

DATED 19 December 2014

- (1) LONDON COUNCILS (FOR AND ON BEHALF OF ITSELF AND THE PARTICIPATING COUNCILS LISTED IN SCHEDULE 1 TO THIS AGREEMENT)
- (2) TRANSPORT TRADING LIMITED

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**ANNUAL AGREEMENT**

**For a Concessionary Travel Scheme  
for Older and Disabled People in Greater London  
for the Fiscal Year 2015/16**

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THIS AGREEMENT is made the 19<sup>th</sup> day of December 2014

**B E T W E E N:**

- (1) **LONDON COUNCILS** of 59½ Southwark Street, London SE1 0AL (the "**Authority**") (which shall include successors and permitted assigns) for and on behalf of itself and the London Borough and City Councils set out in the first column of Schedule 1 of this Agreement (the "**Participating Councils**"); and
- (2) **TRANSPORT TRADING LIMITED**, a company registered in England and Wales under number 03914810, whose registered office is at Windsor House, 42/50 Victoria Street, London SW1H 0TL ("**TTL**") which shall include successors and permitted assigns.

**BACKGROUND:**

1. The Authority is a joint committee established by the Participating Councils under section 73 Road Traffic Act 1991 and sections 101 to 105 of the Local Government Act 1972 whose terms of reference include authority delegated by the Participating Councils to negotiate contracts which shall be binding upon the Participating Councils with independent transport service operators, pursuant to section 240 of the Greater London Authority Act 1999 (as amended) (the "**1999 Act**") or any successor legislation so as to provide concessionary travel on the services provided by those operators for the persons mentioned in section 240(5) of the 1999 Act and Eligible Non-London Residents in the circumstances provided for in Clause 3.2 or persons mentioned in the relevant section of any successor Act and further to enter into such agreements as agent of the Participating Councils.
2. Transport for London ("**TfL**") is empowered under schedule 10 paragraph 7(1) of the 1999 Act to arrange for any of its functions to be discharged on its behalf by a wholly owned subsidiary of TfL. TTL is such a wholly owned subsidiary authorised for the purposes of this Agreement.
3. Section 240(1) of the 1999 Act provides that any local authority or any two or more local authorities acting jointly, may enter into arrangements with TfL under which:

- (a) TfL grants, or arranges with some other person for that person to grant, such travel concessions as may be provided for by the arrangements to such of the persons eligible to receive them in accordance with section 240(5) of the 1999 Act as are specified in the arrangements; and
- (b) the participating local authorities reimburse the cost incurred in granting those concessions (in such proportions as the participating local authorities may agree amongst themselves)

such arrangements being hereinafter referred to as a “**Concessionary Travel Scheme**”.

- 4. The Authority (on behalf of the Participating Councils) and TTL (on behalf of TfL) have agreed pursuant to section 240(1) of the 1999 Act to participate in a Concessionary Travel Scheme on the London Local Transport Network (as defined below) for the Fiscal Year 2015/16 (the “**2015/16 Scheme**”).
- 5. The Travel Concessions (Eligibility) (England) Order 2010 effected a change to the previously applicable age of eligibility for the purposes of concessionary travel schemes including the Concessionary Travel Scheme. The parties have agreed and included in this Agreement (in the definition of “Older Persons”) the changes they have made to the terms of the Concessionary Travel Scheme to take account of that change in the age of eligibility.
- 6. The parties acknowledge that responsibility for parts of the current Greater Anglia franchise services will be transferring from the Department for Transport to TfL on 31 May 2015 (the “**Transferring Services**”) and no payment will be due from the Authority to TTL (nor will any retrospective adjustment be made in the TTL concessionary fares settlement for the Fiscal Year 2016/17 or subsequently) to cover the inclusion of the Transferring Services in the Concessionary Travel Scheme for the period 31 May 2015 to 31 March 2016. With effect from 1 April 2016 it is the intention of TTL, ATOC Limited and the Authority that the settlement for the Transferring Services will be included within the TTL concessionary fares settlement and not the ATOC concessionary fares settlement.
- 7. The parties agree that the 2015/16 Scheme shall operate on the terms and conditions set out below.

## IT IS AGREED AS FOLLOWS

### 1. Definitions and Interpretation

1.1 In this Agreement the following terms shall have the following meanings:

<i>"Disabled Persons"</i>	means all eligible persons within the categories referred to in section 240(5) of the 1999 Act with the exception of Older Persons together with such other persons to whom the Participating Councils issue Disabled Persons Freedom Passes pursuant to section 2 Local Government Act 2000 and section 29 National Assistance Act 1948;
<i>"Eligible London Residents"</i>	means Older Persons and Disabled Persons who have their sole or principal residence in the administrative areas of the Participating Councils;
<i>"Eligible Non-London Residents"</i>	means all persons to whom a Statutory Concession Permit has been issued;
<i>"Eligible Persons"</i>	means Eligible London Residents together with Eligible Non-London Residents;
<i>"Emirates Air Line"</i>	means the cable car system across the River Thames which commenced operations in 2012;
<i>"Fiscal Year"</i>	means a year commencing on 1 April and ending on 31 March;
<i>"Freedom Passes"</i>	means travel permits which shall be issued to Eligible London Residents free of charge by the Participating Councils allowing such persons to use the London Local Transport Network at reduced prices;
<i>"Greater London"</i>	has the meaning ascribed to it in section 2(1) London Government Act 1963;

*“London Bus Network”*

means bus services which together make up the London bus network within the meaning of Section 181 of the 1999 Act but, for the avoidance of doubt, only in respect of journeys which commence in Greater London;

*“London Local Transport Network”*

means those bus services forming part of the London Bus Network, services using a system of guided transport, railway services, tramway services, cable car services and river boat services on the River Thames and its tributaries, in each case as comprised in the London Local Transport Network as defined in section 242(3) of the 1999 Act;

*“National Concessionary Bus Scheme”*

means the scheme for the provision of concessionary off-peak travel for older and disabled persons on certain bus services introduced by the Concessionary Bus Travel Act 2007;

*“Older Persons”*

(referred to in the Travel Concessions (Eligibility) (England) Order 2010 as “elderly person”) means all persons whose 60th birthday falls on or before 5 October 2012 together with:-

- (i) from 6 May 2015 those persons whose 60th birthday falls between 6 October 2012 and 5 November 2012 (inclusive);
- (ii) from 6 July 2015 those persons whose 60th birthday falls between 6 November 2012 and 5 December 2012 (inclusive);
- (iii) from 6 September 2015 those

persons whose 60th birthday falls between 6 December 2012 and 5 January 2013 (inclusive);

(iv) from 6 November 2015 those persons whose 60th birthday falls between 6 January 2013 and 5 February 2013 (inclusive);

(v) from 6 January 2016 those persons whose 60th birthday falls between 6 February 2013 and 5 March 2013 (inclusive); and

(vi) from 6 March 2016 those persons whose 60th birthday falls between 6 March 2013 and 5 April 2013 (inclusive);

*"Statutory Concession Permit"*

means a statutory travel concession permit as defined in s145A(4) Transport Act 2000 (as amended);

*"TfL Group"*

means Transport for London and all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time which, for the avoidance of doubt, shall include TTL, and references to any "member of the TfL Group" shall refer to TfL or any such subsidiary;

*"Working Days"*

means any day of the week excluding Saturdays, Sundays, public and bank holidays.

1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated whether before or after the date

of this Agreement and all statutory instruments or orders made pursuant to it.

1.3 Schedule 1 forms part of this Agreement.

1.4 Clause headings are for convenience only and shall not affect the interpretation of this Agreement.

## **2. Duration**

This Agreement shall commence on 1 April 2015 and shall expire on 31 March 2016.

## **3. Concessionary Travel Scheme**

3.1 TTL agrees with the Authority that all Eligible London Residents who present a Freedom Pass shall be permitted to travel for the Fiscal Year 2015/16:

- (i) free of charge (except at the restricted times set out in Sub-Clause 3.3) on the London Local Transport Network save for riverboat services and the Emirates Air Line;
- (ii) at reduced prices on riverboat services on the river Thames or a tributary of the river Thames which are provided in accordance with the 1999 Act;
- (iii) at reduced prices on the Emirates Air Line; and

with effect from 31st May 2015 free of charge (except at the restricted times set out in Sub-Clause 3.3) on the Transferring Services.

For the avoidance of doubt, TTL agrees that the Authority will not be required to make any payment for the concessions provided under Sub-clauses 3.1(ii) and (iii) or in respect of the Transferring Services.

3.2 Pursuant to the National Concessionary Bus Scheme, TTL agrees that all Eligible Non-London Residents who present a Statutory Concession Permit on any bus journey commencing inside Greater London on the London Bus Network shall be permitted to travel free of charge (except at the restricted times set out in Sub-Clause 3.3) for the Fiscal Year 2015/16.

3.3 The restricted times for:

- (i) Eligible London Residents are: 4.30am to 9.00am on Working Days and only apply to holders of Older Person's Freedom Passes; and
- (ii) Eligible Non-London Residents are: after 11.00pm and before 9.30am on Working Days.

3.4 Subject to prior consultation and acceptance, TTL undertakes to co-operate with reasonable publicity arrangements required by the Authority in connection with the issue of Freedom Passes or changes to the 2015/16 Scheme. Provided adequate notice is received, TTL undertakes to secure, free of charge, reasonable advertising space for the Authority at bus shelters, Underground stations and on bus services.

#### **4. Payments**

4.1 In consideration of the grant by TTL of the travel concessions described in Clause 3 above and, the Authority agrees to pay TTL:

- (a) the sum of **£327,922,000** by way of four (4) instalments, as follows:

	<i>Latest date for payment</i>	<i>Amount (£)</i>
First Instalment	<b>4 June 2015</b>	<b>81,249,000</b>
Second Instalment	<b>3 September 2015</b>	<b>81,249,000</b>
Third Instalment	<b>3 December 2015</b>	<b>81,249,000</b>
Fourth Instalment	<b>4 March 2016</b>	<b>84,175,000</b>
<b>Total for 2015/16 Scheme</b>		<b>327,922,000</b>

in immediately available funds for value to such account with a bank in the UK as TTL may from time to time notify to the Authority, with reasonable forewarning; and

- (b) interest at the rate of 8% over the HSBC Bank plc base rate from time to time on any payments not received in accordance with the terms of Sub-Clause 4.1(a), such interest to accrue on a daily basis whether or not recovery is undertaken through legal proceedings.
- 4.2 TTL shall repay to the Authority any overpayment of amounts due under Sub-Clause 4.1(a) made by the Authority on the second Working Day after the date on which the amount of overpayment has been agreed by the Authority and TTL (the "**Repayment Date**"). In case of late payment, TTL shall pay the Authority interest on any such overpayment at the rate of 8% over the HSBC Bank plc base rate from time to time, such interest to accrue on a daily basis from the Repayment Date both before and after judgement.
- 4.3 TTL represents that to the best of its knowledge the total amount shown in Sub-Clause 4.1(a) is no greater than the estimated net loss of passenger revenue incurred by TTL arising from the grant of the said travel concessions to Eligible Persons based on the level of public transport fares to be charged during the Fiscal Year 2015/16 together with any net additional costs incurred by TTL in operating the 2015/16 Scheme.
- 4.3A The parties agree and acknowledge that the sums set out in Sub-Clause 4.1(a) incorporate a refund of £595,000 for the Fiscal Year 2014/15 calculated in accordance with Clause 4.3A of the 2014/15 Annual Agreement.
- 4.4 Schedule 1 sets out how the amounts listed in Sub-Clause 4.1 are apportioned between the Participating Councils and the Authority provided always that this is for information only and does not affect any of the other provisions of this Agreement.

## **5. Payments for Fiscal Year 2016/2017**

- 5.1 Duly authorised representatives of the Authority and TTL shall meet together no later than the third week of September 2015 to negotiate the amount to be paid by the Authority on behalf of the Participating Councils to TTL or its successors or permitted assigns for the Fiscal Year 2016/2017.

## **6. Records, Information and Audit**

- 6.1 The Authority shall permit auditors or other authorised representatives of TTL on reasonable prior notice to examine the relevant Authority records kept in connection with the 2015/16 Scheme and to make and retain copies of such records.
- 6.2 TTL shall permit auditors or other authorised representatives of the Authority rights similar to those in Sub-Clause 6.1 above for the purpose of examining relevant TTL records kept in connection with the 2015/16 Scheme and to make and retain copies of such records.
- 6.3 TTL shall inform the Authority of the availability of any travel or market data held by TTL, or held by any other third party on behalf of TTL, which in TTL's reasonable opinion may affect the assessment of compensation for the Concessionary Travel Scheme in any year. On written request by the Authority, TTL shall give the Authority access to such data (provided that TTL is not prevented from doing so by reason of law or prior agreement with third parties). TTL shall use its reasonable endeavours to obtain any approval of third parties required for the disclosure of such travel or market data. The Authority undertakes not to disclose any such data received to any third party except by prior agreement with TTL or if required to by any relevant legislation. Any significant administrative costs incurred by TTL shall be borne by the Authority, such costs to be agreed in advance between TTL and the Authority.
- 6.4 The Authority shall be represented at those meetings of the Survey Working Party of the Concessionary Travel Management Committee that deal with surveys relevant to the 2015/16 Scheme. The function of these meetings, which shall be minuted by the Authority, shall be to ensure that the Authority is duly consulted and shares in decision making with TTL in relation to methodology and other key aspects of the survey process insofar as they relate to this Agreement.

## **7. Non-Assignment**

Neither the Authority nor TTL shall assign or sub-contract any of their rights or obligations hereunder without obtaining the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed.

## **8. Freedom of Information**

- 8.1 Each party acknowledges that the other party is subject to the Freedom of Information Act 2000 and all subordinate legislation made under it,

together with the Environmental Information Regulations 2004 (and any other provisions that replace these) and each party agrees to assist and co-operate with the other party to enable that party to comply with its obligations under such legislation including, without limitation, providing to that party such information as that party may reasonably request concerning the Agreement.

8.2 Each party acknowledges that the other party may be obliged under the legislation referred to in Sub-Clause 8.1 to disclose information without consulting or obtaining consent from the other party.

8.3 This Clause 8 shall survive the expiry or termination of this Agreement.

## **9. Non-Waiver of Rights**

No delay or omission by either party in exercising any right, power, privilege or remedy shall impair or be construed as a waiver of any such right, power, privilege or remedy and any partial or single exercise thereof shall not preclude any future exercise thereof.

## **10. Variation**

No variation to this Agreement shall be effective unless recorded in writing and signed by the duly authorised representatives of the Authority and TTL.

## **11. Notices**

Any notice or invoice to be sent or given hereunder shall be in writing and sent by facsimile transmission or by hand or first class post to the Authority at its address herein or TTL at its address herein or to such other address as may be previously notified from time to time. Items sent by first class post shall be deemed to be received by the addressee on the second Working Day after the day of posting. Deliveries by hand shall be deemed to be received on the date of delivery (or if such day is not a Working Day, on the next Working Day thereafter). Facsimile transmissions shall be deemed to be received on the day of transmission (or if such day is not a Working Day, on the next Working Day thereafter), but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine, confirming that the fax was sent to the number of the recipient and confirming that all pages were successfully transmitted.

## **12. Continuation of Terms following Termination**

Notwithstanding the termination or expiry of this Agreement in whole the provisions of Clauses 4, 6 and 8 shall expressly survive such termination or expiry and continue in full force and effect along with any other Clauses, schedules or appendices of this Agreement necessary to give full and proper effect to the aforementioned Clauses. In addition any other provision contained in this Agreement which by its nature or by implication (including in respect of any accrued rights and liabilities) is required to survive termination or expiry of this Agreement so as to give effect to the said provision shall survive termination or expiry as aforesaid.

## **13. Third Party Rights**

- 13.1 Save that any member of the TfL Group has the right to enforce the terms of the Agreement in accordance with the Contracts (Rights of Third Parties Act) 1999 ("the Third Party Act"), the parties do not intend that any of the terms of this Agreement will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 13.2 Notwithstanding Sub-clause 13.1, the parties are entitled to vary or rescind the Agreement without the consent of any or all members of the TfL Group.

## **14. Entire Agreement**

This Agreement sets out the entire agreement between the parties as to its subject matter and supersedes all representations not incorporated herein. This Clause shall not apply to fraudulent misrepresentations.

## **15. Capacity of the Participating Councils and the Authority**

The parties acknowledge and agree that the Authority is entering into this Agreement on behalf of itself and as agent for each of the Participating Councils. The Authority warrants that it has the irrevocable authority from each of the Participating Councils to enter into this Agreement on behalf of each of those Participating Councils.

## **16. Governing Law**

This Agreement shall be governed by and construed in accordance with the Laws of England and any dispute shall be submitted to the Courts of England.

**IN WITNESS** whereof the parties hereto have set their respective hands on the day and year first above written.

Signed for and on behalf of  
**LONDON COUNCILS** (for itself and on behalf of the Participating Councils)

Signature

.....  
(sign here)

Name

.....  
(please print in block capitals)

Title

.....  
A duly authorised representative of **LONDON COUNCILS**

Signed for and on behalf of  
**TRANSPORT TRADING LIMITED**

Signature

.....  
(sign here)

Name

.....  
(please print in block capitals)

Title

.....  
A duly authorised representative of **TRANSPORT TRADING LIMITED**

## Schedule 1

Concessionary Fares 2015/16

Authority	First payment 04/06/2015 (£) Paid to TFL	Second payment 03/09/2015 (£) Paid to TFL	Third payment 03/12/2015 (£) Paid to TFL	Fourth payment 04/03/2016 (£) Paid to TFL	Total per borough (£) Paid to TFL
Barking & Dagenham	1,307,055	1,307,055	1,307,055	1,354,126	5,275,291
Barnet	3,754,156	3,754,156	3,754,156	3,889,353	15,151,821
Bexley	1,464,643	1,464,643	1,464,643	1,517,389	5,911,318
Brent	3,810,988	3,810,988	3,810,988	3,948,232	15,381,196
Bromley	2,321,991	2,321,991	2,321,991	2,405,612	9,371,585
Camden	3,020,583	3,020,583	3,020,583	3,129,362	12,191,111
City of London	117,817	117,817	117,817	122,060	475,511
Croydon	3,279,255	3,279,255	3,279,255	3,397,350	13,235,115
Ealing	3,825,531	3,825,531	3,825,531	3,963,299	15,439,892
Enfield	2,745,621	2,745,621	2,745,621	2,844,498	11,081,361
Greenwich	2,208,449	2,208,449	2,208,449	2,287,982	8,913,329
Hackney	2,916,483	2,916,483	2,916,483	3,021,513	11,770,962
Hammersmith & Fulham	2,308,765	2,308,765	2,308,765	2,391,910	9,318,205
Haringey	3,436,575	3,436,575	3,436,575	3,560,335	13,870,060
Harrow	2,349,874	2,349,874	2,349,874	2,434,500	9,484,122
Havering	1,763,406	1,763,406	1,763,406	1,826,911	7,117,129
Hillingdon	2,031,208	2,031,208	2,031,208	2,104,358	8,197,982
Hounslow	2,184,798	2,184,798	2,184,798	2,263,478	8,817,872
Islington	2,824,930	2,824,930	2,824,930	2,926,664	11,401,454
Kensington & Chelsea	2,251,096	2,251,096	2,251,096	2,332,164	9,085,452
Kingston	1,132,983	1,132,983	1,132,983	1,173,785	4,572,734
Lambeth	3,205,551	3,205,551	3,205,551	3,320,992	12,937,645
Lewisham	2,645,487	2,645,487	2,645,487	2,740,759	10,677,220
Merton	2,000,301	2,000,301	2,000,301	2,072,337	8,073,240
Newham	2,984,059	2,984,059	2,984,059	3,091,523	12,043,700
Redbridge	2,234,525	2,234,525	2,234,525	2,314,996	9,018,571
Richmond	1,738,314	1,738,314	1,738,314	1,800,916	7,015,858
Southwark	3,005,782	3,005,782	3,005,782	3,114,028	12,131,374
Sutton	1,340,496	1,340,496	1,340,496	1,388,771	5,410,259
Tower Hamlets	2,228,421	2,228,421	2,228,421	2,308,673	8,993,936
Waltham Forest	2,280,669	2,280,669	2,280,669	2,362,802	9,204,809
Wandsworth	3,207,310	3,207,310	3,207,310	3,322,814	12,944,744
Westminster	3,321,878	3,321,878	3,321,878	3,441,508	13,407,142
<b>Overall Total</b>	<b>81,249,000</b>	<b>81,249,000</b>	<b>81,249,000</b>	<b>84,175,000</b>	<b>327,922,000</b>