



*SUBJECT TO CONTRACT*

Contract Reference Number: TfL 94125

Date:

**Contract for Services**

**between**

**TTL Properties Limited**

**and**

**PaybyPhone Limited**

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**THIS CONTRACT** is made the                      day of 2022

**BETWEEN:**

- (1) **TTL PROPERTIES LIMITED**, a company registered in England and Wales (Company Registration Number 08961151) whose registered office is at 5 Endeavour Square, London, United Kingdom, E20 1JN ("**the Authority**"); and
- (2) **PaybyPhone Limited**, a company registered in England and Wales (Company Registration Number 05060103) whose registered office is at 2nd Floor 17a Bishops Court, 17a The Broadway, Old Hatfield, Hertordshire, AL9 5HZ ("**the Service Provider**").

**RECITALS:**

- A. The Authority owns a number of Car Park properties adjacent and close to London Underground and Authority Network stations which it makes available to its customers.
- B. The Service Provider is in the business of providing payment platform services and has the requisite skills and experience to deliver, install and manage the Payment Platform and to provide the Services to the Authority.
- C. The Authority wishes the Service Provider to deliver, install and manage the Payment Platform and to provide the Services to the Authority on the terms and conditions set out in the Contract.
- D. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

**THE PARTIES AGREE THAT:**

**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:

<b>"Acceptance"</b>	means acceptance by the Authority of the Payment Platform and/or each constituent part thereof following successful completion of Acceptance Tests evidenced by the issue by the Authority of a certificate of acceptance signed by an authorised representative of the Authority to the Service Provider and " <b>Accepted</b> " shall be construed
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	accordingly;
<b>"Acceptance Procedure"</b>	means the procedure, principles and methodology which the parties will agree in detail in accordance with the Mobilisation Plan and in accordance with which the Authority will conduct Acceptance Tests in a comprehensive, timely and professional manner;
<b>"Acceptance Tests"</b>	means acceptance tests of the Payment Platform and each constituent part thereof carried out in accordance with the Acceptance Procedure;
<b>"Affected Party"</b>	has the meaning given to it in Clause 40.3 (Breach and Termination of Contract);
<b>"Alternative Pricing"</b>	means that tariffs at the Car Parks are set to take account of strategic considerations of the Authority including tariffs for off peak, evenings, weekends, low CO <sup>2</sup> emissions and special events;
<b>"Applicable Law"</b>	<p>means any:</p> <ul style="list-style-type: none"><li>(a) statute, statutory instrument, by law, order, directive, treaty, decree or law (including any common law, judgement, demand, order or decision of any court, regulator or tribunal);</li><li>(b) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or</li><li>(c) industry code of conduct or guideline,</li></ul> <p>which relates to this Contract and/or the Services or the activities which are comprised in all or some of the Services and/or the Authority's business or the business of any other recipient of the Services;</p>
<b>"Authority Assets"</b>	means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of



the Authority Group;

**"Authority Data"**

means all data that is:

- (a) provided to the Service Provider and the Service Provider's Personnel; and/or
- (b) generated by the Authority Assets;

**"Authority Group"**

shall mean where the Authority is:

- (a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any "member of the Authority Group" shall refer to TfL or any such subsidiary; and
- (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor's Office for Policing and Crime, the London Fire Commissioner, London Legacy Development Corporation and the Old Oak and Park Royal Development Corporation ("**Functional Bodies**") each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any "**member of the Authority Group**" shall refer to the GLA, any Functional Body or any such subsidiary;

**"Authority Network"**

means:

- (a) the stations and depots, assets, systems, track and other buildings which are used in the maintenance and provision of underground services known as "London Underground",
- (b) the stations and depots, assets, systems, track and other buildings which are used in the maintenance and provision of overground services; and
- (c) the stations and depots, assets, systems, track and other buildings

which are used in the maintenance and provision of crossrail services known as "Crossrail";

<b>"Authority Personnel"</b>	all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Authority;
<b>"Business Continuity Plan"</b>	means the business continuity and Disaster Recovery Plan approved by the Authority and to be maintained and implemented by the Service Provider in accordance with Clause 43 (Business Continuity);
<b>"Business Day"</b>	any day excluding Saturdays, Sundays or public or bank holidays in England;
<b>"Car Park Revenue"</b>	means the revenue paid or payable by Customers and collected by the Service Provider from Customers in relation to the Services, as more particularly described in Schedule 3 (Specification);
<b>"Car Parks"</b>	means the areas (or any part of the same) set aside at Authority or other Authority Group stations for Customers to park motor vehicles and which form the subject matter of the Services, as listed in Appendix 1, 2, 3, 4 and 5 of Schedule 3 (Specification) and set out in the plans contained in Appendix 1, 2, 3, 4 and 5 of Schedule 3 (Specification) and amended from time to time by the Authority in accordance with Clause 47.2 or Schedule 6 (Form of Variation) (including where applicable any entrances, footpaths, or approach roads owned, leased or otherwise controlled by the Authority);
<b>"Cessation Plan"</b>	a plan agreed between the Parties or determined by the Authority pursuant to Clauses 42.1 to 42.5 (inclusive) (Declaration of Ineffectiveness and Public Procurement Termination Event) to give effect to a Declaration of Ineffectiveness or Clauses 42.6 to 42.10 (inclusive) (Declaration of Ineffectiveness and Public Procurement Termination Event) to give effect to a Public Procurement Termination Event;
<b>"Charges"</b>	the charges payable by the Authority, in consideration of the due and proper



		performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 (Charges) as the same may be varied from time to time in accordance with Clause 40.6 or Clause 47 (Contract Variation);
<b>"Clear"</b>		means an entry into the Service Provider's Information Management Systems detailing actions taken to resolve a Fault;
<b>"Commercially Sensitive Information"</b>		means the Service Provider's pricing information, tender response, and policies and written processes;
<b>"Confidential Information"</b>		all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority 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 Schedule 1 (Key Contract Information);
<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 Clause 11 (Payment Procedures and Approvals) which shall consist of the Service Provider'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 Schedule 1 (Key Contract Information) or such other person as notified to the Service Provider by the Authority;
<b>"Contractual Documents"</b>		means the ITT, the Specification and the



Service Provider Solution;

**"Customers"**

means persons using the Car Parks;

**"Data Protection Legislation"**

means:

- (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 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;
- (b) Directive (EU) 2016/680 (the Law Enforcement Directive) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;
- (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 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Data Protection, Privacy and Electronic Communications (Amendments etc)

	(EU Exit) Regulations 2020;
<b>"Declaration of Ineffectiveness"</b>	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;
<b>"Default"</b>	means any breach of the obligations of either Party (including a fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. For the avoidance of doubt, the definition of Default does not include a disruption, interruption or malfunction in the supply, operation or infrastructure of the means of telecommunication provided by the operator(s) of the networks to which the Service Provider installations are connected, and internet unavailability that is not in the Service Provider's control;
<b>"Default Trigger"</b>	means as that term is defined in the KPIs;
<b>"Defect"</b>	shall mean any defect or deficiency in the Payment Platform or in any Software used by the Service Provider under this Contract which renders it unable to perform the functions or to provide the facilities described in the Contractual Documents, or any such defect or deficiency caused to any of the Car Parks, or Premises as a result of any act or omission of the Service Provider in performing its obligations under this Contract;
<b>"Disaster"</b>	means any unplanned interruption (whether of information processing facilities or systems or otherwise) which significantly impairs the ability of the Service Provider to perform the Services (in whole or in part) to the standard of the KPIs and/or in accordance with the other terms of the Contract;



**"Disaster Recovery Plan"**

means the Service Provider's plan for its emergency response, back up procedures and business continuity in the event of a Disaster, details of which will be agreed as part of the Mobilisation Plan;

**"Documentation"**

descriptions of the Services, details of the Payment Platform (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:

- (a) is required to be supplied by the Service Provider to the Authority under this Contract;
- (b) would reasonably be required by a competent Third Party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services;
- (c) is required by the Service Provider in order to provide the Services; and/or
- (d) has been or shall be generated for the purpose of providing the Services;

**"Dynamic Pricing"**

means that different Parking Spaces at a Car Park may be priced differently according to a number of factors including the level of demand for Parking Spaces still to be sold;

**"Electronic Invoicing Platform"**

the Authority's invoicing platform for the submission and receipt of electronic invoices;

**"Electronic Procure-to-Pay (eP2P) Vendor Handbook"**

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-  
<https://tfl.gov.uk/corporate/publications-and-reports/procurement-information#on-this-page-5>;

**"Event"**

means an act, event, omission, incident or circumstance;

**"Exit Strategy"**

means the exit strategy provided by the Service Provider and approved by the Authority as agreed in accordance with Schedule 8 (Exit) for the orderly handover of the Services from the Service Provider to the Authority or a Replacement Service Provider to be implemented in the event of the termination or expiry of the Contract howsoever arising;

**"Fault"**

means a fault in or affecting the Payment Platform and such other systems used by the Service Provider to provide the Services (which includes a failure to meet the relevant specification for such Payment Platform as listed in Schedule 3 (Specification)) as notified by the Authority to the Service Provider;

**"Financial Period Calendar"**

means the period or periods set out in Schedule 4 (Charges) and "Period" shall be construed accordingly;

**"Force Majeure Event"**

any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes or events that are unforeseeable, external to the Parties and unavoidable, 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;
<b>"Good Industry Practice"</b>	means, in relation to any undertaking and any circumstances, the exercise of skill, diligence, prudence, foresight and judgement and the making of any expenditure that would reasonably be expected from a skilled person engaged in the same type of undertaking under the same or similar circumstances and complying with all Applicable Laws;
<b>"Indemnified Parties"</b>	means each of the Authority and all other members of the Authority Group (including their respective employees, sub-contractors and agents);
<b>"Initial Term"</b>	the initial period during which the Contract continues in force as detailed in Schedule 1 (Key Contract Information);
<b>"Insolvency Event"</b>	<p>any of the following:</p> <ul style="list-style-type: none"><li>(a) the Service Provider making any voluntary arrangement with its creditors or becoming subject to an administration order;</li><li>(b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of the Service Provider;</li><li>(c) being a company, the Service Provider 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);</li><li>(d) the Service Provider ceasing or threatening to cease to carry on its business for any reason or being unable to pay its debts within the meaning of the Insolvency Act 1986;</li><li>(e) being an individual or firm, the Service Provider becoming bankrupt or dying;</li><li>(f) any similar event to those in (a) to (e)</li></ul>

above occurring in relation to the Service Provider under the law of any applicable jurisdiction for those purposes;

**"Insurances"**

means the insurances set out in Clause 31.1;

**"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, including data, database, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, 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;

**"Key Performance Indicators" or "KPIs"**

means the standards of performance to which the Services are to be provided by the Service Provider to the Authority as set out in the Specification and elsewhere in the Contract as the same may be varied, added to or replaced from time to time by the written agreement of the Parties during the continuance in force of the Contract;

**"Key Personnel"**

the Service Provider's key personnel named in Schedule 1 (Key Contract Information);

**"Locations"**

means the locations at which the Payment Platform is to be installed, details of which are set out in the Specification, provided that the Authority shall be free in its absolute discretion to amend that list of Locations by notice in writing to the Service Provider;

**"Loss" or "Losses"**

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



	like loss), damages, claims, demands, proceedings and judgments;
<b>"Material Default"</b>	means any Default or any persistent Default by the Service Provider which has or, in the case of a persistent Default cumulatively has, a material adverse effect on the provision of all or any part of the Services or on the use, operation or functionality of the Payment Platform;
<b>"Material Subcontractors"</b>	means the Service Provider's material subcontractors as listed in Schedule 11 as amended in accordance with this Agreement;
<b>"Material Subcontracts"</b>	means the material subcontracts entered into by the Service Provider with Sub-Contractors and listed in Schedule 11 as amended in accordance with this Agreement;
<b>"Milestone"</b>	an event which is the completion of one or more of the specified activities as may be set out in the Mobilisation Plan;
<b>"Mobilisation Deliverable"</b>	means those deliverables identified in the Mobilisation Plan as Mobilisation Deliverables;
<b>"Mobilisation Period"</b>	means the period specified in Schedule 3 (Specification);
<b>"Mobilisation Plan"</b>	means the mobilisation plan provided by the Service Provider and approved by the Authority as set out in Schedule 3 (Specification) setting out key deliverables for the implementation of the Payment Platform and each constitute part thereof and the tasks and obligations of the Service Provider, the timetable for implementation of the Payment Platform and handover of the Services from the Outgoing Service Provider to the Service Provider during the Mobilisation Period;
<b>"Operator"</b>	means the specialist car park operating company responsible for operating, maintaining and managing the Car Parks;

<b>"Outgoing Service Provider"</b>	means the contractor who provided the Services immediately prior to the Service Commencement Date;
<b>"Parking Spaces"</b>	means the parking spaces (the numbers of which may be amended from time to time) which are allocated and demarcated in each Car Park as indicated in Appendix 1, 3, 4 and 5 of Schedule 3 (Specification);
<b>"Parties"</b>	the Authority and the Service Provider (including their successors and permitted assignees) and <b>"Party"</b> shall mean either of them as the case may be;
<b>"Payment Platform"</b>	means the Software and any Specifically Written Software working in conjunction to provide the cashless parking payment platform to be provided by the Service Provider;
<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>"Premises"</b>	means any land, station, office or other premises (including temporary buildings) (or any part of the same) excluding the Car Parks, whether operational or otherwise, owned, leased, occupied or otherwise controlled by or behalf of the Authority, TfL or any member of the Authority Group or any of its successors in title or assigns;
<b>"Processing"</b>	has the meaning given to it in the Data Protection Legislation;
<b>"Procurement Manager"</b>	the person named as such in Schedule 1 (Key Contract Information) and referred to in Clause 16 (Operational Management) or such other person as notified to the Service Provider by the Authority;
<b>"Project Plan"</b>	the plan (if any) for implementation including (without limitation) project delivery set out in Schedule 5 (Project Plan), developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include



	Milestones;
<b>"Public Procurement Termination Event"</b>	has the meaning given to it in Clause 42.7 (Declaration of Ineffectiveness and Public Procurement Termination Event);
<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;
<b>"Quarter"</b>	means a period consisting of three or four Periods as specified by the Authority and "Quarterly" will be construed accordingly;
<b>"Rectification Plan"</b>	means a rectification plan to be prepared by the Service Provider under Clause 27 (Other Rights and Remedies);
<b>"Replacement Service Provider"</b>	means any Third Party provider of Replacement Services appointed by the Authority from time to time;
<b>"Reporting Period"</b>	<p>means a period of twenty-eight (28) calendar days, provided that:</p> <ul style="list-style-type: none"> <li>(a) each such period will match the reporting periods set out in the Financial Period Calendar;</li> <li>(b) each such period will start on the day following the last day of the preceding such period;</li> <li>(c) the first such period will exclude any calendar days up to but excluding the Contract Commencement Date; and</li> <li>(d) the last such period will be the period that ends on the date of expiry or termination of the Contract;</li> </ul>
<b>"Replacement Services"</b>	means any services which are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of the Contract, whether those services are provided by the Authority internally or by any Replacement Service Provider;

<b>"Season Ticket"</b>	means a Ticket available for a combination of days between two (2) and three hundred and sixty-five (365);
<b>"Service Commencement Date"</b>	the date for commencement of the Services set out in Schedule 1 (Key Contract Information);
<b>"Service Level"</b>	means the minimum standards of performance to which the Services (other than those to which the KPIs relate) are to be performed at all times;
<b>"Service Provider's Information Management System"</b>	means such systems employed by the Service Provider to provide data relating to the Services;
<b>"Service Provider Data"</b>	<p>means all data that is:</p> <ul style="list-style-type: none"><li>(a) created, generated or collected during the performance of the Services (or any part), including data created, generated or collected by the Payment Platform;</li><li>(b) input into the Service Provider's Information Management System pursuant to Clause 9 (Management of Operational Data); and</li><li>(c) all other outputs of the Service Provider's Information Management System</li></ul> <p>including where such data contains the Personal Data of Customers;</p>
<b>"Service Provider Materials"</b>	the equipment and materials, including those forming part of the Service Provider Systems, of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract;
<b>"Service Provider Solution"</b>	the Service Provider's solution as set out in Schedule 3 (Specification);
<b>"Service Provider Systems"</b>	means the IT/software systems belonging to the Service Provider and relevant to the provision of the Services;



<b>"Service Provider's Personnel"</b>	all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Service Provider, as are engaged in the performance of any of the Services and including the Key Personnel;
<b>"Services"</b>	<p>(a) subject to Clause 40.6 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under the Contract as detailed in the Specification including any variations to such services or activities pursuant to Clause 47 (Contract Variation); and</p> <p>(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;</p>
<b>"Services Manager"</b>	means the person appointed by the Service Provider under Clause 16.4 (Operational Management);
<b>"Software"</b>	means the software and other computer programs to be used by the Service Provider in performing its obligations under this Contract;
<b>"Specification"</b>	the specification and other requirements set out in Schedule 3 (Specification);
<b>"Specifically Written Software"</b>	any Software created by the Service Provider (or by a Sub-contractor or other third party on behalf of the Service Provider) specifically for the purposes of this Contract, including any modifications or enhancements to the Payment Platform created specifically for the purposes of this Contract;
<b>"Sub-Contractors"</b>	means any contractors engaged by the Service Provider in connection with this Contract in accordance with Clause 18 (Sub-Contracting and Change of Ownership);
<b>"Supply Chain Finance"</b>	has the meaning given to it in paragraph 1 of

<b>"Option"</b>	Part B of Schedule 6 (Form of Variation);
<b>"Tariff"</b>	means the price at which Tickets are sold to Customers by the Service Provider;
<b>"Term"</b>	the period during which the Contract continues in force, including the Initial Term and any extensions;
<b>"TfL"</b>	Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
<b>"Third Party"</b>	any person who is not a Party to this Contract;
<b>"Ticket"</b>	means any ticket issued (whether by a Ticket Machine, online or by other means) denoting that the holder is entitled to park in the Car Park;
<b>"Ticket Machine"</b>	means the machines at the Car Parks, which issue Tickets to Customers;
<b>"Transparency Commitment"</b>	means the Authority's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority's own published transparency commitments;
<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;
<b>"Virus"</b>	program code or set of instructions intentionally or recklessly constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations including Trojan horses, logic bombs, time bombs, data disabling code or any similar materials of any nature;
<b>"Working Hours"</b>	means the period from 08:00:00 to 17:59:59 on a Business Day.

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;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
  - 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or
  - 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 (Special Conditions of Contract) shall prevail;
- 1.8 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;
- 1.9 the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 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 of the Initial Term unless extended in accordance with Clause 2.2 below or terminated earlier in accordance with Clause 40 (Breach and Termination of Contract).
- 2.2 The Authority has the option, exercisable at its sole discretion, to extend the duration of this Contract for a further period of one (1) year up to a total of two (2) years by giving notice in writing to the Service Provider, provided that such notice is served at least six (6) months prior to the expiry of the Initial Term or the expiry of the current extension, if later.

### **3 Service Provider Solution**

3.1 Notwithstanding that the Authority has provided the Specification set out in Schedule 3 (Specification), this does not confer upon the Service Provider any acknowledgement or acceptance by the Authority that the Service Provider Solution for delivery of the Services and the Payment Platform will be sufficient to deliver the Services and the Payment Platform in accordance with the KPIs, Service Levels and the other requirements of this Contract. The Service Provider remains solely responsible for the risk that the Service Provider Solution may not actually fulfil the requirements of this Contract.

3.2 The Service Provider acknowledges and accepts that, notwithstanding that the Authority has provided the Specification:

3.2.1 the Service Provider Solution and any other ideas, methods, concepts or theories (including any "proof of concept" synopsis, Milestone or feasibility demonstration in connection with the Services and/or the Payment Platform):

3.2.1.1 will be verifiable, verified, demonstrable, demonstrated and capable of use and used for the purposes of this Contract; and

3.2.1.2 satisfy the Authority's requirements as set out in the Specification; and

3.2.2 any Software or equipment provided, supplied or installed by the Service Provider under this Contract will be:

3.2.2.1 fit for purpose for the provision of the Services and for all other administration, enforcement and compliance activities undertaken by the Authority, as applicable;

3.2.2.2 be free from defects in design, materials and workmanship;

3.2.2.3 be so formulated, designed, constructed and finished as to be safe and without risk to health; and

3.2.2.4 comply with all applicable statutory and regulatory requirements and all codes of conduct, practice and guidance to the Payment Platform.



- 3.3 Subject to Clause 3.4, the Service Provider acknowledges and accepts that, notwithstanding that the Authority has provided the Specification:

3.3.1 the Service Provider has full knowledge and understanding of the Specification and warrants that the Specification is fit for purpose for the provision of the:

3.3.1.1 successful operation of the Payment Platform; and

3.3.1.2 Services required under this Contract, and

3.3.2 no fault, error or defect in the Specification will absolve the Service Provider from its obligations to provide the Services in accordance with the provisions of this Contract.

- 3.4 The Service Provider will not have any liability under Clause 3.3 to the extent that the Service Provider:

3.4.1 has notified the Authority of defects in writing before the Contract Commencement Date; and/or

3.4.2 has notified the Authority of any defects in writing in relation to a proposed change before any change requested by the Authority is implemented.

- 3.5 In the event, and only to the extent, of any conflict between the provisions of the Specification and the provisions of the Service Provider Solution, the Parties agree that the Specification will take precedence.

#### **4 Mobilisation**

- 4.1 The Service Provider shall at its cost and expense implement the Mobilisation Plan no later than the Contract Commencement Date and shall complete the tasks and obligations set out therein during the Mobilisation Period and in accordance with the Mobilisation Plan.

- 4.2 The Service Provider shall implement the Mobilisation Plan in full co-operation with the Authority and the Outgoing Service Provider to ensure the orderly and seamless handover of the Services from the Outgoing Service Provider to the Service Provider.

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

## **5 Service Provider's Obligations**

5.1 The Service Provider hereby agrees, in accordance with the Mobilisation Plan and Schedule 3 (Specification), to:

5.1.1 develop the Specifically Written Software (if any) and deliver it to the Authority in a format to be agreed between the Parties;

5.1.2 deliver the Payment Platform and install and commission it at the Locations;

5.1.3 provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;

5.1.4 deliver the Documentation to the Authority.

5.2 The Service Provider shall provide the Project Plan in accordance with Schedule 5 (Project Plan).

## **6 The Services**

6.1 The Service Provider:

6.1.1 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;

6.1.2 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and

6.1.3 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.

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

6.2 The Service Provider shall provide the Services:

6.2.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;



- 6.2.2 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;
  - 6.2.3 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;
  - 6.2.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed; and
  - 6.2.5 in accordance with all Applicable Laws.
- 6.3 Where in the reasonable opinion of the Authority the Service Provider has failed to provide the Services or any part of them in accordance with the Contract, the Service Provider shall, without prejudice to any of the Authority's other rights, re-perform the Services or part thereof as requested by the Authority at no additional cost and within such period of time as reasonably specified by the Authority.
  - 6.4 Where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
  - 6.5 Throughout the term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.
  - 6.6 Where a format for electronic receipt of orders by the Service Provider is set out in Schedule 1 (Key Contract Information), the Service Provider shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.
  - 6.7 To the extent that the Service Provider undertakes or is responsible for any design or specification in the performance of the Services, or any variation to the Services, or additional variation to the Contract, the Service Provider warrants to the Authority that it has exercised and will exercise all reasonable skill, care and diligence to be expected of a suitably qualified and competent professional designer of the appropriate discipline experienced in undertaking works, design and specification of a similar nature, size, scope and complexity and at a similar site or at a similar location to those undertaken or assumed by the Service Provider.



- 6.8 During the Term, the Service Provider will:
- 6.8.1 operate a formal quality management system that is ISO9001 compliant or is equivalent thereto and this system must be registered with an approved certification authority;
  - 6.8.2 comply with all requirements, guidelines and codes of conduct issued by the British Parking Association from time to time; and
  - 6.8.3 be and remain accredited with ISO14001 or a similar environmental standard approved by the Authority.
- 6.9 The Service Provider will at all times co-operate and co-ordinate its performance of the Services with the performance of the services performed by the Operator.
- 6.10 The Service Provider will where required and/or necessary co-operate with and co-ordinate its performance of the Services with the performance of any services performed and/or provided by any Third Party to or for the Authority (or any member of the Authority Group) or otherwise in respect of the Car Parks, Premises or Authority Network. The Service Provider will not interfere or delay any such Third Party in the performance of such services.
- 6.11 The Service Provider will, at its own cost, as part of the Services submit a written report to the Authority within ten (10) Business Days of each anniversary of the Contract Commencement Date, which will identify:
- 6.11.1 the emergence of any relevant new and evolving technologies and/or processes which could improve the Payment Platform or Services;
  - 6.11.2 new or potential improvements to the Payment Platform or Services including the quality and responsiveness of the Payment Platform or Services or the procedures used to perform the Services;
  - 6.11.3 any developments that may reduce the cost of providing the Services;
  - 6.11.4 an analysis of the impact of any technologies, processes, improvements and/or developments that are proposed in relation to the Payment Platform or Services, including analyses of the costs of and timescale for, effecting such changes and the impact on the availability of the Payment Platform and the provision of the Services; and
  - 6.11.5 details of the new performance mechanisms (including KPIs and Service Levels) that should be implemented if any technologies, processes, improvements and/or developments are implemented in relation to the Payment Platform or Services.