

DATED _____ 20[]

- (1) EC PROPERTIES LP LIMITED**
- (2) TTL EARLS COURT PROPERTIES LIMITED**
- (3) EARLS COURT PARTNERSHIP LLP**

**MEMBERS' AGREEMENT RELATING TO
EARLS COURT PARTNERSHIP LLP**

**COMMERCIAL IN CONFIDENCE
SUBJECT TO CONTRACT**

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BETWEEN

- (1) **EC PROPERTIES LP LIMITED** a company registered in Jersey (Company Number 108459) whose registered office is at 22-24 Seale Street, St Helier, Jersey, JE2 3QG ("**Capco**");
- (2) **TTL EARLS COURT PROPERTIES LIMITED** a company registered in England and Wales, (Company Number 08951012) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL ("**TfL**"); and
- (3) **EARLS COURT PARTNERSHIP LLP** a limited liability partnership registered in England, (LLP Number OC[]) whose registered office is at 15 Grosvenor Street, London, W1K 4QZ ("**JV LLP**"),

together, the "**Parties**", and each, a "**Party**".

RECITALS:-

- (A) Capco and TfL have agreed to incorporate JV LLP to (amongst other things) maximise the economic value of JV LLP for its Members by enabling the development of Earls Court Village in accordance with the Consented Scheme.
- (B) In order to facilitate its activities, JV LLP may (amongst other things) purchase, develop and hold as an investment or sell (or procure the development and holding or sale of) land, enter into leases with third parties and enter into income generating arrangements with third parties. JV LLP may also establish subsidiaries to deliver some or all of its activities.
- (C) The economic and voting interests of Capco and TfL as members of JV LLP is 63% and 37% respectively, such percentages being in proportion to the contributions of land Capco and TfL intend to make to JV LLP as part of arrangements contemplated by this Agreement and all related agreements.
- (D) The Parties have agreed to execute this Agreement to regulate the responsibilities and dealings between them in relation to the conduct of the business, management and affairs of JV LLP and its or their subsidiaries from time to time.

IT IS AGREED AS FOLLOWS:-

1. **DEFINITIONS AND INTERPRETATION**

This Agreement shall be interpreted according to the provisions of Schedule 1.

2. **COMPLETION**

2.1 On the Effective Date:

- 2.1.1 the Board shall be formed by JV LLP (or shall be deemed to have been formed by JV LLP) in accordance with Clause 8;
- 2.1.2 the Auditors and the Bank shall be appointed (or shall be deemed to have been appointed) by JV LLP;
- 2.1.3 the first Business Plan shall be adopted (or shall be deemed to have been adopted) by JV LLP (as applicable);
- 2.1.4 the Delegation Policy shall be adopted (or shall be deemed to have been adopted) by JV LLP (as applicable);

- 2.1.5 the Anti-Bribery and Corruption Policy shall be adopted (or shall be deemed to have been adopted) by JV LLP (as applicable);
- 2.1.6 TfL shall procure that the TfL Representatives shall each deliver to JV LLP a duly signed Letter of Appointment; and
- 2.1.7 Capco shall procure that the Capco Representatives shall each deliver to JV LLP a duly signed Letter of Appointment.

3. THE PARTNERSHIP AND BUSINESS OF JV LLP

- 3.1 The first name of JV LLP shall be "EARLS COURT PARTNERSHIP LLP". JV LLP may only use TfL's name (or the name of any of the entities within TfL's Group) with the express prior written consent of TfL (which may set out certain conditions). Where the relevant written consent sets out certain conditions, in circumstances where (and for so long as) JV LLP uses the relevant name, JV LLP shall comply with such conditions.
- 3.2 The registered address of JV LLP shall be 15 Grosvenor Street, London, W1K 4QZ or such other address as may be determined by the Board.
- 3.3 TfL and Capco shall be Members who are "designated members" of JV LLP for the purposes of the LLP Act and shall comply with all obligations which are required of them under the LLP Act. The designated members of JV LLP shall not be entitled to any remuneration or reimbursement in connection with their status as designated members.
- 3.4 TfL and Capco hereby delegate to the Business Manager from time to time the responsibility for delivering any document on behalf of JV LLP which is required to be delivered to the Registrar of Companies in England and Wales in connection with JV LLP.
- 3.5 JV LLP and the Nominee shall be the "designated members" of any JV LLP Subsidiary that is a limited liability partnership from time to time from the date of its incorporation for the purposes of the LLP Act and shall comply with all obligations which are required of them under the LLP Act. The designated members of a JV LLP Subsidiary that is a limited liability partnership from the date of its incorporation shall not be entitled to any remuneration or reimbursement in connection with their status as designated members of such entities.
- 3.6 JV LLP hereby delegates, and shall procure that the Nominee delegates, to the Business Manager in respect of any JV LLP Subsidiary that is a limited liability partnership from the date of its incorporation and from time to time the responsibility for delivering any document on behalf of such entity which is required to be delivered to the Registrar of Companies in England and Wales in connection with such entity.
- 3.7 Upon the date of the establishment of any JV LLP Subsidiary, by and in relation to such JV LLP Subsidiary:
 - 3.7.1 JV LLP Subsidiary Board shall be formed (or shall be deemed to have been formed) in accordance with Clause 8;
 - 3.7.2 the Auditors and the Bank shall be appointed (or shall be deemed to have been appointed) as the auditors and the bank respectively;
 - 3.7.3 JV LLP Subsidiary (and each party hereto) shall enter into a Deed of Adherence.

4. PRIMARY PURPOSE

The objectives of JV LLP and any JV LLP Subsidiary shall:

- 4.1.1 be exclusively commercial in nature; and

4.1.2 in doing so, JV LLP shall conduct the Business in order to achieve the Primary Purpose.

5. CAPITAL CONTRIBUTIONS AND WORKING CAPITAL

5.1 Member Capital Contributions

5.1.1 On the date of this Agreement, each of the Members shall provide to JV LLP the cash sum set out below opposite its name by way of its Capital Contribution and JV LLP shall credit such amounts (to the extent received by a Member) against the relevant Member's Capital Account:

Capco: £63

TfL: £37

5.1.2 Neither Member shall be required or entitled to provide any additional Capital Contribution to JV LLP or (through JV LLP) to any JV LLP Subsidiary in addition to the amount set out in Clause 5.1.1, save in accordance with the provisions of this Agreement or where the Members unanimously agree otherwise. Any agreed additional Capital Contribution shall be made by both Members simultaneously pro-rata to their Member Voting Interests, and shall be provided on the same terms.

5.1.3 No interest shall be payable on a Member's Capital Contribution.

5.1.4 No Member shall have the right to the return of its respective Capital Contribution save as provided under the terms of Clause 29.

5.1.5 Each Member's liability as a member of JV LLP shall be limited to the aggregate amount of that Member's Capital Contribution provided, subject to and in accordance with this Clause 5.

5.2 Member Funding of Working Capital Requirements prior to the Final Completion Date

Prior to the Final Completion Date, the Working Capital Requirements of JV LLP shall be met in accordance with the provisions of the Implementation Agreement.

5.3 Member Funding of Working Capital Requirements following Final Completion Date

During the period commencing on and from the Final Completion Date (including during the period commencing on each Funding Event Date until the next Funding Event Date), it is intended that the Working Capital Requirements of JV LLP (as determined by the Board in accordance with this Agreement) shall be met (insofar as the same is not procured from third party funders or retained out of Net Profits in accordance with Clause 21.2), in accordance with Clause 7.

6. CAPITAL AND LOAN NOTES

Initial Capital

6.1 Capco agrees to contribute, or procure the contribution of, certain land interests to JV LLP subject to and in accordance with the terms of the Property Documents. In consideration of the transfer of a number of such land interests pursuant to the documents numbered 38, 39, 41, 42, 44, 55 and 72 in Appendix 10 of the Implementation Agreement, JV LLP shall:

6.1.1 credit Capco's Member's Capital Account; and

6.1.2 issue Contribution Loan Notes,

to Capco in proportion to their Member Voting Interest upon the date of such contribution in accordance with the terms of the Property Documents, provided that the total credit to Capco's Member's Capital Account shall not exceed £75,600,000

6.2 TfL agrees to contribute, or procure the contribution of, certain land interests to JV LLP subject to and in accordance with the terms of the Property Documents. In consideration of the transfer of a number of such land interests pursuant to the documents numbered 38, 39, 41, 42, 44, 55 and 72 in Appendix 10 of the Implementation Agreement, JV LLP shall:

6.2.1 credit TfL's Member's Capital Account; and

6.2.2 issue Contribution Loan Notes,

to TfL in proportion to their Member Voting Interest upon the date of such contribution in accordance with the terms of the Property Documents, provided that the total credit to TfL's Member's Capital Account shall not exceed £44,400,000.

6.3 Where and to the extent that the Members subscribe for Contribution Loan Notes in accordance with the terms of this Agreement and the relevant subscription moneys are provided on the basis that they will be used to provide funding for a JV LLP Subsidiary (rather than JV LLP), such subscription moneys shall be paid by JV LLP to the relevant JV LLP Subsidiary, in consideration for which, such JV LLP Subsidiary shall issue to JV LLP such number of JV LLP Subsidiary Loan Notes as is equal in nominal value to the amount paid by JV LLP to such JV LLP Subsidiary pursuant to this Clause.

6.4 The Contribution Loan Notes shall only be redeemed in accordance with the terms of the Contribution Loan Note Instrument, the provisions of this Agreement or by determination of the Board. Where not redeemed earlier, in which case the Contribution Loan Notes issued to the Members shall be redeemed *pari passu*, the Contribution Loan Notes held by the Members shall be redeemed in cash at par on a *pari passu* basis on the date upon which JV LLP is wound up.

6.5 JV LLP Subsidiary Loan Notes shall only be redeemed in accordance with the terms of JV LLP Subsidiary Loan Note Instrument, the provisions of this Agreement or by determination of the Board. Where not redeemed earlier, JV LLP Subsidiary Loan Notes held by JV LLP shall be redeemed on a *pari passu* basis on the date upon which JV LLP is wound up.

7. FUNDING OF JV LLP

Funding Strategy

7.1 The Funding Strategy is a forward-looking document setting out the Board's view on the funding requirements and capital structure of JV LLP in order for JV LLP to execute the activities set out in the Business Plan in accordance with the Primary Purpose.

7.2 The Funding Strategy will be adopted by the Board, and may be amended by the Board, from time to time as required in response to changing property and funding market conditions, changes to the Business Plan and the effect of previous Funding Events provided that the Board shall be informed by the advice and recommendations put forward by the Funding Adviser(s) appointed pursuant to the Funding Engagement Letter(s).

7.3 The Funding Strategy shall be based upon and be guided by the Funding Principles.

Funding Adviser(s)

7.4 Prior to the anticipated Final Completion Date and upon becoming aware that Completion of the Property Documents is likely to take place on the anticipated Final Completion Date, the Board shall instruct the Funding Adviser(s) to commence the implementation of the Funding Strategy in accordance with the Funding Principles and the terms of the Funding Engagement Letter.

- 7.5 JV LLP shall procure that the Funding Adviser(s) shall have a key role in defining the initial Funding Strategy and its ongoing review and update as the Consented Scheme progresses. In preparing any advice, recommendations or other commentary, JV LLP shall procure that the Funding Adviser(s) shall:
- 7.5.1 consider the full range of funding options potentially available, including but not limited to, senior debt, equity, mezzanine debt, bridge financing (equity and debt) and forward sales, sourced from both the private and public markets;
 - 7.5.2 keep informed through general market intelligence and, if appropriate, soft soundings with potential funders and other intermediaries; and
 - 7.5.3 advise on the most appropriate ways to satisfy a Funding Requirement.
- 7.6 The Funding Adviser(s) shall be instructed to provide a Quarterly update to the Board on the funding market in accordance with the terms of the Funding Engagement Letter, to be included in each Board pack sent to the Representatives in advance of a meeting of the Board in accordance with Clause 9. The Board may direct the Funding Adviser(s) to prepare a report on any other relevant matters as the Board may reasonably require.
- 7.7 Capco and TfL may by notice in writing to JV LLP signed by both of them remove or replace the Funding Adviser where only one such adviser has been appointed. If either TfL or Capco wish to nominate a second Funding Adviser they may do so by notice in writing to JV LLP, in which event the existing (sole) Funding Adviser will be designated as the nominated Funding Adviser of the other Member. In the event that a second Funding Adviser is appointed, they will be appointed on the same terms as contained in the Funding Engagement Letter to the extent reasonably practicable, including as to their fees and scope of services. Thereafter, each of TfL and Capco may by notice in writing to JV LLP remove or replace their nominated Funding Adviser.

Funding Events - General

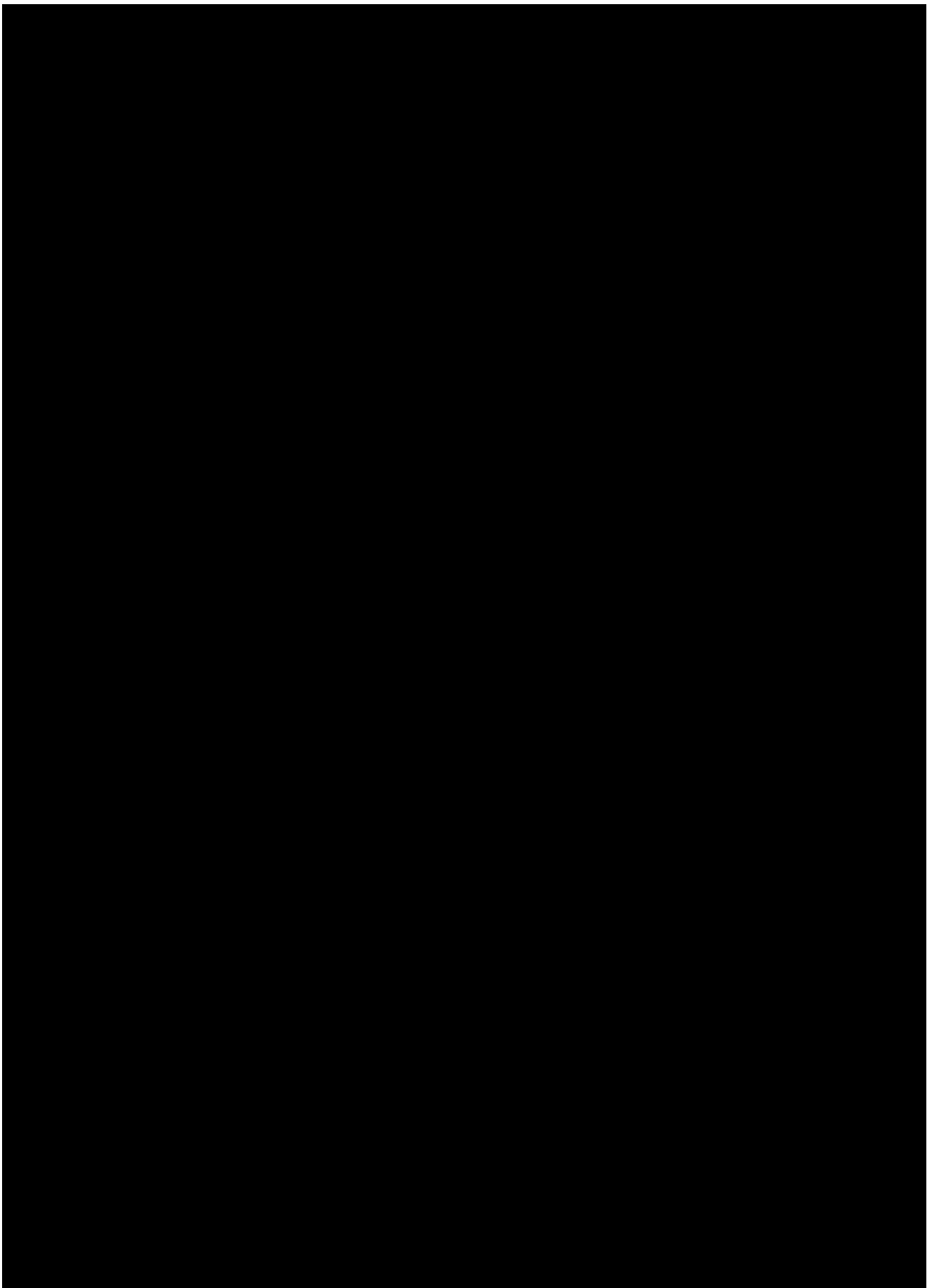
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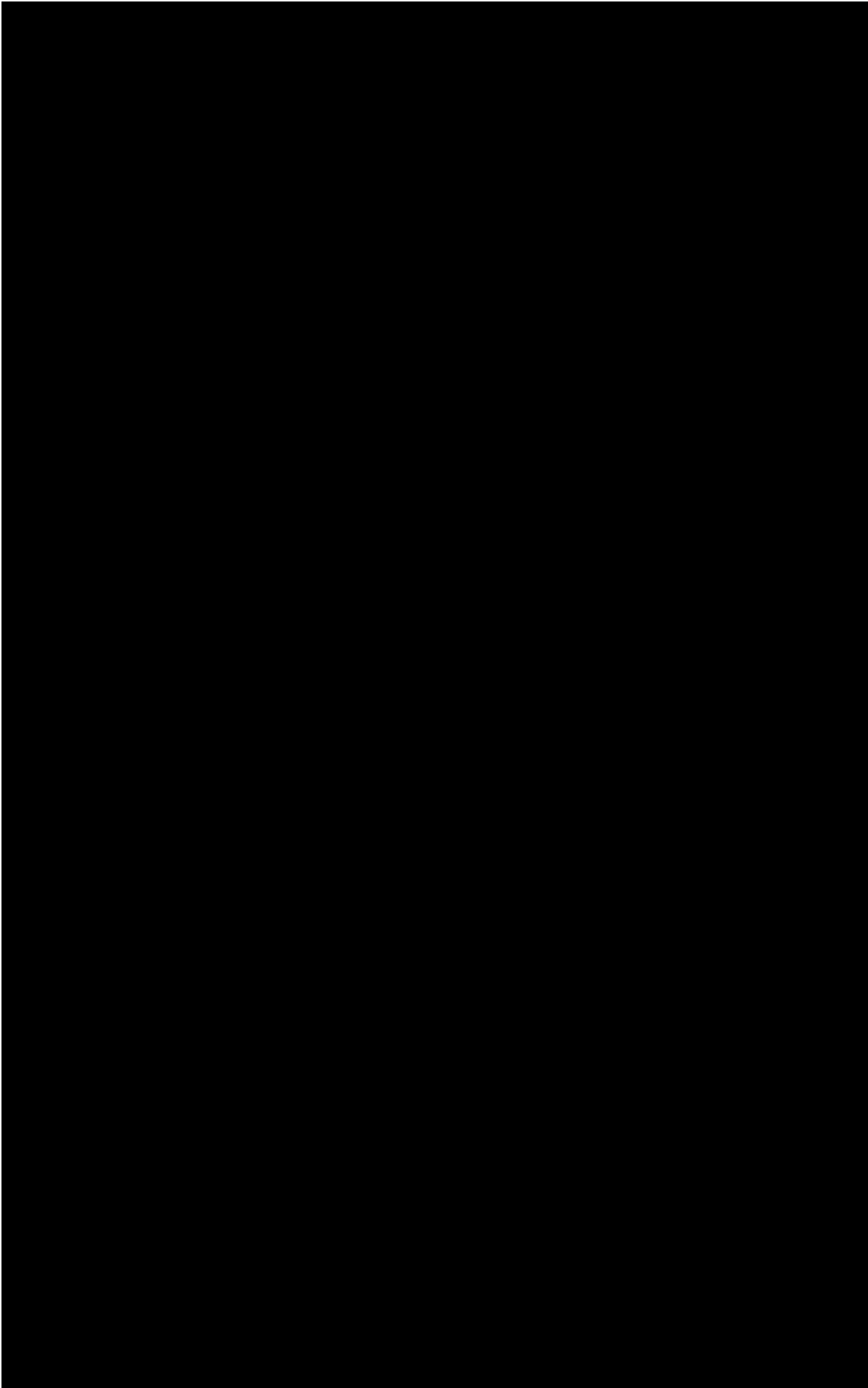
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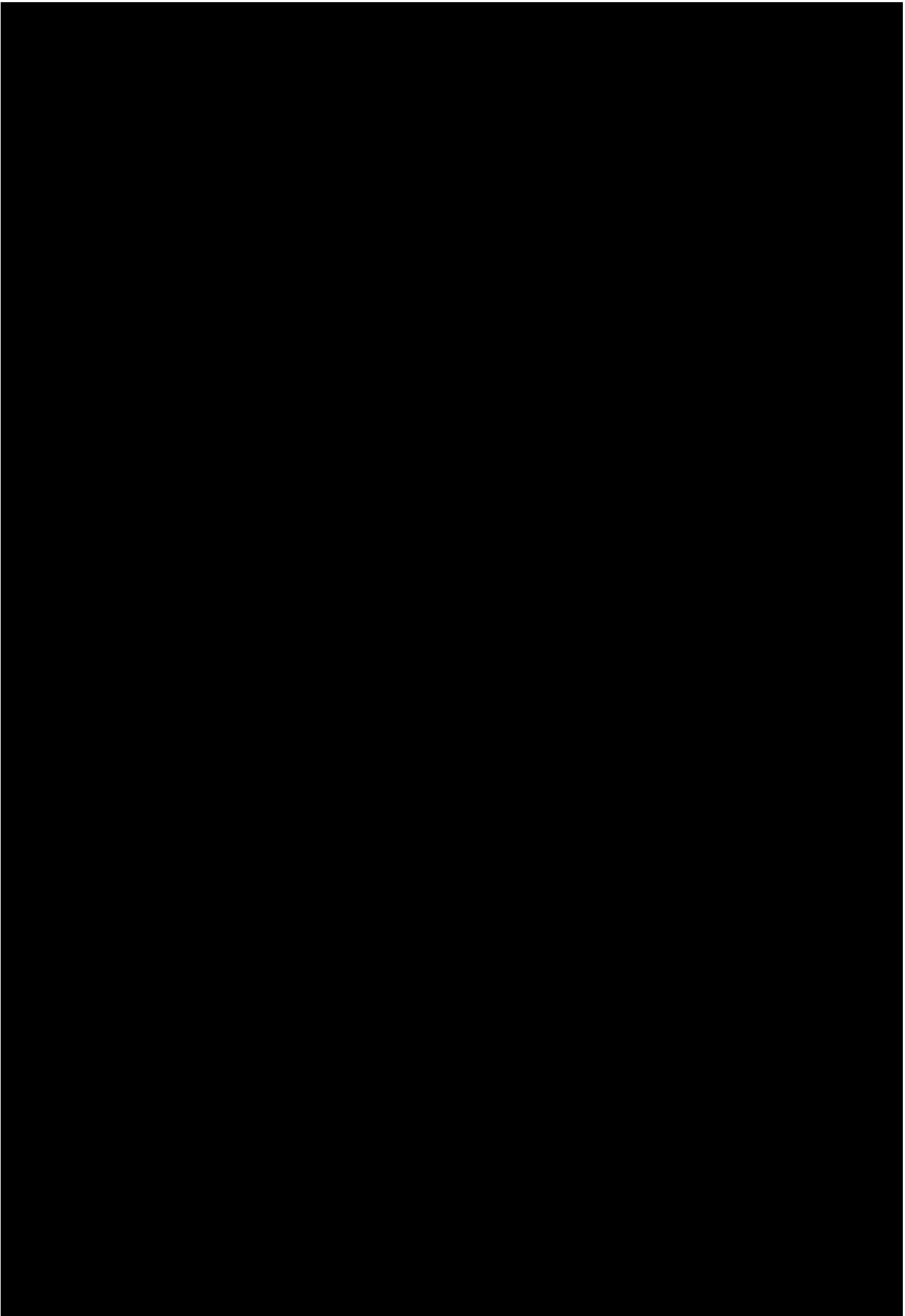
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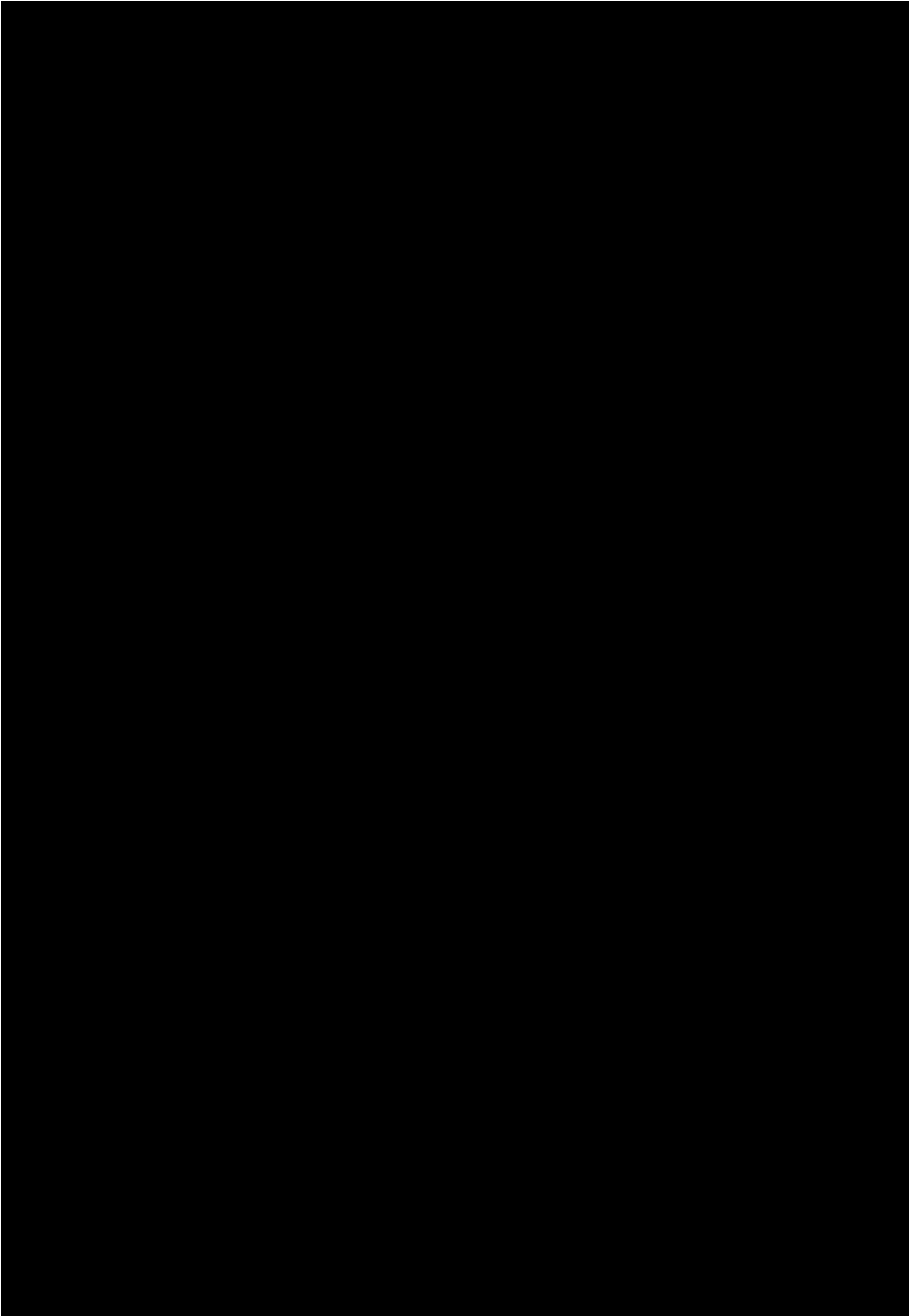
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8. CONSTITUTION OF THE BOARD

8.1 Constitution and authority of the Board

8.1.1 The Board is hereby constituted by JV LLP (acting by its Members) for the purposes of carrying out the Business. The Members and JV LLP agree to maintain the Board for the duration of this Agreement.

8.1.2 Save to the extent this Agreement expressly provides otherwise, the management, decision making and operations of JV LLP shall be delegated to and vested in the Board.

8.1.3 Notwithstanding any other provision of this Agreement, the Board shall manage JV LLP and shall take all actions and decisions in accordance with the Primary Purpose.

8.1.4 JV LLP (and the Board) shall not undertake any action or make any decision that is a Member Protection Matter without the approval of the Members in accordance with Clause 13 or a Material Tax Matter without the approval of the Members in accordance with Clause 18.

8.2 Primary Purpose Pre-Warning Notice

Subject to Clause 8.5 in circumstances where the Board proposes to take any decision and TfL considers that the Board, in taking such decision, would not be acting in a manner which

would fulfil the Primary Purpose, TfL shall be entitled to serve a written notice upon JV LLP before the date 2 Working Days prior to the relevant Board meeting, which shall:

- 8.2.1 be addressed to the Board;
- 8.2.2 be entitled “Primary Purpose Pre-Warning Notice”;
- 8.2.3 identify the relevant decision;
- 8.2.4 state that TfL considers that the Board would not be acting in a manner which would fulfil the Primary Purpose by taking the relevant decision; and
- 8.2.5 state that TfL is considering serving a Primary Purpose Objection Notice in accordance with Clause 8.3,

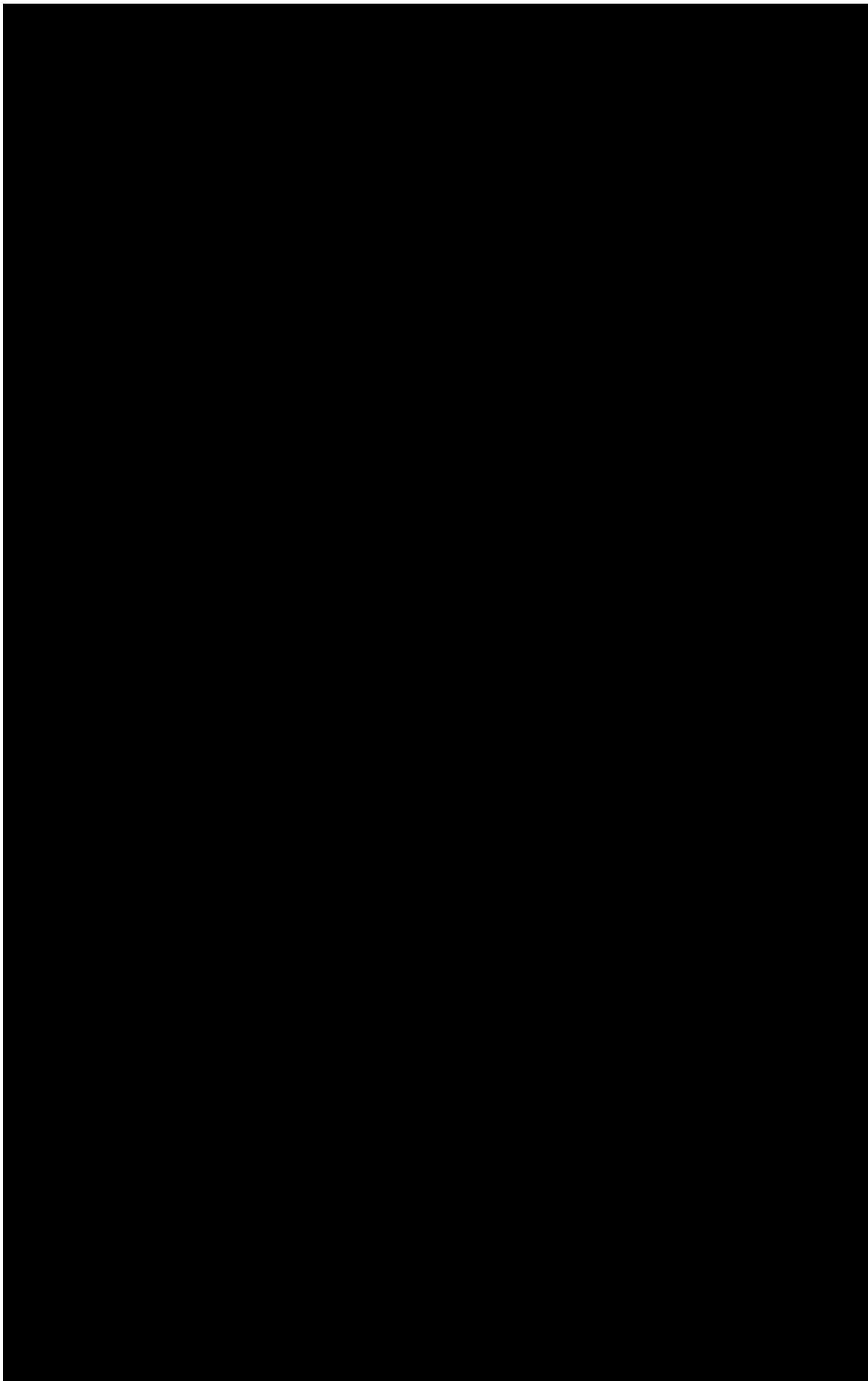
(a “**Primary Purpose Pre-Warning Notice**”).

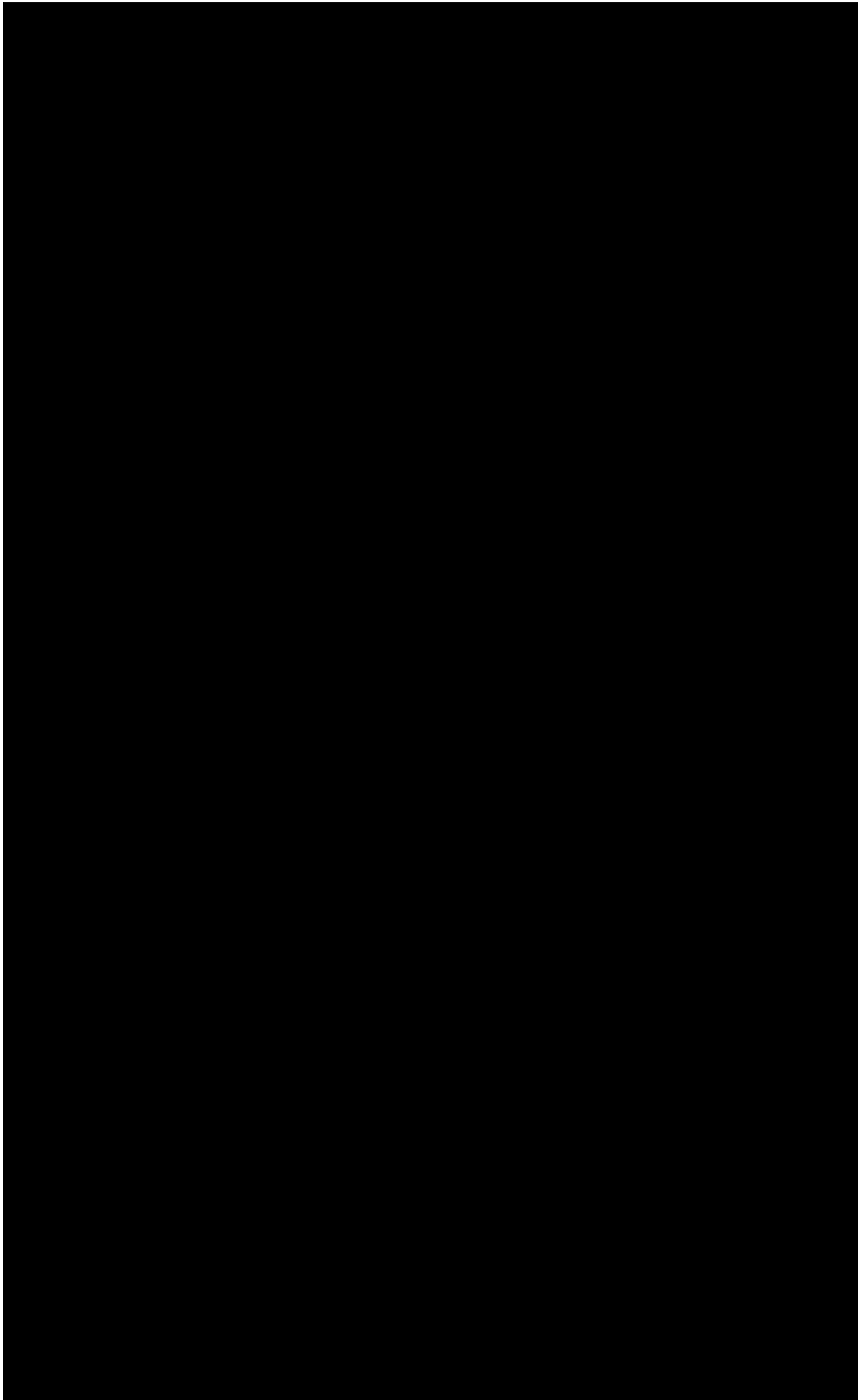
8.3 **Primary Purpose Objection Notice**

Subject to Clause 8.5 provided that TfL has served a Primary Purpose Pre-Warning Notice in respect of the relevant decision in accordance with Clause 8.2, and provided that neither TfL nor the TfL Representatives have previously voted in favour of the relevant decision whether at a Board or Members’ meeting or otherwise, where TfL (acting reasonably) considers, in relation to a decision made by the Board, that the Board would be materially damaging the economic value of JV LLP for its Members by taking that decision (having regard to the Primary Purpose), TfL shall be entitled to serve a written notice upon JV LLP before the date 15 Working Days following the relevant Board meeting at which such decision was taken, which shall:

- 8.3.1 be addressed to the Board;
- 8.3.2 be entitled “Primary Purpose Objection Notice”;
- 8.3.3 identify the relevant decision;
- 8.3.4 state that TfL considers that the Board would be materially damaging the economic value of JV LLP for its Members by taking that decision (having regard to the Primary Purpose);
- 8.3.5 state the reasons why TfL considers that the Board would be materially damaging the value of JV LLP for its Members by taking that decision (having regard to the Primary Purpose); and
- 8.3.6 state whether TfL considers the matter to be reversible, and setting out its reasons for that view,

(a “**Primary Purpose Objection Notice**”). For the avoidance of doubt in considering whether a decision would be materially damaging the economic value of JV LLP for its Members by taking that decision (having regard to the Primary Purpose), regard may be had to the effect of previous decision(s) taken by the Board which relate to the decision in question and their cumulative effect, provided that TfL shall not be entitled to raise a Primary Purpose Objection Notice in respect of such previous decision(s), which for the avoidance of doubt shall remain valid in all respects.

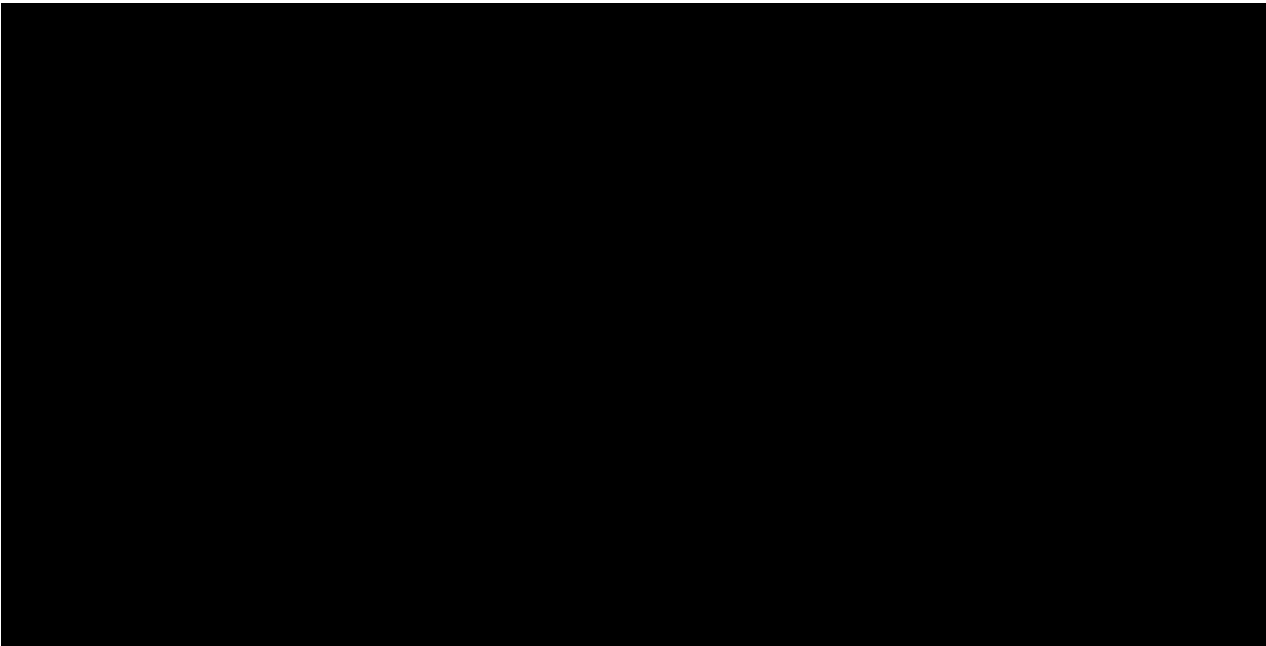






8.5 Obligations on TfL 

- 8.5.1 In exercising its rights under Clause 8.2, TfL shall act in a manner which is proportionate to the Primary Purpose and in a manner which shall not unduly fetter the day-to-day activities of the Board.
- 8.5.2 TfL shall not be entitled to serve a Primary Purpose Pre-Warning Notice and/or a Primary Purpose Objection Notice in relation to any decision to the extent that the same is required to be made in order for JV LLP and/or any Representative to comply with its obligations under and in accordance with:
 - (a) this Agreement;
 - (b) any contractual commitment under any other agreement where TfL (or any of its Representatives) had a reasonable opportunity to review and comment on the relevant contracted commitment prior to it being entered into;
 - (c) the Network Rail Agreement; or
 - (d) any applicable laws.



8.7 Representatives

- 8.7.1 The Members shall each be entitled to elect and appoint Representatives to the Board provided that:
 - (a) Capco shall be entitled to appoint (and shall maintain in office from time to time) four Representatives to the Board; and
 - (b) TfL shall be entitled to appoint (and shall maintain in office from time to time) three Representatives to the Board).

- 8.7.2 The first Representatives shall be:-
- | | | |
|-----|------------------------|--|
| (a) | Capco Representatives: | Ian Hawksworth
Gary Yardley
Soumen Das
Anne Byrne |
| (b) | TfL Representatives: | Graeme Craig
David Goldstone
Jonathan Cornelius |
- 8.7.3 Subject to Clauses 8.7.1, 8.7.4, 8.7.5 and 11 each Member is entitled to:
- (a) remove and replace the Representatives appointed by it and appoint further Representatives;
- (b) appoint persons as alternate representatives to the Board to replace any absent Representative appointed by it (an "**Alternate Representative**") to do all such things as the absent Representative would be entitled to do in their capacity as Representative and to remove or replace any Alternate Representative appointed by it and, unless otherwise expressly stated or unless the content requires otherwise, subsequent references in this Agreement to a Representative shall be interpreted as also referring to any Alternate Representative.
- 8.7.4 No appointment of a Representative shall be valid unless that person has accepted and signed a Letter of Appointment.
- 8.7.5 Any appointment, replacement or removal by a Member of a Representative appointed or intended to be appointed by that Member shall be effected by notice in writing to JV LLP signed by or on behalf of the relevant Member and, subject to any contrary intention expressed in the notice, shall take effect with effect from that date and time that the notice is delivered to JV LLP.
- 8.7.6 No Representative shall receive any remuneration or expenses reimbursement from JV LLP for its services as a Representative.
- 8.7.7 The Board shall have a Chairman and such position shall be occupied either by a Capco Representative or by a TfL Representative. The first Chairman shall be appointed at the first meeting of the Board and shall be a Capco Representative. Occupation of the position of Chairman shall alternate between the Capco Representatives and the TfL Representatives provided that a Capco Representative shall occupy the position of Chairman for the first two years from the date this Agreement, then a TfL Representative shall occupy the position of Chairman for one calendar year thereafter, following which the same rotation shall be repeated during each three calendar year period thereafter. The Chairman shall not have any second or casting vote.
- 8.7.8 The Parties hereby agree that the Representatives shall have a duty of care to act in the best interests of JV LLP and at all times to act (in its capacity as a Representative) in accordance with Good Industry Practice.
- 8.7.9 If either Capco and/or TfL sells or otherwise disposes of part or all of their Member Interest to a third party (a "**New Member**"), and the New Member obtains a right to

appoint one or more Representatives in lieu of Capco and/or Tfl's right to appoint that Representative, the provisions of Clauses 8.7.3 to 8.7.8 shall apply to any Representative appointed by or on behalf of the New Member.

8.7.10 Each Representative will be entitled will be entitled whilst he or she is appointed to make full disclosure to the Member appointing him or her of any information relating to JV LLP which that Member may reasonably require.

8.8 **JV LLP Subsidiaries**

8.8.1 Save as set out below in this Clause 8.8, the provisions of this Clause 8 shall apply *mutatis mutandis* to any JV LLP Subsidiary, provided that references in this Clause 8 to JV LLP shall be construed as being references to such JV LLP Subsidiary; references to the Board shall be construed as being references to a board of representatives of such JV LLP Subsidiary; and references to Representatives shall be construed as being references to the representatives on the board of such JV LLP Subsidiary.

8.8.2 The board of any JV LLP Subsidiary shall be made up of the same number of representatives as there are Representatives on the Board, unless the Board determines otherwise, provided that unless otherwise agreed by the Members the proportionate number of Capco Representatives and Tfl Representatives shall be the same as on the Board.

8.8.3 For the avoidance of doubt, any reference to a Member in this Clause 8 (insofar as it applies to a JV LLP Subsidiary) shall continue to be a reference to such Member, and shall not be construed as a reference to the members of such JV LLP Subsidiary.

8.8.4 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 8 and the Nominee's articles of association, this Clause 8 shall take precedence.

9. **BOARD MEETINGS AND RESOLUTIONS**

9.1 Subject to Clause 7.22.6, at least 10 Working Days' written notice of any proposed meeting of the Board shall be given to each of the Representatives and JV LLP provided that a shorter period of notice may be given with the written approval of at least one Capco Representative (if appointed) and at least one Tfl Representative (if appointed). Unless otherwise agreed by all of the Representatives, each such notice shall specify the date, time and place of the meeting (the date and time to be convenient to all Representatives, and unless otherwise agreed by all of the Representatives, the meeting shall be held in London) and a Board pack containing the following information as a minimum:

9.1.1 meeting agenda to identify the matters to be discussed at the meeting together with such supporting documents as are reasonably necessary and to the extent available to enable the Representatives to consider such matters;

9.1.2 a summary of the key terms of any material contract to be considered by the meeting;

9.1.3 budget and financial information in accordance with Clause 17;

9.1.4 an update of activities of JV LLP and JV LLP Subsidiaries (if any) against the Business Plan;

9.1.5 a forecast of projected activities and expenditure for the next Quarter against the Business Plan;

- 9.1.6 an update from the Funding Adviser(s) outlining the then current state of the funding market; and
- 9.1.7 an update from the Board's appointed property advisers outlining the then current state of the property market.
- 9.2 Unless otherwise agreed by the Board:
- 9.2.1 meetings of the Board shall be held not less than Quarterly and on a date during the week falling six weeks after the end of a Quarter agreed between a TfL Representative (if appointed) and a Capco Representative (if appointed) or on such other dates as a TfL Representative (if appointed) and a Capco Representative (if appointed) may agree.
- 9.2.2 the Business Manager will be responsible for circulating the Board packs for each Quarterly meeting of the Board;
- 9.2.3 a telephone conference call or video conference or a combination of the same, at which all participants are able to speak to and hear each of the other participants shall be valid as a Board meeting provided that at all times at that telephone or video conference (or combination as appropriate) a quorum of the Representatives is able to so participate;
- 9.2.4 a resolution (which may be in counterparts) in writing (which includes email or other electronic format) signed by all the Representatives (which, in respect of electronic resolutions shall be by way of electronic signature or confirmation by email) entitled to receive notice of and vote at a Board meeting shall be as valid as if it had been passed at a Board meeting duly convened and held in person.
- 9.3 Each Representative is entitled to convene a meeting of the Board (provided it is called in accordance with Clause 9.1), have items included in the agenda and add documents to the Board pack for that meeting. If a Representative calls an additional meeting of the Board (additional to the Quarterly meetings), that Representative will be responsible for circulating a Board pack for that meeting, including a detailed agenda for the items to be discussed at the meeting.
- 9.4 Subject to Clauses 7.21.5 and 10:
- 9.4.1 the quorum for any meeting of the Board shall be one TfL Representative (if appointed) and two Capco Representatives (if appointed) or, if there are no TfL Representatives and no Capco Representatives, then two Representatives, provided that:
- (a) if there is no quorum within 30 minutes following the start time of the meeting or if there ceases to be a quorum at any time when business is to be transacted during the meeting, the meeting shall be adjourned for 5 Working Days or such other period as the Representatives may unanimously decide; and
- (b) the quorum in respect of such adjourned meeting shall be equal to the number of Representatives that are actually present at such meeting, provided that the Member who appointed the absent Representatives whose non-attendance caused the first Board meeting to be inquorate was served a notice of such non-attendance within 4 Working Days of such non-attendance (which notice may be served upon such Member by any Representative);
- 9.4.2 subject to Clause 9.7 and Clause 10, at any quorate meeting of the Board:

- (a) the TfL Representatives that are present at such meeting shall have one collective vote, which shall carry voting rights of a weighting equal to TfL's Member Voting Interest from time to time;
- (b) the Capco Representatives that are present at such meeting shall have one collective vote, which shall carry voting rights of a weighting equal to Capco's Member Voting Interest from time to time; and
- (c) the Representative(s) appointed by a New Member that are present at such meeting shall have one collective vote, which shall carry voting rights of a weight equal to such New Member's Member Voting Interest from time to time,

provided that, where the TfL Representatives and/or the Capco Representatives and/or the New Member's Representative(s) (as applicable) cannot agree how to exercise their collective vote, the TfL Representatives and/or the Capco Representatives and/or the New Member's Representative(s) (as applicable) shall be deemed to have voted against the resolution;

9.4.3 subject to Clause 9.7 and Clause 10, resolutions of the Board shall require, as a minimum, a simple majority of the voting rights (taking into account the weightings of the respective votes, as detailed in Clause 9.4.2) to have been cast in favour of the resolution in order for the resolution to be passed.

9.5 All documents, agreements and deeds executed by JV LLP must be signed by the Representatives appointed by a Member whose Representatives hold, as a minimum, a simple majority of the voting rights on the Board (taking into account the weightings of the respective votes, as detailed in Clause 9.4.2) save for documents, agreements and deeds which are to be entered into by JV LLP as a result of a resolution passed by the Board pursuant to Clauses 7.22.4 or 10 in which event a duly authorised signatory of a Member whose Representatives held the majority of the voting rights exercisable at the relevant Board meeting may sign such documents, agreements and deeds as are reasonably necessary to effect such Board resolution. For the avoidance of doubt, for so long as Capco is the Member whose Representatives hold a simple majority of the voting rights on the Board (taking into account the weightings of the respective votes, as detailed in Clause 9.4.2), then the company secretary from time to time of the Capco Group shall be authorised and entitled to countersign any documents agreements and deeds that are signed by a single Capco Representative.

9.6 Unless otherwise agreed by all the Representatives, draft minutes of meetings of the Board shall be prepared by the Business Manager (a representative of whom shall be entitled to attend and speak, but not vote, at any meeting of the Board) and sent to each Representative for approval as soon as practicable after each meeting.

9.7 If the Business Management Agreement (which has been entered into by JV LLP) is terminated by JV LLP in accordance with its terms, the Board shall competitively tender for a replacement business manager provided that, where entities controlled by Capco Topco hold a majority of the Member Voting Interest, any decision relating to the replacement business manager (including the decision to approve the identity of the replacement business manager, and the proposed terms of the business management agreement) shall be taken by the Board, and:

9.7.1 the Representatives, other than the Capco Representatives, that are present at the relevant meeting shall have one collective vote on such decision, which shall carry voting rights of a weighting equal to 50%; and

9.7.2 the Capco Representatives that are present at the relevant meeting shall have one collective vote on such decision, which shall carry voting rights of a weighting equal to 50%.

9.8 TfL and Capco shall have the right, from time to time and by written notice to JV LLP, to appoint up to two persons to attend any Board meetings as observers (provided that where a proposed observer is not an employee of or advisor to the Capco Group or the TfL Group, such appointment shall be subject to the consent of Capco or TfL (as appropriate), such consent not to be unreasonably withheld), subject to any such observers, if required by the Board, having first executed a confidentiality undertaking in substantially the form of the confidentiality undertaking contained in paragraph 5 of the Letter of Appointment. Any person so appointed (each an “**Observer**”) shall be given (at the same time as the Representatives) notice of all Board meetings and all agendas, written materials, minutes and other papers and/or information relating to such meetings as are provided to each Representative. An Observer shall be entitled to attend any and all Board meetings and to speak provided that:

- (a) no Observer shall be entitled in any circumstances to vote;
- (b) the Observer shall speak only through or at the request of the TfL Representatives or the Capco Representatives (as appropriate); and
- (c) in the case of an advisor, the Observer shall advise the Representatives appointed by the Member who appointed him and not the Board.

Each Member may remove any Observer appointed by it and appoint another person in his place by written notice to JV LLP. If requested by the Representatives appointed by the other Member (acting reasonably), the Representatives of a Member who has appointed an Observer shall require that Observer to leave the meeting to allow for the discussion of commercially sensitive matters.

9.9 **JV LLP Subsidiaries**

9.9.1 The provisions of this Clause 9 shall apply *mutatis mutandis* to any JV LLP Subsidiary, provided that references in this Clause 9 to JV LLP shall be construed as being references to such JV LLP Subsidiary; references to the Board shall be construed as being references to a board of representatives of such JV LLP Subsidiary; and references to Representatives shall be construed as being references to representatives on the board of such JV LLP Subsidiary.

9.9.2 For the avoidance of doubt, any reference to a Member in this Clause 9 (insofar as it applies to a JV LLP Subsidiary) shall continue to be a reference to such Member, and shall not be construed as a reference to the members of such JV LLP Subsidiary.

9.9.3 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 9 and the Nominee’s articles of association, this Clause 9 shall take precedence.

10. **REPRESENTATIVE CONFLICT**

10.1 Where there is a Capco Conflict Matter to be considered by the Board, the Capco Representatives shall be entitled to attend and speak at the Board meeting considering the Capco Conflict Matter (and shall count in the quorum) but shall not be entitled to vote on the Capco Conflict Matter (whether the vote is taken at a Board meeting or otherwise). In such circumstances, Clause 9 shall apply save that, in respect of the Capco Conflict Matter the Capco Representatives shall have no vote and the TfL Representatives shall have one collective vote and the resolution shall be passed only where the collective vote of the TfL Representatives is exercised in favour of the resolution.

10.2 Where Capco considers (acting reasonably) that a Capco Conflict Matter is likely to be considered by the Board, Capco shall procure that the Capco Representatives shall declare the same to the Board in advance of the relevant Board meeting (by way of a written notice

served upon JV LLP and each TfL Representative and marked for the attention of the Board).

- 10.3 Where the Board considers and/or makes a decision concerning a Capco Conflict Matter, TfL shall procure that the TfL Representatives shall, act reasonably and in the best interests of JV LLP in accordance with the Primary Purpose in making any decision to, or in carrying out any actions to, enforce the rights of JV LLP against any Member or member of its Group.
- 10.4 Where the Board is considering making (or purports to have made) a decision to enforce the rights of JV LLP against Capco or a member of its Group where the same constitutes a Capco Conflict Matter TfL (whilst there is a TfL Representative appointed) shall notify Capco in writing ("**Capco Conflict Matter Notice**") of the action that is being considered and/or the decision that is being considered (or is purported to have been made) and all relevant information held by JV LLP and/or the Representatives relating thereto (together with copies of any relevant written evidence, to the extent available to JV LLP), and TfL and/or the New Member(s) shall procure that the Board shall not take any decision or carry out any action to enforce such rights of JV LLP unless the same is expressly permitted pursuant to Clause 10.8 (save as provided for in Clause 10.11).

Referral to Senior Officers

- 10.5 Within 10 Working Days following the date of the service of a Capco Conflict Matter Notice, provided that the Members have not agreed in writing on the course of action to be taken in relation to the matter referred to in the Capco Conflict Matter Notice, such matter shall be referred to the Senior Officers of Capco and TfL to seek a resolution.

Referral to an Expert

- 10.6 Capco shall be entitled, within 30 Working Days of service of a Capco Conflict Matter Notice to appoint an appropriate Expert to determine whether, on the basis of the information set out in the relevant Capco Conflict Matter Notice and any further written information submitted to the Expert by Capco and/or TfL (a copy of which shall be submitted to JV LLP at the same time as the Expert), in the Expert's reasonable opinion JV LLP has a legitimate right of action and whether taking such action would be reasonable in the circumstances and in the best interests of JV LLP;
- 10.7 Where Capco appoints an Expert in accordance with Clause 10.6, the Board shall not take any decision or carry out any action to enforce such rights of JV LLP:
- 10.7.1 until the Expert has issued his decision (which Capco shall use reasonable endeavours to procure shall be provided to JV LLP within 10 Working Days of the date of the Expert's appointment);
- 10.7.2 where the Expert has issued his decision, and such decision states that (in his reasonable opinion):
- (a) JV LLP has no legitimate right of action; and/or
- (b) taking such action would not be reasonable in the circumstances or in the best interests of JV LLP,
- the Board shall not be entitled to take such decision or carry out any action to enforce such rights of JV LLP.
- 10.8 Subject to Clause 10.3, where:
- 10.8.1 Capco does not appoint an Expert in the time period set out in and in accordance with Clause 10.6, or

10.8.2 an Expert is so appointed, and the Expert's decision states that:

- (a) JV LLP has a legitimate right of action; and
- (b) taking such action would be reasonable in the circumstances and in the best interests of JV LLP,

the Board shall be entitled to take such decision or carry out any action to enforce such rights of JV LLP.

10.9 Any Expert appointed pursuant to Clause 10.6 shall act as an expert and not as an arbitrator and shall be entitled to seek and rely upon such other independent professional advice and assistance as he or she shall in his absolute discretion deem desirable when considering the matter so referred to him. TfL shall be entitled to make written representations to the Expert, provided that copies of any such representations are also provided to Capco at the same time. The decision of the Expert (including his decision as to the payment of his fees) shall be final and binding upon the Parties without appeal.

10.10 If an Expert appointed pursuant to Clause 10.6 relinquishes his appointment or dies or if it becomes apparent that he or she shall be unable to complete his duties under his appointment then any Member may apply to the appropriate President (or the next the most senior available officer) of the Royal Institution of Chartered Surveyors or the Law Society of England and Wales or the Institute of Chartered Accountants in England and Wales (as appropriate to the matter so referred to such Expert) for a substitute to be appointed in the Expert's place (which procedure may be repeated as many times as necessary).

10.11 Where TfL (acting reasonably) believes that a delay in taking an action in respect of a Capco Conflict Matter whilst the Parties comply with the provisions of this Clause 10 could prejudice the rights of JV LLP in relation to the Capco Conflict Matter, the Board may take the minimum action that is reasonably necessary in order to maintain the rights of JV LLP in relation to the Capco Conflict Matter, and Capco will co-operate with TfL and JV LLP in order to avoid prejudicing the rights of JV LLP in relation to the Capco Conflict Matter.

10.12 **JV LLP Subsidiaries**

10.12.1 The provisions of this Clause 10 shall apply *mutatis mutandis* to any JV LLP Subsidiary, provided that references in this Clause 10 to JV LLP shall be construed as being references to such JV LLP Subsidiary; references to the Board shall be construed as being references to a board of representatives of such JV LLP Subsidiary; and references to Representatives shall be construed as being references to representatives on the board of such JV LLP Subsidiary.

10.12.2 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 10 and the Nominee's articles of association, this Clause 10 shall take precedence.

11. **REMOVAL OF A REPRESENTATIVE**

11.1 If an Appointing Member removes (or is deemed to have removed) a Representative appointed by it then such Member shall procure that such Representative vacates office without any claim to JV LLP for loss of office or otherwise relating to his removal and such Appointing Member shall indemnify on an after tax basis and hold harmless, to the fullest extent permitted by law, JV LLP against any loss, cost, damage, expense or liability suffered or incurred:

11.1.1 by reason of any claim by the vacating Representative for wrongful or unfair dismissal or redundancy; and

11.1.2 in connection with it having been or being a party or having been or being threatened to be made party to any threatened, pending or completed action, suit

or proceedings, whether civil, criminal, administrative or investigative by reason of any of the matters referred to in Clause 11.1.1 above;

provided however that JV LLP shall not be so indemnified with respect to any matter resulting from its wilful default, negligence or fraud, and that a Member's aggregate liability under and in connection with the indemnity set out in this Clause 11.1 shall be limited to £10,000,000.

11.2 The indemnity contained in this Clause 11 shall continue notwithstanding the termination (in whole or in part) of this Agreement and/or the winding up of JV LLP (for any reason whatsoever).

11.3 Notwithstanding any other term of this Agreement, a Member shall immediately remove a Representative appointed by it (by written notice to JV LLP and the other Member) if:

11.3.1 that Member ceases to be a member of JV LLP (in which circumstances, the outgoing Member shall remove all Representatives appointed by it and the outgoing Member shall not be entitled to replace any Representative);

11.3.2 the Representative exercises his voting rights in contravention of this Agreement (in which circumstances the Members shall co-operate with each other as appropriate to rectify any adverse consequences of that Representative's actions or omissions);

11.3.3 the Representative becomes bankrupt or makes any arrangement or composition with its creditors generally (or any step is taken towards the same);

11.3.4 the Representative is, or may be, suffering from mental disorder and either:

(a) is admitted to hospital under an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, the Mental Health (Scotland) Act 1960; or

(b) an order is made (by a court having jurisdiction) for the Representative's detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to the Representative's property or affairs due to the Representative's mental disorder;

11.3.5 the Representative resigns from the office of Representative;

11.3.6 the Representative is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);

11.3.7 the Representative is subject to a restriction which would prevent him from holding office as a director of a company limited by shares; or is disqualified from acting as such a director; or

11.3.8 the Representative has been absent from meetings of the Board for 3 or more consecutive meetings (unless the Appointing Members agree to allow the Representative to remain a Representative)

and the relevant Member shall be deemed to have removed a Representative immediately upon the occurrence of the relevant event listed above.

11.4 **JV LLP Subsidiaries**

11.4.1 The provisions of this Clause 11 shall apply *mutatis mutandis* to any JV LLP Subsidiary, provided that references in this Clause 11 to JV LLP shall be

construed as being references to such JV LLP Subsidiary; references to JV LLP Board shall be construed as being references to a board of representatives of such JV LLP Subsidiary; and references to Representatives shall be construed as being references to representatives on the board of such JV LLP Subsidiary.

- 11.4.2 For the avoidance of doubt, any reference to a Member in this Clause 11 (insofar as it applies to a JV LLP Subsidiary) shall continue to be a reference to such Member, and shall not be construed as a reference to the members of such JV LLP Subsidiary.
- 11.4.3 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 11 and the Nominee's articles of association, this Clause 11 shall take precedence.

12. MEMBERS

12.1 Subject to Clauses 22, 23 and Schedule 5:

- 12.1.1 a person shall only be admitted to JV LLP as a new Member if its admission is approved in writing by the Members in accordance with Schedule 5 (provided that the written consent of Members shall not be required to the extent that Clause 13.5 applies) and such person executes a Deed of Adherence; and
- 12.1.2 a Member may only resign or withdraw from JV LLP (and/or otherwise cease to be a member of JV LLP) with the prior written agreement of the remaining Member(s).

12.2 JV LLP Subsidiaries

- 12.2.1 A person shall only be admitted to a JV LLP Subsidiary as a new member thereof if its admission is approved by the Members in accordance with Clause 13 and such person executes a Deed of Adherence.
- 12.2.2 A member of a JV LLP Subsidiary may only resign or withdraw from JV LLP Subsidiary (and/or otherwise cease to be a member thereof) with the prior written agreement of the Members.

13. MEMBERS' MEETINGS AND RESOLUTIONS

13.1 Save in relation to the Member Protection Matters, the Members have vested the management and operations of JV LLP in the Board.

13.2 Members' meetings may be called by the Board or any Member or Members holding more than 10% of the total Member Voting Interests.

13.3 At least 10 Working Days' written notice of any proposed meeting of the Members (in relation to JV LLP) shall be given to each Member provided that a shorter period of notice may be given with the written approval of each Member holding a Member Voting Interest of greater than 10%. Unless otherwise agreed by each Member, each such notice shall specify the date, time and place of the meeting (each to be reasonably convenient to each Member) and a meeting agenda identifying the matters to be discussed and shall be accompanied by copies of any materials to be discussed at the meeting. Any matter to be decided at the Members' meeting not appearing in the agenda shall not be decided upon unless each of the Members agrees.

13.4 Subject to Clause 10:

- 13.4.1 the quorum for any meeting of the Members shall be all Members holding 10% or more of the total Member Voting Interests (being represented by a duly authorised person). If a quorum is not present within half an hour from the time scheduled for

the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned until the same day in the next week at the same time and place or to such other time and place as may be agreed by the Members present. Notice of the adjourned meeting shall be given to all the Members by one of the Members present at the original meeting. If at the adjourned meeting a quorum is not present within half an hour of the time scheduled for the meeting, the Members present shall constitute a quorum;

- 13.4.2 no business shall be transacted at any Members' Meeting unless there is a quorum;
 - 13.4.3 subject to Clause 13.5, resolutions of the members of JV LLP in respect of those matters set out in paragraphs 1 to 3 (inclusive) of Part 1 of Schedule 5 shall only be passed where Members holding between them at least 90% of the total Member Voting Interests vote in favour of the resolution;
 - 13.4.4 subject to Clause 13.5, resolutions of the Members of JV LLP in respect of those matters set out in paragraphs 4 to 13 (inclusive) of Part 1 of Schedule 5 shall only be passed where Members holding between them at least 75% of the total Member Voting Interests vote in favour of the resolution; and
 - 13.4.5 for so long as an entity controlled by Tfl Topco holds at least 10% of the Member Voting Interests, Tfl's consent shall be required in respect of the matters listed in Part 2 of Schedule 5.
- 13.5 The Member Protection Matters listed in paragraphs 1 to 8 (inclusive) of Part 1 of Schedule 5 shall be suspended and shall not apply in respect of any decisions taken by JV LLP for the purpose of completing a Funding Event, provided that:
- (a) they shall be so suspended only to the extent required to complete the Funding Event;
 - (b) such Funding Event is completed in accordance with the Funding Strategy and this Agreement; and
 - (c) following completion of a Funding Event, the Member Protection Matters (as set out in Part 1 of Schedule 5) shall continue to apply (subject to and in accordance with the terms of this Agreement).
- 13.6 The provisions of Clause 26 and Schedule 5 shall apply in relation to Member Protection Matters.
- 13.7 Unless otherwise agreed unanimously by the Members:
- 13.7.1 a telephone conference call or video conference or a combination of the same, at which all participants are able to speak to and hear each of the other participants and at which for all times a quorum of the Members is able to so participate, shall be valid as a Members' meeting; and
 - 13.7.2 a resolution in writing (which may be in counterparts) signed by each Member shall be as valid as if it had been passed at a Members' meeting duly convened and held.
- 13.8 **JV LLP Subsidiaries**
- 13.8.1 The provisions of this Clause 13 shall apply *mutatis mutandis* to any JV LLP Subsidiary, provided that references in this Clause 13 to JV LLP shall be construed as being references to such JV LLP Subsidiary, references to Board shall be construed as being references to the board of such JV LLP Subsidiary;

and references to Representatives shall be construed as being references to representatives on the board of such JV LLP Subsidiary.

13.8.2 For the avoidance of doubt, any reference to a Member in this Clause 13 (insofar as it applies to a JV LLP Subsidiary) shall continue to be a reference to such Member, and shall not be construed as a reference to the members of such JV LLP Subsidiary.

13.8.3 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 13 and the Nominee's articles of association, this Clause 13 shall take precedence.

14. **EXECUTIVE COMMITTEE**

14.1 On the date of this Agreement, the Board shall constitute (or be deemed to have constituted) an executive committee to carry out the day to day management of JV LLP and JV LLP Subsidiaries (the "**Executive Committee**"). The Executive Committee shall be a participatory committee consist of seven members of whom four shall be chosen by Capco (the "**Capco Committee Members**") and three shall be chosen by TfL (the "**TfL Committee Members**").

14.2 Gary Yardley, Andrew Ludiman, Anne Byrne and Situl Jobanputra shall be the first Capco Committee Members, and Jonathan Cornelius, Henry Gervaise Jones and Neil Kedar shall be the first TfL Committee Members.

14.3 The Board hereby delegates to the Executive Committee (in accordance with the Delegation Policy) authority to operate the day to day business of JV LLP and any JV LLP Subsidiary in accordance with the Delegation Policy. The Board may, following authorisation in a quorate Board meeting (provided that the same is recorded in the relevant Board minutes) or written resolution, from time to time, amend or vary the conditions attached to any or all of the delegation to the Executive Committee on such terms and subject to such conditions as it may prescribe from time to time provided that such amendment or variation is in accordance with the Delegation Policy.

14.4 Except as determined otherwise by the Board, the provisions of Clauses 8.1, 8.7.3 to 8.7.10, 8.8, 9, 10 and 11 shall apply *mutatis mutandis* to meetings and the members of the Executive Committee, provided that:

14.4.1 the Executive Committee shall meet at least monthly and at least 5 Working Days notice of any proposed meeting shall be given to each Executive Committee Member;

14.4.2 the papers required for such meeting shall be provided no later than 5 Working Days prior to the date of the meeting and shall include:

(a) an agenda setting out the matters to be discussed;

(b) all papers necessary for the decisions proposed to be made at the meeting (including any reports prepared by third parties on such matters); and

(c) a report from the Business Manager which shall contain as a minimum a report on the progress of the development to date, upcoming events and details of decisions which are likely to be put before the Board at the next Board meeting. Such report is to be provided at least once every two months.

15. **MANAGEMENT OF JV LLP'S AFFAIRS**

15.1 **Business of JV LLP**

The Members and JV LLP shall procure that the business of JV LLP shall consist exclusively of the Business.

15.2 Member Obligations

Each Member undertakes to the other that, in its capacity as a Member it shall use its reasonable endeavours (insofar as it is lawfully able by the exercise of its rights and powers) to procure that:

- 15.2.1 it acts in a manner that is consistent with and exercises all voting rights and other powers of control available to it in relation to JV LLP and any JV LLP Subsidiary so as to procure (insofar as it is lawfully able by the exercise of such rights and powers) that JV LLP and any JV LLP Subsidiary complies with the provisions of the Project Agreements and any other agreements to which it is a party;
- 15.2.2 it, JV LLP and any JV LLP Subsidiary acts in a manner consistent with the Primary Purpose;
- 15.2.3 JV LLP and any JV LLP Subsidiary maintains true and accurate accounts of all transactions in accordance with Financial Reporting Standard 101 ("**FRS 101**") or International Financial Reporting Standards, the LLP Act and (to the extent that the same applies to JV LLP or the relevant JV LLP Subsidiary) Part 15 of the Companies Act and promptly makes available both draft and final copies of such accounts to Members on request;
- 15.2.4 JV LLP and any JV LLP Subsidiary complies with the LLP Act, the Regulations and (to the extent that the same applies to JV LLP and any JV LLP Subsidiary, as applicable) the Companies Act and all other applicable laws, regulations and requirements of any competent jurisdiction or authority affecting them, their businesses and the content of the Business Plan; and
- 15.2.5 JV LLP and any JV LLP Subsidiary shall document its decision-making process and maintain appropriate audit trails for decisions made.

15.3 JV LLP obligations

- 15.3.1 JV LLP shall comply with the LLP Act, the Regulations and (to the extent that the same applies to JV LLP) the Companies Act and all other applicable laws, regulations and requirements of any competent jurisdiction or authority affecting JV LLP, its Business and the content of the Business Plan.
- 15.3.2 No payment shall be made by JV LLP and no cheque or payment instruction of JV LLP shall be signed other than in accordance with the mandates (general or specific) authorised by the Board from time to time.
- 15.3.3 JV LLP shall conduct its Business and affairs in a proper and efficient manner for its own benefit:
 - (a) in a manner consistent with the achievement of the Primary Purpose; and
 - (b) otherwise in accordance with the terms of this Agreement and the Project Agreements.
- 15.3.4 JV LLP will use its reasonable endeavours (and the Members will co-operate to permit JV LLP to use its reasonable endeavours) to procure that Network Rail Infrastructure Limited will release Capital and Counties Limited (Company number 280739) from its obligations as a guarantor under the Network Rail Agreement.

15.3.5 JV LLP shall adopt the Business Plan on the Effective Date and (acting by the Board) shall update the Business Plan at least annually in accordance with Clause 19, and more frequently if the Board considers there has been a material change in market conditions, the progress of the development at Earls Court Village and/or a material issue that affects the development at Earls Court Village. If there is a Fundamental Business Plan Change TfL is entitled to use the Primary Purpose Objection Procedure set out in Clause 8.2.

15.4 **JV LLP Subsidiaries**

15.4.1 The Members and JV LLP (insofar as they are able by the exercise of their rights and powers) shall procure that any JV LLP Subsidiary shall (from the date of its incorporation) comply with the provisions of Clause 15.3 as if it applied *mutatis mutandis* to such JV LLP Subsidiary, provided that:

- (a) references in Clause 15.3 to JV LLP shall be construed as being references to such JV LLP Subsidiary;
- (b) references in Clause 15.3 to the Board shall be construed as being references to the board of representatives of such JV LLP Subsidiary;
- (c) references in Clause 15.3 to Representatives shall be construed as being references to representatives on the board of such JV LLP Subsidiary;
- (d) references in Clause 15.3 to JV LLP's Business shall be construed as being references to JV LLP Subsidiary's business; and
- (e) a JV LLP Subsidiary shall not have a separate Business Plan, and JV LLP's Business Plan shall be adopted by JV LLP Subsidiary to the extent relevant to it.

15.4.2 In relation to the Nominee, where there is any inconsistency or conflict between the terms of this Clause 15.3 and the Nominee's articles of association, this Clause 15.3 shall take precedence.

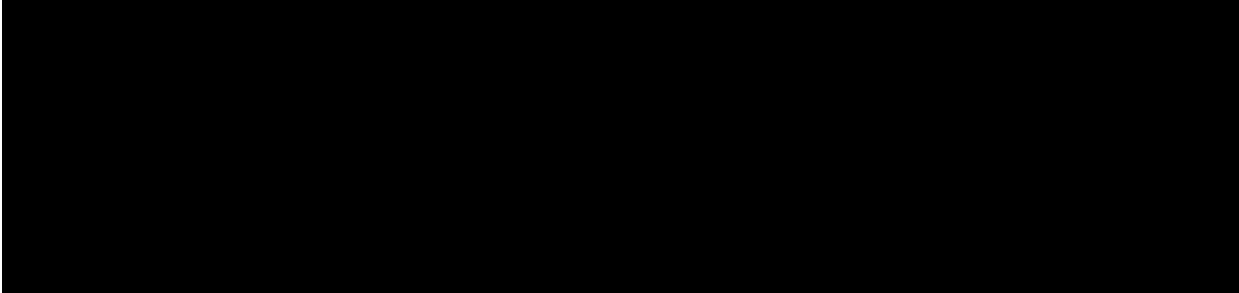
15.5 **JV LLP Authority**

15.5.1 Subject always to the provisions of this Agreement, JV LLP shall have full power and authority to achieve the Primary Purpose and do all acts and things which JV LLP may in its absolute discretion consider necessary or desirable (including, without limitation, executing, delivering and performing all contracts and other undertakings and participating in any activities and transactions) pursuant to the Business.

15.5.2 Subject always to the provisions of this Agreement, a JV LLP Subsidiary shall have full power and authority to achieve the Primary Purpose and do all acts and things which such JV LLP Subsidiary may in its absolute discretion consider necessary or desirable (including, without limitation, executing, delivering and performing all contracts and other undertakings and participating in any activities and transactions) pursuant to the business of such JV LLP Subsidiary.

16. **RESTRICTIONS ON ACTIVITIES OF MEMBERS**

16.1 Each Member shall not and shall procure that no member of its Group shall during, the term of this Agreement, and thereafter, until the expiry of five (5) calendar years following the winding up of JV LLP (or, if earlier, the date 5 years after such Member ceases to be a Member of JV LLP), intentionally do or omit to do anything to bring the standing of JV LLP and/or any other JV LLP Subsidiary and/or any other Member into disrepute or to attract adverse publicity for JV LLP and/or any other JV LLP Subsidiary and/or any other Member.

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- 16.3 The restrictions set out in Clause 16.2 shall not apply:
- 16.3.1 in relation to any land which is acquired by Capco or a member of its Group for the purposes of providing replacement housing and/or in order to ensure compliance with any Section 106 Obligation to which it is subject in relation to land referred to in the CLSA; and
 - 16.3.2 in respect of any acquisition required to be made by TfL (or any member of its Group) in the exercise of its functions as a transportation authority or other statutory authority.
- 16.4 Subject to Clause 16.3, to the extent that the restrictions set out in Clause 16.2 relate to:
- 16.4.1 a Member, such restrictions shall subsist until the earlier of:
 - (a) the date of termination of this Agreement (for any reason); and
 - (b) the date 18 months following the date upon which the Member ceases to be a member of JV LLP;
 - 16.4.2 a member of a Member's Group (other than the Member itself), such restrictions (and the obligations on the relevant Member to procure compliance in relation thereto) shall subsist until the earlier of:
 - (a) the date of termination of this Agreement (for any reason);
 - (b) the date 18 months following the date upon which the relevant Member (or a Member of its Group) ceases to be a member of JV LLP; and
 - (c) the date such member of the Member's Group exits its Group.

17. **FINANCIAL MATTERS AND FINANCIAL INFORMATION**

- 17.1 JV LLP shall, and shall procure that any JV LLP Subsidiary shall, in relation to its financial statements, adopt accounting policies and/or principles that comply with the LLP Act, the Regulations and (to the extent that the same applies to JV LLP or the relevant JV LLP Subsidiary, as applicable) Part 15 of the Companies Act.
- 17.2 The Members shall be entitled to:
- 17.2.1 examine the separate books, records, financial models, and financial accounts to be kept by JV LLP and any JV LLP Subsidiary (and any material correspondence in relation thereto);
 - 17.2.2 be supplied with all relevant financial information relating to JV LLP and any JV LLP Subsidiary, including:
 - (a) consolidated management accounts (which shall include a balance sheet, an income and expenditure statement and a statement of cash

flows between the JV LLP Group and the Members) and shall be prepared on a basis consistent with the accounting policies normally adopted by JV LLP Group and applied in preparing the annual audited financial accounts and other relevant performance reports which consider progress to date and forecast performance against the Business Plan and provide explanations of material variances at least Quarterly as soon as practicable following the end of each Quarter and in any event within 20 Working Days of the end of the Quarter;

- (b) audited financial accounts for each Accounting Period prepared in accordance with Financial Reporting Standard 101 ("**FRS 101**") or International Financial Reporting Standards and, if applicable, updated consolidated management accounts as soon as practicable following the end of the Accounting Period and at the latest by 30 April each year;
- (c) consolidated management accounts for the three month period ending 31 March (which shall include a balance sheet, an income and expenditure statement and a statement of cash flows between the JV LLP Group and the Members and a report setting out any material movements in the financial position and performance between 31 December in the previous year and 31 March in the current year) based on accounts produced in accordance with Clause 17.2.2(a) above, as soon as practicable after 31 March each year and at the latest by the date 20 Working Days after 31 March each year;
- (d) such other trading and financial information and forecasts relating to JV LLP and any JV LLP Subsidiary in such form and at such times as the Members may reasonably require;
- (e) all tax returns and computations of JV LLP and any JV LLP Subsidiary;

17.2.3 be kept properly informed about the business and affairs of JV LLP and any JV LLP Subsidiary.

17.3 JV LLP Group's budget (as contained in the Business Plan) for the first (and each subsequent) Accounting Period shall include a projected income and expenditure statement, balance sheet and statement of cash flows between the JV LLP Group and the Members relating to each Quarter (as at the end of each Quarter) during the current Accounting Period and annually for the two subsequent Accounting Periods. The budget shall be made available to the Members by 30 November each year, in accordance with Clause 19.1.1.

17.4 JV LLP will instruct the Business Manager to:

17.4.1 prepare and maintain a detailed financial model (as described in the Business Management Agreement) for the JV LLP Group's purposes; and

17.4.2 update the detailed financial model by 30 September each year.

17.5 JV LLP will instruct the Business Manager to make the updated financial model available to JV LLP and the Members by 30 September each year.

17.6 JV LLP and any JV LLP Subsidiary shall keep proper books of account and make true and complete entries of all its dealings and transactions of and in relation to its business.

17.7 Notwithstanding the provisions of Clause 31:

17.7.1 each Member may disclose information received from JV LLP or a JV LLP Subsidiary or a Representative to its auditors;

- 17.7.2 JV LLP and any JV LLP Subsidiary shall permit all records thereof to be examined and copied from time to time by a Member's Shareholder's auditor and its or their representatives;
- 17.7.3 JV LLP shall use reasonable endeavours to ensure that its auditors from time to time agree to liaise with each Member's auditors from time to time to the extent required for such auditors to complete their standard audit work in respect of that Member; and
- 17.7.4 JV LLP shall use reasonable endeavours to ensure that the appropriate individuals (including the individuals employed or engaged by the Business Manager to prepare the financial information referred to in Clause 17.2) are made available to the auditors of a Member to the extent reasonably necessary, to enable such auditors to complete their standard audit work in respect of that Member.
- 17.8 Without prejudice to Clause 23 a Member shall immediately notify the other in writing if it becomes aware of anything which it considers (acting reasonably) is likely to adversely affect its ability to comply with its obligations in accordance with this Agreement.

18. TAX MATTERS

General

- 18.1 Each of the Members agrees to reasonably consider any proposal in relation to JV LLP or any JV LLP Subsidiary which would materially affect the liability to tax of one or more of the other Members or the JV LLP or any JV LLP Subsidiary, provided that this Clause 18.1 shall not be construed as imposing any obligation on any Member to implement a request which in its judgment would cause direct or indirect detriment (whether financial, reputational or otherwise) to itself or to any member of its group or JV LLP or any JV LLP subsidiary.
- 18.2 If any event or circumstance (including, for the avoidance of doubt, any announcement by a tax authority, any proposal under Clause 18.1 or any change in law) occurs which any Member reasonably considers has or is reasonably likely to have a material effect (whether financial, reputational or otherwise) on the taxation affairs of JV LLP, any JV LLP Subsidiary, or any Member in relation to or arising out of their membership in JV LLP, (a "**Tax Matter**") then that Member shall give written notice thereof to the other parties to this Agreement as soon as reasonably practicable, such notice containing reasonable details of the Tax Matter and where any Member considers that such Tax Matter may have a material adverse effect (whether financial, reputational or otherwise) on the taxation affairs of JV LLP, any JV LLP Subsidiary, or any Member in relation to or arising out of their membership of JV LLP (a "**Material Tax Matter**") then:
- 18.2.1 the Members thereafter shall consult with each other and JV LLP (and/or any JV LLP Subsidiary) in good faith with a view to taking such reasonable steps as may be agreed by them to mitigate such material adverse effect of a Material Tax Matter;
- 18.2.2 if the Members are unable to reach agreement under Clause 18.2.1 above then where the Material Tax Matter is reasonably capable of resolution by determination of a tax authority on any particular matter then the JV LLP or its advisors shall prepare and submit an application to the relevant tax authority, asking the relevant tax authority to determine the relevant matter. The JV LLP or its advisors will submit any such application in draft to each Member before submitting the application to the relevant tax authority and the application shall be in such form as the Members shall reasonably approve (such approval not to be unreasonably withheld or delayed);
- 18.2.3 where the Material Tax Matter is not capable of resolution by determination of a tax authority or in the event that the Members remain unable to reach an agreement following a response from a tax authority to any application referred to

in Clause 18.2.2 above, then any matters giving rise to or arising from a Material Tax Matter shall be determined by an appropriate Expert and the provisions of Clauses 26.3.2 – 26.3.4 and Clause 27 shall apply.

Responsibility of Members

- 18.3 Each Member shall be solely responsible for any tax liability in respect of its share of the taxable profits of JV LLP or any JV LLP Subsidiary.

Management of Tax Affairs

- 18.4 Insofar as any Member or associated entity including the Business Manager (whether pursuant to the Business Management Agreement or otherwise) deals with matters relating to tax which concern or affect JV LLP or any JV LLP Subsidiary, including (but not limited to) the preparation of corporate/partnership tax returns, tax computations, claims, elections, surrenders, disclaimers, notices and consents, or the conduct of negotiations and correspondence with any tax authority ("**Tax Matters**"), the Members shall be entitled at their written request (including for the avoidance of doubt any request made by e-mail) to:

18.4.1 review any Tax Matters and have their reasonable comments (provided within a reasonable period of time) taken into account before their submission to the relevant tax authority (save that comments shall not be reasonable where they would lead to a material adverse affect within Clause 18.2 above); and

18.4.2 receive copies of all tax returns and computations of JV LLP or any JV LLP Subsidiary; and

18.4.3 attend any meetings with the relevant tax authority in respect of such Tax Matters,

but, for the avoidance of doubt, such entitlement shall not extend to the provision of information, or attendance at meetings, which relate to the tax affairs of any Member itself.

Transfer pricing

- 18.5 If and to the extent that:

18.5.1 actual payments for services and other transactions or actual credits or debits arising in respect of any loan relationship or derivative contract made between a Member (or any associated entity) and JV LLP, differ from the payments, credits or debits which are to be taken into account by the relevant person for tax purposes as a result of the application of the Transfer Pricing Rules; and

18.5.2 a Transfer Pricing Adjustment is made such that the advantaged person (within the meaning of the Transfer Pricing Rules) is required to pay more tax or utilise any relief otherwise available to that person in respect of a relevant accounting period,

then the affected parties will ensure that such claims and payments will be made as between the relevant person and JV LLP as are permitted to be made (in the case of payments, on a tax-free basis) in accordance with the Transfer Pricing Rules as will result in the disadvantaged person having paid to the advantaged person in a timely manner a balancing payment equal to any relief available to the disadvantaged person as a consequence of that Transfer Pricing Adjustment.

- 18.6 In the event of a Transfer Pricing Adjustment within Clause 18.5, each Member agrees to consult fully with the others in relation to the application of the Transfer Pricing Rules in the context of the joint venture and shall take into account any reasonable comments of the other Members provided in good time in relation to such matters.

19. BUSINESS PLAN AND PROGRESS MONITORING

19.1 Business Plan

19.1.1 With the exception of the first Business Plan (which is in the Agreed Form) the Board shall, no earlier than three months and no later than one month before the end of every Accounting Period, procure the preparation by the Business Manager of, finalise and agree, a draft Business Plan (which shall be detailed in respect of the next following Accounting Period and outline for the following three Accounting Periods thereafter) which shall comply with the relevant provisions of Schedule 2. When considering each revised draft Business Plan, the Board shall review and consider all relevant supporting information provided by the Business Manager in relation thereto. The Board shall use all reasonable endeavours to agree such draft Business Plan (making any amendments they may agree) and to adopt it as the formal Business Plan within 20 Working Days of the date it is first circulated to the Board.

19.1.2 The draft Business Plan circulated under Clause 19.1.1 (with such amendments thereto as may be agreed by the Board) shall replace the then current Business Plan as the formal Business Plan of JV LLP and any JV LLP Subsidiary upon the later of:

- (a) the start of the first Accounting Period to which it relates; and
- (b) the date of the Board's approval to it in accordance with Clause 19.1.1.

19.1.3 Until such time as it is replaced in accordance with Clause 19.1.2, the Business Plan that has most recently been adopted as the formal Business Plan pursuant to Clause 19.1.2 shall continue to be the formal binding Business Plan of JV LLP (and any JV LLP Subsidiary, to the extent that the same applies to it).

19.2 Progress Monitoring

Progress against each Business Plan shall be reviewed at Quarterly meetings of the Board and each board of a JV LLP Subsidiary called in accordance with Clause 9.

20. ACCOUNTS

Member Accounts

20.1 JV LLP shall establish and thereafter maintain an account in the name of each Member ("**Member Account**") and hold the contents of each Member Account on trust for the relevant Member.

20.2 JV LLP shall credit to each Member's Member Account that Member's share of the Net Profits (if any) which the Board determines in accordance with Clause 21.

20.3 For the avoidance of doubt, the only amounts which shall be credited to a Member's Member Account shall be such amounts as the Board determines in accordance with Clause 21 and there shall be no accrual of any amounts constituting the profits of JV LLP during the course of an Accounting Period. Any amounts to the credit of a Member's Member Account which are distributed to that Member shall be debited from the balance of its Member Account.

20.4 Subject to Clause 21, JV LLP may at any time if proposed by any Member and/or any Representative (in each case by written notice to JV LLP), and/or the Board distribute the whole or part of any amounts standing to the credit of Members' Member Accounts to the Members, provided that such distribution is in accordance with the Distribution Policy. Any such distribution shall be made to the Members in amounts pro-rata to the amounts at that time standing to the credit of their respective Member Accounts. For the avoidance of

doubt, if any Member or any Representative proposes any distribution to the Members, the payment of any such distribution shall be subject to the approval of the Board.

20.5 **JV LLP Subsidiaries**

20.5.1 Each JV LLP Subsidiary (if any) shall establish and thereafter maintain an account in the name of JV LLP and hold the contents of each such account on trust for JV LLP.

20.5.2 Each JV LLP Subsidiary (if any) shall credit to JV LLP's account such proportion of the Net Profits (if any) of such JV LLP Subsidiary which the relevant JV LLP Subsidiary Board so determines in accordance with Clause 21.

21. **PROFITS**

21.1 The Net Profits of JV LLP shall be apportioned between the Members in the same proportions as the Member Voting Interests.

21.2 The Board shall decide (having taken the advice of the Auditors, if appropriate) for each Accounting Period what amount (if any) of the Net Profits shall be retained by JV LLP in respect of:

21.2.1 reserves for general working capital purposes of JV LLP for the following financial year; and/or

21.2.2 reinvestment back into the Business in accordance with the Business Plan.

21.3 Each Member's share of the Net Profits (after providing for reserves and/or reinvestment as set out in Clause 21.2) for any Accounting Period, which shall be calculated in accordance with this Clause 21, shall be paid to that Member or (depending on the cash flow position of JV LLP as the Board determines, if appropriate, having taken the advice of the Auditors) credited to its Member Account within 10 Working Days after the date upon which the annual accounts of JV LLP for the relevant Accounting Period are approved by JV LLP.

21.4 If it is apparent that there has been over-payment of Net Profit to a Member, the amount of such over-payment shall either be carried forward as a debit on such Member's Member Account or, where JV LLP so determines, be repaid by the relevant Member in whole or in part (if in part and if there has been over payments of Net Profits to more than one Member, each such Member shall be liable to contribute such proportion of the repayment to be made pursuant to this Clause 21.4 as is equal to the proportion of the total overpayment received by it).

21.5 JV LLP shall not make any profit distribution under this Clause 21:

21.5.1 unless there is sufficient cash available; or

21.5.2 where the same would render JV LLP insolvent.

21.6 **JV LLP Subsidiaries**

21.6.1 Subject to Clause 21.6.2, the Net Profits of any JV LLP Subsidiary shall be apportioned between JV LLP and the Nominee in the proportions 100% to JV LLP, and 0% to the Nominee.

21.6.2 JV LLP Subsidiary Board shall decide (having taken the advice of the Auditors, if appropriate) for each Accounting Period what amount (if any) of the Net Profits shall be retained by JV LLP Subsidiary in respect of:

- (a) reserves for general working capital purposes of the relevant JV LLP Subsidiary for the following financial year; and/or
 - (b) reinvestment back into the relevant JV LLP Subsidiary business in accordance with the Business Plan.
- 21.6.3 JV LLP's share of the Net Profits of a JV LLP Subsidiary (after providing for reserves and/or reinvestment as set out in Clause 21.6.2) for any Accounting Period, which shall be calculated in accordance with this Clause 21, shall be paid to JV LLP or (depending on the cash flow position of the relevant JV LLP Subsidiary as JV LLP Subsidiary Board determines, if appropriate, having taken the advice of the Auditors) credited to its account with such JV LLP Subsidiary within 10 Working Days after the date upon which the annual accounts of such JV LLP Subsidiary for the relevant Accounting Period are approved by the relevant JV LLP Subsidiary.
- 21.6.4 If it is apparent that there has been over-payment of Net Profit to JV LLP, the amount of such over-payment shall either be carried forward as a debit on JV LLP's account or, where such JV LLP Subsidiary so determines and JV LLP has available cash to do so, be repaid by JV LLP in whole or in part.
- 21.6.5 No JV LLP Subsidiary shall make any profit distribution under this Clause 21:
- (a) unless there is sufficient cash available; or
 - (b) where the same would render such JV LLP Subsidiary insolvent;

22. ASSIGNMENT/TRANSFER OF INTERESTS

22.1 General prohibition on transfers

Save as expressly provided for in this Agreement, a Member shall not sell, assign, transfer, exchange or otherwise dispose of all or any part of its rights and obligations in JV LLP and/or under this Agreement (save in each case to a provider of finance by way of security), or voluntarily dissolve or voluntarily withdraw or resign as a member of JV LLP.

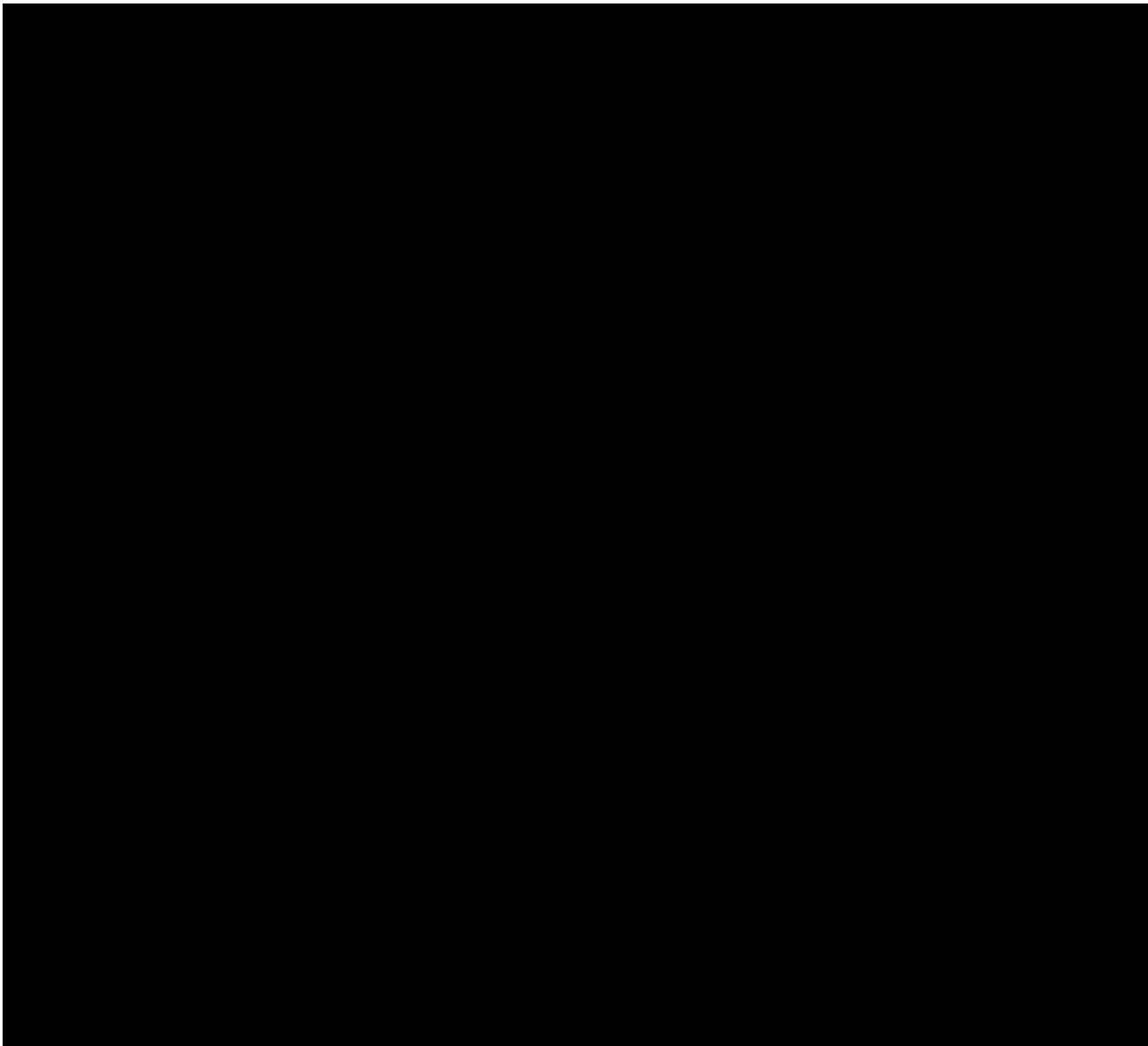
22.2 Permitted Intra-group transfers

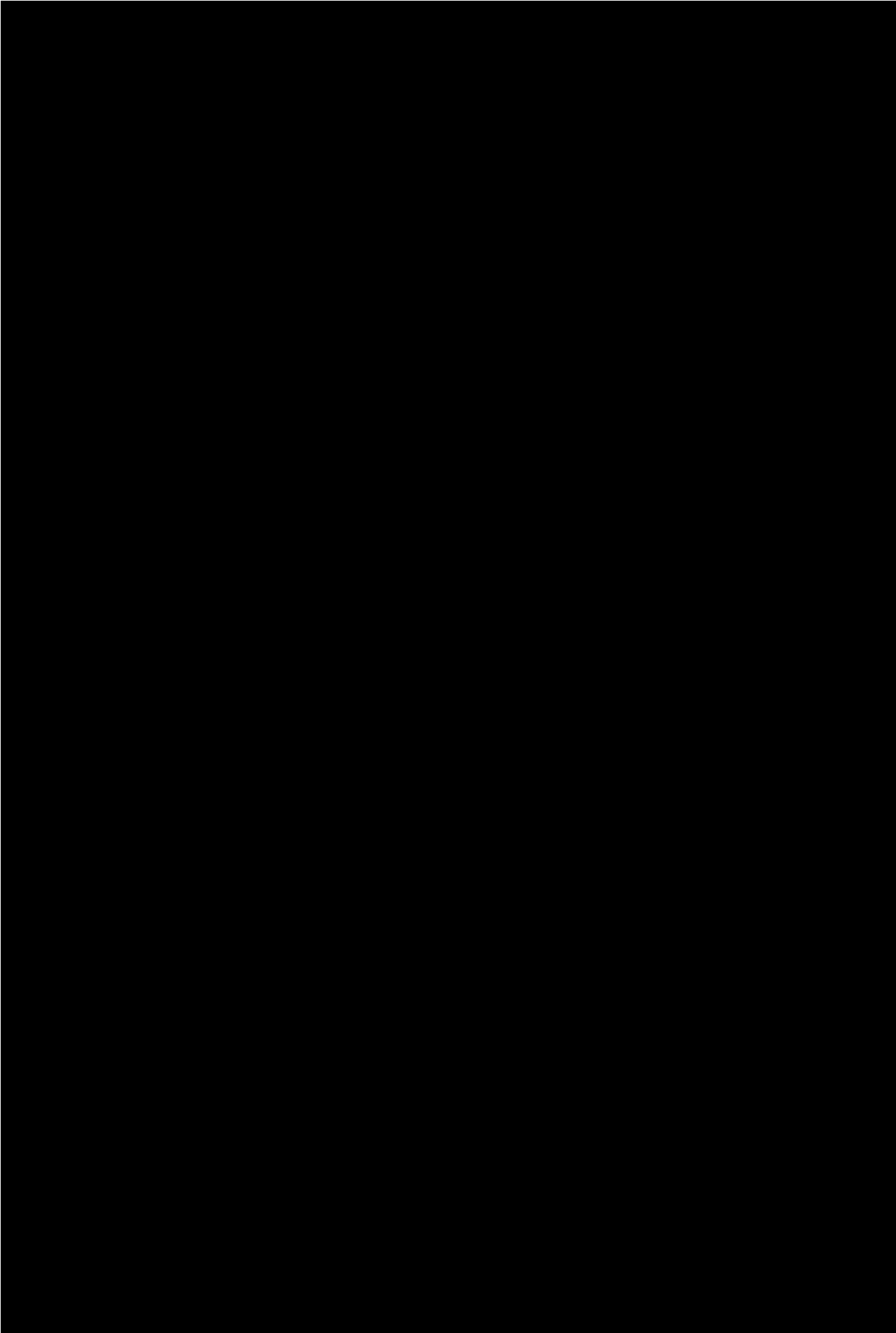
Notwithstanding any other provision of this Agreement, a Member may at any time transfer the whole or a part of its Member Interest to another member of its Group and, in the case of TfL, where required to do so due to a Statutory Requirement, provided that:

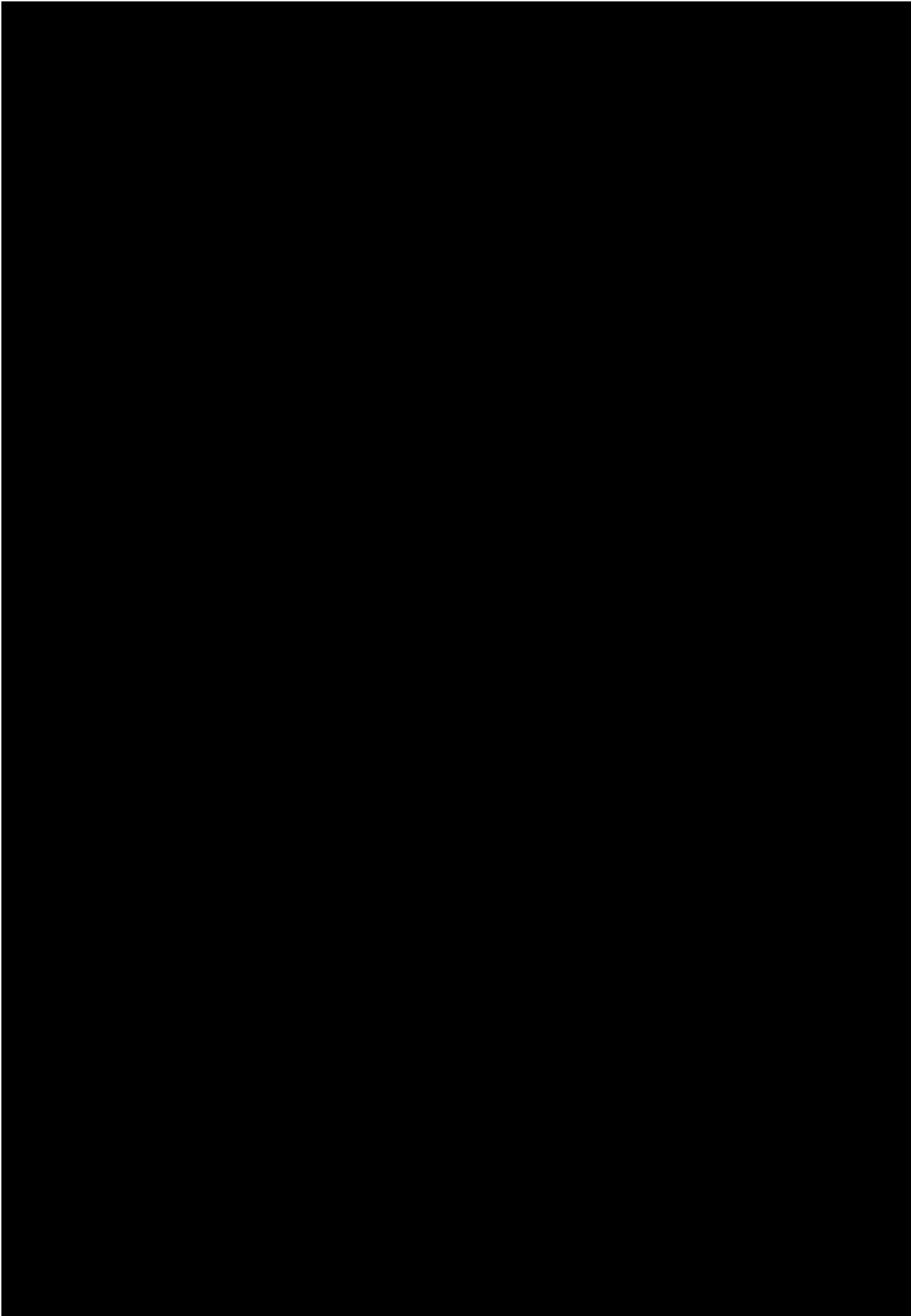
- 22.2.1 prior to any such transfer taking place, the relevant Member shall inform JV LLP and the other Members in writing of such proposed transfer;
- 22.2.2 prior to any such transfer taking place, the relevant Member shall procure that the transferee shall execute and deliver to the other Members and JV LLP a Deed of Adherence (which shall become effective as at the date of the relevant transfer) in the form set out in Schedule 3; and
- 22.2.3 if the first transferee or any subsequent transferee ceases, at any time thereafter to be a member of the transferor's Group (save where the transferee has become a Member due to a Statutory Requirement), the transferor (or its successor) shall procure that such entity will, immediately prior to so ceasing, transfer the Member Interest held by it to such other member of the transferor's Group that is nominated by the transferor (or its successor, as applicable).

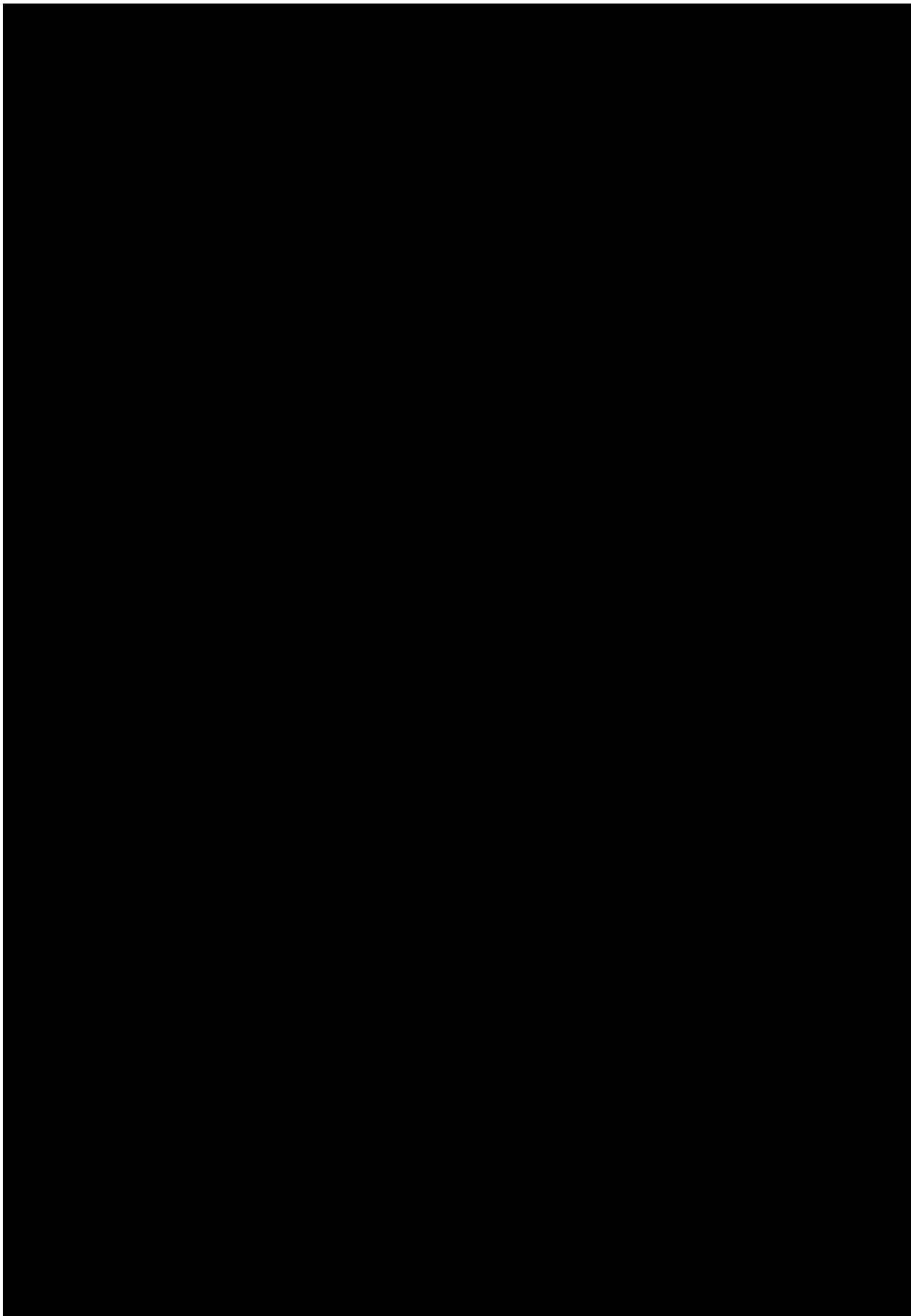
22.3 Permitted Transfers to a Third Party

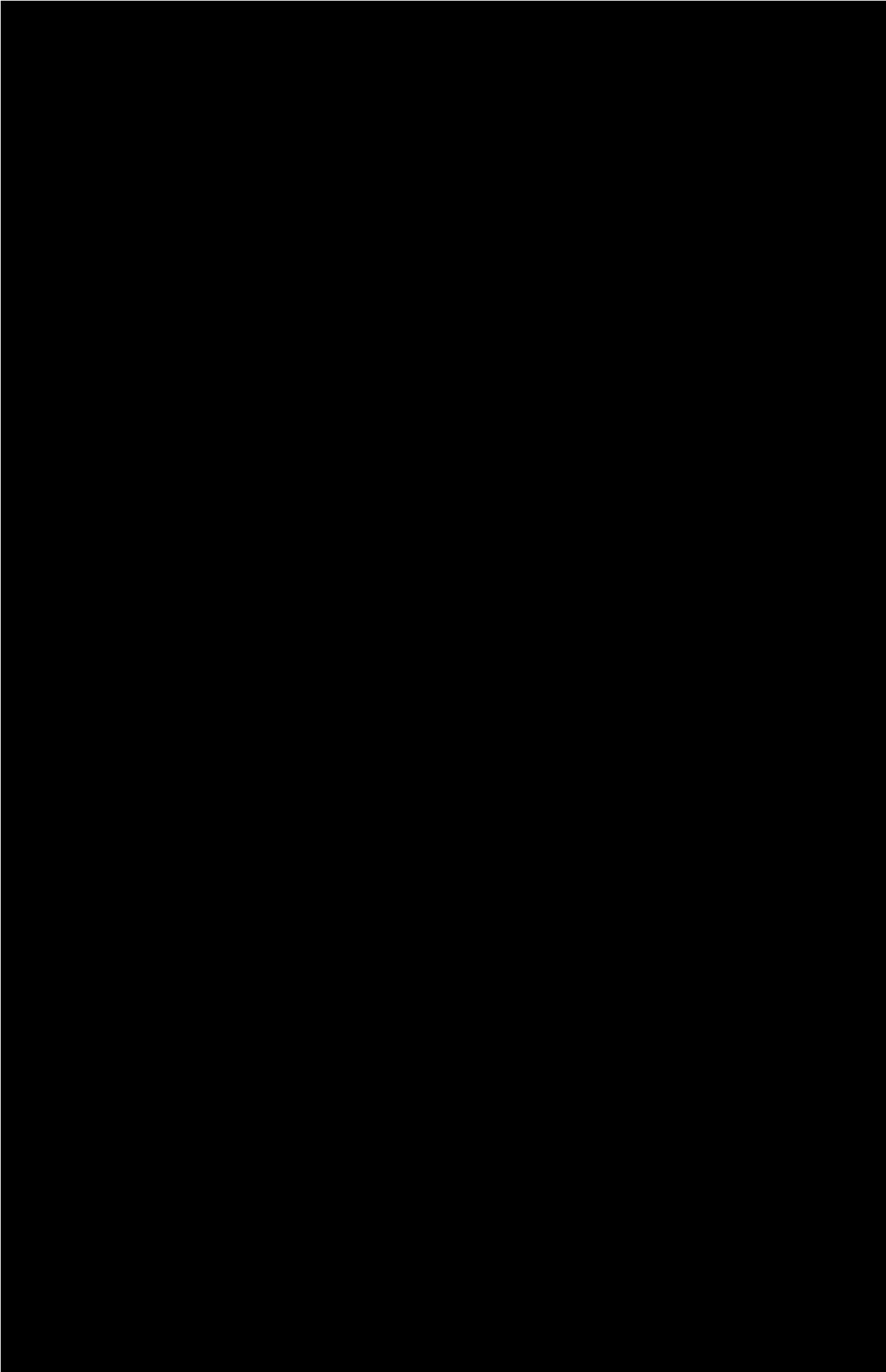
- 22.3.1 A Member may transfer all or part of its Member Interest that is held by it to a Third Party subject to compliance with the provisions of Clause 22.3.2.
- 22.3.2 Save as provided in Clause 22.2 or as otherwise expressly agreed in writing by the Members, no transfer of any part of any Member Interest to a Third Party shall take effect:
- (a) where the proposed transferee is an Unacceptable Funder;
 - (b) where the proposed transferee has not executed a Deed of Adherence (which shall become effective as at the date of the relevant transfer) in the form set out in Schedule 3;
 - (c) if the Member Interest to be transferred represents less than or equal to 10% of the aggregate of all the Member Interests (save where the whole of that Member's Member Interest is to be transferred) where the other Members have not provided prior written consent to such transfer; and/or
 - (d) where Clause 23 has not been fully complied with by the relevant Member.

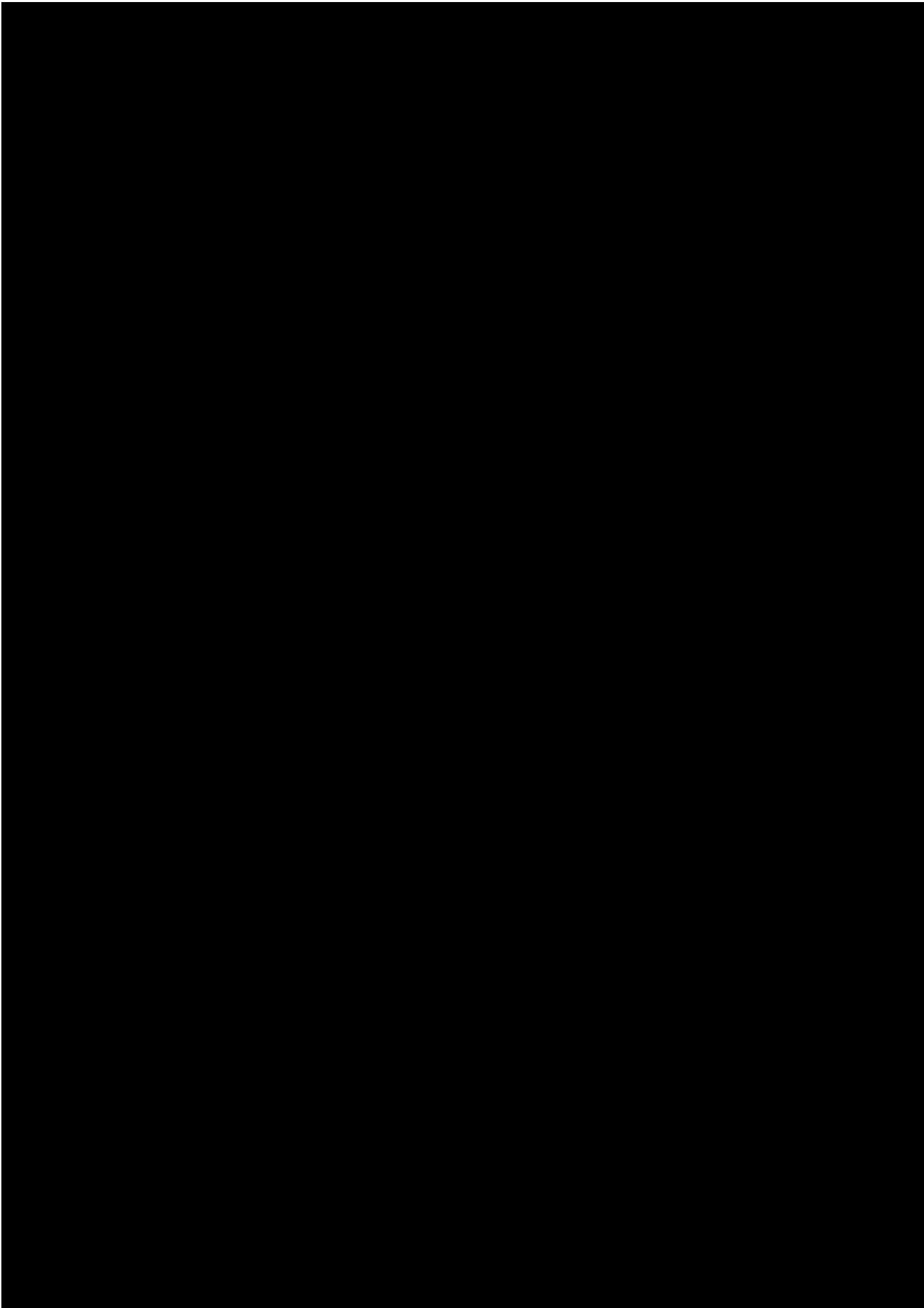












24.8 **Regulatory Extensions**

The time periods set out in Clauses [REDACTED] 24 and Schedule 10 shall be extended to the extent necessary (and only to the extent necessary) to allow a Member to comply with any regulatory obligations placed on them (whether directly or indirectly) by a regulatory authority, including the UK Listing Authority.

25. **DEFAULT**

25.1 The following events shall each be a “Default Event” in respect of a Member:

- 25.1.1 the Member commits a Material Breach of this Agreement;
- 25.1.2 the Member becomes an Insolvent Member;
- 25.1.3 without prejudice to the provisions of Clauses 23.6.3 and 23.8.4 and unless with the prior written agreement of the other Member, a Member purportedly effects or permits a transfer of a Member Interest (or fails to effect the transfer of a Member Interest where required to do so) in breach of Clause 22 and/or Clause 23 (insofar as the same applies to it and/or a member of its Group);
- 25.1.4 [REDACTED] or [REDACTED]
- 25.1.5 the Member fails to provide funding it has committed to do so in writing to JV LLP pursuant to Clause 7.

25.2 Consequences of a Default Event

- 25.2.1 Without prejudice to Clause 25.2.3, where one Member (the “**Non-Defaulting Member**”) (acting reasonably) considers that another Member (the “**Purported Defaulting Member**”) has committed a Default Event, the Non-Defaulting Member shall serve a written notice upon the Purported Defaulting Member (with a copy to JV LLP and all other Members) as soon as practicable and in any event within 20 Working Days of becoming aware of the relevant circumstances (“**Purported Default Notice**”) which shall:
 - (a) state that the Non-Defaulting Member (acting reasonably) considers that the Member upon which the notice is being served has committed a Default Event;
 - (b) identify the relevant Default Event (by reference to the relevant Clause(s) of this Agreement);
 - (c) state the reasons why the Non-Defaulting Member (acting reasonably) considers that the Member upon which the notice is being served has committed a Default Event;
 - (d) enclose supporting written evidence thereof (to the extent reasonably available);
 - (e) state whether or not the Non-Defaulting Member (acting reasonably) considers that the Default Event is capable of remedy;
 - (f) where the Non-Defaulting Member (acting reasonably) considers that the Default Event is capable of remedy, state a reasonable period (of not less than 20 Working Days) by which the Non-Defaulting Member proposes that the Purported Defaulting Member shall be bound to remedy the relevant Default Event (“**Proposed Remedy Period**”); and
 - (g) state that the notice is a “Purported Default Notice” in accordance with this Clause 25.2.1.
- 25.2.2 Within 20 Working Days following the date of the service of a Purported Default Notice, the Purported Defaulting Member shall be entitled to refer the following matters to an Expert for determination, in which case the provisions of Clause 25.2.5 shall apply:
 - (a) whether a Default Event has occurred;

- (b) where a Default Event is agreed or determined to have occurred, whether the Default Event is capable of remedy; and
- (c) whether the Proposed Remedy Period set out in the Purported Default Notice (if any) is reasonable;
- (d) where the Proposed Remedy Period is determined not to be reasonable (or no Proposed Remedy Period is specified in the Purported Default Notice), a reasonable period (of not less than 20 Working Days) by which the Purported Defaulting Member shall be bound to remedy the relevant Default Event (“**Determined Remedy Period**”).

25.2.3 Save where the Non-Defaulting Member has already served a Purported Default Notice in respect of the relevant Default Event pursuant to Clause 25.2.1, any Member who has committed a Default Event (the “**Defaulting Member**”) shall notify the other Member(s) (the “**Non-Defaulting Member**”) as soon as practicable and in any event within 20 Working Days of first becoming aware that it has committed such Default Event (“**Agreed Default Notice**”) which shall:

- (a) state that the Defaulting Member has committed a Default Event;
- (b) identify the relevant Default Event (by reference to the relevant Clause(s) of this Agreement);
- (c) set out any further relevant information;
- (d) state whether or not the Defaulting Member (acting reasonably) considers that the Default Event is capable of remedy;
- (e) where the Defaulting Member (acting reasonably) considers that the Default Event is capable of remedy, state a reasonable period (of not less than 20 Working Days) during which the Defaulting Member proposes to be bound to remedy the relevant Default Event (“**Proposed Remedy Period**”); and
- (f) state that the notice is an “Agreed Default Notice” in accordance with this Clause 25.2.3.

25.2.4 Within 10 Working Days following the date of the service of an Agreed Default Notice, the Non-Defaulting Member shall be entitled to refer the following matters to an Expert for determination, in which case the provisions of Clause 25.2.5 shall apply:

- (a) whether the Default Event is capable of remedy; and
- (b) whether the Proposed Remedy Period set out in the Agreed Default Notice (if any) is reasonable; and
- (c) where the Proposed Remedy Period is determined not to be reasonable (or no Proposed Remedy Period is specified in the Agreed Default Notice), a reasonable period (of not less than 20 Working Days) by which the Defaulting Member shall be bound to remedy the relevant Default Event (“**Determined Remedy Period**”).

25.2.5 Where the Purported Defaulting Member refers any of the matters specified in Clause 25.2.2 to an Expert or the Non-Defaulting Member refers any of the matters specified in Clause 25.2.4 to an Expert:

- (a) the Purported Defaulting Member or Non-Defaulting Member (as applicable) shall instruct the Expert to make his determination on the basis of the information set out in the Purported Default Notice or Agreed Default Notice (as applicable) and any further written information submitted to the Expert by the Members (a copy of which shall be submitted in each case to JV LLP and the other Member at the same time as the Expert);
- (b) the Expert shall be instructed to determine the relevant matters in a report addressed to and issued to JV LLP and the Members simultaneously;
- (c) any Expert appointed by a Member pursuant to this Clause 25.2 shall act as an expert and not as an arbitrator and shall be entitled to seek and rely upon such other independent professional advice and assistance as he or she shall in his absolute discretion deem desirable when considering the relevant matter. The decision of the Expert (including his decision as to the payment of his fees) shall be final and binding upon the Parties without appeal; and
- (d) if an Expert appointed by a Member pursuant to this Clause 25.2 relinquishes their appointment or dies or if it becomes apparent that they shall be unable to complete their duties under their appointment then any Member may apply to the appropriate President (or the next the most senior available officer) of the Royal Institution of Chartered Surveyors or the Law Society of England and Wales or the Institute of Chartered Accountants in England and Wales (as appropriate to the relevant matter) for a substitute to be appointed in the Expert's place (which procedure may be repeated as many times as necessary).

25.3 **Defaulting Member's opportunity to remedy**

25.3.1 If a Default Event:

- (a) is identified in an Agreed Default Notice;
- (b) is identified in a Purported Default Notice and the matter of whether or not a Default Event has occurred is not referred to an Expert in accordance with Clause 25.2.2 (in accordance with the timescales set out therein); or
- (c) is identified in a Purported Default Notice and the matter of whether or not a Default Event has occurred is referred to an Expert in accordance with Clause 25.2.2 and such Expert determines that a Default Event has occurred,

and such Default Event is:

- (d) identified in the relevant Agreed Default Notice as being capable of remedy and the matter of whether or not such Default Event is capable of remedy is not referred to an Expert in accordance with Clause 25.2.4 (in accordance with the timescales set out therein); or
- (e) identified in the relevant Agreed Default Notice as being capable of remedy and the matter of whether or not such Default Event is capable of remedy is referred to an Expert in accordance with Clause 25.2.4 and such Expert determines that the Default Event is capable of remedy;
- (f) identified in the relevant Purported Default Notice as being capable of remedy; or

- (g) identified in the relevant Purported Default Notice as not being capable of remedy, and the matter of whether or not the Default Event is capable of remedy is referred to an Expert in accordance with Clause 25.2.2 and such Expert determines that the Default Event is capable of remedy,

(“**Remediable Default Event**”) then the Purported Defaulting Member or Defaulting Member (as applicable) shall have the opportunity to remedy the relevant Remediable Default Event during the Proposed Remedy Period or Determined Remedy Period (as applicable, provided that any Determined Remedy Period (if any) shall apply in respect of a Default Event to the exclusion of any Proposed Remedy Period).

25.3.2 For the avoidance of doubt the Defaulting Member shall not be required to wait until this Clause 25.3 applies before attempting to remedy any Default Event.

25.3.3 Within 10 Working Days following the expiry of the Proposed Remedy Period or Determined Remedy Period relating to a Remediable Default Event (as applicable, provided that any Determined Remedy Period shall apply to the exclusion of the Proposed Remedy Period), the Purported Defaulting Member or Defaulting Member (as applicable) shall serve notice upon the Non-Defaulting Member which shall set out details of how the Remediable Default Event has been remedied during the relevant period (“**Remedy Notice**”). Where the Non-Defaulting Member (acting reasonably) considers, having regard to the contents of the Remedy Notice, that the Remediable Default Event has not been remedied to its reasonable satisfaction, the Non-Defaulting Member shall be entitled within 10 Working Days of the date of service of the Remedy Notice to refer the matter of whether the Remediable Default Event should reasonably be considered to be satisfactorily remedied to an Expert for determination in accordance with Clause 25.3.4.

25.3.4 Where the Non-Defaulting Member refers the matter of whether the Remediable Default Event should reasonably be considered to be satisfactorily remedied to an Expert in accordance with this Clause 25.3.4:

- (a) the Non-Defaulting Member shall instruct the Expert to make his determination on the basis of the information set out in the Remedy Notice and any further written information submitted to the Expert by the Members (a copy of which shall be submitted in each case to JV LLP and the other Member at the same time as the Expert);
- (b) the Expert shall be instructed to determine the relevant matters in a report addressed to and issued to JV LLP and the Members simultaneously;
- (c) any Expert appointed by a Member pursuant to this Clause 25.3.4 shall act as an expert and not as an arbitrator and shall be entitled to seek and rely upon such other independent professional advice and assistance as he or she shall in his absolute discretion deem desirable when considering the relevant matter. The decision of the Expert (including his decision as to the payment of his fees) shall be final and binding upon the Parties without appeal; and
- (d) if an Expert appointed by a Member pursuant to this Clause 25.3.4 relinquishes their appointment or dies or if it becomes apparent that they shall be unable to complete their duties under their appointment then either Member may apply to the appropriate President (or the next the most senior available officer) of the Royal Institution of Chartered Surveyors or the Law Society of England and Wales or the Institute of Chartered Accountants in England and Wales or the Chartered Institute of Taxation (as appropriate to the relevant matter) for a substitute to be

appointed in the Expert's place (which procedure may be repeated as many times as necessary).

25.3.5 Where:

- (a) a Default Event is not a Remediable Default Event (and the time period for referring relevant matters relating to such Default Event to an Expert in accordance with Clause 25.2.2 or Clause 25.2.4 (as applicable) has expired); or
- (b) a Default Event is a Remediable Default Event and the Default Event has either been agreed by the Defaulting Member and the Non-Defaulting Member not to have been satisfactorily remedied or an Expert has determined that the Remediable Default Event should not reasonably be considered to be satisfactorily remedied following a referral in accordance with Clauses 25.3.3 and 25.3.4,

the relevant Default Event shall be a “ **Termination Default Event**” and the provisions of Clause 28 shall automatically be triggered.

25.4 **Co-operation on a Default Event**

25.4.1 Each Member undertakes to the other that, where it has breached any obligation on its part that is specifically set out in this Agreement and:

- (a) JV LLP and/or the other Members (as the case may be) has informed it in writing of the relevant breach and the Member in breach has agreed to enter into discussions regarding a resolution of that breach and/or an out of court settlement in relation to it, the Member in breach hereby agrees to co-operate and act in good faith with the other Parties in relation to such discussions and not to unreasonably prolong such discussions; and/or
- (b) JV LLP and/or the other Members (as the case may be) has brought a claim against it in respect of such breach, the Member in breach hereby agrees to co-operate and act in good faith in relation to the conduct of such claim (or defence of it) and not to unreasonably prolong the litigation process.

26. **MEMBER PROTECTION MATTERS**

26.1 Subject to Clause 26.5 and Clause 26.6, if a Member Protection Matter put to the Members for a decision is not approved by Members holding at least:

- 26.1.1 90% (in respect of those matters set out in paragraphs 1 to 3 (inclusive) of Schedule 5); or
- 26.1.2 75% (in respect of those matters set out in paragraphs 4 to 13 (inclusive) of Schedule 5),

of the total Member Voting Interests, then such matter shall constitute a “**Minority Protection Matter**” and within 20 Working Days after the Minority Protection Matter first being presented to the Members, any Member holding at least 10% of the total Member Voting Interests may give notice to the other Members and JV LLP in writing (a “**Minority Protection Notice**”) setting out, in detail, its position on the Minority Protection Matter and proposed course of action. The Members shall use all reasonable endeavours to resolve the Minority Protection Matter within 10 Working Days after receipt of the Minority Protection Notice. In the absence of a resolution, unless Clause 26.2 applies, the status quo position shall be maintained.

26.2 Referral to Senior Officers

- 26.2.1 Subject to 26.5 if the Minority Protection Matter is not resolved to the reasonable satisfaction of either of the Members within 10 Working Days after receipt of the Minority Protection Notice then:
- (a) within 20 Working Days, Capco shall nominate (by written notice to JV LLP) the then current Chief Executive or other senior officer of Capco's ultimate holding company who has the authority of Capco to resolve the Minority Protection Matter on behalf of Capco (the "**Capco Senior Officer**") and TfL shall nominate (by written notice to JV LLP) the then current Chief Executive or other senior officer of TfL's ultimate holding company who has the authority of TfL to resolve the Minority Protection Matter on behalf of TfL (the "**TfL Senior Officer**"); and
 - (b) the Capco Representatives (acting collectively) and the TfL Representatives (acting collectively) will, immediately thereafter, each prepare and contemporaneously serve on both the Capco Senior Officer and the TfL Senior Officer a memorandum setting out their respective positions on the Minority Protection Matter and the reasons for adopting such position (a "**Memorandum**"). Thereafter, the Capco and TfL shall procure that the Capco Senior Officer and the TfL Senior Officer (respectively) each consider both Memoranda and use all reasonable endeavours to resolve the Minority Protection Matter.
- 26.2.2 If the Capco Senior Officer and the TfL Senior Officer agree on a resolution or disposition of the Minority Protection Matter within 10 Working Days of receipt of the Memoranda (the "**Resolution Period**"), Capco shall procure that the Capco Senior Officer will, and TfL shall procure that the TfL Senior Officer will, jointly draft and sign a statement setting out the terms of such resolution or disposition and serve the same on JV LLP. Following receipt of such statement by JV LLP, the Representatives shall procure that such resolution or disposition is fully and promptly carried into effect.
- 26.2.3 If the Capco Senior Officer and the TfL Senior Officer do not resolve the matter in dispute within the Resolution Period then the Minority Protection Matter is referred back to the Members and the provisions of Clause 26.3 shall apply.

26.3 Referral to Expert

- 26.3.1 Subject to Clause 26.5, if the Members agree that the Minority Protection Matter should be determined by an appropriate Expert (and agree the question to be put to such Expert) then it shall be referred by the Members to an appropriate Expert and the provisions of this Clause 26.3 shall apply.
- 26.3.2 The Expert shall act as an expert and not as an arbitrator and shall be entitled to seek and rely upon such other independent professional advice and assistance as he or she shall in his absolute discretion deem desirable when considering the Minority Protection Matter. The decision of the Expert (including his decision as to the payment of his fees) shall be final and binding upon the Parties without appeal and the Parties shall implement such decision in relation to JV LLP and its Business as soon as reasonably practicable after the Expert informs the Parties of his decision.
- 26.3.3 If the Expert relinquishes their appointment or dies or if it becomes apparent that they shall be unable to complete their duties under their appointment then any Member may apply to the appropriate President (or the next the most senior available officer) of the Royal Institution of Chartered Surveyors or the Law Society of England and Wales or the Institute of Chartered Accountants in England and Wales (as appropriate to the Minority Protection Matter) for a substitute to be

appointed in the Expert's place (which procedure may be repeated as many times as necessary).

- 26.3.4 The costs of the Parties and the Expert relating to the referral of the Minority Protection Matter shall be borne as determined by the Expert or, in the absence of such determination by JV LLP.

26.4 Non-Referral to an Expert

If Capco and TfL do not jointly refer the Minority Protection Matter to an appropriate Expert within 10 Working Days of expiry of the Resolution Period (or agree that it is not to be determined by an Expert), then the matter will not be taken any further and status quo will apply.

26.5 Consequences of more than two Members

The provisions of Clauses 26.2 to 26.4 (inclusive) will not apply to any Member Protection Matter at all times when JV LLP has more than two Members (save that for the purposes of this Clause where there are two or more Members who are part of the same Group they are deemed to be a single Member).

26.6 JV LLP Subsidiaries

- 26.6.1 The provisions of Clause 26 shall apply *mutatis mutandis* to any JV LLP Subsidiary (save for the Nominee, in relation to which this Clause 26 shall not apply), provided that references in Clause 26 to:

- (a) JV LLP shall be construed as being references to such JV LLP Subsidiary;
- (b) the Board shall be construed as being references to the board of representatives of such JV LLP Subsidiary;
- (c) references to Representatives shall be construed as being references to the representatives on the board of such JV LLP Subsidiary

provided that any reference to a Member in this Clause 26 (insofar as it applies to a JV LLP Party) shall continue to be a reference to such Member, and shall not be construed as a reference to the members of such JV LLP Subsidiary.

27. EXPERTS – GENERAL PROVISIONS

- 27.1 Where an Expert is appointed by any Member pursuant to the terms of this Agreement, such Expert shall be appropriate to the matter or dispute to be considered and the following provisions of this Clause 27 shall apply.

- 27.2 If a Member (an "**Instructing Member**") intends to appoint an Expert pursuant to any provision of this Agreement (which provides for the appointment of an Expert), such Expert shall:

- 27.2.1 have at least 10 years' experience in the relevant field or profession;
- 27.2.2 have recent experience of matters similar to the type being referred; and
- 27.2.3 have appropriate resources and support to be able to fulfil the functions required,

and the identity of such proposed Expert shall be notified to the other Members. If any of the other Members object to the identity of the person proposed to be appointed (whether in terms of their individual identity or profession), such objection shall be communicated to the

Instructing Member within 3 Working Days of receipt of notice from the Instructing Member as to the identity of the proposed Expert (whereupon the matter shall be referred to the Senior Officers to seek a resolution).

27.3 If the Senior Officers are unable to resolve the matter referred to them within 3 Working Days of receipt of a referral pursuant to Clause 27.2, then the Expert shall be chosen by:

27.3.1 the President (or the next the most senior available officer) of the Law Society of England and Wales where the dispute relates to a point of law or legal drafting;

27.3.2 the President (or the next the most senior available officer) of the Chartered Institute of Accountants where the dispute relates to finance (including corporate finance), accounting or calculating the quantum of damages;

27.3.3 the President (or the next the most senior available officer) of the Royal Town Planning Institute where the dispute relates to planning;

27.3.4 the President (or the next the most senior available officer) of the Royal Institute of Chartered Surveyors where the dispute relates to real estate (including land and property valuation), development or construction;

27.3.5 President (or the next the most senior available officer) of the Chartered Institute of Taxation where the dispute relates to tax matters,

and the Instructing Member shall appoint that person as the Expert for the matter.

27.4 If a Member objects to the Expert proposed to be appointed by an Instructing Member, then the relevant time limits contained in this Agreement shall be extended appropriately, so that an Instructing Member is not prevented from referring a matter to an Expert due to an objection raised pursuant to Clause 27.2.

27.5 If the Senior Officers are unable to agree on the nature of the matter which requires determination by an Expert, then the question will be referred to the President (or the next the most senior available officer) of the Law Society of England and Wales for determination.

28. DURATION, TERMINATION AND EXIT

28.1 Termination Events

28.1.1 This Clause 28 shall apply on the occurrence of any of the following “**Termination Events**”:

(a) any Termination Default Event occurring which is not waived in writing by each of the Non-Defaulting Members, in which case Schedule 10 shall apply in relation to JV LLP;

(b) the insolvency, dissolution or liquidation of JV LLP or a JV LLP Subsidiary (other than for the purposes of an amalgamation or reconstruction or where JV LLP Subsidiary’s business has been completed) in which case, Clause 28.2 shall apply:

(i) where JV LLP is insolvent, dissolved or liquidated, in respect of JV LLP and any JV LLP Subsidiary; and

(ii) where a JV LLP Subsidiary is insolvent, dissolved or liquidated, in respect of the relevant JV LLP Subsidiary (only); and

- (c) the Members resolve to voluntarily wind up JV LLP or a JV LLP Subsidiary (in which case, Clause 28.2 shall apply in respect of the relevant JV LLP Subsidiaries that are the subject of such written agreement)

28.2 Winding Up

28.2.1 Where this Clause 28.2 applies, the Parties shall procure that (notwithstanding any other term of this Agreement) the following procedure shall apply in respect of JV LLP and/or any relevant JV LLP Subsidiary (as applicable):

- (a) each Project Agreement which has been entered into by JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) in relation to any works and/or services to be carried out in relation to any land in which JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) has a legal or equitable interest shall continue until all of the obligations on the part of the contractor have been satisfied (save where JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) has resolved to terminate such agreement in accordance with its terms);
- (b) no further activities or operations of JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) shall be conducted except as required pursuant to and in accordance with this Clause 28.2;
- (c) the Parties shall use all reasonable endeavours to procure the termination of all other agreements and contracts to which JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) is party (including any other Project Agreements) provided that such termination shall not constitute a breach of the relevant contract; and
- (d) a Winding Up Practitioner shall be appointed in accordance with Clause 28.3, to ensure that JV LLP Assets (and/or the assets of any JV LLP Subsidiary) shall be distributed in accordance with Clause 28.3 and Clause 29.

28.3 Winding Up Practitioner's appointment (JV LLP winding up)

28.3.1 A Winding Up Practitioner shall be appointed in respect of JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) within 30 Working Days of the date upon which Clause 28.2 first applies in respect of such entity, and the Winding Up Practitioner shall be instructed to wind up JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries) and its Business in an efficient manner and in accordance with this Clause 28.3 and, thereafter, to ensure that JV LLP Assets (and/or the assets of any JV LLP Subsidiary) shall be distributed in accordance with Clause 29.

28.3.2 The appointed Winding Up Practitioner shall be instructed to solicit offers on behalf of JV LLP for the acquisition of the land interests held by JV LLP (and/or the relevant JV LLP Subsidiary or Subsidiaries).

28.3.3 If the Winding Up Practitioner receives offers to purchase JV LLP's (and/or the relevant JV LLP Subsidiary's or Subsidiaries') land interests on market terms, he shall hereby have the authority of the Members (and, in the case of a JV LLP Subsidiary, JV LLP) to accept any such offer as he shall deem appropriate and for the purposes of this Clause each of the Members (and, in the case of a JV LLP Subsidiary, JV LLP) hereby irrevocably appoints and constitutes the Winding Up Practitioner as its lawful attorney (and agrees to execute all such further documents and carry out all such further steps necessary to effect the same) to execute on its behalf (and in its name) any such purported transfer of JV LLP's (or the relevant JV LLP Subsidiary's or Subsidiaries') land interests. The Parties

acknowledge that, in the case of a winding up under Clause 28.1.1(b) any such transfer shall be at the discretion of the Winding Up Practitioner and subject to the Winding Up Practitioner's duties towards JV LLP (or the relevant JV LLP Subsidiary or Subsidiaries) and the creditors thereof.

29. DISTRIBUTION OF ASSETS

29.1 Following the completion of the process set out in Clause 28.3 in relation to JV LLP (where relevant, following the date of the transfer of land in accordance with Clause 28.3 and receipt by JV LLP of the relevant consideration for the same), subject to:

29.1.1 the LLP Act, the Regulations, the Companies Act 2006 and the Insolvency Act 1986; and

29.1.2 the terms of any senior debt funding,

(save as otherwise agreed in writing by each of the Members) the Parties shall procure that, and the Members shall exercise all voting rights and other powers of control available to them in relation to JV LLP (to the extent that they are able by the exercise of such rights and powers) to procure that, JV LLP Assets shall be distributed by the Winding Up Practitioner in the descending order of priority and in the proportions set out in Clause 29.2.

29.2 Subject to Clause 29.3, the distributions and order of priority referred to in Clause 29.1 shall be as follows (to the extent not already paid):

29.2.1 payment of the expenses of the winding up;

29.2.2 repayment of any principal and outstanding interest on Additional Loan Notes;

29.2.3 repayment of any principal and accrued (but unpaid) interest on any outstanding Shareholder Bridge Finance Emergency Loan Notes and Shareholder Bridge Finance Working Capital Loans (pari passu the amount owing under such loan notes at the relevant time);

29.2.4 repayment of any principal on any outstanding Contribution Loan Notes;

29.2.5 distribution to each Member of amounts credited to its Member Account;

29.2.6 repayment to each Member of its Outstanding Capital Contribution; and

29.2.7 distribution to each Member of any surplus pro rata to their Member Voting Interests.

29.3 If when paying the debts and liabilities of JV LLP in accordance with Clause 29.1 and 29.2 there are no assets, or insufficient assets, of JV LLP to:

29.3.1 pay each Member the amounts standing to the credit of their Member Accounts; and/or

29.3.2 repay each Member the whole of their Outstanding Capital Contribution,

JV LLP shall not be liable for the shortfall and there shall be paid to the Members only the amount of those remaining assets (if any). Notwithstanding Clause 29.4 to the extent there has been any overpayment to a Member, that Member shall make such contributions to the other as are necessary to procure the Members each receive such proportion of the assets of JV LLP on a winding up vis-à-vis the other as they are entitled to receive pursuant to the terms of this Agreement.

29.4 For the purposes of section 74 Insolvency Act 1986 as it is applied to limited liability partnerships under the LLP Act and the Regulations no Member is liable to contribute any amount to the assets of JV LLP or any JV LLP Subsidiary on a winding up to cover any of the matters set out in that section.

29.5 Following the completion of the process set out in Clause 28.3 in relation to a JV LLP Subsidiary, if relevant, following the date of the transfer of land in accordance with Clause 28.3 and receipt by JV LLP Subsidiary of the relevant consideration for the same), subject to:

29.5.1 the LLP Act, the Regulations, the Companies Act 2006 and the Insolvency Act 1986; and

29.5.2 the terms of any senior debt funding; and

29.5.3 compliance with any other applicable laws,

(save as otherwise agreed in writing by the Members or required in accordance with any contractually binding obligation to the contrary) the Parties shall procure that, and the Members shall exercise all voting rights and other powers of control available to them in relation to JV LLP and JV LLP Subsidiary (to the extent that they are able by the exercise of such rights and powers) to procure that, the assets of JV LLP Subsidiary shall be distributed by the Winding Up Practitioner in full to JV LLP.

30. **JV LLP PROPERTY**

30.1 All property held or created by JV LLP or a JV LLP Subsidiary or occupied or employed by JV LLP or a JV LLP Subsidiary for the purposes of carrying on its business which has been paid for by JV LLP or such JV LLP Subsidiary or transferred to JV LLP or the relevant JV LLP Subsidiary by any Member or has otherwise accrued to JV LLP or such JV LLP Subsidiary, is owned by JV LLP or the relevant JV LLP Subsidiary (as applicable) absolutely and the Members shall have no individual rights in that property other than those rights under the Project Agreements and than by their entitlement to such capital distributions as may be due to them under this Agreement or following liquidation of JV LLP.

30.2 Where it is necessary for property used for the purposes of JV LLP or the relevant JV LLP Subsidiary (as applicable) to be held on behalf of JV LLP or the relevant JV LLP Subsidiary (as applicable) by one or more Members, the Members concerned will, at JV LLP's or the relevant JV LLP Subsidiary's request (as applicable) and in the manner specified by JV LLP or the relevant JV LLP Subsidiary (as applicable), document JV LLP's interest (or the relevant JV LLP Subsidiary's interest, as applicable) in that property by executing a declaration of trust or similar acknowledgement.

31. **WARRANTIES**

31.1 Each of the Parties hereby severally warrants and represents to each of the other Parties with effect from the date of their execution or adherence to this Agreement that, as at such date:

31.1.1 it is duly incorporated and has the power to enter into and to exercise its rights and perform its obligations under the Project Agreements to which it is a Party;

31.1.2 it has the corporate power and has obtained any necessary consents and/or approvals to enable it to enter into this Members' Agreement and each Project Agreement to which it is a party, to exercise its rights and perform its obligations under this Members' Agreement and each Project Agreement to which it is a party and to enable JV LLP to undertake the Business;

31.1.3 each Project Agreement to which it is a party constitutes, or shall when executed constitute legal, binding and enforceable obligations on each of them;

- 31.1.4 it has taken all necessary action to authorise the execution of and the performance of its obligations under the Project Agreements to which they are respectively parties (and in the case of a Project Agreement executed after the date of this Agreement will take all necessary action to authorise the execution of that Project Agreement);
 - 31.1.5 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge, is pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform their obligations under the Project Agreements;
 - 31.1.6 it is not subject to any contractual obligation, compliance with which is (in its reasonable opinion) likely to have a material adverse effect on its ability to perform its obligations under any Project Agreement to which it is a party; and
 - 31.1.7 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for its winding-up or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, administrator or similar officer in relation to its assets or revenue.
- 31.2 Capco warrants to TfL that as far as it is aware no other freehold or leasehold interest in land outside of Earls Court Village is required to deliver the development in relation to which Reserved Matters Approval has been sought pursuant to Reserved Matters Applications to the Royal Borough of Kensington and Chelsea under reference PP/13/07062 and the London Borough of Hammersmith and Fulham under reference 2013/05299/RES both dated December 2013.

32. **TFL POWERS, TOPCO CHANGE OF CONTROL AND TFL POLICIES**

- 32.1 Nothing contained or implied in this Agreement or any consent or approval granted pursuant to it shall prejudice or affect the rights powers duties and obligations of Transport For London or any member of its Group in the exercise of its functions as a transportation authority or other statutory authority.
- 32.2 For the avoidance of doubt and notwithstanding any other provision of this Agreement any Change of Control of either Capco Topco or Transport For London will not trigger any provision of this Agreement.
- 32.3 JV LLP shall procure that any building contracts or consultant appointments it enters into in relation to the Business shall incorporate the relevant TfL Policy Clauses.
- 32.4 JV LLP and the Members shall have no right, and shall not permit any consultant, contractor or other person, to use any trade marks, trade names, logos or other intellectual property rights of Transport for London and its Subsidiaries from time to time together with Cross London Rail Links Limited (company number 04212657) without Transport for London's prior written consent.
- 32.5 JV LLP and the Members shall have no right, and shall not permit any consultant, contractor or other person, to use any trade marks, trade names, logos or other intellectual property rights of Capco Topco and its Subsidiaries from time to time without Capco Topco's prior written consent.

33. **CONFIDENTIAL INFORMATION, TRANSPARENCY AND FREEDOM OF INFORMATION**

- 33.1 During the term of this Agreement and for a period of 3 years after the termination or expiry of the Agreement for any reason whatsoever (the "**Confidentiality Period**"), the Receiving Party (as defined in Clause 33.2) will:
 - 33.1.1 keep Confidential Information (as defined in Clause 33.2) confidential;

- 33.1.2 not disclose Confidential Information to any other person other than with the written consent of the Disclosing Party (as defined in Clause 33.2) or in accordance with Clauses 33.2 to 33.4; and
- 33.1.3 not use Confidential Information for any purpose other than the performance of its obligations under this Agreement and the other Project Agreements.
- 33.2 For the purposes of this Clause 33, “**Confidential Information**” means all information of a confidential or commercial nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party (the “**Disclosing Party**”) to another Party (“**Receiving Party**”) whether before or after the date of this Agreement including, without limitation, any information relating to the Disclosing Party’s (or any member of its Group’s) operations, processes, plans or intentions, know-how, design rights, trade secrets, market opportunities and business affairs. The Parties acknowledge that to be protectable as ‘confidential’ under the FOIA Rules and/or the EIR Rules the Confidential Information must meet the standard for ‘confidential quality’ information required for an actionable breach of confidence action.
- 33.3 The Receiving Party shall so far as practicable procure that each recipient which is not a Party to this Agreement but which receives any Confidential Information from a Receiving Party pursuant to any of Clauses 33.4.5 to 33.4.9 (inclusive), or with the consent of the Disclosing Party (“**Recipient**”), is made aware of and complies with all the Receiving Party’s obligations of confidentiality under this Agreement as if the Recipient were a Party to this Agreement (provided always that it is acknowledged that where such Recipient is subject to the FOIA Rules and/or the EIR Rules, any such confidentiality obligations are subject to the Recipient’s obligations to comply with the FOIA Rules and/or the EIR Rules).
- 33.4 The obligations contained in Clauses 33.1 to 33.3 shall not apply to any Confidential Information which:
- 33.4.1 is at the date of this Agreement in, or at any time after the date of this Agreement comes into, the public domain other than through a breach of this Agreement by the Receiving Party or any Recipient;
- 33.4.2 can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party and not subject to any obligations of confidentiality before disclosure by the Disclosing Party to the Receiving Party;
- 33.4.3 subsequently comes lawfully into the possession of the Receiving Party from a third party and not subject to any obligations of confidentiality;
- 33.4.4 is required by Law (whether under the FOIA Rules and/or the EIR Rules or otherwise) or a regulatory authority or body to be disclosed;
- 33.4.5 is required by any Government Department to be disclosed to it;
- 33.4.6 is required by the Project Agreements to be disclosed;
- 33.4.7 relates to JV LLP and is required to be disclosed to any Government Department for normal reporting, commercial, financial or budgetary, operational and/or approval reasons;
- 33.4.8 is provided to a third party proposing to acquire an interest in JV LLP or a Capco Parent or a TfL Parent provided that such third party has entered into and delivered to JV LLP a confidentiality and non-disclosure agreement substantially in the form set out in Schedule 14; and/or
- 33.4.9 is provided to a proposed funder of JV LLP or any JV LLP Subsidiary under conditions of confidentiality.

33.5 Each of the Parties acknowledges that the provisions of the Transparency Agreement apply to the provisions of this Agreement.

34. **ANNOUNCEMENTS**

34.1 Subject to Clause 34.2, no Member shall make nor send any announcement, communication or circular relating to the subject matter of this Agreement unless such Member has first obtained the other Member's written consent to the form and text of such announcement.

34.2 Clause 34.1 does not apply to an announcement, communication or circular required by Law or by the rules of any stock exchange or by any governmental authority, in which event the Member required to make or send such announcement, communication or circular shall, where practicable, first consult with the other Members as to the content of such announcement.

35. **NOTICES**

35.1 Any notice or other communication pursuant to, or in connection with, this Agreement shall be in writing and delivered personally, or sent by pre-paid first class post (air mail if overseas), to the Party due to receive such notice at its registered office from time to time (or to such other address as may from time to time have been notified in writing to the other Parties in accordance with this Clause).

35.2 Subject to Clause 35.3, any notice or other communication shall be deemed to have been served:-

35.2.1 if delivered personally, when left at the address referred to in Clause 35.1;

35.2.2 if sent by pre-paid first class post (other than air mail), two days after posting it; and

35.2.3 if sent by air mail, six days after posting it.

35.3 If a notice is given or deemed given at a time or on a date which is not a Working Day, it shall be deemed to have been given on the next Working Day.

36. **INVALIDITY AND SEVERANCE**

If any provision of this Agreement is held to be invalid, unenforceable or illegal, in whole or in part, such provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall remain unaffected. Notwithstanding the foregoing, the Parties shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision, achieving so nearly as possible the same commercial effect, to be substituted for the provision so found to be invalid, unenforceable or void.

37. **WAIVER**

37.1 The failure by a Party to exercise or delay in exercising any right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies such Party may otherwise have and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

37.2 The Parties' rights and remedies contained in this Agreement are in addition to, and not exclusive of, any other rights or remedies available at law.

38. **THIRD PARTY RIGHTS**

Save to the extent expressly set out in this Agreement, a person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement provided that this does not affect any right or remedy of the third party which exists or is available apart from that Act. No party may declare itself as a trustee of the rights under this Agreement for the benefit of any third party save as expressly provided in this Agreement.

39. **OBLIGATIONS OF JV LLP**

To the extent to which it is able to do so by law, JV LLP undertakes with each of the Members that it shall comply with each of the provisions of this Agreement. Each undertaking by JV LLP in respect of each provision of this Agreement shall be construed as a separate undertaking and if any of the undertakings is unlawful or unenforceable, the remaining undertakings shall continue to bind JV LLP.

40. **COSTS**

Each of the Parties shall pay its own costs in relation to the negotiation, preparation, execution and implementation of this Agreement and of each document referred to in this Agreement. The costs of and incidental to the incorporation and establishment of JV LLP shall be borne and paid by JV LLP.

41. **ENTIRE AGREEMENT**

41.1 This Agreement and the Project Agreements set out the entire agreement and understanding between the Parties. Accordingly this Agreement and the Project Agreements supersede and extinguish any heads of agreement or memorandum of understanding or other preliminary documents as between the Parties. It is agreed that:

41.1.1 no Party has entered into this Agreement in reliance upon any representation, warranty or undertaking of any other Party or any of its Connected Persons which is not expressly set out or referred to in this Agreement or the Project Agreements;

41.1.2 a Party may claim in contract for breach of warranty under this Agreement but shall have no claim or remedy in respect of any misrepresentation (whether negligent or otherwise, and whether made before or in this Agreement) or any untrue statement made by any other Party or any of its Connected Persons;

41.1.3 this Clause shall not exclude any liability or remedy for fraud or fraudulent misrepresentation by a Party or any of its Connected Persons; and

41.1.4 save as expressly set out in this Agreement or in any other agreement or document referred to in this Agreement, no Party or Connected Person shall owe any duty of care to any other Party or any of its Connected Persons.

Each Party contracts on the basis that this Clause confers a benefit on each of its Connected Persons and that each Connected Person may enforce this Clause direct against each other Party and any of its Connected Persons. "**Connected Person**" means, in each case, to the extent that they are involved on behalf of a Party, (a) a Party's officers, employees, group undertakings, agents and advisers, (b) officers, employees, agents and advisers of a Party's group undertakings; and (c) officers, employees and partners of any such agent or adviser or of any group undertaking of such an agent or adviser. In this Clause, "**group undertaking**" shall be construed in accordance with the Companies Act 2006.

42. **AMENDMENTS**

This Agreement may be amended only by an instrument in writing signed by duly authorised representatives of each of the Parties, provided that the amendment of any provision of this Agreement solely affecting any of the respective rights or obligations of the Parties or either of them inter se shall not require the agreement of JV LLP.

43. **FURTHER ASSURANCE**

43.1 Each Party will:

43.1.1 execute any document and do any thing; and

43.1.2 use all reasonable endeavours to procure that any third party (where necessary) executes any deed or document and does any thing,

reasonably necessary to implement the terms of this Agreement.

43.2 Where there is any contradiction, ambiguity or consistency between any of the following documents referred to in this Agreement they shall be interpreted in the following descending order of priority:

43.2.1 this Agreement;

43.2.2 the Implementation Agreement;

43.2.3 [REDACTED] and

43.2.4 the FOIA and Transparency Provisions.

44. **INSURANCE**

JV LLP shall take out and maintain with reputable insurers all insurances required to be maintained by law and such other prudent insurances against such risks as are normally insured against by businesses carrying on activities similar to those of JV LLP (including, but not limited to, an appropriate level of third party liability insurance) and (without prejudice to the generality of the foregoing) shall insure its assets of an insurable nature for their full replacement or reinstatement value. JV LLP shall comply with its obligations under the Project Agreements in respect of insurance.

45. **SUCCESSORS AND ASSIGNS**

Except as otherwise specified in this Agreement, the provisions of this Agreement shall be binding on and enure to the benefit of the heirs, personal representatives, successors and assigns of the respective parties to this Agreement.

46. **LAW**

46.1 This Agreement shall be governed by and construed in accordance with English law.

46.2 Each Party hereby submits to the exclusive jurisdiction of the English courts to hear and determine any suit, action or proceeding and to settle any disputes which may arise out of or in connection with this Agreement and each Party irrevocably waives any objection which it may have to the Courts of England being nominated as the forum to hear and determine any such proceedings and to settle any such disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

47. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by each of the Parties on separate counterparts, each of which when executed and delivered shall be deemed to be an original, but all the counterparts together shall constitute one and the same agreement.

EXECUTED AS A DEED by the Parties on the date which first appears in this deed.

EXECUTED but not delivered until the date hereof as a deed
by **EC PROPERTIES LP LIMITED**

acting by _____
Director

in the presence of:

witness signature:

witness name:

witness address:

.....

EXECUTED but not delivered until the date hereof as a deed
by **[TTL EARLS COURT PROPERTIES LIMITED]**

acting by _____
Director

in the presence of:

witness signature:

witness name:

witness address:

.....

EXECUTED but not delivered until the date hereof as a deed
by **EARLS COURT PARTNERSHIP LLP**

acting by _____
Designated Member

in the presence of:

witness signature:

witness name:

witness address:

.....

SCHEDULE 1

DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires:-

"Accounting Date"	means 31 December in each year or such other date as the Members may from time to time agree;
"Accounting Period"	means any period of 12 calendar months from but excluding one Accounting Date up to and including the next Accounting Date;
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
"Additional Loan Notes"	means loan notes issued pursuant to the Additional Loan Note Instrument and "Additional Loan Note" shall be construed accordingly;
"Additional Loan Note Instrument"	means the additional loan note instrument to be constituted by JV LLP in the form set out at appendix 6 of the Implementation Agreement;
"Agreed Default Notice"	has the meaning given in Clause 25.2.3;
"Agreed Form"	means the form agreed prior to the execution of this Agreement and either initialled by or on behalf of the Members for the purposes of identification or executed or delivered contemporaneously with the execution of this Agreement;
"Agreement"	means this deed (including any Schedule or Appendix to it), as amended, varied, supplemented or replaced from time to time in accordance with its terms;
"Alternate Representative"	has the meaning given in Clause 8.7.3(b);
"Anti-Bribery and Corruption Policy"	means the anti-bribery and corruption policy implemented across the Capco Group and set out in Schedule 13, as the same may be amended from time to time by the Capco Group;
"Appointing Members"	means the Members who are entitled to appoint one or more Representatives to the Board of JV LLP (and any JV LLP Subsidiary) pursuant to the terms of this Agreement and "Appointing Member" shall be construed accordingly;
"Auditors"	means the auditors of JV LLP;
"Bank"	means HSBC Bank plc;
"Best Offer"	means, in respect of a Third Party Equity Raising Process the best available offer in the market for the Funding Requirement in






accordance with Clause 7;

"Board"	means the board of representatives constituted in accordance with Clause 8 in order to determine certain matters relating to JV LLP in accordance with Clause 9;
"Business"	means enabling the comprehensive development of Earls Court Village in line with the Consented Scheme and the holding leasing or sale thereof or income generation therefrom;
"Business Manager"	means EC Properties Management Limited (No 8742449) whose registered office is at 15 Grosvenor Street, London W1K 4QZ;
"Business Management Agreement"	means the agreement of even date with this agreement made between (1) Earls Court Partnership LLP (2) the Business Manager and (3) C&C Limited in relation to the management of the business of Earls Court Partnership Limited;
"Business Plan"	means the business plan of JV LLP in the Agreed Form as the same may be varied or updated from time to time in accordance with the provisions of this Agreement;
"Capital Contribution"	means, in respect of a Member, any financial contribution made by that Member to JV LLP in accordance with Clauses 5.1, 6.1 and 6.2;
"Capco Committee Member"	has the meaning given to it in Clause 14.1;
"Capco Conflict Matter"	means the matters listed below (being matters where the Capco Representatives shall be considered to have a conflict): (a) any decision by or on behalf of JV LLP or any JV LLP Subsidiary to enforce any of its rights under any guarantee provided by Capco or a member of Capco's Group to JV LLP or any JV LLP Subsidiary in accordance with its terms; (b) any decision by or on behalf of JV LLP to enforce or defend any claim under the Business Management Agreement in accordance with its terms; (c) any decision by or on behalf of JV LLP to enforce or defend any claim against Capco or a member of the Capco Group under an agreement entered into between JV LLP and Capco or a member of the Capco Group in accordance with the terms of such agreement; and/or (d) any decision by or on behalf of JV LLP whether or not to terminate the Business Management Agreement in accordance with clause 9.1 thereof; but excluding any decision which is a Member Protection Matter;
"Capco Group"	means the Group headed by Capco Topco;

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"Capco Parent"	means any person holding a Member Interest in Capco or JV LLP (whether directly or indirectly) from time to time subject to and in accordance with the terms of this Agreement and who is a member of the Capco Group (being, as at the Effective Date, Capco);
"Capco Representatives"	means the representatives appointed by Capco to the Board pursuant to Clause 8;
[REDACTED]	[REDACTED]
"Capco Senior Officer"	has the meaning given in Clause 26.2.1;
[REDACTED]	[REDACTED]
"Capco Topco"	means Capital & Counties Properties Plc, a company registered in England (Company Number 07145051) whose registered office is at 15 Grosvenor Street, London, W1K 4QZ, its successors and assigns;
"Change of Control"	means in relation to an undertaking, any person having Control of that undertaking ceasing to have such Control;
"Chairman"	means the chairman from time to time of the Board;
"CLSA"	means the Conditional Land Sale Agreement dated 23 January 2013 made between (1) The Mayor and Burgesses of The London Borough of Hammersmith and Fulham; (2) EC Properties LP; and (3) Earls Court Limited (as amended by the parties thereto by a First Supplemental Agreement dated 17 July 2013);
"Companies Act"	means the Companies Act 2006 (as amended);
"Confidential Information"	has the meaning given in Clause 33.2;
"Connected Person"	has the meaning given in Clause 41.1;
"Consented Scheme"	means the comprehensive redevelopment of Earls Court Village in line with the Planning Permissions (as the same may be amended, replaced, updated or supplemented from time to time, including by way of any detailed planning permission(s) that is or are granted in relation to Earls Court Village)
"Contribution Loan Notes"	means loan notes issued pursuant to the Contribution Loan Note Instrument and "Contribution Loan Note" shall be construed accordingly;
"Contribution Loan Note Instrument"	means the contribution loan note instrument to be constituted by JV LLP in the form set out at appendix 5 of the Implementation Agreement;
"Control"	means the possession by a person, directly or indirectly, of 50% or more of the share capital (or equivalent) of an undertaking;
[REDACTED]	[REDACTED]
"Deed of Adherence"	means a deed of adherence to this Agreement in the same or

	substantially the same form as that set out at Schedule 3;
"Deed of Confirmation"	means a deed of confirmation binding Earls Court Village, in the Agreed Form;
"Default Event"	has the meaning given in Clause 25.1;
"Defaulting Member"	has the meaning given in Clause 25.2.3;
"Delegation Policy"	means the delegation policy set out in Schedule 12;
"Determined Remedy Period"	has the meaning given in Clause 25.2.2(d) or Clause 25.2.4(c) (as applicable);
	
"Disclosing Party"	has the meaning given in Clause 33.2;
"Distribution Policy"	the distribution policy of JV LLP from time to time as set out in the Members Agreement
"Earls Court Village"	means the land identified as Earls Court Village 
"Effective Date"	means the date first stated at the top of this Agreement being the date the Agreement becomes legally binding on the Parties;
"EIR Rules"	means, to the extent the information concerned is environmental information, the Environmental Information Regulations 2004 and any other implementing Regulations in England and Wales of EC Directive (2003/4EC) on Public Access to Environmental Information, and all related legislation, together with all official relevant guidance and/or Codes of Practice issued pursuant or in relation to the Regulations and/or legislation, whether by the Information Commissioner's Office and/or the Department for Environment, Food and Rural Affairs from time to time;
"Equity"	means both share capital and any shareholder loans which are to be treated as equity;
	
"Executive Committee"	has the meaning given to it in Clause 14.1;
"Executive Committee Member"	means a Capco Committee Member or a TfL Committee Member, as the context shall require;
"Expert"	means an expert appointed in accordance with Clause 27;
"Final Completion Date"	has the meaning given to it in the Implementation Agreement;
"FOIA Rules"	means the Freedom of Information Act 2000 and all subordinate legislation, together with all official relevant guidance and/or Codes of Practice issued pursuant or in relation to the Act and/or

legislation, whether by the Information Commissioner's Office and/or the Ministry of Justice and/or the Department for Communities and Local Government from time to time;

"Fundamental Business Plan Change"

means a proposed change to the Business Plan which would be a deviation from the Primary Purpose;

"Funding Adviser(s)"

means a joint funding adviser nominated by Capco and TfL and appointed by JV LLP, and the initial Funding Adviser shall be N M Rothschild & Sons Limited;

"Funding Event"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Funding Principles"

means the following principles relating to the Funding Strategy in respect of funding required by JV LLP or a JV LLP Subsidiary:

(a) at (or around) the time JV LLP or JV LLP Subsidiary (as applicable) seeks external funding, there shall be an independent valuation of JV LLP and/or JV LLP's land interests (or the relevant JV LLP Subsidiary and/or the relevant JV LLP Subsidiary's land interests), and a copy of the valuation report shall be provided to the Members;

(b) JV LLP or the relevant JV LLP Subsidiary (as applicable) shall not solicit external funding from an Unacceptable Funder;

[REDACTED]

(d) in securing such funding, the Parties acknowledge the Primary Purpose, and shall secure such funding accordingly;

[REDACTED]

[REDACTED]

"Funding Requirement"

means a requirement for funding by JV LLP (or a JV LLP Subsidiary, as applicable) as set out in the Business Plan and/or the Funding Strategy;

"Funding Strategy"

means the funding strategy of JV LLP adopted by the Board from time to time in accordance with the provisions of this Agreement;

"Good Industry Practice"

means exercising discretion using the degree of skill, care,

prudence, competence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of business under the same or similar circumstances;

"Government Department" means i) a Northern Ireland department and any other body or authority exercising statutory functions on behalf of the Crown, (excluding the Scottish Parliament, any part of the Scottish Administration, the Scottish Parliamentary Corporate Body, any Scottish public authority with mixed functions or no reserved functions, within the meaning of the Scotland Act 1998, and the Welsh Assembly Government); ii) the office of the Mayor of London, the London Assembly and the Greater London Authority; and (iii) any tax authority;

"Group" means in relation to an undertaking, that undertaking, any subsidiary undertaking or parent undertaking of that undertaking, and any other subsidiary undertaking of any parent undertaking of that undertaking (as each such term is defined in section 1161 or section 1162 (as applicable) of the Companies Act 2006;

"Implementation Agreement" means the agreement of even date with this agreement made between (1) EC Properties LP Limited (2) TTL Earls Court Properties Limited (3) Earls Court Partnership Limited (4) EC Properties Management Limited (5) Capital & Counties Limited (6) EC Properties LP (7) Empress State LP, (8) London Underground Limited and (9) Transport for London;

"Information" has the meaning given under section 84 of the Freedom of Information Act 2000;

"Insolvent Member" means a Member which:

- (a) is the subject of an interim order under the Insolvency Act 1986;
- (b) has made any arrangement or composition for the benefit of its creditors which has not been discharged;
- (c) goes into liquidation whether voluntary or compulsory (save for the purpose of reconstruction or amalgamation without insolvency);
- (d) ceases payment on all or any class of its debts or a moratorium is agreed or delivered in respect of its indebtedness;
- (e) is, or is deemed for the purposes of the law to be, unable to pay its debts as they fall due or admits inability to pay its debts as they fall due;
- (f) suffers the enforcement of any security over any of its material assets;
- (g) is otherwise dissolved, wound up, or ceases to exist;
- (h) has an administrator or a receiver or an administrative receiver appointed in respect of the whole or any part of its undertaking or assets; or

(i) is the subject of an analogous procedure or step in any other jurisdiction;

"Intellectual Property"

means all patents, trade marks, service marks, goodwill, registered designs, utility models, design right, copyright (including copyright in computer software), semi-conductor, topography, rights, inventions, trade secrets and other confidential information, know how, and all other intellectual and industrial property and rights of a similar or corresponding nature relating to any part of the activities of JV LLP, whether registered or not or capable of registration or not and including the right to apply for and all applications for any of the foregoing rights and the right to sue for past infringements of any of the foregoing rights;

"JV LLP Assets"

means any property held by JV LLP, including, without limitation, any Intellectual Property;

"JV LLP Group"

means JV LLP and all JV LLP Subsidiaries (if any)

"JV LLP Subsidiary"

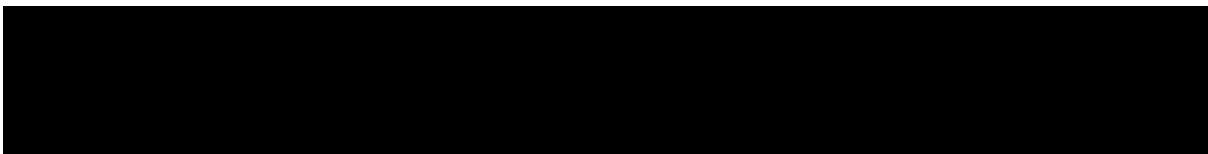
means any entity which JV LLP and the Nominee may in the future decide to establish, on condition that Tfl has all necessary regulatory consents (if required) for such establishment, for the purpose of the Business in accordance with the Primary Purpose, with a view to that entity acquiring and then going forwards, entering into leases with third parties, entering into income generating arrangements with third parties or selling any particular tranche or tranches of land previously owned by JV LLP;

"JV LLP Subsidiary Loan Notes"

means loan notes to be issued by a JV LLP Subsidiary to JV LLP pursuant to JV LLP Subsidiary Loan Note Instrument;

"JV LLP Subsidiary Loan Note Instrument"

means a loan note instrument to be entered into by a JV LLP Subsidiary in respect of JV LLP Subsidiary Loan Notes substantially in the same form as the Contribution Loan Note Instrument;



"Letter of Appointment"

means a letter of appointment of a Representative in the form set out in Schedule 4;

"LLP Act"

means the Limited Liability Partnerships Act 2000;



"Market Value"

means the market value of the JV LLP or any JV LLP Subsidiary (as appropriate) at the relevant date based on the value a third party purchaser would pay for the entire JV LLP (or any JV LLP Subsidiary (as appropriate) in the open market assuming a willing seller and a willing buyer. For the avoidance of doubt, "Market Value" is not as defined by the Royal Institution of Chartered Surveyors professional guidelines for valuers, commonly known and the Red Book, and is net of the debts and liabilities attributable to the interest being valued;

"Material Breach"	means a breach of any of the terms of this Agreement which is material and/or persistent in each case having regard to all relevant circumstances particular to this Agreement, including the regularity with which the obligation which has been breached falls to be performed under this Agreement and the consequences of the breach;
"Member Account"	has the meaning given in Clause 20.1;
"Member Interest"	means the entire legal and beneficial interest a Member has in JV LLP from time to time in its capacity as a member and loan note holder including without limitation that Member's rights and obligations under this Agreement (including in respect of its Contribution Loan Notes) provided that a Member's "Member Interest" shall not comprise any such rights and/or obligations insofar as they relate to any senior debt provided or to be provided by such Member to JV LLP or a JV LLP Subsidiary;
"Members"	means (subject to any such persons ceasing to be a Member in accordance with this Agreement) TfL, Capco and any other persons who may from time to time and for the time being be admitted as Members of JV LLP in accordance with the terms of this Agreement;
"Members' Meeting"	means a duly convened meeting of the Members in accordance with Clause 13;
"Member Protection Matters"	means the Member protection matters set out in Schedule 5;
"Member Voting Interest"	<p>means, as at the date hereof:</p> <p>(a) in respect of Capco, 63%; and</p> <p>(b) in respect of TfL, 37%,</p> <p>provided that, where the same is required to be adjusted in accordance with the terms of a Funding Event pursuant to this Agreement, the Member Voting Interests in respect of Capco and TfL shall be as notified to the Members by the relevant Funding Adviser(s), taking into account all relevant details of the Funding Event;</p>
"Memorandum"	has the meaning given in Clause 26.2.1;
"Net Profits" or "Net Profit"	means the profits of JV LLP for an Accounting Period as shown in the audited accounts of JV LLP after all expenditure and provisions (including the payment of all interest, if any, accrued and payable on moneys borrowed by JV LLP and any salaries or drawings paid or payable by JV LLP (but, for the avoidance of doubt, before providing for reserves in working capital and re-investment in JV LLP));
"Network Rail Agreement"	means the lease dated 28 March 2013 between (1) Network Rail Infrastructure Limited (2) EC Properties GP Limited (as general partner of EC Properties LP) and EC Properties Nominee Limited and (3) Capital & Counties Limited as the same may be modified or assigned from time to time;

"New Member"	has the meaning given in Clause 8.7.9
"Nominee"	means a wholly owned subsidiary of JV LLP, being a company limited by shares which is established for the purposes of holding a member interest in any JV LLP Subsidiary that is a limited liability partnership;
"Non-Defaulting Member"	has the meaning given in Clause 25.2.1 or Clause 25.2.3 (as applicable);
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
"Observer"	has the meaning given in Clause 9.8;
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
"Outstanding Capital Contribution"	means, in respect of any Member, an amount equal to its Capital Contribution less the sum of any repayments of Capital Contributions by JV LLP to that Member;
"Parent"	means any Capco Parent or TfL Parent (as the context shall require);
"Parties"	means the Parties to this Agreement and references to a "Party" means any of the Parties to this Agreement as the context may require;
"Phase"	means a phase identified as such in the Business Plan;
"Planning Permissions"	means the RBKC Planning Permission, the LBHF Planning Permission and the Conservation Area Consent (each as defined in the Section 106 Agreement) (as the same may in each case be amended, replaced, updated or supplemented from time to time, including by way of any detailed planning permission(s) or approvals of reserved matters);
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
"Primary Purpose"	means the objective of JV LLP to maximise the economic value of JV LLP for its Members by enabling the development of Earls Court Village in accordance with the Consented Scheme. In considering economic value, regard should be given to the appropriate capital structure of JV LLP in accordance with any current recommendations reported by JV LLP's appointed Funding Adviser(s) pursuant to Clause 7 of this Agreement;
"Primary Purpose Pre-	has the meaning given in Clause 8.2;

"Right to Acquire"

the Capco Right to Acquire or the TfL Right to Acquire (as the context shall require)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Section 106 Agreement"

means an agreement dated 14 November 2013 made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) and other enabling powers referred to therein entered into between EC Properties LP acting by EC Properties GP Limited and EC Properties Nominee Limited (1), The Mayor and Burgesses of the London Borough of Hammersmith and Fulham (2), The Mayor and Burgesses of the Royal Borough of Kensington and Chelsea (3), London Underground Limited (4) and Transport for London (5) relating to the redevelopment of Earls Court Exhibition Centre (as defined therein) and surrounding land;

"Section 106 Obligation"

means the obligations arising pursuant to the Section 106 Agreement that are expressed to be satisfied or otherwise fulfilled by member(s) of the Capco Group

[REDACTED]

[REDACTED]

"Senior Officers"

means the Capco Senior Officers and the TfL Senior Officers;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Shareholding Interest"

means:

- (a) insofar as it relates to Capco, means the entire legal and beneficial interest a Capco Parent has in Capco from time to time in its capacity as a shareholder, or member of Capco (whether directly or indirectly); and

(b) insofar as it relates to TfL, means the entire legal and beneficial interest a TfL Parent has in TfL from time to time in its capacity as a shareholder of TfL (whether directly or indirectly);

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"Statutory Requirement"

means all or any of the following:

(a) Acts of Parliament and any statutory instruments, rules, orders, regulations and bye-laws for the time being made under or deriving validity from an Act of Parliament, in each case whether public or private;

(b) European directives or regulations and rules; and

(c) regulations, rules, orders, codes of practice, notices, policies or bye-laws imposed by any statutory agency, body or authority (whether local, regional, national or European) (a **"Regulatory Requirement"**) but excluding any Regulatory Requirement imposed by TfL unless and to the extent that TfL is required to impose such Regulatory Requirement as a direct consequence of and so as to comply with:-

- (i) a Statutory Requirement falling under (a) or (b) above; or
- (ii) a Regulatory Requirement of any such agency, body or authority other than TfL; and/or
- (iii) a Regulatory Requirement imposed by TfL acting in its capacity as a planning authority (provided it is acting impartially),

and in each case either having the force of law in England and/or with which TfL is required to comply;

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"Subsidiary"

has the meaning given to it by section 1159 of the Companies Act amended to include any limited liability partnership which would fall within that meaning if it were a company;

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"Termination Default Event"

has the meaning given in Clause 25.3.5;

"Termination Event"

means an event listed in Clause 28.1;

"TfL Committee Member"

has the meaning given to it in Clause 14.1;

"TfL Group"

means the Group headed by TfL Topco;

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"TfL Parent"

means any person holding a Member Interest in TfL or JV LLP (whether directly or indirectly) from time to time subject to and in accordance with the terms of this Agreement and who is a

	member of the TfL Group (being, as at the Effective Date, TfL);
"TfL Policy Clauses"	means the set of clauses (and definitions) set out in Schedule 8
"TfL Representatives"	means the representatives appointed by TfL to the Board pursuant to Clause 8;
[REDACTED]	[REDACTED]
"TfL Senior Officer"	has the meaning given in Clause 26.2.1;
"TfL Subsequent Transfer"	has the meaning given in Clause 24.1.1;
"TfL Topco"	means Transport Trading Limited, a company registered in England (Company Number 03914810) whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL, its successors and assigns;
"Third Party"	means, in relation to a person, any person not being a member of its Group;
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
"Transfer Pricing Adjustment"	means the computation of profits or losses for tax purposes in relation to any transaction or series of transactions on a basis which substitutes arm's length terms for the actual terms agreed;
"Transfer Pricing Rules"	means the rules set out in Part 4 and Part 5 of the Taxation International and Other Provisions) Act 2010 and related legislation (as in force at the date of this Agreement or as may be amended, consolidated, re-enacted or replaced from time to time);
"Transfer Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);
"Transparency Agreement"	means an agreement of even date with this agreement made between Transport for London (1) Capital & Counties Properties PLC (2) and JVCo (3) entitled Transparency Commitment and Confidentiality Agreement;
"Unacceptable Funder"	means: <ul style="list-style-type: none"> (a) any person which is engaged with or has substantial direct interests in gambling, gaming, pornography, the production or

sale of alcoholic drinks, the production or sale of products containing or derived from tobacco or the manufacture or sale of arms and weapons or any person whose activities could pose a threat to national security, provided that any organisation that is engaged in legitimate investment and lending to any business mentioned above shall not constitute an "Unacceptable Funder" pursuant to this limb (a) of this definition; and

(b) any person which at a corporate level has been convicted of criminal activity and it would not be appropriate for a public body to be associated with such organisation as a result of such criminal activity;

"Valuer"	means an individual having at least 10 years' qualification experience in valuing interests similar to the Members' Member Interests;
"Winding Up Practitioner"	means an agreed independent third party appointed by the Members to administer a winding up of JV LLP or a JV LLP Subsidiary (as applicable) including distributing the assets of JV LLP or JV LLP Subsidiary (as applicable) to those entitled and, in the case of a voluntary insolvent winding up, means a liquidator as referred to under section 91 of the Insolvency Act 1986;
"Working Capital Requirements"	means the costs of JV LLP relating to its overheads, running costs and general working capital requirements identified in the Business Plan from time to time and, for the avoidance of doubt excluding costs incurred by the Business Manager under the Business Management Agreement;
"Working Day"	means 9.00 am to 5.00 pm on any day (other than a Saturday) on which clearing banks in the City of London are open for the transaction of normal sterling banking business.

2. Interpretation

This Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:-

2.1 The headings and marginal notes and references to them in this Agreement shall be deemed not to be part of this Agreement and shall not be taken into consideration in the interpretation of this Agreement.

2.2 A statutory provision includes a reference to:-

2.2.1 the statutory provision as modified or re-enacted or both from time to time (whether before or after the date of this Agreement); and

2.2.2 any subordinate legislation made under the statutory provision (whether before or after the date of this Agreement);

provided that any such modification, re-enactment or legislation made after the date of this Agreement does not materially change the relevant provision.

2.3 Except where the context expressly requires otherwise, references to Clauses, sub-Clauses, paragraphs, sub-paragraphs, parts and Schedules are references to Clauses, sub-Clauses, paragraphs, sub-paragraphs and parts of and Schedules to this Agreement and references to Sections, Appendices and Attachments (if any) are references to Sections, Appendices and Attachments to or contained in this Agreement.

- 2.4 The Schedules to this Agreement are an integral part of this Agreement and a reference to this Agreement includes a reference to the Schedules. In the event of any inconsistency between the provisions of the body of this Agreement and the Schedules, the body of this Agreement shall take precedence.
- 2.5 Words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, companies, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity.
- 2.6 Where the context so requires words importing the singular only also include the plural and vice versa and words importing the masculine shall be construed as including the feminine or the neuter or vice versa.
- 2.7 The language of this Agreement is English. All correspondence, notices, and information shall be in English.
- 2.8 References to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation.
- 2.9 The words in this Agreement shall bear their natural meaning. The Parties have had the opportunity to take legal advice on this Agreement and no term shall, therefore, be construed *contra proferentem*.
- 2.10 In construing this Agreement, the rule known as the *eiusdem generis* rule shall not apply nor shall any similar rule or approach to the construction of this Agreement and accordingly general words introduced or followed by the word *other* or *including* or *in particular* shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- 2.11 Where this Agreement states that an obligation shall be performed no later than or within or by a stipulated date or event which is a prescribed number of Working Days after a stipulated date or event the latest time for performance shall be 5pm on the last Working Day for performance of the obligations concerned.
- 2.12 Unless expressly stated otherwise, where consent or approval of any party to this Agreement is required for any purpose under or in connection with the terms of this Agreement it shall be given in writing and within a reasonable time following a receipt for a request in writing for such consent or approval.

SCHEDULE 2

BUSINESS PLAN

1. BUSINESS PLAN

1.1 The first Business Plan, which shall be adopted by JV LLP on the Effective Date, is in the Agreed Form. A JV LLP Subsidiary shall adopt the Business Plan in so far as the Business Plan is relevant to the activities of such JV LLP Subsidiary (as the same may be updated, amended, varied and/or replaced from time to time in accordance with the terms of this Agreement) upon the date of its establishment, insofar as relevant.

1.2 Each Business Plan will set out:

1.2.1 the strategy as to how JV LLP and any JV LLP Subsidiary (in so far as the Business Plan is relevant to that JV LLP Subsidiary) intends to achieve the Primary Purpose in the short, medium and long-term (covering at least a 3 year period looking forward), including investment, funding, development, ongoing income generation and/or exit options to be explored for subsequent approval by the Board;

1.2.2 the implementation plan for each Phase reflecting the strategy contained in the Business Plan;

1.2.3 short term specific master plans for the Phase(s) for which specific capital investment requirements supported by appraisals are intended to be brought forward for approval by the Board in the short term;

1.2.4 a summary of progress to date including development, sales opportunities (if any) and progress towards key milestones;

1.2.5 an up to date assessment of external factors relevant to the Business including an update on the market and stakeholders;

1.2.6 Financial budgets – income and expenditure, cash flow and balance sheet – to match proposed development strategy;

1.2.7 (Other key performance indicators – such as sales targets etc) – as relevant from time to time to support the proposed development strategy

1.2.8 Proposed funding strategy;

1.2.9 Risk assessment and mitigation plan;

1.2.10 the Distribution Policy (to the extent appropriate)

1.3 In considering the strategy for the Business in each Business Plan, the Board will consider a range of options for achieving the Primary Purpose, including undertaking development directly (by the JV LLP or through a JV LLP Subsidiary); retention as an investment for rent; land disposals; and unit disposals.

SCHEDULE 3

DEED OF ADHERENCE

THIS DEED is made on

20[]

- (1) **EC PROPERTIES LP LIMITED** a company registered in Jersey (Company Number 108459) whose registered office is at 22-24 Seale Street, St Helier, Jersey, JE2 3QG ("**Capco**");
- (2) **TTL EARLS COURT PROPERTIES LIMITED** a company registered in England and Wales, (Company Number 08951012) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL ("**TfL**"); and
- (3) **EARLS COURT PARTNERSHIP LLP** a limited liability partnership registered in England, (LLP Number []) whose registered office is at 15 Grosvenor Street, London, W1K 4QZ (the "**JV LLP**");

the parties listed at (1) to (3) above being the "**Original Parties**"; and

- (4) **[NAME OF NEW PARTY]** a [company / limited liability partnership] registered in [England] ([Company/LLP Number] []) whose registered office is at [] ("**New Party**").

[DN: Parties who have executed earlier deeds of adherence also to be listed.]

This Deed is supplemental to the members' agreement (the "**Members' Agreement**") dated [] 20[] and made between the Original Parties.

Other words and expressions defined in the Members' Agreement have the same meanings when used in this Deed.

The New Party and each of the Original Parties undertake with each other and with any other person who becomes a party to the Members' Agreement after the date of this Deed to be bound by, observe and perform the Members' Agreement as if the New Party had been an original party to the Members' Agreement and was named in the Members' Agreement.

The address and details for notices of [name] for the purposes of Clause 35 (Notices) of the Members' Agreement are: []. All of the other terms of the Members' Agreement shall remain unchanged.

This Deed, and any disputes or claims arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims), are governed by and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

In witness whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the date first above written

[Execution Clauses to be inserted for Parties to Members' Agreement including those who have executed earlier deeds of adherence.]

SCHEDULE 4

LETTER OF APPOINTMENT OF A REPRESENTATIVE

[on the headed notepaper of JV LLP]

[name and address of Representative]

[Date]

Dear []

Terms of your appointment to the board of [] LLP ("JV LLP")

1. This letter contains the terms which we have discussed and agreed for your appointment as a Representative of JV LLP, as a [] Representative on the Board and the board of any JV LLP Subsidiary to whose board you are appointed. Such appointments are made pursuant to and are subject to the terms and conditions set in the Members' Agreement dated [] and made between [] ("**Members' Agreement**"). Words with capitalised letters shall bear the same meanings in this letter as are given to them in the Members' Agreement.
2. You shall not be entitled to any other fees or remuneration in connection with your appointments to such boards unless expressly agreed in writing by the Board.
3. You shall be expected to attend board meetings and Members' Meetings of JV LLP and any JV LLP Subsidiary of whose board you are appointed. You shall receive details of all such meetings in advance.
4. You shall have a duty of care to act in the best interests of JV LLP and at all times to act (in your capacity as a Representative) in accordance with Good Industry Practice, which means exercising discretion using the degree of skill, care, prudence, competence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of business under the same or similar circumstances.
5. You agree to comply at all times with the terms of, and your obligations under, the Anti-Bribery and Corruption Policy (as the same may be amended from time to time). By executing this letter, you hereby confirm that you have received and read a copy of the Anti-Bribery and Corruption Policy and understand its terms.
6. You shall not, whether during the appointment or after its termination, except in the proper course of your duties or as required by law, use or divulge, and shall use all reasonable endeavours to prevent the use or disclosure of, any trade or business secrets or any information concerning the business or finances of JV LLP or any JV LLP Subsidiary or of any dealings, transactions, or affairs of such party or any client, customer or supplier thereof which comes to your knowledge during the course of this appointment and shall comply with the provisions of Clause 33 (Confidential Information and Freedom of Information) of the Members' Agreement as if it applied to you. You will, however, be entitled to disclose information to the Member appointing you as permitted under the Members' Agreement.
7. The appointment as Representative shall automatically cease in relation to JV LLP and any JV LLP Subsidiary in the event that:
 - 7.1 you resign as a Representative; or
 - 7.2 upon the lodgement or delivery of a notice from the Member who appointed you removing you as Representative; or

7.3 in any of the circumstances set out in (and in accordance with) Clause 11 of the Members' Agreement.

Without limitation to the paragraphs above, in signing this letter, you acknowledge that your position as Representative is subject to the terms of and you shall comply with the Members' Agreement and may be terminated as permitted under the terms of the Members' Agreement and that upon such termination you shall vacate your position as Representative in relation to JV LLP and any JV LLP Subsidiary forthwith without raising any claim whatsoever against any such party in relation to such vacation (otherwise than in respect of any properly incurred and unpaid expenses due to you up to the date you vacate your position as Representative).

8. On termination of your appointment as Representative, you agree that you shall promptly return to JV LLP Chairman all papers and property of JV LLP and any JV LLP Subsidiary which are in your possession or under your control.

Please indicate your acceptance and acknowledgement of these terms by signing the attached copy and returning it to me. I look forward to seeing you at the first board meeting.

Yours sincerely

.....
Signatory, duly authorised
for and on behalf of [] LLP

I agree to and acknowledge the terms and conditions set out above relating to my appointment as representative of [] LLP and of each JV LLP Subsidiary to whose board I am appointed.

Signed

Dated

SCHEDULE 5

PART 1

MEMBER PROTECTION MATTERS

1. make any change to this Agreement (including, without limitation, this Schedule);
2. make any change to any rights affecting a Member's Member Interest or Member Voting Interest (other than in accordance with the terms of this Agreement);
3. admit a new member of JV LLP or of a JV LLP Subsidiary;
4. increase the amount of JV LLP's capital, granting an option/other interest over JV LLP's capital, redeeming or purchasing any of its capital or effecting any other reorganisation of JV LLP's capital (or the equivalent insofar as possible as applies to limited liability partnerships);
5. issue any loan capital in JV LLP or entering into any commitment to do so;
6. save in the ordinary course of business of JV LLP pursuant to the Business Plan or otherwise in accordance with where Capco or a Group Company of Capco or Tfl provides working capital on market terms pursuant to Clause 7 or on the terms of this Agreement to JV LLP, enter into borrowing commitments;
7. save in the ordinary course of the business of JV LLP pursuant to the Business Plan or where a Member or a Group Company of a Member provides working capital on market terms or otherwise in accordance with on the terms of this Agreement to JV LLP, grant security over JV LLP's assets;
8. apply for the listing or trading of debt securities on any stock exchange or market;
9. agree any material amendment or variation the Business Management Agreement, including in relation to fees; scope of services, insurance levels or the appointment or reappointment of a consultant, contractor or service provider that is a member of Capco's Group and/or a Connected Person to a member of Capco's Group;
10. enter into any arrangement or transaction with any member of the Capco Group, or any Connected Person to any of the foregoing, in each case, save to the extent that the relevant decision is set out in the Business Plan or is Capco's pro-rata share of a Funding Requirement or Shareholder Bridge Emergency Financing or Shareholder Bridge Working Capital Financing provided pursuant to this Agreement or relates to the subscription by Capco for Contribution Loan Notes in accordance with this Agreement or the entry into of security arrangements relating to the same;
11. any decision to extend the activities of JV LLP outside the scope of the Business or to cease carrying on the Business;
12. pass a resolution or present a petition to wind up JV LLP or apply for an administration order or any order having similar effect in a different jurisdiction in relation to JV LLP unless JV LLP is at the relevant time unable to pay its debts within the meaning of section 123 Insolvency Act 1986;
13. delegate any material decision of JV LLP to any body or person other than the Board or the Executive Committee outside of the Delegation Policy.

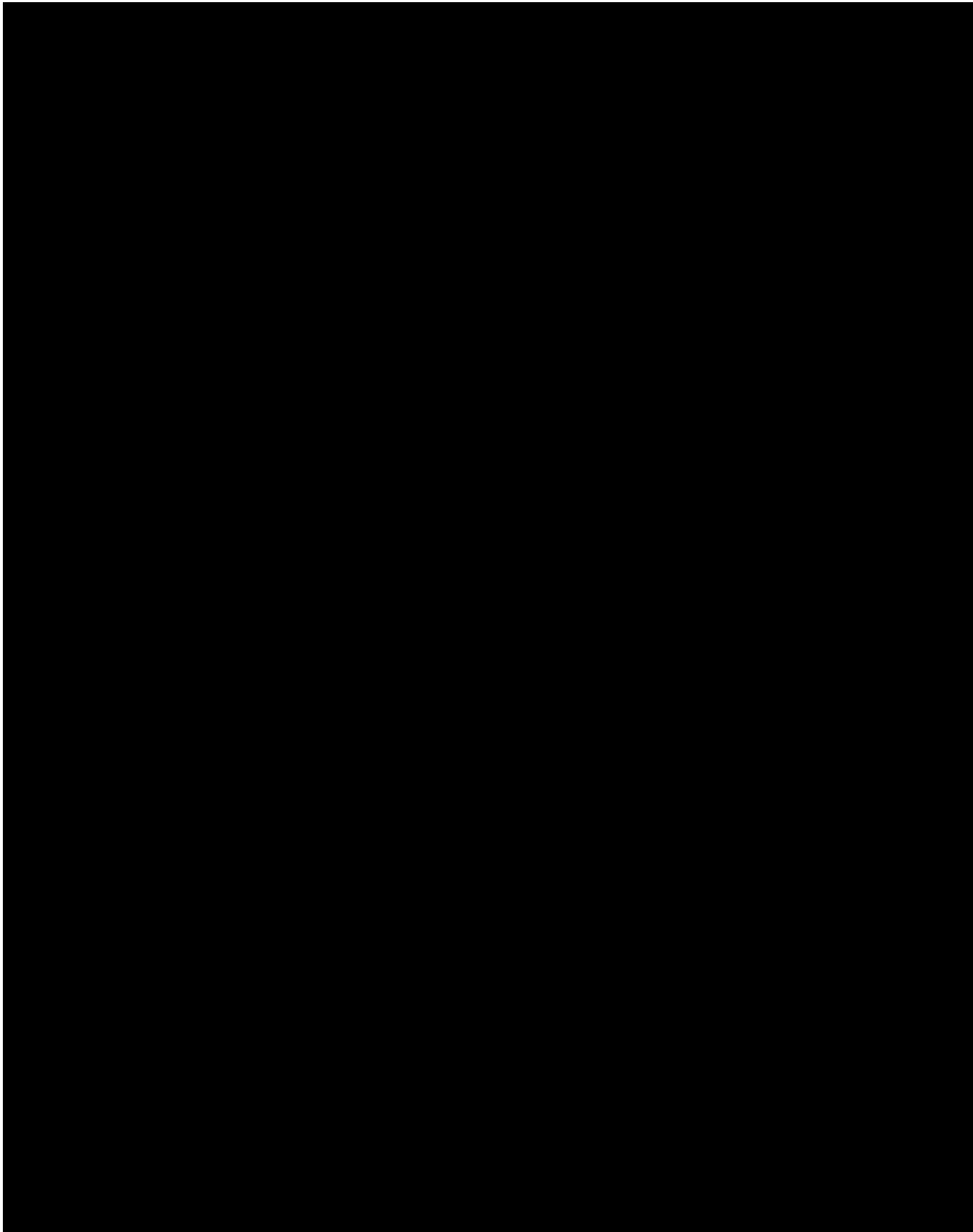
PART 2

TFL CONSENT MATTERS

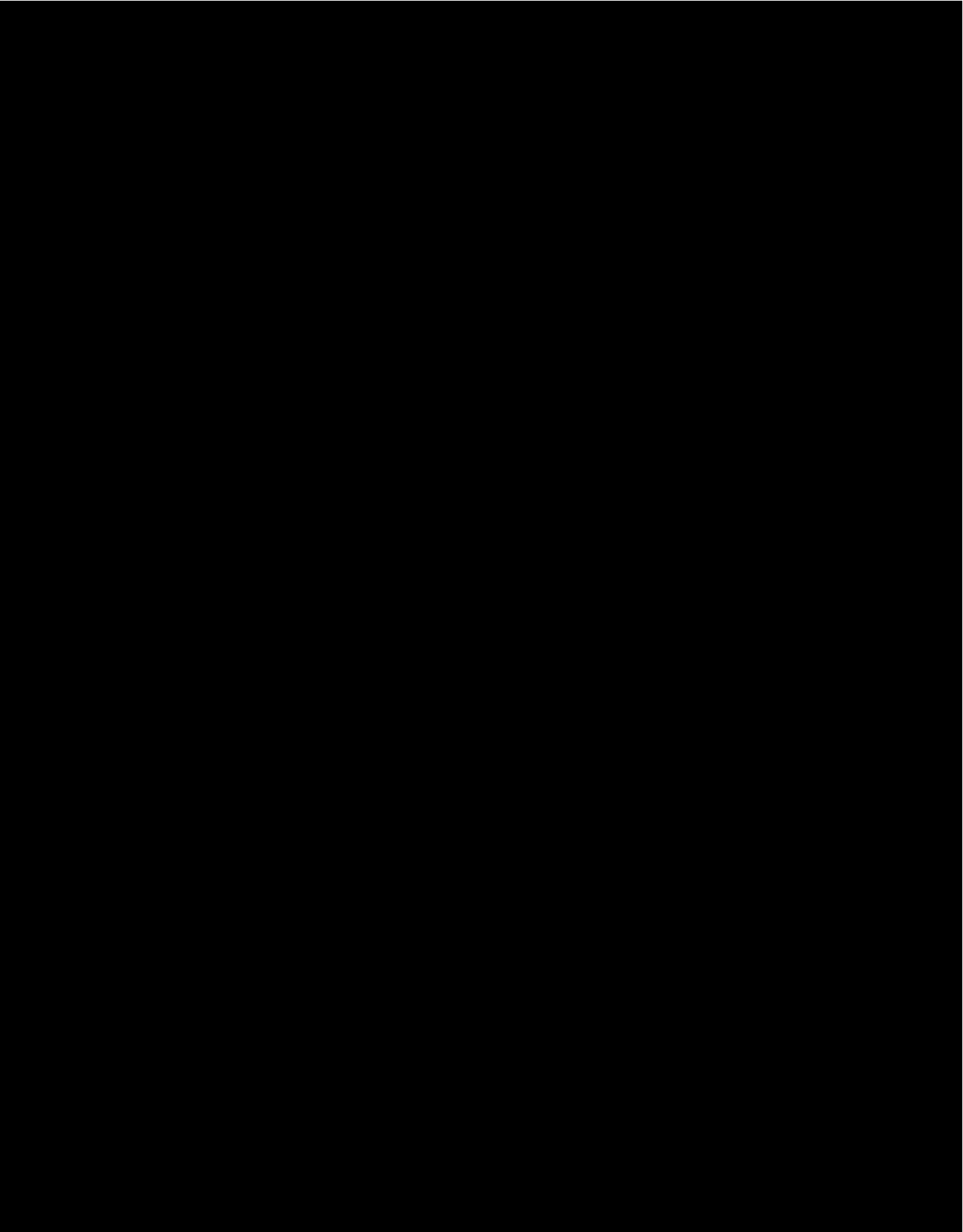
1. change the name of JV LLP;
2. apply for the listing or trading of any shares on any stock exchange or market; or



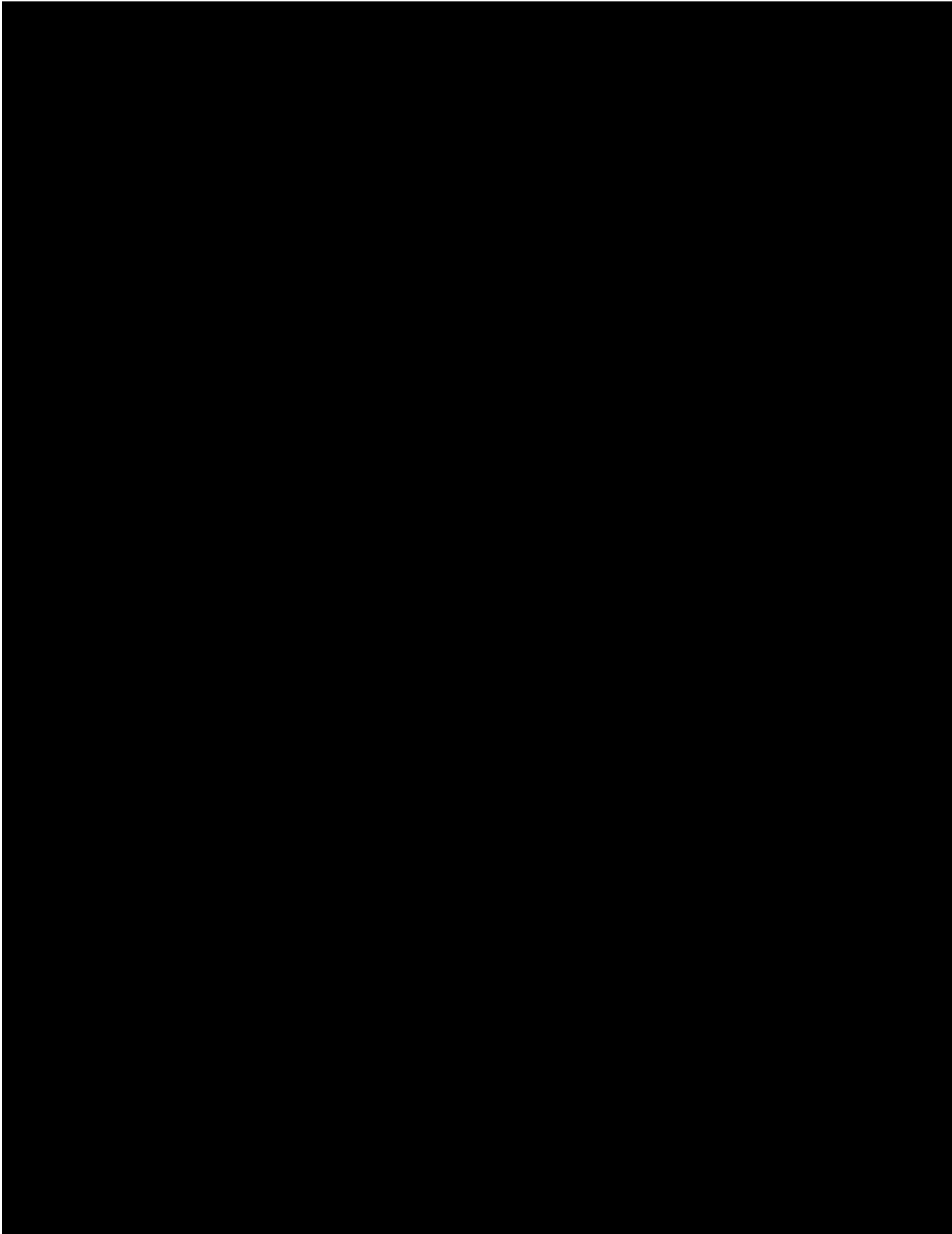
PART 3

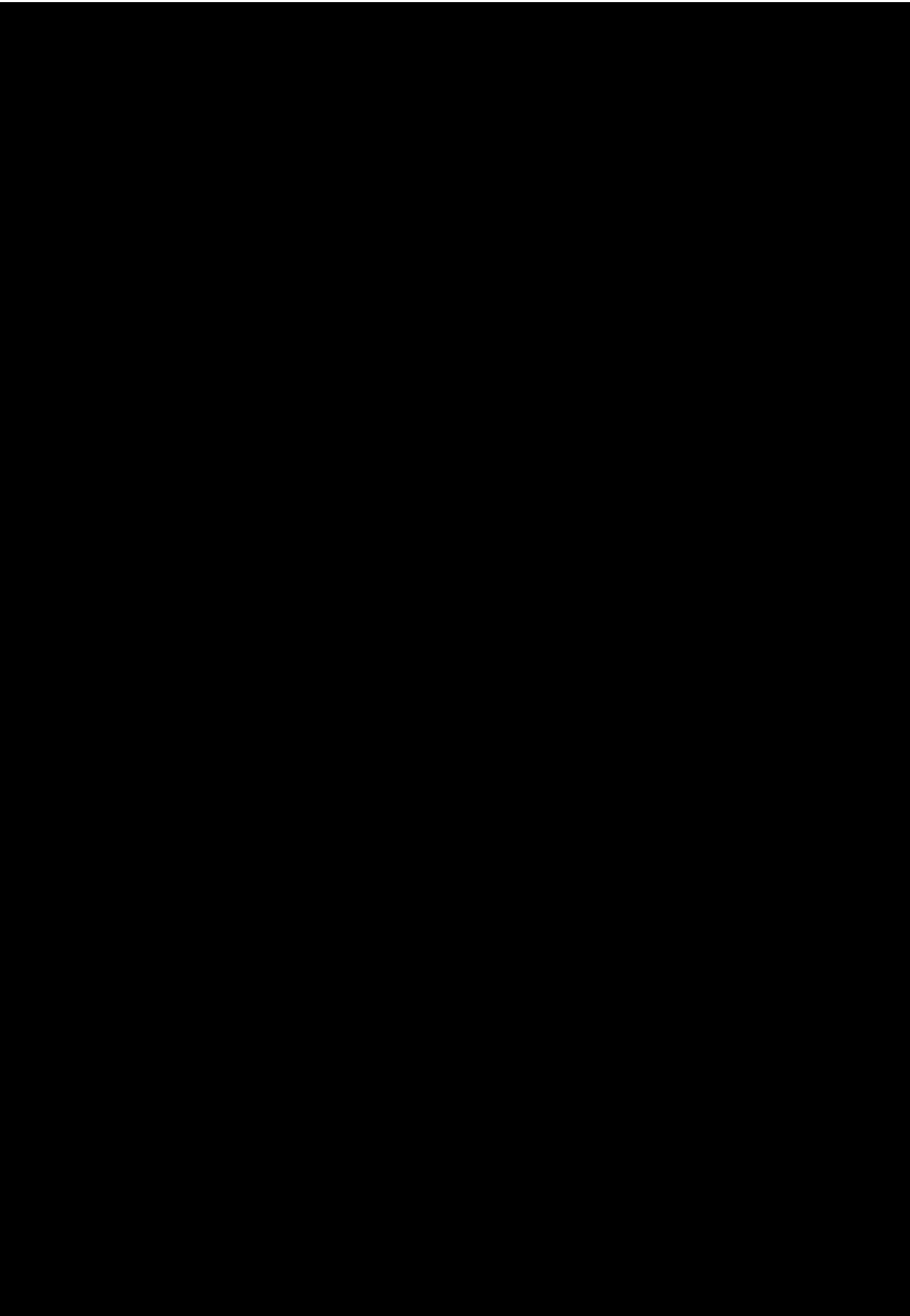


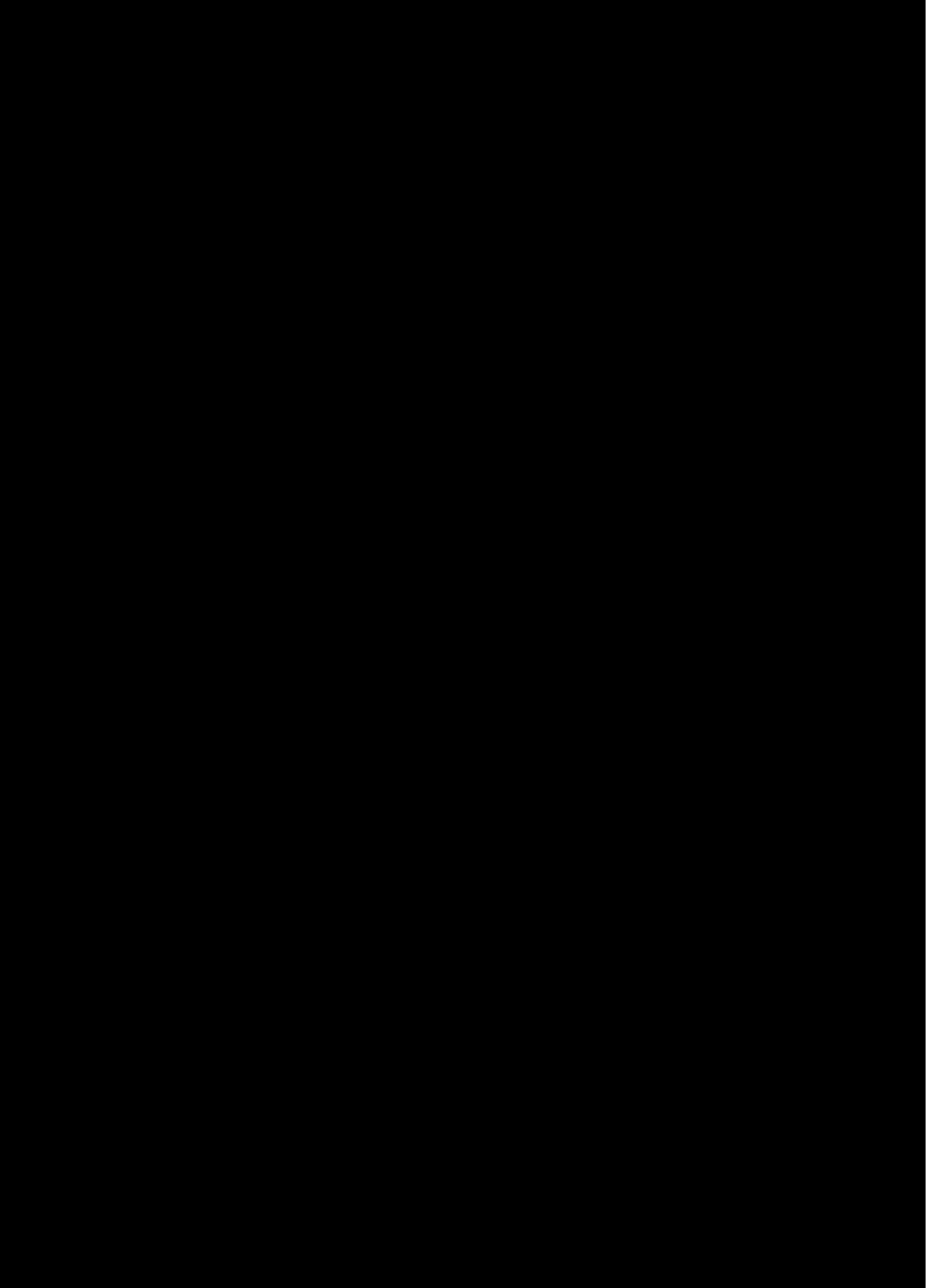
SCHEDULE 6

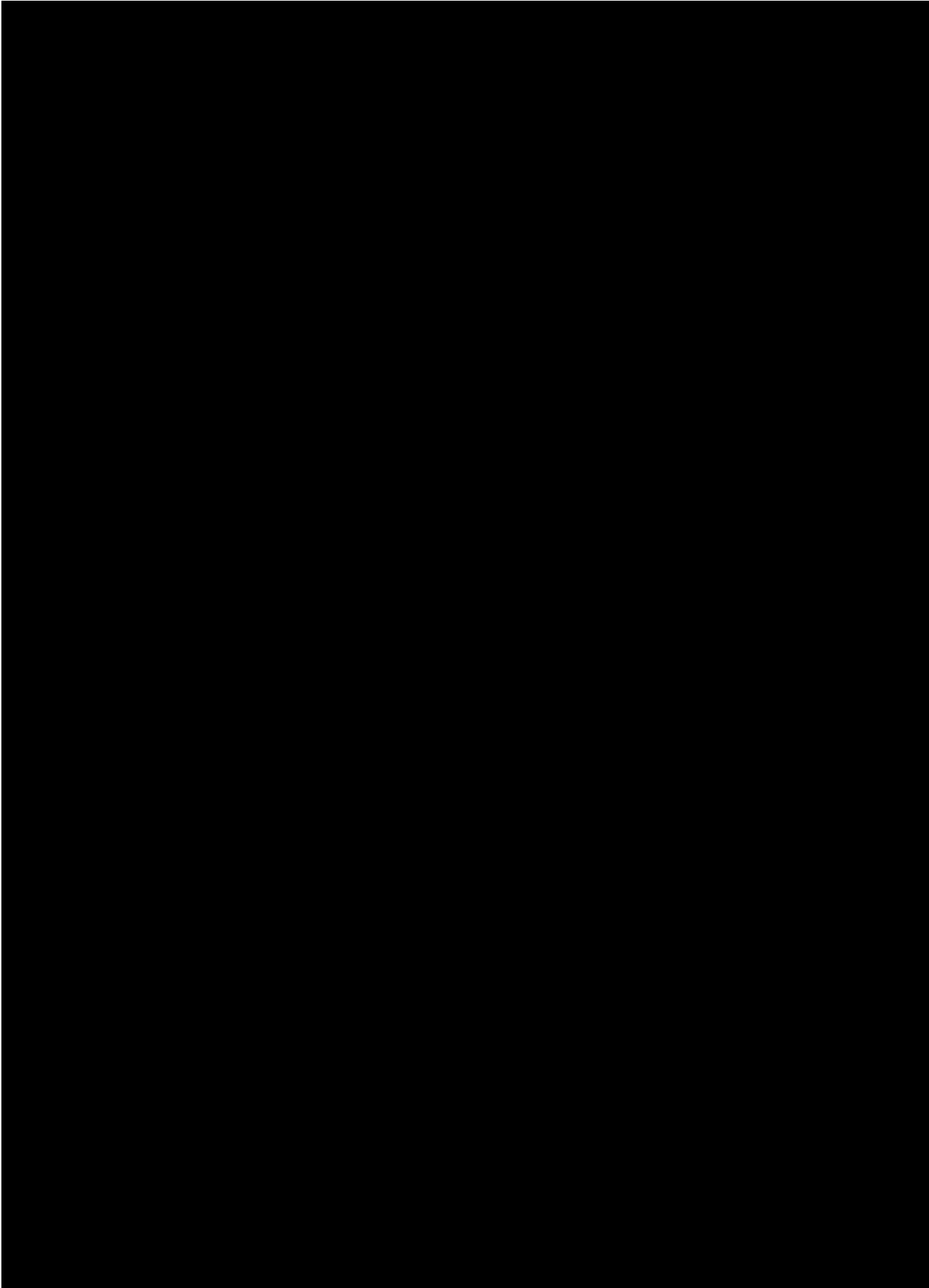


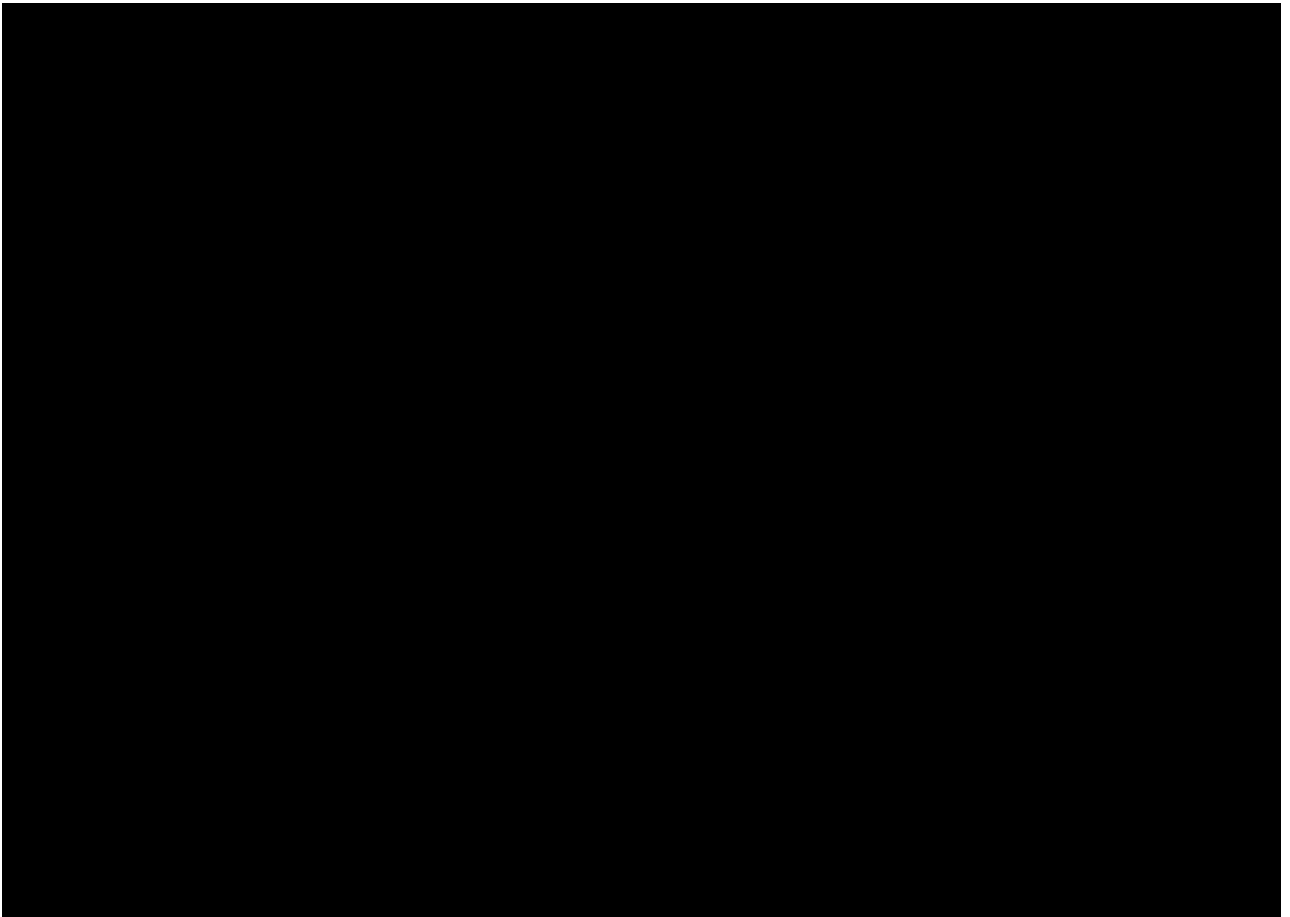
SCHEDULE 7











SCHEDULE 8

TFL POLICY CLAUSES

1. Definitions

"**Approved Driver Training**" means the Safe Urban Driving course as accredited by the Joint Approvals Unit for Periodic Training details of which can be found at: www.fors-online.com;

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

"**Car-derived Vans**" means a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

"**Class VI Mirror**" means a mirror that allows the driver to see what is immediately in front of the vehicle and that complies with Directive 2003/97/EC;

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

"**Collision Report**" means a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;

"**Driver**" means any employee of the [Contractor/Consultant] (including and agency driver), who operates Freight Vehicles on behalf of the [Contractor/Consultant] while delivering the [Works/Services];

"**DVLA**" means Driver and Vehicle Licensing Agency;

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

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

"**Freight Vehicle**" means a Lorry, a Van or a Car-derived Van;

"**Fresnel Lens**" means a clear thin plastic lens that is press fitted to a lorry window on the passenger side and that allows the driver to see that which is in the vehicle's blind spot;

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

"**London Living Wage**" means the basic hourly wage of £8.80 (before tax, other deductions and any increase for overtime) as may be updated from time to time and notified to the [Contractor/Consultant];

"**Lorry**" means a vehicle with an MAM exceeding 3,500 kilograms;

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

"Side Guards" means guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Constructions and Use) Regulations 1986;

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

"Van" means a vehicle with a MAM not exceeding 3,500 kilograms;

"TfL Group" means Transport for London and all of its subsidiaries and their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together with 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.

2. Advertising and Logos

The [Contractor/Consultant] shall have no right (save where expressly permitted under the [Contract] or with the [Employer's] prior written consent) to use any trade marks, trade names, logos or other intellectual property rights of the TfL Group.

3. Fleet Operator Recognition Scheme Accreditation

3.1 Where the [Contractor/Consultant] operates Freight Vehicles, it shall within 90 days of executing the [Contract]:

3.1.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the [Employer], is an acceptable substitute to FORS (the "Alternative Scheme"); and

3.1.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme.

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

3.3 The [Contractor/Consultant] shall use its best endeavours to ensure that those of its sub-contractors who operate Freight Vehicles shall comply with clauses 3.1 and 3.3 as if they applied directly to the sub-contractor.

Safety Equipment on Vehicles

3.4 The [Contractor/Consultant] shall ensure that every Lorry, which it uses to provide the [Works/Services], shall:

3.4.1 have Side Guards, unless the [Contractor/Consultant] can demonstrate to the reasonable satisfaction of the [Employer] that the vehicle will not perform the function for which it was built if Side Guards are fitted;

3.4.2 have a Close Proximity warning system fitted comprising:

(a) A front-mounted, rear-facing CCTV camera with in-cab live feed from the said camera or a Fresnel Lens where the Fresnel Lens provides a reliable alternative to the CCTV camera and where the

[Contractor/Consultant] has obtained the [Employer's] approval to use the Fresnel Lens, which approval the [Employer] may withhold in its unfettered discretion; and

(b) A Close Proximity Sensor.

3.4.3 have a Class VI Mirror; and

3.4.4 bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.

The [Contractor/Consultant] shall ensure that every Van, which it uses to provide the [Works/Services], shall bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.

Driver Licence Checks

3.5 The [Contractor/Consultant] shall ensure that each of its Drivers has a driving licence check with the DVLA before that Driver commences delivery of the [Works/Services] and that the driving licence check with the DVLA is repeated in accordance with either the following risk scale, or the [Contractor/Consultant]'s risk scale, provided that the [Contractor/Consultant]'s risk scale has been approved in writing by the [Employer] within the last 12 months:

3.5.1 0 - 3 points on the driving licence - annual checks;

3.5.2 4 - 8 points on the driving licence - six monthly checks;

3.5.3 9 - 11 points on the driving licence - quarterly checks; or

3.5.4 12 or more points on the driving licence - monthly checks.

Driver Training

3.6 The [Contractor/Consultant] shall ensure that each of its Drivers who has not undertaken:

3.6.1 Approved Driver Training (or training, which in the reasonable opinion of the [Employer], is an acceptable substitute) in the last three years, undertakes Approved Driver Training or the said substitute training within 60 days of the commencement of this [Contract]; and

3.6.2 a FORS e-learning safety module in the last 12 months, undertakes a FORS e-learning safety module (or e-learning, which in the reasonable opinion of the [Employer], is an acceptable substitute).

Collision Reporting

3.7 Within 15 days of the commencement of this [Contract], the [Contractor/Consultant] shall provide to the [Employer] a Collision Report. The [Contractor/Consultant] shall provide to the [Employer] an updated Collision Report on a quarterly basis and within five working days of a written request from the [Employer].

FORS Reports

3.8 Within 30 days of its achieving Bronze Accreditation or equivalent within the Alternative Scheme, the [Contractor/Consultant] shall make a written report to the [Employer] at fors@tfl.gov.uk detailing its compliance with clauses 3.4, 3.5 and 3.6 of this Contract (the "Safety, Licensing and Training Report"). The [Contractor/Consultant] shall provide updates of the Safety, Licensing and Training Report to the [Employer] at fors@tfl.gov.uk on each

three month anniversary of its submission of the initial Safety, Licensing and Training Report.

Obligations of the Service Provider Regarding Subcontractors

- 3.9 The [Contractor/Consultant] shall procure that each of its subcontractors that operates the following vehicles shall comply with the corresponding provisions of this [Contract] as if those subcontractors were a party to this [Contract]:
- 3.9.1 For Lorries - clauses 3.4, 3.5, 3.6 and 3.7; and
- 3.9.2 For Vans - clauses 3.4, 3.5, 3.6 and 3.7.

Failure to Comply with Freight-related Obligations

- 3.10 Without limiting the effect of clause [INSERT CROSS REFERENCE TO TERMINATION CLAUSE], if the [Contractor/Consultant] fails to comply with clauses 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8 and 3.9:
- 3.10.1 the [Contractor/Consultant] has committed a material breach of this [Contract]; and
- 3.10.2 the [Employer] may refuse the [Contractor/Consultant], its employees, agents and Freight Vehicles entry onto any property that is owned, occupied or managed by the [Employer] for any purpose (including but not limited to deliveries).

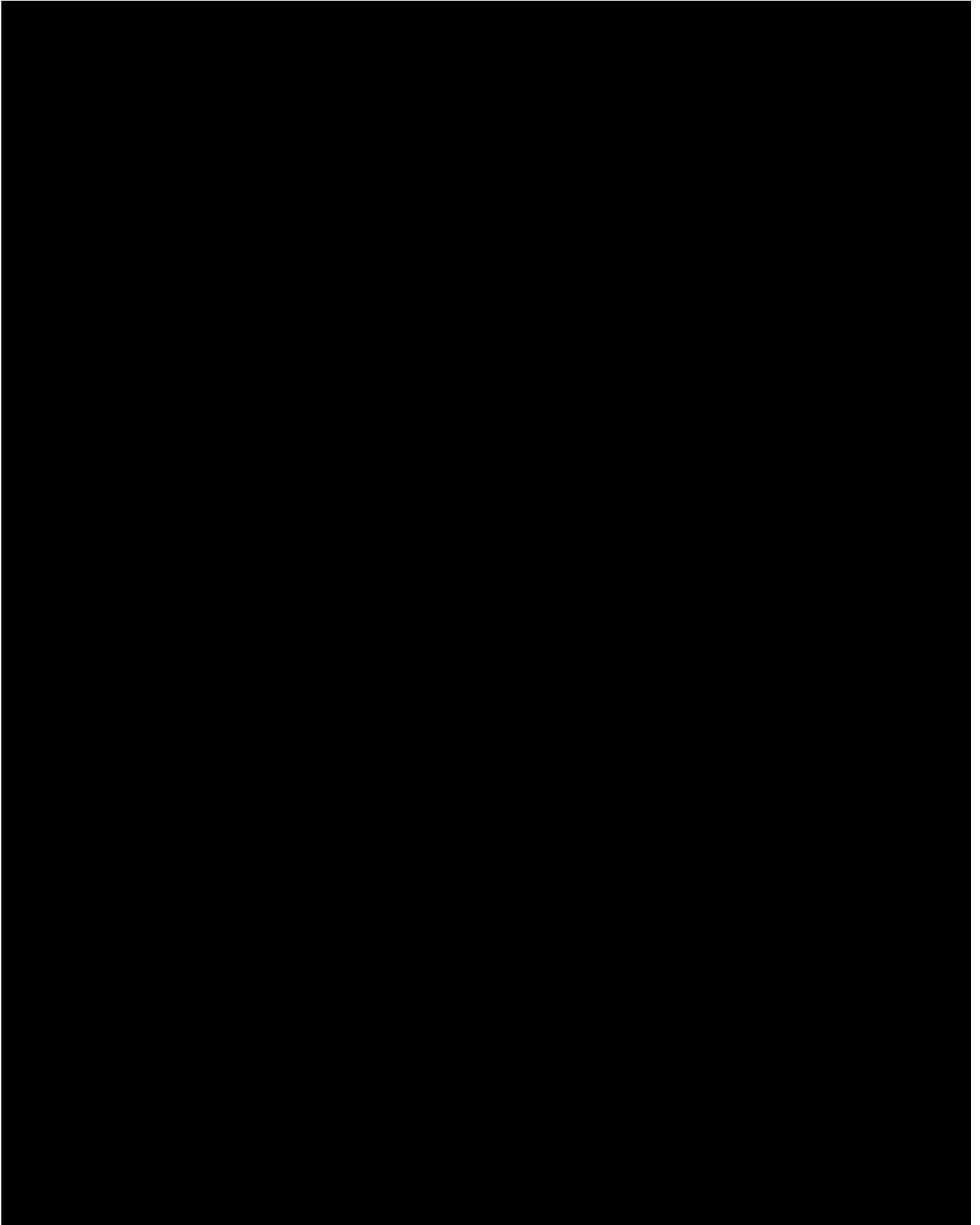
4. London Living Wage

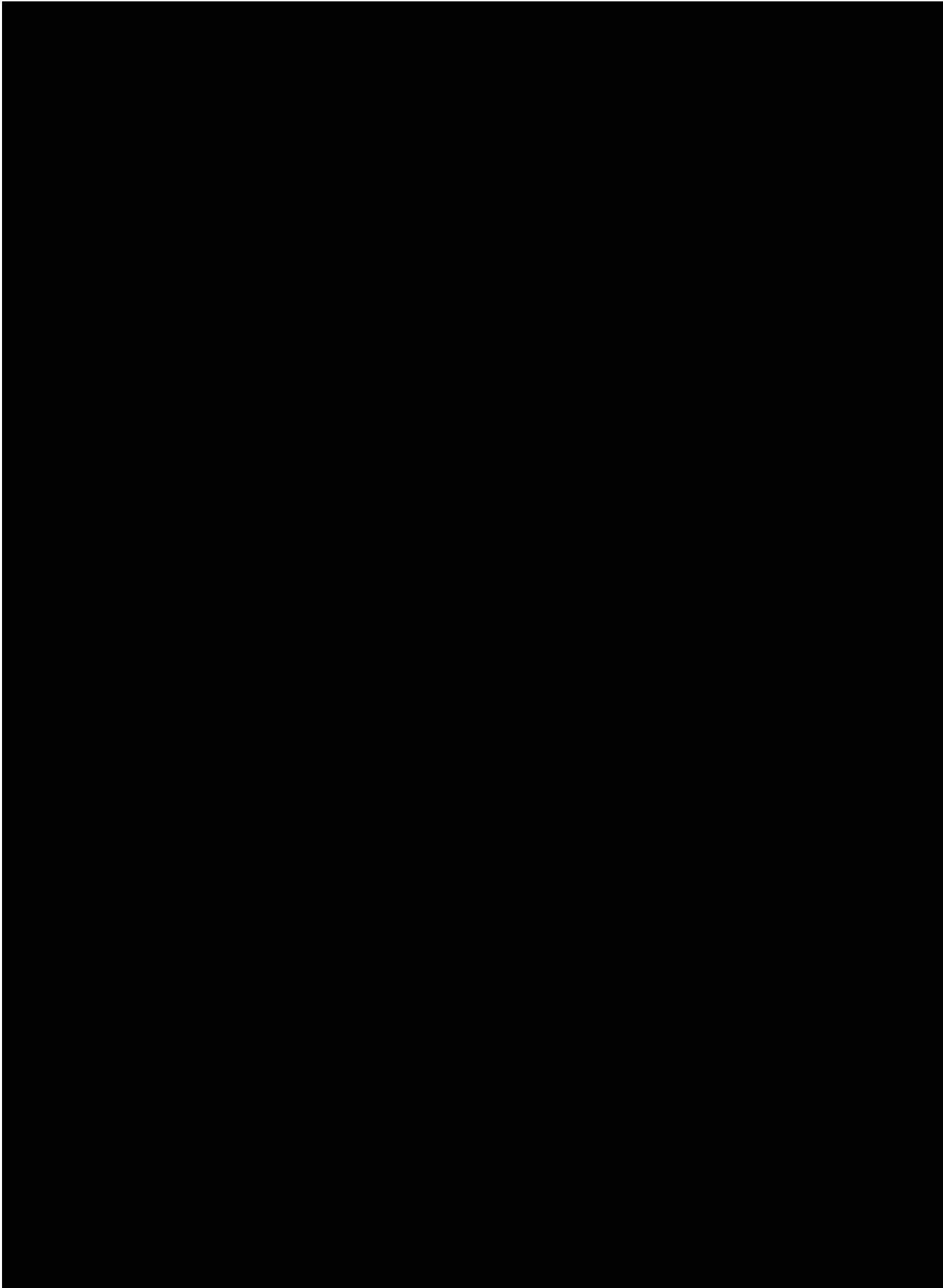
- 4.1 Without prejudice to any other provision of this [contract], the [Contractor/Consultant] shall:
- 4.1.1 ensure that none of its employees engaged in the provision of the [Works/Services] within the Greater London area is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage. For the purpose of this clause any allowance paid to the relevant employee for living costs and expenses (including accommodation provided by the [Contractor/Consultant]) while the relevant employee is working within the Greater London area is taken into account in determining whether employees have been paid the London Living Wage;
- 4.1.2 provide to the [Employer] such information concerning the London Living Wage and as the [Employer] or its nominees may reasonably require from time to time;
- 4.1.3 disseminate on behalf of the [Employer] to its employees engaged in the provision of the [Works/Services] such perception questionnaires as the [Employer] may reasonably require from time to time and promptly collate and return to the [Employer] responses to such questionnaires; and
- 4.1.4 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage
- 4.2 For the avoidance of doubt this clause shall not apply in respect of any employees whose presence in the Greater London area or on site is merely temporary and ancillary to the ordinary course of their employment.
- 4.3 Any breach by the [Contractor/Consultant] of the provisions of this Clause [4] shall be treated as a material breach capable of remedy in accordance with Clause [INSERT CROSS REFERENCE TO TERMINATION CLAUSE].

5. Timber Standards

The [Contractor/Consultant] shall ensure so far as reasonably practicable that any timber used in the Works or in the delivery of the Services (including but not limited to timber hoardings) is recycled, reclaimed or is certified as sustainable timber by the Forest Stewardship Council or equivalent and shall retain documentary evidence of the same.

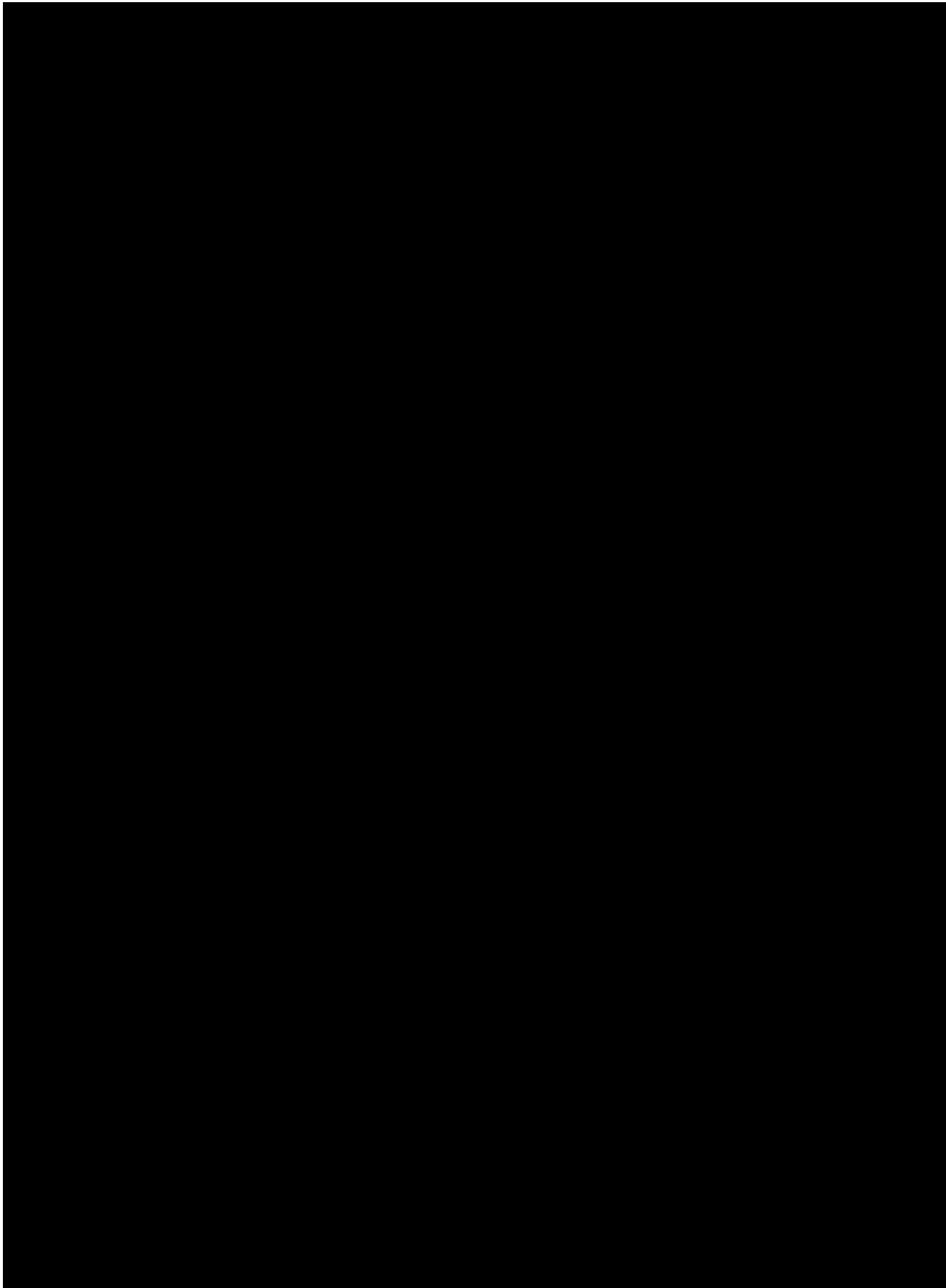
SCHEDULE 9

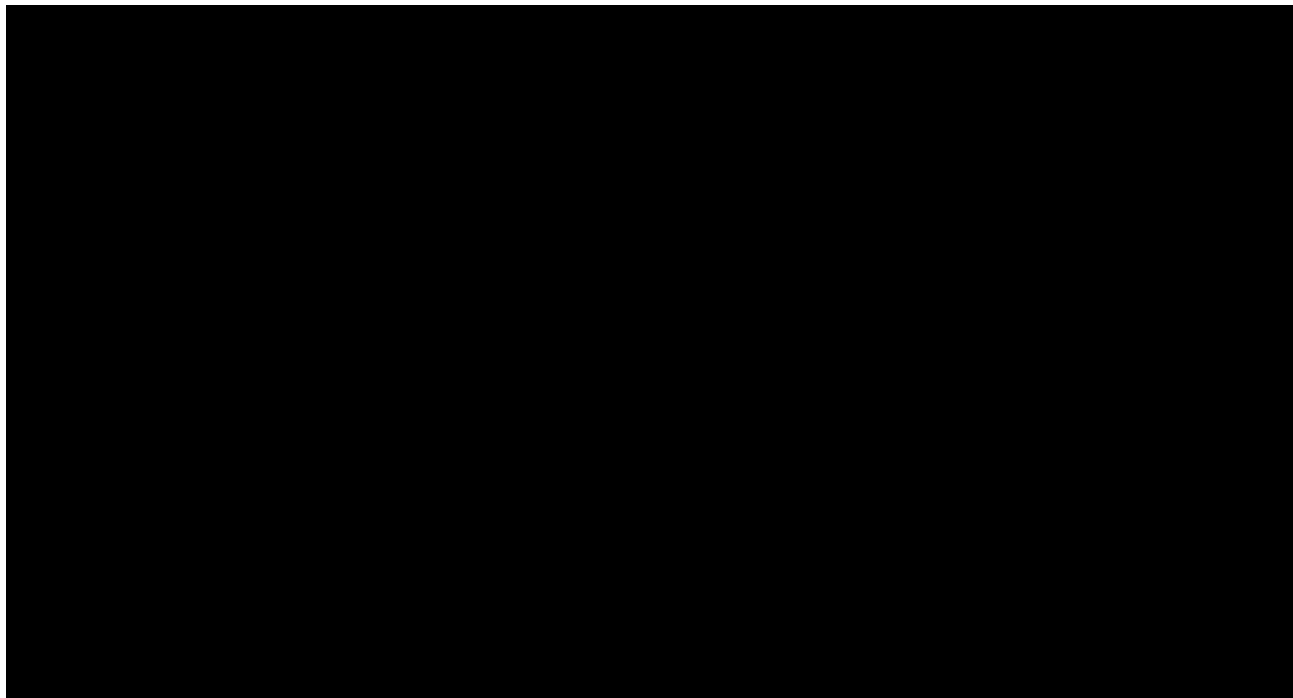




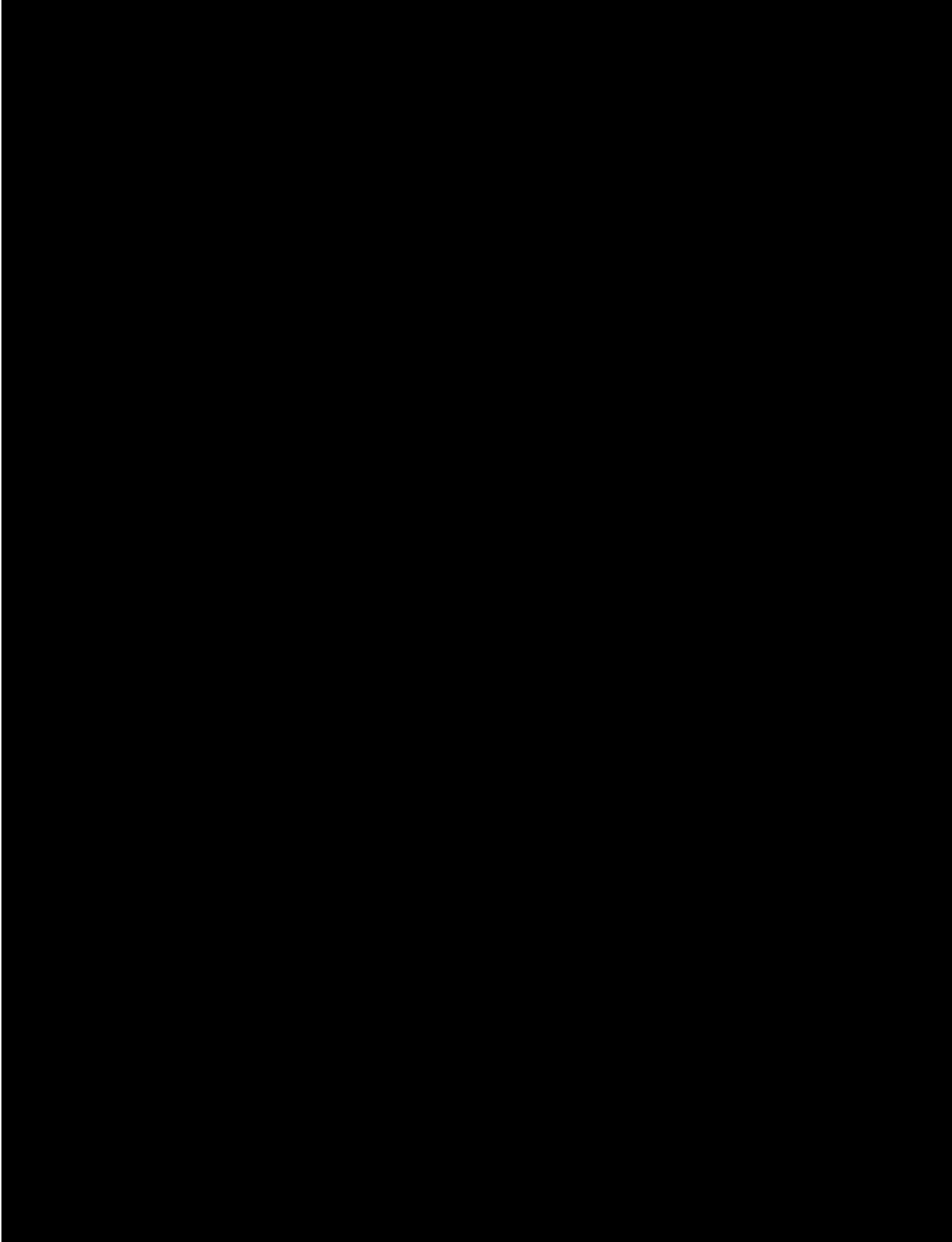


SCHEDULE 10





SCHEDULE 11
EARLS COURT VILLAGE



SCHEDULE 12

DELEGATION POLICY

This Delegation Policy sets out the different types of matters/decisions which will be reserved to each of the JV LLP Board, the Executive Committee and the Business Manager. It does not include reference to the Member Protection Matters, which are reserved to the Members' pursuant to the terms of this Agreement.

Notes:

- References in this schedule to JV LLP include a reference to any and all JV LLP Subsidiaries.
- All financial limits are before the application of any VAT, and apply on a per item / contract basis.

Level	Delegation Authority / Profile
1	<p>Board</p> <p>Responsible for the strategic direction of the Business of JV LLP.</p> <p>Approval of the following, and any amendments thereto:</p> <ul style="list-style-type: none"> - Business Plan - budgets - capital expenditure programme - disposals or acquisitions Programmes - Funding Events/packages - costs plans - realisation plans - estate management strategy - procurement strategies - rights of light strategies - development and design briefs - other development strategies - all contracts and commitments (including disposals, acquisitions, funding, contracts for works and services) with a value of above £■■■■, and amendments above ■■■■ of the originally approved amount. - -Capco Conflict Matters, including appointment of replacement business manager <p>(the above once approved by the Board shall be referred to as the "Board Approvals")</p> <p>Only the Board can authorise any matters which are not authorised by or contemplated in the Board Approvals other than under the Miscellaneous Expenses heading below.</p> <p>The Board may delegate responsibility to Executive Committee or the Business</p>

		Manager to finalise the details of any matter contained in a Board Approval
2	Executive Committee	<p>Responsible for management of JV LLP, by making decisions on all matters which are authorised by or contemplated by a Board Approval and informing, instructing and directing the Business Manager's activities in line with the Board Approvals but subject to the financial limitations and the delegations to the Business Manager set out below.</p> <p>Approval for any amounts up to £■■■■ (per item) within a Board Approval, and any amendments to approved amounts up to ■■■■ of the originally approved amount.</p> <p>The Executive Committee may delegate responsibility to the Business Manager to finalise the details of any matter contained in a decision by Executive Committee.</p>
3	Business Manager	<p>Responsible for managing the implementation of the business objectives as set out in the Board Approvals as directed by Executive Committee and subject to the financial limitations set out below.</p> <p>The Business Manager shall have overall responsibility for the co-ordination of third parties, advisers, the Professional Team, Contractors, funders and their advisers, subject to Board Approvals and the financial limitations set out below.</p> <p>Approval and payment of expenditure in line with the Board Approvals and as delegated to the Business Manager in the financial authorities below or as approved by Executive Committee within its delegation limits.</p> <p>Responsible for the commissioning of works and engagement of services in line with Board Approvals and/or Executive Committee's decisions (contracts to be executed by JV LLP).</p> <p>In respect of its approval to incur spending in the event of an emergency, the Business Manager must, if practical in the circumstances, consult with at least one Executive Committee Member or one Representative prior to incurring such expenditure and will report back to the Executive Committee at the next available opportunity on the amount and circumstances of the emergency expenditure.</p>

Financial Authorities

Commissioning of Works

	Board	Executive Committee	Business Manager
Entry into contracts anticipated within Board Approvals	Unlimited	up to £ [REDACTED]	up to £ [REDACTED]
Variation to contracts within Board Approvals or these delegation limits	Unlimited	up to the lower of [REDACTED] variance of original contract sum or £ [REDACTED] (and variations to the same contract will be aggregated)	up to the lower of [REDACTED] variance of original contract sum or £ [REDACTED] (and variations to the same contract will be aggregated)
Approval to make payments under a contract within a Board Approval or these delegation limits	n/a	n/a	up to contract sum

Commissioning of Services

	Board	Executive Committee	Business Manager
Entry into contracts anticipated within Board Approvals	Unlimited	up to £ [REDACTED] in the aggregate	up to £ [REDACTED] in the aggregate
Variation to contracts within Board Approvals or these delegation limits	Unlimited	up to the lower of [REDACTED] variance of original contract sum or £ [REDACTED] in each case in the aggregate	up to the lower of [REDACTED] variance of original contract sum or £ [REDACTED] in each case in the aggregate
Approval to make payments under a contract within a Board Approval or these delegation limits	n/a	n/a	up to contract sum

Miscellaneous Expenses

	Board	Executive Committee	Business Manager
Commissioning and entering into contracts for works or services outside of an existing Board Approval	Unlimited	up to £ [REDACTED]	up to £ [REDACTED] per item up to a maximum of £ [REDACTED] in any financial year
Approval for reimbursement of incidental expenditure incurred within a Board Approval	Unlimited	up to £ [REDACTED]	n/a
Approval to incur expenditure in the event of an emergency	Unlimited	Up to £ [REDACTED]	Up to £ [REDACTED]

SCHEDULE 13

ANTI BRIBERY AND CORRUPTION POLICY

1. Policy statement
 - 1.1 It is Capco's policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery.
 - 1.2 We will uphold all laws relevant to countering bribery and corruption however we remain bound by the laws of the UK, including the Bribery Act 2010, in respect of our conduct both at home and abroad.
 - 1.3 The purpose of this policy is to:
 - 1.3.1 set out our responsibilities, and of those working for us, in observing and upholding our position on bribery and corruption; and
 - 1.3.2 provide information and guidance to those working for us on how to recognise and deal with bribery and corruption issues.
 - 1.4 Bribery and/or corruption are punishable for individuals by up to ten years' imprisonment and if Capco is found to have taken part in corruption the Company could face an unlimited fine, be excluded from tendering for public contracts and face damage to our reputation. We therefore take our legal responsibilities very seriously.
 - 1.5 In this policy, third party means any individual or organisation you come into contact with during the course of your work for us, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.

2. Who is covered by the policy?

This policy applies to all individuals working at all levels, including senior managers, officers, directors, employees (whether permanent, fixed-term or temporary), consultants, contractors, trainees, seconded staff, homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with us, or any of our subsidiaries or their employees, wherever located (collectively referred to as workers in this policy).

3. Definitions

3.1 What is bribery?

A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage. It is not restricted to monetary transactions. It can be the offering, giving, receiving or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.

3.2 What is Corruption?

By its nature corruption can be difficult to detect as it usually involves two or more people entering into a secret agreement. It can involve the payment of a financial inducement to a public official for securing favour of some description in return.

Examples:

Offering a bribe

You offer a potential contractor tickets to a major sporting event, but only if they agree

to offer us preferential rates.

This would be an offence as you are making the offer to gain a commercial and

contractual advantage. We may also be found to have committed an offence because the offer has been made to obtain preferential treatment for us. It may also be an offence for the potential contractor to accept your offer.

Receiving a bribe

A consultant gives your nephew a job, but makes it clear that in return they expect you to use your influence in our organisation to ensure we continue to do business with them.

It is an offence for a consultant to make such an offer. It would be an offence for you to accept the offer as you would be doing so to gain a personal advantage.

Bribing a foreign official

You arrange for the business to pay an additional payment to a foreign official to speed up an administrative process.

The offence of bribing a foreign public official has been committed as soon as the offer is made. This is because it is made to gain a business advantage for us. We may also be found to have committed an offence.

4. What is not acceptable?

It is not acceptable for you (or someone on your behalf) to:

- 4.1 give, promise to give, or offer, a payment, gift or hospitality with the expectation or hope that a business or personal advantage will be received, or to reward a business or personal advantage already given;
- 4.2 give, promise to give, or offer, a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- 4.3 accept a gift, hospitality or payment from a third party that you know or suspect is offered or provided with the expectation that it will obtain a business or personal advantage for them;
- 4.4 threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy; or
- 4.5 engage in any activity that might lead to a breach of this policy.

5. Facilitation payments and kickbacks

- 5.1 Capco does not make, and will not accept, facilitation payments or "kickbacks" of any kind. Facilitation payments are typically small, unofficial payments made to secure or expedite a routine government action by a government official. Kickbacks are typically payments made in return for a business favour or advantage. In some overseas jurisdictions facilitation payments may be acceptable within local law and in these circumstances they may be deemed appropriate.
- 5.2 If you are asked to make a payment on our behalf, you should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. You should always ask for a receipt which details the reason for the payment. If you have any suspicions, concerns or queries regarding a payment, you should raise these with your line manager.
- 5.3 All workers must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by us.

6. **Donations**

Capco does not make contributions to political parties. Capco only makes charitable donations that are legal and ethical under local laws and practices. All donations must be made in accordance with Capco's statement regarding its approach to charity (see policy on „Our Approach to Charity’).

7. **Your responsibilities**

- 7.1 You must ensure that you read, understand and comply with this policy, and you are required to provide written confirmation of receipt of this policy.
- 7.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for us or under our control. All workers are required to avoid any activity that might lead to, or suggest, a breach of this policy.
- 7.3 You must notify your line manager as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future. Examples of "red flags" that may indicate bribery or corruption are set out in the attached Schedule 1.
- 7.4 You must apply appropriate due diligence procedures in the selection of all key suppliers, business partners, agents or other service providers to mitigate any bribery risk in respect of third party intermediaries. Appropriate due diligence procedures will vary according to the nature of the supplier, for example a UK regulated professional services firm will require a different level of due diligence to an overseas supplier.
- 7.5 You must notify your line manager and the Company Secretary if you become aware of any actual or potential conflict of interest between yourself and Capco e.g. if a current or potential supplier provides or has previously provided services to you in a private capacity. The use of Suppliers (e.g. Builders or carpet suppliers) and professionals (e.g. solicitors) to the Company for private use is discouraged. Any such use must be preapproved in writing by the Chief Executive and notified to the Company Secretary. The Suppliers normal terms for the service might not be applied and any dispute could lead to conflict of interest.
- 7.6 Any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct, and may also be personally liable under the Bribery Act.

8. **Record-keeping**

- 8.1 You must declare all hospitality or gifts accepted or offered using the procedure set out in Capco's Gifts and Hospitality Policy.
- 8.2 You must ensure all expenses claims relating to hospitality, gifts or expenses incurred to third parties are submitted in accordance with Capco's Expenses Policy and specifically record the reason for the expenditure.
- 8.3 All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept "off-book" to facilitate or conceal improper payments.
- 8.4 You must ensure that adequate records are kept of the reason(s) for the selection of any tenant, contractor or key supplier.

9. **How to raise a concern**

You are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with your line manager or the Company Secretary. You may also report concerns using the Group's whistle blowing helpline (020 3214 9199).

10. **What to do if you are a victim of bribery or corruption**

It is important that you tell your line manager as soon as possible if you are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are a victim of another form of unlawful activity. You may also report concerns using the Group's Whistle blowing helpline.

11. **Protection**

11.1 Workers who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.

11.2 We are committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform your line manager immediately. If the matter is not remedied, and you are an employee, you should raise it formally using our Grievance Procedure, other workers may raise concerns through the whistle blowing helpline.

12. **Training and communication**

12.1 Training on this policy forms part of the induction process for all new workers. All existing workers will receive regular, relevant training on how to implement and adhere to this policy.

12.2 Our zero-tolerance approach to bribery and corruption must be communicated to all key suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate thereafter. Such partners may raise concerns through the Whistle blowing helpline.

13. **Who is responsible for the policy?**

13.1 The Board of Directors has overall responsibility, and the Chief Executive has specific responsibility, for implementing the policy and ensuring it complies with our legal and ethical obligations, and that all those under our control comply with it.

13.2 The Internal Auditor has responsibility for monitoring its use and effectiveness. Any queries on its interpretation should be addressed to the Company Secretary. Management at all levels are responsible for ensuring those reporting to them are made aware of and understand this policy and attend the provided training.

14. **Monitoring and review**

14.1 The Audit Committee will monitor the effectiveness and review the implementation of this policy. Any improvements identified will be made as soon as possible. Internal control systems and procedures will be subject to regular audits to provide assurance that they are appropriately designed and effective in countering bribery and corruption.

14.2 All workers are responsible for the success of this policy and should ensure they use it to disclose any suspected danger or wrongdoing.

14.3 This policy does not form part of any employee's contract of employment and it may be amended at any time.

Schedule 1 - Potential risk scenarios: "red flags"

The following is a list of possible red flags that may arise during the course of you working for us and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

If you encounter any of these red flags while working for us, you must report them promptly to your line manager or using the procedure set out in the Whistle blowing policy:

1. you become aware that a third party engages in, or has been accused of engaging in, improper business practices;
2. you learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials;
3. a third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a government function or process for us;
4. a third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
5. a third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
6. a third party requests an unexpected additional fee or commission to "facilitate" a service;
7. a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
8. a third party requests that a payment is made to "overlook" potential legal violations;
9. a third party requests that you provide employment or some other advantage to a friend or relative;
10. you receive an invoice from a third party that appears to be non-standard or customised;
11. a third party insists on the use of side letters or refuses to put terms agreed in writing;
12. you notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
13. a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us; or
14. you are offered an unusually generous gift or offered lavish hospitality by a third party.

Schedule 2

Chief Executive's Statement regarding Capco's approach to Anti-Corruption & Bribery

It is Capco's policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery.

Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if Capco is found to have taken part in corruption the Company could face an unlimited fine, be excluded from tendering for public contracts and face damage to our reputation.

We will uphold all laws relevant to countering bribery and corruption however we remain bound by the laws of the UK, including the Bribery Act 2010, in respect of our conduct both at home and abroad.

In light of this commitment, and following a risk review, the attached Anti-corruption and Bribery Policy has been adopted. The policy sets out the responsibilities of Capco and all those working for us in observing and upholding our position on bribery and corruption, and provides some information and guidance on how to recognise and deal with bribery and corruption issues. We have also taken the opportunity to update our Gifts and Hospitality Policy, and the two policies should be read together.

You are each required to act in accordance with these policies with immediate effect. Managers must also ensure that their teams understand the policies and their obligations under them, and must communicate our zero tolerance approach to bribery and corruption to all key suppliers, contractors and business partners. A Supplier Policy will be issued later in the year.

Senior management and certain other employees have already received training on the Bribery Act 2010. Reading and understanding the Anti-corruption and Bribery Policy forms part of your training, and accordingly you must sign and return the attached form to confirm that you have done this. Annual refresher training will be arranged, and training will form part of each new employee's induction.

If you wish to raise any concerns about any issue or suspicion of malpractice, you may use the Group's whistle blowing helpline (020 3214 9199).

The effectiveness of this policy will be monitored by the Audit Committee

SCHEDULE 14

FORM OF CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on []

BETWEEN

- (1) EARLS COURT PARTNERSHIP LLP (registered number []) whose registered office is at 15 Grosvenor Street, London, W1K 4QZ ("**JV LLP**"); and
- (2) [NAME OF THIRD PARTY] (registered number [COMPANY NUMBER]) whose registered office is at [ADDRESS OF PARTY] (the "**Recipient**").

DEFINITIONS

1. In this Agreement the following words and expressions will have the following meanings:

"Confidential Information"

subject to clause 5 means:

- (a) any information that is directly or indirectly disclosed by or on behalf of any JV LLP to any Recipient Party in connection with the Purpose that relates (in whole or in part and whether directly or indirectly) to JV LLP (or any of the JV LLP's Group Companies) or their Working including information contained in documents, oral communications, models, specifications, software, programmes, computer disks, visual presentations, photographs, drawings, magnetic or digital form and any other media;
- (b) the existence and terms of this Agreement;
- (c) the fact that information has been or may be disclosed to the Recipient Parties by or on behalf of the JV LLP Parties; and
- (d) the existence of or progress of discussions in relation to the Purpose

"Group Companies"

in respect of a party,

its holding companies, its subsidiaries and the subsidiaries of any of its holding companies from time to time ("**holding company**" and "**subsidiary**" having the meanings set out in section 1159 Companies Act 2006, and for the purposes of section 1159(1) a company (the first company) will be treated as a member of another company if:

- (a) any of its subsidiaries is a member of that other company;
- (b) any shares in that other company are held by a person acting on behalf of the first company or any of its subsidiaries; or
- (c) any shares in that other company are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares by the first company)

"JV LLP Parties"

JV LLP, each of JV LLP's Group Companies, JV LLP's Representatives [and the Representatives of each of JV LLP's Group Companies] and "**JV LLP Party**" means any of them;

"Purpose"

the consideration, evaluation and negotiation of a proposal that the Recipient [insert relevant details];

"Recipient Parties"

the Recipient, each of the Recipient's Group Companies and the Recipient's Representatives and "**Recipient Party**" means any of them;

"Representatives"

any director, officer, employee of or professional advisor or consultant to a party or a Group Company of that party; and

“Working Day” a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales.

2. **CONFIDENTIALITY OBLIGATIONS**

In consideration of the disclosure of Confidential Information, the Recipient undertakes to JV LLP [and each of JV LLP’s Group Companies] that it will [,and will procure that each other Recipient Party will], subject to clauses 3 and 5:

- 2.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this Agreement;
- 2.2 use the Confidential Information solely for the Purpose;
- 2.3 only make such copies, summaries, extracts, transcripts, notes, reports, analyses and recordings (in any form of media) that use, contain or are based on or derived from Confidential Information as are reasonably necessary to fulfil the Purpose; and
- 2.4 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.

3. **PERMITTED DISCLOSURE**

The Recipient may disclose Confidential Information:

- 3.1 to those of the Recipient Parties who need access to that Confidential Information in order for the Purpose to be considered and will make each such person aware of the confidentiality obligations contained in this Agreement. The Recipient will take reasonable steps to procure that each Recipient Party will not do or omit to do anything which if done or omitted to be done by the Recipient would constitute a breach of this Agreement. The Recipient will be liable for the acts and omissions of its Recipient Parties as if they were acts or omissions of the Recipient; and
- 3.2 to the extent required by law or a court of competent jurisdiction or the rules of any applicable listing authority, securities exchange or governmental or regulatory body. Where reasonably practicable and lawful the Recipient will notify JV LLP in writing in advance of such disclosure, will consult with JV LLP as to the content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as possible, with the terms of this Agreement.

4. **INFORMATION IS JV LLP’S PROPERTY**

- 4.1 JV LLP, one of JV LLP’s Group Companies or their licensors owns all right, title and interest in the Confidential Information and, no licence or right to use any patent, copyright, registered design, unregistered design, trademark, trade name or similar right or any right to use any Confidential Information or trade secrets is granted by the JV LLP [or any of the JV LLP’s Group Companies].
- 4.2 Subject to clause 4.3, the Recipient will [(and will procure each Recipient Party will)] on written request by the JV LLP:
 - 4.2.1 immediately cease to use the Confidential Information; and
 - 4.2.2 as soon as reasonably practicable and in any event within 5 Working Days return to JV LLP or destroy (or in respect of information held electronically permanently delete (to the extent technically feasible), all Confidential Information.
- 4.3 The Recipient (and each Recipient Party) may retain a copy of any Confidential Information to the extent required to do so for legal or regulatory purposes. Any retained Confidential Information (including, without limitation, any Confidential Information that cannot be returned or which it has not been technically feasible to permanently delete) will remain subject to the other provisions of this Agreement.

5. **EXCEPTIONS**

5.1 Subject to clause 5.2, the Recipient's obligations under this Agreement will not extend to Confidential Information which:

5.1.1 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this Agreement by a Recipient Party;

5.1.2 the Recipient can prove to the reasonable satisfaction of the Seller has been received by the Recipient [or one of the Recipient's Group Companies] at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient [or the relevant Group Company] without limitation.

5.2 Clause 5.1.2 will not apply to the matters referred to in paragraphs (b) to (d) of the definition of Confidential Information set out in clause 1.

6. **NO WARRANTY**

6.1 Neither JV LLP [nor any JV LLP Party] makes any warranty, representation, statement or undertaking (whether express or implied) in respect of the accuracy, reasonableness or completeness of the Confidential Information.

6.2 The Recipient:

6.2.1 will not [(and the Recipient will procure that no Recipient Party will)] rely on the Confidential Information; and

6.2.2 agrees that neither it [(nor any other Recipient Party)] will have any remedy against the JV LLP, [or any JV LLP Party] in respect of the inaccuracy, unreasonableness or incompleteness of any Confidential Information.

6.3 Nothing in this Agreement will operate to exclude or restrict any person's liability (if any) for its fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation of a person for whom it is vicariously liable.

7. **TERMINATION**

Termination of this Agreement is without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to termination.

8. **NOTICE**

8.1 Subject to clause 8.2, any notice or other communication given under or in connection with this Agreement will be in writing, in the English language, marked for the attention of the company secretary of the party to be given the notice or communication and:

8.1.1 sent by pre-paid recorded delivery to that party's address; or

8.1.2 delivered to or left at (but not, in either case, by post) that party's address

to the address referred to in the parties clause unless changed by that party giving at least 14 Working Days notice in accordance with this clause 8.

8.2 Any notice or communication given in accordance with clause 8.1 will be deemed to have been served:

8.2.1 if given as set out in clause 8.1.1, at 9.00am on the first Working Day after the date of posting; and

8.2.2 if given as set out in clause 8.1.2, at the time the notice or communication is delivered to or left at that party's address

8.3 To prove service of a notice or communication it will be sufficient to prove that the provisions of clause 8.1 were complied with.

9. **GENERAL**

9.1 The Recipient agrees that the obligations imposed by this Agreement in relation to Confidential Information extend to any Confidential Information which has been, or may have been, supplied to the Recipient [or any of the Recipient Parties] prior to the date of this Agreement, despite the absence of a written agreement, this Agreement merely recording in writing the oral confidentiality obligations under which the relevant Recipient Party received the Confidential Information in question.

9.2 The Recipient is entering into this Agreement in consideration of the disclosure of Confidential Information.

9.3 The Recipient acknowledges and agrees that damages alone would not be an adequate remedy for breach of clauses 2, 3, 4, 6.2 and 9.1 by the Recipient or any other Recipient Party. Accordingly, [and any of JV LLP's Group Companies] will be entitled, without having to prove special damages, to equitable relief (including injunction and specific performance) for any breach or threatened breach of such clauses by the Recipient [or any other Recipient Party].

9.4 No variation to this Agreement will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of the parties.

9.5 JV LLP's Group Companies will be entitled to enforce clauses 2, 3, 4, 6 and 9.1 subject to and in accordance with the Contracts (Rights of Third Parties) Act 1999 and the terms of this Agreement. Save as provided in this clause 9.5, the parties do not intend that any term of this Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

9.6 A delay in exercising or failure to exercise a right or remedy under or in connection with this Agreement will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

9.7 This Agreement may be executed in any number of counterparts, each of which will constitute an original, but which will together constitute one agreement. This Agreement will not be effective until each party has received a counterpart executed by the other party.

9.8 This Agreement and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.

9.9 Each party agrees that the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with this Agreement including in relation to any non-contractual obligations.

SIGNED BY or on behalf of the parties on the date stated at the beginning of this Agreement.

[insert execution blocks as appropriate]