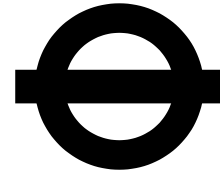


These documents are for reference only. We are not currently accepting new applications



Transport for London

TfL Approved Assessment Centre Scheme

- Deed of Appointment terms and conditions

5 December 2016

**Deed of Appointment terms and conditions dated
2016**

These Terms and Conditions shall govern the TfL Approved Assessment Centre Scheme and Service Providers shall be deemed to have read and accepted these Terms and Conditions in full.

1. Definitions and Interpretation

In this Deed (including the Background):

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

“Applicant” means any company, partnership, sole trader or other legal entity responding to the ITA;

“Application Form” means the Applicant’s response to the ITA set out at Schedule 2 of the Deed;

“Approved Centre” means the centre that TfL has approved and agreed to allow the Service Provider to host Pre Licensing Assessments pursuant to these Terms and Conditions and Statement of Requirements;

“Atlas” means the “Master Atlas of Greater London A-Z”, edition 15, 2017;

“Benefits” means the following benefits granted to the Service Provider, which includes and is limited to the following:

- (a) the right to facilitate and provide resources for Candidates to sit Pre Licensing Assessments at Approved Centres;
- (b) the right to charge Candidates to sit Pre Licensing Assessments at Approved Centres;
- (c) the right to use of TfL branding, subject to Condition 7;
- (d) the right to be included on the TPH Website as an Approved Centre;

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| “Business Day” | any day excluding Saturdays, Sundays or public or bank holidays in England; |
| “Candidate” | means any person undertaking a Pre Licensing Assessment; |
| “Confidential Information” | all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to TfL (or any member of the TfL Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the TfL Group, and shall also include the Pre Licensing Assessment whether in hardcopy or digital format; |
| “Data Protection Legislation” | the Data Protection Act 1998 (as interpreted in accordance with Directive 95/46/EC) including all regulations made under it and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any amendment or re-enactment of any of them; any other legislation relating to privacy and/or the processing of Personal Data (as amended from time to time); and any guidance or statutory codes of practice issued by the Information Commissioner in relation to such legislation; |
| “Force Majeure Event” | any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event (“ Affected Party ”) to perform its obligations in accordance with the Terms and Conditions but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact; |

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| “Holding Company” | any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006; |
| “Intellectual Property Rights”, “Intellectual Property” | any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world; |
| “ITA” | the invitation to apply to be a TfL Approved Assessment Centre published by TfL on 25 th August 2016 with reference number tfl_scp_001552; |
| “Losses” | all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments; |
| “Parties” | TfL and the Service Provider (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be; |
| “Pre Licensing Assessment”, “Assessments” | means the TfL proprietary modular based assessments designed to test a Candidate’s topographic skills and other skills as prescribed by TfL from time to time. These assessments may be amended at TfL’s sole discretion upon reasonable notice; |
| “Pre Licensing Assessment Fee” | means the charge (if any) levied to Candidates for sitting a Pre Licensing Assessment at an Approved Centre; |
| “Pre Licensing Assessment Room” | means the room within the Approved Centre in which Pre Licensing Assessments take |

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| | place; |
| “Processes” | has the meaning given to it by section 1(1) of the Data Protection Act 1998 (and any amendment or re-enactment of it) and “Processing” and “Processed” will be construed accordingly; |
| “Service Provider”, “you”, “your” | means a person who has applied for, passed TfL’s selection process and been granted the right to perform the Statement of Requirements pursuant to these Terms and Conditions; |
| “Service Provider’s Personnel” | means any person employed or sub-contracted by the Service Provider in connection with the delivery of these Terms and Conditions; |
| “Statement Requirements”, “SoRs” | <p>of means the set of requirements to be fulfilled by the Service Provider set out at Schedule 1 of these Terms and Conditions and also includes:</p> <p>(a) all or any part of the requirements to be provided to, or activities to be undertaken and completed for, TfL by Service Providers under these Terms and Conditions including any variations to such requirements or activities pursuant to Condition 2.10 of these Terms and Conditions; and</p> <p>(b) any requirements, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from these Terms and Conditions.</p> |
| “Terms and Conditions” | means this Deed of Appointment, including the Schedules and all other documents referred to in these terms and conditions; |
| “TfL” | Transport for London, a statutory corporation established under the Greater London Authority Act 1999; |
| “TfL Approval Notice” | means the official notice to be issued by TfL to an Applicant upon the Applicant demonstrating to TfL that it is fully compliant |

with the Statement of Requirements;

“TfL Approved Assessment Centre Scheme”, “TfL Scheme” means the scheme set up by TfL to establish assessment centres around London, UK for the Pre Licensing Assessment;

“TfL Assessor” means any Transport for London staff member tasked with managing Assessments at an Approved Centre;

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

“TfL’s Health and Safety Requirements” means the health and safety requirements set out at Appendix 1 of the Statement of Requirements;

“TfL Website” means <https://tfl.gov.uk/info-for/taxis-and-private-hire/licensing/topographical-skills-centres>; and

“Third Party” means any party that is not Transport for London or the Service Provider.

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

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

1.4 headings are included in these Terms and Conditions for ease of reference only and do not affect the interpretation or construction of these Terms and Conditions;

1.5 references to Conditions and Schedules are, unless otherwise provided, references to conditions of, and schedules to, these Terms and Conditions and any reference to a paragraph in any Schedule

shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;

- 1.6 in the event, and only to the extent, of any conflict between the Conditions and the Schedules, the Conditions prevail, except where the conflicting part of the Schedule is explicitly expressed to take precedence;
- 1.7 the Schedules form part of these Terms and Conditions and will have the same force and effect as if expressly set out in the body of these Terms and Conditions;
- 1.8 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, or joint venture; and
- 1.9 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. **The TfL Approved Test Centre Scheme**

- 2.1 Applicants shall become Service Providers and be entitled to the Benefits upon receipt of a TfL Approval Notice.
- 2.2 Where applicable, TfL Approval Notices shall include details on whether a Service Provider’s appointment is subject to further requirements and the date upon which such requirements must be fulfilled (“**Requirements**”).
- 2.3 In the event the Service Provider fails to fulfil applicable Requirements, TfL reserves the right to suspend or terminate the Service Provider’s appointment, together with these Terms and Conditions in accordance with Condition 13.

2.4 **Intentionally Blank**

2.5 **Commencement and Duration of Appointment**

The Service Provider shall commence providing the Statement of Requirements from the date of issue of its TfL Approval Notice (“**Scheme Start Date**”).

- 2.6 The Service Provider shall continue providing the Statement of Requirements from the Scheme Start Date until the expiry of the TfL Scheme in October 2019 (“**Term**”), unless terminated earlier by TfL in accordance with Condition 13 or the Service Provider exercises its right to withdraw from the TfL Scheme pursuant to Condition 12.

2.7 General Obligations

Service Providers shall, and shall ensure that the Service Provider's Personnel, at all times, act in accordance with these Terms and Conditions and shall:

- 2.7.1 comply with the Statement of Requirements;
- 2.7.2 behave in an orderly manner and act with the utmost good faith to TfL Assessors and co-operate fully with TfL's personnel and contractors;
- 2.7.3 not commit any act or omission, or make any statement or otherwise behave in any manner, which may result in any harm or damage to the reputation or the operation of the TfL Approved Assessment Centre Scheme;
- 2.7.4 notify TfL in writing as soon as possible if the Service Provider is in breach of the Statement of Requirements (or any part thereof) including TfL's Health and Safety Requirements;
- 2.7.5 act with the highest degree of skill, care and diligence normally exercised by professional firms or by highly skilled and experienced service providers providing services of a similar scope and type to the Statement of Requirements;
- 2.7.6 perform in conformance in all respects with the Statement of Requirements and so that they fulfil the purpose indicated by or to be reasonably inferred from the Statement of Requirements;
- 2.7.7 perform in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and
- 2.7.8 ensure that the Statement of Requirements are properly managed and monitored and shall immediately inform TfL if any aspect of these Terms and Conditions is not being or is unable to be performed.

2.8 Compliance with Policies and Law

The Service Provider, at no additional cost to TfL:

- 2.8.1 undertakes to procure that all the Service Provider's Personnel comply with all of TfL's Health and Safety Requirements that are relevant to the performance of the Statement of Requirements as set out in Schedule 1;
- 2.8.2 shall promptly notify the Service Provider's Personnel and TfL of any health and safety hazards that exist or may arise in

connection with the performance of these Terms and Conditions;

2.8.3 shall comply with all of its obligations under Data Protection Legislation and, if Processing Personal Data and / or Sensitive Data (as such terms are defined in section 1(1) and 2 of the Data Protection Act 1998 respectively) on behalf of TfL, shall only carry out such Processing for the purposes of providing the Statement of Requirements in accordance with these Terms and Conditions;

2.8.4 acknowledges and agrees that any Personal Data it receives from TfL will only be used for confirming the identities of Candidates and that such Personal Data will be deleted once the applicable Pre Licensing Assessment is completed;

2.8.5 shall fulfil the Statement of Requirements in compliance with, and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Service Provider's or TfL's business (such as information requirements and complaints handling under the Provision of Services Regulations 2009), from time to time in force which are or may become applicable to the Statement of Requirements. The Service Provider shall promptly notify TfL if the Service Provider is required to make any changes to the Statement of Requirements for the purposes of complying with its obligations under this Condition 2.8.5;

2.8.6 without limiting the generality of Condition 2.8.5, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it; and

2.8.7 without limiting the generality of Condition 2.8.5, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities.

2.9 In all cases, the costs of compliance with Condition 2.8 shall be borne by the Service Provider.

2.10 Changes to the TfL Approved Assessment Centre Scheme

TfL reserves the right to change the TfL Scheme at any time upon written notice to you, including amendments to these Terms and Conditions, the Statement of Requirements and the withdrawal and/or replacement of the Benefits. Where practicable, TfL will endeavour to provide you with at least 30 calendar days notice before such changes are implemented. If you are not happy with any changes to the TfL

Scheme, then you will be entitled to withdraw from it upon 30 days' written notice to TfL and the provisions of Conditions 12 and 14 will apply.

2.11 Changes to Your Business Details

You are responsible for informing TfL immediately of any changes to the details of your operation in terms of structure, personnel and operating licence. All notifications of changes to your details should be notified to the address stated in Condition 21 or such other address as may be notified to you from time to time.

2.12 Warranties and Obligations

Without prejudice to any other warranties expressed elsewhere in these Terms and Conditions or implied by law, the Service Provider warrants, represents and undertakes to TfL that:

2.12.1 the Service Provider:

2.12.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform these Terms and Conditions;

2.12.1.2 is entering into these Terms and Conditions as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under these Terms and Conditions; and

2.12.1.3 has executed these Terms and Conditions by a duly authorised representative of the Service Provider.

2.13 Each warranty and obligation under these Terms and Conditions shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of these Terms and Conditions.

3. **Service Provider's Personnel**

3.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the start date or the expiry or termination of these Terms and Conditions.

3.2 Without prejudice to any of TfL's other rights, powers or remedies, TfL may (without liability to the Service Provider) require that any Service Provider's Personnel be immediately removed from performing the Statement of Requirements if such Service Provider's Personnel, in

TfL's view, have not been properly trained in any way required by these Terms and Conditions, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. TfL shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with TfL's prior written consent).

3.3 The Service Provider shall give TfL, if so requested, full particulars of all persons who are or may be at any time employed pursuant to these Terms and Conditions.

4. **London Living Wage**

4.1 For the purposes of this Condition 4, unless the context indicates otherwise, the expression "**London Living Wage**" means a basic hourly wage (as at the date of these Terms and Conditions) of £9.40 (before tax, other deductions and any increase for overtime) but as is updated from time to time and notified to the Service Provider.

4.2 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the GLA Act has directed that members of TfL ensure that the London Living Wage is paid to anyone engaged by any member of TfL who is required to discharge contractual obligations in Greater London or on TfL's estate.

4.3 Without prejudice to any other provision of these Terms and Conditions, the Service Provider shall:

4.3.1 ensure that none of its employees engaged in the provision of the Statement of Requirements (in Greater London or on TfL's estate but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;

4.3.2 ensure that none of its employees engaged in the provision of the Statement of Requirements is paid less than the amount to which they are entitled in their respective contracts of employment;

4.3.3 provide to TfL such information concerning the London Living Wage and as TfL or its nominees may reasonably require from time to time;

4.3.4 disseminate on behalf of TfL to its employees engaged in the provision of the Statement of Requirements such perception questionnaires as TfL may reasonably require from time to time and promptly collate and return to TfL responses to such questionnaires; and

4.3.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.

- 4.4 For the avoidance of doubt the Service Provider shall implement any updated London Living Wage on or before 1 April in the year following notification of such updated London Living Wage.
- 4.5 TfL reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's Personnel and the staff of its sub-contractors.
- 4.6 Any breach by the Service Provider of the provisions of this Condition 4 shall be treated as a material breach capable of remedy in accordance with Condition 13.2.1.

5. Improper Conduct

You will not, and will ensure that your employees, agents and sub-contractors do not, give, offer, promise, or authorise, directly or indirectly, anything of value to any employee, officer or agent of TfL with the intention of inducing them to perform a relevant function or activity improperly or to reward that person or entity for so doing nor favour any employee, officer or agent of TfL with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of TfL other than as a representative of TfL, without TfL's prior written approval.

6. Records, Audit and Inspection

- 6.1 You will maintain a complete and accurate set of records pertaining to all activities relating to the TfL Approved Assessment Centre Scheme (including but not limited to your application to the ITA, the results of any formal company audit, information and your obligations required pursuant to these Terms and Conditions, evidence of your compliance with the Statement of Requirements, accounting records, written policies and procedures, right to work documents, subcontract files, all evidence of payments received from Candidates supported by invoices and insurance documents ("Records").
- 6.2 You will retain all Records for as long as you are a Service Provider and for a period of not less than six years (or such longer period as may be required by law) following your termination or withdrawal from the TfL Approved Assessment Centre Scheme ("Retention Period").
- 6.3 TfL or any person nominated by TfL has the right to audit any and all Records at any time during the Retention Period on giving to you what TfL considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of your compliance with these Terms and Conditions. You will give all reasonable assistance to TfL or its nominee in conducting such inspection, including making available documents for review and staff for interview.

- 6.4 If the Service Provider Processes payment card data in connection with these Terms and Conditions, it shall ensure that it is and that its internal processes and procedures, information technology systems and any equipment that it provides or is provided on its behalf pursuant to these Terms and Conditions are compliant with the Payment Card Industry Data Security Standard as updated from time to time and available at <https://www.pcisecuritystandards.org> ("PCI DSS"). In addition the Service Provider shall:
- 6.4.1 at least once every 12 months appoint a PCI DSS Qualified Security Assessor ("QSA") to validate that the Service Provider is compliant with (including as set out above) PCI DSS when providing the Statement of Requirements;
 - 6.4.2 without prejudice to any other audit and inspection rights that TfL has under these Terms and Conditions, provide TfL with copies of any reports and other documents provided by or to the QSA in respect of each such validation; and
 - 6.4.3 where the QSA recommends that certain steps should be taken by the Service Provider, promptly take those steps and demonstrate to TfL that those steps have been taken without charge to TfL.
- 6.5 Compliance by the Service Provider with Condition 6.4 shall be without additional charge to TfL.

7. **Intellectual Property Rights**

- 7.1 As between the Service Provider and TfL, all right, title and interest in the Intellectual Property Rights in and connected to the TfL Approved Assessment Centre Scheme (including all TfL brands and logos) will remain the property of TfL. The Service Provider will only be permitted to copy, reproduce or distribute any Intellectual Property pursuant to the TfL Approved Assessment Centre Scheme upon TfL's prior written consent. All other rights not expressly set out in these Terms and Conditions are reserved for TfL. In addition, the Service Provider and the Service Provider's Personnel will not:
- 7.1.1 use any trade marks, trade names or logos so resembling TfL marks as to be likely to cause confusion with TfL or the TfL Group; or
 - 7.1.2 cause or permit anything to be done which might damage or endanger the validity or distinctiveness of, or the goodwill in the Intellectual Property Rights of TfL; or
 - 7.1.3 represent, directly or indirectly, that any of your products or services have been endorsed or approved by TfL or any TfL Group member; or

- 7.1.4 use in advertising, publicity or any other communication, whether written, electronic or by any other means any Intellectual Property Rights of TfL or the name, brand or logo of TfL or TfL Group, without the prior written consent of TfL.
- 7.2 The Service Provider will promptly notify TfL upon becoming aware of any infringement or alleged infringement or potential infringement of TfL's Intellectual Property Rights. TfL will have the exclusive right to determine whether or not any litigation will be instituted or other action taken in connection with any infringement or suspected infringement. For the avoidance of doubt you will not institute any litigation or other action relative to any such infringement or imitation. You will provide all reasonable assistance to TfL to protect the Intellectual Property Rights of TfL and will assist in resolving any questions concerning TfL's Intellectual Property Rights.
- 7.3 You acknowledge that any breach of Condition 7 may result in TfL incurring damages and losses and you will indemnify and keep indemnified TfL for any such damages or losses arising from a breach of Condition 7.
- 7.4 Condition 7 will continue to apply after your termination or withdrawal from the TfL Approved Assessment Centre Scheme howsoever arising and without limit in time.

8. **Confidentiality and Announcements**

- 8.1 Each party will keep confidential any and all Confidential Information that it may acquire in relation to the other party.
- 8.2 Save as otherwise set out in these Terms and Conditions, neither party will use the other party's Confidential Information for any purpose other than to exercise its rights or perform its obligations under these Terms and Conditions. Each party will ensure that its officers and employees comply with the provisions of Condition 8.1.
- 8.3 The obligations on a party set out in condition 8.1 will not apply to any Confidential Information which:
- 8.3.1 either of the parties can demonstrate is in the public domain (other than as a result of a breach of this condition 8); or
 - 8.3.2 a party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure.
- 8.4 The provisions of this Condition 8 will survive your termination or withdrawal from the TfL Approved Assessment Centre Scheme for a period of five years from such termination or withdrawal.

9. **Liability**

- 9.1 Subject to Condition 9.2, Service Providers are responsible for and shall indemnify, keep indemnified and hold harmless TfL and all other members of the TfL Group (including their respective employees, sub-contractors and agents) (“the Indemnified Party”) against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach or negligent performance of these Terms and Conditions by the Service Provider (or any of the Service Provider’s Personnel) (including in each case any non-performance or delay in performance of these Terms and Conditions) or of any breach of statutory duty, misrepresentation or misstatement by you (or any of your employees, agents or sub-contractors).
- 9.2 Service Providers will not be responsible for and shall not indemnify TfL for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under these Terms and Conditions by TfL or any other member of the TfL Group including by any of their respective employees, agents or sub-contractors.
- 9.3 Subject to Condition 9.2, TfL shall not be liable to Service Providers, to any extent, for any individual who fails to attend an Assessment they have registered for with TfL.

10. Insurance

- 10.1 The Service Provider will at its sole cost maintain employer’s liability and as required by law and insurance cover in respect of the following to cover the Statement of Requirements (“**the Insurances**”) and will ensure that TfL’s interest is noted on each and every policy or that any public liability, product liability or employer’s liability insurance includes an Indemnity to Principal clause:

10.1.1 public liability to cover injury and loss to third parties in an amount not less than £[5/10] million per claim;

10.1.2 insurance to cover the loss or damage to any item related to the Statement of Requirements in an amount sufficient to cover the full reinstatement value of the item(s);

10.1.3 professional indemnity or, where professional indemnity insurance is not available, a “financial loss” extension to the public liability insurance referred to in Condition 10.1.1 in an amount not less than £5 million per claim and in the aggregate per annum with two automatic reinstatements. Any professional indemnity insurance or “financial loss” extension shall be renewed for the Term of these Terms and Conditions and for three years (or such other period as TfL may stipulate) following the expiry or termination of these Terms and Conditions.

- 10.2 The insurance cover will be maintained with a reputable insurer.

- 10.3 The Service Provider will produce evidence to TfL on reasonable request of the insurance policies set out in Condition 10.1 and payment of all premiums due on each policy.
- 10.4 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Condition 10.1 being or becoming void, voidable or unenforceable.
- 10.5 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify TfL and shall at the Service Provider's own cost arrange alternative Insurances with an insurer or insurers acceptable to TfL.

11. **Disclaimer**

- 11.1 Any information whether verbal or written, including information contained in newsletters, presentations or materials, provided to you in connection with the TfL Approved Assessment Centre Scheme (including the application and audit process) is for guidance purposes only and should not be relied upon as it does not constitute formal legal or professional advice. TfL excludes to the fullest extent lawfully permitted all liability whatsoever for any loss or damage howsoever caused arising out of or in connection with the use of and/or reliance on any information given to you.
- 11.2 Any investment or expenditure that you incur in connection with the TfL Approved Assessment Centre Scheme is undertaken entirely at your own risk and TfL will have no liability to you in respect thereof.

12. **Withdrawal from the Scheme**

- 12.1 Service Providers are able to voluntarily withdraw from the TfL Approved Assessment Centre Scheme at any time upon giving TfL 30 days' written notice.
- 12.2 If your status as Service Provider is withdrawn or you withdraw from the TfL Scheme, you will not be entitled to any of the Benefits and must immediately remove any Intellectual Property Rights used pursuant to these Terms and Conditions.

13. **Suspension and Termination**

- 13.1 Subject to the Remedial Process in Condition 14, your status as a Service Provider may be suspended or terminated at TfL's sole discretion.
- 13.2 Upon written notice, TfL may in its sole discretion elect to, either immediately suspend or terminate your status as a Service Provider, if you:

- 13.2.1 fail to maintain compliance with the Statement of Requirements; or
 - 13.2.2 commit any act or omission, or make any statement or otherwise behave in any manner, which may result in any harm or damage to the reputation of TfL or to the TfL Approved Assessment Centre Scheme; or
 - 13.2.3 fail to inform TfL of any changes in your circumstances.
- 13.3 upon written notice, TfL may at its discretion, immediately terminate your status as a Service Provider:
- 13.3.1 if you commit any material or persistent breach of these Terms and Conditions and in the case of such a breach that is capable of remedy fail to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by TfL from the date of written notice to you giving details of the breach and requiring it to be remedied); or
 - 13.3.2 if you go bankrupt or insolvent or summon a meeting of your creditors, suffer a proposal for or become subject to any voluntary arrangement, have a receiver, manager or administrative receiver appointed over any of your assets, undertakings or income, have passed a resolution for or are subject to a petition presented to any Court for your winding-up, have a provisional liquidator appointed, are unable to pay your debts within the meaning of the Insolvency Act 1986, cease or threaten to cease to trade, have an administrator appointed in respect of you or are the subject of an application for administration filed at any court, or are the subject of a notice to strike off the register at Companies House; or
 - 13.3.3 if you provide false information during an audit in accordance with Condition 6; or
 - 13.3.4 for TfL's convenience.
- 13.4 Without prejudice to any of TfL's other rights or remedies (whether under these Terms and Conditions or otherwise), if you are in breach of any of these Terms and Conditions, you will, if required to do so by TfL, promptly remedy the breach at your own expense to ensure compliance with these Terms and Conditions.
14. **Consequences of Withdrawal, Suspension or Termination**
- 14.1 If TfL at its sole discretion elects to suspend your status as a Service Provider pursuant to Condition 13 you will be informed of this in writing, along with the duration of the suspension. You will be required during the suspension period to:

- 14.1.1 Agree with TfL a remedial action plan to mitigate the reasons for the suspension, to be approved by TfL, in order to rectify the breach or await further guidance if TfL is required to undertake further investigations in respect of a breach of the Statement of Requirements. The remedial action plan will be solely dependent upon the severity of the Service Provider's breach under the Statement of Requirements ("**Remedial Process**"); and
- 14.1.2 cooperate with TfL at all times.
- 14.2 During the suspension period, you will:
 - 14.2.1 not be entitled to the Benefits; and
 - 14.2.2 promptly remove TfL's Intellectual Property Rights from your Approved Centre(s) (where applicable) and any materials, documentation or other media and will provide TfL with written confirmation that it has been so removed.
- 14.3 Within the suspension period you will be required to demonstrate (at your sole expense) to TfL by an agreed date that you fulfil the SoR.
- 14.4 If a remedial action plan is not agreed within the suspension period, or you fail to pass the remedial action plan advised by TfL, TfL may at its sole discretion, terminate your status as a Service Provider.
- 14.5 On the expiry of the suspension period and the successful completion of the Remedial Process, your TfL suspension will be lifted and your status as a Service Provider will be reinstated. For the avoidance of doubt, and without prejudice to Condition 14.2, you will continue to be bound by these Terms and Conditions (as applicable) during any period of suspension unless and until termination of these Terms and Conditions is effective.
- 14.6 Upon termination, however caused, you will be prevented from re-registering and becoming a Service Provider from the date of termination.
- 14.7 Upon your withdrawal or termination as a Service Provider under the TfL Approved Assessment Centre Scheme:
 - 14.7.1 you will no longer be entitled to, and will immediately cease to use:
 - 14.7.1.1 the Benefits granted under these Terms and Conditions; and
 - 14.7.1.2 the Intellectual Property Rights of TfL and will promptly remove the aforementioned from your Approved Centre(s) (where applicable) and any materials, documentation or other media and will

provide written confirmation to TfL that it has been so removed;

14.7.2 you will promptly deliver up to TfL all property supplied by or on behalf of TfL and all materials incorporating any Confidential Information and/or Intellectual Property Rights of TfL or any TfL Group member; and

14.7.3 both Parties will immediately cease to use or exploit their previous connections with each other directly or indirectly.

14.8 Withdrawal from the TfL Approved Assessment Centre Scheme, suspension or termination of your status as a Service Provider will not prejudice or affect any right, power or remedy which has accrued or will accrue to either Party prior to or after such withdrawal, suspension, downgrade or termination. The provisions in these Terms and Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

15. **Force Majeure**

15.1 Neither party will be deemed to be in breach of these Terms and Conditions or otherwise liable to the other party in any manner whatsoever, for any failure or delay in performing its obligations under these Terms and Conditions to the extent that such failure or delay is due to any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of that party, including without limitation, riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, storm flood, abnormal weather conditions or other natural catastrophe, malicious damage, compliance with any law or governmental order, default of suppliers or strikes, lock-outs or other industrial disputes.

16. **Rights of Third Parties**

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

16.2 Notwithstanding Condition 16.1, the Parties are entitled to vary or rescind these Terms and Conditions without the consent of the TfL Group.

17. **Assignment, Novation and Sub-contracting**

17.1 If TfL wishes to transfer the operation of the TfL Approved Assessment Centre Scheme (in whole or in part) to another person, TfL will notify you of such transfer. Within ten Business Days of a written request

from TfL, you will give effect to any such transfer of all or part of your rights and obligations under the TfL Approved Assessment Centre Scheme to one or more persons nominated by TfL.

- 17.2 Application for, and acceptance onto the TfL Approved Assessment Centre Scheme is personal to you and you will not assign the benefit or delegate the burden of your application or status as a Service Provider or otherwise transfer any right or obligation to any other person under these Terms and Conditions without the prior written consent of TfL.

18. **Non-Waiver of Rights**

- 18.1 No waiver of any of the provisions of these Terms and Conditions is effective unless it is expressly stated to be a waiver and communicated to the other party in writing in accordance with the provisions of Condition 21. The single or partial exercise of any right, power or remedy under these Terms and Conditions will not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

19. **Freedom of Information**

The Service Provider acknowledges that TfL:

- 19.1 is subject to the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation ("FOI Legislation") and agrees to assist and co-operate with TfL to enable TfL to comply with its obligations under the FOI Legislation;
- 19.2 shall be responsible for determining whether a disclosure under Condition 19.1 is exempt from disclosure under the FOI Legislation (and TfL may take advice from the Service Provider) and for determining what information will be disclosed under the FOI Legislation; and
- 19.3 may be obliged under the FOI Legislation to disclose information without consulting or obtaining consent from the Service Provider.

20. **Illegality and Severability**

- 20.1 If any provision of these Terms and Conditions (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision will be severed from these Terms and Conditions and the remaining provisions will continue in full force and effect as if these Terms and Conditions had been executed without the invalid, illegal or unenforceable provision.

21. **Notices**

21.1 Any notice, demand or communication in connection with these Terms and Conditions will be in writing and may be delivered by hand, pre-paid post, facsimile or e-mail addressed to the recipient at the address notified to the other party in writing in accordance with this Condition as an address to which notices, invoices and other documents may be sent:

Jackie Smith
Head of Driver Assessment
Transport for London
Floor 2 G
230 Blackfriars Road
SE1 8NW

21.2 The notice, demand or communication will be deemed to have been duly served:

21.2.1 if delivered by hand, at the time of delivery; or

21.2.2 if delivered by pre-paid post, two Business Days after being posted or in the case of Airmail ten Business Days after being posted; or

21.2.3 if delivered by e-mail, at the time of transmission/sending, provided that a confirming copy is sent by first class post to the other party within one Business Day of transmission/sending.

22. **Entire Agreement**

22.1 Subject to Condition 22.2, the Terms and Conditions, including all documents referred to herein, contain all of the terms which the parties have agreed and supersede all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of these Terms and Conditions. Neither party has been induced to accept these Terms and Conditions by a statement which they do not contain.

22.2 Nothing in this Condition 22.2 excludes any liability which one party would otherwise have in respect of any statement it has made fraudulently to the other party.

23. **Relationship of the Parties**

23.1 Nothing in these Terms and Conditions constitutes, or will be deemed to constitute, a partnership or joint venture between the parties nor, except as expressly provided, will either party be deemed to be, or hold itself out as being, the agent of the other.

23.2 Subject to any express provisions to the contrary in these Terms and Conditions, you have no right or authority to and will not do any act, enter into any contract, make any representation, give any warranty,

incur any liability, assume any obligation, whether express or implied, of any kind on behalf of TfL or bind TfL in any way.

- 23.3 nothing in these Terms and Conditions shall render the Service Provider or the Service Provider's Personnel an employee, worker of TfL and the Service Provider shall not hold itself out as such. It is not the intention of the Parties that the Service Provider or the Service Provider Personnel's employment shall transfer to TfL and, accordingly, the Service Provider shall be responsible for and fully indemnify TfL for and in respect of making appropriate deductions for tax and national insurance contributions from the remuneration paid to its personnel. Where the Service Provider is an individual, she/he will have the status of a self-employed person and shall be responsible for tax and National Insurance contributions. The Service Provider shall fully indemnify TfL, and any replacement service provider of any or all of the Statement of Requirements, for and in respect of any liability for any employment related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Service Provider or the Service Provider's Personnel, servants or agents out of or in connection with the provision of, and / or termination or expiry of these Terms and Conditions.

24. **Counterparts**

These Terms and Conditions may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

25. **Further Assurance**

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

26. **Dispute Resolution**

- 26.1 In the event of any dispute or difference arising out of or in connection with these Terms and Conditions or from the TfL Approved Assessment Centre Scheme ("Dispute"), TfL and your representative will use all reasonable endeavours to negotiate in good faith and settle such Dispute in accordance with this Condition 26.

- 26.2 If the Dispute is not settled through discussion between TfL and your representative within a period of 7 Business Days of the date on which the Dispute arose, the parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("Senior Personnel") of each of the parties for resolution.

26.3 If the Dispute is not settled by the Senior Personnel of the parties within a period of 14 Business Days of the date on which the Dispute is referred to them under Condition 26.2, either party may commence legal proceedings in accordance with Condition 27.

26.4 Neither party will be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Condition 26 and Condition 26 will not apply in respect of any circumstances where such remedies are sought.

27. Governing Law and Jurisdiction

27.1 Subject to Condition 26, the validity, construction and performance of these Terms and Conditions will be governed by English law and, the parties agree to submit to the exclusive jurisdiction of the courts of England.

27.2 If you require more information about the TfL Approved Assessment Centre Scheme please email topoenquiries@tfl.gov.uk

Reference Only

EXECUTED AND DELIVERED AS A DEED on the day and year first before written:

Executed as a deed by affixing the common seal of **Transport for London** in the presence of:

Authorised signatory

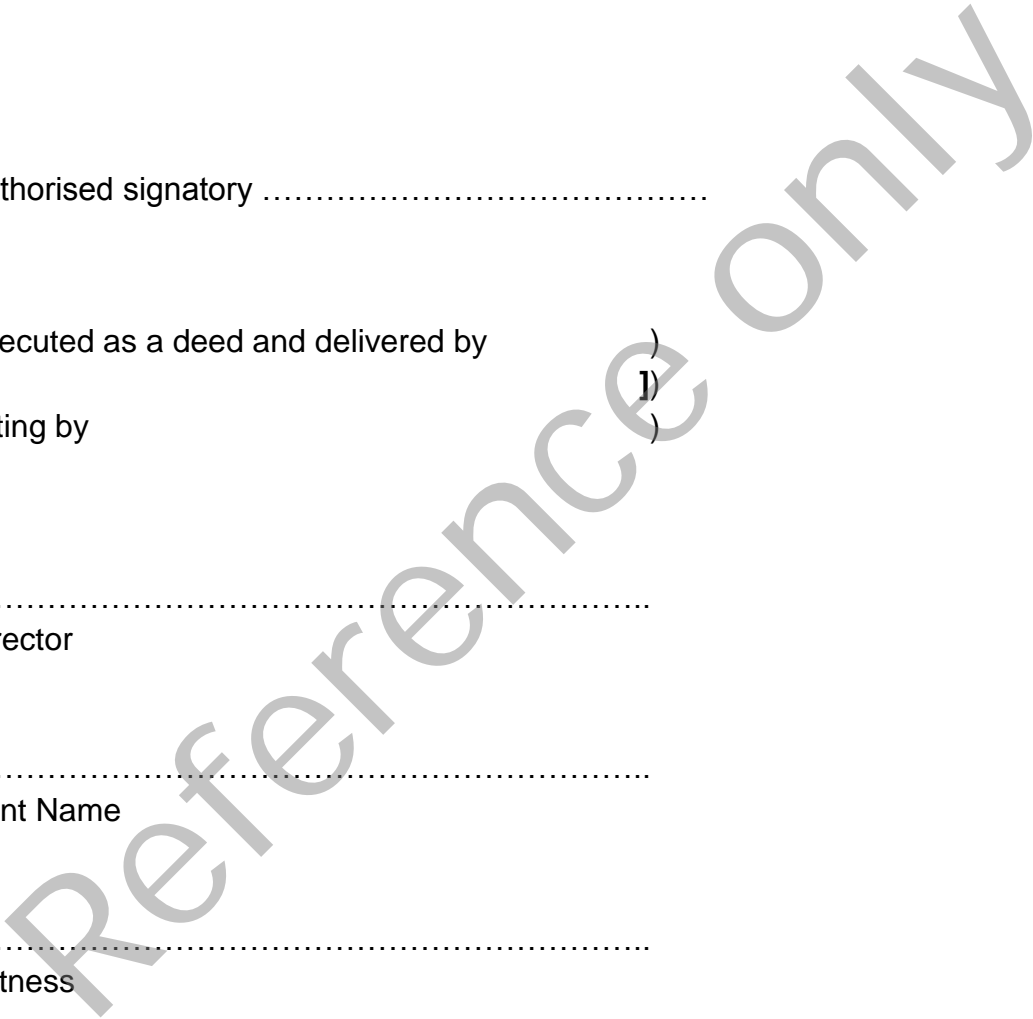
Executed as a deed and delivered by
[acting by]

.....
Director

.....
Print Name

.....
Witness

.....
Print Name



SCHEDULE 1 – STATEMENT OF REQUIREMENTS

Reference only

SCHEDULE 2 – APPLICATION FORM

Reference only