliance with this Clause 12.1 shall be borne by the Service Provider.

Without prejudice to Clause 12.1, the Service Provider shall comply with the Authority's workplace harassment policy as updated from time to time (copies of which are available on request from the Authority) and with the Authority's Code of Conduct (which is available on the Authority's website, www.tfl.gov.uk).

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

- 1.1.37 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
- 1.1.38 enhance the environment and have regard to the desirability of achieving sustainable development;
- 1.1.39 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
- 1.1.40 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

Corrupt Gifts and Payment of Commission

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

Equipment

Risk in:

- 1.1.41 all Service Provider Equipment shall be with the Service Provider at all times; and
- 1.1.42 all other equipment and materials forming part of the Services (title to which will pass to the Authority) ("**Materials**") shall be with the Service Provider at all times until completion of the Services in accordance with the Contract regardless of whether or not the Service Provider's Equipment and Materials are located at TfL Premises:

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

Quality and Best Value

- 15.1 The Service Provider acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such TfL 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 , as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

Records, Audit and Inspection

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

- 1.1.43 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Service Provider's obligations under the Contract and all transactions entered into by the Service Provider for the purposes of the Contract (including time-sheets for the Service Provider's Personnel where such records are material to the calculation of the Charges) ("**Records**");
- 1.1.44 retain all Records during the Term and for a period of not less than 6 years (or such longer period as may be required by law) following termination or expiry of the Contract ("**Retention Period**").

The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services and the Service Provider shall give all reasonable assistance to the Authority or its nominee in conducting such inspection, including making available documents and staff for interview.

Set-Off

The Authority will be entitled but not obliged at any time or times to set off any liability of the Service Provider to the Authority against any liability of the Authority to the Service Provider.

Indemnity

Subject to Clause 18.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless the Authority and the other members of the TfL Group (including their respective employees, sub-contractors and agents) ("**the Indemnified Party**") against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of the Contract by the Service Provider (or any of its

employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees or sub-contractors).

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

Insurance

The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of £5 million per claim (in terms approved by the Authority) in respect of the following to cover the Services ("**the Insurances**") and will ensure that the Authority's interest is noted on each and every policy:

- 1.1.45 public liability to cover injury and loss to third parties;
- 1.1.46 insurance to cover the loss or damage to any item related to the Services;
- 1.1.47 product liability; and
- 1.1.48 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the product liability insurance referred to in Clause 19.1.3.

The insurance cover will be maintained with a reputable insurer.

The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 19.1 and payment of all premiums due on each policy.

The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 19.1 being or becoming void, voidable or unenforceable.

The Authority's Data

The Service Provider acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority's data. The Service Provider shall not delete or remove any copyright notices contained within or relating to the Authority's data.

The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.

Intellectual Property Rights and London 2012

The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by or on behalf of the Service Provider in the provision of the Services ("**the Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.

The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.

1.2 The Service Provider shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other intellectual property rights of the Authority.

1.3 The Service Provider shall not (without the prior written approval of the London Organising Committee of the Olympic Games Limited ("LOCOG") in each case) represent that any products or Services provided under the Contract have been endorsed or approved by the Authority, the British Olympic Association, the British Paralympic Association, LOCOG or any other official Olympic or Paralympic body, or that the Service Provider (including any of its products or services) are in any way associated with those organisations, the Olympic Games and/or Paralympic Games, or London 2012, including by publishing or issuing any statement (factual or otherwise) about the Service Provider's provision of the products or Services to the Authority.

Protection of Personal Data

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

Confidentiality and Announcements

Subject to Clause 24, each Party will keep confidential:

- 1.3.1 the terms of this contract; and
- 1.3.2 any and all Confidential Information that it may acquire in relation to the other party.

Neither Party will use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement. Each Party will ensure that its officers and employees comply with the provisions of Clause 23.1.

The obligations on a Party set out in Clause 23.1 will not apply to any Confidential Information which:

- 1.3.3 either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 23); or
- 1.3.4 a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure.

The provisions of this Clause 23 will survive any termination of this Agreement for a period of 5 years from termination.

Freedom of Information

For the purposes of this Clause 24:

- 1.3.5 **"FOI Legislation"** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;
- 1.3.6 **"Information"** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and
- 1.3.7 **"Information Request"** means a request for any Information under the FOI Legislation.

The Service Provider acknowledges that the Authority:

- 1.3.8 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and
- 1.3.9 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Service Provider.

Without prejudice to the generality of Clause 24.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

- 1.3.10 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Request relevant to the Contract, the Services or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within 2 Business Days of receiving such Information Request; and
- 1.3.11 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and/or copies of all such Information that the Authority requests and such details and/or copies shall be provided within 5 Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

The Authority shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Service Provider shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

Dispute Resolution

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

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

If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, either Party may propose by notice to the other Party ("**Notice**") that a structured mediation or negotiation be entered into with the assistance of a mediator.

If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.

Where a dispute is referred to mediation under Clause 25.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.

If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.

If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 38.

For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 25.

Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 25 and Clause 25 shall not apply in respect of any circumstances where such remedies are sought.

Breach and Termination of Contract

Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Service Provider if:

1.3.12 except as provided in and without prejudice to Clauses 26.1.3, the Service Provider has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied; or

1.3.13 the Service Provider is subject to an Insolvency Event; or

1.3.14 the Service Provider is in breach of Clause 9.3; or

1.3.15 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 10; or

1.3.16 the Service Provider commits any of the money laundering related offences listed in the Public Contract Regulations 2006.

Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties and/or obligations under Clause 6

and/or any of its other obligations in respect of the Services under the Contract, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this Clause 26.2 shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.

Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 26.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.

Without prejudice to the Authority's right to terminate the Contract under Clause 26.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 26.4 may be disapplied by notice to that effect in Schedule 1.

To the extent that the Authority has a right to terminate the Contract under this Clause 26 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

Consequences of Termination or Expiry

Notwithstanding the provisions of Clause 23, wherever the Authority chooses to put out to tender for a replacement Service Provider some or all of

the Services, the Service Provider shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.

The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.

Upon expiry or termination of the Contract (howsoever caused):

1.3.17 the Service Provider shall, at no further cost to the Authority:

1.3.17.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover;

1.3.17.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.

1.3.18 the Authority shall (subject to Clauses 17, 27.1 and 27.4 and the provisions of any security for due performance supplied by the Service Provider) pay the Service Provider any Charges remaining due in relation to any Services properly performed in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.

On termination of the Contract under Clause 26.1 or a cessation of any Services under Clause 26.4 (but in the case of the latter only insofar as the right to cease any Services arises as a result of a right for the Authority to terminate under Clause 26.1), the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and the Service Provider shall be liable for all additional expenditure reasonably incurred by the Authority in having such services carried out and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Charges or otherwise recover such costs from the Service Provider as a debt.

Survival

The provisions of Clauses 1, 3.1.3, 4, 5, 6.1.4, 8.1, 9.2.2, 9.2.3, 11.1.1, 11.1.2, 11.1.5, 11.2, 14, 16-20 (inclusive), 21.2, 22-25 (inclusive), 27-30 (inclusive), 32-38 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

Rights of Third Parties

Save that any member of the TfL Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.

Notwithstanding Clause 29.1, the Parties are entitled to vary or rescind the Contract without the consent of any or all members of the TfL Group.

Contract Variation

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

Novation

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

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

Subject to Clause 9, the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

Non-Waiver of Rights

No waiver of any of the provisions of the Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 34. The single or

partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

Illegality and Severability

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

Notices

Subject to Clause 34.2, any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other party in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- 1.4 if delivered by hand, at the time of delivery;
- 1.5 if delivered by post, 48 hours after being posted or in the case of Airmail 14 days (excluding Saturdays, Sundays and public holidays) after being posted; or
- 1.6 if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.

Entire Agreement

Subject to Clause 35.2:

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

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

Nothing in this Clause 35 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

Relationship of the Parties

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

Further Assurance

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

Governing Law

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

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

Signed by
for and on behalf of
The Authority

)
)
)

Signature

Print name and position

Date:

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

)
)
)

Signature

Print name and position

Date:

SCHEDULE 1 - KEY CONTRACT INFORMATION

1. **Contract Reference Number:** 4600001859

2. **Name of Service Provider:** Ontime Automotive Ltd

3. **Commencement:**

(a) **Contract Commencement Date:** 29th August 2007

[Information Redacted]

4. **Duration/Expiry Date:** 30th June 2013
There is an option to extend the contract for up to a further 18 months

5. **Payment Period (see Clause 5.1):**
The payment period shall be 4-weekly from Service Commencement Date and will be on a pro rata basis with dates to coincide with TfL's accounting period dates.

6. **Address where invoices shall be sent:**

Financial Services Centre
Transport for London
24th Floor Empress State 55 Lillie Road
Earl's Court, London
SW6 1TR

7. **Time for payment where not 30 days (see Clause 5):**

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

Name: Mr Kenny Folami
Address: 1st Floor , Kings Building
16 Smith Square
London SW1P 3HQ
Tel: 020 7126 2741
Fax: 0207 126 2541
Email: xxxxx.xxxxxx@xxx.xxx.xx

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

Name: Clive Edwards
Address: Procurement Dept
3rd Floor, 172 Buckingham Palace Road
London SW1W 9TN
Tel: 020 7027 5595
Fax: 020 7918 3927
Email: xxxxx.xxxxxxx@xxx.xxx.xx

[Information Redacted]

11. Notice period in accordance with Clause 26.4 (termination without cause): 90 days

12. Address for service of notices and other documents in accordance with Clause 34:

For the Authority:

Name: Mr Clive Edwards
Address: Procurement Dept
3rd Floor, 172 Buckingham Palace Road
London SW1W 9TN

9. Office facilities to be provided to the Service Provider in accordance with Clause 11.3:
Not applicable

[Information Redacted]

[Information Redacted]

[Information Redacted]

SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT

A1 DATA PROTECTION

- A1.1 Without prejudice to the generality of Clause 22, the Service Provider shall:
- A1.1.1 take appropriate technical and organisational security measures, that are satisfactory to the Authority, against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Personal Data;
 - A1.1.2 provide the Authority with such information as it may from time to time require to satisfy itself of compliance by the Service Provider with Clause A1.1.1;
 - A1.1.3 co-operate with the Authority in complying with any subject access request made by any Data Subject pursuant to the DPA and/or responding to any enquiry made or investigation or assessment of Processing initiated by the Information Commissioner in respect of any Authority Personal Data;
 - A1.1.4 when notified by the Authority, comply with any agreement between the Authority and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any Authority Personal Data;
 - A1.1.5 take reasonable steps to ensure the reliability of personnel having access to Authority Personal Data and to ensure that such personnel are fully aware of the measures to be taken and the Service Provider's obligations under this Clause A1 when Processing Authority Personal Data; and
 - A1.1.6 not Process any Authority Personal Data outside the European Economic Area (or any country deemed adequate by the Commission pursuant to Article 25(6) Directive 95/46/EC) without the Authority's prior written consent.
- A1.2 When the Service Provider receives a written request from the Authority for information about, or a copy of, Authority Personal Data, the Service Provider shall supply such information or data to the Authority within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within 10 Business Days from the date of the request.

A1.3 The Authority remains solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed. The Service Provider shall not share any Authority Personal Data with any sub-contractor or third party unless there is a written contract in place with the Authority which requires the sub-contractor or third party to:

A1.3.1 only Process Authority Personal Data in accordance with the Authority's instructions to the Service Provider; and

A1.3.2 comply with the same obligations with which the Service Provider is required to comply with under this Clause A1.

A1.4 Details of the Personal Data to be Processed by the Service Provider and the purposes of such Processing are as follows:

1. Data Subjects

The Personal Data to be Processed by the Service Provider (if any) concerns the following categories of Data Subjects:

Customer data

2. Categories of Data

The Personal Data to be Processed concerns the following categories of data:

Names, addresses, telephone numbers, vehicle details, details of previous and current offences, payment records

3. Purposes of the Processing

The Personal Data is to be Processed for the following purposes:

Compliance with the statutory regulation in regard to discharging TfL's duties in relation to parking, traffic and other enforcement activities.

4. Manner of Processing

The Personal Data is to be Processed in the following manner:

Manual and/or computerised

5. Sensitive Personal Data

The Personal Data concerns the following categories of Sensitive Personal Data (if any):

None

6. Recipients

The Personal Data may only be disclosed to the following recipients or categories of recipients within the Service Provider's organisation:

Contract management, cashiering and supervisory staff.

7. Onward Transfers

The Personal Data may only be shared with the following recipients or categories of recipients outside the Service Provider's organisation:

Authorised TfL staff

A3 PERSONNEL MANAGEMENT AND TRAINING

A3.1 The Service Provider shall provide the Key Personnel and shall procure that they:

A3.1.1 diligently supervise the performance of the Services;

A3.1.2 attend all contract meetings with the Authority (the location, frequency and time of which shall be specified by the Authority from time to time); and

A3.1.3 be available to the Authority to resolve any issues arising in connection with the Contract at such time period as is specified in Schedule 1.

A3.2 The Service Provider may only make any changes to the Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of the Procurement Manager (which shall not be unreasonably withheld).

A3.3 The Service Provider:

A3.3.1 without prejudice to Clause 8.2 undertakes that all the Service Provider's Personnel possess the appropriate skills, qualifications and experience to perform the tasks assigned to them, and that they shall be available at such times as are necessary to perform the Services in accordance with the Contract;

A3.3.2 shall ensure that all the Service Provider's Personnel are in possession of valid work permits if they are non-European Community nationals; and

A3.3.3 subject to Clause A3.5 shall (at its expense) provide or procure the provision of training for the Service Provider's

Personnel in respect of all aspects of its performance of the Contract and, as the Authority may require, for any employees, agents and contractors of the Authority in relation to the operation or use of any equipment supplied under the Contract in accordance with the terms set out in Schedule 1.

A3.4 Without prejudice to the Service Provider's other obligations under the Contract, where training of any or all of the Service Provider's Personnel is required for the purposes of performance of the Contract, the Service Provider shall not assign any Service Provider's Personnel to the performance of the Contract unless and until such Service Provider's Personnel have satisfactorily completed such training.

A3.5 The Authority will arrange (at its expense) safety training (as referred to in Schedule 1) for those of the Service Provider's Personnel identified at the Service Commencement Date (if any) but, for the avoidance of doubt, such safety training in respect of any other Service Provider Personnel will be arranged by and be at the expense of the Service Provider. For the avoidance of doubt, the Authority will not be responsible for the remuneration, travel, subsistence or other similar costs and expenses of any of the Service Provider Personnel attending any training under this Clause A3.5.

A4 SECURITY AND GUARANTEES

A4.1 As a condition precedent to the Contract, the Service Provider shall (to the extent that it has not already done so) provide at its expense:

A4.1.1 a parent company guarantee (from such Holding Company as the Authority may require unless otherwise agreed with the Authority) and, if requested by the Authority, a legal opinion as to its enforceability; and/or

A4.1.2 a performance bond, together with a legal opinion as to its enforceability;

each as may be set out in the Appendices to this Contract (for the avoidance of doubt, if no such appendices are included, no such guarantee, bond or legal opinion is required).

A4.2 The Authority shall not be obliged to make any payment to the Service Provider under the Contract whether for the Charges or otherwise unless and until the parent company guarantee and/or performance bond (as the case may be) (and legal opinion if applicable) have been provided in a form satisfactory to the Authority.

A4.3 The Service Provider shall be regarded as being in material breach of the Contract which is incapable of remedy in the event that any parent company guarantee and/or performance bond (as the case may be) is or becomes invalid or otherwise unenforceable.

- A4.4 Where the Service Provider has provided the Authority with a performance bond and thereafter any variation is made to the Services under Clause 30, the Authority may in its discretion require the Service Provider to provide at its expense a replacement performance bond for a greater sum where such variation either alone or when aggregated with any other variations has resulted in a material increase to the value of the Contract to the Authority.

A7 FURTHER INSURANCE REQUIREMENTS

- A7.1 Without prejudice to Clauses 18 and 19 or any other provision of the Contract, the Service Provider shall comply with the provisions of this Clause A7.

- A7.2 Where the Insurances contain a care, custody or control exclusion, the relevant policy shall be endorsed so as to delete the exclusion in respect of any Third Party Vehicles (including contents), TfL Premises (including contents) that are occupied by the Service Provider for the purpose of performing the Services.

- A7.3 The Service Provider shall:

A7.3.1 if required by the Authority, use all reasonable endeavours to procure that its public liability insurance extends to indemnify the Authority as principal;

A7.3.2 where any Insurance is due for renewal during the Term, the Service Provider shall within 5 Business Days of the date of renewal also provide the Authority with satisfactory evidence that such Insurance has been renewed;

A7.3.3 if required by the Authority, procure that prior to cancelling or changing any term of any Insurances, the insurer or insurers under such Insurances give the Authority not less than 30 days' notice of intention to cancel or make such change;

A7.3.4 bear the cost of all or any excesses under the Insurances;

A7.3.5 not take or shall not fail to take any action or (insofar as it is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances;

A7.3.6 notify the Authority as soon as reasonably practicable in writing of any anticipated or actual event or circumstance which may lead or has led to any Insurance lapsing or being terminated or the cover under it being reduced or modified;

A7.3.7 notify the Authority as soon as reasonably practicable in writing upon becoming aware of any claim, event or

circumstance which is likely to give rise to any claim or claims in aggregate in respect of the Services in excess of £20,000 on any Insurance and, if requested by the Authority and where not otherwise subject to an obligation of confidentiality, provide full details of such claim, event or circumstance (and such other relevant information as the Authority may reasonably require) within 3 Business Days of the Authority's request;

A7.3.8 subject to Clause A7.4.1, promptly and diligently deal with all claims under the Insurances (or any of them) relating to the Services and in accordance with all insurer requirements and recommendations; and

A7.3.9 in relation to any claim settled under the Insurances in respect of the Services, and to the extent that the proceeds of such claim are payable to the Service Provider, pay the proceeds to the person who suffered the loss or damage that gave rise to the claim (whether the Authority, any member of the TfL Group or any third party).

A7.4 In relation to all the Insurances except employer's liability insurance, but subject to the requirements of any insurer under the Insurances, the Service Provider agrees:

A7.4.1 to use all reasonable endeavours to procure the endorsement in respect of the Insurances set out in Schedule 1 (if any);

A7.4.2 that the Authority has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with the Contract.

A7.5 If the Service Provider is in breach of Clause 19 or this Clause A7, then without prejudice to any of its other rights, powers or remedies, the Authority may pay any premiums required to keep any of the Insurances in force or itself procure such Insurances. In either case, the Authority may recover such premiums from the Service Provider, together with all expenses incurred in procuring such Insurances as a debt.

A8 FURTHER INTELLECTUAL PROPERTY REQUIREMENTS

A8.1 The Service Provider shall procure that all the Service Provider's Personnel performing the Services (or part of them) contract with the Service Provider that any Intellectual Property Rights arising out of or relating to work done by those persons pursuant to the Contract shall be assigned with full title guarantee to the Authority and that those persons shall have no title, rights or interests whether legal or beneficial in any of such Intellectual Property Rights and, in relation to

any copyright work created, that all moral rights shall be waived by the creator.

- A8.2 If, and to the extent that, the Products consist of or include copyright work authored by the Service Provider or any other person, being work not prepared or developed for the purposes of the Contract, then, notwithstanding Clause 21.1, title to the copyright in such work shall not vest in the Authority.
- A8.3 The Service Provider grants or undertakes to procure the grant to the Authority free of charge of a perpetual, irrevocable, transferable, world-wide and royalty-free licence to reproduce and to use any work of the type referred to in Clause A8.2 and every part of it in any manner.
- A8.4 As between the Authority and the Service Provider Intellectual Property Rights in all documentation and other items supplied by the Authority to the Service Provider in connection with the Contract shall remain the property of the Authority.
- A8.5 The Authority grants to the Service Provider a non-exclusive, non-transferable licence to use all the Intellectual Property Rights owned (or capable of being so licensed) by the Authority required by the Service Provider or any of its the Service Provider's Personnel to provide the Services. Any such licence is granted for the Term solely to enable the Service Provider to comply with its obligations under the Contract.

A9 INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

- A9.1 The Service Provider shall:
 - A9.1.1 promptly notify the Authority upon becoming aware of an infringement or alleged infringement or potential infringement of any Intellectual Property Right which affects or may affect the provision or receipt of the Services or if any claim or demand is made or action brought for infringement or alleged infringement of any Intellectual Property Right; and
 - A9.1.2 indemnify, keep indemnified and hold harmless the Authority from and against all actions, claims, demands, costs, charges or expenses (including legal costs on a full indemnity basis) that arise from or are incurred by the Authority by reason of any infringement or alleged infringement of any Intellectual Property Rights of any person arising out of the use by the Authority of the Products (or any of them) or anything arising from the provision of the Services and from and against all costs and damages of any kind which the Authority may incur in

or in connection with any actual or threatened proceedings before any court or arbitrator.

A9.2 The Authority shall, at the request of the Service Provider, give the Service Provider all reasonable assistance for the purpose of the Service Provider contesting any such claim, demand, or action referred to in Clause A9.1.1 and the Service Provider shall:

A9.2.1 reimburse the Authority for all costs and expenses (including legal costs) incurred in doing so;

A9.2.2 conduct at its own expense all litigation and/or negotiations (if any) arising from such claim, demand or action; and

A9.2.3 consult with the Authority in respect of the conduct of any claim, demand or action and keep the Authority regularly and fully informed as to the progress of such claim, demand or action.

A9.3 If a claim or demand is made or action brought to which Clause A9.1 applies or in the reasonable opinion of the Service Provider is likely to be made or brought, the Service Provider may, after consultation with the Authority, at its own expense and within a reasonable time, modify or substitute any or all of the Products (as defined in Clause A8.1) so as to avoid the infringement or the alleged infringement, provided that the terms of the Contract shall apply mutatis mutandis to such modified or substituted Products and such Products are accepted by the Authority.

A10 FURTHER CONFIDENTIALITY REQUIREMENTS

A10.1 The Service Provider shall:

A10.1.1 at the Authority's request and in any event upon the termination or expiry of the Contract, promptly deliver to the Authority or destroy as the Authority may direct all documents and other materials in the possession, custody or control of the Service Provider (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the Authority in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks; and

A10.1.2 not, except where provided in Clause 23 or with the prior written consent of the Authority, disclose to any person the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information.

A10.2 The Service Provider acknowledges that damages would not be an adequate remedy for any breach of Clause 23 or A10 and that (without prejudice to all other rights, powers and remedies which the Authority may be entitled to as a matter of law) the Authority shall be entitled to the remedies of injunction, specific performance and other equitable relief to enforce the provisions of Clauses 23 and A10 and no proof of special damages shall be necessary for the enforcement of the provisions of Clauses 23 and A10.

A10.3 The Service Provider shall not advertise or announce the existence of the Contract or that it is providing the Services to the Authority without the prior written consent of the Authority and the Authority shall have the right to approve any advertisement or announcement before it is made.

A11 EURO - CONTINUITY OF CONTRACT

A11.1 The Parties confirm that the occurrence or non-occurrence of an event associated with economic and monetary union in the European Union will not have the effect of altering any term of, or discharging or excusing performance under the Contract or any transaction, or give either Party the right unilaterally to alter or terminate the Contract or any transaction.

A11.2 The words “an event associated with economic and monetary union in the European Union” will include each and any combination of the following:

A11.2.1 the introduction of, changeover to or operation of a single or unified European currency (whether known as the Euro or otherwise);

A11.2.2 the fixing of conversion rates between a member state's currency and the new currency or between the currencies of member states;

A11.2.3 the introduction of that new currency as lawful currency in a member state;

A11.2.4 the withdrawal from legal tender of any currency which, before the introduction of the new currency, was lawful currency in one of the member states;

A11.2.5 the disappearance or replacement of a relevant rate option or other price source for the national currency of any member state, or the failure of the agreed sponsor (or successor sponsor) to publish or display a relevant rate, index, price, page or screen; or

A11.2.6 the withdrawal of any member state from a single or unified European currency.

A16 STEP-IN

A16.1 If the Authority reasonably believes that it needs to take action in connection with the Service:

A16.1.1 because a serious risk exists to the health or safety of persons or property or to the environment; and/or

A16.1.2 to discharge a statutory duty,

then the following provisions shall apply.

A16.2 The Authority shall notify the Service Provider in writing of the following:

A16.2.1 the action it wishes to take;

A16.2.2 the reason for such action;

A16.2.3 the date it wishes to commence such action;

A16.2.4 the time period which it believes will be necessary for such action; and

A16.2.5 to the extent practicable, the effect on the Service Provider and its obligations to provide the Services during the period such action is being taken.

A16.3 Following service of such notice, the Authority or a third party appointed by the Authority for the purpose shall take such action as is notified under these provisions and any consequential additional action as the Authority reasonably believes is necessary (the “**Required Action**”) and the Service Provider shall give all reasonable assistance to the Authority or such third party while it is taking such the Required Action (such assistance to be at the expense of the Authority).

A16.4 For so long as and to the extent that the Required Action is taken, and this prevents the Service Provider from providing any part of the Service, the Service Provider shall be relieved from its obligations to provide such part of the Service and the Authority shall not be liable to pay Charges for such part of the Service (except to the extent that the Authority shall pay the Service Provider for the assistance it provides in accordance with Clause A16.3).

A17 ADJUSTMENT TO CHARGES (INDEXATION)

A17.1 In this Clause A17, “RPI” shall mean the Retail Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree.

A17.2 On and with effect from each anniversary of the Service Commencement Date, the Charges shall be adjusted upwards or downwards (as the case may be) by the amount of the change (if any)

in RPI between its rate last published (as final) immediately before such anniversary and its rate published (as final) twelve months before that.

A21 ALTERNATIVE OPERATIONAL MANAGEMENT REQUIREMENTS

Clause 7.1 shall not be used and is replaced with the following:

A21.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract and the Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract unless otherwise notified by the Authority save in respect of issues relating to variations to the terms and conditions in the Contract (including extensions of contract) which shall be referred to the Procurement Manager.

A23 TRANSFER OF EMPLOYEES TO SERVICE PROVIDER

A23.1 Clause 8.1 shall not be used and is replaced with the following.

A23.2 For the purposes of this Clause:

A23.2.1 Not used

A23.2.2 "**Current Service Provider**" means provider of services substantially similar to the Services immediately before the Service Commencement Date (which may or may not be the Authority);

A23.2.3 "**Employment Costs**" means wages, holiday pay, employment benefit, costs, redundancy costs and unfair dismissal costs and awards in respect of all Transferring Staff;

A23.2.4 "**Further Transfer Date**" means the date of the transfer of employment of the Re-Transferring Personnel from the Service Provider to the Authority or any Replacement Service Provider;

A23.2.5 "**Regulations**" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended;

A23.2.6 "**Replacement Service Provider**" means any replacement supplier or provider to the Authority of the Contract (or any part of it);

A23.2.7 "**Re-Transferring Personnel**" means any Service Provider's Personnel who:

- (a) will transfer to the employment of either the Authority or the Replacement Service Provider pursuant to the Regulations; or

(b) accepts an offer of employment from the Authority or a Replacement Provider (as appropriate)

upon the expiration or termination (in whole or in part) of this Contract;

A23.2.8 **“Statement of Practice”** means the Cabinet Office’s Statement of Practice, “Staff Transfers in the Public Sector” (January 2000) as amended from time to time;

A23.2.9 **“Transfer of Provision”**; means the transfer of the provision of the Services from the provision by the Current Service Provider to the provision by the Service Provider;

A23.2.10 **“Transferring Staff”** means such employees as are named in an Appendix to this Contract.

A23.3 It is understood and acknowledged by the Parties that the Regulations apply to the Transfer of Provision and accordingly, pursuant to the Regulations, the contracts of employment between the Current Service Provider and the Transferring Staff will have effect from the 29th October 2007 as if originally made between the Service Provider and the Transferring Staff (except in relation to occupational pension scheme benefits excluded under Regulation 10 of the Regulations which will be subject to the provisions of Clause A23.4.

A23.4 The Service Provider will provide the Transferring Staff with access to the Ontime Automotive Group Personal Pension Plan and will contribute a contribution to match the employees contribution up to a maximum of 6% of salary with effect from the Contract Commencement Date

A23.5 All Employment Costs in respect of the period:

A23.5.1 up to the Contract Commencement Date (whether or not due for payment at that date) will be the responsibility of the Current Service Provider; and

A23.5.2 on and after the Commencement Date will be the responsibility of the Service Provider,

and will, if necessary, be apportioned on a time basis between the Current Service Provider and the Service Provider.

A23.6 Not Used

A23.7 The Service Provider will indemnify, keep indemnified and hold harmless the Authority from and against all costs (including the costs

of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include ,without limitation, pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and legal costs (on a full indemnity basis) which the Authority incurs or suffers arising out of or in connection with:

- A23.7.1 any act or omission by or on behalf of the Service Provider in respect of any person employed or engaged by it including, on or after the Contract Commencement Date, the Transferring Staff;
 - A23.7.2 any claim brought or other action taken by or on behalf of any of the Transferring Staff which arises from or in connection with (directly or indirectly) any act or omission and/or, communication made to the Transferring Staff before the Contract Commencement Date by, on behalf of and/or at the instruction of the Service Provider;
 - A23.7.3 any failure by the Service Provider to provide sufficient information to the Current Service Provider to enable it to comply with its information and consultation obligations under the Regulations;
 - A23.7.4 the employment or termination of employment by the Service Provider of any Transferring Staff (whether or not terminated by notice and, if so terminated, whenever that notice expires) on or from the Contract Commencement Date; and/or
 - A23.7.5 any actual, proposed or anticipated changes made by the Service Provider to the terms and conditions of employment of any of the Transferring Staff which are or are alleged to be to the detriment of any of the Transferring Staff.
- A23.8 The Service Provider will provide the Current Service Provider, as soon as practicable, but in any event in good time before the Contract Commencement Date with all information which the Current Service Provider may reasonably require to enable it to comply with its information and consultation obligations under the Regulations.
- A23.9 The Service Provider warrants and undertakes to the Authority that all information given to the Authority regarding the Transferring Staff and any measures it proposes to take in relation to them is and will be full and accurate in all respects.
- A23.10 Promptly when requested by the Authority (but not more than [twice] in any year) and not more than 7 days after the date of any notice to

terminate this Agreement given by either party for any reason whatsoever, provide and use its best endeavours to procure that any relevant subcontractor provides the following information to the Authority

- A23.10.1 a list of current Service Providers Personnel and subcontractors (each identified as such in the list) (the “**Staff List**”);
- A23.10.2 all material terms and conditions relating to the employment or engagement of the persons listed on the Staff List;
- A23.10.3 written job descriptions of the persons listed on the Staff List;
- A23.10.4 all other information which the Service Provider or subcontractors knows or ought to know about its or their rights, powers, duties and liabilities under or in connection with the contracts of employment of the persons listed on the Staff List including without limitation their job titles, grades or seniority, dates of commencement of continuous employment, remuneration (salary and benefits) and pension rights; and
- A23.10.5 in the situation where [notice to terminate this Agreement has been given](#), a list of all persons who are engaged or have been engaged during the preceding six months in the provision of the Contract, whom the Service Provider considers will not transfer under the Regulations for any reason whatsoever together with details of their role and a full explanation of why the Service Provider thinks such persons will not transfer,

such information together being the “**Staffing Information**”.

- A23.11 The Service Provider will notify the Authority in as much detail as possible as soon as practicable and in any event within 5 days of the Service Provider becoming aware of any additional or new Staffing Information and/or any changes to any Staffing Information already provided.
- A23.12 The Service Provider warrants to the Authority that any Staffing Information which supplies (including any copies of it) is complete and accurate in all respects and will be kept complete and accurate.
- A23.13 Subject to Clause A23.14, the Service Provider will provide the Authority with a final Staff List (“the **Final Staff List**”) not less than 14 days before the date of expiry or earlier termination of the Contract.

A23.14 If the Contract is terminated by either party in accordance with **Clause 26.1** or by the Authority in accordance with **Clause 26.1 or 26.2** then the Final Staff List will be provided by the Service Provider to the Authority within 14 days of the date of termination of the Contract.

A23.15 The Service Provider warrants that as at the date of expiry or earlier termination of the Contract:

A23.15.1 the Final Staff List and the Staffing Information relating to persons on that list will be complete and accurate;

A23.15.2 the Final Staff List will identify all actual and potential Re-Transferring Personnel; and

A23.15.3 it will have disclosed all terms and conditions of employment or engagement and other Staffing Information relating to the Re-Transferring Personnel to the Authority.

A23.16 From the earlier of:

A23.16.1 the date falling 3 calendar months before the date of expiry of the Contract; or

A23.16.2 if the Contract is terminated by either party in accordance with **Clause 26.3** or by the Authority in accordance with **Clause 26.1 or 26.2**, the date of the relevant termination notice

the Service Provider will not and will procure that its Subcontractors do not without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed):

A23.16.3 terminate or give notice to terminate the employment or engagement, or replace the persons listed on the most recent Staff List and/or any Re-Transferring Personnel;

A23.16.4 deploy or assign any other person to perform the Services who is not included on the most recent Staff List;

A23.16.5 make, propose or permit any changes to the terms and conditions of employment or engagement of any persons listed on the most recent Staff List and/or any Re-Transferring Personnel;

A23.16.6 increase to any significant degree the proportion of working time spent on the Services by any of the Service Provider Personnel; or

A23.16.7 introduce any new contractual or customary practice (including for the avoidance of doubt any payments on

termination of employment) applicable to any person listed on the most recent Staff List.

A23.17 The Service Provider will promptly notify the Authority of any notice of resignation received from any person listed on the most recent Staff List or the Final Staff List (if any) during the period referred to in **Clause A23.16** regardless of when such notice takes effect.

A23.18 For the avoidance of doubt, the Service Provider confirms that the Authority will be permitted to disclose any information provided to it under this **Clause A23** in summary form to any person who has been invited to tender for the provision of the Services (or similar services) and to any Replacement Service Provider.

A24 TRANSFER OF EMPLOYEES ON EXPIRY OR TERMINATION

A24.1 If the Regulations apply on the expiration or termination of the Contract and/or the appointment of a Replacement Service Provider the following will apply:

A24.1.1 the contracts of employment of each member of the Re-Transferring Personnel will have effect (except in relation to occupational pension scheme benefits excluded under Regulation [10](#) of the Regulations which will be treated in accordance with the provisions of the Pensions Act 2004 and the Transfer of Employment (Pensions Protection) Regulations 2005)

A24.1.2 During the period commencing on the earlier of:

A24.1.2.1 the date falling 6 calendar months before the Further Transfer Date; or

A24.1.2.2 if the Agreement is terminated by either party in accordance with **Clause 26.3** or by the Authority in accordance with **Clause 26.1, 26.2 or 26.4**, the date of the relevant termination notice,

and ending on the Further Transfer Date the Service Provider will:

(a) provide the Authority with access to such employment records as the Authority may require to put in place the administrative arrangements for the transfer of the contracts of employment of the Re-Transferring Personnel to the Authority or Replacement Service Provider (as appropriate);

- (b) allow the Authority to have copies of any of the documents referred to in **Clauses A23 and A24**; and
- (c) provide all original employment records relating to the Re-Transferring Personnel to the Authority or Replacement Service Provider (as appropriate).

If the Re-Transferring Personnel are employed or engaged by subcontractors, the Service Provider will procure such subcontractors provide the Authority or Replacement Service Provider (as appropriate) with the same level of access and information.

A24.1.3 The Service Provider warrants to each of the Authority and the Replacement Service Provider (as applicable) that as at the Further Transfer Date no Re-Transferring Personnel (except where the Service Provider has notified the Authority and the Replacement Service Provider (if appointed) in writing to the contrary) to the Service Provider's knowledge:

A24.1.3.1 is under notice of termination;

A24.1.3.2 is on long-term sick leave;

A24.1.3.3 is on maternity, parental or adoption leave;

A24.1.3.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any regulations;

A24.1.3.5 is entitled or subject to any additional terms and conditions of employment other than those disclosed to the Authority or Replacement Service Provider (as appropriate);

A24.1.3.6 is or has been within the previous two years the subject of formal disciplinary proceedings;

A24.1.3.7 has received a written warning (other than a warning that has lapsed);

A24.1.3.8 has taken or been the subject of a grievance procedure within the previous two years; or

- A24.1.3.9 has objected, or has indicated an intention to object, in accordance with the Regulations to his or her employment transferring to the Authority or Replacement Service Provider (as appropriate) under the Regulations.
- A24.1.4 The Service Provider undertakes to each of the Authority and any Replacement Service Provider (as appropriate):
 - A24.1.4.1 that it will continue to perform and observe all of its obligations and those of any of its predecessors under or in connection with the contracts of employment of the Re-Transferring Personnel up to the Further Transfer Date;
 - A24.1.4.2 to pay to the Re-Transferring Personnel all sums to which they are entitled from the Service Provider and/or any sub-Contractor up to the Further Transfer Date (regardless of when such sums fall due) including, without limitation, all wages and salaries, sick pay, maternity pay, any liability to taxation, expenses, accrued bonus, commission and other sums payable in respect of any period up to the Further Transfer Date; and
 - A24.1.4.3 to comply in all respects with its information and consultation obligations under the Regulations and to provide to the Authority or Replacement Service Provider (as appropriate) such information as the Authority or Replacement Service Provider may request in order to verify such compliance.
- A24.1.5 In respect of the Re-Transferring Personnel the parties agree that all Employment Costs will be apportioned on a time basis (regardless of when such sums fall to be paid) as follows:
 - A24.1.5.1 up to and including the Further Transfer Date the Service Provider will be responsible for the Employment Costs;
 - A24.1.5.2 after the Further Transfer Date the Authority and/or Replacement Service Provider (as appropriate) will be responsible for the Employment Costs

except that there will be no apportionment in respect of the Re-Transferring Personnel's holiday entitlements.

A24.1.6 The Service Provider will indemnify, keep indemnified and hold harmless each of the Authority and any Replacement Service Provider from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and legal costs (on a full indemnity basis) which the Authority and/or the Replacement Service Provider (as appropriate) incurs or suffers arising directly or indirectly out of or in connection with:

A24.1.6.1 any failure by the Service Provider to comply with its obligations under **Clause A24**;

A24.1.6.2 any act or omission by or on behalf of the Service Provider in respect of any person who is or was employed or engaged by it, except in the case of the Re-Transferring Personnel where the Service Provider's indemnity will only apply in respect of such employees insofar as and to the extent that any such act or omission occurred on or before the Further Transfer Date or was undertaken by, on behalf or at the instruction of the Service Provider; and/or

A24.1.6.3 any claim or demand or other action taken against the Authority and/or Replacement Service Provider by any person employed or engaged by the Service Provider (other than Re-Transferring Personnel) who claims (whether correctly or not) that the Authority or Replacement Service Provider has inherited any liability from the Service Provider in respect of them by virtue of the Regulations.

A24.2 The Service Provider will procure that whenever the Authority so requires on reasonable notice at any time during the continuance in force of this Agreement and for 6 years following the date of expiry or earlier termination of the Contract the Authority will be given access to and be allowed to consult with any person, consultant or employee who, at that time:

A24.2.1 is still an employee or subcontractor of the Service Provider or any of the Service Provider's associated companies; and

A24.2.1 was at any time employed or engaged by the Service Provider in order to provide the Services to the Authority under this Agreement,

and such access and consultation will be provided free of charge and thereafter be charged at reasonable rates for the time spent by the Service Provider and/or its employees or subcontractors on such consultation. The Service Provider will further procure that all such persons co-operate with the Authority's requests.

A25 COST SUMMARY

Clause 5.2, 5.3 and 5.4 shall be deleted and replace with the following:

A25.1 At the end of each 4-week period (or such other period as may be specified in accordance with Clause 5.1) ("**the Payment Period**"), the Service Provider shall submit to the Contract Manager a cost summary in respect of the Charges for that Payment Period ("**Cost Summary**").

A25.2 Each Cost Summary shall:

A25.2.1 contain all information required by the Authority including the Contract Reference Number, purchase order number, the Authority Account Details, the Service Provider's name and address and a brief description of the Services provided during the Payment Period to which such Cost Summary relates;

A25.2.2 be clear, concise, accurate and adequately descriptive to avoid delays in processing and subsequent payment;

A25.2.3 identify any additional charges by virtue of a variation pursuant to Clause 30; and

A25.2.4 show VAT separately.

A25.3 If the Authority considers that the Charges claimed by the Service Provider in any Cost Summary (or revised Cost Summary) have:

A25.3.1 been correctly calculated and that such Cost Summary is otherwise correct, the Authority shall notify the Service Provider of its approval within 10 Business Days of receipt of such Cost Summary and the Service Provider shall submit an invoice in respect of such Cost Summary. Each invoice shall contain the SAP order number and any other information reasonably required by the Authority in respect of such invoice. The Service Provider shall send each

invoice to the address set out in Schedule 1 and subject to the provisions of any related guarantee, Clause 17 payment of the approved amount shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1;

- A25.3.2 not been calculated correctly and/or if the Cost Summary contains any other error or inadequacy, the Authority shall notify the Service Provider within 10 Business Days of receipt of such Cost Summary and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised Cost Summary to the Authority. Any loss and/or additional expenses incurred by the Service Provider in correcting and/or re-submitting any Cost Summary shall be at the Service Provider's expense.

39 LONDON LIVING WAGE

- 39.1 In this clause 39, the following expressions shall have the following meanings:

| | |
|----------------------|---|
| “London Living Wage” | the basic hourly wage of £7.20 (before tax, other deductions and any increase for overtime) as may be updated from time to time and notified to the Service Provider; |
|----------------------|---|

- 39.2 Without prejudice to any other provision of this contract, the Service Provider shall:

- 39.2.1 ensure that none of its employees engaged in the provision of the Services is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
- 39.2.3 ensure that none of its employees engaged in the provision of the Services is paid less than the amount to which they are entitled in their respective contracts of employment;
- 39.2.4 provide to the Authority such information concerning the London Living Wage and as the Authority or its nominees may reasonably require from time to time; and

- 39.2.5 disseminate on behalf of the Authority to its employees engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires.
 - 39.2.6 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage
- 39.3 Any breach by the Service Provider of the provisions of this Clause 39 shall be treated as a material breach capable of remedy in accordance with Clause 26.1.1.

[Information Redacted]

SCHEDULE 3 – SPECIFICATION

- C1.1 This is Transport for London's vehicle removal operation specification.

[Information Redacted]

C4.0 LIVERY AND BRANDING

The Service Provider shall comply with the following;

- C4.1 TfL Livery in compliance with rescue recovery industry regulations, SURVIVE and PAS 43.
- C4.2 White (crew cabin) with black (flatbed and crane).
- C4.3 Each vehicle shall be liveried with the red and white TfL hatching.
- C4.4 The vehicles shall be clearly distinguishable as working for Transport for London and may only display text / logos relating to Transport for London and the Metropolitan Police Service as authorised by Transport for London.
- C4.5 The Livery will say "Transport for London" (telephone number (11 digits))", in an approved typeface.
- C4.6 Attention is drawn to the Road Vehicle Lighting Regulations 1989 [4] and subsequent amendments regarding patterns and colours of fluorescent and or retro-reflective materials to be used on the front, side and rear of vehicles.
- C4.7 The greater the area the materials cover, the more conspicuous the vehicle is and the greater the distance over which the markings can be seen.
- C4.8 Using square or rectangular blocks of colour on the sides of a vehicle is more effective than stripes, especially if fluorescent and or retro-reflective.
- C4.9 It is recommended that no other materials, logos or symbols are placed over the blocks of colour as this can degrade their reflective properties.
- C4.10 Chevrons shall be used on the rear of the trucks. These chevrons should be marked with fluorescent materials and be a minimum of 150mm wide and the stripes arranged in an upward direction.
- C4.11 The trucks shall be fitted with a minimum of high level amber and red hazard warning lights or beacons capable of emitting a flashing or rotating beam of light through 360 in the horizontal plane.

[Information Redacted]

C8.0 MISCELLANEOUS

- C8.1 The vehicle removal service shall be provided by the number of units, a unit comprising of a vehicle with appropriate operatives and equipment to undertake the contracted works, as stated in Schedule 3.
- C8.2 Service Provider should take part in the 'How's My Driving' campaign or similar schemes.
- C8.3 Each vehicle shall meet prevailing EU Directives regarding emission levels and all vehicles shall continuously meet those standards, which shall apply to new vehicles and emission level limits. The Service Provider will be required to produce evidence that emission levels have been tested on a regular basis (a minimum of twice yearly).

[Information Redacted]

- C8.12 In the event of a failure to provide a vehicle due to an unforeseen breakdown or unscheduled maintenance, one hour will be permitted to rectify the situation or penalty points and defaults as specified in Appendix 1 will be applied. This concession shall apply to the whole fleet on only 12 occasions in any one Review Period
- C8.13 In the event of a failure to provide a vehicle due to staff absence and with the proviso that this courtesy will be extended only twice in any one week across the entire fleet, half an hour will be permitted to rectify the situation or penalty points and defaults as specified in Appendix 1 will be applied.

[Information Redacted]

C10.0 DOCUMENTATION

- C10.1 The Service Provider shall provide all necessary documentation, including all forms, stickers, stationery and the like to be carried upon vehicles and used at any time in the performance of the Contract.

[Information Redacted]

C11.0 TRUCK DRIVERS

- C11.1 The drivers must hold an appropriate licence in order to comply with the size and weight of vehicle being driven.

C11.2 The drivers must be able to read and write in English and have a good level of spoken English.

[Information Redacted]

C11.14 Drivers will not be expected to come into contact with hazardous chemicals or substances.

C11.16 Drivers should be physically fit to work in this capacity

[Information Redacted]

C11.18 In the event of an incident the Service Provider must provide an alternative vehicle which is to the same specification as the main body of the contract.

[Information Redacted]

C12.0 COMPOUNDS

[Information Redacted]

C12.6 The Service Provider shall ensure that there are no unnecessary delays or other obstacles and that the vehicle is restored to the driver as soon as possible after payment has been made.

[Information Redacted]

C12.9 The pounds must have adequate perimeter fencing and lighting to avoid the possibility of theft from or damage to vehicles.

[Information Redacted]

C12.11 Pounds shall have good access from the area of removals, good public transport links and be well lit. Safe access to the public is essential at all times, and access to pounds must have good lighting and signing.

C12.12 Local taxi circuits should also be informed of the pound's location. Evidence shows that the majority of drivers coming to collect vehicles from the pound come by taxi or on foot.

C12.13 There shall be no unnecessary delays or inconvenience involved in the process of recovering a vehicle. Motorists do have a right to recover their vehicles at any time. Pounds therefore need to be open

as long as possible with payment being taken at each pound during the normal operating hours.

[Information Redacted]

C12.19 The obligation is on the Service Provider to provide adequate suitable pound space.

[Information Redacted]

C12.28 TfL will produce information leaflets that the Service Provider will display on the customer side of the counter.

C12.29 The vehicle compounds must be secure, members of the public must not have unauthorised access to the vehicles.

[Information Redacted]

C12.32 The Service Provider shall be responsible and financially liable for the security of the pound and all vehicles therein.

C12.33 An area of the pound shall be made available for parking and mechanical inspection of enforcement vehicles.

[Information Redacted]

C12.36 Operational spaces shall be made available at the beginning of each enforcement day, as per agreed hours of operation.

C12.37 The Service Provider shall supply suitably experienced persons to manage and staff the service to ensure prompt and competent provision of the service at all times, including the provision of staff to facilitate cover for breaks.

C12.38 Any entry to a vehicle by Service Provider's staff, other than with the specific consent of the Contract Manager or at the instruction of an on duty Police Officer, PCSO is strictly forbidden.

[Information Redacted]

C12.40 CCTV DVD's must be dated, logged, securely stored and made available to the Authority on request and stored for a pre determined period.

C12.41 The Service Provider shall provide access and associated restricted entry / access systems.

[Information Redacted]

- C12.43 Upon receipt of the appropriate payment the Service Provider shall forthwith arrange the release of the impounded vehicle
- C12.44 The vehicle keeper will at all times be escorted to their vehicle and from the premises by the Service Providers staff, only one person shall be permitted access to the pound per vehicle to be released.
- C12.45 The Service Provider shall ensure the correct operation of TfL's IT systems and shall utilise the members of staff located at each site qualified as a trainer. All these staff will have completed the 'Train the Trainer' course. The Service Provider shall ensure that relevant staffing is provided for initial training by TfL. These trained staff will carry out the future training at the sites as required this will provide on-site liaison for the IT provider and a point of assistance to the IT users on site.

C13.0 IMPOUNDED VEHICLES

[Information Redacted]

C13.3 Vehicle Or Contents Damage Or Loss

- C13.3.1 The Service Provider shall deal with and investigate all allegations and claims in respect of damage or loss to a vehicle or its contents and shall maintain and provide all records in relation to this for inspection by the Authority's Contract Manager.

C14.0 POUND FACILITIES

C14.1 The Service Provider shall provide for the public:

- C14.1.1 Male, Female and disabled access toilet facilities.
- C14.1.2 Refreshment area with seating, pay-phone, water machine.

C14.2 The Service Provider shall provide the following services exclusively for use by its own operatives, enforcement officers and Authority staff:

- C14.2.1 Male, Female and disabled access toilet facilities
- C14.2.2 Refreshment area with seating, pay-phone, water and hot drinks machines

[Information Redacted]

C14.3 Disabled Access

The vehicle pound site must be suitable for wheel chair access with, where applicable:

C14.3.1 Ramps

C14.3.2 Widened doorways

C14.3.3 Lifts

C14.3.4 Paved access routes

C15.0 ON BOARD ENFORCEMENT OFFICER'S REST AREA/ PORTACABIN

C15.1 The Service Provider should provide a separate secure area for all on duty on board staff.

C15.2 The area shall include a male and female changing area. As a base this shall have 10 male lockers and 10 female lockers, however the gender mix may not be 50-50 and the changing facilities should be able to accommodate more or less male/ female staff. Single door uniform lockers should be 450W * 1830H * 560D with a shelf and hanging rail. (This requirement is for OB TW/ TPCSOs, it will be at the service providers discretion to provide adequate facilities for their own staff.)

C15.3 A rest area with hot and cold running water, a kettle and microwave and a sink. The rest area shall have tables and chairs.

[Information Redacted]

C15.6 This area will be for the exclusive use of the OBEO or/ and TfL.

C15.7 The cleaner will need to be TfL security cleared if TfL use TW/ TPCSOs.

C15.8 If TfL use the services of the TW/ TPCSOs the site could contain Police Uniforms, security equipment including CS gas and as such will be subject to physical checks by MPS security staff. MPS/ TFL may install special locks on the facility.

C15.9 The rest area/ Porta Cabin must be fitted with fire alarms in accordance with Standard Fire Regulations.

C15.9 Both air conditioning and/or a climate control system will be beneficial but not essential. However heating is a requirement by law and is essential.

[Information Redacted]

C16.0 PAYMENT CENTRE

[Information Redacted]

The Service Provider shall:

[Information Redacted]

- C16.9 Be responsible for keeping the premises clean and litter free.
- C16.10 Provide a payphone in the public reception area and pay all connection charges, with the tariff set at no more than the prevalent British Telecom rates.
- C16.11 Provide for display in the public reception area such literature pertaining to enforcement issues / procedures and appeal proceedings as directed by TfL and shall make same available to any member of the public requiring them.
- C16.12 Provide parking related literature in several languages as available from the Association of London Government (ALG) and TfL.
- C16.13 Subscribe to an interpreter service, Language Line or similar which needs to support the following languages; French, Bengali, Spanish, Chinese, Greek (modern) Hindi, Punjabi, Turkish and Urdu, TfL reserve the right to increase the number of languages through the variation procedure.
- C16.14 Provide and maintain a 'hearing loop' service for the hard of hearing at the customer reception.
- C16.15 Supply suitably experienced persons to manage and staff the service to ensure prompt and competent processing of all transactions at all times that the Service is to be provided.
- C16.16 Receive on behalf of TfL payments for penalty charge notices and removal fees, storage fees, disclamation administration fees and other charges as may become appropriate.
- C16.17 Ensure that each day an adequate cash float is made available for use by the duty cashiers.
- C16.18 Collect on behalf of TfL such sums that are properly due in full, including the relevant Penalty Charge Notice and, subject to the introduction of legislation, any other outstanding penalty charge notice. Payment may be by the following methods or any combination thereof:
 - C16.18.1 Cash, UK legal tender and Euro, Visa, Master-card, Sterling / Euro Travellers' Cheques, Switch, Postal Orders, Personal Cheque supported by a valid guarantee card up to cheque card limit, Solo, Electron and Delta.

[Information Redacted]

- C16.20 Be held responsible and shall indemnify TfL for all losses arising out of the acceptance of counterfeit money, arithmetical errors and monies lost through procedural errors or misappropriation.
- C16.21 Report all transactions and activity every weekday to TfL in the fullest detail in such format as may be directed and as frequently as may be directed by TfL's Contract Manager.
- C16.22 Maintain comprehensive records, on all aspects of the provision of the service, to the absolute satisfaction of TfL, for a period of at least 6 years for each transaction.
- C16.23 The Service Provider must note that:
 - C16.23.1 Notices or leaflets unapproved by TfL may not be displayed.
 - C16.23.2 Motorists attending the payment centre shall be deemed to have reasonable authority to reclaim a vehicle if they produce two forms of identification.

[Information Redacted]

- C16.23.4 If the vehicle is registered to another keeper the person collecting the vehicle must show they are entitled to collect the vehicle.
 - C16.23.5 If the vehicle has no keeper the person claiming to be the keeper must register the vehicle before leaving with the vehicle.
- C16.24 Obtain further identification if authority to claim the vehicle is in doubt or if a promissory note or bond is to be issued.
- C16.25 Not accept business cheques without authorisation from a TfL Contract Manager. In any event business cheques will generally be accepted only from motor-trader, salvage or vehicle hire companies.
- C16.26 Allow two personal cheques to be accepted, each cheque up to the value of the guarantee card, with one cheque allotted to the penalty charge notice and one to the clamp, removal or storage fee etc.
- C16.27 Where it is apparent that a motorist is unable to pay for the release of a vehicle and there is concern, that by not releasing, harm could be caused to a person from a vulnerable group, may accept a 'promissory note to pay' or a bond in regard to a persistent evader. TfL will issue a standard operating procedure in relation to vulnerable persons prior to the commencement of the contract.

- C16.28 Where there is an incomplete transaction and a release receipt has been only partially completed or has been cancelled; note the reasons for this on the receipt and include all copies of the receipt in the daily reconciliation batch.
- C16.29 Advise any complaint received regarding alleged damage to vehicles or contents to the Contract Manager and a record of the nature of the complaint shall be retained. The Service Provider will be responsible for the settlement of all claims through their insurers.
- C16.30 Be responsible for banking the days takings into an account set up by TfL's notice processing service provider in the name of TfL.
- C16.31 TfL or its contractor will set up three bank accounts, one for each region, with paying in books and a reconciliation procedure. The contractor will arrange the daily payment of TfL's income into these accounts.
- C16.32 TfL intend to introduce new legislation to tackle persistent evaders. If that happens the person collecting the vehicle may have to pay a bond. The circumstances under which he/ she pays the bond are as follows; If the claimant satisfies the conditions that;
- C16.32.1 he/she is in charge of the vehicle (in a release case);
- C16.32.2 he/she is the owner of the vehicle or that he/she is authorised by the owner to take possession of the vehicle (in a removal case);
- C16.32.3 he/she is intending to make representations;
- C16.32.4 no bond has been paid under this section on any previous occasion in respect of any of the outstanding penalty charges;
- C16.32.5 the claimant provides to the relevant person satisfactory and verifiable proof of his name and address and the name and address of the owner of the vehicle (if it is not him).
- C16.33 Instead of paying all outstanding penalty charges and any other charges to the relevant person, a person may pay to the relevant person a bond of £200.00 in order to secure the release of a vehicle under section 69(4) of the TfL &LLA Act as a persistent evader. The Service Provider should build their financial procedures to take account of this.

[Information Redacted]

- C16.35 The Service Provider shall train all cashiering staff operating on the TfL Contract to approved industry standard.

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

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[Information Redacted]

SCHEDULE 4 – PRICES AND PAYMENTS

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

[Information Redacted]

SCHEDULE 5 – KEY MILESTONES

[Information Redacted]

SCHEDULE 6 - FORM FOR VARIATION

Contract Parties: *[to be inserted]*

Contract Number: *[to be inserted]*

Variation Number: *[to be inserted]*

Authority Contact Telephone *[to be inserted]*

Fax *[to be inserted]*

Date: *[to be inserted]*

AUTHORITY FOR VARIATION TO CONTRACT (AVC)

Pursuant to Clause 30 of the Contract, authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Service Provider and returned to the Procurement Manager as an acceptance by the Service Provider of the variation shown below.

| DETAILS OF VARIATION | AMOUNT (£) |
|------------------------------------|-------------------|
| | |
| ALLOWANCE TO THE AUTHORITY | |
| EXTRA COST TO THE AUTHORITY | |
| TOTAL | |

.....
For the Authority

| | |
|---|---------------|
| ACCEPTANCE BY THE SERVICE PROVIDER | |
| Date | Signed |

SCHEDULE 7 – QUALITY, ENVIRONMENTAL AND SAFETY CONSIDERATIONS

G1 EQUIPMENT AND OTHER RESOURCES

- G1.1 Except where otherwise specified or agreed, the Service Provider shall at all times during the Contract Period provide, maintain and replace as necessary all such vehicles and equipment as may be required from time to time for the proper performance of the Services in accordance with the Contract (hereinafter called the “**Service Provider’s Equipment**”).
- G1.2 The Service Provider shall at all times ensure that all the usual licences, fees, taxes and insurance’s required to be paid or maintained in connection with or arising out of the possession or use of all Service Provider’s Equipment employed in the performance of the Services are paid and maintained.
- G1.3 The Service Provider shall at its own expense keep all Service Provider’s Equipment employed in the performance of the Services at all times in good clean and serviceable repair and in such condition as is commensurate with the proper performance by the Service Provider of its obligations under this Contract.
- G1.4 The Service Provider shall cause all Service Provider’s Equipment to bear such word devices or insignia as the Contract Manager shall agree and approve. No equipment or materials shall bear any advertising or publicity matter of any sort, including the name and Services provided by the Service Provider, without the prior written consent or instruction of the Contract Manager.

[Information Redacted]

- G1.6 Vehicles used in the Services shall comply with the relevant construction and use regulations and be of a design, which is entirely suitable for the performance of the Services.
- G1.7 All Service Provider’s Equipment used in the Services shall comply with the requirements (if any) set out in the Specification.
- G1.8 The Service Provider shall ensure that it has available to it at all times adequate reserve equipment as lack of appropriate equipment will not be considered as a reason for non-performance of any part or the whole of the Contract.
- G1.9 The Service Provider shall ensure that all Service Providers’ Equipment shall be used in a safe, reasonable and efficient manner and in complete accordance with the Specification without causing unreasonable obstruction or annoyance to the public.
- G1.10 Except where otherwise specified or agreed, the Service Provider shall at all times during the contract period provide all such materials

and consumables (which term for the avoidance of doubt shall include stationery) as may be necessary from time to time for the performance of the Services in accordance with the Contract.

- G1.11 The Service Provider shall keep only such hazardous materials or equipment on the premises as are strictly necessary for the performance of the Services and are approved in writing by the Contract Manager (such approval not to be unreasonably withheld or delayed) and such materials or equipment shall at all times be kept under proper control and safekeeping and the Service Provider shall ensure that all such equipment and materials and their usage and storage comply with G1 and G2 (Health and Safety) of Schedule 7.

G2 HEALTH AND SAFETY

- G2.1 The Service Provider shall in performing the Services ensure that its personnel and any sub-Service Providers, Service Provider Staff or any other person acting on behalf of the Service Provider comply with all statutory and other legal requirements in relation to the safety and health of its employees, of Fellow Service Providers, of any other persons in or near the Locations and of the members of the public. The Service Provider shall:

G2.1.1 in particular, comply with all Legislation in the field of the health and safety at work except in so far as this constitutes a “non-commercial matter” under section 17(5)(a) of the Local Government Act 1988;

G2.1.2 provide such facilities and comply with such requirements for the protection of the health and safety of the Service Provider’s and the Service Provider’s sub-Service Providers’ personnel as may be specified in the Contract; and

G2.1.3 ensure compliance by its employees, servants and agents with such health and safety policy statements and health and safety codes of practice as TfL may from time to time adopt or require and notify to the Service Provider; and

G2.1.4 perform the Services in accordance with the Service Provider’s health and safety policy statements and the Service Provider’s health and safety codes of practice.

G2.1.4 provide detailed method statements outlining how they will actually perform the function of removing vehicles.

- G2.2 For the guidance of the Service Provider the regulatory framework includes but is not limited to:

The Health and Safety at Work Etc. Act 1974;

The Control of Substances Hazardous to Health Regulations 1994;

The Occupiers' Liability Acts 1957 and 1984;
 The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995;
 The Health and Safety (First Aid) Regulations 1981;
 The Workplace (Health, Safety and Welfare) Regulations 1992;
 The Management of Health and Safety at Work Regulations 1995;
 The Personal Protective Equipment at Work Regulations 1992;
 The Provision and Use of Work Equipment Regulations 1992;
 The Health and Safety (Display Screen Equipment) Regulations 1992;
 The Health and Safety (Information for Employees) Regulations 1989;
 Manual Handling Operations Regulations 1992;
 The Electricity at Work Regulations 1989;
 The Noise at Work Regulations 1989;
 Health and Safety (Safety Signs and Signals) Regulations 1996;
 Environmental Protection Act 1990
 Highways Act 1980.
 BS 7121-12:1999*BS 7901
 BS EN ISO 9001:2000
 BS EN ISO 14001:1996
 Management of Health and Safety at Work Regulations 1999
 Road Vehicles (Construction and Use) Regulations 1986
 Motor Vehicles (Wearing of Seat Belts) Regulations 1993
 Road Vehicles Lighting Regulations 1989
 Lifting Operations and Lifting Equipment Regulations 1998
 Control of Substances Hazardous to Health Regulations 1999
 Working Time Regulations 1998
 ADR European Agreement concerning the International Carriage of Dangerous Goods by Road
 BS 5426
 BS EN 166
 BS EN 345-1
 BS EN 345-2
 BS EN 352-1
 BS EN 388
 BS EN 397
 BS EN 471
 BS EN 531
 BS EN 533

- G2.3 The Service Provider shall provide such information and documents as TfL or the Contract Manager may reasonably require as evidence of such compliance and shall maintain as required by the relevant

legislation copies of all relevant legislation, codes of practice and working rules for the kind of services performed (mentioned in Clause 9 above) and shall permit its personnel to use and refer to them, and shall permit the Contract Manager to inspect them.

G2.4 The Service Provider shall ensure a safety officer is appointed, and shall notify the Contract Manager of their name(s) by completing part 14 of schedule 1;

G2.5 The Service Provider shall:

G2.5.1 if so requested by the Contract Manager, provide him or her with a copy of the Service Provider's current health and safety policy statement, safety codes of practice and risk assessments;

G2.5.2 inform the Contract Manager as soon as becoming aware of any prosecution or service of any enforcement notice or pending or likely prosecution of the Service Provider for any offence pertaining to the health and safety of its personnel or of other persons, or of any conviction on such prosecution, and shall provide the Contract Manager with such further information and documents as the Contract Manager may require;

G2.5.3 comply with the Health and Safety (Consultation with Employees) 1996 Regulations;

G2.5.4 permit:

a) Any safety officer authorised by TFL;

b) Any Environmental Health Officer authorised by TfL,

G2.5.5 To enter without prior notice at any reasonable time any site and to inspect those premises together with any persons, vehicles, equipment or materials used, in the process of being used, or proposed to be used by the Service Provider in and about the provision of the Services.

G2.6 The Service Provider shall co-operate with the said officers or persons so as to facilitate the carrying out of the inspections.

- G2.7 The Service Provider shall permit said officers or persons to test, take measurements, samples, and photographs of any premises, persons, vehicles, equipment or materials used, in the process of being used or proposed to be used by the Service Provider in and about the provision of the Services provided that the said officers or persons do not endanger nor unreasonably impede or endanger the Service Provider's personnel or the provision of the Services.
- G2.8 The Service Provider shall take such steps as are necessary to ensure that its personnel engaged in the provision of the Services, and those of its sub-Service Providers or agents so engaged, have received suitable and sufficient training, and are competent to carry out their respective tasks with due regard to the Service Provider's obligations under the aforementioned Acts and other instruments, and in the interests of the health and safety of other persons engaged in the provision of the Services, and of the general public.
- G2.9 The Contract Manager shall be empowered to suspend the provision of the Services in the event of non-compliance by the Service Provider with the health and safety requirements of the Contract. The Service Provider shall not resume provision of the Services until the Contract Manager is satisfied that the non-compliance has been rectified.
- G2.10 No payment will be made for any part of the Services omitted as result of a cessation of the Services required by TfL due to a proven breach of any health and safety requirement and neither will any additional payment be made for steps which the Contract Manager requires the Service Provider to take to remedy the breach of the health and safety requirement.
- G2.11 The Service Provider shall:
- G2.11.1 monitor the health and safety procedures adopted by sub-Service Providers and any person acting on behalf of the Service Provider when performing Services and initiate corrective action immediately when required.
- G2.12 The Service Provider shall in performing the Services:
- G2.12.1 take notice of all known hazards notified to it by a Contract Manager and take any special precautions required. The Service Provider shall inform all sub-Service Providers and any other person acting on the Service Provider's behalf of such known hazards;
- G2.12.2 ensure that when notified of hazards (as detailed in G2.12.1 above) all reasonable possible action is taken to eliminate the risks.
- G2.13 The Service Provider shall:

- G2.13.1 keep its health and safety policy, health and safety codes of practice and risk assessments under review and make any amendments necessary, particularly where there has been a change to current legislation or working practices or the introduction of new equipment (including vehicles), and shall notify TfL in writing of any changes made; and
- G2.13.2 comply with any changes, amendments or further instructions reasonably requested or issued by TfL in connection with the Service Provider's health and safety procedures.

[Information Redacted]

G3 ENVIRONMENT

- G3.1 The Service Provider and any sub contractor used as part of the Service shall:

Comply with all relevant environmental legislation and provide evidence in terms of site licences that the operator and any sub contractors comply with the End-of-Life Vehicle Regulations 2005. Included in this will be evidence that any Service Provider and sub contractor shall meet the recycling targets set out within the Directive.

For the guidance of the Service Provider the regulatory framework includes but is not limited to: -

- G3.2.1 Environmental Protection Act 1990
- G3.2.2 Oil storage regulations 2001
- G3.2.3 Hazardous Waste Regulations 2005
- G3.2.4 End of life vehicles regulations 2005
- G3.3 Ensure compliance by its employees, servants and agents with such environmental policy statements environmental codes of practice as TfL may from time to time adopt or require and notify to the Service Provider.
- G3.4 Perform the Services in accordance with the Service Provider's environmental policy statements and the Service Provider's environmental codes of practice.
- G3.5 Have a good understanding of TfL's green procurement policy and adopt its principles.
- G3.6 Provide TfL with their waste management strategy, highlighting the methods that will be used to minimise, manage and dispose of hazardous waste, in conjunction with the Hazardous Waste

Regulations 2005. Included in this will be the procedures for dealing with general oil spills and other hazardous substances.

- G3.7 Have the appropriate measures in place for a successful recycling strategy. This must include but not be limited to paper, cardboard and waste oil.
- G3.8 Have in place a strategy to conserve water and shall ensure that a water butt system is installed at all pounds to reduce water usage when cleaning.. Water recycling 'butts' and where possible recycled water should be used to clean any vehicles used as part of the service of this contract.

[Information Redacted]

- G3.10 The aim of asking Service Providers to have an accredited Environmental Management System is to reduce the impact on the environment during the recovery and disposal of vehicles.
- G3.11 The Service Provider shall provide such information and documents as TfL or the Contract Manager may reasonably require as evidence of such compliance and shall maintain as required by the relevant legislation copies of all relevant legislation, codes of practice and working rules for the kind of services performed and shall permit its personnel to use and refer to them, and shall permit the Contract Manager to inspect them.
- G3.12 The Service Provider is required to provide quarterly reporting in line with TfL's financial year April 1st to March 31st on the environmental key performance indicators set out in Appendix 3 and any future reasonable environmental performance indicators that TfL may require the reporting of.
- G3.13 The Service Provider shall, If so requested by the Contract Manager, provide him or her with a copy of the Service Provider's hazardous waste disposal policy and licences and the sub-Service Provider's hazardous waste carriers/disposal licences.
- G3.14 Inform the Contract Manager as soon as becoming aware of any prosecution or service of any enforcement notice or pending or likely prosecution of the Service Provider for any offence pertaining to the environment, or of any conviction on such prosecution, and shall provide the Contract Manager with such further information and documents as the Contract Manager may require;
- G3.15 The Service Provider shall;
 - G3.15.1 permit any environmental officer authorised by TFL to enter without prior notice at any reasonable times any site and to inspect those premises together with any persons, vehicles, equipment or materials used, in the process of

being used, or proposed to be used by the Service Provider in and about the provision of the Services. The designated environmental officer will be allowed access to inspect and audit the Service Provider against the environmental conditions of this contract.

- G3.15.2 shall co-operate with the said officers or persons so as to facilitate the carrying out of the inspections/audits.
- G3.15.3 permit said officers or persons to test, take measurements, samples, and photographs of any premises, persons, vehicles, equipment or materials used, in the process of being used or proposed to be used by the Service Provider in and about the provision of the Services provided that the said officers or persons do not endanger nor unreasonably impede or endanger the Service Provider's personnel or the provision of the Services.
- G3.16 The Service Provider shall take such steps as are necessary to ensure that its personnel engaged in the provision of the Services, and those of its sub-Service Providers or agents so engaged, have received suitable and sufficient training, and are competent to carry out their respective tasks with due regard to the Service Provider's obligations under legal requirements and other instruments, and in the interests of the environment in the provision of the Services.
- G3.17 As part of their environmental duty of care the Service Provider will conduct environmental audits against their environmental management system supplier/disposal chain to include that of any sub Service Provider used in the provision of the Service.
- G3.18 The process of remedial action if non-conformities are found can be found in Clause 26. Failure to comply shall result in action being taken under Appendix 1 with an advisory notice being issued followed by a warning notice and a deduction notice. The Contract Manager shall be empowered to suspend the provision of the Services in the event of non-compliance by the Service Provider with respect to the environmental requirements of the Contract. The Service Provider shall not resume provision of the Services until the Contract Manager is satisfied that the non-compliance has been rectified.
- G3.19 No payment will be made for any part of the Services omitted as result of a cessation of the Services required by TfL due to a proven breach of any environmental requirement and neither will any additional payment be made for steps which the Contract Manager requires the Service Provider to take to remedy the breach of the environmental requirement.
- G3.20 The Service Provider shall monitor the environmental procedures adopted by sub-Service Providers and any person acting on behalf

of the Service Provider when performing Services and initiate corrective action immediately when required.

G3.21 The Service Provider shall:

G3.21.1 Keep its environmental policy, environmental management system, codes of practice and risk assessments under review and make any amendments necessary, particularly where there has been a change to current legislation or working practices or the introduction of new equipment (including vehicles), and shall notify TfL in writing of any changes made.

G3.21.2 Comply with any changes, amendments or further instructions reasonably requested or issued by TfL in connection with the Service Provider's environmental procedures.

G3.22 The fleet will be used, in part, to enforce London's Low emission zone, as such the Service Provider must ensure all vehicles;

G3.22.1 operating under this contract comply with the LEZ requirements over the lifetime of this contract.

G3.22.2 meet a minimum of Euro IV emission standards at the start of the contract and any vehicles which are in need of replacement shall be replaced with the latest Euro standard in force at the time.

G3.22.3 Undertaking duties under the terms of this contract are not left idling if the vehicle is stationary for longer than 2 minutes either on the roadside or in the vehicle depot/pound.

G3.23 The Service Provider shall provide TfL with a copy of its vehicle fleet environmental policy highlighting the strategies in place to reduce fuel consumption, emissions, noise and waste through the procurement and operation of vehicles.

G3.24 maximise opportunities for environmentally responsible procurement and maximise environmental opportunities and minimise environmental risks and shall communicate its methodology for doing so to the Authority.

G4 EQUAL OPPORTUNITIES

Equal Opportunities in Service Delivery

- G4.1 In the performance of the Services the Service Provider shall comply and shall ensure that its employees, agents and sub-Service Providers comply with the best professional practice in relation to equal opportunities in particular (but without limitation):
 - G4.1.1 all relevant legislation (including the Sex Discrimination Acts 1975 and 1986 and the Disability Discrimination Act 1995) as well as statutory and other official guidance and codes of practice; and
 - G4.1.2 TfL's own equal opportunities policies and procedures as the same may be adopted and amended from time to time and as notified to the Service Provider.
- G4.2 The Service Provider shall provide such information as TfL may reasonably require for the purpose of assessing the Service Provider's compliance with Clause G 5.1 above.
- G4.3 The Service Provider shall comply with the following codes of practice issued pursuant to the Disability Discrimination Act 1995: the "Code of practice for the elimination of discrimination in the field of Employment against disabled persons or persons who have had a disability" and the "Code of practice: Rights of access: Goods, facilities, services and premises".
- G4.4 The Service Provider shall as far as practicable and to the satisfaction of the Contract Manager provide at its own expense all such facilities as may be necessary to enable any disabled employee or agent of TfL so authorised to visit the Service Provider, either at the Location from where the Services are being provided or any of the Service Provider's other premises, for any purpose relating to the Contract.

Equal Opportunities in Employment

- G4.5 The Service Provider shall at all times during the Contract Period comply with the requirements of the Race Relations Act 1976.
- G4.6 The Service Provider shall so far as practicable and to the satisfaction of the Contract Manager follow the practical guidance, recommendations and advice contained in the Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment issued by the Commission of Racial Equality pursuant to section 47(1) and (7) of the Race Relations Act 1976; and shall in particular (but without prejudice to the foregoing) operate an equal opportunities policy which is not, in the Contract Manager's opinion, less favourable than an equal

opportunities policy so far as practicable complying fully with the practical guidance, recommendations and advice contained in paragraphs 1.1 to 1.3 of the said Code of Practice and with the guidance papers referred to in paragraph 1.1 of the said Code of Practice.

G4.7 The Service Provider shall at the request of the Contract Manager provide TfL with a breakdown of its workforce by race and grade as the Contract Manager may reasonably require in order to satisfy herself or himself as to the Service Provider's compliance with Clause 12 so far as relevant.

G4.8 The Service Provider shall monitor the representation within its workforce of employees of minority groups (meaning groups of persons defined by reference to colour, race, nationality or ethnic or national origins, sexual orientation, disability or gender), and shall, so far as the Service Provider is not prohibited from doing so by the Race Relations Act 1976, Disability Discrimination Act 1995, take all or such part of the following action as may be appropriate if it appears to the Service Provider that any racial group is under-represented in its workforce engaged in any trade or trades by comparison with the proportion of members of that racial group known or believed to be engaged in such trade or trades either in Greater London or in the United Kingdom of Great Britain and Northern Ireland as a whole including:

G4.8.1 the placing of job advertisements designed to reach members of those minority groups and to encourage their applications: for example, through the use of the, minority group press (as well as other newspapers) and/or the use of advertisements in the languages of those racial groups;

G4.8.2 the inclusion in job advertisements of the following slogan (or of a slogan carrying the same or a similar meaning): "We are an Equal Opportunities Employer"

G4.8.3 the use of employment agencies and careers offices in areas where members of those racial groups live and work;

G4.8.4 recruitment schemes for school-leavers designed to reach members of such racial groups; and

G4.8.5 encouragement to employees for such racial groups to apply for promotion or transfer opportunities.

G4.9 The Service Provider shall inform the Contract Manager as soon as becoming aware of any legal proceedings (whether civil or criminal) brought or likely to be brought against the Service Provider under the legislation mentioned here or of any judgements, awards, convictions, or settlements arising there from, and shall provide the

Contract Manager with such further information and documentation as he or she may require.

G5.0 STANDARD OF SERVICE

G5.1 The Service Provider shall at all times during the Contract Period perform the Services comprehensively in a proper skillful and diligent manner and strictly in accordance and in compliance with:

G5.1.1 the Specification;

G5.1.2 the Method Statements;

G5.1.3 all other relevant provisions of the Contract, in particular (but without limitation), the Service Provider's obligations relating to:

G5.1.3.1 the Contract Manager (Clause 7);

G5.1.3.2 the Service Provider's personnel (Clause 8);

G5.1.3.3 health and safety (Schedule 7)

G5.1.3.4 the implementation and maintenance of Quality and Environmental Management Systems (Schedule 7);and

G5.1.3.5 security of documents and data protection (Schedule 2);

G5.1.4 TfL's Guidelines in particular (but without limitation) those relating to customer care and any other guidelines as may have been approved by TfL and supplied to the Service Provider;

G5.1.5 the instructions issued to the Service Provider by any Contract Manager under or in connection with the Contract;

G5.1.6 all relevant legislation;

G5.1.7 an efficient, professional, ethical and courteous manner which shall have regard to the interests and welfare of the customers and other occupiers of the Locations; and

G5.1.8 a manner which shall preserve, promote and enhance and shall not prejudice the reputation and interests of TfL.

G5.2 the Service Provider's performance shall be monitored by TfL and shall in particular be measured on the basis of the Key Performance Indicators and on the level of compliance with the Specification.

- G5.3 the Service Provider shall ensure that throughout the Contract Period it supplies or makes available in good condition all such resources (including without limitation, labour, machinery, equipment and materials, transport facilities, any rights and consents and all royalties, licence fees or other similar expenses in respect of the making, use or exercise by the Service Provider of any invention or design) as may be necessary and/or desirable for the proper performance of the Services.
- G5.4 the Service Provider and the Contract Manager shall, during the Contract Period at such reasonable times as the Contract Manager may request hold two meetings to report on and review the performance of the Services.
- G5. 5 the Service Provider shall inform the Contract Manager promptly and confirm forthwith in writing if the Service Provider is unable or fails to provide the Services or any part thereof, or the Service Provider is aware of anything which prevents or hinders or which may prevent or hinder the Service Provider from complying with the Contract PROVIDED ALWAYS that the provision of such information under this Condition shall not in any way release or excuse the Service Provider from any of its obligations under the Contract save where the Service Provider is unable to or fails to provide the Services or any part thereof due to a Force Majeure event.
- G5.6 Should the Service Provider require any further instruction or information which is reasonably necessary for or in connection with the provision of the Services, the Service Provider shall make a written application for the same to the Contract Manager who shall not unreasonably withhold or deny the provision of such instruction or information.
- G5.7 Any modification to the Method Statements reasonably required from time to time by TfL shall be effected as Variations in accordance with Clause 30 (Contract Variation).
- G5.8 No modification whatsoever shall be made to the Method Statements during the Contract Period except with TfL's prior consent, not to be unreasonably withheld or delayed.
- G5.9 If any modification to the Method Statements agreed by TfL under Schedule 3 during the Contract Period renders any price or rate no longer appropriate, the said modification will be treated as a Variation for the purposes of Clause 30 (Contract Variation).

[Information Redacted]

Annex 1 - Form of Parent Company Guarantee

Not required

Annex 2 - Form of Legal Opinion for use with Guarantee

Not required

Annex 3 - Form of Performance Bond

(Letterhead of Bank)

To: Transport for London

Date:

Dear Sir/Madam

IN CONSIDERATION of you entering into Contract No[] ("**the Contract**") with Ontime Automotive Ltd ("**the Service Provider**") in respect of Provision of London Wide Removal Services we [*insert name of Bank*] ("**the Bank**") hereby undertake upon first demand in writing made by you upon us from time to time or at any time to pay on each occasion the sum demanded by you on the terms and conditions set out in this letter ("**this Bond**").

PROVIDED THAT:

1. This Bond shall come into force on the date of this Bond.
2. Any demand under this Bond shall be substantially in the form of either Appendix 1 or Appendix 3 to this Bond as required by the circumstances in which such demand is made, and as between you and us the facts set out in that demand shall (a) be deemed to be true and (b) shall be accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due to you under this Bond.
3. Any demand in the form of Appendix 1 shall be accompanied by a copy of a letter from you sent to the Service Provider by first class recorded post 14 or more days before the date of the demand, substantially in the form of Appendix 2 of this Bond.

[Information Redacted]

5. Our obligations under this Bond shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:
 - (a) any alteration or variation to the terms of the Contract made by agreement between you and the Service Provider including, without limitation, any alteration in the extent or nature or sequence or method or timing of the Services to be carried out under the Contract or any novation of the Contract (in whole or in part); or
 - (b) any defence, counterclaim, withholding, set off or other deduction available to the Service Provider under the Contract or otherwise; or

- (c) any time being given to the Service Provider or any other indulgence, waiver, concession, forbearance or forgiveness to the Service Provider whether express or by conduct or any other thing done, omitted or neglected to be done under the Contract; or
 - (d) any other bond, security or guarantee now or subsequently held by you for all or any part of the obligations of the Service Provider under the Contract; or
 - (e) the release or waiver of any such bond, security or guarantee referred to in paragraph 5(e) above; or
 - (f) any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Service Provider;
 - (g) the termination of the Contract for any reason; or
 - (h) any other event which would or might operate to discharge a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish your liability under this Bond; or
 - (i) the winding-up, bankruptcy, administration, receivership or insolvency of the Service Provider; or
 - (j) any legal limitation, disability, incapacity, discharge by operation of law, change in the constitution, name or style of the Service Provider or any other person relating to the Service Provider (whether or not known to you); or
 - (k) any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Service Provider.
6. Any payment under this Bond shall be made by us in pounds sterling [or in any currency which may from time to time replace pounds sterling].
7. This Bond is irrevocable.
8. Terms defined in the Contract and not otherwise defined in this Bond shall have the same meaning in this Bond.
9. This Bond, executed and delivered as a deed, is governed by and shall be construed in accordance with the law of England and Wales. The courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Bond except that you have the right in your absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which we are incorporated or in which any of our assets may be situated. You and we agree to submit to that jurisdiction.

10. You will be entitled to assign the benefit of this Bond in whole or in part but we may not assign the benefit and/or delegate the burden of this Bond in whole or in part or enter into any transaction which would result in any of those benefits and/or burdens passing to another person.
11. If any provision (in whole or in part) of this Bond is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Bond and shall be ineffective, without, so far as is possible, modifying any other provision of this Bond and this shall not affect any other provisions of this Bond which shall remain in full force and effect.
12. Any demand or other notice made by you under this Bond shall be duly made if sent by first class recorded delivery post to us.

[For non-UK resident banks with only a branch or office in the UK :

10. For the purposes of this Bond we hereby appoint of (to be a London address) to accept service of process on our behalf, and service on the said at the said address shall be deemed to be good service on us; and we hereby irrevocably agree not to revoke or terminate such appointment.

Executed as a Deed and delivered the day and year written above.

| | |
|-------------------------------|--------------------|
| Executed as a Deed by |) _____ |
| [Bank] |) Director |
| acting by a Director and the |) _____ |
| Secretary or by two Directors |) _____ |
| | Director/Secretary |

| | |
|-----------------------------|--------------------|
| The common seal of [Bank] |) _____ |
| was affixed to this Deed in |) Director |
| the presence of |) _____ |
| | Director/Secretary |

Annex 4 - Form of Demand from the Authority to [the bank]

Dear Sirs

Contract No [] in respect of services for []

We refer to the Bond given by you to us dated []. We enclose a copy of a letter from us to [*insert name of Service Provider*] ("**the Service Provider**") which was sent to the Service Provider by first class recorded post on [] which is more than 14 days before the date of this demand.

The Service Provider has not taken steps which we consider adequate to remedy the breaches.

The expiry date under the Contract has not been reached.

We hereby demand from you the sum of £[] under your Bond. Please make payment by your cheque in sterling payable to Transport Trading Limited.

Yours faithfully

On behalf of [*insert name of Authority*]

Annex 5 - Form of letter from the Authority to the Service Provider

To be sent by first class Recorded Delivery post

Dear Sirs

Contract No [] in respect of services for []

As explained in [previous letters to you/our letter dated to you] you are in breach of your obligations under Contract No. [], and you have neither remedied nor implemented sufficient steps to remedy, those breaches.

This letter therefore notifies you that unless within 14 days from the date of this letter you take steps which we consider adequate to remedy the breaches we shall be entitled without further notice to you to call for payment under the Bond given on your behalf by [*name of bank*] dated [DATE].

Yours faithfully

On behalf of [*insert name of Authority*]

Annex 6 - Alternative form of demand from the Authority to [the bank]

Dear Sirs

Contract No [] in respect of services for []

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

* Delete as appropriate

* **(Option 1** - No reduction in amounts payable under the Bond.)

An event has occurred of a type described in Clause 30.1 of the Contract which entitles us (inter alia) to terminate the Contract in accordance with that Clause.

The expiry date under the Contract has not been reached.

* **(Option 2** - Reducing amounts payable under the Bond.)

An event has occurred of the type described in Clause 30.1 of the Contract which entitles us (inter alia) to terminate the Contract in accordance with that clause.

[e.g. a Milestone] has/has not been achieved and the expiry date under the Contract has not been reached.

We hereby demand payment from you of the sum of £[] under your Bond. Please make payment by your cheque in sterling payable to Transport Trading Limited.

Yours faithfully

On behalf of *[insert name of Authority]*

Annex 7 - Deed of Novation

THIS DEED is made the _____ day of _____

BETWEEN:

(1) *[Insert company details for the Authority]* (“**the Authority**”);

AND

(2) [], a company registered in England and Wales (Company Registration Number []) whose registered office is at [] ("**the Service Provider**"); and

(3) [] a company registered in England and Wales (Company Registration Number []) whose registered office is at [] ("**the New Company**"); and

WHEREAS:

(A) The Authority has a contract dated [] Contract Reference Number [] with the Service Provider for the provision of Services ("**the Contract**").

(B) The Authority wishes to be released from the Contract (or part of it) and the Service Provider agrees to release the Authority in consideration of the New Company's undertaking to perform the Contract (or part of it) and to be bound in place of the Authority.

(C) The Service Provider and the New Company have agreed to such transfer upon the terms and conditions of this Deed.

IT IS AGREED AS FOLLOWS:

11. In this Deed:

11.1 "Transfer Date" means []:

11.2 "Transferred Part" means all that part of the undertaking of the Authority that consists of [describe part of undertaking that the New Company will be taking responsibility for].

12. With effect from the Transfer Date (but only in so far as the Contract relates to the Transferred Part):

12.1 the New Company undertakes to perform the obligations of the

Authority under the Contract and be bound by its terms in every way as if the New Company is and had been named at all times as a party to the Contract in lieu of the Authority;

12.2 the Service Provider releases and discharges the Authority from all demands and claims whatsoever in respect of the Contract accruing from the Transfer Date and accepts the liability of the New Company in relation to the Contract in lieu of the liability of the Authority for all demands and claims whatsoever accruing on or after the Transfer Date under the Contract and agrees to be bound by the terms of the Contract in every way as if the New Company were and had been party to the Contract at all times in lieu of the Authority;

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

2.3.1 any and all rights, claims, counter-claims, demands and other remedies of the Service Provider against the Authority accrued under or in connection with the Contract prior to the [Transfer Date] of this Deed are exercisable and enforceable by the Service Provider against the New Company; and

2.3.2 any and all rights, claims, counter-claims, demands and other remedies of the Authority against the Service Provider accrued under or in connection with the Contract prior to the [Transfer Date] of this Deed are exercisable by the New Company against the Service Provider;

12.4 with the consent of the Service Provider, the Authority assigns all its rights (including any present, future or contingent interest or right to any sums or damages payable under or in connection with the Contract) from the Transfer Date under the Contract to the New Company;

12.5 the Service Provider undertakes with the New Company to perform its liabilities and obligations under the Contract as if the New Company had at all times been party to the Contract instead of the Authority and acknowledges that the New Company shall be entitled to enjoy the benefit of the Contract instead of the Authority.

13. The formation, existence, construction, performance, validity and all aspects whatsoever of this Deed or of any term of this Deed shall be governed by the law of England and Wales. The courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Deed. The parties to this Deed agree to submit to that jurisdiction.

14. The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

Executed as a Deed and delivered the day and year written above.

| | | |
|-------------------------------|---|--------------------|
| Executed as a Deed by |) | _____ |
| the Authority |) | Director |
| acting by a Director and the |) | |
| Secretary or by two Directors |) | _____ |
| | | Director/Secretary |

| | | |
|-------------------------------|---|--------------------|
| Executed as a Deed by |) | _____ |
| <i>[the Service Provider]</i> |) | Director |
| acting by a Director and the |) | |
| Secretary or by two Directors |) | _____ |
| | | Director/Secretary |

| | | |
|-------------------------------|---|--------------------|
| Executed as a Deed by |) | _____ |
| <i>[The New Company]</i> |) | Director |
| acting by a Director and the |) | |
| Secretary or by two Directors |) | _____ |
| | | Director/Secretary |

Appendix 1

Defaults and Bonus

TfL are keen to create a partnership with the Service Provider however in order to achieve the highest standards of service and ensure those standards are maintained we have included a contractual bonus and default scheme.

We believe defaults must be fair, proportionate, to our loss, measurable and transparent. We will issue defaults and bonuses each four weekly periods, unless otherwise specified.

TfL will not apply defaults or bonuses for the first 4 weeks from Service Commencement

Defaults

Defaults are both financial and on a points basis

A lower threshold has been set of 500 default points per four week period before the contactor starts paying a penalty. We have not imposed a maximum threshold. Any default received on the contract would be converted to pounds sterling at the end of each four week period and should the 500 be exceeded, TfL would apply defaults. This is for defaults upheld and is further subject to a four weekly contract monitoring meeting.

Bonuses

Bonuses are on a percentage basis

This is a percentage of the total 4 weekly charge after deduction of discounts and defaults.

The Bonus and Default tables are shown below.

[Information Redacted]

[Information Redacted]

Appendix 2

[Information Redacted]

Appendix 3

Key Performance Indicators (KPIs)

[Information Redacted]

1.0 Advisory Notice

- 1.0 The Contract Manager may serve on the Service Provider an Advisory Notice within seven days of the end of a Review Period if in the reasonable opinion of the Contract Manager:
 - 1.1 the Service Provider over a Review Period has failed to achieve the level of performance required by any of the Key Performance Indicators
 - 1.2 For the avoidance of doubt, only one Advisory Notice shall be served in respect of any Review Period in respect of the Services and each Advisory Notice may cite one of more failures in level of performance
 - 1.3 An Advisory Notice shall be in writing addressed to the Service Provider and shall state that it is an Advisory Notice and specify the nature of the failure and (if remediable) require the Service Provider to remedy the failure. The Service Provider shall remedy the failure (and any damage directly or indirectly resulting there from) within a reasonable time (and in any event during the Review Period in which the Advisory Notice was served) without any further charge whatsoever to TfL.
 - 1.4 The Contract Manager and the Service Provider shall discuss each Advisory Notice at a meeting to be called for such purpose within 14 days of the service of the Notice and seek to agree the action required to prevent such failures occurring in future and, if the failure has not been remedied, the measures necessary to remedy the failure.

2.0 Warning Notice

- 2.1 The Contract Manager may serve on the Service Provider a
 - 2.1 Warning Notice if the Service Provider has failed to remedy any failure specified in an Advisory Notice within the time specified in Clause 1.3 of Appendix 3
 - 2.2 A Warning Notice shall state that it is a Warning Notice and shall specify the matter or matters in respect of which the Warning Notice is served and shall specify (if appropriate) the course of action the Contract Manager

requires the Service Provider to take in response to the Warning Notice, state the time within which the action is required to be taken (which time shall be reasonable) and explain the implications of the Warning Notice.

- 2.3 Where a Warning Notice has been served, the subject matter thereof shall be discussed at a Performance Review Meeting to be held within 14 days of the date of the service of the Warning Notice on the Service Provider.
- 2.4 Failure to remedy in accordance with Clause 2.2 of Appendix 3 the matter or matters in respect of which the Warning Notice is served could lead to remedy in accordance with Clause 26 of the Terms and Conditions

[Information Redacted]

Appendix 4

Olympics 2012 And Other Extraordinary Events

- 1.0 As an additional OPTIONAL service, the Service Provider or its Service Providers should provide a specialist removal service to remove vehicular obstructions from the Olympic road network and other specified roads in and around the Olympic area.
- 2.0 It is envisaged that removal operations will be co-ordinated from within TfL.
- 3.0 The removal trucks will patrol 24 hours a day before, during and after the Olympic period.
- 4.0 TfL or its service providers will provide a temporary Olympic vehicle compound. In the vicinity of the Olympic stadium.
- 5.0 We anticipate closing a number of compounds across the three regions and focusing resources on the Olympic area.
- 6.0 TfL will re-locate staff equally from the three regions to staff the Olympic compound.
- 7.0 We do not currently anticipate staff having to work additional hours, however we will use the variation clause once the service requirement is clear.

Appendix 5

Digital Traffic Enforcement System (DTES)

1. The Service Provider or its service providers should provide secure storage space at each of its pounds for one of TfL's mobile enforcement vehicles.
2. TfL runs two types of mobile enforcement vehicles, namely, the Portable Enforcement Camera (PEC) and the Vehicle Mounted Camera. The vehicle for the Portable Enforcement Camera is likely to be either a medium wheelbase Ford Transit Van or a Mercedes Sprinter van with a 4m wheelbase. The vehicle for the vehicle mounted camera will be a mid-sized family saloon. The secure storage space identified in paragraph 1 above should be sufficient for the largest of these vehicles.
3. The precise operation of the mobile enforcement vehicles is still to be determined by TfL but the Service Provider should assume that, as a minimum, the vehicles will be enforcing on the Transport for London Road Network during daylight hours, seven days per week. The vehicles will need access to the pound on an 'as-required' basis throughout the day.
4. TfL reserves the right, subject to the Contract variation procedure, to procure further secure storage space at each pound for further mobile enforcement vehicle.
5. The Service Provider or its service providers should provide secure office accommodation at each of its pounds for a one metre tall 19 inch equipment rack. The Service Provider is not required to provide the equipment rack – it will be provided by TfL or one of its service providers.
6. The Service Provider should also provide a suitable power source for a server.

TfL will inform the Service Provider if this Service is required

Appendix 6

Low emission zone

Optional Service to be called off as required by means of a Variation to Contract in accordance with Clause 30

1. The Service Provider or its contractors will have the ability to provide the capability to remove Heavy Goods Vehicles that have been identified as persistent evaders of the low emission zone.
2. It is anticipated that the majority of low emission zone enforcement of persistent evaders will be by "Filter" operations in that vehicles are stopped using police ANPR cameras using the police or Department for Transport (VOSA) or the Metropolitan Police Service.
3. We envisage the drivers of non compliant vehicles being asked to pay outstanding fines at the roadside, which will be facilitated by On Street Enforcement Officers contracted by the low emission zone and in attendance at such filter operations. However if the outstanding fines are not paid then the vehicles may be removed and impounded in a suitable storage facility.
4. The additional requirement will therefore involve the dedicated use of a removal vehicle, with the ability to remove Heavy Goods Vehicles with a laden weight of up to and including 44 tons, for a specified time period which is expected to be a maximum of 12 hours between 7:00am and 7:00pm, Monday to Friday.
5. Any Heavy Goods Vehicle, with or without trailer, will be removed to the contractor's vehicle pound, impounded and stored until the contractor is notified that the vehicle may be released by the low emission zone enforcement contractor.
6. Storage should ideally be within the M25 for the first 14 days, but thereafter the impounded Heavy Goods Vehicle may be decanted to an alternative location.
7. The costs of storage includes the relevant notification to the low emission zone enforcement contractor of all events that occur in relation to any Heavy Goods Vehicles impounded as part of this Contract, including but not limited to contact from the registered keeper/driver/person responsible, any change in the condition or location of the vehicle and any other relevant event.

Appendix 7

[Information Redacted]

Appendix 8

Incident Manager, Facilities,

1. The cost of an Incident Manager is included within this bid. In addition to the dedicated TfL fleet, a fully trained Incident Manager will be deployed to every major road traffic incident within each of the TfL zones. This person's primary function will be to secure the incident scene, carry out a risk assessment, and organise the deployment of any additional equipment required to carry out the recovery operation. Further responsibilities of the Incident Manager will be to liaise with the emergency services, TfL Officers, Highway Agency and the Environmental Agency to ensure the recovery is carried out safely and in accordance with all the agencies specific requirements.
2. As the ability to use the services of an agency to supply additional qualified Incident Managers and recovery staff does not exist, Ontime will utilise Ontime Automotive's pool of fully trained drivers who are qualified to Highway Agency and IVR standards. These drivers will supplement the TfL contract to accommodate any holiday or sickness ensuring that vehicle downtime is kept to an absolute minimum.
3. All TfL operational staff will be provided with their own dedicated structure and facilities within the *[Information Redacted]* main pounds. This accommodation will be sufficient to allow the Supervisory team to carry out the necessary team briefings and staff meetings. Additional prefabricated buildings will be provided within all *[Information Redacted]* sites, placing cabins on top of existing accommodation where required.

Appendix 9 Structure

Transport for London Contract Team

