

- 42.5 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 the Authority) in the event that a Declaration of Ineffectiveness is made.
- 42.6 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider 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.
- 42.7 Without prejudice to the Authority'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, in the event that the Authority exercises its right to terminate pursuant to this Clause 42.7 (a "**Public Procurement Termination Event**"), the Authority shall promptly notify the Service Provider and the Parties agree that:
- 42.7.1 the provisions of Clause 41 (Consequences of Termination or Expiry) and these Clauses 42.7 to 42.12 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event; and
- 42.7.2 if there is any conflict or discrepancy between the provisions of Clause 41 (Consequences of Termination or Expiry) and these Clauses 42.7 to 42.12 or the Cessation Plan, the provisions of these Clauses 42.7 to 42.12 and the Cessation Plan shall prevail.
- 42.8 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 42.7 to 42.11 inclusive.
- 42.9 As from the date of receipt by the Service Provider 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, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 42.9.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Grounds; and

42.9.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,

in accordance with the provisions of these Clauses 42.7 to 42.11 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.

42.10 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.

42.11 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority, provided that the Authority shall not be liable to the Service Provider 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.

42.12 For the avoidance of doubt, the provisions of this Clause 42 (and applicable definitions) shall survive any termination of the Contract following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

43 Business Continuity

43.1 The Service Provider will, at all times, maintain and comply with the Business Continuity Plan, and ensure that it is, at all times, able to implement the Business Continuity Plan immediately upon an event occurring which the Business Continuity Plan is expressed to cover, or reasonably can be expected to cover, including any Disaster or Force Majeure Event. The Business Continuity Plan will be created and maintained in accordance with Good Industry Practice.

43.2 The Service Provider will update the Business Continuity Plan at least once during each rolling period of twelve (12) months during the Term. The Service Provider will also update the Business Continuity Plan if at any time an amendment to it is reasonably required in order to reflect any change to this Contract, the Services, Payment Platform or any other matters that have occurred since agreement of the last Business Continuity Plan. Not more than ten (10) days after each such update the Service Provider will submit the revised Business Continuity Plan to the Authority for approval. The Service Provider will amend the revised Business Continuity Plan so as to incorporate all of the Authority's comments. The amended Business Continuity Plan will be promptly resubmitted to the Authority for approval and the process contained in this Clause 43.2 will be repeated until the Authority approves the draft Business Continuity Plan. The Service Provider will retain business

continuity readiness in accordance with the last approved version of the Business Continuity Plan (insofar as this still applies).

- 43.3 The Service Provider will comprehensively test the Business Continuity Plan once in every rolling twelve (12) month period during the Term and will upon request provide the Authority with a written report detailing the results of that test and any actions it proposes to take to address those results. The Service Provider will promptly update the Business Continuity Plan in accordance with Clause 43.2 following such tests and will be bound to promptly implement the same.
- 43.4 The Service Provider will implement the Business Continuity Plan in the event that the Payment Platform and/or Services are impaired or unavailable (or appear likely to be impaired or unavailable) as a result of any occurrence envisaged in the Business Continuity Plan. The Service Provider will notify the Authority in writing each time the Business Continuity Plan is, or should be, implemented.
- 43.5 The Service Provider will procure that its Sub-Contractors will at all times, maintain adequate and up to date business continuity and Disaster Recovery Plans in respect of the Services performed by them and the people and facilities used to provide them and ensure that such plans operate properly together.

44 Health and Safety

- 44.1 The Service Provider will promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of this Contract.
- 44.2 The Service Provider shall not, in the performance of the Services, in any manner endanger the safety of or interfere with the operation of the Authority Network or endanger the public and shall minimise any disruption to both the Authority Network and the public.

45 Survival

The provisions of Clauses 1 (Definitions and Interpretation), 6.1.3 (The Services), 10 (Charges), 11 (Payment Procedures and Approvals), 14.1.4 (Warranties and Obligations), 17 (Service Provider's Personnel), 18.4.2, 18.4.6 (Sub-Contracting and Change of Ownership), 23 (Service Provider Materials), 25 (Records, Audit and Inspection), 29 (Set-Off), 30, (Indemnity), 31 (Insurance), 32 (Data and Privacy), 33.2 (Intellectual Property Rights), 35 (Cyber Security), 36 (Confidentiality and Announcements), 37 (Freedom of Information and Transparency), 38 (Dispute Resolution), 41 (Consequences of Termination or Expiry), 42 (Declaration of Ineffectiveness and Public Procurement Termination Event), 45 (Survival), 46 (Rights of Third Parties), 47 (Contract Variation), 49 (Non-Waiver of Rights), 50 (Illegality and Severability), 51 (Notices), 52 (Entire Agreement), 53 (Counterparts), 54 (Relationship of the Parties), 55 (Further

Assurance), 58 (Governing Law) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

46 Rights of Third Parties

- 46.1 Save that any member of the Authority Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 46.2 Notwithstanding Clause 46.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the Authority Group.
- 46.3 Without limitation to Clause 46.2, the Indemnified Parties have the right to bring a claim direct against the Service Provider pursuant to Clause 30 (Indemnity) and Clause 33 (Intellectual Property Rights), together with the right to enforce any other provision of this Contract that confers a right or benefit on them, including Clause 32 (Data and Privacy) and Clause 36 (Confidentiality, Announcements and Transparency) in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

47 Contract Variation

- 47.1 Save where the Authority may require an amendment to the Services (including pursuant to Clause 47.2) and/or this Contract is amended pursuant to the Service Provider's exercise of any Supply Chain Finance Option, the Contract may only be varied or amended with the written agreement of both Parties. Save for any variations or amendments to reflect the Service Provider's exercise of any Supply Chain Finance Option (the mechanism for which is set out at Part B of Schedule 6 (Form of Variation)) the details of any variations or amendments shall be set out in such form as the Authority may dictate and which may be substantially in the form set out in Part A of Schedule 6 (Form of Variation) and shall not be binding upon the Parties unless completed in accordance with such form of variation.
- 47.2 The Service Provider acknowledges and agrees that the Authority may by notice in writing add or remove any Car Park from the scope of the Contract and/or add or remove Parking Spaces from a Car Park (whether on a permanent or temporary basis and for any purpose as the Authority may determine).

48 Novation

- 48.1 The Authority may novate or otherwise transfer the Contract (in whole or in part).
- 48.2 Within ten (10) Business Days of a written request from the Authority, the Service Provider shall at its expense execute such agreement as the Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under the Contract to one or more persons nominated by the Authority.
- 48.3 Subject to Clause 18 (Sub-Contracting and Change of Ownership), the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

49 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 51 (Notices). 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. The rights and remedies of the Authority herein provided are cumulative and in addition to and not exclusive of any rights and remedies provided by law.

50 Illegality and Severability

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

51 Notices

- 51.1 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 by prepaid recorded delivery first class post addressed to the recipient at its registered office, the address stated in Schedule 1 (Key Contract Information) or any other address notified to the other Party in writing in accordance with this Clause as an address to which notices

and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

51.1.1 if delivered by hand, at the time of delivery;

51.1.2 if delivered by post, two (2) Business Days after being posted or in the case of Airmail fourteen (14) Business Days after being posted.

51.2 Any communications of an operational nature may (with the consent of the Contract Manager) be given not only in accordance with Clause 51.1 but also via the Service Provider's Information Management System or any other system of a like nature that the Contract Manager may reasonably require the Service Provider to input or operate.

52 Entire Agreement

52.1 Subject to Clause 52.2:

52.1.1 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

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

52.2 Nothing in this Clause 52 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

53 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.

54 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. Subject to

any express provisions to the contrary in this Contract, the Service Provider will have no right or authority to and will not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of the Authority or bind the Authority in any way.

55 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.

56 Successors

This Contract will be binding upon and benefit each Party to this Contract and their successors and permitted assigns.

57 Costs and Expenses

Each Party will be responsible for all its own costs and expenses in connection with the negotiation, preparation, execution and performance of this Contract and all matters contemplated by this Contract.

58 Governing Law

The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 38 (Dispute Resolution), the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract provided that the Authority has the right in its absolute discretion to enforce a judgment and take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

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

Signed by)
for and on behalf of)
the **Authority**)



Signature Print name and position

Date: 9/1/2023 | 10:34 GMT

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



Signature Print name and position

Date: 21.12.2022

SCHEDULE 1 - KEY CONTRACT INFORMATION

1. **Contract Reference Number:** TfL 94125
2. **Name of Service Provider:** PaybyPhone Limited
3. **Commencement:**
 - 3.1.1 Contract Commencement Date: date of signature of the Contract
 - 3.1.2 Service Commencement Date: 10 January 2023
4. **Duration:** the Services will continue for five (5) years from the Service Commencement Date, unless extended in accordance with Clause 2.2 (Commencement and Duration).
5. **Payment (see Clauses 11.1 and 11.4):**
 - Clause 11.1**

The payment period shall be every four (4) weeks.
 - Clause 11.4**

Payment must be made within twenty eight (28) days.
6. **Email address where PDF Invoices shall be sent:**
7. **Time for payment where not thirty (30) days (see Clause 11.4):**

Twenty-eight (28) days from receipt of invoice
8. **Details of the Authority's Contract Manager**

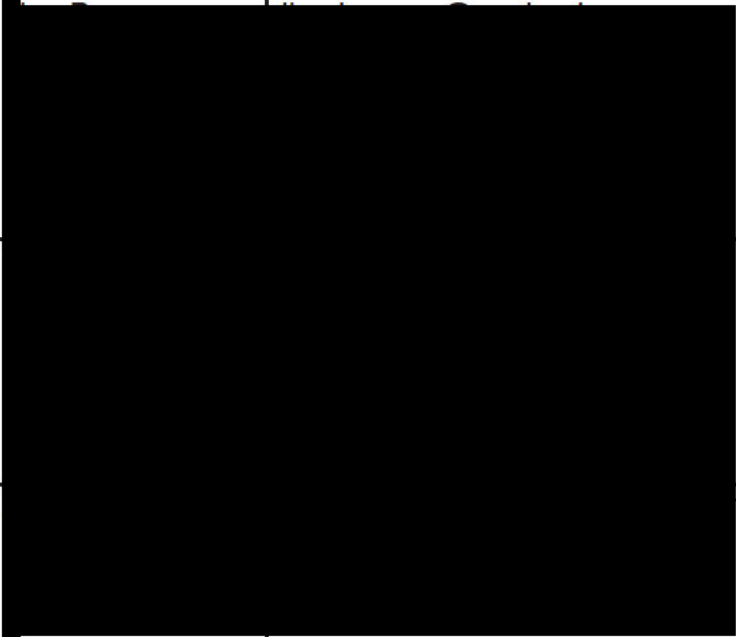
Address: Palestra, 197 Blackfriars Road, London, SE1 8NJ
9. **Details of the Authority's Procurement Manager**

Address: Palestra, 197 Blackfriars Road, London, SE1 8NJ

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10. **Service Provider's Key Personnel:**

Name & Position	Contact Details	Area of Responsibility
		Oversee implementation
		Manage technical support team
		Account Management
		Finance / Invoicing

11. **Notice period in accordance with Clause 40.5 (termination without cause):**

90 days

12. **Address for service of notices and other documents in accordance with Clause 51:****For the Authority:**

Palestra

197 Blackfriars Road

London

SE1 8NJ

**For the Service Provider:**

2nd Floor Bishops Court, 17a The Broadway

Old Hatfield, Hertfordshire

AL9 5HZ

13. **Training to be provided by the Service Provider in accordance with Clause 17.9: N/A**

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A1 A1 Not Used

A2 A2 IT Systems

For the purposes of this Clause 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;
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A2.1 The Service Provider shall ensure that:

A2.1.1 any software, electronic or magnetic media, hardware or computer system used or supplied by the Service Provider 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 the either or both of the Authority or any other member of the Authority 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>;

A2.1.1.4 be Euro Compliant; and

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

A3 Personnel Management and Training

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

A3.1.1 diligently supervise the performance of the Services;

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

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

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

A3.3 The Service Provider:

A3.3.1 without prejudice to Clause 17 (Service Provider's Personnel), undertakes that all the Service Provider's Personnel possess the appropriate skills, qualifications and experience to perform the tasks assigned to them, and that they shall be available at such times as are necessary to perform the Services in accordance with the Contract;

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

A3.3.3 subject to Clause A3.5 shall (at its expense) provide or procure the provision of training for the Service Provider's Personnel in respect of all aspects of its performance of the Contract and, as the Authority may require, for any employees, agents and contractors of the Authority in relation to the operation or use of any equipment supplied under the Contract in accordance with the terms set out in Schedule 1 (Key Contract Information).

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

- A3.5 The Authority will arrange (at its expense) safety training (as referred to in Schedule 7 (Contract Quality, Environmental and Safety Considerations)) for those of the Service Provider's Personnel identified at the Service Commencement Date (if any) but, for the avoidance of doubt, such safety training in respect of any other Service Provider's Personnel will be arranged by and be at the expense of the Service Provider. For the avoidance of doubt, the Authority will not be responsible for the remuneration, travel, subsistence or other similar costs and expenses of any of the Service Provider's Personnel attending any training under this Clause A3.5.

A.3A Criminal Record Declarations

- A.3A.1 In this Clause A.3A:

A.3A.1.1 **"Relevant Individual"** means any member of the Service Provider's Personnel engaged in any aspect of the provision of the Services and requiring potentially the access to Premises, Car Parks or Authority Assets; and

A.3A.1.2 **"Relevant Conviction"** means any unspent criminal conviction relating to actual or potential acts of terrorism or acts which threaten national security.

- A.3A.2 The Service Provider shall procure from a Relevant Individual a declaration that they have no Relevant Convictions (**"Declaration"**) or disclosure of any Relevant Convictions they have committed. A Declaration shall be procured prior to any Relevant Individual being engaged in any aspect of the provision of the Services. The Service Provider shall confirm to the Authority in writing on request and in any event not less than once in every year that each Relevant Individual has provided a Declaration. The Service Provider shall procure that a Relevant Individual notifies the Service Provider immediately if they commit a Relevant Conviction throughout the duration of this contract and the Service Provider shall notify the Authority in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.

- A.3A.3 The Service Provider is not permitted to engage or allow the engagement of any Relevant Individual any person in any aspect of the provision of the Services any Relevant Individual who has disclosed a Relevant Conviction.

- A.3A.4 The Authority may in accordance with the audit rights set out in Clause 25 (Records, Audit and Inspection) audit and check any and all such records as are necessary in order to monitor compliance with this Clause A.3A at any time during performance of this Contract.

- A.3A.5 If the Service Provider fails to comply with the requirements under Clauses A.3A.2 and/or A.3A.3, the Authority may, without prejudice to its rights under Clause 40.1.1 (Breach and Termination of Contract), serve notice on the Service Provider requiring the Service Provider to immediately remove or procure the removal of any Relevant Individual who has not provided a Declaration from the Premises or Car Parks and cease their access to any Authority Assets (as the case may be) with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no

further involvement with the provision of the Services unless (in the case of non-compliance with Clause A.3A.2) within seven (7) days of receipt of the notice the Service Provider confirms to the Authority they have procured all of the Declarations required under Clause A.3A.2.

- A.3A.6 A persistent breach of either or both of Clause A.3A.2 or A.3A.3 by the Service Provider shall constitute a material breach of this Contract which is not capable of remedy and entitles the Authority to terminate the Contract in whole or in part with immediate effect in accordance with Clause 40.1.1 (Breach and Termination of Contract).
- A.3A.7 If either Party becomes aware that a Relevant Individual has committed a Relevant Conviction, the Service Provider shall remove or procure the removal of any Relevant Individual who has not provided a Declaration from the Premises or Car Parks and cease their access to any Authority Assets (as the case may be) with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the provision of the Services.
- A.3A.8 Nothing in this Clause A.3A in any way waives, limits or amends any obligation of the Service Provider to the Authority arising under this Contract and the Service Provider's obligation to provide the Services remains in full force and effect and the Service Provider cannot claim any extra costs or time as a result of any actions under this Clause A.3A.

A4 Security and Guarantees

- A4.1 As a condition precedent to the Contract, the Service Provider shall (to the extent that it has not already done so) provide at its expense a parent company guarantee (from such holding company as the Authority may require unless otherwise agreed with the Authority) and, if requested by the Authority, a legal opinion as to its enforceability, within 10 Business Days of the date of this Agreement.
- A4.2 The Authority shall not be obliged to make any payment to the Service Provider under the Contract whether for the Charges or otherwise unless and until the parent company guarantee (and legal opinion if applicable) have been provided in a form satisfactory to the Authority.
- A4.3 The Service Provider shall be regarded as being in material breach of the Contract which is incapable of remedy in the event that any parent company guarantee is or becomes invalid or otherwise unenforceable.
- A4.4 The Service Provider shall give notice to the Authority within ten (10) Business Days where there is any change in the ownership of the guarantor of the parent company guarantee where such change relates to fifty percent (50%) or more of the issued share capital of the guarantor. The Authority shall have the right to terminate the Contract within sixty (60) calendar days of receipt of the required notice from the Service Provider, or in the event that the Service Provider fails to give the required notice, within sixty (60) calendar days of the Authority becoming aware of such event, unless the Service Provider has

within such period provided a parent company guarantee or other appropriate security from a replacement guarantor acceptable to the Authority on terms identical to the parent company guarantee.

A5 Liquidated Damages

For the purposes of this Clause A5, unless the context indicates otherwise, the following expression shall have the following meaning:

"Required Date"

subject to any extension of time granted by the Authority to the Service Provider in accordance with this Contract, the date or dates on or by which each Milestone is required to be completed as set out in the Mobilisation Plan

or, in the absence of any Milestones, the date or dates on or by which the Services are required to be provided as set out in the Mobilisation Plan.

A5.1 The Service Provider shall provide the Services (including each Milestone) on or by (as the case may be) the Required Date.

A5.2 Without prejudice to the Authority's other rights, powers or remedies (including termination) if the Service Provider fails to comply with Clause A5.1, it shall pay to the Authority on demand [REDACTED] or part thereof, which elapses between the Required Date and the earlier of:

A5.2.1 the date on or by which the Services are actually performed or provided or such Milestone is actually completed (as the case may be) in accordance with the Contract; and

A5.2.2 if the Authority has terminated the Contract under Clause 40 (Breach and Termination of Contract), the date of such termination.

A5.3 All sums payable by the Service Provider to the Authority pursuant to Clause A5.2 shall be paid as liquidated damages for delay and not as a penalty and the Parties acknowledge that such amounts are a genuine pre-estimate of the loss that may be suffered by the Authority in the event of any such failure of the Service Provider to comply with Clause A5.1.

A5.4 The Parties acknowledge that they are each of comparable bargaining power and have each had the opportunity to seek legal advice in relation to this Contract.

A6 Extension of Time

A6.1 If in the reasonable opinion of the Service Provider delay in provision or completion of the Services (including any Milestone) has been caused or is likely to be caused by reason of:

A6.1.1 any material breach of the Contract by the Authority; and/or

- A6.1.2 any variation of the Contract under Clause 47 (Contract Variation); and/or
- A6.1.3 the occurrence of any Force Majeure Event affecting the Service Provider; and/or
- A6.1.4 any other special circumstances of any kind whatsoever outside the reasonable control of, and which could not reasonably have been foreseen by, an experienced contractor providing services the same as or similar in all material respects to the Services but excluding any strikes, lock-outs or other industrial disputes of the Service Provider's workforce,

then the Service Provider shall as soon as reasonably practicable, and in any event within 5 Business Days after the cause of any delay has arisen, give written notice to the Contract Manager of the actual or foreseen delay and any claim for an extension of time for the completion of the Services or any Milestone. Subject to Clause A6.2, if the Authority is satisfied that the delay is or would be justified by reason of one of the events specified in Clause A6.1, then the Authority shall extend the time for the completion of the Services (or part of them) by such reasonable time period (either prospectively or retrospectively) as the Authority may determine. Any extended period or periods for the completion of the Services or any Milestone shall be subject to regular review provided that no such review shall result in a decrease in any extension of time already granted by the Authority unless the circumstances surrounding the delay have changed such that a decrease is reasonable and the Parties, acting reasonably, have agreed to a decrease in the extension of time previously granted.

- A6.2 It is a condition precedent to the grant of an extension of time under Clause A6.1 that the Service Provider has given written notice to the Contract Manager of the actual or foreseen delay as required under Clause A6.1 and has used all reasonable endeavours to overcome, avoid or minimise the effects of any occurrence causing delay.
- A6.3 Any extension of time granted under Clause A6.1 shall be reduced proportionately as the Authority may determine to the extent that any Default, including any neglect on the part of the Service Provider or the Service Provider's Personnel may have contributed to the delay.

A7 Not Used

A8 NOT USED

A9 NOT USED

A10 Further Confidentiality Requirements

A10.1 The Service Provider shall:

- A10.1.1 at the Authority's request and in any event upon the termination or expiry of the Contract, promptly deliver to the Authority or destroy as the Authority may direct, all documents and other materials in the possession, custody or control of the Service Provider (or the

relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the Authority in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks; and

A10.1.2 not, except where provided in Clause 36 (Confidentiality and Announcements) or with the prior written consent of the Authority, disclose to any person the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information.

A10.2 The Service Provider acknowledges that damages would not be an adequate remedy for any breach of Clauses 36 (Confidentiality and Announcements) or A10 and that (without prejudice to all other rights, powers and remedies which the Authority may be entitled to as a matter of law) the Authority shall be entitled to the remedies of injunction, specific performance and other equitable relief to enforce the provisions of Clauses 36 (Confidentiality and Announcements) and A10 and no proof of special damages shall be necessary for the enforcement of the provisions of Clauses 36 (Confidentiality and Announcements) and A10.

A11 Euro - Continuity of Contract

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

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

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

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

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

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

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

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

A12 Not used**A13 Option to Extend Services**

A13.1 The Authority has an option, exercisable at its sole discretion, to extend the Services to include some or all of the services set out below, as further detailed in the Specification:

- New parking and non-parking technology solutions and/or customer facilities
- Source and/or manage new commercial partners
- Support payment for additional customer services

("the Additional Services")

A13.2 If the Authority decides to exercise its option under this Clause, it shall give the Service Provider not less than one month's written notice of such decision and it shall inform the Service Provider of the Additional Services it requires, the date upon which it requires the Additional Services to be provided and any additional requirements in relation to the Additional Services. The Service Provider shall provide the Additional Services from such date or from such other date as may be agreed by the Parties and at such rates as are specified in Schedule 4 (Charges).

A13.3 The Service Provider acknowledges and agrees that:

A13.3.1 the Authority shall be under no obligation to exercise an option under this Clause;

A13.3.2 the Service Provider shall not be entitled to and shall have no expectation of the right to perform the Additional Services; and

A13.3.3 the Authority may appoint a person other than the Service Provider to provide the Additional Services.

A13.4 Any extension of the Services to include the Additional Services shall be on the terms of this Contract and on such other terms as are agreed in writing between the Parties and references to "Services" in this Contract shall include the Additional Services.

A14 Crime and Disorder Act 1998

A14.1 The Service Provider acknowledges that the Authority is under a duty in accordance with Section 17 of the Crime and Disorder Act 1998:

A14.1.1 to have due regard to the impact of crime, disorder and community safety in the exercise of the Authority's duties;

A14.1.2 where appropriate, to identify actions to reduce levels of crime and disorder; and