



Contract Reference Number: tfl\_scp\_002009

Date: This Contract is dated 23rd September 2021

**Contract for Services Related to the Fleet Operator Recognition Scheme**

**between**

***Transport for London***

**and**

***Sopra Steria Limited***

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**THIS CONTRACT IS DATED** 23 September 2021

**BETWEEN:**

- (1) **Transport for London** a statutory corporation whose principal place of business is at 5 Endeavour Square, London E20 1JN ("**TfL**"); and
- (2) **Sopra Steria Limited**, a company registered in England and Wales (Company Registration Number 04077975) whose registered office is at Three, Cherry Trees Lane, Hemel Hempstead, Hertfordshire, HP2 7AH ("**the Concessionaire**").

**RECITALS:**

- A. The Fleet Operator Recognition Scheme ("**FORS**") is an accreditation scheme for fleet operators and incentivises safe, green and efficient road fleet operations.
- B. TfL owns certain rights in the branding and intellectual property rights in FORS and wishes to appoint a concessionaire to manage the brand and the day-to-day operation of the scheme and to grow and expand the scheme. The concessionaire appointed will not be responsible for the provision of the FORS Governance and Standards Services (as defined below), which are currently provided by, and will continue to be provided by, a third party.
- C. TfL wishes to appoint the Concessionaire as a concessionaire to provide the Services, exploit the rights and to increase and expand the awareness of FORS and its commercial return and the Concessionaire is willing to do so on the terms and conditions set out in the Contract.

**THE PARTIES AGREE THAT:**

**1. Definitions and Interpretation**

In the Contract (including the Recitals):

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

**"Accredited Operator"**

any business or fleet operator operating commercial vehicles including vans, HGV, coaches and powered two wheelers that are FORS accredited;



<b>Accrued (Commencement)</b>	<b>Subscriptions</b>	means the fees equivalent to the Subscription Fees, or payments for services to be provided by the Current Service Provider or Concessionaire, which the Current Service Provider has collected and which relate to the period following the Service Commencement Date;
<b>Accrued Subscriptions (Exit)</b>		means the Subscription Fees, or payments for services to be provided by the Concessionaire or its successor, which the Concessionaire has collected or is otherwise entitled to which relate to a period after the termination or expiry of this Contract;
<b>"Affected Party"</b>		has the meaning given to it in <b>Clause 30.3</b> ;
<b>"Affinity Partner"</b>		has the definition given to it in <b>Paragraph 2.1 of Schedule 2</b> (Specification);
<b>"Annual Revenue"</b>		means the total revenue or income of the Concessionaire in the relevant Financial Year as a result of or in relation to this Contract or the performance of the Services (including Subscription Fees, Audit Upload Fees, revenue of the Concessionaire as a result of affinity partner arrangements, sponsorship or training/workshop income, but for the avoidance of doubt excluding the income of the Associates or Affinity Partners);
<b>"Approval Process"</b>		the approval process set out in <b>Schedule 12</b> ;
<b>"Approved"</b>		approval by TfL in accordance with the Approval Process and <b>"Approval"</b> shall be construed accordingly;
<b>"Associate"</b>		has the definition given to it in <b>Paragraph 2.1 of Schedule 2</b> (Specification);
<b>"Audit"</b>		all audits carried out by an Audit Provider of any prospective Operator or accredited Operator to ensure that Operator operates in, or continues to operate in, accordance with the FORS Standard, categorised into the following audit types:  (a) Bronze (New, Renewal, MOCA);

	<ul style="list-style-type: none"> <li>(b) Bronze (New, Renewal, MOCA) – small operator;</li> <li>(c) Audit outside UK;</li> <li>(d) Desk Based Audit;</li> <li>(e) Bronze Follow up;</li> <li>(f) Enhanced Audit;</li> <li>(g) Silver and Gold Submissions; and</li> <li>(h) Combined Audits;</li> </ul>
<b>"Auditor"</b>	any individual within the Audit Provider's organisation, approved by the Audit Provider to carry out Audits (as the context so requires);
<b>"Audit Provider"</b>	any organisation approved by the Concessionaire to carry out Audits (as the context so requires);
<b>"Audit Provider Charges"</b>	has the meaning given to it in <b>Paragraph 2.7 of Schedule 5</b> (Financial Provisions);
<b>"Audit Upload Fees"</b>	has the meaning given to it in <b>Paragraph 2.6 of Schedule 5</b> (Financial Provisions);
<b>"Business Day"</b>	any day excluding Saturdays, Sundays or public or bank holidays in England;
<b>"Business Plan"</b>	the Mobilisation and Transition Plan (including Year 1 Business Plan) and each annual business plan thereafter (prepared by the Concessionaire and Approved by TfL in accordance with <b>Clause 5 and Schedule 14</b> ) in relation to the provision of the Services and/or the Commercial Rights;
<b>"Cessation Plan"</b>	a plan agreed between the Parties or determined by TfL pursuant to <b>Clauses 32.1 to 32.5 (inclusive)</b> to give effect to a Declaration of Ineffectiveness or <b>Clauses 32.6 to 32.10 (inclusive)</b> to give effect to a Public Procurement Termination Event;
<b>"Change in Law"</b>	means any:

- (a) amendment, alteration or modification to or repeal of existing law;
- (b) introduction of any new law;
- (c) judgment of a competent court which changes a binding precedent or the interpretation of any relevant legislation;

which takes effect after the Contract Commencement Date;

**“Commercial Rights”**

the Concessionaire’s rights to exploit and use the FORS Rights and the FORS Branding as specified in this Contract and set out in **Schedule 15** and the Business Plan and such other rights as TfL may agree in writing from time to time but which must always adhere to the FORS Guidelines;

**“Compliance Team”**

has the definition given to it in **Paragraph 2.1 of Schedule 2** (Specification);

**“Concession Charges”**

the concession charges payable by the Concessionaire to TfL in accordance with **Paragraph 1 of Schedule 5** (Financial Provisions);

**“Concessionaire Equipment”**

the equipment and materials of whatsoever nature used by the Concessionaire in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to TfL under the Contract;

**“Concessionaire’s Personnel”**

all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Concessionaire and any of their respective employees, as are engaged in the performance of any of the Services and including the Key Personnel;

**“Concessionaire Solution”**

the Concessionaire's solution for the Services set out in **Schedule 17** (*Concessionaire Solution*) including any annexes of that Schedule;

**“Confidential Information”**

all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to a party (which in the case of TfL shall include 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 that party (which in the case of TfL shall include any member of the TfL Group);
<b>“Contract”</b>	this contract, including the Schedules and all other documents referred to in this contract;
<b>“Contract Commencement Date”</b>	the date for commencement of the Contract specified in <b>Schedule 1</b> ;
<b>“Contract Information”</b>	(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to <b>Clause 8</b> which shall consist of the Concessionaire’s name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;
<b>“Contract Manager”</b>	the person named as such in <b>Schedule 1</b> or such other person as notified to the Concessionaire by TfL;
<b>"Contract Year"</b>	a period of twelve months commencing on the Contract Commencement Date and on each successive anniversary of the Contract Commencement Date and ending on the day before each successive anniversary of the Contract Commencement Date;
<b>"Current Service Provider"</b>	means the provider or providers of services substantially similar to the Services immediately before the Service Commencement Date;
<b>“Data Protection Legislation”</b>	means: <ul style="list-style-type: none"> <li>(a) the Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data;</li> </ul>

- (b) Directive (EU) 2016/680 (the Law Enforcement Directive);
- (c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018;
- (d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and
- (e) the Privacy and Electronic Communications (EC Directive) Regulations 2003;

**“Declaration of Ineffectiveness”**

a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulations 113(2)(a) or 118(3) of the Utilities Contracts Regulations 2016 or Regulation 59 of the Concession Contracts Regulations 2016;

**Development Costs**

Means costs incurred by the Concessionaire which:

- a) are costs incurred by the Concessionaire exclusively in relation to this Agreement;
- b) but are not costs incurred in the ordinary course of providing or administering the Services;
- c) and have been specifically Approved by TfL as being Development Costs in the Business Plan

**"Direct Costs"**

means the costs reasonably incurred by the Concessionaire in the relevant Financial Year directly as a result of or in relation to this Contract or the performance of the Services, including apportioned indirect and Overhead Costs, of the nature as shown within Appendix 19 (Commercial Performance) to Schedule 2 (Specification);

<b>“Disaster”</b>	unplanned interruption (whether of information processing facilities or systems or otherwise), including fire, interruption in power supply, act of terrorism, threat of act of terrorism, earthquake, extraordinary storm, flood or abnormal weather conditions, which impairs the ability of the Concessionaire to perform the Services (in whole or in part and other than in some superficial manner) to the standard of the Service Level Agreements and/or in accordance with this Contract;
<b>“Disaster Recovery Plan”</b>	Concessionaire’s plan for its emergency response, back-up procedures and business continuity in the event of a Disaster the current version of which is set out at <b>Schedule 10</b> to this Contract;
<b>“Dispute”</b>	has the meaning given to it in <b>Clause 29.1</b> ;
<b>“Dispute Resolution Procedure”</b>	procedure for resolving/attempting to resolve disputes, as set out in <b>Clause 29</b> ;
<b>“Electronic Invoicing Platform”</b>	TfL's invoicing platform for the submission and receipt of electronic invoices;
<b>“Electronic Procure-to-Pay (eP2P) Vendor Handbook”</b>	the handbook setting out the system, format, file requirements and steps for registering to use and using the Electronic Invoicing Platform as updated from time to time, a copy of which can be downloaded from the following link- <a href="https://tfl.gov.uk/corporate/publications-and-reports/procurement-information#on-this-page-5">https://tfl.gov.uk/corporate/publications-and-reports/procurement-information#on-this-page-5</a> ;
<b>"Escalation Process"</b>	means the escalation process to be followed should the Concessionaire fail to meet certain Service Level Agreements as set out in <b>Paragraph 1.4 of Schedule 11</b> (Service Level Agreements);
<b>"Escalation Process Level"</b>	means each level of the Escalation Process as described in <b>Schedule 11</b> (Service Level Agreements);
<b>“Financial Year”</b>	means the annual period from 1 April to 31 March;
<b>“Force Majeure Event”</b>	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 Affected Party to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

**“FORS Branding”**

the branding set out in the FORS Guidelines;

**“FORS Executive Group”**

a sub-group of the FORS Governance and Standards Advisory Group which endorses and approves any changes to Subscription Fees submitted by the Concessionaire;

**“FORS Governance and Standards Services”**

means any services in relation to:

- (a) the setting, changing, developing or improving of the FORS Standard;
- (b) the hearing or adjudication of:
  - (i) any Operator appeals relating to their compliance with, or any enforcement action taken against them, in respect of FORS; or
  - (ii) any Audit Provider application appeals;
- (c) the approval of any training recognised to meet the standard required; and/or
- (d) approving and endorsing any commercial changes to FORS Operator membership subscriptions;

**“FORS Guidelines”**

the guidelines set out in **Schedule 9** as amended by TfL from time to time;

<b>“FORS Rights”</b>	the rights (including all Intellectual Property Rights) owned by TfL in relation to FORS including those as set out in <b>Schedule 13</b> ;
<b>"FORS Software"</b>	has the meaning given to it in <b>Paragraph A4.5 of Schedule 2</b> ;
<b>"Governance and Standards of FORS Supplier"</b>	the third party supplier appointed by TfL to provide the FORS Governance and Standards Services;
<b>“Group Company”</b>	<p>in respect of a Party, its Holding Companies, its Subsidiaries and the Subsidiaries of any of its Holding Companies from time to time ( “Subsidiary” having the meaning 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:</p> <ul style="list-style-type: none"> <li>(a) any of its subsidiaries is a member of that other company; or</li> <li>(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</li> <li>(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);</li> </ul>
<b>“Holding Company”</b>	any company which from time to time directly or indirectly controls the Concessionaire as set out by section 1159 of the Companies Act 2006;
<b>“Key Personnel”</b>	the Concessionaire’s key personnel named in <b>Schedule 1</b> ;
<b>“Insolvency Event”</b>	<p>any of the following:</p> <ul style="list-style-type: none"> <li>(a) either or both of the Concessionaire and/or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;</li> </ul>



- (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of either of both of the Concessionaire or the Holding Company;
- (c) being a company, the Concessionaire and/or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);
- (d) either or both of the Concessionaire and/or the Holding Company calling a meeting, giving notice, passing a resolution, making an application, filing documents or taking any other steps in respect of obtaining a moratorium or in the event an order is made to obtain a moratorium for either or both of the Concessionaire and/or the Holding Company;
- (e) either or both of the Concessionaire or the Holding Company ceasing or threatening to cease to carry on its business for any reason and/or being unable to pay its debts within the meaning of the Insolvency Act 1986;
- (f) being an individual or firm, the Concessionaire becoming bankrupt or dying; or
- (g) any similar event to those in (a) to (f) above occurring in relation to either or both of the Concessionaire or the Holding Company under the law of any applicable jurisdiction for those purposes;

**“Intellectual Property Rights”**

any patent, know-how, trade mark or name, service mark, design right, 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;

**“Losses”**

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct losses (including but not limited to pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

**“Maintain”**

to maintain and continue, as a minimum, the functionality or standard of the FORS Software, and related documentation and materials as at the time provided to the Concessionaire by TfL and to ensure such FORS Software, documentation and materials remain compliant with legislation, best practice and industry standards as appropriate;

**“Mobilisation Period”**

means the period specified in **Schedule 3**;

**“Mobilisation and Transition Plan”**

means the plan set out in **Schedule 3** for the orderly handover of the Services (including any preparatory works to be carried out by the Concessionaire) to the Concessionaire during the Mobilisation Period as Approved by TfL;

**"Net Profit"**

means for a Financial Year the Annual Revenue for that Financial Year less the Direct Costs for that Financial Year, as shown within **Appendix 19** (Commercial Performance) to **Schedule 2** (Specification);

**"Open-Book Financial Report"**

has the meaning given to it in **Paragraph 3.17.9** in **Schedule 2** (Specification);

<b>"Operator"</b>		any business or fleet operator operating commercial vehicles including vans, HGV, coaches and powered two wheelers;
<b>"Overhead Costs"</b>		means those amounts, not exceeding the Overhead Costs' Cap, which reflect a reasonable apportionment of the Concessionaire's indirect corporate costs, including governance, facilities, finance, legal, marketing, HR, insurance and communications financing, marketing, advertising, research and development; corporate IT systems and security; facilities and administration costs and insurance costs;
<b>"Overhead Costs' Cap"</b>		means 28.0% of Concessionaire Annual Revenue;
<b>"Parties"</b>		TfL and the Concessionaire (including their successors and permitted assignees) and <b>"Party"</b> shall mean either of them as the case may be;
<b>"PDF Invoices"</b>		invoices in PDF (portable document format) format;
<b>"Personal Data"</b>		has the meaning given to it in the Data Protection Legislation;
<b>"Practitioner"</b>		has the meaning given to it in <b>Paragraph 2.1 of Schedule 2</b> (Specification);
<b>"Processing"</b>		has the meaning given to it in the Data Protection Legislation;
<b>"Procurement Manager"</b>		the person named as such in <b>Schedule 1</b> and referred to in <b>Clause 8</b> or such other person as notified to the Concessionaire by TfL;
<b>"Professional Working Group"</b>	<b>Development</b>	has the meaning given to it in <b>Paragraph 2.1 of Schedule 2</b> (Specification);
<b>"Public Body"</b>		means any company, organisation or body of any nature or structure that delivers (in whole or in part) any public service which is (in whole or in part) publicly funded and whose control, or more than 50% of its ownership, is in the public domain;

<b>"Public Procurement Termination Event"</b>	has the meaning given to it in <b>Clause 32.7</b> ;
<b>"Public Procurement Termination Grounds"</b>	any one or more of the grounds described either in Regulation 73(1) of the Public Contracts Regulations 2015 or Regulation 89(1) of the Utilities Contracts Regulations 2016 or Regulation 44(1) of the Concession Contracts Regulations;
<b>"Quality Assurance" or "QA"</b>	has the meaning set out in <b>Paragraph 3.11 of Schedule 2</b> (Specification), to be performed by the Concessionaire in accordance with this <b>Paragraphs 3.11 and 3.12.6 of Schedule 2</b> (Specification);
<b>"Quarterly and Annual Reports"</b>	the reports set out in <b>Paragraph 3.8.10 of Schedule 2</b> (Specification);
<b>"Replacement Contractor"</b>	a contractor who will take over and replace the Concessionaire on termination or expiry of this Contract;
<b>"Royalty Charge"</b>	has the meaning given to it in <b>Paragraph 6 of Schedule 5</b> (Financial Provisions);
<b>"Senior Auditor"</b>	has the definition given to it in <b>Paragraph 2.1 of Schedule 2</b> (Specification);
<b>"Service Commencement Date"</b>	the date for commencement of the Services set out in <b>Schedule 1</b> ;
<b>"Service Credits"</b>	credits which accrue and monetary sums payable (if applicable) in respect of failures by the Concessionaire to achieve certain of the Service Level Agreements, such credits and monetary sums (if applicable) to be determined and payable as set out in this Contract and <b>Schedule 11</b> ;
<b>"Service Level Agreements"</b>	standards of performance to be achieved and reported to TfL for the Services as set out in <b>Schedule 11</b> ;
<b>"Services"</b>	(a) subject to <b>Clause 29.6</b> all or any part of the services to be provided to, or activities to be undertaken and completed for, TfL by the Concessionaire under the Contract, including those detailed in the Specification including

any variations to such services and/or activities pursuant to **Clause 35**; and

- (b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;

**"Service Year"**

means each annual period running from the Service Commencement Date (or from an anniversary of the Service Commencement Date, as the case may be) to the next anniversary of the Service Commencement Date, repeating for the duration of the Term;

**"Specification"**

the specification and other requirements set out in **Schedule 2**;

**"Specifier"**

has the definition given to it in **Paragraph 2.1 of Schedule 2** (Specification);

**"Subscription Fees"**

all annual fees and costs paid by each Operator to the Concessionaire to initially obtain and thereafter maintain its membership to FORS and its FORS accreditation;

**"Supernormal Profit"**

Means as defined in Clause 7.4;

**"Supporter"**

has the definition given to it in **Paragraph 2.1 of Schedule 2** (Specification);

**"Term"**

the period during which the Contract continues in force as provided in **Clause 2** and **Schedule 1**;

**"Territory"**

the United Kingdom of Great Britain and Northern Ireland, Europe, Middle East, Asia and Africa. The Territory shall not include North America, South America or Oceania;

**"TfL Assets"**

means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to TfL or any member of the TfL Group;

<b>“TfL Group”</b>	TfL and all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any <b>“member of the TfL Group”</b> shall refer to TfL or any such subsidiary;
<b>“TfL Premises”</b>	any land or premises (including temporary buildings) owned or occupied by or on behalf of TfL or any member of the TfL Group);
<b>“Transparency Commitment”</b>	means TfL's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and TfL's own published transparency commitments;
<b>"Unit Cost"</b>	has the meaning given to it in <b>Paragraph 2.1 of Schedule 4</b> (Specification), but excludes Development Costs; and
<b>“VAT”</b>	means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 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 the Contract;
- 1.4 a reference to any document other than as specified in **Clause 1.3** and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a Paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the Paragraph in that Schedule;

in the event, and only to the extent, of any conflict between the Clauses and the Schedules and/or any annexes to the schedules, the conflict shall be resolved in accordance with the following order of precedence:

- 1.6.1 Schedule 2 (Special Conditions of Contract);
  - 1.6.2 the Clauses;
  - 1.6.3 **Schedule 4** (Specification) and **Schedule 11** (Service Level Agreements) and their annexes;
  - 1.6.4 any other Schedules and their annexes (other than **Schedule 17** (Concessionaire Solution) and its annexes); and
  - 1.6.5 **Schedule 17** (Concessionaire Solution) and its annexes (if any),
- 1.7 unless a conflicting part of a Schedule is explicitly expressed to take precedence over another Clause or Schedule. the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.8 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.9 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

## 2. **Commencement and Duration**

- 2.1 The Contract commences on the Contract Commencement Date and continues in force for the duration stated in **Schedule 1** unless terminated earlier in accordance with **Clause 30**.

## 3. **Mobilisation Period**

- 3.1 The Concessionaire shall implement the Mobilisation and Transition Plan no later than the Services Commencement Date and shall complete the tasks and obligations set out therein during the Mobilisation Period (together with any other services it is required to provide during the Mobilisation Period pursuant to the terms of this Agreement) and in accordance with the terms of and timescales set out in the Mobilisation and Transition Plan.
- 3.2 The Concessionaire shall ensure that the Mobilisation and Transition Plan is implemented in such a manner so as to ensure the orderly and seamless handover of the Services to the Concessionaire.

- 3.3 The Concessionaire shall apply the same level of skill, care and diligence in the performance of its tasks and obligations under the Mobilisation and Transition Plan as it is required to apply in the provision of the Services.

#### 4. **The Services**

##### 4.1 The Concessionaire:

- 4.1.1 shall provide the Services from the Service Commencement Date in accordance with the Contract including in accordance with the Service Level Agreements;
- 4.1.2 acknowledges that it has sufficient information about TfL and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;
- 4.1.3 shall neither be entitled to any payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Concessionaire of any fact relating to the Specification or otherwise to the Contract; and
- 4.1.4 shall comply with all lawful and reasonable directions of TfL relating to its performance of the Services.

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

##### 4.3 The Concessionaire shall provide the Services:

- 4.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced Concessionaires providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
- 4.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification;
- 4.3.3 to the extent the Concessionaire's Solution contains additions or enhancements to the Specification, in conformance with the Concessionaire's Solution and so that they fulfil the promises



made in or to be reasonably inferred from the Concessionaire's Solution;

- 4.3.4 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;
- 4.3.5 in an economic, efficient and reliable manner and using efficient business processes and ways of working;
- 4.3.6 in good faith and in an open and honest manner; and
- 4.3.7 so that they are properly managed and monitored and shall immediately inform TfL if any aspect of the Contract is not being or is unable to be performed.

4.4 The Concessionaire shall:

- 4.4.1 operate and deliver the Services in accordance with the Specification and each Business Plan;
- 4.4.2 refer only to the Services as "FORS" or "the Fleet Operator Recognition Scheme";
- 4.4.3 operate the Services using the website domain [www.fors-online.org.uk](http://www.fors-online.org.uk);
- 4.4.4 comply at all times with the FORS Guidelines;
- 4.4.5 co-operate with the Governance and Standards of FORS Supplier, in accordance with **Clause 6** below;
- 4.4.6 ensure that it does not embarrass TfL or otherwise engage in any act or omission that does, or is reasonably likely to, result in adverse publicity in respect of FORS or otherwise bring TfL or FORS into disrepute;
- 4.4.7 ensure that its advertising, marketing and promotion of FORS or its use of the FORS trade marks or logos in accordance with this Contract in no way reduces or diminish the reputation, image, prestige and goodwill of FORS and its trade marks and logos;
- 4.4.8 ensure that the branding of the FORS website (and all other related communications and materials, whether electronic, paper-based or otherwise) feature the FORS name and branding prominently;

- 4.4.9 ensure that all electronic communications from or in connection with the Services originate from an electronic mail address which includes “@FORS-online.org.uk”;
- 4.4.10 not display its own or any other parties’ names logo or other branding with any prominence on the FORS website or any other related communications and materials (whether electronic, paper-based or otherwise) without the prior written consent of TfL; and
- 4.4.11 adapt the Services as is necessary to comply with any Changes in Law.
- 4.4.12 Where there are
  - 4.4.12.1 changes to the FORS Standard; or
  - 4.4.12.2 any other changes to FORS implemented by the Governance and Standards of FORS Supplier or which become required so as to properly comply with the FORS Governance and Standards Services;

then the Concessionaire shall adapt the Services as necessary to reflect such changes, save that the Concessionaire shall have no obligation to make such change where such change will have the effect of materially increasing the costs of the Concessionaire in providing Services which cannot be reasonably recovered by the Concessionaire by increased revenue, unless and until the Concessionaire and TfL have agreed in writing, acting reasonably, a variation to this Agreement .
- 4.5 The Concessionaire shall have an ongoing and continuous obligation throughout the Term to:
  - 4.5.1 increase and expand awareness of FORS within the Territory and to seek out and to exploit opportunities as required in order to do so; and
  - 4.5.2 identify and implement, as appropriate, any new or potential improvements to the Services which improve the efficiency or cost effectiveness of the Services.

- 4.6 Should the Concessionaire fail to meet certain of the Service Level Agreements, Service Credits shall accrue and (where applicable) monetary sums shall be payable by the Concessionaire to TfL in accordance with **Schedule 11**. Service Credits shall not be TfL's sole and exclusive remedy under this Contract.
- 4.7 the introduction of or amendment to any TfL policy, instruction or guidance on any matters relevant to the operation and/or administration of one or more Schemes,
- 4.8 In addition to TfL's rights under **Clause 4.6** and without prejudice to any other rights or remedies TfL may have, where in the reasonable opinion of TfL the Concessionaire has failed to provide the Services or any part of them in accordance with the Contract, the Concessionaire shall, without prejudice to any of TfL's other rights, re-perform the Services or part thereof as requested by TfL at no additional cost and within such period of time as reasonably specified by TfL.
- 4.9 Where reasonably requested to do so by TfL and provided the Concessionaire is willing to so contract, the Concessionaire shall contract with such other member(s) of the TfL Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 4.10 Throughout the term of the Contract the Concessionaire shall from time to time whenever requested by TfL (and for the avoidance of doubt in addition to the Concessionaire's obligations under this Agreement to provide the Quarterly and Annual Reports and any Management Accounts) gather, collate and give to TfL any data (including open book financial data), records, written or oral advice or any other information regarding any of the Services, the Subscription Fees, the Audit Provider Charges or any other fees received or paid by the Concessionaire pursuant to this Contract as TfL may reasonably require and as is necessary for TfL to ascertain whether the Concessionaire has complied with any of its obligations under the Contract. The Concessionaire shall provide all such requested data, information, records or advice within the timeframes required by TfL.
- 4.11 Where a format for electronic receipt of orders by the Concessionaire is set out in **Schedule 1**, the Concessionaire shall, unless TfL requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.
- 4.12 The Concessionaire hereby agrees and acknowledges that the Concessionaire, must be, and must be seen to be, fair and impartial in

its day-to-day running and management of FORS. The Concessionaire shall not:

- 4.12.1 be an Audit Provider; or
- 4.12.2 allow or appoint any member of the Concessionaire's Group or any other person or body which has any interest in, or which is otherwise related to or under the control of the Concessionaire to seek to become or to be an Audit Provider; or
- 4.12.3 become a member of, promote or hold any accreditations under any scheme which TfL considers, in its reasonable discretion, to be a competitor scheme of FORS or which provides accreditations that compete with FORS accreditations, unless approved in writing by TfL (acting reasonably);
- 4.12.4 take any other action which could conflict with, or be seen to conflict with, its obligation to run and manage FORS in a fair and impartial manner.

## 5. **Grant of Commercial Rights and Business Planning**

- 5.1 In consideration of the Concessionaire providing TfL with the Services fully in accordance with this Contract, TfL grants to the Concessionaire the Commercial Rights.
- 5.2 The Services shall be supplied by the Concessionaire in accordance with the principles, and so as to meet the targets set out in, each Business Plan. The parties will agree each Business Plan in accordance with the provisions set out in **Schedule 14** (Business Plan).

## 6. **Co-operation with Governance and Standards of FORS Supplier**

- 6.1 The Concessionaire shall (and shall procure that all sub-contractors shall) co-operate fully and promptly with the Governance and Standards of FORS Supplier as is necessary to provide the Services.
- 6.2 Without prejudice to **Clause 6.1**, the Concessionaire shall:
  - 6.2.1 on reasonable notice by TfL and/or the Governance and Standards of FORS Supplier, give the Governance and Standards of FORS Supplier access to relevant Concessionaire's records, reports, documentation, information or data regarding the operation and delivery of the Services as is required by the Governance and Standards of FORS Supplier to properly provide the FORS Governance and Standards Services;

- 6.2.2 on reasonable notice by TfL, attend any meetings with the Governance and Standards of FORS Supplier;
- 6.2.3 ensure that any issues which may develop between the Governance and Standards of FORS Supplier and the Concessionaire are managed with the aim of resolving such issues in a manner which is in the best interests of FORS;
- 6.2.4 co-ordinate its efforts with TfL and the Governance and Standards of FORS Supplier to ensure that any problems or faults relating to the Services which may be caused or contributed by circumstances on the Governance and Standards of FORS Supplier's provision of the FORS Governance and Standards Services, are resolved in an efficient and prompt manner; and
- 6.2.5 establish such operational arrangements with the Governance and Standards of FORS Supplier to give effect to the co-operation required between them pursuant to this Clause.

## 7. Financial Provisions

- 7.1 The financial provisions of **Schedule 5** shall apply.
- 7.2 For the avoidance of doubt, no charges for the provision of the Services or costs of any kind whatsoever, including all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Concessionaire in discharging its obligations under the Contract, shall be payable by TfL to the Concessionaire.
- 7.3 TfL will procure that the Current Service Provider pays to the Concessionaire the Accrued Subscriptions (Commencement).
- 7.4 Within 5 Business Days of the termination or expiry of this Contract the Concessionaire shall pay to TfL or if directed by TfL a Replacement Service Provider the Accrued Subscriptions (Exit). On TfL's written request from time to time the Concessionaire shall confirm the amount of the Accrued Subscriptions (Exit) and the evidence supporting that calculation.
- 7.5 Supernormal Profit
  - 7.5.1 For the purposes of this **Clause 7.5, "Supernormal Profit"** means any Net Profit generated by the Concessionaire in any Financial Year which exceeds a sum equal to [REDACTED] per cent ([REDACTED]%) of the Annual Revenue for that Financial Year.
  - 7.5.2 The Concessionaire shall not generate a Supernormal Profit.

- 7.5.3 If at any time the Concessionaire achieves, or its Management Accounts suggest it will achieve, a Supernormal Profit in any Service Year, the Concessionaire shall invest such Supernormal Profit into FORS during the period of the Contract by lowering Subscription Fees (and shall not subsequently increase the Subscription Fees except with the prior written approval of the FORS Executive Group).
- 7.5.4 Should the Concessionaire, in failure of its obligations under **Clause 7.5.3** above, generate a Supernormal Profit in any Service Year, the Concessionaire shall use all reasonable endeavours to re-invest all such Supernormal Profit into FORS within the following Service Year.
- 7.5.5 Should **Clause 7.5.4** apply and TfL, in its sole discretion, consider that the Concessionaire has failed to use all reasonable endeavours to re-invest its Supernormal Profit into FORS within the following Service Year then, without prejudice to any of other rights or remedies TfL may have, Service Credits shall accrue and TfL shall have the right to charge the Concessionaire for those Service Credits in accordance with **Schedule 11** and give formal notice to the Concessionaire to re-invest the Supernormal Profit in accordance with TfL's written instructions within 20 Business Days ("**Warning Notice**").
- 7.5.6 Should **Clause 7.5.5** apply and TfL consider, in its sole opinion, that the Concessionaire has failed to re-invest the Supernormal Profit into FORS in accordance with, or in the period of time specified in, the Warning Notice, then without prejudice to TfL's other rights and remedies:
- 7.5.6.1 TfL may terminate the Contract immediately upon giving the Concessionaire written notice; and
- 7.5.6.2 the Concessionaire shall be required to account to and pay to TfL a sum equivalent to the sum of Supernormal Profit the Concessionaire failed to re-invest into FORS.

## 7.6 Turnover Notification

The Concessionaire will provide TfL with at least three (3) months' written notice if at any time the Concessionaire's turnover that is attributable to this Contract is reasonably likely to exceed £49m in total.

## 7.7 Overhead Costs

7.7.1 At all times during the Term, the Concessionaire will act reasonably and in good faith to notify TfL on a quarterly basis if:

7.7.1.1 the Overhead Costs are materially reduced; and/or

7.7.1.2 the Concessionaire's turnover that is attributable to this Contract is reasonably likely to increase by more than 50% in any Contract Year;

following which the Parties shall negotiate in good faith a reasonable reduction to the applicable Overhead Costs' Cap.

## 8. **Payment Procedures and Approvals**

8.1 TfL shall invoice the Concessionaire for:

8.1.1 the Concession Charges due to TfL on a four-week periodical basis in accordance with the provisions of **Paragraph 1 of Schedule 5** (Financial Provisions);

8.1.2 any Royalty Charge due to TfL in accordance with the provisions of **Paragraph 6 of Schedule 5** (Financial Provisions) as and when it is determined that such Royalty Charge is due; and

8.1.3 any monetary Service Credits due to TfL as and when it is determined that such Service Credits are payable to TfL in accordance with the provisions of **Schedule 11** (Service Level Agreements);

8.1.4 any other sums which may be properly due to TfL pursuant to the terms of this Contract,

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

8.2 TfL shall submit:

8.2.1 PDF Invoices via email to the email address set out in **Schedule 1** and shall ensure that each PDF Invoice has a unique file reference and be a separate PDF file; or

8.2.2 electronic invoices via the Electronic Invoicing Platform and in compliance with the Electronic Procure-to-Pay (eP2P) Vendor Handbook.

- 8.3 PDF Invoices, which are sent by TfL via email, will be deemed to have been received by the Concessionaire at the time of transmission. Electronic invoices will be deemed to have been received by the Concessionaire at the time they are transmitted to the Concessionaire via the Electronic Invoicing Platform.
- 8.4 The Concessionaire shall consider, verify and approve each invoice submitted by TfL in accordance with this **Clause 8**, within seven (7) Business Days of receipt. The Concessionaire shall make full and clear payment of all invoices by bank transfer (Bank Automated Clearance System (BACS)) or such other method as TfL may choose from time to time within 30 days of receipt of such invoice.
- 8.5 If the Concessionaire has a bona fide dispute in respect of the whole or part of any invoice the Concessionaire shall notify TfL of the nature of such dispute in writing within twenty (20) days of receipt of the invoice giving all details and the Parties shall work together to resolve the dispute. Upon resolution, TfL shall submit a revised invoice to the Concessionaire and the Concessionaire shall make the appropriate payment in accordance with this Contract. Notwithstanding any such dispute, the Concessionaire shall make payment of any non-disputed part of any invoice in accordance with this Contract.
- 8.6 The Concessionaire shall not be entitled to dispute any properly submitted invoice solely due to its own undue delay in considering and verifying it.
- 8.7 No invoice issued by TfL or payment by the Concessionaire of any TfL invoice, or other act or omission or approval by TfL or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall indicate or be taken to indicate TfL's acceptance or approval of the Services or any part of them or any act or omission of the Concessionaire, or otherwise prejudice any rights, powers or remedies which TfL may have against the Concessionaire, or absolve the Concessionaire from any obligation or liability imposed on the Concessionaire under or by virtue of the Contract.
- 8.8 Interest shall accrue at the rate of four percent (4%) above the base rate of the Bank of England from time to time on all sums due and payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The Parties agree that this provision constitutes a substantial remedy for late



payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

- 8.9 All payments payable by the Concessionaire to TfL under this Contract will become due immediately on its termination or expiry.

9. **Warranties and Obligations and Limitation of Liability**

- 9.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Concessionaire warrants, represents and undertakes to TfL that:

9.1.1 the Concessionaire:

9.1.1.1 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 the Contract; and

9.1.1.2 is aware of the purposes for which the Services are required and acknowledges that TfL is reliant upon the Concessionaire's expertise and knowledge in the provision of the Services; and

9.1.1.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

- 9.1.2 the Contract is executed by a duly authorised representative of the Concessionaire;

- 9.1.3 all materials, equipment and goods used or supplied by the Concessionaire in connection with the Contract shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and

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

9.2 Each warranty and obligation in this **Clause 9** shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.

9.3 In **clauses 9.4 to 9.7** the following definitions will apply:

**“Event”** an act, event, omission or circumstance; and

**“Liability”** liability arising from a breach of, or a failure to perform or defect or delay in performance of the Concessionaire's obligations under this Contract whether such liability arises in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise.

9.4 Subject to **Clauses 9.5, 9.6 and 9.7** the Concessionaire's aggregate Liability in each Financial Year in respect of Events which occur in the relevant Financial Year will be limited to the sum equal to 150% (one hundred and fifty percent) of the Annual Revenue for that Financial Year.

9.5 Subject to **Clauses 9.6 and 9.7**, the Concessionaire's total aggregate Liability in respect of all Events which occur during the Term shall not exceed the aggregate sum of Annual Revenue during the Term.

9.6 Nothing in this Contract will operate to exclude or restrict either Party's liability (if any):

9.6.1 for death or personal injury resulting from its negligence or the negligence of a person for whom it is vicariously liable;

9.6.2 for its fraud or fraudulent misrepresentation or fraud or fraudulent misrepresentation by a person for whom it is vicariously liable;

9.6.3 for any wilful default or deliberate breach by the Concessionaire of its obligations including suspension or abandonment of performance of the Services without just cause; or

9.6.4 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.

- 9.7 Without prejudice to **Clause 9.4**, nothing in this Contract will operate to exclude or restrict either Party's liability:
- 9.7.1 for any breach of **Clause 27** (Confidentiality and Announcement);
  - 9.7.2 for any breach of **Clause 26** (Protection of Personal Data and Cyber Security);
  - 9.7.3 under the indemnities contained in **Schedule 6** (Employment Provisions);
  - 9.7.4 under the indemnities contained in **Paragraph A5 of Schedule 2** (IP indemnities);
  - 9.7.5 for a deliberate breach of this Contract by that party; or
  - 9.7.6 under the indemnities contained in **Paragraph 7.7 of Schedule 8**.
10. **Operational Management, Open Book Data and Reporting**
- 10.1 TfL authorises the Contract Manager to act as TfL's representative for the Contract.
- 10.2 The Concessionaire shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract, except as set out below or unless otherwise notified by TfL:
- 10.2.1 variations to the Contract;
  - 10.2.2 any matter concerning the terms of the Contract; and
  - 10.2.3 any financial matter,
- which shall be referred to the Procurement Manager.
- 10.3 The Concessionaire shall, without charge, create and provide to TfL the Quarterly and Annual Reports as specified in **Paragraph 3.8.10 of Schedule 2** (Specification) which shall, for the avoidance of doubt, include providing the Open-Book Financial Report on a quarterly basis in accordance with the provisions of **Paragraph 3.17.9 of Schedule 2** (Specification). The Concessionaire shall also, at TfL's request, provide promptly to TfL, at no charge, all other reports it may be required to provide to TfL in accordance with the Specification within the timeframes required as well as all other reports on the provision of the Services as TfL may otherwise reasonably request at any time.

## 11. Concessionaire's Personnel

- 11.1 The provisions of **Schedule 6** shall apply.
- 11.2 Nothing in this Contract will render the Concessionaire's Personnel, an employee, agent or partner of TfL or any member of the TfL Group by virtue of the provision of the Services by the Concessionaire under the Contract, and the Concessionaire shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Concessionaire's Personnel.
- 11.3 The Concessionaire shall provide the Concessionaire's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to TfL.
- 11.4 Without prejudice to any of TfL's other rights, powers or remedies, TfL may (without liability to the Concessionaire) deny access to any Concessionaire's Personnel to any TfL Premises and/or require that any Concessionaire's Personnel be immediately removed from performing the Services if such Concessionaire's Personnel in TfL's view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. TfL shall notify the Concessionaire of such denial and/or requirement in writing and the Concessionaire shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).
- 11.5 The Concessionaire shall give TfL, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Concessionaire shall give TfL reasonable notice of any proposals to change Key Personnel and **Clause 11.3** shall apply to the proposed replacement personnel.
- 11.6 Notwithstanding **Clause 11.1**, the Concessionaire shall indemnify, keep indemnified and hold harmless TfL from and against all Losses which TfL or any other member of the TfL Group incur or suffer in relation to the Concessionaire's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Concessionaire to comply with **Clause 11.4**.

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

## 12. **Sub-Contracting and Change of Ownership**

- 12.1 The Concessionaire shall not assign or sub-contract all or any part of the Services without the prior written consent of TfL, which may be refused or granted subject to such conditions as TfL sees fit.

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

12.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Concessionaire under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;

12.2.2 be responsible for payments to that person;

12.2.3 remain solely responsible and liable to TfL for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Concessionaire;

12.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify TfL in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Concessionaire to TfL under the Contract;

12.2.5 promptly notify TfL in writing of any change to the information notified under **Clause 12.2.4** and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier);

12.2.6 without prejudice to the provisions of **Clause 15.1**, ensure compliance with the Bribery Act 2010 and any guidance issued

by the Secretary of State under it when appointing any such sub-contractor;

12.2.7 include a term in each sub-contract (of any tier):

12.2.7.1 requiring payment to be made by the Concessionaire or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements;

12.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Concessionaire, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements;

12.2.7.3 entitling the Concessionaire or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law; and

12.2.7.4 a requirement that the sub-contractor includes a provision having the same effect as **Clause 12.2.7.3** above in any sub-contract it awards.

12.3 The Concessionaire shall give notice to TfL within 10 Business Days where:

12.3.1 there is any change in the ownership of the Concessionaire where such change relates to 50% or more of the issued share capital of the Concessionaire; and

12.3.2 there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company; and

12.3.3 (in the case of an unincorporated Concessionaire) give notice to TfL if there is any change in the management personnel of

the Concessionaire, which alone or taken with any other change in management personnel not previously notified to TfL, equates to a change in the identity of 50% or more of the management personnel of the Concessionaire.

- 12.3.4 Upon the occurrence of any of the events referred to at **Clauses 12.3.1 – 12.3.3** above, TfL shall have the right to terminate the Contract.

### 13. **Conflict of Interest**

- 13.1 The Concessionaire warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the TfL Group, save to the extent fully disclosed to and approved by TfL.
- 13.2 The Concessionaire shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify TfL in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the TfL Group and shall work with TfL to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to TfL's satisfaction, provided that, where TfL is not so satisfied, it may terminate the Contract in accordance with **Clause 30.1.4**.

### 14. **Access to Premises and Assets**

- 14.1 The Concessionaire will have no rights to access any TfL Premises in connection with the proper performance of the Contract.
- 14.2 Subject to **Clause 11.4** any access to TfL Assets made available to the Concessionaire in connection with the proper performance of the Contract shall be free of charge and shall be used by the Concessionaire solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, the Concessionaire shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Concessionaire shall return immediately to TfL in good working order and satisfactory condition (in the reasonable opinion of TfL) all TfL Assets used by the Concessionaire or the Concessionaire's Personnel in the performance of the Services.

## 15. Compliance with Policies and Law

### 15.1 The Concessionaire, at no additional cost to TfL:

- 15.1.1 undertakes to procure that all the Concessionaire's Personnel comply with all of TfL's policies and standards that are relevant to the performance of the Services, (including TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, [www.tfl.gov.uk](http://www.tfl.gov.uk))) and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by TfL for personnel working at TfL Premises or accessing TfL's computer systems. TfL shall provide the Concessionaire with copies of such policies and standards on request;
- 15.1.2 shall provide the Services in compliance with and shall ensure that the Concessionaire'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 Concessionaire's or TfL's business, from time to time in force which are or may become applicable to the Services. The Concessionaire shall promptly notify TfL if the Concessionaire is required to make any change to the Services for the purposes of complying with its obligations under this **Clause 15.1.2**;
- 15.1.3 without limiting the generality of **Clause 15.1.2**, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 15.1.4 acknowledges that TfL is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "**Relevant Protected Characteristic**") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Concessionaire shall



assist and cooperate with TfL where possible in satisfying this duty;

15.1.5 where possible, shall provide the Services in such a manner as to:

15.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

15.1.5.2 eliminate unlawful discrimination; and

15.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

15.1.6 without prejudice to any other provision of this **Clause 15.1** or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Concessionaire from time to time. For the purposes of this **Clause 15.1.6**, "**Traffic Manager**" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004;

15.1.7 shall promptly notify the Concessionaire's Personnel and TfL of any health and safety hazards that exist or may arise in connection with the performance of the Services;

15.1.8 without limiting the generality of **Clause 15.1.2**, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it; and

15.1.9 where applicable to the Concessionaire and without limiting the generality of **Clause 15.1.2**, shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this **Clause 15.1** shall be borne by the Concessionaire.

15.2 In providing the Services, the Concessionaire shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any

noise or vibration) have appropriate regard (insofar as the Concessionaire's activities may impact on the environment) to the need to:

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

### Work Related Road Risk

15.3 For the purposes of **Clauses 15.4 to 15.12 (inclusive)** of this Contract, the following expressions shall have the following meanings:

<b>“Alternative Scheme”</b>	has the meaning given to it in <b>Clause 15.1.4</b> ;
<b>“Approved Progressive Driver Training”</b>	an ongoing programme of Drivers' training to ensure they have the appropriate knowledge, skills and attitude to operate safely on urban roads. This includes the training specific for the urban environment (including on-road experience from a cyclist's perspective), which is required to be completed at least once every 5 years;
<b>“Car-derived Van”</b>	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;
<b>“Category N2 HGV”</b>	a vehicle designed and constructed for the carriage of goods having a MAM exceeding 3,500 kilograms but not exceeding 12,000 kilograms;

<b>“Category N3 HGV”</b>	a vehicle designed and constructed for the carriage of goods and having a MAM exceeding 12,000 kilograms;
<b>“CLOCS Standard”</b>	the Construction Logistics and Community Safety standard, which aims to eliminate risk of a collision between heavy goods vehicles servicing the construction sector and vulnerable road users by ensuring effective practice in the management of operations, vehicles, drivers and construction sites; further information can be found at: <a href="http://www.clocs.org.uk">www.clocs.org.uk</a> ;
<b>“Collision Report”</b>	a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;
<b>“Delivery and Servicing Vehicle”</b>	a HGV, a Van or a Car-derived Van;
<b>“Driver”</b>	any employee of the Concessionaire (including an agency or contracted driver), who operates Delivery and Servicing Vehicles on behalf of the Concessionaire while delivering the Services;
<b>“DVLA”</b>	Driver and Vehicle Licensing Agency;
<b>“Direct Vision Standard” or “DVS”</b>	Direct Vision Standard, a performance based assessment and rating tool, as updated from time to time that measures how much direct vision a Driver has from a Category N3 HGV cab in relation to other road users. Further information can be found at: <a href="http://www.tfl.gov.uk">www.tfl.gov.uk</a> ;

<b>“FORS”</b>	the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating commercial vehicles including vans, HGV, coaches and powered two wheelers. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;
<b>“FORS Standard”</b>	the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at: <a href="http://www.fors-online.org.uk">www.fors-online.org.uk</a> ;
<b>“Gold Accreditation”</b>	the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at: <a href="http://www.fors-online.org.uk">www.fors-online.org.uk</a> ;
<b>“HGV”</b>	a vehicle with a MAM exceeding 3,500 kilograms;
<b>“MAM”</b>	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
<b>“Silver Accreditation”</b>	the minimum level of accreditation within the FORS Standard acceptable for the contract schedule, the requirements of which are more particularly described at: <a href="http://www.fors-online.org.uk">www.fors-online.org.uk</a> ;
<b>“Van”</b>	a vehicle with a MAM not exceeding 3,500 kilograms; and
<b>“WRRR Self-Certification Report”</b>	has the meaning given to it in <b>Clause 15.10</b> .

## **Fleet Operator Recognition Scheme Accreditation**

- 15.4 Where the Concessionaire operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Contract Commencement Date:

- 15.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of TfL, is an acceptable substitute to FORS (the “**Alternative Scheme**”); and
- 15.4.2 (unless already accredited) have attained the standard of Silver Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Silver Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent audit 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 Concessionaire has attained Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

### **Safety Features on HGVs**

- 15.5 The Concessionaire shall ensure that every HGV, which it uses to provide the Services, shall be fitted with safety features consistent with the FORS Silver Accreditation.

### **Construction Logistics and Community Safety (CLOCS)**

- 15.6 Where applicable, for works contracts exceeding a value of £1m:
  - 15.6.1 the Concessionaire shall comply with the CLOCS Standard; and
  - 15.6.2 the Concessionaire shall ensure that the conditions at all sites and locations where:
    - 15.6.2.1 the Services are being delivered; or
    - 15.6.2.2 in connection with the performance of the Services, any waste is being disposed of or supplies are being delivered to or from,

are appropriate for each Category N3 HGV being used in the provision of the Services.

### **Direct Vision Standard (DVS)**

- 15.7 Where applicable, for contracts exceeding a value of £1m where the duration will exceed 12 months and a significant amount of the work will be conducted within the GLA boundaries:

- 15.7.1 the Concessionaire shall comply with the DVS Schedule attached to this Contract as **Schedule 16**; and
- 15.7.2 the Concessionaire shall ensure that:
  - 15.7.2.1 from and including 26 October 2019, all Category N3 HGVs used in the provision of the Services achieve a minimum of a one (1) star Direct Vision Standard rating; and
  - 15.7.2.2 from and including 26 October 2023 all Category N3 HGVs used in the provision of the Services achieve a minimum of three (3) star Direct Vision Standard rating.

### **Driver Training**

- 15.8 Where the Concessionaire operates Delivery and Servicing Vehicles to provide the Services the Concessionaire shall ensure that each of its Drivers attend the Approved Progressive Driver Training throughout the Term of the Contract.

### **Collision Reporting**

- 15.9 Where the Concessionaire operates Delivery and Servicing Vehicles to deliver the Contract, the Concessionaire shall within 15 days of the Contract Commencement Date, provide to TfL a Collision Report. The Concessionaire shall provide to TfL an updated Collision Report within five Business Days of a written request from TfL at any time.

### **Self-Certification of Compliance**

- 15.10 Where the Concessionaire operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Contract Commencement Date, the Concessionaire shall provide a written report to TfL detailing its compliance with **Clauses 15.4, 15.5, 15.6, 15.7, 15.8 and 15.9** (as applicable) of this Contract (the **“WRRR Self-Certification Report”**). The Concessionaire shall provide updates of the WRRR Self-Certification Report to TfL on each six month anniversary of its submission of the initial WRRR Self-Certification Report.

### **Obligations of the Concessionaire Regarding Sub-Contractors**

- 15.11 The Concessionaire shall ensure that those of its sub-contractors who operate Category N2 HGVs, Category N3 HGVs, Vans and/or Car-

derived Vans to provide the Services shall comply with the corresponding provisions of this Contract:

15.11.1 **Clauses 15.4, 15.8, 15.9 and 15.10;** and

15.11.2 for Category N2 HGVs – **Clause 15.5;** and

15.11.3 for Category N3 HGVs – **Clause 15.5**, and, where applicable **15.6, 15.7;**

as if those sub-contractors were a party to this Contract.

### **Failure to Comply**

15.12 Without limiting the effect of any other clause of this Contract relating to termination, if the Concessionaire fails to comply with **Clauses 15.4, 15.5 (where applicable), 15.6 (where applicable), 15.7 (where applicable), 15.8, 15.9, 15.10 and 15.11:**

15.12.1 the Concessionaire has committed a material breach of this Contract; and

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

### **16. London Living Wage**

For the purposes of this **Clause 16** the following expressions have the corresponding meanings:

<b>“CCSL”</b>	the Centre for Civil Society Limited or any relevant replacement organisation as notified by TfL from time to time;
<b>“London Living Wage”</b>	the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website ( <a href="http://www.livingwage.org.uk">www.livingwage.org.uk</a> );
<b>“Subcontractor”</b>	a sub-contractor (of any tier) of the Concessionaire.

- 16.1 The Concessionaire acknowledges and agrees that the Mayor of London pursuant to section 155 of the Greater London Authority Act 1999 has directed that members of the TfL Group ensure that the London Living Wage be paid to anyone engaged by any member of the TfL Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on TfL's estate in the circumstances set out in **Clause 16.3.1**.
- 16.2 Without prejudice to any other provision of this Contract, the Concessionaire shall:
- 16.2.9 ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Services:
- 16.2.9.1 for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; and
- 16.2.9.2 on the TfL's estate including (without limitation) premises and land owned or occupied by TfL,
- be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage;
- 16.2.10 ensure that none of:
- 16.2.10.1 its employees; nor
- 16.2.10.2 the employees of its Sub-contractors,
- engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment;
- 16.2.11 provide to TfL such information concerning the London Living Wage as TfL or its nominees may reasonably require from time to time, including (without limitation):
- 16.2.11.1 all information necessary for TfL to confirm that the Concessionaire is complying with its obligations under **Clause 16**; and
- 16.2.11.2 reasonable evidence that **Clause 16** has been implemented;
- 16.2.12 disseminate on behalf of TfL to:



16.2.12.1 its employees; and

16.2.12.2 the employees of its Sub-contractors,

engaged in the provision of the Services such perception questionnaires as TfL may reasonably require from time to time and promptly collate and return to TfL responses to such questionnaires; and

16.2.13 cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):

16.2.13.1 allowing the CCSL to contact and meet with the Concessionaire's employees and any trade unions representing the Concessionaire's employees;

16.2.13.2 procuring that the Concessionaire's Sub-contractors allow the CCSL to contact and meet with the Subcontractors' employees and any trade unions representing the Sub-contractors' employees,

in order to establish that the obligations in **Clause 16.3.1** have been complied with.

16.3 For the avoidance of doubt the Concessionaire shall:

16.3.1 implement the annual increase in the rate of the London Living Wage; and

16.3.2 procure that its Sub-contractors implement the annual increase in the rate of the London Living Wage,

on or before 1 April in the year following the publication of the increased rate of the London Living Wage.

16.4 TfL reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Concessionaire's staff and the staff of its Sub-contractors.

16.5 Without limiting TfL's rights under any other termination provision in this Contract, the Concessionaire shall remedy any breach of the provisions of this **Clause 16** within four (4) weeks' notice of the same from TfL (the "**Notice Period**"). If the Concessionaire remains in breach of the provisions of this **Clause 16** following the Notice Period, TfL may by

written notice to the Concessionaire immediately terminate this Contract.

## 17. **Corrupt Gifts and Payment of Commission**

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

## 18. **Equipment**

### 18.1 Risk in:

18.1.1 all Concessionaire Equipment shall be with the Concessionaire at all times; and

18.1.2 all other equipment and materials forming part of the Services (title to which will pass to TfL) ("**Materials**") shall be with the Concessionaire at all times until completion of the Services in accordance with the Contract,

regardless of whether or not the Concessionaire Equipment and Materials are located at TfL Premises.

18.2 The Concessionaire shall ensure that all Concessionaire Equipment and all Materials meet all minimum safety standards required from time to time by law.

## 19. **Quality and Best Value**

19.1 The Concessionaire acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such TfL is required to make arrangements to secure continuous improvement in the way it exercises its functions (having regard to a combination of economy, efficiency and effectiveness) and, as such, the Concessionaire shall, where reasonably requested by TfL, participate in any relevant best value review.

## 20. **Records, Audit and Inspection**

20.1 The Concessionaire shall, and shall procure that its sub-contractors shall:

- 20.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Concessionaire's obligations under the Contract and all transactions entered into by the Concessionaire for the purposes of the Contract and including records of all data created by the Concessionaire and its subcontractors pursuant to its and their performance of the Contract or any relevant subcontracted obligations relating to the Contract ("**Records**"); and
- 20.1.2 retain all Records during the Term and for a period of not less than 6 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in Data Protection Legislation) which shall only be retained for as long as necessary, following termination or expiry of the Contract ("**Retention Period**").
- 20.2 From the Service Commencement Date, the Concessionaire shall provide quarterly and annual management accounts to TfL, within 30 days of the end of each quarter or year as applicable, in relation to and specifically for the operation of this Contract ("**Management Accounts**").
- 20.3 The Concessionaire will provide (and will procure that each of its subcontractors will provide) TfL and any person nominated by TfL with the right to audit the Management Accounts and any and all Records of the Concessionaire and each of its subcontractors (to the extent that those Records relate to the performance, monitoring or management of the Contract or any related subcontract) at any time during the Retention Period on giving to the Concessionaire (or any subcontractor as the case may be) what TfL considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Concessionaire's performance of the Services (including compliance with **Clause 15.1**) and/or the performance of any subcontractor related to the Contract. The Concessionaire shall give (and shall procure that each of its subcontractors shall give) all reasonable assistance to TfL or its nominee in conducting such inspection, including making available documents and staff for interview. Without prejudice to the generality of the foregoing, TfL may conduct an annual audit to ensure that the Concessionaire is complying fully with its obligations under this Contract (and that each subcontractor is complying with its obligations relating to any subcontract relating to this Contract) and the Concessionaire will provide (and will procure that each subcontractor provides) full assistance and access to Records, personnel and property (in each

case to the extent that such Records personnel and property relate to the performance, management or operation of the Contract or any related subcontract) to enable TfL and/or its nominated persons to undertake such audit.

## 21. **Set-Off**

All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by TfL arising out of or attributable to this Contract or any other contract between TfL and the Concessionaire may be deducted by TfL from monies due or which may become due to the Concessionaire under this Contract or where TfL under any other contract with any member of the TfL Group or TfL may recover such amount as a debt.

## 22. **Indemnity**

22.1 Subject to **Clause 22.2**, the Concessionaire is responsible for and shall indemnify, keep indemnified and hold harmless each of 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 the Contract by the Concessionaire (or any of the Concessionaire's Personnel) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Concessionaire (or any of its employees, agents or sub-contractors).

22.2 The Concessionaire is not 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 the Contract by TfL and/or any other member of the TfL Group including by any of their respective employees, agents or sub-contractors.

## 23. **Insurance**

23.1 The Concessionaire will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of not less than £5 million per claim (in terms approved by TfL) in respect of the following to cover the Services ("**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 (or clause with equivalent effect):

23.1.1 public liability to cover injury and loss to third parties;

- 23.1.2 insurance to cover the loss or damage to any item related to the Services;
  - 23.1.3 product liability; and
  - 23.1.4 professional indemnity or, where professional indemnity insurance is not available, a “financial loss” extension to the public liability insurance referred to in **Clause 23.1.1** or, if applicable, the product liability insurance referred to in **Clause 23.1.3**. Any professional indemnity insurance or “financial loss” extension shall be renewed for a period of 6 years (or such other period as TfL may stipulate) following the expiry or termination of the Contract.
- 23.2 The insurance cover will be maintained with a reputable insurer.
- 23.3 The Concessionaire will produce evidence to TfL on reasonable request of the insurance policies set out in **Clause 23.1** together with evidence that it has paid all premiums due on each policy. For the avoidance of doubt, the Concessionaire is not required to disclose the value of the premiums paid, which may be redacted as necessary.
- 23.4 The Concessionaire warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in **Clause 23.1** being or becoming void, voidable or unenforceable.
- 23.5 In the event that any of the Insurances are cancelled or not renewed, the Concessionaire shall immediately notify TfL and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to TfL.
24. **TfL’s Data**
- 24.1 The Concessionaire acknowledges TfL's ownership of Intellectual Property Rights which may subsist in TfL’s data. The Concessionaire shall not delete or remove any copyright notices contained within or relating to TfL’s data.
- 24.2 The Concessionaire and TfL shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of TfL’s data and to prevent any corruption or loss of TfL’s data.
- 24.3 The Concessionaire acknowledges and agrees that all data created by the Concessionaire which directly relates to the delivery of the Services in accordance with the Contract will be the property of TfL provided that

this shall not apply to data created by the Concessionaire solely for its internal purposes for the management of the Contract.

## 25. **Intellectual Property Rights**

- 25.1 The Concessionaire hereby assigns with full title guarantee, from the date of creation, to TfL all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed or otherwise created by or on behalf of the Concessionaire in the provision of the Services and/or data or materials held in the FORS Software (as referred to below) ("**the Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.
- 25.2 The Concessionaire shall provide TfL with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.
- 25.3 The Concessionaire shall have no right (save where expressly permitted under the Contract or with TfL's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of TfL.
- 25.4 The Concessionaire shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid.

## 26. **Protection of Personal Data and Cyber Security**

- 26.1 The Concessionaire shall comply with all of its obligations under Data Protection Legislation and, if Processing Personal Data on behalf of TfL, shall only carry out such Processing for the purposes of providing the Services in accordance with **Paragraph A1** of **Schedule 2** of this Contract.
- 26.2 The Concessionaire must follow the 10 Steps to Cyber Security issued by the National Cyber Security Centre.

## 27. **Confidentiality and Announcement**

- 27.1 Subject to **Clauses 27.3, 27.4, 27.5 and 28**, both Parties shall keep confidential:
- 27.1.1 the terms of this Contract; and
- 27.1.2 any and all Confidential Information that it may acquire in relation to the other Party.

- 27.2 Neither Party shall disclose, use or exploit the other Party's Confidential Information for any purpose other than to perform its obligations under this Contract.
- 27.3 The obligations on the Parties set out in **Clause 27.1** will not apply to any Confidential Information:
- 27.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this **Clause 27**);
  - 27.3.2 which a Party is required to disclose by law or by order of a court of competent jurisdiction but then only to the extent of such required disclosure and provided that **Clause 28** shall apply to disclosures required by TfL under the FOI Legislation; or
  - 27.3.3 to the extent that such disclosure is to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agents and sub-contractors.
- 27.4 The Concessionaire may disclose the Confidential Information of TfL on a confidential basis only to:
- 27.4.1 the Concessionaire's Personnel who are directly involved in the performance of this Contract and who need to know the Confidential Information to enable performance of the Services;
  - 27.4.2 its auditors; and/or
  - 27.4.3 its professional advisers for the purposes of obtaining advice in relation to this Contract,
- provided that where the Concessionaire discloses Confidential Information of TfL pursuant to this **Clause 27.4**, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 27.5 TfL may disclose the Confidential Information of the Concessionaire on a confidential basis:
- 27.5.1 to any member of the TfL Group;

- 27.5.2 to any TfL Personnel, professional adviser, auditor, consultant, supplier or other person engaged for any purpose relating to or connected with this Contract;
  - 27.5.3 for the purpose of exercising any of its rights under this Contract including, but not limited to, those set out under **Clause 20** (Records, Audit and Inspection) and in **Schedule 8** (Post Termination Provisions); and/or
  - 27.5.4 to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract.
- 27.6 For the purpose of **Clauses 27.4 and 27.5**, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Supplier or on TfL (as applicable) under this **Clause 27**.
- 27.7 The Concessionaire shall keep secure all materials containing any information in relation to the Contract and its performance.
- 27.8 Except as stated in Clause 41 the Concessionaire shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Contract or that it is providing the Services to TfL or in relation to any matter under or arising from the Contract unless specifically granted permission to do so in writing by TfL. Except as stated otherwise in Clause 41 TfL shall have the right to Approve any announcement before it is made.
- 27.9 The provisions of this **Clause 27** will survive any termination of this Contract for a period of 6 years from termination.

## 28. **Freedom of Information and Transparency**

- 28.1 For the purposes of this **Clause 28**:
- 28.1.1 **“FOI Legislation”** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance or statutory codes of practice 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;
  - 28.1.2 **“Information”** means information recorded in any form held by TfL or by the Concessionaire on behalf of TfL; and



- 28.1.3 “**Information Access Request**” means a request for any Information under the FOI Legislation.
- 28.2 The Concessionaire acknowledges that TfL:
- 28.2.1 is subject to the FOI Legislation and agrees to assist and co-operate with TfL to enable TfL to comply with its obligations under the FOI Legislation; and
- 28.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Concessionaire.
- 28.3 Without prejudice to the generality of **Clause 28.2**, the Concessionaire shall and shall procure that its sub-contractors (if any) shall:
- 28.3.1 transfer to the Contract Manager (or such other person as may be notified by TfL to the Concessionaire) each Information Access Request relevant to the Contract, the Services or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access Request; and
- 28.3.2 in relation to Information held by the Concessionaire on behalf of TfL, provide TfL with details about and/or copies of all such Information that TfL requests and such details and/or copies shall be provided within five (5) Business Days of a request from TfL (or such other period as TfL may reasonably specify), and in such forms as TfL may reasonably specify.
- 28.4 TfL shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.
- 28.5 The Concessionaire shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by TfL.
- 28.6 The Concessionaire acknowledges that TfL is subject to the Transparency Commitment. Accordingly, notwithstanding any of the provisions of **Clause 27** or this **Clause 28**, the Concessionaire hereby gives its consent for TfL to publish the Contract Information to the general public.

- 28.7 TfL may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion TfL may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.
- 28.8 TfL may in its absolute discretion consult with the Concessionaire regarding any redactions to the Contract Information to be published pursuant to **Clause 28.6**. TfL shall make the final decision regarding both publication and redaction of the Contract Information.

29. **Dispute Resolution**

- 29.1 TfL and the Concessionaire shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.
- 29.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Concessionaire within a period of seven (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.
- 29.3 If the Dispute is not resolved within fourteen (14) Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("**Mediation Notice**") to commence such process and the Mediation Notice shall identify one or more proposed mediators.
- 29.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Mediation Notice, either Party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 29.5 Where a dispute is referred to mediation under **Clause 29.3**, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.

- 29.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.
- 29.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within forty (40) Business Days of the service of the Notice either Party may commence proceedings in accordance with **Clause 48**.
- 29.8 For the avoidance of doubt, the Concessionaire shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this **Clause 29**.
- 29.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this **Clause 29** and this **Clause 29** shall not apply in respect of any circumstances where such remedies are sought.

### 30. **Breach and Termination of Contract**

- 30.1 Without prejudice to TfL's right to terminate at common law, TfL may terminate the Contract immediately upon giving notice to the Concessionaire if:
- 30.1.1 in addition and without prejudice to **Clauses 30.1.2 to 30.1.7** (inclusive), the Concessionaire has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within ten (10) Business Days (or such other timeframe as specified in writing by TfL) from the date of written notice to the Concessionaire giving details of the breach and requiring it to be remedied;
  - 30.1.2 the Concessionaire is subject to an Insolvency Event;
  - 30.1.3 in the event that there is a change of ownership referred to in **Clause 12.3** or the Concessionaire is in breach of **Clause 12.3**;
  - 30.1.4 TfL is not satisfied on the issue of any conflict of interest in accordance with **Clause 13**;
  - 30.1.5 the Concessionaire or any of its officers, employees, agents or sub-contractors commits any breach which causes or, in the reasonable opinion of TfL may cause any adverse publicity in

respect of, or serious damage to the reputation of, TfL or to FORS;

- 30.1.6 the Concessionaire or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010;
  - 30.1.7 the Concessionaire commits any of the money laundering related offences listed in the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016; or
  - 30.1.8 the Concessionaire fails to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law.
- 30.2 Without prejudice to any of TfL's other rights, powers or remedies (whether under the Contract or otherwise) if the Concessionaire is in breach of any of its warranties and/or obligations either under **Clause 9** and/or any other provision of this the Contract, the Concessionaire shall, if required to do so by TfL, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this **Clause 30.2** shall prevent TfL from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where TfL so procures any Services or any remedial action, TfL shall be entitled to recover from the Concessionaire all additional cost, loss and expense incurred by TfL and attributable to TfL procuring such Services or remedial action from such alternative contractor.
- 30.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this **Clause 30.3** then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.

- 30.4 Without prejudice to TfL's right to terminate the Contract under **Clause 30.1** or to terminate at common law, TfL may terminate the Contract in whole or in relation to part only of the Services at any time without cause and without liability to the Concessionaire subject to giving the Concessionaire written notice of the period specified in **Schedule 1** provided that this **Clause 30.4** may be disapplied by notice to that effect in **Schedule 1**.
- 30.5 Without prejudice to TfL's right to terminate the Contract under Clauses 30.1, 30.4 or at common law, TfL may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of **Clause 32**.
- 30.6 To the extent that TfL has a right to terminate the Contract under this **Clause 30** then, as an alternative to termination, TfL may by giving notice to the Concessionaire require the Concessionaire to provide part only of the Services with effect from the date specified in TfL's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of "**the Services**" shall be construed accordingly.
- 30.7 The Concessionaire may terminate the Contract on not less than six months written notice (such notice to expire at the end of a Financial Year) if at any time TfL indicates a clear intention in writing that TfL is no longer intending to support the FORS Branding through its political and/or strategic priorities and policies.
31. **Consequences of Termination or Expiry**
- 31.1 The Concessionaire shall comply with all requirements set out in **Schedule 8** (Post Termination Provisions).
- 31.2 Notwithstanding the provisions of **Clause 27**, wherever TfL chooses to put out to tender for a replacement Concessionaire some or all of the Services, the Concessionaire shall disclose to tenderers such information concerning the Services as TfL may require for the purposes of such tender and shall also comply with all requirements as are set out at **Schedule 8**. The Concessionaire may impose upon any recipient of such information such obligations of confidentiality as it may require.
- 31.3 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.
- 31.4 Upon expiry or termination of the Contract (howsoever caused):

- 31.4.1 if the Contract has been terminated by TfL then, subject to Clause 31.3, TfL shall have no liability to the Concessionaire for any losses or costs suffered by the Concessionaire as a consequence of such termination; and
- 31.4.2 the Concessionaire shall, at no further cost to TfL:
  - 31.4.2.1 take all such steps as shall be necessary to agree with TfL a plan for the orderly handover of Services to TfL (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to TfL and to effect such handover;
  - 31.4.2.2 on receipt of TfL's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks provided that the Concessionaire shall not be obliged to comply with this **Clause 31.4.2.2** in respect of information which is required by the Concessionaire to deal with its ongoing obligations under the Contract and to enable it to deal with any claims that may arise after termination of the Contract; and
- 31.4.3 pay to TfL any whole and/or part of any Concession Charges or Royalty Charges that may be owing or due to TfL in relation to any Services properly performed in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with **Schedule 5** or otherwise reasonably determined by TfL; and
- 31.4.4 pay to TfL or, if requested by TfL, directly to any successor concessionaire, the pro-rata aggregate sum of all accrued Subscription Fees that have been paid in advance to the Concessionaire which relate to the period following expiry or termination of the Agreement.
- 31.5 Without prejudice to any other provision of this Contract and in addition to the provisions of **Clause 31.4** if TfL terminates the Contract under **Clause 30.4** or exercises its right to terminate part only of the Services without cause then TfL will from termination provide or procure the provision of FORS (or the terminated Services, as applicable) to the Operators.

- 31.6 On termination or expiry of all or any part of the Contract, TfL may enter into any agreement with any third party or parties as TfL thinks fit to provide any or all of the Services and (save as for where terminated under **Clause 30.4**) the Concessionaire shall be liable for all additional expenditure reasonably incurred by TfL in having such services carried out and all other costs and damages reasonably incurred by TfL in consequence of such termination. TfL may add such costs to any invoice or otherwise recover such costs from the Concessionaire as a debt.
- 31.7 If following the date of termination or expiry of the Contract the Concessionaire receives any Subscription Fees which relate to the subscription period falling, or any services provided by another contractor, after the date of termination, the Concessionaire shall pay all such payments to TfL within fifteen (15) Business Days of receipt.
- 31.8 All payments and arrangements (e.g. bank details and PayPal details) shall be transferred over from the Concessionaire to TfL as received from the FORS website within five (5) Business Days of termination or expiry of the Contract.

## 32. **Declaration of Ineffectiveness and Public Procurement Termination Event**

- 32.1 In the event that a court makes a Declaration of Ineffectiveness, TfL shall promptly notify the Concessionaire. The Parties agree that the provisions of **Clause 31** and **Clauses 32.1, 32.2, 32.4 to 32.6 (inclusive) and 32.12** shall apply as from the time when the Declaration of Ineffectiveness is made.
- 32.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness in respect of the period prior to the Declaration of Ineffectiveness, save as otherwise expressly provided to the contrary in **Clauses 32.1 to 32.6 inclusive**.
- 32.3 During any court proceedings seeking a Declaration of Ineffectiveness, TfL may require the Concessionaire to prepare a Cessation Plan in accordance with this **Clause 32.3** by issuing a notice in writing. As from the date of receipt by the Concessionaire of such notification from TfL, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, TfL shall reasonably determine an appropriate Cessation Plan with the object of achieving:



- 32.3.1 an orderly and efficient cessation of the Services or (at TfL's request) a transition of the Services to TfL or such other entity as TfL may specify; and
  - 32.3.2 minimal disruption or inconvenience to TfL or to customers of the Services or to public passenger transport services or facilities,
  - 32.3.3 in accordance with the provisions of **Clauses 32.2 to 32.6 (inclusive)** and which the Parties agree would have effect in the event that a Declaration of Ineffectiveness is made.
- 32.4 Where there is any conflict or discrepancy between the provisions of **Clause 31** and **Clauses 32.2 to 32.6 (inclusive)** and **32.12** or the Cessation Plan, the provisions of these **Clauses 32.2 to 32.6 (inclusive)** and **32.12** and the Cessation Plan shall prevail.
- 32.5 The Parties will comply with their respective obligations under the Cessation Plan (as agreed by the Parties or, where agreement cannot be reached, as reasonably determined by TfL) in the event that a Declaration of Ineffectiveness is made.
- 32.6 TfL shall pay the Concessionaire's reasonable costs in assisting TfL in preparing, agreeing and complying with the Cessation Plan by setting-off the costs against its next invoice or, if its next invoice is for a lower sum than the sum owed, across a number of its invoices. Such costs shall be based on any comparable costs agreed as part of this Contract or as otherwise reasonably determined by TfL provided that TfL shall not be liable to the Concessionaire for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to any Declaration of Ineffectiveness.
- 32.7 Without prejudice to TfL's rights of termination implied into the Contract by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016 or Regulation 44(3) of the Concession Contracts Regulations 2016, in the event that TfL exercises its right to terminate pursuant to this **Clause 32.7** (a "**Public Procurement Termination Event**"), TfL shall promptly notify the Concessionaire and the Parties agree that:
- 32.7.1 the provisions of **Clause 31** and these **Clauses 32.7 to 32.12 (inclusive)** shall apply as from the date of receipt by the Concessionaire of the notification of the Public Procurement Termination Event; and



- 32.7.2 if there is any conflict or discrepancy between the provisions of **Clause 31** and these **Clauses 32.7 to 32.12** or the Cessation Plan, the provisions of these **Clauses 32.7 to 32.12** and the Cessation Plan shall prevail.
- 32.8 Termination on the Public Procurement Termination Grounds shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such termination on Public Procurement Termination Grounds, in respect of the period prior to such termination, save as otherwise expressly provided in **Clauses 32.7 to 32.11 inclusive**.
- 32.9 As from the date of receipt by the Concessionaire of the notification of the termination on Public Procurement Termination Grounds, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, TfL shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 32.9.1 an orderly and efficient cessation or (at TfL's election) a transition to TfL or such other entity as TfL may specify of: (i) the Services; or (at TfL's election), (ii) the part of the Services which are affected by the Public Procurement Termination Grounds; and
- 32.9.2 minimal disruption or inconvenience to TfL or to customers of the Services or to public passenger transport services or facilities,
- in accordance with the provisions of these **Clauses 32.7 to 32.11 (inclusive)** and to take account of the circumstances of the Public Procurement Termination Grounds.
- 32.10 Upon agreement, or determination by TfL, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 32.11 TfL shall pay the Concessionaire's reasonable costs in assisting TfL in preparing, agreeing and complying with the Cessation Plan, by setting-off the costs against its next invoice or, if its next invoice is for a lower sum than the sum owed, across a number of its invoices. Such costs shall be based on any comparable costs agreed as part of this Contract or as otherwise reasonably determined by TfL, provided that TfL shall not be liable to the Concessionaire for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract as a result of Public Procurement Termination Grounds.

- 32.12 For the avoidance of doubt, the provisions of this **Clause 32** (and applicable definitions) shall survive any termination of the Contract following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

### 33. **Survival**

The provisions of **Clauses 1, 4.1.3, 6, 8, 9.1.4, 9.3 to 9.7 inclusive, 11.1, 12.2.2, 12.2.3, 14.2, 18, 20 to 24 (inclusive), 25.2, 26 to 29 (inclusive), 31, 32 to 35 (inclusive), 37 to 41 (inclusive) and 43 to 48 (inclusive), Paragraphs A4.1, A4.3, A4.4 and A5 of Schedule 2**, and any other Clauses, Paragraphs or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

### 34. **Rights of Third Parties**

- 34.1 Save that any member of the TfL Group and the GLA has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("**Third Party Act**"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 34.2 Notwithstanding **Clause 34.1**, the Parties are entitled to vary or rescind the Contract without the consent of any other person including the GLA or any member of the TfL Group.

### 35. **Contract Variation**

The Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as TfL may dictate and which may be substantially in the form set out in **Schedule 7** and shall not be binding upon the Parties unless completed in accordance with such form of variation.

### 36. **Novation**

- 36.1 TfL may novate or otherwise transfer the Contract (in whole or in part) to any member of the TfL Group or any Public Body without the Concessionaire's consent. TfL shall not novate or otherwise transfer the Contract to any other entity or person without the prior written consent of the Concessionaire.

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

36.3 Subject to **Clause 12** the Contract is personal to the Concessionaire who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of TfL.

37. **Offers of Employment (Non-Solicitation)**

For the duration of the Contract and for a period of **6 months** after expiry or termination of the Contract, the Concessionaire shall not employ or offer employment to any TfL employees or TfL Group employees who have been associated with the provision of the Services by the Concessionaire without TfL's prior written consent. Any breach of this **Clause 37** shall render the Concessionaire liable to pay to TfL a sum equal to the basic salary payable to the employee by the Concessionaire during the first **6 months** of new employment.

38. **Non-Waiver of Rights**

No waiver of any of the provisions of the Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of **Clause 40**. The single or partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

39. **Illegality and Severability**

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

#### 40. **Notices**

With the exception of invoices, any notice, demand or communication in connection with this Contract will be in writing and may be delivered by hand or prepaid recorded delivery first class post addressed to the recipient at its registered office, the address stated in **Schedule 1** or any other address notified to the other Party in writing in accordance with this **Clause 40** as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- 40.1 if delivered by hand, at the time of delivery; or
- 40.2 if delivered by post, 2 Business Days after being posted or in the case of Airmail 14 Business Days after being posted.

#### 41. **Publicity**

- 41.1 Subject to Clause 41.3 no announcement, circular, advertisement or other publicity in connection with this Contract, its subject matter or any ancillary matter will be made or issued by or on behalf of the Concessionaire without the prior written consent of TfL (which shall not be unreasonably withheld or delayed).
- 41.2 Subject to Clause 41.3 the Concessionaire agrees and shall ensure that TfL has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with this Contract.
- 41.3 The Concessionaire is authorised to engage with the media, issuing press releases, advertisements and announcements as is specified in the Services or reasonably required in order to perform the Services, unless TfL has notified the Concessionaire in writing that TfL requires the Concessionaire to seek TfL's prior written consent (which shall not be unreasonably withheld or delayed). Nothing in this Clause entitles the Concessionaire to disclose any details of this Contract or Confidential Information of TfL.

#### 42. **Disaster Recovery**

- 42.1 The Concessionaire will ensure at all times it has in place a Disaster Recovery Plan and that the Disaster Recovery Plan is adequate to minimise the effect of any Disaster.
- 42.2 Unless the Disaster was caused by a Force Majeure Event which a reasonable disaster recovery plan would not be expected to protect

against, the Concessionaire's liability to indemnify TfL for Losses will continue to accrue until such time as the Services are performed by the Concessionaire in accordance with the provisions of this Contract and the Service Level Agreements. Without prejudice to the generality of the foregoing, a reasonable disaster plan should protect against incidents involving fire, interruption in power supply, act of terrorism, threat of act of terrorism, earthquake, extraordinary storm, flood or abnormal weather conditions.

- 42.3 In the event of a Disaster, the Concessionaire will immediately implement the Disaster Recovery Plan and will continue to provide those Services which are not affected by the Disaster in accordance with the provisions of this Contract. In respect of any part of the Services which are affected by the Disaster, the Concessionaire will comply with the Disaster Recovery Plan, the rest of this **Clause 42** and this Contract.

#### 43. **Entire Agreement**

##### 43.1 Subject to **Clause 43.2**:

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

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

- 43.2 Nothing in this **Clause 43** excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

#### 44. **Counterparts**

This Contract 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.

**45. Relationship of the Parties**

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

**46. Arrangements with Group Companies**

The Concessionaire shall ensure that every contract or other arrangement or transaction to which it may be party with any Group Company for the supply of goods, the provision of services (including the licensing of any IPR) or otherwise, is on arm's length terms.

**47. Further Assurance**

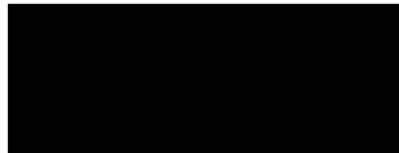
Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of the Contract.

**48. Governing Law**

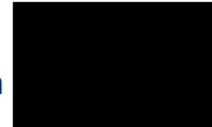
The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to **Clause 29**, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract provided that TfL has the right in its absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which the Concessionaire is incorporated or in which any assets of the Concessionaire may be situated. The Parties agree irrevocably to submit to that jurisdiction.

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

Signed by  
for and on behalf of  
**Transport for London**



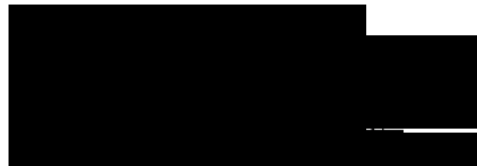
Signature  
Print name and position



Head of Procurement

Date: 23/9/21

Signed by  
for and on behalf of  
**Sopra Steria Limited**



Signature

Print name and position  
Usher Legal Director

Date: 22/09/2021

**SCHEDULE 1 - KEY CONTRACT INFORMATION**

1. **Contract Reference Number:** tfl\_scp\_002009
2. **Name of Concessionaire:** Sopra Steria Limited
3. **Commencement:**
  - (a) **Contract Commencement Date:** 9 January 2022
  - (b) **Service Commencement Date:** 9 January 2022
4. **Duration/Expiry Date:** Five (5) Years with the option of an up to two (2) year extension in accordance with Clause A6 of Schedule 2 below
5. **Email Address where PDF invoices shall be sent:**  
[Accounts.PayableSSL@soprasteria.com](mailto:Accounts.PayableSSL@soprasteria.com)
6. **Time for payment is 30 days after receipt of invoice**
7. **Details of TfL's Contract Manager**

**Name:** Ben Johnson  
**Address:** 5 Endeavour Square, London E20 1JN  
**Tel:** [REDACTED]  
**Email:** [REDACTED]

8. **Details of TfL's Procurement Manager**

**Name:** Philip Lewis  
**Address:** 5 Endeavour Square, London E20 1JN  
**Tel:** [REDACTED]  
**Email:** [REDACTED]



**9. Concessionaire's Key Personnel:**

Position
Client Director Transport (FORS Key Account Manager)
Concession Director
Marketing & Communications – Marketing Manager
Technical Advisor
Special Advisor

**10. Notice period in accordance with Clause 30.4 (termination without cause):**  
6 months**11. Address for service of notices and other documents in accordance with Clause 40:****For TfL:**

5 Endeavour Square,  
London  
E20 1JN  
For the attention of:  
Ben Johnson  
Project Principal

With a copy also to be sent to

[tflconsulting@tfl.gov.uk](mailto:tflconsulting@tfl.gov.uk)

**For the Concessionaire:****Sopra Steria****Three, Cherry Trees Lane****Hemel Hempstead****Hertfordshire HP2 7AH**

For the attention of: Alex Sykes

and [legal.services@soprasteria.com](mailto:legal.services@soprasteria.com)

## SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT

### A1. Privacy and Data Protection

**For the purposes of this Paragraph A1, unless the context indicates otherwise, the following expressions shall have the following meanings:**

<b>“Data Controller”</b>	has the meaning given to it in Data Protection Legislation;
<b>“Data Processor”</b>	has the meaning given to it in Data Protection Legislation;
<b>“Data Protection Impact Assessment”</b>	an assessment by the Data Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>“Data Subject”</b>	has the meaning given to it in Data Protection Legislation;
<b>“Restricted Countries”</b>	any country outside the European Economic Area other than England, Wales, Scotland and Northern Ireland following withdrawal from the European Union;
<b>“Sensitive Personal Data”</b>	sensitive or special categories of Personal Data (as defined in Data Protection Legislation) which is Processed pursuant to or in connection with this Contract; and
<b>“Subject Request”</b>	a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation including the right (i) to be informed, (ii) of access, (iii) to rectification, (iv) to erasure, (v) to restrict processing, (vi) to data portability, (vii) to object and (viii) to automated decision making including profiling.
<b>“TfL Personal Data”</b>	Personal Data and/or Sensitive Personal Data Processed by the Concessionaire or any

sub-contractor on behalf of TfL, pursuant to or in connection with this Contract;

A1.1 With respect to the Parties' rights and obligations under the Contract, the Parties acknowledge that TfL is a Data Controller solely responsible for determining the purposes and manner in which TfL Personal Data is to be Processed, and that the Concessionaire is a Data Processor.

A1.2 Details of the TfL Personal Data to be Processed by the Concessionaire the purposes of such Processing are as follows:

A1.2.1 The TfL Personal Data to be Processed by the Concessionaire (if any) concerns the following categories of Data Subject:

**Data Subjects will include TfL staff who are working on or managing the FORS scheme, Concessionaire staff providing the Services and fulfilling the provisions of this Agreement and personnel at the Operators or potential Operators.**

A1.2.2 The TfL Personal Data to be Processed includes the following types of Personal Data and/or Sensitive Personal Data:

**Personal Data may include but is not limited to names, email or postal addresses, telephone numbers, images, other unique identifiers.**

A1.2.3 The TfL Personal Data is to be Processed for the following purpose(s):

**The purpose of the Processing is the reason Personal Data is to be Processed, e.g. in relation to the Concessionaire's provision of the FORS scheme including services, database support functions, employment processing or compliance with a statutory obligation to process.**

A1.2.4 Not Used

A1.2.5 The subject matter of the TfL Personal Data to be Processed is:

***The Processing is necessary to ensure that the Concessionaire can effectively deliver the Contract to provide the Services.***

A1.2.6 The duration of the Processing shall be:

**For the term of the Contract and any handover period**

A1.2.7 The nature of the Processing is:

***The nature of the Processing may include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. which is required for the delivery of the Services or fulfilment of the provisions of this Agreement***

A1.3 Without prejudice to the generality of **Clause 26**, the Concessionaire shall:

A1.3.1 process the TfL Personal Data only in accordance with written instructions from TfL to perform its obligations under the Contract;

A1.3.2 use its reasonable endeavours to assist TfL in complying with any obligations under Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause TfL to breach any of its obligations under Data Protection Legislation to the extent the Concessionaire is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;

A1.3.3 notify TfL without undue delay if it determines or is notified that an instruction to Process Personal Data issued to it by TfL is incompatible with any obligations under Data Protection Legislation to the extent the Concessionaire is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;

A1.3.4 maintain, and make available to TfL on its request, documentation which describes the Processing operations for which it is responsible under this Contract including:

A1.3.4.1 the purposes for which TfL Personal Data is Processed;

A1.3.4.2 the types of Personal Data and categories of Data Subject involved;

A1.3.4.3 the source(s) of the Personal Data;

A1.3.4.4 any recipients of the Personal Data;

- A1.3.4.5 the location(s) of any overseas Processing of TfL Personal Data;
- A1.3.4.6 retention periods for different types of TfL Personal Data; and
- A1.3.4.7 where possible a general description of the security measures in place to protect TfL Personal Data;
- A1.3.5 where requested to do so by TfL, assist TfL in carrying out a Data Protection Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant requirements detailed in Data Protection Legislation);
- A1.3.6 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, take appropriate technical and organisational security measures which are appropriate to protect against unauthorised or unlawful Processing of TfL Personal Data and against accidental loss, destruction of, or damage to such TfL Personal Data which TfL may reasonably reject (but failure to reject shall not amount to approval by TfL of the adequacy of the measures);
- A1.3.7 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, provide TfL with such information as TfL may from time to time require to satisfy itself of compliance by the Concessionaire (and/or any authorised sub-contractor) with **Paragraphs A1.3.6 and A1.3.8**, including, protocols, procedures, guidance, training and manuals. For the avoidance of doubt, this shall include a full report recording the results of any privacy or security audit carried out at the request of the Concessionaire itself or TfL;
- A1.3.8 notify TfL without undue delay and in any event within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of this **Paragraph A1**, including the unauthorised or unlawful Processing of TfL Personal Data, or its accidental loss, destruction or damage;
- A1.3.9 having notified TfL of a breach in accordance with **Paragraph A1.3.8**, keep TfL properly and regularly informed in writing until the breach has been resolved to the satisfaction of TfL;

- A1.3.10 fully cooperate as TfL requires with any investigation or audit in relation to TfL Personal Data and/or its Processing including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to Processing pursuant to the Contract, in relation to compliance with Data Protection Legislation or in relation to any actual or suspected breach), whether by TfL (or any agent acting on its behalf), any relevant regulatory body, including the Information Commissioner, the police and any other statutory law enforcement agency, and shall do so both during the Contract and after its termination or expiry (for so long as the Party concerned retains and/or Processes TfL Personal Data);
- A1.3.11 notify TfL within two (2) Business Days if it, or any sub-contractor, receives:
  - A1.3.11.1 from a Data Subject (or third party on their behalf):
    - A1.3.11.1.1 a Subject Request (or purported Subject Request); or
    - A1.3.11.1.2 any other request, complaint or communication relating to TfL's obligations under Data Protection Legislation;
  - A1.3.11.2 any communication from the Information Commissioner or any other regulatory authority in connection with TfL Personal Data; or
  - A1.3.11.3 a request from any third party for disclosure of TfL Personal Data where compliance with such request is required or purported to be required by law;
- A1.3.12 provide TfL with full cooperation and assistance (within the timescales reasonably required by TfL) in relation to any complaint, communication or request made as referred to in **Paragraph A1.3.11**, including by promptly providing:
  - A1.3.12.1 TfL with full details and copies of the complaint, communication or request; and
  - A1.3.12.2 where applicable, such assistance as is reasonably requested by TfL to enable it to comply with the

Subject Request within the relevant timescales set out in Data Protection Legislation;

- A1.3.13 when notified in writing by TfL, supply a copy of, or information about, any TfL Personal Data. The Concessionaire shall supply such information or data to TfL within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within two (2) Business Days from the date of the request;
  - A1.3.14 when notified in writing by TfL, comply with any agreement between TfL and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any TfL Personal Data; and
  - A1.3.15 if required to do so by Data Protection Legislation, appoint a designated Data Protection Officer.
- A1.4 The Concessionaire shall not share TfL Personal Data with any sub-contractor without prior written consent from TfL. The Concessionaire shall provide TfL with such information regarding the proposed sub-contractor as TfL may reasonably require. The Concessionaire shall only share TfL Personal Data with a sub-contractor where there is a written contract in place between the Concessionaire and the sub-contractor which requires the sub-contractor to:
  - A1.4.1 only Process TfL Personal Data in accordance with TfL's written instructions to the Concessionaire; and
  - A1.4.2 comply with the same obligations which the Concessionaire is required to comply with under this **Paragraph A1** (and in particular **Clauses 15.1, 20.1, 20.2, 22.1, 24.2, 26 and 27**).
- A1.5 The Concessionaire shall, and shall procure that any sub-contractor shall:
  - A1.5.1 only Process TfL Personal Data in accordance with TfL's written instructions to the Concessionaire and as reasonably necessary to perform the Contract in accordance with its terms;
  - A1.5.2 not Process TfL Personal Data for any other purposes (in whole or part) and specifically, but without limitation, reproduce or refer to it in training materials, training courses, commercial discussions and negotiations with third parties or in relation to proposals or tenders with TfL;

- A1.5.3 not Process TfL Personal Data in such a way as to:
  - A1.5.3.1 place TfL in breach of Data Protection Legislation;
  - A1.5.3.2 expose TfL to the risk of actual or potential liability to the Information Commissioner or Data Subjects;
  - A1.5.3.3 expose TfL or FORS to any reputational damage including adverse publicity;
- A1.5.4 not allow Concessionaire's Personnel to access TfL Personal Data unless such access is necessary in connection with the provision of the Services;
- A1.5.5 take all reasonable steps to ensure the reliability and integrity of all Concessionaire's Personnel who can access TfL Personal Data;
- A1.5.6 ensure that all Concessionaire's Personnel who can access TfL Personal Data:
  - A1.5.6.1 are informed of its confidential nature;
  - A1.5.6.2 are made subject to an explicit duty of confidence;
  - A1.5.6.3 understand and comply with any relevant obligations created by either this Contract or Data Protection Legislation; and
  - A1.5.6.4 receive adequate training in relation to the use, care, protection and handling of Personal Data on an annual basis.
- A1.5.7 not disclose or transfer TfL Personal Data to any third party without the Concessionaire having obtained the prior written consent of the TfL (save where such disclosure or transfer is specifically authorised under this Contract);
- A1.5.8 without prejudice to **Paragraph A1.3.6**, wherever the Concessionaire uses any mobile or portable device for the transmission or storage of TfL Personal Data, ensure that each such device encrypts TfL Personal Data; and



- A1.5.9 comply during the course of the Contract with any written retention and/or deletion policy or schedule provided by TfL to the Concessionaire from time to time.
- A1.6 The Concessionaire shall not, and shall procure that any sub-contractor shall not, Process or otherwise transfer any TfL Personal Data in or to any Restricted Countries without prior written consent from TfL (which consent may be subject to additional conditions imposed by TfL).
- A1.7 If, after the Services Commencement Date, the Concessionaire or any sub-contractor wishes to Process and/or transfer any TfL Personal Data in or to any Restricted Countries, the following provisions shall apply:
  - A1.7.1 the Concessionaire shall submit a written request to TfL setting out details of the following:
    - A1.7.1.1 the TfL Personal Data which will be transferred to and/or Processed in any Restricted Countries;
    - A1.7.1.2 the Restricted Countries which TfL Personal Data will be transferred to and/or Processed in;
    - A1.7.1.3 any sub-contractors or other third parties who will be Processing and/or receiving TfL Personal Data in Restricted Countries;
    - A1.7.1.4 how the Concessionaire shall ensure an adequate level of protection and adequate safeguards in respect of TfL Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure TfL's compliance with Data Protection Legislation;
  - A1.7.2 in preparing and evaluating such a request, the Parties shall refer to and comply with applicable policies, procedures, guidance and codes of practice produced by the Parties and/or the Information Commissioner in connection with the Processing of Personal Data in (and/or transfer of Personal Data to) any Restricted Countries;
  - A1.7.3 the Concessionaire shall comply with any written instructions and shall carry out such actions as TfL may notify in writing when providing its consent to such Processing or transfers, including:

- A1.7.3.1 incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Contract or a separate data processing agreement between the Parties; and
- A1.7.3.2 procuring that any sub-contractor or other third party who will be Processing and/or receiving or accessing TfL Personal Data in any Restricted Countries enters into a data processing agreement with the Concessionaire on terms which are equivalent to those agreed between TfL and the Concessionaire in connection with the Processing of TfL Personal Data in (and/or transfer of TfL Personal Data to) any Restricted Countries, and which may include the incorporation of the clauses referred to in A1.7.3.1.

A1.8 The Concessionaire and any sub-contractor (if any), acknowledge:

- A1.8.1 the importance to Data Subjects and TfL of safeguarding TfL Personal Data and Processing it only in accordance with TfL's written instructions and the Contract;
- A1.8.2 the loss and damage TfL is likely to suffer in the event of a breach of the Contract or negligence in relation to TfL Personal Data;
- A1.8.3 any breach of any obligation in relation to TfL Personal Data and/or negligence in relation to performance or non-performance of such obligation shall be deemed a material breach of Contract;
- A1.8.4 notwithstanding **Clause 30.1.1**, if the Concessionaire has committed a material breach under **Paragraph A1.8.3** on two or more separate occasions, TfL may at its option:
  - A1.8.4.1 exercise its step in rights pursuant to **Paragraph A16**;
  - A1.8.4.1 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or
  - A1.8.4.2 terminate the Contract in whole or part with immediate written notice to the Concessionaire.

- A1.9 Compliance by the Concessionaire with this **Paragraph A1** shall be without additional charge to TfL.
- A1.10 The Concessionaire shall remain fully liable for all acts or omissions of any sub-contractor.
- A1.11 Following termination or expiry of this Contract, howsoever arising, the Concessionaire:
- A1.11.1 may Process TfL Personal Data only for so long and to the extent as is necessary to properly comply with its non-contractual obligations arising under law and will then comply with **Paragraph A1.11.3**;
  - A1.11.2 where **Paragraph A1.11.1** does not apply, may Process TfL Personal Data only for such duration as agreed in **Paragraph A1.2.6** above and following this will then comply with **Paragraphs A1.11.3 and A1.11.4**;
  - A1.11.3 subject to **Paragraph A1.11.1**, shall on written instructions from TfL either securely destroy or securely and promptly return to TfL or a recipient nominated by TfL (in such usable format as and to the extent TfL may reasonably require) the TfL Personal Data; or
  - A1.11.4 in the absence of instructions from TfL after 12 months from the expiry or termination of the Contract securely destroy the TfL Personal Data.
- A1.12 TfL Personal Data may not be Processed following termination or expiry of the Contract save as permitted by **Paragraph A1.11**.
- A1.13 For the avoidance of doubt, and without prejudice to **Paragraph A1.11**, the obligations in this **Paragraph A1** shall apply following termination or expiry of the Contract to the extent the Party concerned retains or Processes TfL Personal Data.
- A1.14 The indemnity in **Clause 22** shall apply to any breach of **Paragraph A1** and shall survive termination or expiry of the Contract.
- A1.15 The Parties' liability in respect of any breach of **Clause 26.1** and this Paragraph insofar as they relate to fines, court awards, settlements and legal costs shall be unlimited.

## **A2 IT Systems**

For the purposes of this **Paragraph A2**, unless the context indicates otherwise, the following expressions shall have the following meanings:

**“Euro Compliant”**

that the software, electronic or magnetic media, hardware or computer system (whichever is applicable) is capable of, and will not require any replacement or changes in order to be capable of, supporting the introduction of, changeover to and operation of the Euro as a currency and in dual currency (Sterling and Euro) and will not manifest any material error nor suffer a diminution in performance or loss of functionality as a result of such introduction, changeover or operation and it shall (if applicable) be capable of processing transactions calculated in Euros separately from or in conjunction with other currencies and is capable of complying with any legislative changes relating to the Euro;

**A2.1 The Concessionaire shall ensure that:**

**A2.1.1** any software, electronic or magnetic media, hardware or computer system used or supplied by the Concessionaire in connection with the Contract shall:

**A2.1.1.1** not have its functionality or performance affected, or be made inoperable or be more difficult to use by reason of any data related input or processing in or on any part of such software, electronic or magnetic media, hardware or computer system;

**A2.1.1.2** not cause any damage, loss or erosion to or interfere adversely or in any way with the compilation, content or structure of any data, database, software or other electronic or magnetic media, hardware or computer system used by, for or on behalf of TfL and/or any other member of the TfL Group, on which it is used or with which it interfaces or comes into contact;

A2.1.1.3 comply with the Government's open standards principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles#open-standards-principles>; and

any variations, enhancements or actions undertaken by the Concessionaire in respect of such software, electronic or magnetic media, hardware or computer system shall not affect the Concessionaire's compliance with this **Paragraph A2**.

### A3 Personnel Management and Training

- A3.1 The Concessionaire shall provide the Key Personnel and shall procure that they:
- A3.1.1 diligently supervise the performance of the Services;
  - A3.1.2 attend all contract meetings with TfL (the location, frequency and time of which shall be specified by TfL from time to time); and
  - A3.1.3 be available to TfL to resolve any issues arising in connection with the Contract at such time period as is specified in **Schedule 1**.
- A3.2 The Concessionaire may only make any changes to the Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of the Procurement Manager (which shall not be unreasonably withheld).
- A3.3 The Concessionaire:
- A3.3.1 without prejudice to **Clause 11.2** undertakes that all the Concessionaire's Personnel possess the appropriate skills, qualifications and experience to perform the tasks assigned to them, and that they shall be available at such times as are necessary to perform the Services in accordance with the Contract;
  - A3.3.2 shall ensure that all the Concessionaire's Personnel are in possession of valid work permits if they are non-European Community nationals; and
  - A3.3.3 subject to **Paragraph A3.4** shall (at its expense) provide or procure the provision of training for the Concessionaire's Personnel in respect of all aspects of its performance of the Contract and, as TfL may require, for any employees, agents and contractors of TfL in relation to the operation or use of any equipment supplied under the Contract in accordance with the terms set out in **Schedule 1**.
- A3.4 Without prejudice to the Concessionaire's other obligations under the Contract, where training of any or all of the Concessionaire's Personnel is required for the purposes of performance of the Contract, the Concessionaire shall not assign any Concessionaire's Personnel to the performance of the Contract unless and until such Concessionaire's Personnel have satisfactorily completed such training.

- A3.5 TfL will arrange (at its expense) safety training for those of the Concessionaire's Personnel identified at the Service Commencement Date (if any) but, for the avoidance of doubt, such safety training in respect of any other Concessionaire's Personnel will be arranged by and be at the expense of the Concessionaire. For the avoidance of doubt, TfL will not be responsible for the remuneration, travel, subsistence or other similar costs and expenses of any of the Concessionaire's Personnel attending any training under this **Paragraph A3.5**.

#### **A4 Further Intellectual Property Requirements**

- A4.1 The Concessionaire shall procure that all the Concessionaire's Personnel performing the Services (or part of them) contract with the Concessionaire that any Intellectual Property Rights arising out of or relating to work done by those persons pursuant to the Contract shall be assigned with full title guarantee to TfL and that those persons shall have no title, rights or interests whether legal or beneficial in any of such Intellectual Property Rights and, in relation to any copyright work created, that all moral rights shall be waived by the creator.
- A4.2 If, and to the extent that, the Products consist of or include copyright work authored by the Concessionaire or any other person, being work not prepared or developed for the purposes of the Contract, then, notwithstanding **Clause 25.1**, title to the copyright in such work shall not vest in TfL.
- A4.3 The Concessionaire grants or undertakes to procure the grant to TfL free of charge of a perpetual, irrevocable, transferable, world-wide and royalty-free licence to reproduce and to use any work of the type referred to in **Paragraph A4.2** and every part of it in any manner.
- A4.4 As between TfL and the Concessionaire, Intellectual Property Rights in the FORS Rights and the FORS Branding and in all documentation and other items supplied by TfL to the Concessionaire in connection with the Contract and in all data created by the Concessionaire in accordance with the Contract (other than data created by the Concessionaire solely for its internal purposes for the management of the Contract) shall be and remain the property of TfL. The licence TfL grants to the concessionaire to use the FORS Rights and FORS Branding is granted for the Term solely to enable the Concessionaire to comply with its obligations under the Contract. For the avoidance of doubt, the Concessionaire shall not obtain any right, title or interest in the FORS Rights or FORS Branding.

- A4.5 TfL grants to the Concessionaire a non-exclusive, non-transferable, non-sub-licensable licence for the Concessionaire to host, run, use and Maintain the software (and the website [www.fors-online.org.uk](http://www.fors-online.org.uk)), host, use and Maintain the database commonly known as “FORS-Online” and the FORS training register (together the “**FORS Software**” which includes any of it) and provided by TfL to the Concessionaire in the Concessionaire’s own secure environment within the EEA solely to the extent necessary for the Concessionaire or any of the Concessionaire’s Personnel to provide the Services during the Term. Any such licence is granted for the Term solely to enable the Concessionaire to comply with its obligations under the Contract. For the avoidance of doubt, the Concessionaire shall not obtain any right, title or interest in the FORS Software and the Concessionaire acknowledges that any amendments, variations, enhancements, modifications or improvements made by the Concessionaire in the FORS Software shall be the property of TfL absolutely. TfL gives no warranty regarding the functionality of the FORS Software.

## **A5 Infringement of Intellectual Property Rights**

- A5.1 The Concessionaire shall:

A5.1.1 be responsible for monitoring and protecting TfL’s Intellectual Property Rights relating to the Contract (including without limitation TfL’s Intellectual Property Rights in the FORS Rights and the FORS Branding). The Concessionaire will promptly notify TfL upon (a) becoming aware of an infringement or alleged infringement or potential infringement of any Intellectual Property Right (including without limitation Intellectual Property Rights in the FORS Rights and/or the FORS Branding) in (i) the FORS Software; and/or (ii) which affects or may affect the provision or receipt of the Services; or (b) if any claim or demand is made or action brought for infringement or alleged infringement of any Intellectual Property Right; and

A5.1.2 indemnify, keep indemnified and hold harmless TfL from and against all actions, claims, demands, damages, costs, charges or expenses (including legal costs on a full indemnity basis) that arise from or are incurred by TfL or any member of the TfL Group by reason of any infringement or alleged infringement of any Intellectual Property Rights of any person arising out of:

- (a) the negligent act or omission in the performance by the Concessionaire of the Services and/or any breach by the Concessionaire of any of the terms of this Contract by the Concessionaire; and/or



- (b) the Concessionaire's use of the FORS Software in breach of the licence provided in **Paragraph A4** above,

and from and against all costs and damages of any kind which TfL may incur in or in connection with any actual or threatened proceedings before any court or arbitrator.

A5.2 (Except where in exceptional circumstances TfL acting in its absolute discretion has agreed in writing alternative action) the Concessionaire shall take all action necessary to cause any infringement of TfL's Intellectual Property Rights relating to the Contract (including without limitation such Intellectual Property Rights in the FORS Rights and the FORS Branding) to cease as soon as possible and to pursue on TfL's behalf any damages arising as a result of such infringement. Such action shall be at the Concessionaire's cost provided that the Concessionaire will be entitled to recover any such costs reasonably incurred from the infringing party or from any award of damages paid by an infringing party before the Concessionaire remits the net amount recovered to TfL. TfL shall, at the reasonable request of the Concessionaire, give the Concessionaire all reasonable assistance for the purpose of the Concessionaire taking such action and contesting any such claim, demand, or action referred to in **Paragraph A5.1.1** and the Concessionaire shall:

A5.2.1 reimburse TfL for all costs and expenses (including legal costs) incurred in doing so;

A5.2.2 subject to the earlier provisions of this Paragraph, conduct at its own expense all litigation and/or negotiations (if any) arising from such claim, demand or action;

A5.2.3 consult with TfL in respect of the conduct of any claim, demand or action and keep TfL regularly and fully informed as to the progress of such claim, demand or action;

A5.2.4 comply with any directions made to the Concessionaire by TfL (verbally or in writing) in relation to the action; and

A5.2.5 pay promptly to TfL any damages received by the Concessionaire in relation to any such infringement and prior to payment to hold any such funds as agent on TfL's behalf.

A5.3 If a claim or demand is made or action brought to which **Paragraph A5.1.2** applies or in the reasonable opinion of the Concessionaire is likely to be made or brought, the Concessionaire shall promptly, after consultation with TfL, at its own expense modify or substitute any materials used by the Concessionaire in the performance of the Services so as to avoid the

infringement or the alleged infringement, provided that the terms of the Contract shall apply mutatis mutandis to such modified or substituted materials and such materials are Approved by TfL (including having substantially similar functionality).

- A5.4 If a claim or demand is made or action brought which alleges that any Intellectual Property Rights licensed by TfL to the Concessionaire in accordance with this Contract infringes the Intellectual Property Rights of a third party the Concessionaire will notify TfL immediately of such claim, demand or allegation and TfL will have full conduct of control in dealing with such claim demand or allegation. The Concessionaire will give TfL full and prompt assistance at the Concessionaire's expense to assist TfL dealing with such claim demand or allegation in accordance with this Paragraph.

## **A6 Option to Extend Duration**

- A6.1 The parties may agree in writing at least 12 months prior to the expiry of the Contract to extend the duration of the Contract for a further period or periods up to a total of two years.

## **A7 Supplier Diversity**

The Concessionaire will comply with all of TfL's diversity policies in force from time to time.

## **A8 Adjustment to Concession Charges and other sums as applicable (Indexation)**

- A8.1 In this **Paragraph A8**, "CPI" shall mean the Consumer Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the Parties may agree.
- A8.2 On and with effect from each anniversary of the Service Commencement Date, the Concession Charges shall be adjusted upwards or downwards (as the case may be) by the amount of the change (if any) in CPI between its rate last published (as final) immediately before such anniversary and its rate published (as final) twelve months before that.

## **SCHEDULE 3 – MOBILISATION AND TRANSITION PLAN**

## 8 Specification Component 8: Mobilisation and Transition Project Plan

### 8.1 Approach

To satisfy delivery of all the requirements detailed in sections 2.19 to 2.28 of tfl\_scp\_002009\_Vol 2 - Specification Final v1.0.docx, we have broken down our activities between Contract Award and 01/01/2023 into two plans; Mobilisation and Transition from 26/08/2021 to 09/01/2022 - Taking on the running of the existing service from AECOM and Implementation from 09/01/2022 to 01/01/2023 – Transformation of the existing service to a new more efficient and effective FORS Online in parallel with running the existing service. The detail of each of the phases is explained below along with a Gantt chart in Figure 12, an explanation of the methodology to be employed, an outline of the key risks and their planned mitigation and an outline of the key project management roles and responsibilities.

Additionally, for each of the two plans we have provided a staff mobilisation plan and our view of the related key risks and their mitigation and known issues and dependencies.

### 8.2 The Phases and Plans

#### Mobilisation and Transition

The key activities and events covered in the Mobilisation and Transition plan are as follows:

##### TfL Engagement and Key Artefact Production

- Agree weekly meetings with TfL during post award phase only, from date of award until 8 January 2022
- Set the value of the subscription fees to apply from 09/01/2022 and agree them with TfL prior to reporting to AECOM for inclusion in FORS eNews by 08/10/2021

##### On-boarding and Ramp-up

- Review TUPE information and develop a specific plan to comply with TUPE
- Secure resourcing and develop mobilisation plan

##### Knowledge Acquisition

- |  |   |
|--|---|
| • Obtain all training material, best practice and guidance from the incumbent concessionaire | • Online Technical Specification and System Guide |
| • Assess the current FORS website  | • FORS Standard V5 (may have been superseded)     |
| • Review requirements and processes outlined within:   | • FORS Standard V6                                |
| • FORS Works Manual  | • FORS Standard V6 Summary Changes                |
| • Requirements for Audit Providers   | • Compliance and Enforcement Manual               |
| • FORS Terms and Conditions  | • FORS Rules and Procedures                       |
| • Design Guidelines  | • Training Licensing Guide                        |

## QUALITY - Administration of FORS Concessionaire Services Europe, Africa, Asia & Middle East

### Incumbent Engagement and Exit

- Engage and develop the transition plan with the incumbent concessionaire (AECOM) including transfer of accrued subscription Fees.
- Start agreeing the transferring of data from the incumbent concessionaire (AECOM)
- Provide the new Subscription Fees which will apply from January 2022 to the incumbent Concessionaire (AECOM) before 8 October 2021 for formal publication in FORS eNews. These fees will go live on 9 January 2022, the Services commencement date

### Review Governance approach and providers and secure network of providers

- Start looking at the audit plan and engage with existing Audit Providers
- Secure a network of Audit Providers which covers the Territory from the Service Commencement Date, 9 January 2022
- Establish a mechanism to monitor and maintain Auditing quality and consistency
- Establish monthly meetings with the Governance and Standards of FORS Supplier
- Appoint a Key Account Manager as a single point of contact for the appointed Governance and Standards of FORS Supplier

### Review Training approach and providers and secure network of providers

- Start looking at the training plan and engage with existing Training Providers
- Secure a network of Training Providers from the Service Commencement Date, 9 January 2022
- Establish a mechanism to monitor and maintain Training quality and consistency

Description of activities based on the following plan;



Figure 11 - Mobilisation and Transition Gantt Chart



### 8.3 Mobilisation and Transition Methodology

Sopra Steria propose following a Lean approach to Mobilisation and Transition making use of the following Lean practices.

- a. **Role Profiles:** Hoshin Kanri is a 7-step process used in strategic planning. Our strategic goals in running the FORS business, based on a long-term vision, will be communicated throughout the team and then put into action. Strategic objectives based on the strategic goals are then used to define the role profiles required to run the business effectively.
- b. **ISO 44001:** Relationship Management Plan (RMP): This will be used to ensure the effective identification, development and management of collaborative business relationships within the FORS business, including the relationships to third parties such as auditors required to run the business day-to-day.
- c. **Standardised Working:** Capture of critical to success factors in standardised Operational Standards (OS) and Work Instructions (WI). Standardise working tools combine leadership and management skills and keep everyone in the organization motivated and laser focused on their top three to seven priorities. WIs provide detail on how each of those top three to seven priorities is to be executed and any critical care points. WIs are fundamental to training, quality assurance and continuous improvement exercises.
- d. **Last Planner® System of Production Control:** This is necessary on projects to support working toward planned accomplishments, doing what can be done to move along a planned path, and when that becomes impossible, determine alternative paths that accomplish desired goals. It is a systemic approach to scheduling, meaning that each of its parts is necessary to support lean project planning and execution. The system is organized into five major parts; Master planning, Phase planning, Make Ready planning, Weekly Work planning and Learning.
- e. **Measurement System Analysis (MSA)** - This will be used on FORS to devise a measurement system and then qualifying its accuracy, precision, and stability. MSA will provide us with a set of measures (Gauge Reliability and Repeatability) that we can use to confirm that the FORS business is operating as it should and to confirm that any process improvement actions are having the desired effect.
- f. **Failure Modes and Effects Analysis (FMEA)** and Risk Management: FMEA is a risk assessment tool, that evaluates the severity, occurrence and detection of risks to prioritize which ones are the most urgent. Each category has a scoring matrix with a 1-10 scale. A severity of 1 denotes low risk to the end customer, and a score of 10 denotes high risk to the customer. An occurrence of 1 denotes low probability of the risk happening, and a 10 denotes a very high probability of the risk happening. Detection of 1 denotes a process that WILL likely catch a failure, and a 10 means the process will likely NOT catch a failure. Using FMEA in combination with WI and MSA is a proven and powerful way to identify and mitigate operational risks.
- g. **Process Capability Analysis (PCA):** PCA is Six Sigma technique used to determine how well a process meets a set of specification limits. PCA is based on a sample of data taken from a process, using reliable measurements, to quantify how capable the process is in operating within design specification. This 'voice of the process' is represented in a numeric 'sigma value' which indicates the degree of confidence and therefore control required.

## QUALITY - Administration of FORS Concessionaire Services Europe, Africa, Asia & Middle East

*We have successfully used these Lean approaches in our work for Health and Safety Executive and the Environment Agency. In both cases the result of applying these practices was reduced timescales, improved quality and reduced cost through efficiency and effectiveness gains. We employ 250+ Yellow and Green Belts as well as two Master Black Belt Lead Six Sigma practitioners.*

### 8.4 Implementation

Below in Figure 13 is a project plan of the Implementation phase, covering Transformation and BAU activities, and a description of our methodology;



Figure 12 - Project plan of the Implementation phase

The Lean Practices referenced above in the section on Mobilisation and Transition will continue to be used to support changes to BAU while, in parallel, an Agile delivery approach based on Government Digital Services Service Manual will be used to define and deliver the transformed business process and IT solution during the third quarter of 2022. Our Transformation approach is represented below in Figure 14.



## QUALITY - Administration of FORS Concessionaire Services Europe, Africa, Asia & Middle East

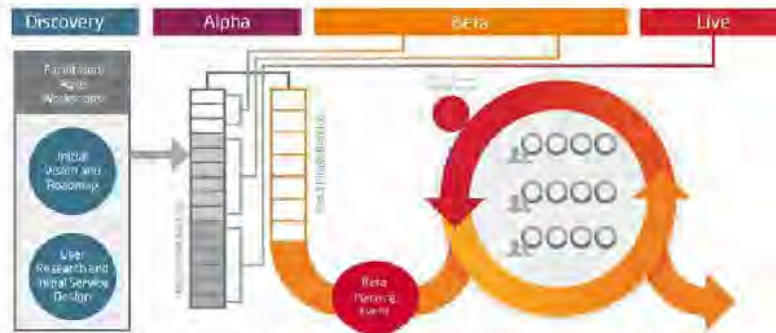


Figure 13 - Our Agile Transformation Approach

Activities within the phases shown in Figure 14 are explained below:

**Discovery** – beginning in Sept '21 will define a vision, in collaboration with TfL and Governance bodies, of what is required to create an initial service design and solution architecture and define the Product Roadmap and Product Backlog

**Alpha** – will validate the solution design with TfL and Governance bodies, on-board the team required to build the solution, lay the infrastructure and UX/UI runway, define working practices to enable the solution build to start in the first beta in Jan, define the Beta Phase Backlog and run the Beta 1 planning event.

**Beta 1** – Jan, Feb, March '22 – Delivery of the highest priority features from the Product Backlog

**Beta 2** – Apr, May, Jun '22 – Delivery of the remaining highest priority features from the Product Backlog to make up FORS Online Minimum Viable Product (MVP) and Deployment of MVP to Production

Note that each of the phases above relate to the total service, not the IT alone. Changes to the Governance and Training material and approach will form part of the Product Backlog throughout, as will changes to any other supporting documentation. We will also revise the supply chain for Governance (Auditing) and Training as part of the rollout of the MVP.

In parallel with this transformation activity, we will continue to support and maintain BAU. This will involve continuous review of business performance against the Lean metrics devised in Transition and on-going Governance activities. The planned Governance activities are;

- Quarterly and Annual Performance Reports and Reviews with TfL
- Periodic GSAG meetings
- FORS Standard Launches (every 2 years min)
- Annual accredited operators conference

Additionally, on an annual basis we will produce the following artefacts;

- Benefits Realisation Survey
- Website Review
- Marketing and Communications Plan
- Business Plan

*This approach to solution delivery was applied in delivery of the UKVI Visa Application on-line system which has been successfully used by over 1 million visa applicants and the*



*delivery of the Way Forward programme for the Independent Office of Police Conduct, where solution delivery was achieved from end-to-end within 12 months.*

### 8.5 FORS – Transition Organisation Structure

Immediately on notification of preferred supplier status, Sopra Steria will mobilise their team to expedite building relationships with the incumbent suppliers and personnel, understand the existing applications, processes, systems, and documentation available. Early mobilisation will allow our team in Figure 15 to observe and understand BAU operational requirements and ensure our plans protect the integrity of the current provision. Knowledge Acquisition (KA) and Knowledge Transfer (KT) will have three elements:

- transfer of knowledge from any outgoing Concessionaire staff that are not transferring;
- sharing of knowledge from those who are transferring in order to widen the skills base and eliminate any single points of failure; and KT to shared central resources to provide expertise, cover, and service continuity protection.



Figure 14 – Our transition organisation

During the Transition phase, our objectives will be to: Secure knowledge, facilitate stability, prevent 'vendor lock-in' through protectionist IP, managing KT and Knowledge Management (KM) on behalf of TIL, provide central support, clarify roles and responsibilities, review/improve processes, focus on pain points, and exploit CSI opportunities. KA and KT will be split into a number of logical infrastructure, application and operational excellence streams, based on the services being transferred.

During mobilisation, our team will:

- define & agree KT governance;

- determine KT complexity;
- determine KT index for each application;
- initiate Knowledge Management Systems; and
- identify immediate 'quick win' opportunities to improve processes and environment(s).

During Service Transition Stage, knowledge needs to be transferred to the Sopra Steria team to enable them to:

- deliver the contractual service;
- establish customer and user confidence; and
- have confidence in their own ability to undertake the work.

The primary objectives of KT are to:

- minimise dependencies on key individuals;
- ensure appropriate skills coverage is maintained, including for on-call and non-core hours;
- ensure that any changes from previous Service delivery are understood and communicated; and
- reduce risk on Service Delivery through insufficient capability.

Service KT activities will be planned to acquire knowledge in a structured, efficient, and cost-effective manner, while minimising the impact on the current teams and work schedules. Our team will shadow operators and management from the service desk team and co-develop a Service/Team Skills & Knowledge Plan defining:

- required skill & knowledge levels for the service across the team or for each team;
- current aggregate team skills & knowledge; and
- short and long-term targets, e.g. by end of Transition and 4 months into service delivery, or by Transition phases of taking responsibility.

Understanding that Users and internal customers must receive appropriate help in a timely manner, our KT activities will be scheduled to ensure no disruption to BAU or incident response. KT will be run as a planned and managed project activity. Once the KT plan is written and agreed, it will be assigned to a dedicated project manager, who may be within or from outside the service team, who will give the plan the management and monitoring time and attention it needs.

Our understanding is that a large amount of data collection, collation, validation and translation is done manually through back-office functions; adopting a systematic approach to codifying these practices enables consensus on 'one best way' and facilitates common understanding of critical care points across the team. Developing reliable, repeatable and robustly defined processes and procedures will release staff to address and mitigate emergent issues and patterns which otherwise may be missed.

As we complete the KT processes, our team will identify those processes that lend themselves to automation and yield the greatest benefits. During transition, our team will use Failure Mode and Effects Analysis to prioritise for automation and use a wide range of criteria including impact, frequency of failure and visibility of failure types. Additional prioritisation factors include criticality, user benefit, process capability, practicality, sensitivity, and variability in demand.

On mobilisation we will appoint an Operational Excellence (OpEx) Lead, accountable to ensure effective deployment of the correct systems and tools for KT, KM and Continuous



Improvement (CI), communicate value and purpose of OpEx to staff, and set out the immediate actions to take.

The OpEx Lead will work with the outgoing Concessionaire's Exit Management team to help staff embrace change and encourage correct mind-set and behaviours while deploying the system of work to transfer and manage explicit and implicit service knowledge and experience. They will also work closely with the Key Account Manager to mitigate key risks as shown in Table 15 below:

Risks	Mitigations
Handover of commitments is not recognised in the transfer of funds on Service Commencement	SSL to perform due diligence by allocating a Commercial Manager and Finance Lead to review the Bank Account we will inherit from AECOM to ensure that we understand the funds allocation and what our obligations would be for Audits, Training, Subscriptions, etc.
Service interruption and/or degradation of service to FORS Operators	Transition plan and Service Readiness Review
Historical knowledge and knowledge required to deliver the service is not transferred under TUPE	Our Transition plan contains extensive KA/KT activities Implementation of SSL "One Transfer" people transition process to encourage key staff to transfer Work collaboratively with AECOM and TfL to ensure that the Exit provisions are conducive to service continuity
There are currently four FORS Affinity Partners, with a fifth in development. FORS Driver Licence Checking Service FORS Vehicle Graphics Service FORS FMS FORS Fuel Card FORS Tacho (in development) All contracts for these will expire on 9 January 2022	SSL's Procurement Team is involved in ensuring that we novate existing contracts to ensure continuity of service and benefits to FORS Operators

Table 15 – Key risks and mitigations

## 8.6 TUPE Alternative

On contract award, our TUPE processes will immediately start identifying key staff we feel we need to retain and provide financial and career incentives for them to transfer to us. Often staff, especially senior members, decide to stay with their employer and we are very used to this eventuality. Should staff chose not to transfer, we will seek other suitably qualified and experienced staff from within our UK 6500 staff pool, more broadly across our 45000 global employees, our partner ecosystem and/or as necessary seek to hire external resources from the UK market. In any eventuality, Alex Sykes will remain our Account Manager with Glen Davies and Chris Douglas providing expert support in each functional area.

## SCHEDULE 4 - SPECIFICATION

### 1. FORS CONTEXT

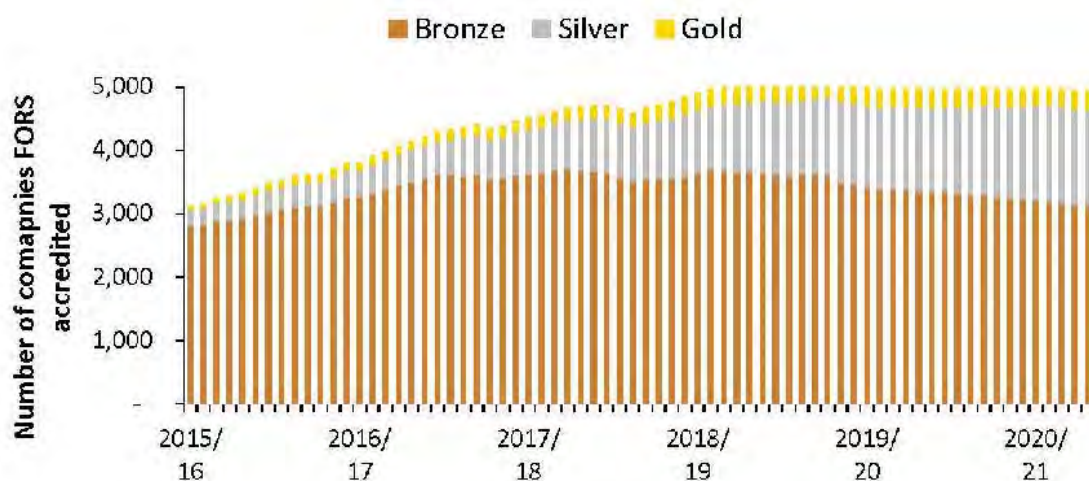
#### 1.1 Overview

Created by TfL in 2007, the Fleet Operator Recognition Scheme (FORS) is an accreditation scheme which encourages and incentivises the safe and sustainable operation of commercial vehicles.

FORS commits fleet operators to progressively achieve managerial, vehicle and driving standards relating to road safety, legal compliance and environmental performance. FORS raises the bar, promotes best practice and provides a recognisable credential through an independent onsite audit, staff training and support material.

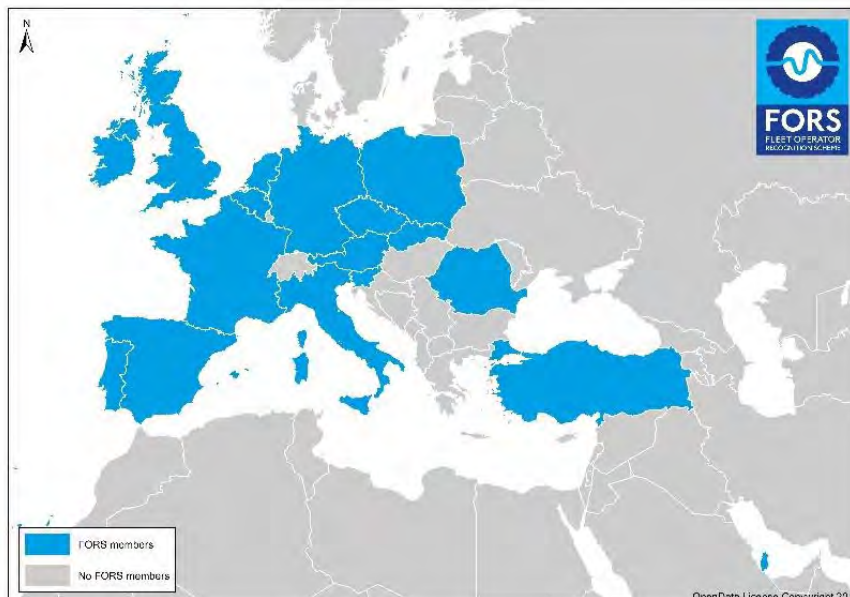
#### 1.2 First Concessionaire

Following a competitive exercise in 2013, FORS is operated under a Concessionaire Contract by AECOM. The scheme experienced significant growth in terms of accredited operators within the first three years, levelling off in recent years.



Today, the scheme has around 5,000 accredited operators/ 110,000 vehicles across

17 countries and is regarded as international best practice. To see a full breakdown, see Appendix 6 to Schedule 4 (the Specification).



FORS has proven to be a commercially attractive operating model, and to date the Concessionaire has achieved a profit margin of 7% on all revenue streams of audit fees, subscriptions and alternative revenue. Significant growth has been achieved in gaining income from alternative revenue streams including affinity deals, charged training, events and sponsorship, achieving over £550,000 revenue in FY 19/20. Full financial performance can be viewed in Appendices 19-23 of this Schedule.

Economies of scale have not been realised within the administration of the scheme, resulting in rising pro-rata administration running costs. Furthermore, the lack of new FORS Audit Providers has created concerns within certain parts of the industry.

### 1.3 FORS Future

Following an extensive 18-month stakeholder engagement exercise, the scheme's operational model will now evolve to address industry concerns and ensure the continued growth of FORS in terms of Accredited Operators and commercial opportunities.

Where there was previously one Concessionaire responsible for all aspects of the



scheme, FORS will now be operated with two distinct contracts:

1. FORS Governance and Standards Service contract (setting the standard, training approval and acting as a final appeals board);
2. Administration of FORS Concessionaire Services Europe, Africa, Asia & Middle East (certification, audit management, marketing, compliance, commercialising assets, marketing communications).

The FORS Governance and Standards Contract was awarded in July 2020 to Steer Davies & Gleave Limited.

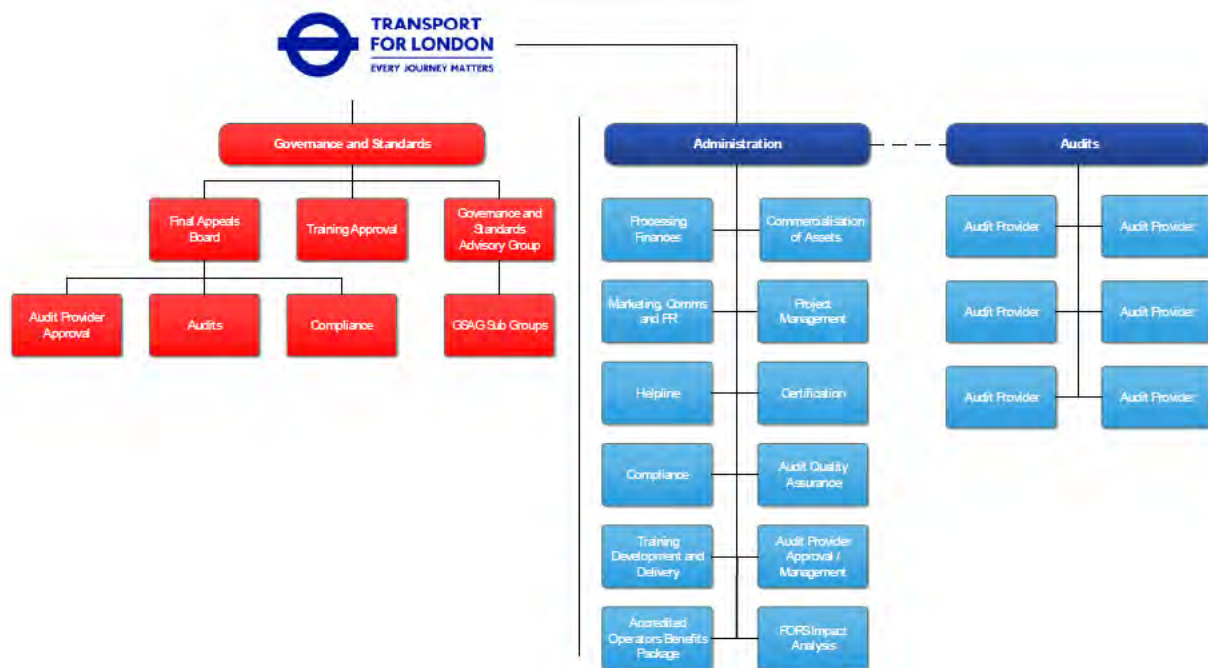


Image 1: Proposed FORS Operational Model

Note: In the unlikely event of any contradiction in reading the Specification, Section 1 FORS Context of the Specification shall be understood to be of less importance than the rest of the Specification.

## 2. DEFINITIONS

### 2.1 In this Schedule 4, the following definitions apply:

Accrued Subscriptions	Prepayments received from accredited operators to cover membership and scheme benefits for the outstanding period of their annual subscription. The total balance for Accrued Subscriptions shall be solely used for the purpose of covering administration and scheme benefits;
Affinity Partner	An organisation who provides FORS branded products or services which add value by enabling Operators to comply with legal or contractual requirements and/or improve on safety, emissions, security and operational efficiency while offering a financial return to the Concessionaire;
Associate	An Organisation whose products and services directly align with the FORS philosophy of safety, efficiency and environmental protection, and who provide Operators with exclusive offers and discounts;
Compliance Team	A team reporting to the Concessionaire who are responsible for undertaking independent Quality Assurance on Audits and taking action against Operators who breach the FORS Terms and Conditions including not maintaining the FORS Standard;
Practitioner	An individual who has completed all of the FORS Practitioner workshops. The qualification is valid for five years and is maintained by attending the FORS Practitioner Recertification workshop;
Professional Development Working Group	A sub-group of the FORS Governance and Standards Advisory Group which sets professional development requirements of the standard;

Senior Auditor	A senior-level professional who holds more responsibility than an auditor - who supervises quality of audits through reviewing of appeals, undertaking QA and enhanced audits.
Specifier	An organisation which stipulates that fleet operations within its supply chain are FORS accredited;
Supporter	An organisation who promotes FORS but does not provide a product or service through FORS; and
Unit Cost	The Concessionaire's total administration cost divided by the total number of Accredited Operators.

### 3. REQUIREMENTS

- 3.1 The Concessionaire shall deliver FORS in accordance with all requirements set out in this Specification.
- 3.2 The Service Level Agreements are to be found in Schedule 5 Service Level Agreements.

### 4. GENERAL REQUIREMENT

- 4.1 TfL is seeking to appoint a Concessionaire that is capable of administering, operating, developing and commercially enhancing FORS whilst seeking financial efficiencies and best value.
- 4.2 The FORS Administration Concession comprises of eight core components:
- Component 1. FORS Standard and brand
  - Component 2. Scheme Administration
  - Component 3. Auditing and certification
  - Component 4. Communication and marketing
  - Component 5. Best practice guidance and toolkits
  - Component 6. FORS training, e-learning and workshops
  - Component 7. Commercial management
  - Component 8. Mobilisation, Transition and Implementation

For further details on components 1- 6 see [www.fors-online.org.uk](http://www.fors-online.org.uk)



## Specific requirements

### 5. COMPONENT 1. FORS STANDARD AND BRAND

#### 5.1 The Concessionaire shall:

- 5.1.1 Encourage, support and facilitate growth in the number of Accredited Operators / vehicles;
- 5.1.2 Initiate encourage, support and facilitate the geographical expansion of FORS;
- 5.1.3 Encourage other transport authorities, local authorities and specifying organisations to promote and implement FORS;
- 5.1.4 Develop the diversity of FORS as a scheme to other fleet sectors, such as grey fleets and cargo bikes;
- 5.1.5 Ensure the FORS Branding and logos are used in accordance with the FORS Guidelines, the terms of the Contract and the FORS logo usage standards set out the Design Guidelines appended as Appendix 4 by both the Concessionaire and all Accredited Operators and Associates. The Concessionaire will be responsible for managing any infringement of the FORS Branding and logos in accordance with the terms of the Contract; and
- 5.1.6 Work collaboratively and professionally as required with partners, stakeholders and industry bodies.

#### 5.2 The Concessionaire acknowledges that the Governance and Standards of FORS Supplier, Steer Davies & Gleaves Ltd, is independent of the administration of the Concessionaire and appointed Audit Providers. Whilst the Governance and Standards of FORS Supplier and its provision of the FORS Governance and Standards Services will be independent of the Concessionaire, the Concessionaire shall collaborate, challenge and engage with the Governance and Standards of FORS Supplier which will act as an independent adjudicator within the certification, compliance and appeals processes.

#### 5.3 The Concessionaire shall:

- 5.3.1 Work with the appointed Governance and Standards of FORS Supplier, including attending monthly meetings, and carry out all resulting actions necessary so as to ensure due process of interaction and decisions made by the Governance and Standards of FORS Supplier are followed by the Concessionaire in its administration of FORS;
- 5.3.2 Appoint a key account manager as a single point of contact for the appointed Governance and Standards of FORS Supplier;
- 5.3.3 Appoint a representative to sit on the FORS Governance and Standards Advisory Group (GSAG) and attend all GSAG meetings.

The Concessionaire's seat on GSAG will be a non-voting role to ensure independence between the financial and governance elements of FORS;

- 5.3.4 Provide additional resource to attend and present at GSAG meetings and other working groups as required;
- 5.3.5 Prior to each GSAG meeting, provide the Governance and Standards of FORS Supplier with a FORS administration presentation update which will be delivered by the Concessionaire at the GSAG meeting;
- 5.3.6 Be responsible for and work with the appointed Governance and Standards of FORS Supplier to ensure each updated (not less than every two years) FORS Standard is approved, launched, communicated and marketed to industry. Any associated collateral shall also be updated by the Concessionaire in accordance with the latest FORS Standard e.g. audit report form, FAQs etc;
- 5.3.7 Ensure any proposed changes in Subscription Fees and audit upload fee's (to the extent such a change is maximum permitted by the terms of the Contract) are submitted to the FORS Executive Group (facilitated by the Governance and Standards of FORS Supplier) for approval and endorsement. FORS Executive Group Terms of Reference are set out in Appendix 27;
- 5.3.8 Be responsible for and ensure a clear and transparent escalation process is in place for any party with objections or disagreements to decisions made regarding Audits, certification, compliance and Audit Provider applications. Any ongoing disagreements which have followed a documented internal escalation process must then be escalated to GSAG by the Concessionaire with an evidence pack produced by the Concessionaire and sent at least five (5) Business Days before the appeals board is due to meet. Current appeals processes can be found in Appendices 2 (Requirements for Audit Providers), 3 (FORS Terms and Conditions), 7 (FORS Standard V5), and 10 (Compliance and Enforcement Manual); and
- 5.3.9 Submit any newly developed or updated training courses or workshops to the Governance and Standards of FORS Supplier for approval. The current Training Licensing Guide is appended as Appendix 13.

## 6. **COMPONENT 2. SCHEME ADMINISTRATION – RUNNING FORS**

- 6.1 The Concessionaire shall:
  - 6.1.1 Administer all aspects of FORS in a lean, efficient way constantly seeking best value on all tasks and deliverables;
  - 6.1.2 Ensure effective internal governance is in place to approve processes and make decisions that seek to define actions and verify the

Concessionaire's and/or FORS' performance in-line with the Service Level Agreements;

- 6.1.3 Administer FORS in accordance with the FORS Works Manual as set out in Appendix 1;
- 6.1.4 Ensure that FORS is accessible, affordable and adds value to owner driver Operators and/or small fleet Operators (1-5 vehicles);
- 6.1.5 Maintain and update, as required, the FORS Terms and Conditions as currently set out in Appendix 3;
- 6.1.6 Provide Accredited Operators, Associates, Specifiers and local/transport authorities with a benefits package that offers good value for money. This package shall include access to funded and discounted training;
- 6.1.7 Provide a manned dedicated phone line, currently 08448 09 09 44, between 08:30 – 17:00, Monday-Friday, excluding bank holidays, which has an automated answering service when not attended. Helpline capacity must be sufficient to satisfy specified Service Levels. Sufficient helpline capacity will be maintained to satisfy growth of FORS accreditation. All calls should be entered in the relevant category on a call monitoring log and reported on. The Concessionaire shall report on the same in line with the example periodic and quarterly KPI reports appended at Appendix 17 and the FORS Annual Reviews appended at Appendix 18;
- 6.1.8 Provide, manage and maintain a dedicated FORS email account used to handle FORS related queries;
- 6.1.9 Attend both monthly and quarterly review meetings (four per annum) with TfL at Palestra, 197 Blackfriars Road London, SE1 8NJ or an alternative location as agreed by the Concessionaire and TfL. Meeting frequency may be increased by TfL at its sole discretion;
- 6.1.10 Provide periodic, quarterly and annual performance data reports including key performance indicator reporting on safety and environmental benefits along with FORS' commercial and operational performance the ("Quarterly and Annual Reports"). The Concessionaire shall provide such reports in line with the examples set out in Appendices 17 (Periodic and Quarterly KPI Report Examples), 18 (FORS Annual Reviews) and provide as a minimum the types of performance data set out in Appendices 19 (FORS Commercial Performance) and 20 (Alternative Revenue Stream Commercial Historical Performance);
- 6.1.11 Respond fully, immediately, and in any event within 12 hours in such format as required by TfL to any requests by TfL for information TfL

requires about FORS, including requests for information from the office of the Mayor of London;

- 6.1.12 Produce a detailed annual Business Plan, growth forecast and commercial assumptions for the accreditation levels of FORS, demonstrating how growth will be managed and delivered. The Business Plan and associated finances will be analysed, discussed and approved by TfL annually in accordance with the terms of the Contract and the Concessionaire held to account on delivery of the Business Plan;
- 6.1.13 Produce an annual benefits realisation survey seeking to identify road safety, environmental considerations and commercial benefits as a result of FORS. These, along with other scheme benefits shall be outlined by the Concessionaire in a published FORS Annual Review in accordance with Appendix 18 (FORS Annual Reviews);
- 6.1.14 Review and update the process, as necessary or requested by TfL, for Accredited Operators to progress through the levels of accreditation as set out in Appendices 7 (FORS Standard V5), 9 (FORS Standards V6 -Summary changes) and 11 (FORS Rules and Procedures);
- 6.1.15 Follow, review, maintain and update (as necessary and approved by GSAG), the processes where an Accredited Operator breaches the FORS Terms and Conditions and the actions to be taken in response to such breach as outlined in the Compliance and Enforcement Manual appended at Appendix 10. Changes to the compliance matrix within the Compliance and Enforcement Manual must be approved by GSAG ;
- 6.1.16 Work collaboratively, constructively and dynamically with other partners and industry bodies in order to maximise the success of FORS and to ensure the reputation of FORS is upheld; and
- 6.1.17 Allocate a Key Relationship Manager to govern the relationship between relevant key organisations i.e. Specifiers, Audit Providers, Accredited Operators, trade bodies, enforcement agencies, road safety charities and governmental bodies and to build the relationship to achieve the requirements set out in paragraph 2.8.16 above.

## 7. **COMPONENT 3. AUDITING AND CERTIFICATION**

- 7.1 The lack of new Audit Providers since 2015 has created concerns within certain parts of the industry. This is a key area that requires development in order to grow FORS and its reputation during the next 5 years. There are currently three approved Audit Providers in AA Drive Tech, Fleet Source and

DEKRA and the Concessionaire shall enable further organisations to start delivering Audits.

- 7.2 Maintaining high quality and consistent Auditing and ensuring appropriate action is taken against Accredited Operators and Audit Providers failing to maintain the FORS Standard is critical in maintaining FORS reputation.
- 7.3 The Concessionaire is responsible for certification which includes performing independent quality assurance services on Audits ("Quality Assurance" or "QA"). It is therefore not permitted to deliver Audits but shall approve and work with multiple Audit Providers.
- 7.4 The Concessionaire shall:
  - 7.4.1 Ensure there is a network of Audit Providers which cover all the Territory;
  - 7.4.2 Use multiple Audit Providers for all types of Audit types;
  - 7.4.3 Review, manage and update as required the Audit Provider approval process in accordance with the Requirements for Audit Providers appended at Appendix 2. The Governance and Standards of FORS Supplier will be responsible for recording all new Audit Provider applications and will act as a final appeals board in relation to audit Auditing and compliance;
  - 7.4.4 Establish a mechanism to monitor and maintain Auditing quality and consistency;
  - 7.4.5 Organise and administer an annual auditors' summit for all Audit Providers to attend to provide and receive updates on latest FORS developments that may impact the Audit process;
  - 7.4.6 Ensure non-discriminatory and fair and consistent terms and conditions are offered to all Audit Providers which include key performance indicators, service levels and risk ratings. The risk ratings shall be on a RAG status aligned to the terms and conditions

being offered and the quality and quantity of submissions from each Audit Provider;

- 7.4.7 Create, develop and maintain an online audit booking system on [www.fors-online.org.uk](http://www.fors-online.org.uk) that allows Accredited Operators to:
- (A) Access an up-to-date list of approved Audit Providers;
  - (B) View and compare Audit prices by all Audit Providers in a particular location (postcode, town/ city, country) within a specified date range;
  - (C) Book, view and cancel appointments made with Audit Providers;
  - (D) Make payment for Audits carried out by Audit Providers either directly through the system or as agreed with the Audit Providers;
  - (E) Upload all relevant documentation and complete all relevant information for silver and gold audits (which are carried out remotely, online only) with the ability to save an incomplete application and return at a later point;
  - (F) View Audit results and associated documentation, including previous Audits;
  - (G) Appeal decisions and when necessary, follow the Audit appeals process (as set out in Appendix 10 (Compliance and Quality Assurance Section)).
- 7.4.8 Ensure the online Audit booking system allows Audit Providers to:
- (A) Securely upload Audit results and any associated documentation;
  - (B) Gain short term secure access, in advance of an Audit, to review Audits, complaints and contact details of the Accredited Operator who is to be Audited;
  - (C) Provide a named Senior Auditor's electronic declaration to confirm that QA has happened on each Audit to allow an Audit Provider to confirm that 100 per cent of Audits have been quality assured. The Audit Provider shall proactively identify and address any ongoing issues or trends;
  - (D) Put a process in place to ensure registrations and Audit bookings from a specific Audit Provider are allocated to that same organisation;
  - (E) Communicate with Audit Providers to develop IT connections between their own websites/ portals and the online Audit

booking system to enable bookings to be in real time based on availability via an Application Programming Interface (API),

- 7.4.9 Undertake independent QA on submitted Audits at a rate of a minimum of 25 percent of all Audits performed. The selection criteria for which Audits to QA shall be set on a quality and risk basis as identified for each individual Audit Provider. The Concessionaire shall proactively identify and address any ongoing issues or trends and include in the Quarterly and Annual Reports;
- 7.4.10 Provide a named Compliance Team's electronic declaration and signature to confirm that the Concessionaire has carried out QA on Audits;
- 7.4.11 Record, investigate and take appropriate action against Accredited Operators and Audit Providers who are in breach of the FORS Terms and Conditions appended at Appendix 3;
- 7.4.12 Record, investigate and take appropriate action for each complaint received against Accredited Operators. Outcomes shall be communicated to the complainant.
- 7.4.13 Issue the FORS certification to the Accredited Operators;
- 7.4.14 Manage, deliver and update, as required, the FORS Audit Provider training course for each new Auditor. This shall be in line with changes to the FORS Standard and identified risks. Fees must be set at a level to encourage new Audit Providers into the market;
- 7.4.15 Develop a FORS Audit Provider refresher course at an approved charge rate that shall be undertaken by all Audit Providers every two (2) years. Fees must be set at a level to encourage new Audit Providers into the market;
- 7.4.16 Ensure a clear and transparent process for Audit appeals is in place and communicated to Accredited Operators, Audit Providers and the Governance and Standards of FORS Supplier. See Appendices 2 (Requirements for Audit Providers), 3 (FORS Terms and Conditions), 7 (FORS Standard V5), 8 (FORS Standard V6) and 10 (Compliance and Enforcement Manual);
- 7.4.17 Monitor, record and mitigate risk of and eliminate any identified conflict of interest in relation to suppliers of Audits, training and consultancy service provision; and
- 7.4.18 Investigate the potential for FORS to recognise alternative or a combination of alternative audits as equivalent to that of the FORS Standard. Particular attention should be focussed on Quality Assurance, scope, enforceability, Terms and Conditions and management of conflict of interests. If deemed equivalent and



commercial arrangements/terms and conditions agreed, FORS certification can be issued.

## 8. **COMPONENT 4. COMMUNICATION AND MARKETING**

### 8.1 The Concessionaire shall:

- 8.1.1 Manage, maintain and host 'FORS Online' ([www.fors-online.org.uk](http://www.fors-online.org.uk)) to ensure it technically supports the FORS processes and procedures in the FORS Online Technical Specification and System Guide, appended at Appendix 5. FORS-Online will be updated and improved by the Concessionaire to support any developments to FORS.
- 8.1.2 Undertake a complete update and redesign of 'FORS Online' by 9 January 2023 and ensure it is user-friendly, responsive and easy to navigate focussing on the user experience. FORS Online shall be compatible with all major web browsers as well as being accessible and fully functional via a range of platforms including pc, mobile and tablet;
- 8.1.3 Undertake an annual review and refresh of the FORS website to ensure it remains an effective platform;
- 8.1.4 Enable the continued development of 'FORS Online' ([www.fors-online.org.uk](http://www.fors-online.org.uk)) and incorporate future technological developments as required;
- 8.1.5 Ensure 'FORS Online' complies with all British & International standards for:
  - Data Management,
  - Cyber Security
  - The General Data Protection Regulation (GDPR)
  - Any legislation in force from time to time in the United Kingdom relating to privacy and/or processing of personal data, including but not limited to the Data Protection Act 2018
  - The Privacy and Electronic Communications Regulations 2003
- 8.1.6 Ensure it incorporates Search Engine Optimisation (SEO) friendly features and allow web pages to be interpreted by a language translation tool (such as Google Translate) or similar



- 8.1.7 Organise an annual Specifier event to gauge insight and opinions about FORS in meeting their objectives;
- 8.1.8 Produce and implement an annual marketing and communications plan that is included within each Business Plan which:
- (A) Raises awareness of FORS and the support packages that are available;
  - (B) Encourages uptake of FORS by unaccredited Operators;
  - (C) Targets potential new specifying organisations e.g. universities, major infrastructure projects, NHS sites, local authorities, pallet networks etc.;
  - (D) Maintains positive relations and communications with Accredited Operators, the road transport industry and Audit Providers through the use of:
    - (1) Regular e-bulletins, with a minimum of one per week;
    - (2) Case studies;
    - (3) 'FORS Online' website;
    - (4) Trade press;
    - (5) Events;
    - (6) Social media; and
    - (7) Any alternative channels,
  - (E) Work with the FORS' Associate community and key industry organisations to help promote FORS including at external events;
  - (F) Take actions as necessary to ensure FORS is positioned as a leading industry benchmark providing confidence to fleet operators, their clients and regulatory bodies;
  - (G) Maintain and update (as necessary) the standard FORS presentation slide pack, as found in Appendix 12, for presenting FORS to stakeholders, including but not limited to freight industry associations, fleet operators, campaign groups and local authorities;
  - (H) Enable TfL, and other regulatory bodies, transport authorities and local authorities, to utilise FORS as a communication channel to engage with the road transport industry and fleet operators;
  - (I) Submit entries for a minimum of eight (8) appropriate national and two international awards each Service Year, attending

award ceremonies with relevant industry representatives where appropriate;

- (J) Organise and host an annual Accredited Operators' event/conference to keep Accredited Operators engaged and up to date with the latest FORS developments;
- (K) Assume financial responsibility for the management, maintenance and support to the training providers of the Freight Reporting Portal with effect from the 01 April 2022. This is currently provided under contract to TfL by Savanta Group until 31 March 2022. The Freight Portal facilitates the uploading by FORS training providers, course attendance and feedback and the data is transferred by API to the FORS Training Database. Current Costs: £19.3k (Annual Upkeep) £20.7k (updates as required). An overview of the Freight Reporting Portal is appended at Appendix 28.
- (L) May investigate if this technology is still viable and provides best value for money or to evaluate alternative methods of updating the FORS Training database.

## 9. **COMPONENT 5. BEST PRACTICE GUIDANCE, TOOLKITS AND E-LEARNING**

### 9.1 The Concessionaire shall:

- 9.1.1 Maintain and update, when any changes occur and as necessary, the current series of best practice guidance documents, toolkits and e-learning to ensure they are aligned to the current FORS Standard. TfL may add new guidance documents and toolkits and e-learning at any time, and these will be added to the series for maintenance and updates. The current best practice guidance documents and toolkits are listed in the FORS Asset Register appended at Appendix 15;
- 9.1.2 Keep pace with good practice and regulatory changes in the road transport industry, feedback from TfL, GSAG and industry and propose updates to the appropriate FORS material. The Concessionaire shall ensure any material changes to the best practice guidance documents and toolkits are approved by TfL;
- 9.1.3 Review all FORS material and its content (written and graphics) annually, with minor updates to be undertaken by the Concessionaire where required. All material must be fully reviewed, rescoped, redesigned and reissued by the Concessionaire at least once during the initial Term. This includes all modules listed in the FORS Asset Register appended as Appendix 15. Input must be obtained from the Professional Development Working Group; and Obtain approval for all updated and new e-learning modules from the Governance and Standards of FORS Supplier.

## 10. **COMPONENT 6. FORS TRAINING AND WORKSHOPS**

### 10.1 The Concessionaire shall:

- 10.1.1 Maintain and update, when any changes occur and as necessary, the current series of driver and manager training material to ensure they are aligned to the current FORS standard. TfL may add new training material at any time, and these will be added to the series for maintenance and updates. The current range of training is listed in the FORS Asset Register appended at Appendix 15;
- 10.1.2 Keep pace with good practice and regulatory changes in the road transport industry, feedback from industry/ delegates, Professional Development Working Group and TfL and propose updates to appropriate FORS material. Any material changes to the approved training and workshops will be approved by the Governance and Standards provider;
- 10.1.3 Review all FORS material annually, with minor updates undertaken where required. All material must be fully redesigned by the Concessionaire at least once during the Term. Input must be obtained from the Professional Development Working Group;
- 10.1.4 Ensure all driver training records are kept up to date and ensure 'FORS Online' includes an accessible and searchable training register allowing those with FORS approved and licensed training to access and update it. Access should be granted to Specifiers for the purposes of compliance checking and Accredited Operators and Audit Providers for accreditation purposes. Accredited Operators currently have access to the register here: <https://www.fors-online.org.uk/cms/fors-trained-drivers/>
- 10.1.5 Administer and manage the FORS Practitioner workshops and accreditation as per the subject areas listed in Workshop and E-learning Overview appended as Appendix 14 and within the FORS Asset Register appended as Appendix 15. There are 10 subjects in total and each workshop is three and half hours in duration. Currently two different topics are run in one day with a morning and afternoon session;
- 10.1.6 Deliver the FORS Practitioner workshops using competent staff/ trainers and industry professionals. Staff/ trainers will themselves be Practitioners competent in workshop delivery, presentation skills, facilitation and fielding questions. They will complete feedback and compile a report, to be included in the quarterly report to TfL, as well as produce and issue course certificates;
- 10.1.7 Accredite FORS Practitioner workshop content to align with an appropriate external awarding body where relevant and appropriate to offer delegates the option of external accreditation for their individual personal development plans and career development;

- 10.1.8 Collate all Practitioner workshop delegate feedback at the end of the training session and use the same to review training quality; and
- 10.1.9 Manage and update the licensing of training process. The cost of licencing to commercial training providers should be reviewed to ensure the fee covers the costs of updating material, quality assurance and administration of the process. (See Appendix 13 (Training Licensing Guide) and Appendix 20 (Alternative Revenue Stream Commercial Historical Performance)).

## 11. **COMPONENT 7. COMMERCIAL MANAGEMENT**

- 11.1 The Concessionaire shall seek best value in all aspects of FORS and seek to improve FORS' economic sustainability through the diversification of revenue streams.
- 11.2 The Concessionaire shall:
  - 11.2.1 Provide and implement a charging model for membership subscriptions and the services offered to Accredited Operators which would be accepted by the freight and fleet industry and cover operating and maintenance costs;
  - 11.2.2 Maintain the relationship with the current FORS' Associate community: <https://www.fors-online.org.uk/cms/suppliers-and-supporters/>;
  - 11.2.3 Develop new relationships with future FORS Associates and secure partnership marketing deals that deliver a range of Accredited Operator offers and discounts that are complementary to the FORS Standard and offer benefits to Accredited Operators. The current range of offers and discounts can be found at: <https://www.fors-online.org.uk/cms/suppliers-and-supporters-offers/>;
  - 11.2.4 Develop, maintain and enhance current Affinity Partner deals (driver license check, fuel card, signage/ decal, fleet check) and develop new Affinity Partner deals (this could include, but is not be limited to, insurance, breakdown cover, drug and alcohol testing, vehicle/ driver hire, tyre maintenance, employee benefit programmes). The current range of Affinity Partner deals can be found at: <https://www.fors-online.org.uk/cms/suppliers-and-supporters/>;
  - 11.2.5 Increase the range of income sources to FORS. This could include, but is not be limited to, sponsorship deals, annual awards and licensing and charging for training, advertising, a FORS online shop etc.;
  - 11.2.6 Ensure economies of scale are achieved and associated reductions in administration costs per Accredited Operator occur over the life of the Term;
  - 11.2.7 Continuously seek best value for FORS and Accredited Operators by using relevant staff, suppliers and products. All of the

Concessionaire's time, expenses and activity should be effectively managed to ensure all parts of FORS are cost effective;

- 11.2.8 Utilise a sales-focussed approach to encourage additional organisations to join FORS as Accredited Operators, Specifiers and Supporters;
- 11.2.9 Provide to TfL on a quarterly basis an 'open-book' financial report, including a transparent breakdown of revenue and cost details, each an "Open-Book Financial Report"). Revenue shall be reported within the period that the service was provided (rather than at the point of invoicing). Costs shall be justifiable and proportional to the scope/ size of FORS. Unit Costs must be provided and will be used to measure performance (see SLAs, Schedule 11). Each Quarterly Open-Book Financial Report must include, as a minimum:
  - (A) Unit Costs;
  - (B) Annual Subscription Fees;
  - (C) Audit Provider Charges;
  - (D) Individual Affinity Partner revenue;
  - (E) Supplier and Supporter fees (See Appendix 23 (Current FORS Fees));
  - (F) Training revenue broken down to show:
    - (1) Discounted and non-discounted training;
    - (2) Sponsorship;
    - (3) Cancellation fees;
  - (G) All other FORS costs including the costs of staff, sub-consultants, other suppliers, and expenses; and
  - (H) Administration costs broken down by task, to include the following tasks as a minimum:
    - (1) Processing finances;
    - (2) Commercialising assets;
    - (3) Marketing/ comms/ PR;
    - (4) Project management;
    - (5) Helpline;
    - (6) Certification;
    - (7) Compliance;
    - (8) Audit Quality Assurance;

- (9) Training development delivery;
- (10) Best practice guidance;
- (11) E-learning;
- (12) Website;
- (13) Audit Provider management ; and
- (14) FORS impact analysis.

11.2.10 Ensure any additional fees or charges imposed on Audit Providers must be set at rate which encourages new Audit Providers into and to remain in the market. This includes, but is not limited to, Audit Provider training, Audit Provider application fees or any annual charges.

### 11.3 Commercial Restrictions on Subscription Fees and Audit Provider Charges

11.3.1 Please refer to Schedule 5 (Financial Provisions) for details of commercial restrictions on Subscription Fees and Audit Provider Charges.

## 12. **COMPONENT 8. MOBILISATION, TRANSITION AND IMPLEMENTATION**

12.1 Following the award of this Contract there will be a period when the incumbent concessionaire (AECOM) will still be responsible for delivering the existing FORS contract which ceases on 9 January 2022. This transition/ mobilisation period will allow the Concessionaire to make preparations and agree a handover plan with the incumbent concessionaire (AECOM).

## 13. **POST AWARD**

13.1 Within one (1) week of the date of award of the Contract the Concessionaire must:

13.1.1 Engage and develop the transition plan with the incumbent concessionaire (AECOM) including transfer of accrued Subscription Fees; and

13.1.2 Agree weekly meetings with TfL during post award phase only, from date of award until 8 January 2022.

13.2 Prior to the Service Commencement Date, 9 January 2022, the Concessionaire must:

13.2.1 Review TUPE information and develop a specific plan to comply with TUPE;

- 13.2.2 Secure resourcing and develop mobilisation, transition and implementation plan;
- 13.2.3 Start agreeing the transferring of data from the incumbent concessionaire (AECOM);
- 13.2.4 Start looking at the audit plan and engage with existing Audit Providers;
- 13.2.5 Secure a network of Audit Providers which covers the Territory from the Service Commencement Date, 9 January 2022;
- 13.2.6 Establish a mechanism to monitor and maintain Auditing quality and consistency;
- 13.2.7 Obtain all training material, best practice and guidance from the incumbent concessionaire;
- 13.2.8 Set up monthly meetings with the appointed Governance and Standards of FORS Supplier;
- 13.2.9 Appoint a Key Account Manager as a single point of contact for the appointed Governance and Standards of FORS Supplier;
- 13.2.10 Set up four-weekly periodical and quarterly meetings with TfL;
- 13.2.11 Review current contractual and service provision of the freight portal to allow seamless transition from 31 March 2022
- 13.2.12 Review requirements and processes outlined within:
  - (A) FORS Works Manual (appended at Appendix 1);
  - (B) Requirements for Audit Providers (appended at Appendix 2);
  - (C) FORS Terms and Conditions (appended at Appendix 3);
  - (D) Design Guidelines (appended at Appendix 4);
  - (E) Online Technical Specification and System Guide (appended at Appendix 5);
  - (F) FORS Standard V5 (appended at Appendix 7);
  - (G) FORS Standard V6 (appended at Appendix 8);
  - (H) FORS Standard V6 Summary Changes (appended at Appendix 9);
  - (I) Compliance and Enforcement Manual (appended at Appendix 10);
  - (J) FORS Rules and Procedures (appended at Appendix 11); and
  - (K) Training Licensing Guide (appended at Appendix 13).

- 13.3 From the Service Commencement Date, 9 January 2022, the incumbent concessionaire (AECOM) will hand over to the Concessionaire the Services at which point the Concessionaire shall carry out the following minimum actions shall occur within the following outlined timescales.
- 13.4 Before 8 October 2021, the Concessionaire must provide the new Subscription Fees which will apply from January 2022 to the incumbent Concessionaire (AECOM) for formal publication in FORS eNews. These fees will go live on 9 January 2022, the Services commencement date.
- 13.5 Before 15 November 2021, develop and submit for approval to TfL the draft Business Plan which was included in the Mobilisation, Transition Plan and Implementation submission at tender stage. This covers Year 1, the period from 9 January 2022 to 31 December 2022. This shall include as a minimum the following section headings:
  - 13.5.1 Executive Summary
  - 13.5.2 Accredited Operator Growth Target
  - 13.5.3 Year x Priorities/objectives
  - 13.5.4 Key Developments/Deliverables
  - 13.5.5 Project Plan
  - 13.5.6 Costs/income per tasks
  - 13.5.7 Seeking best Value
  - 13.5.8 Enhancing auditing, compliance and QA
  - 13.5.9 Training delivery and development
  - 13.5.10 Outlined Marketing Strategy
- 13.6 Timescales after Service Commencement Date, 9 January 2022:
  - 13.6.1 By 12 noon of the date of start of the contract, the Concessionaire shall have:
    - (A) Requested and received all datasets from the incumbent concessionaire (AECOM), ensuring the most up to date data is in place at point of transition and that it has put assurances in place to prevent loss of data at handover;
    - (B) Received pro rata Subscription Fees from the incumbent concessionaire (AECOM);
    - (C) Appointed a representative to sit on the FORS Governance and Standards Advisory Group (GSAG);



- (D) Provide a manned, dedicated phone line;
- (E) Provide, manage and maintain a dedicated FORS email account; and
- (F) Manage, maintain and host 'FORS Online'.

13.6.2 Within three (3) months of the Service Commencement Date, the Concessionaire shall:

- (A) Maintain and update, as required, the FORS Terms and Conditions as currently set out in Appendix 3;
- (B) Review and update (as necessary and approved by GSAG), the processes where an Accredited Operator breaches the FORS Terms and Conditions and the actions to be taken as outlined in the Compliance and Enforcement Manual appended to as Appendix 10;
- (C) Ensure a clear and transparent process for Audit appeals is in place and communicated to Accredited Operators, Audit Providers and the Governance and Standards of FORS Supplier;
- (D) Allocate Key Relationship Managers to identify relevant key organisations i.e. Specifiers, Auditor Providers, Accredited Operators, trade bodies, enforcement agencies, road safety charities and governmental bodies;
- (E) Update and redesign the FORS standard presentation slide pack appended as Appendix 12;
- (F) Review and update the current licensing process to ensure quality standard is maintained and a commercial fee is introduced to at least cover updates, Quality Assurance, maintenance and administration costs; and
- (G) Assume financial and responsibility for the management, maintenance and support to the training providers of the Freight Reporting Portal with effect from the 01 April 2022. This is currently provided under contract to TfL by Savanta Group. The Freight Portal facilitates the uploading by FORS training providers, course attendance and feedback and the data is transferred by API to the FORS Training Database. Current Costs: £19.3k (Annual Upkeep) £20.7k (updates as required). An overview of the Freight Reporting Portal is appended at Appendix 28 (Freight Portal Overview).
- (H) Investigate if this technology is still viable and provides best value for money or to evaluate alternative methods of updating the FORS Training database.

- 13.6.3 Within six (6) months from the Service Commencement Date, the Concessionaire shall undertake a complete review on all training material, toolkits and guides and prioritise the needs for updates and redesign.
- 13.6.4 Within twelve (12) months from the Service Commencement Date, the Concessionaire shall:
- (A) Work with the appointed Governance and Standards of FORS Supplier to ensure the updated (not less than every two years FORS Standard is launched, communicated and marketed to industry. Any associated collateral shall also be updated by the Concessionaire in accordance with the latest version of the FORS Standard e.g. Audit report form, FAQs etc;
- 13.6.5 Organise and administer an annual Audit Provider's summit for all Audit Providers to provide updates on latest FORS developments that may impact the Audit process;
- (A) Develop a new online Audit booking system;
  - (B) Communicate with Audit Providers to develop appropriate connections between their own websites/ portals and the online Audit booking system e.g. via API;
  - (C) Develop a FORS Audit Provider refresher course that shall be undertaken by all Audit Providers every 2 years;
  - (D) Reapprove Audit Providers who qualify for retained rights, verified in accordance with Appendix 2 (Requirements for Audit Providers). To qualify for retained rights an Audit Provider must be approved by 31 December 2021, subject to commercial arrangements having been completed by 31 December 2021; and
  - (E) Undertake a complete update and redesign on 'FORS Online'.

## 14. APPENDICES

- 14.1 The following appendices as emailed by [REDACTED] of Gowling WLG on 20 September to [REDACTED] of the Concessionaire are hereby incorporated into the Contract by this reference:

Appendix 1. FORS Works Manual

Appendix 2. Requirements for Audit Providers

Appendix 3. FORS Terms and Conditions

Appendix 4. Design Guidelines

- Appendix 5. Online Technical Specification and System Guide
- Appendix 6. Data Report V2
- Appendix 7. FORS Standard V5
- Appendix 8. FORS Standard V6
- Appendix 9. FORS Standard V6 -Summary changes
- Appendix 10. Compliance and Enforcement Manual
- Appendix 11. FORS Rules and Procedures
- Appendix 12. Introduction to FORS Presentation
- Appendix 13. Training Licensing Guide V6
- Appendix 14. Practitioner Workshops and E-learning overview
- Appendix 15. FORS Asset Register V3
- Appendix 16. Current Concessionaire Exit Plan V1.6
- Appendix 17. Periodic and Quarterly KPI Report Examples
- Appendix 18. FORS Annual Reviews V2
- Appendix 19. FORS Commercial Performance V2
- Appendix 20. Alternative Revenue Stream Commercial Historical Performance V2
- Appendix 21. PWC Audit 2018/19
- Appendix 22. PWC Audit 2015/16
- Appendix 23. Current FORS Fees
- Appendix 24. Current Concessionaire Organogram V2
- Appendix 25. Current Concessionaire TUPE data overview V2
- Appendix 26. FORS Executive Group Terms of Reference
- Appendix 27. Freight Portal Overview
- Appendix 28. Senior Auditor Job Description
- Appendix 29. FORS Current APIs

## Appendix 30 FORS Auditor Training Course

## SCHEDULE 5 - FINANCIAL PROVISIONS

### 1. Concession Charges

1.1. The Concessionaire shall pay to TfL £250,000 per Service Year (adjusted annually in line with CPI in accordance with paragraph A8.2 of Schedule 3) (the "Concession Charges"), payable in arrears by way of equal four-weekly instalments (i.e. £19,230.77 per each four-weekly period). TfL will invoice the Concessionaire for the Concession Charges due to TfL on the dates provided in Table 3 below.

### 2. Commercial Restrictions on accrued Subscription Fees and Audit Upload Fees

2.1. The Concessionaire shall provide its bank details to the incumbent concessionaire (AECOM) to enable the transfer of accrued Subscription Fees on or before the Service Commencement Date.

2.2. From Service Commencement Date, the Concessionaire must set the Subscription Fees equal to or below the Subscription Fees outlined below and in Appendix 23. Please see Table 1.

**Table 1: Subscription Fees**

Number of Vehicles	Maximum Subscription Fees
1	£60.00 + VAT
2-5	£75.00 + VAT per vehicle
6-10	£400.00 + VAT
11-25	£600.00 + VAT
26-50	£850.00 + VAT
51-100	£1,650.00 + VAT
>100	£2,150.00 + VAT

2.3. After the first anniversary of the Service Commencement Date, the Concessionaire shall not increase the Subscription Fees for the duration of the Contract in any way (including in accordance with CPI or any other index) unless formally agreed in writing by the FORS Executive Group.

2.4. The Concessionaire shall allow Audit Providers to set their own auditing prices.

2.5. The Concessionaire shall:

2.5.1. offer non-discriminatory, fair and consistent terms and conditions to all Audit Providers which include key performance indicators, service levels

and risk ratings. The risk ratings shall be detailed on a RAG status aligned to the terms and conditions being offered and the quality of submissions from each Audit Provider; and

2.5.2. Not charge Audit Providers or Auditors for attendance at any Audit Provider events or annual summits;

2.6. The Concessionaire may charge each Audit Provider an upload fee to cover Quality Assurance and administration costs ("**Audit Upload Fee**"). Audit Upload Fees shall not be more than the Maximum Audit Upload Fee per Audit type, outlined in Table 2 below:

**Table 2: Maximum Audit Upload Fee per Audit Type**

<b>Audit Type</b>	<b>Maximum Audit Upload Fee</b>
Bronze (New, Renewal, MOCA)	£100
Bronze (New, Renewal, MOCA)- small operator	£75
Audit outside the UK	£75
Desk-based Audit	£50
Bronze follow-up	£50
Enhanced Audit	£250
Silver and Gold Submissions	£50
Combined Audit	£125

2.7. After the first anniversary of the Service Commencement Date, the Concessionaire may:

2.7.1. Charge each organisation applying to be an Audit Provider a maximum fee of £2,500 per application;

2.7.2. Charge each Audit Provider applying for its annual re-approval as an Audit Provider a maximum fee of £1,000 per application;

2.7.3. Charge each Audit Provider a maximum of £200 per each of its attendees at any FORS Audit Provider training course;

2.7.4. Charge each Audit Provider a maximum of £100 per each of its attendees at any FORS Audit Provider refresher courses;

and together with the Audit Upload Fees, such charges shall be the "**Audit Provider Charges**".

2.8. The Concessionaire shall not charge any other type of fees to Audit Providers other than the Audit Provider Charges.

- 2.9. The Concessionaire may increase the Audit Provider Charges on an annual basis in line with the CPI. The Concessionaire must not at any time increase the Audit Provider Fees in any other manner, unless endorsement and approval are gained from the FORS Executive Group.

#### **2.10. Service Credit Payments to TfL**

The Parties agree that all monetary amounts payable to TfL for Service Credits will be reviewed periodically and calculated Quarterly by the Concessionaire. Service Credit calculations and payments must be reported to TfL on a Quarterly basis. TfL may verify Service Credit calculations through an independent auditor if required. TfL will invoice the Concessionaire for any amounts payable Quarterly. Quarterly means 1 January, 1 April, 1 July, 1 October.

#### **2.11. Royalty Charge**

In each Service Year, the Concessionaire shall pay to TfL a one (1) per cent (one pence in every one pound) royalty charge (the “**Royalty Charge**”) on the sum of all of the Concessionaire's revenues exceeding £6,000,000 in respect of its use of the FORS Brand in that Service Year.



Table 3: TfL four (4) weekly periods

## TfL four weekly periods

TfL Financial Year Timetable

Financial Year	Last Day Period 1	Last Day Period 2	Last Day Period 3	Last Day Period 4	Last Day Period 5	Last Day Period 6	Last Day Period 7	Last Day Period 8	Last Day Period 9	Last Day Period 10	Last Day Period 11	Last Day Period 12	Last Day Period 13
2018-19	26/04/2018	26/05/2018	23/06/2018	21/07/2018	19/08/2018	15/09/2018	13/10/2018	10/11/2018	08/12/2018	05/01/2019	02/02/2019	02/03/2019	31/03/2019
2019-20	27/04/2019	25/05/2019	22/06/2019	20/07/2019	17/08/2019	14/09/2019	12/10/2019	09/11/2019	07/12/2019	04/01/2020	01/02/2020	29/02/2020	31/03/2020
2020-21	02/05/2020	30/05/2020	27/06/2020	25/07/2020	22/08/2020	19/09/2020	17/10/2020	14/11/2020	12/12/2020	09/01/2021	06/02/2021	06/03/2021	31/03/2021
2021-22	01/05/2021	29/05/2021	26/06/2021	24/07/2021	21/08/2021	18/09/2021	16/10/2021	13/11/2021	11/12/2021	08/01/2022	05/02/2022	05/03/2022	31/03/2022
2022-23	30/04/2022	28/05/2022	25/06/2022	23/07/2022	20/08/2022	17/09/2022	15/10/2022	12/11/2022	10/12/2022	07/01/2023	04/02/2023	04/03/2023	31/03/2023
2023-24	29/04/2023	27/05/2023	24/06/2023	22/07/2023	19/08/2023	16/09/2023	14/10/2023	11/11/2023	09/12/2023	06/01/2024	03/02/2024	02/03/2024	31/03/2024
2024-25	27/04/2024	25/05/2024	22/06/2024	20/07/2024	17/08/2024	14/09/2024	12/10/2024	09/11/2024	07/12/2024	04/01/2025	01/02/2025	01/03/2025	31/03/2025
2025-26	26/04/2025	24/05/2025	21/06/2025	19/07/2025	16/08/2025	13/09/2025	11/10/2025	08/11/2025	06/12/2025	03/01/2026	31/01/2026	29/02/2026	31/03/2026
2026-27	02/05/2026	30/05/2026	27/06/2026	25/07/2026	22/08/2026	19/09/2026	17/10/2026	14/11/2026	12/12/2026	09/01/2027	06/02/2027	06/03/2027	31/03/2027
2027-28	01/05/2027	29/05/2027	26/06/2027	24/07/2027	21/08/2027	18/09/2027	16/10/2027	13/11/2027	11/12/2027	08/01/2028	05/02/2028	04/03/2028	31/03/2028
2028-29	29/04/2028	27/05/2028	24/06/2028	22/07/2028	19/08/2028	16/09/2028	14/10/2028	11/11/2028	09/12/2028	06/01/2029	03/02/2029	03/03/2029	31/03/2029
2029-30	28/04/2029	26/05/2029	23/06/2029	21/07/2029	18/08/2029	15/09/2029	13/10/2029	10/11/2029	08/12/2029	05/01/2030	02/02/2030	02/03/2030	31/03/2030
2030-31	27/04/2030	25/05/2030	22/06/2030	20/07/2030	17/08/2030	14/09/2030	12/10/2030	09/11/2030	07/12/2030	04/01/2031	01/02/2031	01/03/2031	31/03/2031
2031-32	26/04/2031	24/05/2031	21/06/2031	19/07/2031	16/08/2031	13/09/2031	11/10/2031	08/11/2031	06/12/2031	03/01/2032	31/01/2032	29/02/2032	31/03/2032
2032-33	01/05/2032	29/05/2032	26/06/2032	24/07/2032	21/08/2032	18/09/2032	16/10/2032	13/11/2032	11/12/2032	08/01/2033	05/02/2033	05/03/2033	31/03/2033
2033-34	30/04/2033	28/05/2033	25/06/2033	23/07/2033	20/08/2033	17/09/2033	15/10/2033	12/11/2033	10/12/2033	07/01/2034	04/02/2034	04/03/2034	31/03/2034
2034-35	29/04/2034	27/05/2034	24/06/2034	22/07/2034	19/08/2034	16/09/2034	14/10/2034	11/11/2034	09/12/2034	06/01/2035	03/02/2035	03/03/2035	31/03/2035

NB.

Period one always starts on the 1st of April and period 12 always ends on the 31st March. This results in periods one and 12 not equalling 28 days (usually)

## SCHEDULE 6 - EMPLOYMENT PROVISIONS

### 1. **Transfer of Employees to Concessionaire**

1.1 For the purposes of this **Schedule 6**, unless the context indicates otherwise, the following expressions shall have the following meanings:

1.1.1 **“Employment Costs”** means all salaries, wages, commissions, bonuses, holiday pay (including payment for accrued but untaken holiday), sick pay, national insurance contributions, pension contributions made to or on behalf of an employee, taxation (including all income tax deductible under PAYE) and all other emoluments);

1.1.2 **“Employment Liabilities”** means all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, damages, awards, compensation, claims, demands, proceedings and legal costs (on a full indemnity basis);

1.1.3 **“Final Staff List”** has the meaning set out in **Paragraph 2.4**;

1.1.4 **“Further Transfer Date”** means the date on which the Services (or any part of them) cease to be provided by the Concessionaire and start to be performed by TfL or any Replacement Concessionaire when (assuming TUPE applies) the transfer of employment of the Re-Transferring Personnel from the Concessionaire to TfL or any Replacement Concessionaire occurs;

1.1.5 **“Relevant Period”** means the period starting on the earlier of:

1.1.5.1 the date falling 6 calendar months before the date of expiry of the Contract; or

1.1.5.2 if the Contract is terminated by TfL in accordance with **Clause 30.1, 30.4 or 30.5** or by the Concessionaire under **Clause 30.7**, the date of the relevant termination notice;

and ending on the Further Transfer Date;

- 1.1.6 **“Replacement Concessionaire”** means any replacement supplier or provider to TfL of the Services (or any part of the Services) and any Sub-Contractor to such replacement supplier or provider;
  - 1.1.7 **“Re-Transferring Personnel”** means any Concessionaire’s Personnel who are assigned (for the purposes of TUPE) to the relevant Services (or any part of them) immediately before the Further Transfer Date and whose employment contract will transfer to TfL or the Replacement Concessionaire pursuant to TUPE with effect from the Further Transfer Date;
  - 1.1.8 **“Staff List”** has the meaning set out in **Paragraph 2.1**;
  - 1.1.9 **“Staffing Information”** has the meaning set out in **Paragraph 2.1**;
  - 1.1.10 **“Sub-Contractor”** means any subcontractor to the Current Service Provider(s), the Concessionaire or the Replacement Concessionaire as the context dictates which is engaged in the provision of the Services or any part of them (or services substantially similar to the Services or any part of them) and includes the sub-contractor of any such sub-contractor;
  - 1.1.11 **“Transfer of Services”** means the transfer of the provision of the Services from the Current Service Provider(s) and any Sub-Contractor to the Concessionaire and any Sub-Contractor;
  - 1.1.12 **“Transferring Staff”** means such employees of the Current Service Provider(s) (and its Sub-Contractors) as are assigned (for the purposes of TUPE) to the Services the names of whom as at 2 February 2021 are listed in **Appendix 1** to this **Schedule 6**; and
  - 1.1.13 **“TUPE”** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 1.2 It is understood and acknowledged by the Parties that TUPE applies to the Transfer of Service and accordingly, pursuant to TUPE, the contracts of employment between the Current Service Provider(s) and any Sub-Contractor and the Transferring Staff will have effect from the Contract Commencement Date as if originally made between the Concessionaire (or its Sub-Contractor(s)) and the Transferring Staff (except in relation to occupational pension scheme benefits excluded under Regulation 10 of TUPE which will be subject to the provisions of **Paragraph 1.3**).
- 1.3 The Concessionaire will provide the Transferring Staff with access to a pension scheme in accordance with the Pensions Act 2004 and the Transfer

of Employment (Pension Protection) Regulations 2005 and TUPE with effect from the Contract Commencement Date.

1.4 The Parties agree that all Employment Costs in respect of the Transferring Staff will be allocated as follows:

1.4.1 the Current Service Provider(s) will be responsible for any Employment Costs relating to the period up to the Contract Commencement Date; and

1.4.2 the Concessionaire will be responsible for any Employment Costs relation to the period on and after the Contract Commencement Date,

and Employment Costs will if necessary be apportioned on a time basis between the Current Service Provider(s) and the Concessionaire, regardless of when such sums fall to be paid.

1.5 TfL warrants to the Concessionaire that none of TfL's employees will transfer to the Concessionaire under TUPE as a result of the Transfer of Service.

1.6 The Concessionaire will indemnify and keep indemnified TfL and the Current Service Provider(s) (and its Sub-Contractors) from and against all Employment Liabilities which TfL or the Current Service Provider(s) (or its Sub-Contractors) incur or suffer arising out of or in connection with:

1.6.1 any act or omission by or on behalf of the Concessionaire (or its Sub-Contractors) in respect of any person employed or engaged by it (or its Sub-Contractors) (including the Transferring Staff) on or after the Contract Commencement Date;

1.6.2 any failure by the Concessionaire (or its Sub-Contractors) to comply with Regulation 13 of TUPE in relation to the Transfer of Services;

1.6.3 any claim brought or other action taken by or on behalf of any of the Transferring Staff which arises from or in connection with (directly or indirectly) any act or omission or communication made to the Transferring Staff by the Concessionaire (or its Sub-Contractors) before the Contract Commencement Date;

1.6.4 the employment or termination of employment by the Concessionaire (or its Sub-Contractors) of any Transferring Staff on or after the Contract Commencement Date;

1.6.5 any actual or proposed changes by the Concessionaire (or its Sub-Contractors) to the terms and conditions of employment or working

conditions of any of the Transferring Staff which are or are alleged to be to the detriment of any of the Transferring Staff.

- 1.7 The Concessionaire will provide the Current Service Provider(s) (or its Sub-Contractors), as soon as practicable, but in any event in good time before the Contract Commencement Date with all information which the Current Service Provider(s) (or its Sub-Contractors) may reasonably require to enable it to comply with its information and consultation obligations under TUPE and, if requested, will confirm to TfL when it has done so and provide a copy to TfL.
- 1.8 The Concessionaire warrants and undertakes to TfL that all information given to the Current Service Provider(s) (or its Sub-Contractors) regarding the Transferring Staff and any measures it proposes to take in relation to them is and will be full and accurate in all respects.
- 1.9 **Clause 34.1** shall be amended so that benefits conferred on the Current Service Provider or its Sub-Contractors under this **Schedule 6** shall be enforceable by them.

## 2. **Transfer of Employees on Expiry or Termination**

- 2.1 The Concessionaire will promptly provide (and procure that its Sub-Contractors provide) when requested by TfL (but not more than twice in any 12 month period) and not more than 7 days after the date of any notice to terminate this Contract given by either Party, the following information to TfL:
  - 2.1.1 an anonymised list of the Concessionaire's Personnel and employees and workers of its Sub-Contractors engaged in the provision of the Services (each identified as such in the list) (the "**Staff List**");
  - 2.1.2 such of the information specified in **Appendix 1** to this **Schedule 6** as is requested by TfL in respect of each individual included on the Staff List;
  - 2.1.3 in the situation where notice to terminate this Contract has been given, an anonymised list of any persons who are materially engaged or have been materially engaged during the preceding six months in the provision of the Services, whom the Concessionaire considers will not transfer under TUPE for any reason whatsoever together with details of their role and the reasons why the Concessionaire thinks such persons will not transfer,

such information together being the "**Staffing Information**".

- 2.2 The Concessionaire will notify TfL as soon as practicable and in any event within 5 days of the Concessionaire becoming aware of any additional or new Staffing Information and any changes to any Staffing Information already provided.
- 2.3 The Concessionaire warrants to TfL that any Staffing Information which it supplies (including any copies of it) is complete and accurate in all respects and will be kept complete and accurate.
- 2.4 Subject to **Paragraph 2.5**, the Concessionaire will provide TfL with a final Staff List (the “**Final Staff List**”) and Staffing Information relating to persons on that list not less than 28 days before the Further Transfer Date.
- 2.5 If the Contract is terminated by TfL in accordance with **Clause 30.1, 30.4 or 30.5** or by the Concessionaire under **Clause 30.7** then the Final Staff List will be provided by the Concessionaire to TfL as soon as practicable and no later than 14 days after the date of termination or expiry of the Contract.
- 2.6 The Concessionaire warrants that as at the Further Transfer Date:
- 2.6.1 the Final Staff List and the Staffing Information relating to persons on that list will be complete and accurate;
  - 2.6.2 the Final Staff List will identify all actual and potential Re-Transferring Personnel; and
  - 2.6.3 it will have disclosed all terms and conditions of employment or engagement and other Staffing Information relating to the Re-Transferring Personnel to TfL.
- 2.7 During the Relevant Period the Concessionaire will not and will procure that its Sub-contractors do not without the prior written consent of TfL (such consent not to be unreasonably withheld or delayed):
- 2.7.1 terminate or give notice to terminate the employment or engagement or replace the persons listed on the most recent Staff List or any Re-Transferring Personnel (save for any termination for gross misconduct, provided that TfL is informed promptly of such termination);
  - 2.7.2 deploy or assign any other person to perform the Services who is not included on the most recent Staff List;
  - 2.7.3 make, propose or permit any changes to the terms and conditions of employment or engagement of any persons listed on the most recent Staff List or any Re-Transferring Personnel;

- 2.7.4 increase to any significant degree the proportion of working time spent on the Services by any of the Concessionaire's Personnel other than temporarily and in the ordinary course of business; or
  - 2.7.5 introduce any new contractual or customary practice (including for the avoidance of doubt any payments on termination of employment) applicable to any person listed on the most recent Staff List or any Re-Transferring Personnel.
- 2.8 The Concessionaire will promptly notify TfL of any notice of resignation received from any person listed on the most recent Staff List or the Final Staff List (if any) during the Relevant Period regardless of when such notice takes effect.
- 2.9 The Concessionaire agrees that TfL will be permitted to disclose any information provided to it under this **Schedule 6** in anonymised or pseudonymised form to any person who has been invited to tender for the provision of the Services (or similar services) and to any third party engaged by TfL to review the delivery of the Services and to any Replacement Concessionaire.
- 2.10 If TUPE applies on the expiry or termination of the Contract, on the termination or variation of any Services or any part of a Service, or on the appointment of a Replacement Concessionaire, the following will apply:
- 2.10.1 The contracts of employment of the Re-Transferring Personnel will have effect from the Further Transfer Date as if originally made between the Re-Transferring Personnel and TfL or Replacement Concessionaire (or its Sub-Contractor) (as appropriate) (except in relation to occupational pension scheme benefits excluded under Regulation 10 of TUPE which will be treated in accordance with the provisions of the Pensions Act 2004 and the Transfer of Employment (Pensions Protection) Regulations 2005).
  - 2.10.2 During the Relevant Period the Concessionaire will:
    - 2.10.2.1 provide TfL or Replacement Concessionaire (as appropriate) with access to such employment and payroll records as TfL or Replacement Concessionaire (as appropriate) may require to put in place the administrative arrangements for the transfer of the contracts of employment of the Re-Transferring Personnel to TfL or Replacement Concessionaire (as appropriate);



- 2.10.2.2 allow TfL or Replacement Concessionaire (as appropriate) to have copies of any of those employment and payroll records;
- 2.10.2.3 provide all original employment records relating to the Re-Transferring Personnel to TfL or Replacement Concessionaire (as appropriate); and
- 2.10.2.4 co-operate with TfL and any Replacement Concessionaire in the orderly management of the transfer of employment of the Re-Transferring Personnel.

If the Re-Transferring Personnel are employed or engaged by Sub-Contractors, the Concessionaire will procure such Sub-Contractors provide TfL or Replacement Concessionaire (as appropriate) with the same level of access, information and cooperation.

- 2.10.3 The Concessionaire warrants to each of TfL and the Replacement Concessionaire that as at the Further Transfer Date no Re-Transferring Personnel (except where the Concessionaire has notified TfL and the Replacement Concessionaire (if appointed) in writing to the contrary) to the Concessionaire's knowledge:

- 2.10.3.1 is under notice of termination;
- 2.10.3.2 is on long-term sick leave;
- 2.10.3.3 is on maternity, parental or adoption leave;
- 2.10.3.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any regulations;
- 2.10.3.5 is entitled or subject to any additional terms and conditions of employment other than those disclosed to TfL or Replacement Concessionaire (as appropriate);
- 2.10.3.6 is or has been within the previous two years the subject of formal disciplinary proceedings;
- 2.10.3.7 has received a written warning (other than a warning that has lapsed);

- 2.10.3.8 has taken or been the subject of a grievance procedure within the previous two years; or
  - 2.10.3.9 has objected, or has indicated an intention to object, in accordance with TUPE to his or her employment transferring to TfL or Replacement Concessionaire (as appropriate) under TUPE.
- 2.10.4 The Concessionaire undertakes to each of TfL and any Replacement Concessionaire that it will (and will procure that its Sub-Contractors will):
- 2.10.4.1 continue to perform and observe all of its obligations under or in connection with the contracts of employment of the Re-Transferring Personnel and any collective agreements relating to the Re-Transferring Personnel up to the Further Transfer Date;
  - 2.10.4.2 pay to the Re-Transferring Personnel all Employment Costs to which they are entitled from the Concessionaire or any Sub-Contractor which fall due in the period up to the Further Transfer Date;
  - 2.10.4.3 to pay to TfL or the Replacement Concessionaire (as appropriate) within 7 days of the Further Transfer Date any apportioned sum in respect of Employment Costs as set out in **Paragraph 2.10.5**; and
  - 2.10.4.4 to comply in all respects with its information and consultation obligations under TUPE and to provide to TfL or Replacement Concessionaire (as appropriate) such information as TfL or Replacement Concessionaire may request in order to verify such compliance.
- 2.10.5 The Parties agree that all Employment Costs in respect of the Re-Transferring Personnel will be allocated as follows:
- 2.10.5.1 the Concessionaire will be responsible for any Employment Costs relating to the period up to the Further Transfer Date;
  - 2.10.5.2 TfL and/or (where appointed) any Replacement Concessionaire will be responsible for the Employment Costs relating to the period on and after the Further Transfer Date,

and will if necessary be apportioned on a time basis (regardless of when such sums fall to be paid).

2.10.6 The Concessionaire will indemnify and keep indemnified each of TfL and any Replacement Concessionaire from and against Employment Liabilities which TfL and/or the Replacement Concessionaire incurs or suffers arising directly or indirectly out of or in connection with:

2.10.6.1 any failure by the Concessionaire to comply with its obligations under **Paragraph 2.10**;

2.10.6.2 any act or omission by or on behalf of the Concessionaire (or its Sub-Contractors) in respect of the Re-Transferring Personnel whether occurring before on or after the Further Transfer Date;

2.10.6.3 any failure by the Concessionaire (or its Sub-Contractors) to comply with Regulation 13 of TUPE (except to the extent that such failure arises from a failure by TfL or the Replacement Concessionaire to comply with Regulation 13 of TUPE);

2.10.6.4 any claim or demand by HMRC or any other statutory authority in respect of any financial obligation including but not limited to PAYE and national insurance contributions in relation to any Re-Transferring Personnel to the extent that such claim or demand relates to the period from the Contract Commencement Date to the Further Transfer Date;

2.10.6.5 any claim or demand or other action taken against TfL or any Replacement Concessionaire by any person employed or engaged by the Concessionaire (or its Sub-Contractors) (other than Re-Transferring Personnel included on the Final Staff List) who claims (whether correctly or not) that TfL or Replacement Concessionaire has inherited any liability from the Concessionaire (or its Sub-Contractors) in respect of them by virtue of TUPE.

2.11 If TUPE does not apply on the expiry or termination of the Contract, the Concessionaire will remain responsible for the Concessionaire Personnel and will indemnify and keep indemnified TfL against all Employment Liabilities which TfL incurs or suffers arising directly or indirectly out of or in connection

with the employment or termination of employment of any of the Concessionaire Personnel or former Concessionaire Personnel.

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

2.12.1 is still an employee or sub-contractor of the Concessionaire or any of the Concessionaire's associated companies; and

2.12.2 was at any time employed or engaged by the Concessionaire in order to provide the Services to TfL under this Contract,

and such access and consultation will be provided on the first occasion free of charge and thereafter be charged at reasonable rates for the time spent by the Concessionaire and/or its employees or Sub-Contractors on such consultation. The Concessionaire will use all reasonable endeavours to procure that such persons co-operate with TfL's requests.

- 2.13 **Clause 34.1** shall be amended so that benefits conferred on the Replacement Concessionaire under this **Schedule 6** shall be enforceable by them.

**Appendix 1 to Schedule 6****List of Transferring Staff**

Employee ID for Disclosure	Role Title/Designation and Role Profile
Employee 1	Management
Employee 2	Management
Employee 3	Management
Employee 4	Finance
Employee 5	Management
Employee 6	Compliance / QA
Employee 7	Helpline
Employee 8	Helpline
Employee 9	Marketing
Employee 10	Training
Employee 11	Helpline
Employee 12	Management
Employee 13	Helpline
Employee 14	Compliance / QA
Employee 15	Helpline
Employee 16	Training
Employee 17	Marketing
Employee 18	Compliance / QA
Employee 19	Helpline
Employee 20	Finance
Employee 21	Compliance / QA
Employee 22	IT / Systems Support
Employee 23	Finance
Employee 24	Marketing
Employee 25	IT / Systems Support
Employee 26	IT / Systems Support
Employee 27	IT / Systems Support
Employee 28	Marketing
Employee 29	IT / Systems Support
Employee 30	IT / Systems Support

## Appendix 2 to Schedule 6

### Information to be provided in respect of those on the Staff List

- Amount of time spent on the Services (or any part of the Services specified by TfL)
- Date of birth
- Role Title/Designation and Role Profile
- Annual Salary
- Bonus and Commission Amount and Frequency
- Pay Frequency and Date
- Overtime - Contractual or Non Contractual and Rates
- Contractual Working Hours
- Contract Type - Permanent/Temporary
- Geographical Area Of Work / Location
- Commencement of Employment Date
- Continuous Service Date
- Car Allowance
- Pension Contributions
  - 1) Employer
  - 2) Employee
  - Including additional information on:
    - who were originally employees of TfL,
    - who were members of (or eligible to become members of) the TfL Pension Fund / The Local Government Pension Scheme for England and Wales/The Principal Civil Service Pension Scheme,
    - whose employment transferred from TfL to the Concessionaire under TUPE; and
    - who were entitled to broadly comparable benefits under the Current Contractor's Scheme
- Details of the relevant employee representative body or bodies and relevant collective agreements
- Date of Annual Pay Award
- Annual Leave Entitlement
- Contractual Notice Period
- Public Holiday /Concessionary Days Entitlement
- Sickness Entitlement (in 12 month rolling period)
- Salary/wage increases pending
- Eligibility for enhanced redundancy pay and any other contractual or non-contractual termination of severance arrangements (including methods of calculation)

- Details of any other benefits provided, whether contractual or non-contractual
- Copy of employment contract or applicable standard terms and employee handbook
- Any loans or educational grants
- For those employees who are foreign nationals the country of citizenship, immigrant status and all documentation required by law to demonstrate a right to work in the United Kingdom
- Information on any disciplinary or grievance procedure taken against or by an employee in the two years immediately preceding the information being provided
- Information about any tribunal claims in the immediately preceding two years or whether there are reasonable grounds to believe a claim may be brought
- Department and place on organisation chart
- Average absence due to sickness
- Training and competency records



**SCHEDULE 7 - FORM FOR VARIATION**Contract Parties: *[to be inserted]*Contract Number: *[to be inserted]*Variation Number: *[to be inserted]*TfL Contact Telephone: *[to be inserted]*Date: *[to be inserted]***TFL FOR VARIATION TO CONTRACT (AVC)**

Pursuant to **Clause 35** of the Contract, authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Concessionaire and returned to the Procurement Manager as an acceptance by the Concessionaire of the variation shown below.

DETAILS OF VARIATION	AMOUNT (£)
ALLOWANCE TO TFL	
EXTRA COST TO TFL	
TOTAL	

.....  
For TfL (signed)

.....  
(print name)

ACCEPTANCE CONCESSIONAIRE	BY THE	
Date	Signed	

## SCHEDULE 8 - POST TERMINATION PROVISIONS

### 1. **Scope**

#### 1.1 This **Schedule 8**:

1.1.1 sets out the strategy to be followed by the Parties on the termination or expiry of this Contract; and

1.1.1.1 requires the Concessionaire to develop an Exit Plan that will separately account for:

- (a) the cessation of the Services; and
- (b) the transfer of the Services to TfL or a Replacement Contractor, which will require the Concessionaire to support an orderly, controlled transition of responsibility for the provision of the Services from the Concessionaire to a Replacement Contractor (if appropriate), at TfL's direction, with the minimum of disruption and so as to prevent or mitigate any inconvenience to TfL by means of the implementation of the Exit Plan in the following circumstances for termination:
  - (i) cessation of the Services at the expiry of the Term (or any extension thereof);
  - (ii) transfer of the Services due to an Insolvency Event;
  - (iii) transfer of the Services or cessation of the Services due to a termination under **Clauses 30.1, 30.4 or 30.5**.

### 2. **Exit Strategy**

2.1 The Concessionaire will ensure that the Exit Plan that it prepares in accordance with **Paragraph 3.1** deals as a minimum with those areas set out in this **Paragraph 2.1**, together with such other provisions as the Concessionaire deems necessary or TfL may reasonably request from time to time, including:

- 2.1.1 the name and contact details of each party's representative who will act as the primary point of contact for all exit related matters;
- 2.1.2 the timing and process for jointly establishing an exit team of suitably skilled representatives of the Parties to manage the implementation of the Exit Plan ("**Exit Team**"), and replacements thereof including the following information:

- 2.1.2.1 the name and contact details for each member of the Exit Team and his role;
- 2.1.2.2 the Exit Team will consist of no more than five (5) representatives from each Party;
- 2.1.2.3 reporting lines for each member of the Exit Team;
- 2.1.2.4 liaison lines between TfL and the Concessionaire and any Replacement Contractor or third party;
- 2.1.2.5 responsibilities for approval of documentation; and
- 2.1.2.6 escalation processes;
- 2.1.3 unless the Parties agree otherwise, the Exit Plan will cover the period commencing on the Trigger Date (as defined in **Paragraph 4.1** below) and ending on the date of termination or expiry date of the Contract (as appropriate);
- 2.1.4 a project plan detailing the timeframes for implementation of each part of the Exit Plan and any milestones that need to be met by the Concessionaire or TFL or any Replacement Contractor;
- 2.1.5 an outline of the procedures for the transfer and/or removal of data and any other systems of the Concessionaire or any third party;
- 2.1.6 an outline of any special transition provisions relating to the transfer or removal of any software or the transfer or termination of any software licences;
- 2.1.7 the procedure and timeframe for the hand back or destruction of equipment and/or any documents containing the other Party's Intellectual Property Rights or Confidential Information as expressly required by this Contract;
- 2.1.8 a list of all Concessionaire internal and third party support arrangements used in the delivery of the Services;
- 2.1.9 a list of the Concessionaire Personnel on an anonymous/grade basis who are or may be involved in the provision of the Services and a summary of their terms of employment;
- 2.1.10 a list of all Sub-Contracts or other relevant contracts (if any);
- 2.1.11 the procedure, structure and timeframe for training the employees of TfL or the Replacement Contractor as the case may be;
- 2.1.12 a list of any and all approvals, consents, licences, permissions, certificates and statutory agreements, permits or authorisations which are necessary, desirable or required by applicable law or by

any competent authority obtained, or to be obtained by the Concessionaire for the performance of the Services, the occupation and use of any premises used in the performance of the Services, the performance of services replacing the Services or any other transfer or hand-back envisaged under this **Paragraph 2.1**;

- 2.1.13 a full list of the information relevant to the Concessionaire's provision of the Services including, but not limited to, volumes processed, data volumes stored, performance against the Service Level Agreements, maintenance statistics and fault statistics;
- 2.1.14 the proposals and procedure for transferring the conduct of any actions being conducted by the Concessionaire under **Paragraph A5.2 of Schedule 2** to TfL or the Replacement Contractor; and
- 2.1.15 any other information or action pertaining to the Exit Plan required by TfL to ensure a smooth and timely transfer to TfL or Replacement Contractor as the case may be.

### 3. **Development and Review of Exit Plan**

- 3.1 The Concessionaire will prepare an Exit Plan during the Mobilisation Period and submit it to TfL for approval within three (3) months of the Contract Commencement Date. As outlined in **Paragraph 1.1** of this Schedule, there will be different reasons for termination of the Contract and thus implementing the Exit Plan, and, therefore, the Concessionaire must ensure that the Exit Plan fully and properly accounts separately for:
  - 3.1.1 the cessation of the Services; and
  - 3.1.2 the transfer of the Services.
- 3.2 As a minimum, the Concessionaire will ensure that the Exit Plan includes:
  - 3.2.1 those areas set out in **Paragraph 2.1**;
  - 3.2.2 any other information that the Concessionaire determines is required to enable the cessation of the Services or the transfer of the Services to a Replacement Contractor to the maximum level of detail as it is reasonably possible to determine at the time of preparation of the Exit Plan; and
  - 3.2.3 such other provisions as the Concessionaire deems necessary or TfL may request from time to time in relation to expiry or termination of the Contract.
- 3.3 The Concessionaire will, on an annual basis starting on the first anniversary of the Contract Commencement Date and at any other time TfL or the Concessionaire deems necessary throughout the Term:
  - 3.3.1 review and revise the Exit Plan to take into account changing technologies and any changes to the scope or nature of the Services

and Equipment, including any changes agreed pursuant to the Contract; and

- 3.3.2 agree with TfL the scope and detail of any necessary revisions to the Exit Plan and promptly submit such revised Exit Plan to TfL for approval.
- 3.4 Without limitation to the generality of the foregoing, the Concessionaire will make such amendments to the Exit Plan as TfL may require from time to time.
- 3.5 The Concessionaire will promptly implement the approved Exit Plan in accordance with its terms on the termination or expiry of the Contract howsoever arising, unless and until the date that TfL has approved the Service and Equipment Transfer/Cessation Plan, in which case the provisions of **Paragraph 6.2** will apply from such date.

#### 4. **Service and Equipment Transfer/Cessation Plan**

4.1 Without prejudice to **Paragraph 3**, the Concessionaire will:

- 4.1.1 if requested by TfL from time to time;
- 4.1.2 if a notice of termination is served in respect of this Contract; or
- 4.1.3 at the point where there is nine (9) months of the Term or extended Term, as appropriate, remaining,

(each of the events and/or dates referred to in **Paragraphs 4.1.1, 4.1.2 and 4.1.3** being referred to, as appropriate, in this **Schedule 8** as the “**Trigger Date**”),

4.1.3.1 promptly produce a detailed service transfer plan (the “**Service Transfer/Cessation Plan**”) by developing and refining the Exit Plan as necessary to envisage either:

- (a) the hand-over of the Services to TfL or a Replacement Contractor; or
- (b) the winding-down and cessation of the Services (as the case may be);

as instructed by TfL; and

4.1.3.2 deliver such Service Transfer/Cessation Plan to TfL for its review and approval within thirty (30) Business Days of the relevant Trigger Date (or, where **Paragraph 4.1.2** above applies, such earlier date as TfL may specify (acting reasonably)).

4.2 The Concessionaire will:

- 4.2.1 ensure that the Service Transfer/Cessation Plan deals as a minimum with:
  - 4.2.1.1 developing in more detail those areas set out in the Exit Plan; and
  - 4.2.1.2 such other provisions as the Concessionaire deems necessary in accordance with good industry practice or TfL may require from time to time; and
- 4.2.2 revise and update the Service Transfer/Cessation Plan in accordance with any reasonable instructions of TfL from time to time,

in each case so as to establish a detailed plan and management structure for all activities required for exit of the Concessionaire under the specific conditions applying at the time and enable either the cessation of, or the smooth and orderly transition to a Replacement Contractor of, the Services within the specified timescales.

- 4.3 Production, revision and updating of both the Exit Plan and the Service Transfer/Cessation Plan will be at the Concessionaire's sole cost and expense.

## 5. **Disclosure of Exit Documents**

- 5.1 The Concessionaire acknowledges that, notwithstanding any of TfL's obligations of confidentiality under this Contract, TfL may at any time disclose the:

- 5.1.1 Exit Plan; and/or

- 5.1.2 Service Transfer/Cessation Plan,

to third parties who are tendering or involved in the tendering process for the re-letting or re-procurement of the Services or substantially similar equipment and/or services on termination or expiry of this Contract.

## 6. **Implementation of Service Transfer/Cessation Plan**

- 6.1 Upon approval of the Service Transfer/Cessation Plan by TfL following a Trigger Date, the Concessionaire will implement the Service Transfer/Cessation Plan in accordance with its terms.
- 6.2 The Concessionaire will promptly comply with all reasonable instructions from TfL with regard to the implementation and execution of the Service Transfer/Cessation Plan including:
  - 6.2.1 co-operating with any Replacement Contractor and third party, including in relation to transfer of Concessionaire Personnel and the transfer of data; and

- 6.2.2 making such Key Personnel not comprised within the Re-Transferring Personnel available to the Replacement Contractor for a reasonable period of time after expiry or termination as the case may be to be agreed between the Concessionaire and TfL in order to assist in the transfer of responsibility for the provision of the Services.

## 7. **Assignment of Licences and Relevant Contracts**

### *Licences*

- 7.1 If the Services are transferred to TfL or any Replacement Contractor, the Concessionaire will ensure that each of the Sub-Contracts and any other contracts relating to the provision of the Services entered into by the Concessionaire as required in accordance with **Paragraph 2.1** of this **Schedule 8** are assigned, transferred or novated (at no cost) to TfL or the Replacement Contractor, at TfL's direction.

### *Relevant Contracts*

- 7.2 Upon receipt from the Concessionaire of all required third party consents in respect of a Sub-Contract or a contract relating to the provision of the Services entered into by the Concessionaire or certification to which **Paragraph 7.1** above applies (a "**Relevant Contract**"), the Concessionaire will, as soon as reasonably practicable, assign, transfer or novate the Relevant Contract to which the third party consent relates to the Replacement Contractor, as TfL may direct (the date from which such assignment, novation or transfer becomes effective being the "**RC Transfer Date**").
- 7.3 Until such time as it can be assigned, novated or transferred pursuant to **Paragraph 7.2** above, in respect of each Relevant Contract, the Concessionaire will unless contractually prevented from so doing, sub-contract the rights and obligations of the Concessionaire under such contracts to TfL or the Replacement Contractor, as TfL may direct, on the same terms, *mutatis mutandis*, and for the same rates of remuneration (without imposing any margin) as apply to the contracts concerned at all times (the date from which each such sub-contracting becomes effective being the "**RC Sub-Contract Date**").
- 7.4 Where prevented from sub-contracting pursuant to **Paragraph 7.3** of this **Schedule 8**, the Concessionaire will hold the rights and benefits under the Relevant Contract in trust for TfL or the relevant Replacement Contractor absolutely from the date of termination or expiry of the Contract until such third party consent is obtained and the Relevant Contract is so assigned, transferred or novated (the date from which each such holding of rights and benefits on trust becomes effective being the "**RC Trust Date**") or for six months following the date of termination or expiry of the Contract, if later. The Concessionaire will, whilst so holding the rights and benefits under the Relevant Contract in trust as aforesaid, in the performance of its obligations and the exercise of its rights under the Relevant Contract, seek and act at all times in accordance with the instructions of TfL in order to secure the



performance of the Relevant Contract and will deliver to (or will procure that there is delivered to) TfL, as soon as practicable following receipt by the Concessionaire, any notice or other document concerning or relating to the Relevant Contract.

7.5 If:

- 7.5.1 the Concessionaire holding a Relevant Contract on trust for the benefit of TfL or a Replacement Contractor would result in the breach of the Relevant Contract; or
- 7.5.2 any third party consent is not obtained by the date of termination or expiry of the Contract,

then the Relevant Contract will be deemed to have not been transferred to TfL (or such Replacement Contractor) and, in either case, the Parties will make such other reasonably practicable arrangements between themselves which will, without (in the case of **Paragraph 7.5.1** above) giving rise to such a breach, and so far as is practicable, secure rights for TfL or the relevant Replacement Contractor equivalent to those it would have enjoyed had the benefit of the Relevant Contract been transferred to it and for relieving the Concessionaire from all liability under the Relevant Contract with effect from the date of termination or expiry of the Contract.

- 7.6 Notwithstanding any other provision of this Contract or any document effecting any assignment, novation or transfer in accordance with this **Schedule 8**, a Replacement Contractor will not have any liability for any claim which may be made against the Concessionaire for or in respect of any breach by the Concessionaire prior to the relevant RC Sub-Contract Date or the RC Transfer Date (as applicable) of any term or obligation under any of the Relevant Contracts or failure by the Concessionaire prior to the relevant RC Sub-Contract Date and/or the RC Transfer Date (as applicable) to perform any of its obligations thereunder.

*Concessionaire to indemnify TfL and/or Replacement Contractor*

- 7.7 The Concessionaire will indemnify the relevant Replacement Contractor (and TfL if TfL is not the Replacement Contractor) against the amount of any claim which may be made against them for or in respect of any breach by the Concessionaire prior to the RC Transfer Date or RC Sub-Contract Date (as appropriate) of any term or obligation under any of the Relevant Contracts or failure by the Concessionaire or the Replacement Contractor prior to the RC Transfer Date or RC Sub-Contract Date (as appropriate) to perform any of its obligations thereunder provided always that TfL and the Replacement Contractor will only be entitled to the benefit of this indemnity to the extent that it has used reasonable endeavours to mitigate its loss. A Replacement Contractor will have the right to enforce the terms of this **Paragraph 7.7**.

*TfL to indemnify Concessionaire*

7.8 TfL will:

- 7.8.1 indemnify the Concessionaire against the amount of any claim which may be made against it for or in respect of any breach by TfL (or a Replacement Contractor (as applicable)) of any obligation under any Relevant Contract to the extent that such term or obligation is sub-contracted to TfL or a Replacement Contractor (as applicable) pursuant to **Paragraph 7.3** from the relevant RC Sub-Contract Date; and/or
- 7.8.2 reimburse the Concessionaire for any amounts properly paid as charges in respect of the services received by TfL (to the extent such services are solely received by TfL) under any Relevant Contract to the extent that the Concessionaire holds the rights and benefits under the Relevant Contract on trust for TfL pursuant to **Paragraph 7.4** from the relevant RC Trust Date,

in each case until such date (if any) as the sub-contracting or holding on trust ceases to be effective in accordance with **Paragraph 7.5** provided that:

- 7.8.2.1 TfL will be entitled to assume conduct of the defence of each such claim; and
- 7.8.2.2 the Concessionaire provides all information reasonably required by TfL in connection with the defence of each such claim.

8. **Transfer of Data to TfL and/or Replacement Contractor**

- 8.1 The Concessionaire will carry out data checking, verification, cleansing, review, quality analysis and assurance, integrity testing and migration twelve months prior to contract expiry or as otherwise directed in writing by TfL (acting reasonably) from time to time (at the sole cost and expense of the Concessionaire). The Concessionaire will provide updates to design documents that include the data dictionary, logical data model and any other relevant design documents to TfL nine months prior to contract expiry. The Concessionaire will provide a decommissioning project plan nine months prior to the expiry date. The Concessionaire will also provide an outline of the steps and processes required to decommission all of the assets; data; interfaces and buildings that have been used to deliver the service with the decommissioning project plan. The Concessionaire will ensure that they begin carrying out activities detailed within the decommissioning plan nine months prior to the expiry date.
- 8.2 The Concessionaire will ensure:
  - 8.2.1 all data or data extracts are supplied to Replacement Contractor (or TfL if applicable) and/or any third party nominated by TfL or the Replacement Contractor;

- 8.2.2 a full extract of database in a format to be agreed with TfL to be delivered in a secure data transfer at no extra cost to TfL six months prior to contract expiry;
  - 8.2.3 all data being migrated to the Replacement Contractor (or TfL, as applicable) remain available to and useable by TfL, and Third Parties during such migration;
  - 8.2.4 the migration of data to the Replacement Contractor (or TfL, as applicable) envisaged under this **Paragraph 8** does not result in data loss, corruption or impairment;
  - 8.2.5 all data migrated to the Replacement Contractor (or TfL, as applicable) is accurate, up to date and complete;
  - 8.2.6 all data migrated to the Replacement Contractor (or TfL, as applicable) is reconciled, which will include carrying out referential integrity checks to ensure that data stored in each part of any equipment is consistent and correct; and
  - 8.2.7 all data is fit for the purposes of their use and processing in connection with the Services or services materially similar to the Services (provided that such services involve the use and processing of data in a materially similar format to the Services).
- 8.3 The Concessionaire will promptly at its own expense remedy any breach by the Concessionaire of **Paragraph 8** of this **Schedule 8**. Should it fail to do so within such period as TfL may reasonably specify, TfL will be entitled to take such action to remedy such breach as TfL deems appropriate (including using one or more Third Parties) and the Concessionaire will promptly on demand reimburse to TfL all costs and expenses (including the costs and expenses of a Replacement Contractor or of the TfL Group).

## 9. **Concessionaire Personnel and Training**

- 9.1 Within ten (10) Business Days of the Trigger Date, TfL and the Concessionaire will meet with a view to agreeing that such Concessionaire Personnel as identified by TfL (acting reasonably) will continue to be engaged in the provision of the Services during the provision of the exit management services or the nine (9) month period prior to the expiry date (as appropriate).
- 9.2 If requested to do so by TfL, the Concessionaire will provide familiarisation training at such times as TfL may reasonably require for any of TfL Personnel and employees of the Replacement Contractor in order to ensure that such employees obtain a sound knowledge and understanding of the Services. Such training will be subject to agreement.

## 10. **Rights to Continued Support Services**

- 10.1 The Concessionaire will, after the termination or expiry of this Contract, if required by notice in writing from TfL, provide to such Replacement Contractor as TfL may direct, continued support and/or maintenance of any elements of

the Services and Equipment provided by the Concessionaire which are to continue to be used by such Replacement Contractor (as appropriate in the administration or operation of the Services), and for the support and/or maintenance of which the proprietary knowledge or skills of the Concessionaire is required, including but not limited to correction of defects, provision of upgrades and replacements and design services:

- 10.1.1 for a period of time to be agreed between the Concessionaire and TfL; and
- 10.1.2 on commercial and other terms which are better than or equal to the then current charge out rates and which reflect the Concessionaire's then standard terms for the provision of such services to its clients (or, in the absence of any such standard terms, on such commercial and other terms as may be agreed between the Concessionaire and TfL, provided that both TfL and the Concessionaire will be under an obligation to act reasonably in such discussions and any resulting commercial terms agreed will in any event be fair and reasonable in all the prevailing circumstances).

## 11. **Continued Performance**

Except as otherwise expressly specified in this **Schedule 8**, the Concessionaire will at all times during exit continue to perform its other obligations, including in respect of the achievement of the Service Level Agreements pursuant to the provisions of this Contract.

## **SCHEDULE 9 - FORS GUIDELINES**

**Please see the following documents which set out the operation of FORS and which are included in the Specification document:**

1. FORS manual for administration
2. FORS requirement for certification body
3. FORS Standard
4. FORS terms and conditions
5. FORS logo usage standard
6. FORS work information
7. FORS accreditation timelines

## **SCHEDULE 10 - DISASTER RECOVERY PLAN**

This will be appended to this Schedule and will be finalised by the parties during the Mobilisation Period.

## **SCHEDULE 11 - SERVICE LEVEL AGREEMENTS**

### **1. Service Level Agreements**

- 1.1 In accordance with the terms of this Contract, the Concessionaire shall provide the Services so as to meet the following strictly enforceable Service Level Agreements:



Component 1: FORS Standard and Brand		
SLA:	Service Level Agreement  Target is 100% Achievement Of:	Service Credits:
Growth in the number of Accredited Operators	Increase the number of Accredited Operators by 5% in any Service Year from 9 <sup>th</sup> January 2022	<b>Deduct</b> 4 Service Credits – for achieving or exceeding target
Geographical expansion of FORS	Increase number of countries with FORS Accredited Operators	<b>Deduct</b> 1 Service Credit – per country
Reputational damage <b>High</b> alert/ threat	Inform the Contract Manager within twelve (12) hours of the Concessionaire becoming aware of any damaging incident in TV, radio, social media, any other publicity etc.	4 Service Credits – per each failure to achieve target
Reputational damage <b>Medium</b> alert/ threat	Inform the Contract Manager within twelve (12) hours of the Concessionaire becoming aware of any damaging incident concerning an Accredited Operator	2 Service Credits- per each failure to achieve target
Governance meetings	To attend quarterly governance meetings with TfL	2 Service Credits – for each failure to attend a quarterly governance meeting
Escalation process and disagreements concerning	Must refer disagreements to GSAG with an evidence pack produced and	1 Service Credit- for each failure to send evidence

Audit Provider applications, Audit results and compliance decisions with GSAG	sent at least five (5) Business Days before the appeals board meet	pack at least five (5) Business Days before the appeals board meet
<b>Component 2: Scheme Administration- Running FORS</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>  <b>Target is 100% Achievement Of:</b>	<b>Service Credit:</b>
Meeting (event) administration	Correspondence sent within six (6) weeks prior to the event	1 Service Credit – for each failure to send correspondence within 6 weeks of event
Administration efficiencies:  Unit Cost	Unit Cost to the Concessionaire to be reduced by 1% at the end of each Service Year, excluding the first and the last 12 months of the Term; i.e. <b>measure at 09/01/24, 09/01/25, 09/01/26.</b>	4 Service Credits – per failure to achieve the target in each applicable Service Year. <b>Each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Supernormal profit reinvestment	Re-invest all Supernormal Profit into reduced subscription fees within the first quarter of the following Service Year.	4 Service Credits– per failure to achieve the target in every quarter of the Service Year. <b>Each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Acknowledgement of contact	Acknowledgement of receipt to all communications excluding Social Media where the Concessionaire shall use best endeavours to respond where appropriate in the interests of FORS aligned to the agreed Social Media Strategy. Including new registrations, new Associate	1 Service Credit– per each failure to achieve target

	registrations and new Audit Provider applications, orders placed and silver/ gold registrations within two (2) Business Days.	
New registrations	New registrations by Operators to be allocated a FORS ID (or contact made if there is a query) within two (2) Business Days on receipt on application	1 Service Credit– per each failure to achieve target
Benefits realisation report	Maintain, as a minimum, FORS position in the market according to an annual Operator survey report. Findings and recommendations shall be investigated.	2 Service Credits– per each failure to achieve target
Helpline	Helpline calls to be answered within three rings. Sufficient helpline capacity will be maintained to satisfy growth of FORS. Excludes published Electricity Power, Telephone and Internet Service Provider and any other utility supplier outages.	1 Service Credits– per each failure to achieve target
Submission of draft Business Plan for Approval by TfL.	Submission of each Business Plan by each 15 November commencing 15 November 2022 (to avoid delays in development of FORS).	3 Service Credits for every instance of failing to provide this by 15 November
Tasks on Business Plan agreed to be done within calendar year	To be completed before 31 December that calendar year.	2 Service Credits for each task not completed: <b>Each Service Credit to carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Quarterly, annual and periodic	To provide the, Annual (within 4 weeks), Quarterly (within 2 weeks)and	1 Service Credit – for each failure to provide any

Reporting	Periodic (within a week) Reports (including the Open-Book Financial Report) within the timescales required.	report on time
<b>Component 3: Auditing and Certification</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>  <b>Target is 100% Achievement Of (except where stated):</b>	<b>Service Credit:</b>
Audit confirmation	All Audits confirmed with Operator both five (5) and two (2) Business Days in advance of the agreed audit date unless audit request and delivery is within the five (5) and two (2) Business Days in advance of the agreed audit date	1 Service Credit– per each failure to confirm the agreed audit date (i.e. 1 Service Credit for failure to confirm five (5) Business Days in advance <b>plus</b> 1 Service Credit for failure to confirm two (2) Business Days in advance)
Audit feedback timescale	Advise each Operator of the outcome and send them all relevant documentation  within fifteen (15) Business Days of the Audit having been completed.	1 Service Credit– per each failure to achieve target: <b>each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Audit availability within UK	SLA Target is 95% All Operators in the UK to receive an Audit within fifteen (15) Business Days of application	1 Service Credit – for each failure to Audit within 15 days of an Operator's application; <b>each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Audit Availability in Europe	SLA Target is 95%. All Operators in Europe to receive an Audit within twenty (20) Business Days of application	1 Service Credit – for each failure to Audit within 20 days of an Operator's application; <b>each Service Credit shall carry a</b>

		<b>charge of £1,000 payable by the Concessionaire to TfL</b>
Audit availability outside the UK and Europe	SLA Target is 95%. All Operators in all territories within the Territory that are outside of the UK and Europe to receive an Audit within thirty (30) Business Days of application	1 Service Credit – for each failure to Audit within 30 days of an Operator's application; <b>each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Fair and non-discriminatory terms and conditions, KPIs, SLAs, risk ratings to Audit Providers	No discriminatory, unfair or inconsistent terms, to be judged by TfL.	1 Service Credit- for each discriminatory, unfair or inconsistent term identified, <b>each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Follow up Audits	All follow up Audits are completed within 30 Business Days of issue of action plan	1 Service Credit– per each failure to achieve target
Quality Assurance (QA) rates	Undertake QA on submitted Audits at a rate of a minimum of 25 percent of all Audits performed within any rolling 12-month period.	4 Service Credits– per each failure to achieve target: <b>each Service Credit shall carry a charge of £1,000 payable by the Concessionaire to TfL</b>
Feedback to potential Audit Providers during application (see Annex 2)	For each stage complete all activities within:  Stage 1: Five (5) Business Days  Stage 2: Fifteen (15) Business Days	1 Service Credit– per each failure to achieve target

	<p>Stage 3: Twenty (20) Business Days</p> <p>Stage 4: Twenty (20) Business Days</p> <p>Stage 5: Five (5) Business Days</p>	
Silver/ Gold electronic Audit submissions	Use multiple Audit Providers from 1 April 2022 within any 6-month period to review Silver, Gold and all electronic submissions.	1 Service Credit– for each instance of failing to achieve target
Silver/ Gold electronic Audit Submissions	Electronic submissions to receive feedback with ten (10) business days of being submitted to FORS Online.	1 Service Credit– for each instance of failing to achieve target
<b>Component 4: Communication and Marketing</b>		
<b>SLA:</b>	<p><b>Service Level Agreement</b></p> <p><b>Target is 100% Achievement Of:</b></p>	<b>Service Credit:</b>
Attendance at external events	Attend and present at 12 industry events per annum which must appear within the marketing plan.	1 Service Credit – for failing to attend each external event
Correspondence	Answer 100 per cent of all written correspondence within five (5) Business Days and at least 80 per cent of all written correspondence within two (2) Business Days.	1 Service Credit – for each failure to respond to 80% of all written correspondence within 2 Business Days
Request for information	Respond to any request for information by TfL within one (1) Business Day	1 Service Credit – for each failure to achieve target
Annual award submissions	Submit FORS for eight industry annual national awards and two annual international awards within any	1 Service Credit – for each failure to achieve target

	12-month period.	
<b>Component 5: Best Practice Guidance, Toolkits and E-Learning</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>  <b>Target is 100% Achievement Of:</b>	<b>Service Credit:</b>
Review and update documents	Annually review and update all best practice guidance, toolkits and e-learning, making changes as and when required from the Service Commencement Date	1 service credit- per each failure to achieve target
<b>Component 6: FORS Training and Workshops</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>  <b>Target is 100% Achievement Of:</b>	<b>Service Credit:</b>
Training licencing	Issue the decision and license if applicable with respect to the application within 20 business days.	1 Service Credit – for each failure to meet timescales
<b>Component 7: Commercial Management</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>  <b>Target is 100% Achievement Of:</b>	<b>Service Credit:</b>
Alternative revenue  For historical data, see Appendices 19 and 20 of Schedule 2 (Specification)	From a baseline of £0.5m, achieve at least a 20% annual growth for each Service Year from alternative revenues steams (excluding Audits and subscriptions), measurement commencing 1 January 2023). Any growth beyond 20% in any year can be used to offset any lack of growth in	<b>4 Service Credits – for failing to achieve this within any rolling twelve (12) month period commencing on 1 January 2023</b>



	<p>the following year.</p> <p>i.e. the targets for each year are:</p> <p>2023 = £600,000</p> <p>2024 = £732,000</p> <p>2025 = £878,000</p> <p>2026 = £1,054,000</p>	
Timely payment of TfL Concession Charges	Payment of within thirty (30) calendar days of any TfL invoice in respect of the Concession Charges as per Clause 8 of Contract	4 Service Credits – for each failure to pay on time, <b>and the 4 Service Credits together shall carry a charge of £5,000 payable by the Concessionaire to TfL for each instance of late payment of fee</b>
Submission of Open-Book Financial Report	Submit Open-Book Financial Report quarterly to TfL	1 Service Credit – for each failure to provide the report on time, <b>each Service Credit shall carry a charge of £5,000 shall be payable by the Concessionaire to TfL for each instance of late provision</b>
<b>Component 8: Mobilisation and Transition</b>		
<b>SLA:</b>	<b>Service Level Agreement</b>	<b>Service Credit:</b>
	<b>Target is 100% Achievement Of:</b>	
Transfer of data	Request all datasets from incumbent concessionaire on time as stated in the Specification	4 Service Credits- for failure to request on time, <b>and the 4 Service Credits shall together carry a charge of £2,500 payable by the Concessionaire to TfL</b>

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- 1.2 Service Credits are an adverse measure of the Concessionaire's performance. Service Credit deductions are a positive measure of the Concessionaire's performance and shall be deducted from the Concessionaire's total number of Service Credits only. No amounts payable by the Concessionaire to TfL (including any charges or monetary sums linked to Service Credits that are payable in accordance with this Schedule) can be set off against or reduced by the Concessionaire's accumulation of Service Credit deductions.
- 1.3 Service Credits and Service Credit deductions will be calculated on a Quarterly basis (that is 1 January, 1 April, 1 July, 1 October). TfL shall invoice the Concessionaire for any amounts payable under the Service Credits regime Quarterly. The number of Service Credits and Service Credit deductions will automatically be reset to zero (0) at the end of each Service Year. The Concessionaire's liability for Service Credits is capped at £150,000 in each Service Year.
- 1.4 The Concessionaire shall total all Service Credits and amounts payable less any deductions under the Service Credit regime quarterly (every 3 months) and log these on a Non-Conformances and Improvement Plan which it shall share with TfL. If the total number of Service Credits incurred exceeds a certain number, an escalation process shall be triggered as follows:

<b>Service Credits (each quarter, i.e. per 3-month period)</b>	<b>Escalation Process Level</b>
0 – 4	None
5 – 10	Level 1
Greater than 10 or failure to remedy at Level 1	Level 2
See Escalation Process: failure to remedy at Level 2 or recurrence of the same Service Level Agreement failure within two consecutive quarters.	Level 3
See Escalation Process: failure to remedy at Level 3 or recurrence of the same Service Level Agreement failure within three consecutive quarters.	Level 4

- 1.5 The purpose of the Escalation Process is to provide a structured framework within which the parties can address unsatisfactory performance standards against the Service Level Agreements. For the purposes of this process, should the Concessionaire accrue a certain number of Service Credits in any quarter this shall trigger the applicable level of the Escalation Process (as set out in the table above) and shall be considered a “**Non-**

**Conformance”.**

- 1.6 This Escalation Process operates with four levels, the lowest level of Non-Conformance being Level 1. Depending on the number of Service Credits accrued by the Concessionaire in any quarter, or should any existing Non-Conformance escalate, there shall be an appropriate level of management intervention from TfL and the Concessionaire. Level 3 gives final review and opportunity for remedial actions to resolve issues before the Non-Conformance reaches Level 4, which will entitle TfL to terminate for material breach in accordance with Clause 30.1.1 of the Contract.
- 1.7 In the event that, an unsatisfactory performance issue is or has not been resolved between TfL and the Concessionaire to TfL's reasonable satisfaction, the Non-Conformance may be raised formally to a higher level of Non-Conformance. It is possible for a number of different level Non-Conformances to be in hand at any one time.
- 1.8 Each Escalation Process Level shall require the following actions to be taken:

TRIGGER	Escalation Process Level	ACTION	BY	RESULT
Concessionaire accruing 5 – 10 Service Credits in any quarter	Level 1	Improvement plan to address Non-Conformance with precise end date required. On-going review dates specified.	i) [Company] ii) [Contractor]	Satisfactory – Stop  Unsatisfactory ► raise to Escalation Process Level 2
Concessionaire accruing more than 10 Service Credits in any quarter  <b>OR</b>  Failure by the Concessionaire to remedy at Level 1	Level 2	Improvement plan with precise end date required. On-going review dates specified.	i) [Company] ii) [Contractor]	Satisfactory – Stop  Unsatisfactory ► raise to Escalation Process Level 3

TRIGGER	Escalation Process Level	ACTION	BY	RESULT
<p>Failure by the Concessionaire to satisfactorily remedy at Level 2</p> <p>OR</p> <p>Concessionaire failing to meet any Service Level Agreement in two consecutive quarters</p>	Level 3	<p>Final review. Final opportunity for remedial action. Precise end date required.</p> <p>Suspension of all or part of the services provided under this Contract.</p>	<p>i) [Company]</p> <p>ii) [Contractor]</p>	<p>Satisfactory - Stop</p> <p>Unsatisfactory ► raise to Escalation Process Level 4</p>
<p>Failure to remedy at Level 3</p> <p>OR</p> <p>Concessionaire failing to meet any Service Level Agreement in three consecutive quarters</p>	Level 4	<p>The right to terminate for material breach under <b>Clause 30.1.1</b> of the Agreement.</p>	i) [Company]	Termination

## SCHEDULE 12 - APPROVAL PROCESS

1. If any document or action requires the Approval of TfL and/or the Governance and Standards of FORS Supplier under this Contract, the following process will apply.
2. The Concessionaire will submit a written request (“**Request**”) for Approval to TfL and/or the Governance and Standards of FORS Supplier (as applicable) and will provide with that request such supporting documentation as will enable TfL and/or the FORS and Governance and Standards Supplier to properly consider the Request. The Concessionaire will promptly supply such further documents and information as either of TfL and/or the Governance and Standards of FORS Supplier (as applicable) may request to enable it to consider the Request.
3. Following receipt of the request and all such supporting documentation and information as TfL and/or the Governance and Standards of FORS Supplier (as applicable) may require, TfL and/or the Governance and Standards of FORS Supplier (as applicable) shall fully consider the Request and shall within 20 Business Days of such receipt notify the Concessionaire that either:
  - 3.1 it approves the Request;
  - 3.2 it approves the Request subject to certain conditions which must be met by the Concessionaire;
  - 3.3 it requires the Concessionaire to provide further information concerning the Request and/or to present the case for Approval to it; and/or
  - 3.4 it does not approve the Request.
4. In the event that TfL and/or the Governance and Standards of FORS Supplier (as applicable) approves a Request under this Schedule:
  - 4.1 unconditionally, the document submitted or action requested shall be treated as Approved from the date of that approval; or
  - 4.2 subject to certain conditions, the document submitted or action requested shall not be regarded as Approved unless and until TfL and/or the Governance and Standards of FORS Supplier (as applicable) has confirmed in writing that it is satisfied that such conditions have been satisfied in full and the document or action will be regarded as Approved from the date of such confirmation.

### **SCHEDULE 13 - FORS RIGHTS**

1. All registered (if any) and unregistered rights to and in the FORS trade mark(s), logos and mark text in the Territory.
2. FORS website domain name, [www.fors-online.org.uk](http://www.fors-online.org.uk), as registered with TfL's domain name registrar.
3. All data proprietary to and owned by TfL in relation to FORS, and such data obtained by the Concessionaire, and held on behalf of TfL, in relation to the provision of the Services under this Contract.
4. All other Intellectual Property Rights of whatever nature relating to FORS including in the structure, system and format of FORS.

**SCHEDULE 14 -BUSINESS PLAN**

15. Each Business Plan shall be prepared by the Concessionaire and shall include, but not be limited to, the following sections:
  - 15.1 Table of contents;
  - 15.2 Executive summary;
  - 15.3 Vision for FORS;
  - 15.4 Services to be offered;
  - 15.5 Best value opportunities;
  - 15.6 Investments which add value to FORS;
  - 15.7 Transition and implementation (year one only);
  - 15.8 Delivery methodology (including roles and responsibilities of Concessionaire's personnel and roles and responsibilities of sub-contractors);
  - 15.9 Business development into new supply chains;
  - 15.10 Marketing & communications strategy;
  - 15.11 Marketing & communication methodology;
  - 15.12 Targets and service standards;
  - 15.13 Sales breakdown;
  - 15.14 Finance (including any costs in relation to post termination support and details relating to the investments to be made by the Concessionaire and within what time period such investments could be reasonably



expected by the Concessionaire to be recouped) and including any Development Costs;

- 15.15 Risks and mitigation;
  - 15.16 Governance;
  - 15.17 Management information and reporting; and
  - 15.18 Appendices (as appropriate).
  - 15.19 Appendices (as appropriate).
- 16. The **MOBILISATION AND TRANSITION PLAN (INCLUDING YEAR 1 BUSINESS PLAN)** will be appended to this Schedule.
  - 17. The parties shall discuss and may agree changes to the **MOBILISATION AND TRANSITION PLAN (INCLUDING YEAR 1 BUSINESS PLAN)** during the Mobilisation Period. In the event the parties are unable to agree any changes to the **MOBILISATION AND TRANSITION PLAN (INCLUDING YEAR 1 BUSINESS PLAN)** Contract escalation provisions will apply.
  - 18. Thereafter the Concessionaire shall on or before 15<sup>th</sup> day of November in each year commencing on 15<sup>th</sup> November 2023 provide TfL with a draft business plan (for the following 12 month period) for TfL's Approval, acting reasonably and in accordance with the Approved Process, such draft business plan to include (without limitation):
    - 18.1 the items set out within **Paragraph 1**; and
    - 18.2 any further information that TfL may reasonably require.
  - 19. In the event that TfL Approves a draft business plan:
    - 19.1 unconditionally, the draft business plan submitted pursuant to **Paragraph 4** shall be treated as the Business Plan from that approval and an addendum to this Contract; or
    - 19.2 subject to certain conditions, the draft business plan submitted pursuant to **Paragraph 4** shall be amended to reflect such conditions to the satisfaction of TfL and treated as the Business Plan from the Approval of TfL of the amended version and shall be appended as an addendum to this Contract.
  - 20. In the event that TfL does not Approve (acting reasonably) a draft Business Plan, the Concessionaire shall take due account of comments made by TfL in not agreeing to approve the draft, and the Concessionaire will prepare a revised

draft Business Plan within 7 calendar days for consideration by TfL under the Approval Process.

21. In the event that:

- 21.1 TfL not Approving the Business Plan submitted pursuant to Paragraph 6, acting reasonably and in accordance with the Approval Process;; or
- 21.2 the Concessionaire fails to submit a revised draft Business Plan to TfL in accordance with Paragraph 6, then without prejudice to any of other rights or remedies of each party, either party may notify the other party in writing that the failure to agree the Business Plan is a Dispute ("**Dispute Notice**"), and shall be dealt with by the Parties in accordance with the Dispute Resolution Procedure. Regardless of when such Dispute is resolved, the Business Plan to which the Dispute related, once agreed and/or approved, shall be deemed to be effective from 1 January in the relevant year. If the Dispute is not resolved and the Business Plan is not agreed within 28 days of the date of the Dispute Notice then TfL may terminate the Contract by 3 months notice in writing to the Concessionaire.

## SCHEDULE 15 – COMMERCIAL RIGHTS

1. Without prejudice to any other provision of this Contract, TfL shall allow the **Concessionaire** to exploit the FORS Rights and the FORS Branding in the manner set out in this **Schedule 15**.
2. Subject to **Paragraph 3** below, TfL hereby grants to the Concessionaire an exclusive:
  - 2.1 concession to operate FORS in the Territory in accordance with this Contract; and
  - 2.2 subject to **Paragraph 5** below, non-sub-licensable license to use and exploit the FORS Rights and FORS Branding in the Territory solely for the purpose of:
    - 2.2.1 providing the Services and operating the FORS concession; and
    - 2.2.2 exercising the Commercial Rights,

such concession and license commencing on the Services Commencement Date for the Term.
3. For the avoidance of doubt, the exclusivity granted to the Concessionaire under **Paragraph 2** shall not:
  - 3.1 apply to the exercise of the FORS Governance and Standards Services, which the Concessionaire acknowledges and agrees will be carried out by the Governance and Standards of FORS Supplier;
  - 3.2 prevent TfL from using the FORS Rights and FORS Branding itself for reasons outside of:
    - 3.2.1 the provision of the Services; or
    - 3.2.2 the operation of the FORS concession; or
  - 3.3 prevent TfL from exercising any of its rights under **Paragraph 8** below.
4. For the avoidance of doubt, the Commercial Rights granted by TfL do not include the right to:
  - 4.1 provide the FORS Governance and Standards Services, or any services which are equivalent or materially similar in place of the FORS Governance and Standards Services. The Concessionaire hereby acknowledges and agrees that all such services will be carried out by the FORS Governance and Standards Supplier and the

Concessionaire shall not act in any manner which attempts, or could be seen as an attempt to, provide, evade or deny such services;

- 4.2 make any non-approved changes to the terms of any Operator's membership subscriptions (including any changes to the Subscription Fees) save where the changes are reductions to the Subscription Fees or other actions as are required by the Concessionaire to comply with **Clause 7 (Supernormal Profit)**. All such changes must first be presented to and be formally approved by the FORS Executive Group;
5. The Concessionaire will use the FORS Rights and the FORS Branding and exercise all rights granted under **Paragraph 2** strictly in accordance with the FORS Guidelines and in accordance with the terms of this Contract. In addition, the Concessionaire shall:
  - 5.1 comply with any reasonable requests of TfL made during the Term in respect of the use and presentation of the FORS trade marks or logos (including in respect of any notices to be included with, or amendment of, such marks or logos);
  - 5.2 not adapt, modify or alter the FORS trade marks or logos in any way except as expressly permitted in the FORS Guidelines or otherwise approved by TfL in writing in advance (such consent not to be unreasonably withheld);
  - 5.3 not, directly or indirectly, do, permit or assist any other person to use, modify or alter the FORS trade marks or logos or combine the FORS trade marks or logos with any other trade mark or logo, except as permitted under this Contract or with TfL's prior written approval;
  - 5.4 not use or permit any other person to use the FORS trade marks or logos on or in connection with, any illegal or offensive activity or advertisement, whether online or otherwise, including those which may damage to TfL or the Concessionaire's or the FORS' reputation;
  - 5.5 not use in its business or its name any other trade mark confusingly similar to the FORS trade marks or logos;
  - 5.6 not do, or knowingly omit to do, or permit to be done, any act which will or is likely to, weaken, damage or be detrimental to the FORS trade marks or logos or the reputation or goodwill associated with the FORS trade marks or logos;
  - 5.7 not apply for, or obtain, registration of any of the FORS trade marks or logos for any goods or services;

- 5.8 not apply for, or obtain, registration any trade mark which comprises or, is confusingly similar to, the FORS trade marks or logos; and
- 5.9 to promote and market the Concessionaire's own services or goods except where such goods and services have been branded FORS and are only available to FORS members in that format and with the prior written consent of TfL.
- 6. TfL has the full and unfettered right to exploit the FORS Rights outside of the Territory and nothing in the Contract grants any such rights to the Concessionaire.
- 7. Should the Concessionaire identify an opportunity to exploit the FORS Rights outside of the Territory, the Concessionaire shall notify TfL of the same as soon as practicable so as to enable TfL to exploit such rights.
- 8. Should TfL identify an opportunity to exploit the FORS Rights in the Territory, the Concessionaire shall be offered a first right of refusal on such conditions. If the Concessionaire refuses the opportunity, TfL shall be entitled to exploit such rights itself or to seek an alternative organisation or body to exploit such rights, as it deems fit.

## SCHEDULE 16 - HEAVY GOODS VEHICLE DIRECT VISION STANDARD SCHEDULE

### 1 Introduction

1. In this Schedule, the following terms shall have the corresponding meanings:

**“Agreed DVS Plan”**

means the Initial DVS Plan as updated and approved in accordance with the terms of this Schedule;

**“Initial DVS Plan”**

means the initial plan set out at **Appendix 1** which sets out and proposes how the Concessionaire shall ensure that:

- (a) from and including 26 October 2019, all Category N3 HGVs used in the delivery of the contract achieve a minimum of a one (1) star Direct Vision Standard rating;
- (b) from and including 26 October 2023 all Category N3 HGVs used in the provision of the Services achieve a minimum of three (3) star Direct Vision Standard rating.

### 2 DVS Plan

- 2.1 The Concessionaire shall comply with the Initial DVS Plan from the Contract Commencement Date. Within fifteen (15) Business Days of the Contract Commencement Date TfL shall either;

2.1.1 confirm that the Initial DVS Plan is approved, in which case such plan shall become the Agreed DVS Plan; or

2.1.2 provide the Concessionaire with any comments on and/or amendments to the Initial DVS Plan.

- 2.2 Within thirty (30) Business Days (for the purpose of **Paragraph 2.1.2**) or 15 Business Days (for the purpose of **Paragraph 2.3.2**) of receipt of any comments and/or amendments from TfL in accordance with **Paragraph 2.1.2** or **Paragraph 2.3.2** (as applicable), TfL shall:

2.2.1 develop the Initial DVS Plan to reflect such comments and/or amendments; and

2.2.2 submit an updated Initial DVS Plan to TfL for approval.

- 2.3 Within fifteen (15) Business Days of receipt of the updated Initial DVS Plan, TfL shall confirm that either the updated Initial DVS Plan:
- 2.3.1 is approved, in which case it shall become the Agreed DVS Plan; or
  - 2.3.2 not approved and provide its further comments and/or amendments to the Concessionaire and the Concessionaire shall revise and re-submit the updated Initial DVS Plan for approval in accordance with **Paragraph 2.2.**

The process set out in this **Paragraph 2.3** shall be repeated until the updated Initial DVS Plan is approved by TfL.

- 2.4 Where TfL, not acting reasonably, has not approved the updated Initial DVS Plan, the Concessionaire may refer that decision to the Dispute Resolution Procedure.
- 2.5 Without limiting any other provision of this Contract, the Concessionaire shall, at no additional cost to TfL, and as part of the Services:
- 2.5.1 implement, observe and comply with the Agreed DVS Plan; and
  - 2.5.2 review and amend the Agreed DVS Plan (as necessary) on each 12 month anniversary of the Contract Commencement Date or earlier if requested by TfL, to reflect:
    - 2.5.2.1 any changes to the nature of the Services; and
    - 2.5.2.2 any comments and/or amendments made or proposed by TfL.

### **3 DVS Co-ordinator**

- 3.1 The Concessionaire shall nominate an employee/member of the Concessionaire's Personnel with the necessary experience, competency and authority to:
- 3.1.1 be responsible for implementation and compliance with the Agreed DVS Plan; and
  - 3.1.2 act as the Concessionaire's authorised representative on all matters concerning the Agreed DVS Plan ("**DVS Co-ordinator**").
- 3.2 The Concessionaire shall add the DVS Co-ordinator's details to the list of Key Personnel set out in Schedule 1.

### **4 Self Certification and Reporting**

On each 12 month anniversary of the Contract Commencement Date, the Concessionaire shall submit a report to TfL which sets out the Concessionaire's progress in respect of implementation of the Agreed DVS Plan and confirms (with supporting evidence) that the Concessionaire has complied with the Agreed DVS Plan.

## **5 DVS Infractions**

5.1 Without limiting the effect of any other provision of this Contract relating to termination, if the Concessionaire fails to comply with the terms of this Schedule:

5.1.1 the Concessionaire shall be deemed to have committed a material breach of this Contract; and

5.1.2 TfL may refuse the Concessionaire its employees, agents/Concessionaire's Personnel each Category N3 HGV entry onto any property that is owned, occupied or managed by or on behalf of TfL for any purpose (including but not limited to deliveries).



**APPENDIX 1 TO SCHEDULE 16**

The supply and operation of vehicles (HGVs, vans, cars etc.) is not currently within the scope of this Contract. However if/when it does come within scope for any vehicles operated as part of this contract then the DVS Plan will be provided in accordance with the Contract.

SCHEDULE 17 - CONCESSIONAIRE SOLUTION

# Administration of FORS Concessionaire Services Europe, Africa, Asia & Middle East

Invitation to Tender (ITT) (tfl\_scp\_002009) – Round Three

Prepared for  
**TRANSPORT FOR LONDON**

## Quality Submission – Round Three

Presented by: Steve Bagge  
Strategic Sales Director  
+44 (0)7966 823251

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8 June 2021



In collaboration with:



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## 1 Specification Component 1: FORS Standard and Brand

### 1.1 Our understanding of the scheme and the methodology undertaken within FORS to influence the freight industry through raising standards of vehicle operation, compliance and road safety and environmental standards

To deliver this concession successfully the FORS Administrator must have an in depth understanding of the scheme, its objectives, and the lessons learned since it was developed and launched by Transport for London (TfL). The Administrator must be sufficiently informed to address its weaknesses as well as capitalising on its successes. Our team's understanding, based on years of direct and indirect involvement with FORS since its inception, is that it is a fleet accreditation scheme that encourages and incentivises safe, efficient and sustainable commercial vehicle operations.

FORS was one of the key projects in TfL's 2007 London Freight Plan, which recognised the need to improve the efficiency of the freight sector while reducing environmental and social impacts. The scheme was developed and piloted by a technical advisory group involving trade associations, enforcement bodies, traffic commissioners, the Department for Transport (DfT) and 44 pioneer fleet operators. FORS was launched in 2008 with its original freight scope from car-derived vans to Heavy Goods Vehicles (HGV) and it was rebranded in 2011 from 'Freight' to 'Fleet' to reflect a broader scope of vehicle types, covering buses, coaches, vans, cars and powered two-wheelers. From April 2008 to January 2015, FORS was fully funded by TfL with audits, training and toolkits being offered free to the freight and fleet sector.

The methodology undertaken within FORS to influence safety and sustainability is through accreditation and encouraging others to recognise accreditation. This involves a bronze, silver and gold tiered standard, which is revised every two years. FORS promotes and supports progression from basic legal compliance to industry best practice.

- At FORS bronze, operators demonstrate they meet a set of requirements that are aligned to the regulatory baseline plus some industry good practice. This is verified at annual audit carried out by a FORS audit body
- At FORS silver, operators implement good practice safety and efficiency interventions and baseline their performance data
- At FORS gold, operators implement best practice safety and efficiency interventions and demonstrate meaningful improvements to their performance data

Progression to silver and gold is verified through an online evidencing tool and is not mandatory. Operator motivation to progress to silver and gold varies. Many operators want to meet contractual requirements or demonstrate their corporate social responsibility; others want to make actual improvements or access the benefits package. To help ensure accreditation is in reach for fleet operators of all sizes and types, FORS has a range of guidance, tools and training products that are aligned to the tiered levels of the standard.

The major driving force for the growth of FORS accredited operators has been client driven with businesses requiring FORS in contracts, particularly construction sector clients. We refer to this as its 'use cases', (see Section 4.2) on growth. FORS is recognised throughout the transport and logistics industry as a trusted standard but there has been some misunderstanding about its relationship with the Operator Licence. We are aware that there have been some strained relationships with certain parts of industry due to conflicting objectives.



Due to the year-on-year success of FORS and its growth beyond London, a concessionaire was appointed in 2014 to take over the administration, governance and commercialisation of the scheme from January 2015. The period since, has seen a significant growth in Accredited Operators, however in contrast, it has also seen significant decline in accredited vehicle numbers. This could be viewed as a positive, i.e. on average FORS is reaching more smaller fleet sizes, but it could also be considered a negative in that larger fleet operators do not see the benefit of FORS and its actual impact on the road network has reduced.

### **The role of the administrative body**

The FORS concessionaire contract has been varied to exclude Governance and Standards responsibilities which were awarded to Steer Group in 2020. Steer Group is responsible for setting the standard, conducting training approvals and acting as a final appeals board. The role of the FORS Administrative Body is primarily to operate a commercial model to manage the audits and the audit bodies, conduct FORS certification, and ensure compliance to the FORS Standard. The commercial model is supported by marketing and communications activities, partner and stakeholder relations, and offering guidance and training.

The role of the administrative body is to run the day-to-day operation of FORS. This means managing auditing and certification, conducting quality assurance and compliance, providing toolkits and eLearning, coordinating training and workshops. Since FORS was commercialised in 2015, the pressure has increased to provide these services more efficiently, more flexibly and to better respond to the needs of fleet managers and their operations. To achieve this the FORS administrative body must be proactive and personal. The administrative services are the shop window for FORS and therefore must be user centric. Our user experience will recognise fleet operators as customers and build strategies that support and enhance their professional activities in the first instance.

Importantly, the Administrator must maintain the credibility of the FORS brand and image. We recognise the credibility of the FORS brand and image stretch beyond the logo. It is the identity of FORS and what it represents, its look and feel, ways of working, and every interaction the scheme has with the entire fleet transport profession. This means Fleet Operators, Auditors, Associates, Specifiers, representative bodies, enforcement bodies and regulators. This is why we propose our *working with industry* ethos to deliver this concession. A collaborative approach based on transparency, fairness and mutual trust. FORS must be a positive experience for all that share its objectives and it is the role of the Administrator to achieve this.

To understand FORS and gain insight into stakeholder views, we conducted an independent market research study as part of our tender preparation (**See Appendices 1 and 1a**). The findings, and our response to the findings, are reflected throughout this tender submission.

## **1.2 Our approach to protecting, enhancing and managing the Brand**

At its inception FORS was focused on HGV fleets and gained most traction in the construction sector in London. It is clear from our research the FORS brand has built up powerful recognition and equity with this initial core focus. This is witnessed by the proud display of the FORS logo on vehicles and the activity on social media when a Fleet Operator gains accreditation. The FORS brand has received recognition and won many awards.

While this is obviously a strength of FORS activity to date, there is a prevailing perception, identified in the research, that FORS is overly focused on truck operators running into London



on construction projects. If unchecked, this will restrict the opportunities for growth. Our submission will seek to reinforce the core values which have been instrumental in building the FORS brand to its current status, while seeking to embrace a broad cross section of the industry. Building on the successful messaging which has been well received by this initial group, while addressing the negative perceptions identified through the research.

While there are strong brand promoters within FORS, our research has identified significant stakeholder concerns across different user groups (Champions, Accredited Operators, Partners, Auditors). These are addressed throughout our submission. It is clear there remains a core strength and value in the FORS service underpinning the brand identity, but there are significant areas of immediate improvement identified which we will seek to address.

From our team members' personal experience of establishing and managing FORS while employees at TfL and of marketing FORS to the industry, combined with the sentiment of interviewees from our user research, we feel the FORS brand values should stand for:

FAIR AND CONSISTENT  
 OPEN AND TRANSPARENT  
 REWARDING AND VALUED  
 SIMPLE AND INTUITIVE

If successful in winning the concession, we would continue to work in collaboration with the user groups to fully engage with them regarding their areas of concern before any changes to the service are implemented. However, from our current research and market knowledge we have developed a preliminary action plan below to address the issues raised and commence the reset of the FORS brand positioning, outlined in Table 1 below.

Key issue	Our approach	Benefits
<b>FORS is Expensive</b>	(Value for money) We will look at the overall end to end experience for accreditation and remove cost at each stage (not simply focus on reducing subscription fees) by providing more online guidance to prepare for audits, template policy examples, providing 'video diary' case studies etc. We will explore the subsidising of Bronze accreditation for SMEs to stimulate scheme growth using annual profit surpluses.	<ul style="list-style-type: none"> <li>• Reduced cost of pre-audit</li> <li>• Reduced training cost</li> <li>• Subsidies for SMEs to reduce joining cost</li> </ul>
<b>Training material is outdated/low quality</b>	(Engaging materials) A blended delivery approach to redesign engaging training materials. We will use media and channels that are more convenient and less time consuming e.g. video, web. We will leverage latest technology e.g. AR/VR to deliver more engaging content in a safer context.	<ul style="list-style-type: none"> <li>• Drivers more engaged, more interested, leads to better compliance, better retention</li> <li>• More choice of channels/media to suit operators' circumstances</li> </ul>



<b>Accreditation is time consuming</b>	(User centric) We will look at end-to-end business processes and redesign them from a user perspective to reduce the time and effort of participation/ accreditation. We will produce clearer guidance to reduce delay/confusion/dependence on helpdesk	<ul style="list-style-type: none"> <li>• Reduced time commitment</li> <li>• Intuitive user guides</li> <li>• Online help videos</li> <li>• FORS Mentor scheme</li> </ul>
<b>Complex/obscure/unapproachable</b>	(Helpful, non-judgmental) We will rewrite toolkits, guidance etc. in plain English. We will be more visible at industry events and offer monthly virtual 'on-boarding clinics' with members of the FORS team to answer queries and demystify the process	<ul style="list-style-type: none"> <li>• Easier to complete accreditation; faster and cheaper</li> <li>• Reduced need to use pre-auditors</li> <li>• Seen as more open, approachable</li> </ul>
<b>Not relevant to me (so I will not bother joining / will leave)</b>	(Relevance) We will work with GSAG and industry bodies to adapt the scheme to ensure it is relevant to all vehicle types and industries and ensure this is not a blocker to growth	<ul style="list-style-type: none"> <li>• Enables more operators to benefit from scheme in wider industries</li> <li>• Remove blockers to scheme's growth</li> </ul>
<b>Current provider is opaque, treats FORS as "cash cow", focused on justifying resources and expense</b>	(Transparent) We will be transparent about our costs to TfL and to the industry to dispel the myth that FORS is a money-making machine. We will focus on reducing base service delivery costs and target resulting funds / expenditure on enhancing customer experience and Accredited Operator benefits	<ul style="list-style-type: none"> <li>• Improves brand / image of FORS in the industry</li> <li>• Lower delivery costs frees up funds for better member benefits</li> </ul>
<b>Business benefits not clear (hard to sell investment internally)</b>	(Compelling Benefits) We will work with industry to develop compelling offers to provide clear business benefits to all FORS stakeholders. We will produce wording for business cases (for operators & specifiers) to take to their boards which highlight key benefits to facilitate budget approval and adoption.	<ul style="list-style-type: none"> <li>• Easier internal approval</li> <li>• Cheaper insurance</li> <li>• Better fuel economy</li> <li>• Improved driver training/retention</li> </ul>
<b>Inconsistent auditing standards</b>	(Audit marketplace) We will open the marketplace to a wider number of reputable auditors and share frequent user feedback – via user research polls/surveys – to ensure consistency in audit provision, length and quality.	<ul style="list-style-type: none"> <li>• Better consistency of audit delivery</li> <li>• More certainty over audit outcome</li> </ul>



		<ul style="list-style-type: none"> <li>• Less business risk of audit failure</li> </ul>
<b>Not enough promotion of FORS assets / strengths</b>	(Professional Marketing) We have partnered with DVV to provide a strong marketing platform and brand presence for FORS to promote benefits, improve image and stimulate growth.	<ul style="list-style-type: none"> <li>• Improved industry image</li> <li>• Better scheme take-up/ retention</li> </ul>
<b>Poor technology is unintuitive and time consuming... drives users to Helpdesk unnecessarily</b>	(Digital by default) As a technology company we will focus on making systems more intuitive / more useful and automating business processes to reduce cost and improve user experience.	<ul style="list-style-type: none"> <li>• More intuitive</li> <li>• Less frustrating</li> <li>• Less time wasted</li> <li>• Better business insight</li> </ul>

Table 1 - Action plan to address user research issues

Implementing these service improvements, combined with enhanced marketing and communications effort are intended to move the brand perception of FORS to take up a meaningful and acknowledged position in the market.

A core component of our marketing strategy involves an on-going customer listening project to ensure FORS retains its market relevance and stays aligned with the needs of the addressable market. This will involve online surveys, customer care activity and user engagement through event attendance and delivery. We have identified several stakeholder groups who are key to enhancing and protecting the FORS Brand; the Marketing Strategy details these customer groups (see Section 4 and **Appendix 2**) and we have identified an engagement and communication strategy to reintroduce and raise awareness of FORS to these groups.

Protecting the integrity and use of the brand is essential to the reputation, trust and perception of FORS and we will take all the appropriate measures to ensure the brand, associated trademark and copyright is protected from misuse and/or abuse. We see there are two parts to this brand protection namely reputation and infringement.

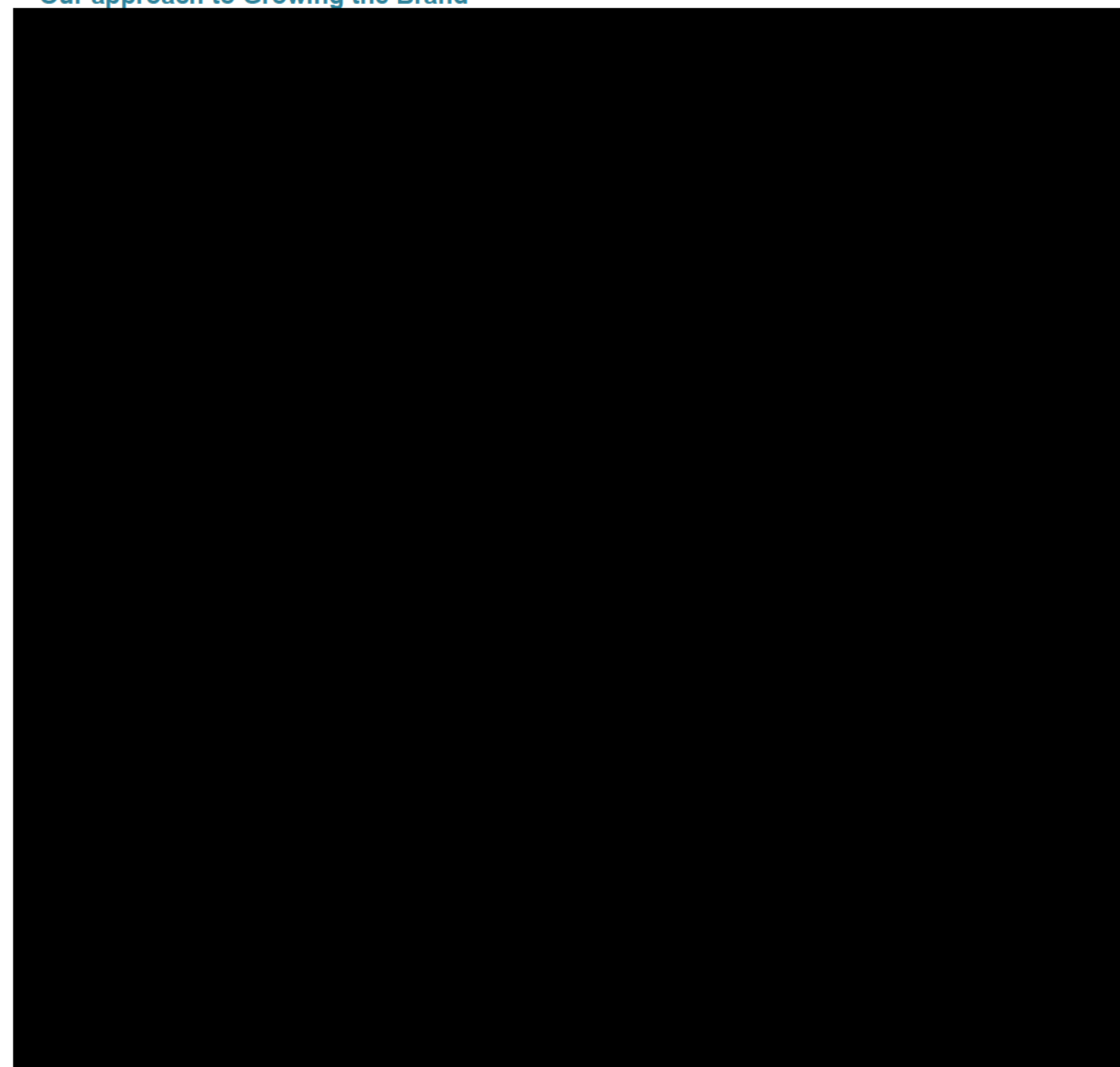
**Reputation:** We define this as being activities which could damage FORS' position in the market – for instance, negative press reporting or actions of an accredited operator or Associate or Affinity Partner which could bring the brand into disrepute. To ensure the FORS brand reputation is protected, we will maintain vigilance and monitoring across a number of key areas to identify any potential brand reputational issues emerging and thereafter deploy protection strategies as appropriate – this would involve alerting TfL where significant reputation risk is emerging, while ensuring other operators and members of the public have a clearly defined way to report an issue via the website. This monitoring would cover trade press, social media and national outlets, as well as DVSA Applications and Decisions alerts and other court judgements involving FORS Operators, Champions or Associates. Where media outlets (trade press and national media) are being critical we will ensure FORS makes representation and has the right to respond to any criticism. Operators, Champions or Associates breaching the code of conduct will be contacted and given the opportunity to respond to any claims. The process for managing this is clearly outlined in the FORS Terms and Conditions, is linked to the accreditation process and may affect an Operators' FORS status.

**Infringement:** Defined as misuse of the FORS trademark – for instance, using the brand without permission, continuing to use the brand following termination of FORS membership or

making false representation. We note the brand is registered by TfL in the UK with the Intellectual Property Office (UK00003168369) which affords it legal protection, although any legal claim against trademark infringement would need to be brought by TfL, not the administrator. That said, we would play a very active part in ensuring the brand is protected from any infringement and alert TfL where a serious breach has occurred or where initial efforts to mediate with a third party have failed. The technical specification around brand usage is clearly documented in the FORS terms and conditions and we would adopt the principles laid out in that documentation.

Our marketing team will be responsible for administration and policing of the brand guidelines, issuing reminders, warnings and, ultimately, triggering sanctions against other parties for logo or brand misuse.

### 1.3 **Our approach to Growing the Brand**













## **1.5 The Collaboration required to work with the Governance Contract Service Provider**

As an integral component of Sopra Steria's strategy for strengthening and maintaining collaborative business relationships on FORS, we have applied the ISO 44001 Collaborative Business Relationship principles across our business objectives and key processes to develop and establish collaborative relationships, including governance models, roles and responsibilities, risk management and a partner selection strategy. We will use a Relationship Management Plan to establish an effective and productive working relationship with the Governance Contract Service Provider. We will share feedback from user research on areas accredited operators, audit providers and specifiers suggest there could be a potential issue or an area for Standard improvement as well as suggested updates to attract new sectors.

## 2 Specification Component 2: Scheme Administration

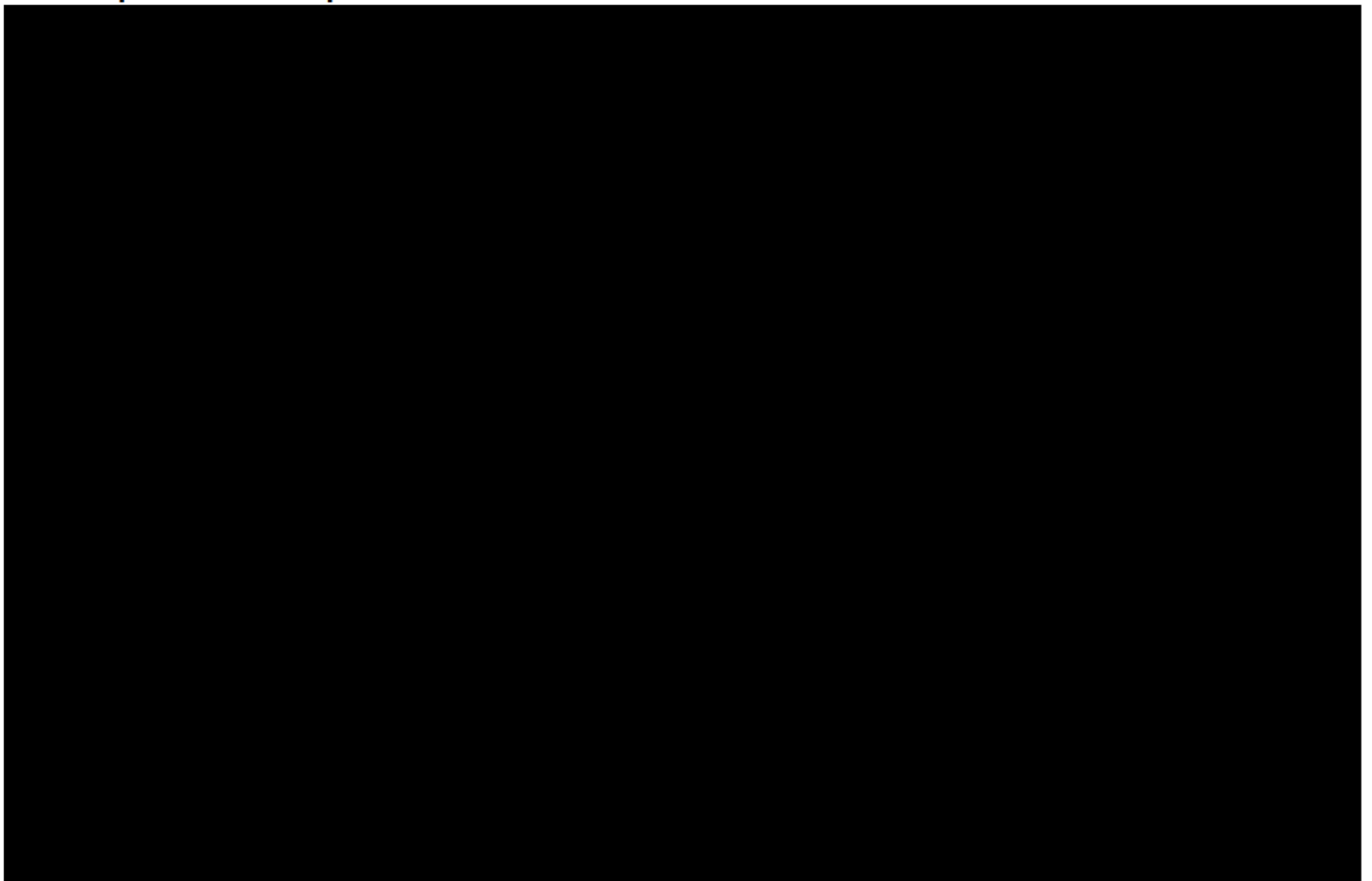
### 2.1 Running FORS compliance matters

#### Unconditional compliance with rules on Administration Fees and Costs

Sopra Steria has provided a signed statement of full unconditional compliance with rules on Administration fees/costs as stated in the Financial Provisions Schedule 5. We will also meet all requirements as stated in Component 2 of the Specification.

We feel the current delivery costs are excessive for the type of service delivered. We will deliver a lean service which will far exceed the Target Unit Efficiency SLA of 1% per yr by committing to at least 10% in yr 1 and 20% in aggregate over the term.

#### Proposed Subscription Rates



### 2.2 Resource Allocation

#### a. Proposed team structure

In the Implementation and Transformation Phase (post 9 January 2022) we have described the Transformation Organisation (Figure 3) and the Operational Service Organisation (Figure 4). Below is the proposed team structure for the Transformation Organisation outlining specific roles. The rationale behind the choice of resources for this organisation structure can be found in **Appendix 4** (FORS - Rationale behind Roles and Responsibilities spreadsheet)

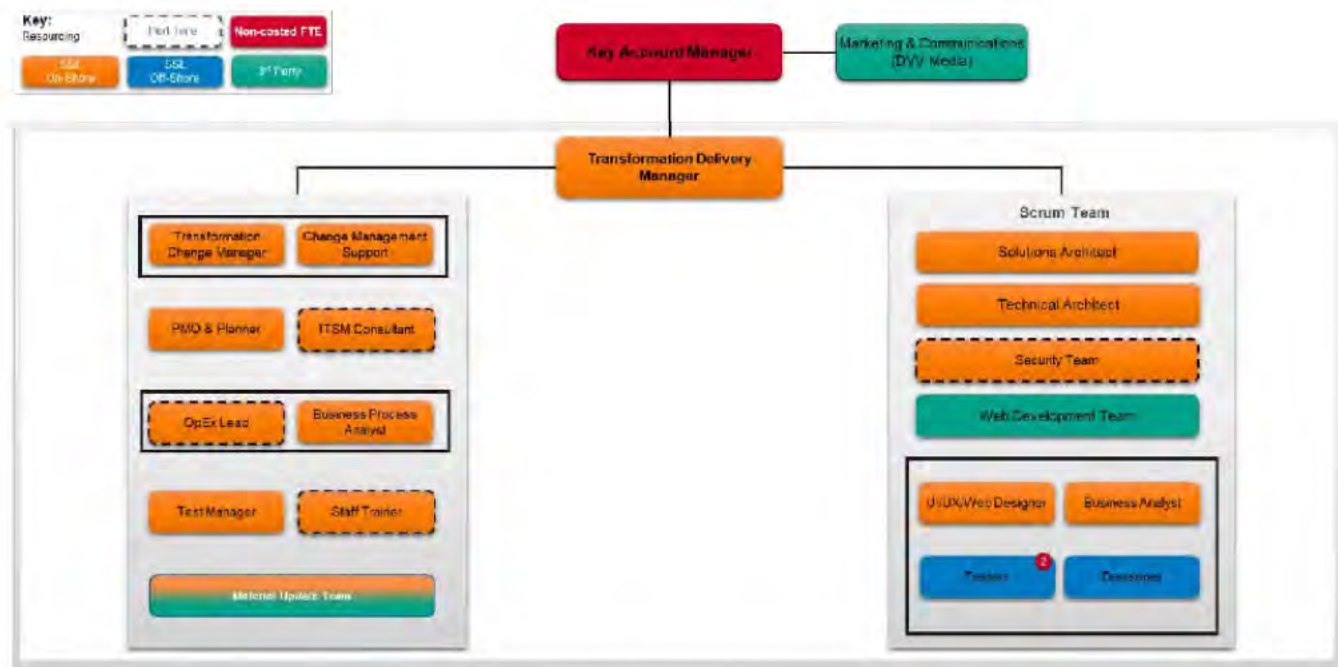


Figure 3 - Transformation Organisation

Figure 4 below shows our proposed team structure for the Delivery Organisation (post Transformation) outlining specific roles. The rationale behind the choice of resources for this organisation structure can be found in **Appendix 4** (FORS - Rationale behind Roles and Responsibilities spreadsheet).

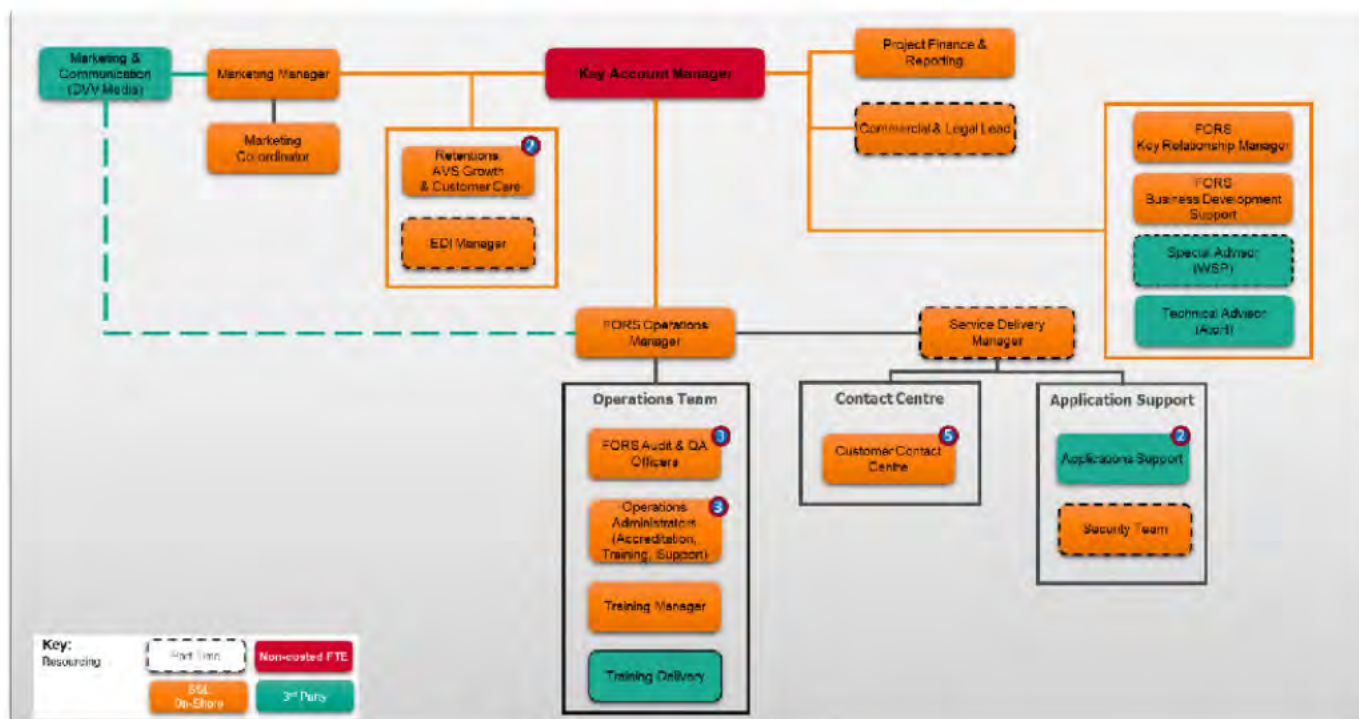


Figure 4 - Operational Services Organisation



## b. CVs for Proposed Team Members

Sopra Steria plans to utilise the existing FORS delivery organisation, combined with Sopra Steria resources to deliver our FORS vision, including the HR skills required to successfully transfer in-scope resources. CVs for proposed team members are attached within Appendix 5 and outline key skills and competencies of staff detailing the relevant skills, knowledge and experience in relation to the TfL requirement. In order to ensure that we are ready to deliver services on day 1 of Service Commencement, we have to address all resourcing issues during the Transition phase (Service Component 8). We will also be addressing all Sub-contract agreements and novation of all contracts (where applicable) to ensure contracts are in place to deliver the Services on day 1 of Service Commencement. During the Transition phase, we will report weekly on the status of these engagements.

Should any of the existing capabilities be lost during Transition due to staff not exercising their TUPE right from the outgoing Concessionaire, Sopra Steria will seek to fill these gaps by utilising our existing Transport Industry expertise at Group level and by leveraging our ecosystem partnerships, [REDACTED]

Sopra Steria has formed Teaming Agreements with our partners [REDACTED]. These agreements set out the roles and responsibilities as well as desired working relationship between Sopra Steria and each party in relation to running the FORS Concession and a commitment in principle, ahead of formal contracts which will be signed should we be successful, to work together for the duration of the contract. Sopra Steria will work with each partner (or a partner of similar ability / skill set) throughout the term of the contract to deliver the necessary deliverables. As we are required each year to produce a business plan, Sopra Steria will use this as an opportunity to define each partner's tasks for the year ahead; this also provides a natural break point should either party require it.

## c. How conflict of interest regarding sub-contractors will be managed during the contract period.

Sopra Steria and our concession subcontractors fully believe in the FORS concept and are therefore dedicated to positioning FORS as the 'go to' best practice fleet accreditation scheme. While there may well be existing and potentially new industry schemes providing similar accreditation to FORS, we believe there is significant opportunity for FORS to provide equivalency across multiple schemes e.g. Earned Recognition, ISO39001 etc. thereby allowing greater openness and collaboration between scheme providers and more efficient audits for fleet operators. All our subcontractors are bought into this approach and have committed to working collaboratively with other schemes and industry partners to drive and optimise Operator value. Sopra Steria is also committed to promoting collaborative behaviour and in the unlikely event any conflicts of interest do arise, we will manage them in accordance with the principles of ISO44001 Collaborative Business Relationship principles and Sopra Steria's business transparency policy.

Our subcontract agreements will contain a non-compete clause which will prevent individuals from our subcontractor organisations working on directly competing schemes (these to be clearly defined by TfL to avoid any ambiguity). As the organisations some of our subcontractors work for are major national/multi-national companies working across the fleet & logistics industry, and are not contracted exclusively or full-time to the FORS Concessionaire, we feel rigid enforcement of exclusivity at an organisational level against a set of as yet undefined schemes would need to be subject to further discussion with TfL and discussed on a case by case basis. That said, we have the following commitment from our sub-contractors:

**d. Outline of projects undertaken by the proposed team that are relevant to this requirement.**

Our project team has an outstanding level of skills and experience covering freight and logistics, fleet, accreditation schemes, auditing, training, commercialising assets and stakeholder engagement. Projects include:

**Smart Freight Centre – Smart Transport Manager Training (2016-2019)**

Members of our team created the Smart Freight Centre's Smart Transport Manager Training Course, designed to upskill Transport Managers in the five key pillars of operational efficiency (fuel management, staff skills development, vehicle specification and preventive maintenance, use of IT support systems and performance monitoring). The course equips operational Transport Managers with the ability to assess their own truck fleet's performance, identify areas for improvement, consider the potential impact of efficiency measures and interventions and then provide support to help them introduce changes, monitor their effectiveness and track performance. Our team members developed and delivered the training course to Transport Managers in China and Uruguay, working with multi-national organisations to upskill their local haulage and 3PL contractors. The course was delivered to operators contracted to IKEA, H&M, Heineken, Nike and Walmart.

**ECO Stars Fleet Recognition Scheme (2008-17)**

Members of our team created the ECO Stars Fleet Recognition Scheme, designed to reward and give recognition to operators of vans, trucks, buses and coaches, based on the 'green' credentials of their fleet and the operational management practices deployed. The scheme



gives a star rating for existing performance assessed through site visits and data collection, supported by efficiency road maps to help operators progress through the star rating system – improving efficiency, reducing fuel consumption, reducing operating costs and environmental impact. The single scheme developed for local authorities in South Yorkshire in 2008 (and launched in 2009) grew to more than 25 schemes active across GB, in England, Wales and Scotland, as well as in Sweden, Spain, Italy and the Czech Republic, with European Commission funding secured for a 3 year roll-out programme in those territories. An ECO Stars Taxi Fleet Recognition Scheme was created and rolled out in multiple locations as diverse as Mid-Devon and Dundee, with significant taxi operator sign-ups and active ongoing engagement. All schemes were funded by individual local authority sponsors, supplemented by DEFRA, NHS PCT and private sector industry support service sponsorship.

#### **LoCITY Fleet Advice and Outreach Programme (2017)**

In 2017 DVV secured the tender to manage the LoCITY Fleet Advice and Outreach Programme on behalf of Transport for London. This initiative involved the delivery of a series of roadshows, conferences and associated marketing communications in the London area to support the introduction of Ultra Low Emission Zones (ULEZ). The DVV team worked closely with the TfL stakeholders to ensure the messaging, speakers and event quality were aligned with the aims of the project. The KPI for the project was to attract 30 fleet operator attendees to each roadshow event (four per year), this was significantly exceeded with over 100 delegates attending each event. The project evolved over the two-year period of activity to include an annual exhibition with over 300 attendees and 40 exhibitors, receiving strong industry engagement and feedback. A set of tools and guides were supplied to all registered delegates combining the team's strong events organisational capability with a powerful communication plan.

#### **CILT Transport Management CPC Course Rewrite (2020)**

In 2020, a member of our team was commissioned by the Chartered Institute of Logistics and Transport (CILT) to completely rewrite its Transport Management Certificate of Professional Competence (CPC) training courses. The scope of work included a review of all existing training material for both Road Haulage and Passenger Transport qualification courses (eight days each) and their respective refresher courses (two days each). The training design process included a full technical review and revision of the materials, a redesign of delivery format to include a blend of eLearning, supported remote learning and traditional classroom learning to suit the delegate needs. The instructional design stage was used to apply case studies, scenarios and calculations to inject realism into the training and embed the learning, this was followed by a creative design treatment. The full pilot courses were delivered remotely and by eLearning ahead of the September examinations board. Feedback from delegates was positive and the first examinations saw an increase in pass rates for Road Haulage and Passenger Operations. This project informed the way the Transport Management CPC is examined, with a new examination format is due to be published late 2021, and has been endorsed by the Office of the Traffic Commissioner.

#### **FORS Technical Advisor (2016-2020)**

A member of our team has been the Technical Advisor to FORS for four years of the current Concession. This role was part of the FORS Community Partnership until it was dissolved in 2020. This role had specific responsibility for managing the FORS Technical Advisory Group and authoring the FORS Standard. Other responsibilities included helping develop and deliver the FORS Business Plan, manage GSAG sub-groups, and providing technical advice to both FORS Administration and Governance teams. The Technical Advisor role also included providing Subject Matter Expertise and peer review to the development of FORS toolkits,

guidance, eLearning, training and Practitioner workshops. To achieve this, collaborative working relationships were fostered with key suppliers such as CILT; FORS eLearning provider Walkgrove; consultant teams such as Arup, WYG, Stantec and AECOM; and Associate training providers.

For reference, **Appendix 6** contains additional projects undertaken by the proposed team.

## 2.3 Methodology and Approach to Managing Business as Usual (BAU) FORS Administration

In line with the requirements of the specification, we will mobilise, implement, transform and deliver this concession in three distinct phases. These are:

	Phase	Component	From	To
1	Mobilisation and Transition Phase	8	Contract Award	8 January 2022
2	Implementation and Transformation Phase	2	9 January 2022	8 January 2023
3	Post -Transformation Delivery Phase	2	9 January 2023	Contract end

Table 3 – FORS will be delivered in three distinct phases

Our Transition activities will ensure that the service readiness status is achieved and that we are ready to commence service.

Our immediate priorities will be:

- Servicing the requirements of FORS Operators
- Delivery of our “One TUPE Transfer Process”
- Focus on “Back to Basics” (reiterating the FORS values for all staff and stakeholders)
- Actively engaging with Accredited Operators with renewal dates within the next 30 days
- Actively engaging with dormant and withdrawn Operators
- Implementation of the service transformation
- Communication of the 2022 Business Plan

### a. A Project Plan outlining key milestones

Our response to Component 8 below, fully describes the project plans and approach for Mobilisation, Transition, Implementation and Transformation. Figure 5 below ties into these and calls out some of the key risks and dependencies that face the BAU service relating to the project timelines and term of the contract. It also indicates key mitigations and service focus to counter these risks.



Timeline	Q4 21	Q1 22	Q2 22	Q3 22	Ongoing
Project Phases	Discovery, Alpha	Beta 1	Beta 2	Go Live	Live
Service Phases and Milestones	Mobilisation and Transition (Contract Award to 8 January 2022)	Transition and Transformation (9 January 2022 – 8 January 2023)			Transformed Delivery (9 January 2023 – Contract End)
Key Risks, Issues Dependencies	Dependency on Incumbent for information and smooth transition	Risk: Fleet Operators/Auditors unready for new services Risk: Additional support required by auditors and following drops for new services			BAU Risks managed on RAID log
Mitigation/BAU Service Focus	Mitigation: Proactive discovery and knowledge acquisition.  Deploy additional skilled staff to manage  Comprehensive Service Readiness planning	Mitigation: Initial focus on stability and value based continual improvement  Mitigation: Continual repeated multi-channel communications to ensure stakeholders are aware of deployments/events  Mitigation: Fully train our operational staff so that they are informed and ready to support stakeholders on new releases  Mitigation: Intensive care - make additional trained staff available to manage around new releases  Cross-train staff to maintain and enhance service capability			Focus on optimisation through value driven CI to continue progressive improvement and take-up of the FORS service.  Continue to capitalise on emerging opportunities/technology

Figure 5 - Project Plan outlining key milestones

#### b. An outline of the key risks, issues and dependencies

Sopra Steria is already managing a comprehensive RAID log (Risks, Issues, Assumptions, Dependencies) in connection with its bid for the FORS service and in accordance with its industry best practice risk approach. This RAID will continue to be developed and maintained through the remainder of the TfL FORS engagement. This will be shared with TfL as part of the bid submission. Figure 5 above calls out some of the risks that may arise.

Each of these is represented on the RAID log along with key attributes including impact, probability, cost, etc. The RAID is also developed in tandem with Business Continuity and Disaster Recovery measures and covers risks that are not specific to FORS, such as force majeure, economic and environmental factors.

#### c. Our approach to the day-to-day management of the FORS Administration

In accordance with the specification, the table in **Appendix 7 – Key Activities** outlines the key activities undertaken in the day-to-day management of FORS. These activities are further underpinned by a wide range of operational activities in the delivery of the FORS service, see **Appendix 8 - Operational Activities**.

Clear accountabilities and responsibilities will be defined for each of the activities within a RACI matrix in the Service Definition Document, which has two key sections: Service Definition and Governance.

#### d. Our approach and a draft Business Plan for the five years, with particular focus on Years 1 and 2.

We have provided a draft Business Plan, see **Appendix 9** which will be significantly developed throughout 2021.

Our focus, throughout the contract, will be to deliver benefits for the Accredited Operators. In order to achieve this we will focus on:

- Realigning the service, emphasising the scheme objectives;



- Developing value added benefits for the Operators;
- Addressing negative perceptions via promotion of scheme enhancements;
- Developing a culture of pride within the Operators relating to FORS;
- Actively promoting the benefits of the scheme to additional sectors.

The revitalisation of the service is best supported by a performance regime which measures the level of service that the Stakeholders are experiencing. We have described our proposed approach to performance management in detail in section 7.2 of this document, including how it incorporates Customer Experience.

#### **e. Internal quality assurance processes**

All services will be delivered based on our Business Management system, iQ. This provides standard, proven and repeatable processes and procedures that deliver consistent business outcomes. iQ content is based on acknowledged industry best practice including ITIL, Lean and Six Sigma and honed by our learning and experience across our full client portfolio. Each of the processes applied, such as for example Request Management or Change Management, will be tailored to the FORS requirements using FORS specific work instructions. These help ensure that processes are carried out in the same consistent way irrespective of who is doing the work. Apart from delivering consistent results, it also facilitates new/reassigned staff in swiftly getting up to speed with the work practices.

The approach to the delivery of the services are described in the Account Handbook and Quality Plan which detail the services delivered and how they are governed. The processes and documentation used for the delivery of the account is defined and controlled by a Process Tailoring Matrix. This acts as a single source of the truth as to what processes are used, signposts where they are held and defined and controls the review cycle to ensure that they remain accurate and current. iQ is certified to ISO20000 Service Management and ISO10007 Quality Management standards. This means that it is independently verified to conform to best practice.

A programme of internal audits serves to ensure that the service is being managed correctly, in line with standards and also to facilitate the smooth passing of external audits should these be required. iQ provides standard ways of working, but at the same time, it remains flexible to accommodate customer specific and operational requirements. Standards, quality and transparency are built into the culture and approach of our company and we are trusted by major public sector (DWP, MOD, MOJ, Defra, Home Office, Met Police) and private sector (Tesco, EasyJet, Airbus, McDonalds) customers to deliver to the highest industry standards for service delivery and technology development. Managing, uniformly executing and assuring business processes to specific standards, for specific purposes, such as quality assuring FORS audits, is second nature for us and we will bring significant experience and improvements to the operation of FORS.

## **2.4 Customer Services and Customer Care**

### **a. Helpline provisions**

Sopra Steria propose to design and drive the Customer Support service based on Customer Experience and 'eXperience Level Agreements' (XLAs). This will incorporate a "shift left" approach which seeks to move the resolution of issues closer to the customer. Digital transformation has irreversibly changed the expectations of customers. Innovations driven by the likes of Rightmove™, Amazon™ and Netflix™ have created a very different expectation around the customer experience everywhere.



We will shift many of the current contacts to digital channels where appropriate, such as promoting self-service password resets and providing access to knowledgebase of FAQs and self-help via the website. We will further reduce the need for end users to contact the service by providing them with automated alerts relating to things such as:

- The customers accreditation status and updates on progression
- Notifications throughout the Audit process to show where they are in the process, help available at each stage and any changes in status
- Provision of a highly intuitive website with UX at its heart enabling Fleet Operators to better find the information they need quickly

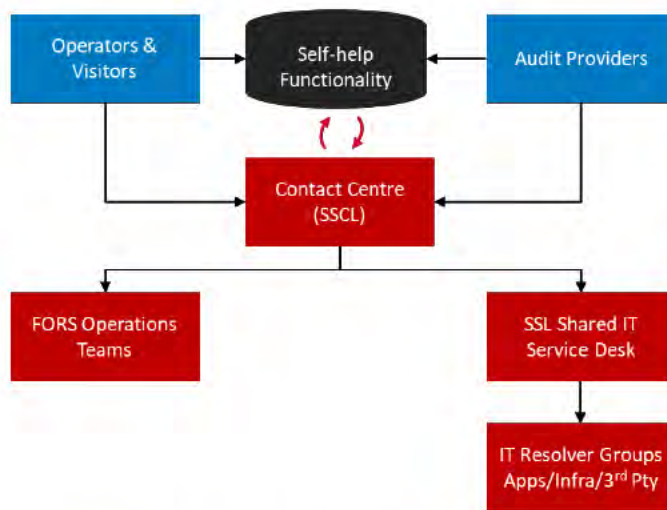


Figure 6 - Contact Centre and Self-help services

A digital knowledge base to assist customers with information dissemination such as providing clear and relevant information around the training and learning requirements for each level of accreditation. There will be instances where the customer will need or prefer to talk to an individual. All calls to the contact centre will be met by our intelligent IVR service. This will ensure that end user calls are answered and routed to the correct person/department quickly, without the need to repeat a request and increasing the number of calls resolved at first contact. It will also act as a conduit for communications and reminders.

Figure 6 shows Contact Centre and Self-help services in the context of the wider FORS support services and the routing between. The core Contact Centre will be provided by an established shared service (provided by Sopra Steria joint venture Shared Services Connected Limited) which provides efficient professional contact centre services to 25 Public Sector clients which include DWP, Environment Agency, Defra, Home Office, Metropolitan Police, Construction Industry Training Board (CITB) and the MOD. . The shared nature of the contact centre provision enables a high degree of flexibility to efficiently meet the peaks and troughs of service demand, delivering a more efficient service. As described above, the Contact Centre will be able to address a high proportion at first contact, referring to expert resolver groups/specialist teams only where necessary. The approach to focussing on customer experience also helps to drive down the call volumes to the contact centre, allowing the FORS administrative staff to concentrate on more complex issues/queries providing a quality, targeted service to fleet operators and facilitating continual improvement.

IT calls will be managed via our service management toolset and IT service desk. The IT service desk is further supported by specialist resolver groups covering ITIL 4 best practice services, supporting the IT infrastructure and applications. A high proportion of services are provided by shared service teams that bring the advantages of economies of scale, expertise, standardisation and flexibility to meet the demands. The Call Handling (AWS Connect) and IT Service Management (Cherwell) toolsets used are industry leading and facilitate comprehensive service monitoring, reporting, visibility and transparency. Calls will be followed up with customer survey SMS/email to



Home Office



monitor customer satisfaction levels, take specific feedback and feed into the CI process.

An operational Service Manager will be responsible for the end-to-end service chain and, supported by the service management team, will monitor the service to ensure that service performance is maintained. We have used this support model approach effectively for our services at major public sector customers, for example Home Office UK Visas and Immigration and HM Passport Office.

#### b. Proposed benefits packages

We will develop and deliver an extensive package of benefits available to all levels of accreditation with a specific focus on encouraging new member (Bronze) take-up and SME participation. Bespoke support services for Silver and Gold accreditation such as free accreditation clinics, specifier engagement/tender notification support etc. will encourage progression. Our Service will be defined by fleet operators requesting services, and actively participating in subscription to the scheme. This approach is being underpinned by User Research we have conducted which identifies and highlights key areas of need and benefit.

Feedback from our initial market research showed that Safety and Financial Savings were two of the most attractive features of FORS accreditation. Enhancing these areas and making them more attractive to new entrants should therefore help retain operators and drive scheme growth. To enhance the member benefits package for all FORS accreditation levels we have connected with a broad range of companies all with offerings to add value to the FORS scheme:

- We have secured 5 signed 'Statements of Intent' from benefits providers to work with FORS. A sixth is in progress with Halfords for tyre/vehicle maintenance discounts.
- All 6 have tailor-made options with discounts/offers only available to FORS members
- Medichecks have designed a driver's blood test only available for FORS. A simple finger prick blood test that will check health issues that cause fatigue, affect concentration, energy levels and general wellbeing.

  <p>Bespoke MediChecks Drivers Tests uniquely for FORS operators</p> <p>All benefits available to all FORS operators</p>	  <p>Gyms (Nuffield, Pure Gym - 444 clubs)</p> <p>MyActiveDiscounts (c.80 discounts associated with keeping active)</p> <p>FORS offers not available in public domain</p>	  <p>Health Assessments either virtually or in person.</p> <p>2300 clinic locations (BMI, Bluecrest and Nuffield).</p> <p>FORS offers not available in public domain</p>	  <p>Savings on financial products, utility providers etc.</p> <p>Snoop estimates they can save Customers £1500+ per Annum</p> <p>Bespoke version of Snoop offered for FORS members</p>	  <p>One card, thousands of choices.</p> <p>Hundreds of offers for FORS members' daily purchases</p> <p>Wide range of discounts available on 100s of everyday retail items</p>
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Table 4 - We have secured statements of intent with a number of Benefit Providers

In addition to a compelling range of member benefits, we will also provide a range of scheme-related benefits to Operators. Year 1 investment will include £150,000 towards funded training and will focus primarily on transforming the website and service, from year 2 onwards we are budgeting to ring-fence a minimum of £350,000 per year for funded training, charity sponsorship and SME support to promote the FORS brand and enhance the scheme's reputation. Surplus profits will fund these initiatives. Examples of the types of incentives and promotional activities we are considering with this annual budget are included below:

- 100 SMEs each year can apply to receive £1000 subsidy towards training and Bronze accreditation costs incurred (c. £100k budget required)
- £150,000 of funded Operator training per annum ring-fenced (c. £150k budget required)
- FORS Excellence Awards (c £30k budget)

As FORS represents a quality standard, there is an opportunity to launch a set of FORS Excellence Awards, rewarding best practice and performance across the FORS community of operators, specifiers and suppliers. Initially, it is expected, this would be funded from the annual budget, although we would move to secure sponsorship in the future, which should represent an additional source of revenue for FORS. In our initial business planning we would expect this to become a viable source of profit within three years.

The annual awards would be organised as part of the FORS Spring Conference, initially taking place as part of a networking lunch event. With sufficient market support this would grow to become a stand-alone event, potentially in the evening of the Spring Conference or alternative date. As with other business awards in the sector, sponsorship would be drawn from interested parties who wish to raise their profile among the FORS community (e.g. truck or van manufacturers, auditors, training companies etc). By way of an example, a preliminary, though by no means exhaustive, list of categories has been identified thus:

- "Best FORS Operator Award – as voted for by Specifiers"
- "Best FORS Mentor Award – as voted for by Operators"
- "Best FORS Champion Award – as voted for by Concessionaire & TfL"

Further market testing of the initiative, would identify other potential categories (for a lunch event, we believe six categories would be optimum). Our marketing and communications partner, DVV, organises the leading road freight industry awards (Motor Transport Awards) as well as many other business recognition awards and would be instrumental in ensuring the successful launch and development of the FORS Excellence Awards.

### **Our approach to producing the benefits realisation report**

In order to produce the benefits realisation report we will ensure the following foundation is in place:

- benefits are identified, defined, measurable and linked to TfL and FORS outcomes;
- where information is required from operators to measure benefits e.g. via case studies etc. they are motivated to provide it e.g. via "Best Operator/Best Case Study" awards
- Processes are in place to realise benefits; this includes actively measuring, tracking and recording benefits during the period of benefits realisation; and

In support of benefits realisation activities, we would expect TfL to:

- Continue to specify FORS as part of TfL's Work Related Road Risk (WRRR) procurement clauses;
- Ensure the CLOCS Secretariat contract is fully aligned to the objectives of FORS
- Help to facilitate any initiatives to utilise data produced by Surface Transport for the benefit of FORS AO's; for example, data from COV IMS.
- Act as the flagship Specifier (especially in London) and showcase the benefits of FORS to any new potential Specifiers.

## 2.5 Air quality and environmental protection

FORS has strong social value in the areas of Air Quality and Environmental protection through the advocacy of best practice in fuel management, reduced engine idling etc. We will use these differentiators to attract Local Authorities, NHS Trusts and other specifiers who have specific initiatives and budgets dedicated to these areas as opposed to marketing FORS solely at logistics or procurement audiences. For example, we are leading a ministerial air quality initiative on behalf of Broxbourne Council, one of 44 councils identified by government as needing to do more to improve Air Quality. Using our corporate connections with this community, we will demonstrate, with the help of Gold-accredited-operator case study examples, how specifying FORS throughout their logistics supply chain can act as a positive contributor to their air quality and environmental protection objectives.

## 2.6 Risks & Mitigations

Risks	Mitigations
The incumbent or suppliers not working with us in a timely and quality manner to transition services resulting in delays to the transition/Go-Live	Work alongside TFL and AECOM to ensure that AECOM fulfil their exit commitments, including obligations and deliverables as part of their Exit Plan, to ensure a smooth Transition.
Our ability to grow the service due to it being seen as a London-centric service. The reputation of the scheme may require us to have to spend more money on Marketing campaigns.	Our Marketing and Business Plan will address how we interact and influence other Industry Sectors and Specifiers. DVV Media has mitigated against this risk for year 1. When Marketing is assessed for years 2-5, we will be in a better position to determine cost vs risk.
Brand Reputation – misuse of brand and brand image resulting in high litigation costs that will decrease funds available for business plan activities	Relationship with DVV Media will allow us to track and see where the brand reputation is being misused. Early identification of brand infringements and warning letters issued prior to litigation.
Challenge from competing new or existing schemes could result in a reduction in subscriptions to the FORS scheme	Working in partnership/collaboration rather than in competition with any new or existing schemes to ensure all are aligned to industry best practice. Present FORS as an umbrella scheme that benefits members of any scheme.



### 3 Specification Component 3: Auditing and Certification

#### 3.1 Audit Provider Management, including online booking systems

##### a. Our approach to attracting multiple audit providers/auditors

We are aware that certain parts of the industry have raised concerns about operators having limited options when selecting a FORS Audit Body. To attract multiple Audit Providers to FORS, so that operators are in a position to make a fair market choice, we will ensure that the process, criteria, costs and commercial arrangement (as outlined at Schedule 5) are absolutely fair and transparent. We will work with the current Audit Bodies to identify their motivations to engage with FORS and determine the potential barriers that need to be overcome. We also need to be conscious of ensuring that audit supply doesn't exceed audit demand but does offer options to fleet operators. We will therefore also undertake an audit market review to understand and profile other potentially suitable Audit Bodies.

Once all transitional arrangements have been achieved, we will review the FORS Audit Provider criteria. We need to ensure becoming a FORS Audit Provider is appealing and accessible, whilst maintaining the credibility of the scheme. Our rationale is to engage with potential Audit Providers that already have a relationship with fleet operators and ensure there is sufficient coverage of the Territory where FORS is active. To be successful this will require non-discriminatory, fair and consistent terms and conditions to attract Audit Providers to FORS. However, key performance indicators (KPIs), experience level agreements (XLAs), and risk ratings aligned to the FORS Administration Concession contract will be included to ensure quality levels are upheld. Audit Providers will be risk-rated by RAG status aligned to the terms and conditions.

We will engage potential Audit Providers using a three-stage targeted approach:

- i. **Trade associations:** The main trade associations will be approached to engage in an open discussion about FORS. We are obviously unable to guarantee that a particular trade association will fully commit to becoming a FORS Audit Provider but we can ensure a fair and transparent proposition will be offered for discussion. We will also conduct a targeted survey of FORS operators, that are trade association members, to seek their views as to whether they would prefer a FORS audit to be conducted by their respective trade association. The outcome of this survey will be used in the open discussions with trade associations. Should discussions not be productive we will keep the dialogue open and revisit the matter throughout the concession. See below on Standard Audit Providers and Influential Audit Providers.

Constructive discussions have already started with Logistics UK. Their objectives are aligned to ours in that they want to see, and be part of, a marketplace of Audit Providers. They see the FORS Administration Provider being the coordinator of FORS Audits and not the controller. This is fully aligned to our *Working with Industry* ethos. Logistics UK would also like a place on GSAG to help advise FORS. We are aware of the resistance to Audit Providers being involved in GSAG and will work with the FORS Governance Provider and TfL to assess how Logistics UK could be involved in a positive way.

- ii. **Earned Recognition audit providers:** There are 24 DVSA Earned Recognition audit providers. Only one of these is also a FORS Audit Provider. We will review the DVSA list and their competences and will make contact to discuss FORS Audit Provider opportunities. We will need to be conscious of those organisations offering pre-audit

services either as a FORS Associate or through their own communication channels to ensure there is no conflict of interest.

- iii. **Other recognised audit providers** - Fleet operators undergo many different business level audits for recognised accreditation. The most relevant accreditations to fleet operators being ISO, such as ISO9001, ISO14001 and ISO39001. We will explore the feasibility of working with other audit providers and quality assurance bodies and introducing FORS to their portfolio of standards against which they audit. The most obvious would be the ISO39001 auditors, as Road Traffic Safety is directly relevant to FORS. However, the principles of fleet management auditing could be applied by a quality management audit body as long as they have auditors with the relevant competences. As part of our engagement with other audit providers, we will investigate the potential for FORS to recognise alternative or a combination of alternative audits as equivalent to that of the FORS Standard. Particular attention will be focussed on quality assurance, scope, enforceability, and adherence to terms and conditions and ensuring there is no conflict of interest. We also recognise the role that can be played by other Audit Providers such as, RoSPA, IRTE and HSE with whom we have relationships.

It is important that we monitor, record and mitigate the risk of, and eliminate any identified conflict of interest in relation to, Audit Providers and their training and consultancy service provision.

We will explore categorising Audit providers as either Standard Audit Providers or Influential Audit Providers, recognising the value that various organisations have to offer FORS.

Standard Audit Providers are those organisations that provide an audit service as requested or to their own customer base. Influential Audit Providers are those organisations that have significant influence over their customer base or membership. We will review previous negotiations and commercial proposals with Influential bodies to define how engagement could be more attractive – as an example, this may include a discount on FORS subscriptions for a trade association member, if that trade association were a FORS Audit Provider.

We will review, manage and update the Audit Provider approval process as required and in accordance with the Requirements for Audit Bodies. We recognise that TfL's FORS Governance and Standards supplier will be responsible for recording all new Audit Provider applications and will act as a final appeals board in relation to auditing and compliance. Whilst multiple Audit Providers will be conducting FORS audits, we will remain responsible for certification and performing independent quality assurance services on audits.

We are conscious of the long-term concerns about the inclusion of Audit Providers on GSAG. GSAG is a representative body of the fleet industry and its customer base and we agree that Audit Providers should be precluded from having an active or voting role at this group. The FORS Administration Provider will represent Audit Provider interests at this group. The only exception to this rule would be where an Audit Provider also has a relevant and recognised policy interest, such as a trade association or professional body. In these circumstances, and to manage any conflict of interest, we will help inform the GSAG terms of reference to limit the scope of membership to the policy interest; as previously mentioned, Logistics UK is a case in point. As per the Specification requirements, we will not offer audit services as part of this concession.

- b. **Approach to booking/allocating audits until 9 January 2023, outlining a new audit booking system(s) post 9 January 2023**



From Service Commencement, to minimise business disruption and ensure smooth transition, Sopra Steria's initial approach to booking/allocating audits will be based on the existing solution used by AECOM. Our solution during the Transformation period is founded on taking on the existing operational workforce, maintaining the existing technology solution and retaining key subcontract arrangements with the existing Audit Providers; DEKRA, DriveTech, MileBay and the three new providers currently under consideration (TranSultant Ltd., ACME and JCS), as well as any supporting technology to enable the Audit Providers to maintain the required audit standards.

- **The Operational Solution** – considerable skills, knowledge and effective relationships exist in the AECOM operation. Sopra Steria recognises that these should be retained for this Service delivery period, while the services are being transformed. Sopra Steria will detail how resource levels will be retained and, where appropriate, supplemented from our own skilled resources or from specialist partner organisations to ensure uninterrupted audit booking and allocation.
- **Maintaining the existing technology** – Sopra Steria will detail how the existing technology solution will be maintained through this service period whilst the transformed solution is delivered.
- **Subcontract arrangements** – Our solution is founded on retention/novation of the existing subcontract arrangements with the three Audit Providers.

The service will consist of three main components:

- **Self Service**  
Allowing Operators to carry out Audits themselves and submit evidence of these Audits for Validation and Quality Assurance
- **Marketplace**  
Allow the Administrator of FORS to commission work from suitably qualified and accredited agencies
- **Audit Assistance**  
This will provide Fleet Operators with a pre-Audit checking service, to ensure they are supported and give recognition of Accredited Operators' desire to progress through Accreditation Levels

Our Marketplace approach to Auditing will provide the following benefits:

- A single System of Record for all Audit records
- Online dashboard with status updated to show Audit progress, with automated alerts to Fleet Operators regarding any missing information
- Digital Solutions for enhanced data submission/data quality
- Digital compliance and quality assurance declarations

Post 9 January 2023, we will have created, developed and continue to maintain a transformed online audit booking Marketplace that will be hosted on [www.fors-online.org.uk](http://www.fors-online.org.uk). Audit Providers will be able to use the Marketplace as a sales platform to promote their audit services in an open and transparent way. It will allow Accredited Operators to:

- Access an up-to-date list of approved Audit Providers



- View and compare Audit prices by all Audit Providers in a particular location (postcode, town/ city, country) within a specified date range
- Book, view and cancel appointments made with Audit Providers
- Make payment for Audits carried out by Audit Providers either directly through the system or as agreed with the Audit Providers

The Marketplace will include a FORS Audit Portal which will enable:

- Registrations and Audit bookings from a specific Audit Provider to be allocated to an organisation
- Communication with Audit Providers to develop IT connections between their own websites/ portals and the online Audit booking system to enable bookings to be in real time based on availability via an Application Programming Interface (API)
- Short term secure access, in advance of an Audit, to review Audits, complaints and contact details of the Accredited Operator who is to be Audited
- Secure upload of all relevant documentation and complete all relevant information for silver and gold audits and relevant results
- Incomplete applications to be saved and returned to at a later point
- Viewing of Audit results and associated documentation, including previous Audits
- Communication of appeal decisions and, when necessary, follow the Audit appeals process (as set out in TfLs Appendix 10 (Compliance and Quality Assurance))
- Due to the nature of the services delivery, it is recognised that stakeholder relationships form an integral part of AECOM's delivery, and Sopra Steria is committed to maintaining and improving these relationships.

Immediately post Transition from the outgoing Concessionaire, the Service will be delivered in line with the Specification, Component 3, with very little change to the existing Service; this is because our focus will be on ensuring zero transition disruption and on implementing new, higher value, lower cost/risk functionality through Transformation rather than wasting time and money on legacy development. Only where we discover improvements to the existing processes or changes required to the Services through new or revised requirements, will Sopra Steria implement operational change. This approach is adopted on the understanding from TfL that the current Audit Services are delivering the requirements and, with appropriate operational management, will achieve the required performance levels described in Schedule 11 (Service Level Agreement), until the services have been transformed.

### **c. Approach to auditor training/refresher training**

Audit Provider and Auditor competence levels will be accessible, transparent, consistent and upheld. We will manage, deliver and update, as required, the FORS Audit Provider training course and ensure each new Auditor is trained accordingly. There is no standard training course for fleet management auditing and we will work to ensure the FORS Auditor training course is a recognised credential that fills this competence gap. Revisions to the current course will be in line with changes to the FORS Standard, industry good practice and any identified risks.

A FORS Audit Provider refresher course will also be developed and delivered at an approved charge rate that will be required to be undertaken by all Auditors every two years, in line with the publishing of revisions to the FORS Standard. All training will be accessible and training fees will be set at a level to encourage new Audit Providers into the market.

Audit Provider engagement and positive relationships are important. We will organise and administer an annual auditors' event to communicate updates on latest FORS and industry developments that may impact the audit process. The event will also be used to listen to auditor feedback and help inform FORS administrative processes, communications and business plans.

#### **d. How we will utilise/enable audit providers to promote FORS**

FORS must be a worthwhile experience for all, including Audit Providers, and our objective is to ensure more people talk about FORS more positively and more often. FORS Audit Providers are a specialist resource of knowledge, expertise and capability. Where relevant and appropriate, we will work closely with Audit Providers, utilising their services as a potential supply base to assist in the delivery of FORS – this may include training delivery, toolkit development, operator recruitment and retention, and even stakeholder engagement. We intend to secure loyalty from Audit Providers by ensuring their involvement in FORS is an important part of their business portfolio and to encourage and enable them to promote FORS as part of their routine communications.

Our approach for our transformed Audit Booking service will be based on a referral/transaction fee business model similar in nature to that used by uSwitch, Money Supermarket or Comparethemarket.com. The planned implementation date for this function will be determined during the Discovery and Alpha phases of Transformation, but we are targeting implementation before 31 December 2022.

We will take the Marketplace/Referral business model used by these successful online platforms and apply it to the pan-industry Audit Market. This approach will broaden the market to allow additional Audit Providers to market their services by enabling them to allocate available Audit Slots via the Marketplace at competitive prices. Where requested slots do not exist, the platform will notify Audit Providers on the marketplace so they can add new slots.

An intuitive, user-centric design will facilitate take-up/on-boarding, which will be key to gaining rapid market share. In addition, Audit Providers will be provided with access to a huge market of potential customers which are proactively generated through our Industry-focused Marketing Campaigns and Sopra Steria's extensive reach across major Private and Public sector customers.

Our updated website will allow Audit Providers to display their Added Value Services at contextually-sensitive stages in the Operator's accreditation journey; Sopra Steria is currently carrying out User Research to identify the extent of these services. We feel this approach, along with slicker, more automated processes (such as automated reminders of audits, notification of Operator-uploaded content, etc.) and clearer guidance for audit delivery (via video tutorials explaining how elements of the Standard are to be audited), will make FORS a modern and attractive scheme that Audit Providers will want to support and promote.

### **3.2 Compliance, Enforcement and Quality Assurance**

The terms 'compliance and enforcement' have very specific implications in the transport sector and we have to be conscious as to how they are used. In the context of FORS this means conformity to the FORS Standard and its Terms and Conditions, and any corrective action required to remedy a non-conformity. Non-conformities are highlighted through a complaint which may be raised through one of multiple sources – such as the general public, a specifier or enforcement officer. Complaints may be received via social media, email, enforcement



reports or through the monitoring of legal publications such as Traffic Commissioner Applications and Decisions (As&Ds).

Once a complaint is received, the FORS Compliance procedure is to be followed, which includes an investigation and communication to the FORS Accredited Operator or Audit Provider concerned. Appropriate action is taken against any Accredited Operator or Audit Provider found in breach of the FORS Terms and Conditions.

We recognise that the processes and procedures documented in the FORS Compliance and Enforcement Manual have developed over time, been challenged and tested, and are sufficiently robust to ensure accreditation to the scheme is meaningful. We commit to following the procedures within the FORS Compliance and Enforcement Manual fully during the Implementation Phase and we will review each task to balance the obligations and objectives of FORS with the customer experience of the service it offers.

### **The Quality Assurance Team**

This team will be staffed with a Quality Assurance Manager and Senior FORS Auditors. They will carry out a number of Quality Assurance related activities. We are conscious that continuity in this function is crucial to continuous and effective FORS Administration and we will incentivise current members to TUPE across to ensure this. To mitigate TUPE risk, AtoH Solutions, will provide Sopra Steria's transition team with specialist advice and support on the knowledge, skills and experience required to appropriately staff the Quality Assurance Team (see Figure 6 for the full staffing of this team). AtoH has a detailed background in, and understanding of, FORS quality assurance and compliance issues to ensure a consistent continuation of this service from transition to implementation phase.

The core responsibilities of the Quality Assurance Team include:

- Background checks on new registrations and Accredited Operator change requests
- Quality Assurance on Bronze, Silver and Gold audits for all Audit types
- Administering Internal Audit Fleet Accreditation (IAFA) operators
- Dealing with complaints and investigating appeals

In addition to the core responsibilities, the Quality Assurance Team will also provide support to Accredited Operators with technical enquiries relating to the FORS Standard and provide technical support to Sopra Steria as FORS Concessionaire.

### **Checks on new registrations and change requests**

Checks to ensure legitimacy of new FORS registrations and change requests are essential to protecting the integrity of the FORS brand and its accredited operators. Our Quality Assurance team will maintain a system of checking all new registrations within two days of receiving details. They will use the Applications and Decisions (As&Ds) system to verify:

- |                      |  |
|----------------------|--|
| • Licence Number     | • Number of vehicles and trailers permitted    |
| • Licence status     | • Directors                                    |
| • Company name       | • Transport Manager Undertakings               |
| • Contact address    | • Public Inquiry outcomes, ongoing or imminent |
| • Operating centre/s |  |

If the company is scheduled to appear at a Public Inquiry, they will be written to by the FORS Quality Assurance team and informed that their application will be placed on hold until the Public Inquiry has been held and any findings resolved.

If the company has appeared at a Public Inquiry at time of application and has had a finding against them for a disciplinary matter, the FORS Quality Assurance Team will contact the company seeking further information of the Traffic Commissioner's Public Inquiry outcome and whether the matter has been resolved. If the written response indicates the matter has been resolved to the satisfaction of the Traffic Commissioner, then the application can proceed.

If the matter has not been resolved, then the application will not be allowed to proceed until the FORS Quality Assurance team is satisfied that it is resolved to the satisfaction of the Traffic Commissioner.

If a company cannot resolve a finding to the satisfaction of the Traffic Commissioner, then the FORS Quality Assurance team may need to review the evidence offered and determine whether a registration may proceed.

The FORS Quality Assurance team will also check information regarding the number of vehicles authorised and trailers permitted against those declared on their FORS application.

a) If the number of vehicles declared on the new company registration does not exceed or falls way below the number of authorised vehicles on the company O-licence, taking margins into consideration, then the FORS Quality Assurance team will proceed in checking that the directors named on **Companies House GOV.UK** online match with those listed on the operator's licence.

b) If the number of vehicles declared on the new company registration exceeds the number of authorised vehicles on the company O-licence, taking margins into consideration, they will be written to by the FORS Quality Assurance team and informed that their application will be placed on hold until confirmation of fleet size has been received.

The Quality Assurance team will check the Companies House GOV.UK database to cross-reference the directors named on Companies House with those listed on the operator's licence.

a) If directors named on Companies House match with those listed on the operator's licence, then the FORS Quality Assurance team will proceed in carrying out final checks regarding any previous FORS accreditation which may have outstanding complaints left open on the FORS company page and(/or) sanctions issued by the FORS Quality Assurance team that remain unresolved.

b) If directors named on Companies House do not match those listed on the operator's licence, they will be written to by the FORS Quality Assurance team and informed that their application will be placed on hold until the directors named on Companies House match those listed on the operator's licence.

### **Previous accreditation and outstanding complaints**

The Quality Assurance team will check to see if the company applying for a new registration has previously been a FORS Accredited Operator to ensure that there are no outstanding complaints left open on the FORS company page and(/or) sanctions issued by the FORS Quality Assurance team that remain un-resolved. These may arise from a range of sources including enforcement agencies, FORS specifiers and members of the public.

a) If there has not been any previous FORS accreditation and therefore no outstanding complaints, then the enquires team will be notified that the new registration can be processed.

b) If the company has held a previous FORS accreditation and at the time of submitting a new registration has outstanding complaints left open on the previous company page and(/or)



sanctions issued by the FORS Quality Assurance team, they will be written to by the FORS Quality Assurance team and informed that their application will be placed on hold until the outstanding matters have been resolved.

c) If the written response indicates the complaint has been addressed to the satisfaction of the FORS Quality Assurance team, then the new registration can proceed.

d) If a company cannot resolve outstanding complaints to the satisfaction of the FORS Quality Assurance team, then the evidence offered will be reviewed and a decision will be taken on whether the registration may proceed.

### **Proceeding with new company registration**

Once all of the aforementioned checks have been carried out, the enquires team will be notified that the new registration may be processed.

### **Quality assurance for all Audit types**

We aim to deliver the highest standards of administrative service to FORS Operators and we expect the same high level of customer experience to be delivered by Audit Providers and other service providers to the concession.

FORS Quality Assurance ensures that Audits (and their subsequent reports) on fleet operations meet the expectations and standards of the scheme. It also evaluates the criteria that makes Audit provision effective and highlights the specific performance level of Audit Providers. The Quality Assurance process on Audits, Audit documentation and Audit Providers will be coordinated within our proposed Technical Team and the checks for each will be performed in a single quality assurance process conducted by a qualified Senior FORS Auditor.

FORS is not a one size fits all operation and this has to be considered when quality assuring Audit activities. Our quality assurance process will recognise the range of audit types that FORS Accreditation generates and ensure the correct audit is applied in the correct conditions. With Bronze, Silver, Gold, SOCA, MOCA and IAFA audit types combined with the four flavours of Bronze audit, Initial, Re-approval, Follow-up and Enhanced, the audit process is complex. To add to this complexity, there is also the definition for 'Small Operators' which do not require certain policies to be documented, the different vehicle types and fleet profiles, and international audits covering 17 different countries.

A strong understanding of this complexity is required when quality assurance of auditing activities is undertaken. Our team will be well aware of this and will ensure the quality assurance process reflects these differences. For the purpose of Quality Assurance, IAFA Operators will be treated in the same way as Audit Providers.

### **Quality Assurance process**

The process and criteria for the different audit types is included in the FORS Rules and Procedures document. In following this process, we will assess i) how audits are communicated and planned; ii) the objectivity of audits to ensure they are carried out in an impartial and fair manner; and iii) Audit documentation. The outputs of this will inform our approach to risk rating Audit Providers using a RAG status.

For onsite Audits, we will check that the Auditor contacted the operator at least 48 hours prior to the Audit to confirm address, start time and company details and that the Audit on-site took place on the date and time planned. Automated notification reminders to the Auditor and Operator will help ensure Operator preparedness and Auditor attendance.

For onsite and remote Audits, the Audit report will be checked for completeness and that the Audit was conducted against the most recent FORS Standard. When reviewing documentation, our assurance process follows a simple ABC model:

- **Accurate** – Audit reports must be accurate and Auditors must base their findings and recommendations on facts and analysis of documented evidence not supposition. Findings and recommendations must be consistent from audit to audit, to underpin fairness and prevent dispute; findings must relate specifically to the FORS Standard
- **Brief** – The Audit report must be concise in presenting any findings and recommendations and not be a daunting read. It must keep the reader in mind, as too much information has less impact and will overwhelm Operators
- **Clear** – Any findings and recommendations must be easily understood by operators. This doesn't mean 'dumbing down' but using direct, familiar and effective language. Plain English is more likely to be read, understood and followed in much less time. If a word, idea, or sentence needs explanation or raises a question, it needs to be rewritten

If a Quality Assurance review highlights corrective action being required, our ethos is to foster a collaborative relationship with the network of Audit Providers. In the first instance we will have open discussions to address any issues that may emerge throughout our Quality Assurance process. Should any quality issues recur, become trends or be identified as systemic, we will document this formally and reflect this in the Audit Provider's RAG status, aligned to their terms and conditions. We will offer corrective recommendations and supportive training to help an Audit Provider meet the standards expected. Any quality recommendations not corrected after such support may affect the Audit Provider's status in FORS. All issues and trends will be reported in the Quarterly and Annual Reports to TfL.

To allow for ongoing issues and trends to be identified and addressed, all Audit Provider's will be required to provide an 'internal' confirmation that 100% of their Audit documentation has been quality assured prior to submission to the FORS Administration Provider. We will then conduct 'independent' quality assurance checks at a sample rate of at least 25% of all audits performed by all Audit Providers. The criteria for the sample selection will be set on a quality and risk basis as assigned to each individual Audit Provider. As part of our Transformation, we will automate the sample selection for Quality Assurance checks.

To ensure a full audit trail, both internal and independent quality assurance checks will be confirmed using an electronic declaration and signature, which includes the name of the Senior Auditor responsible.

**Certification** - The outcome of any Audit is either 'Pass', 'Pass with minor action point' or 'Fail'. We will email the primary contact within 10 working days with the results of the Audit. This email will include a copy of the Audit report and, for a Pass, an electronic Accreditation certificate. The Audit report will outline an action plan, with any action points that have been found and require attention.

**Appeals** - A FORS Operator may appeal an audit or compliance decision. This will generally be via e-mail but other written communications will be accepted. Any appeal received will be allocated a unique reference number, acknowledged within two working days of receipt and with initial consideration within five working days of receipt. No guarantee can be made of the timescale for final closure of an appeal, as this depends on the exact circumstances. However, all appeals will be tracked to ensure that they are dealt with as promptly as possible.



Initial consideration will be conducted by the Technical Advisor to verify the grounds for appeal. If it is considered there are no grounds for appeal, the FORS Operator will be informed. Where there are grounds, the appeal will be investigated by the compliance team and a final decision will be issued via e-mail. All appeals - current, open and closed - will be reported in the Quarterly and Annual Reports to TfL.

Where an Operator requests to escalate an appeal, the case will be referred to the FORS Governance Provider.

**Added value and proposed improvements** - We recognise there are three essential components to FORS as a quality scheme:

1. The Standard and its supporting Terms and Conditions
2. Auditing against the Standard and the Quality Assurance process
3. Ensuring operator adherence to any obligations in the Terms and Conditions (currently referred to as 'Compliance and Enforcement')

To improve the FORS reputation as a quality scheme and ensure user-centric but meaningful accreditation, we propose to undertake a series of enhancements to the FORS Auditing, Quality Assurance and 'Compliance and Enforcement' functions throughout the transformation phase. These proposals have been based on our understanding of FORS, findings from our user research and benchmarking with quality accreditation schemes in other sectors.

- **Audit Provider engagement** – Audit Providers and their Auditors are the 'front of house' of FORS. They have more face time with FORS Operators than any other member of the FORS team, therefore they need to be consistent in their Audit provision and deliver a high-quality service whilst acting as ambassadors of the scheme. As FORS Administration Body we will foster a collaborative relationship with Audit Providers and ensure there is a clear, unobstructed line of communication to all Auditors. We will establish a quarterly Audit Provider round table meeting where issues can be raised openly, common quality concerns discussed and consensus can be agreed where there may be differing interpretations of the Standard. We will also use this forum to collate proposed Standard amendments to inform the FORS Governance Body and communicate any changes to the Standard to Audit Providers. This forum will be one of our key stakeholder groups and will advise on the competence criteria for Auditors and the Auditor training course, as well as advising on what toolkits and communications activities are needed to improve customer experience and quality assurance of FORS. In addition to the quarterly round table we will hold an annual event for FORS Auditors, this will provide a 12 month look back 'lessons learned' review and a look forward 'ways of working' forecast. The annual event will also provide Auditors with the opportunity to feedback on the FORS Administration and Quality Assurance processes.
- **Post Audit evaluation** – Keeping fleet operators in FORS for the right reasons is important and the Audit process should not be such a negative experience that it drives operators away or gives an unappealing reputation. To make sure we get 360-degree feedback of Audit communications, conduct and processes, we will establish a standard evaluation for all Audits. This will be in the format of a customer satisfaction survey questionnaire designed to help understand what FORS Operators think about the Audit service they received. The Audit will therefore be regarded as a two-way rating system –



the Auditor rates the Operator against the Standard and the Operator rates the Auditor against their expectations as a customer. This will allow us to improve the quality of Audits strategically, optimise user experience and deliver exactly what the market needs. Post Audit evaluation will also provide a rich resource of information on Audit Providers to inform feedback. We are conscious that a failed audit may attract negative comments or be seen as negative experience, therefore we will ensure the questioning within the survey and any follow up actions are considered. Audit Providers receiving the best Operator feedback will be entered into a “Best Auditor Award”. This accolade would be visible to Operators on the Audit Marketplace and graphics provided for their own website further encouraging Audit Providers to support and promote the FORS scheme.

- Links to toolkits and training** – To improve the quality of Audits, there should be a clear line of sight from the requirements of the Standard, through to the Audit, the Toolkits and Training. Our analysis has highlighted a disconnect in some toolkits which will be addressed in our full review and rewrite of the toolkits. The revised web offering will provide context-sensitive links to FORS tools, guides and templates as well as displaying relevant Affinity or Associate products that could further assist the Operator. We will work to produce example case study responses to specific Audit requirements, in addition we will highlight the areas of each requirement which most commonly lead to either major or minor action points and we will list top tips to avoid this. We are conscious that there are 63 (over 40%) FORS Associates that provide consultancy services. Employing an external consultant is the choice of a fleet operator but our aim is to ensure FORS doesn't foster a reliance on consultants to achieve FORS accreditation – we believe this is a key driver behind the perception that FORS is opaque and expensive. The way FORS requirements are communicated, Audits are conducted, and quality is assured is key to this. There should be no surprises on a FORS Audit. No fleet operator should feel aggrieved after an Audit. Both Auditor and Operator can be better prepared with direct signposting and links to tools, guides and templates; this will lead to a more cost-efficient, fairer and more consistent service.
- Demystifying the Audit process** – The FORS Audit Toolkit is a good addition to the scheme's guidance materials but we believe this can be enhanced further through up-to-date interactive delivery. As part of our move to replace static PDF documents we will use short 'how to' videos, meet the Auditor sessions and regular webinars to help simplify, demystify and convey the objectives of the Audit Toolkit. For added consistency, video shorts will inform both Auditor and Operator on how each of the key requirements of the Standard should be audited. Regular Auditor drop-in sessions will provide an opportunity for Operators to gain insight from the Auditors perspective. There will be two types of drop-in sessions – 'requirement specific sessions' which will focus on key areas of the Standard and 'open operator sessions' which will focus on general enquiries, issues and concerns. As part of this improvement we will also review the Going for Bronze/Silver/Gold workshops.
- FORS Standard** – As FORS Administrative Body, we are not responsible for drafting, editing and publishing the FORS Standard. However, we are responsible for ensuring effective, objective and fair audits against it. Some user feedback suggests that the FORS audit is a 'tick box' exercise and we intend to appraise this from a new Concessionaire viewpoint to determine whether any improvements can be made. We will initiate a review

that will include recently audited FORS Operators, Audit Providers and interested members of GSAG. The review will aim to highlight any specific aspects of FORS that are regarded as tick box and determine why that aspect is not considered meaningful to the operation. To help address any issues raised one of two courses of action will be followed, 1) to work with the FORS Governance Provider to make improvements to the FORS Standard, or 2) improve the communications around a perceived issue to convey its importance and relevance to a good practice fleet operation.

- Monitoring Public Inquiry calls and outcomes** – One of the key methods of ensuring adherence to the operator general obligations in the FORS Terms and Conditions is the monitoring of calls to Public Inquiries and their outcomes. Calls to and outcomes of Public Inquiries held by Traffic Commissioners are published in *HGV Applications and Decisions* and *PSV Notices and Proceedings* on GOV.UK. These are published monthly by each of the traffic areas in eight separate PDFs. Operators are obliged to notify FORS if they are called to attend a Traffic Commissioner Public Inquiry, however checking this and monitoring of information held in these documents is a manual process, the FORS team physically reads through each document and cross checks any Public Inquiry calls and outcomes with the FORS Operator database. We propose to improve this important activity, making it more efficient, versatile and accurate through a digital, automated process that extracts relevant information from *HGV Applications and Decisions* and *PSV Notices and Proceedings* and cross references with the FORS database. We also note that the FORS Terms and Conditions 3.4.3 General Obligations only lists Goods Vehicle (GV) offences. We will conduct a review of the Terms and Conditions and ensure relevant Passenger Vehicle offences are listed in the same manner.
- DVSA and Traffic Commissioner priorities** – FORS is a good practice scheme with systems Audits that are reliant on an Operator's solid foundation of compliance with the law. However, in some cases this reliance on legal compliance can be the scheme's Achilles heel. Whilst the FORS Standard clearly covers the priorities of DVSA and Traffic Commissioners, i.e. roadworthiness, load safety, drivers' hours, etc. the depth of the Audit is insufficient to provide full legal confidence in these areas. We will review the Audit process to determine how this can be improved and how more focus can be afforded to some of the key priorities of the enforcement and regulatory bodies. We believe that this improvement could also improve the customer experience providing confidence in operational compliance. Further to this and as part of our collaborative ethos, we propose to work with the DVSA and its Earned Recognition scheme. We don't consider DVSA's Earned Recognition Scheme to be a competing scheme and FORS could be recognised as a complementary enabler of this Government legal compliance initiative.
- Quality versus Compliance** – Our approach to raising operating standards through FORS will be through education and encouragement rather than through the threat of enforcement action. Whilst appropriate remedial action may be needed in certain circumstances, for routine communications we propose to rename and reposition the FORS Compliance and Enforcement Manual and the Compliance Team during the Implementation Phase. These will become the FORS Quality Assurance Manual and the Quality Assurance Team; this team will be part of the broader FORS Operations Team. We feel this change is important for the scheme, moving away from what can be perceived as negative and punitive terms (compliance and enforcement) and focus