



[*SUBJECT TO AGREEMENT*]

Agreement Reference Number: tfl_scp_002092_e-scooter_trial_project

Date:

Administration Agreement
relating to the Provision of an E-scooter Rental Service

between

[*Name of relevant TfL company*]

and

[*Name of Operator*]

Version: 1.0

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- G. As well as being able to use the thoroughfares within the jurisdiction and control of the Participating Boroughs, the Administrator is also making some of the thoroughfares and land that it controls and/or owns available for use by Operators for the purposes of e-scooter rental services. This means that users of the Operator's e-scooters will be able to make journeys across London using a mixture of borough and TfL thoroughfares. The TfL thoroughfares are subject to the same types of zoning restrictions as apply to boroughs. All the zoning restrictions that apply to use of thoroughfares are geo-mapped and kept up-to-date on the data platform provided by the Administrator.
- H. The Operator has entered into an E-scooter Parking Licence with the Administrator on or about the same date as this Agreement.

THE PARTIES AGREE THAT:

In consideration of the payment of five pounds (£5.00) by the Operator to the Administrator (receipt of which the Administrator acknowledges), it is agreed that:

1. DEFINITIONS AND INTERPRETATIONS

In the Agreement (including the Recitals):

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

“Administrative Order”	an order made pursuant to Sections 44 and 63 of the Road Traffic Act 1988 authorising the use on roads of vehicles that are otherwise not permitted for road use;
“Administrator”	Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
“Affected Party”	has the meaning given to it in Clause 28.5;
“Agreement”	this administration agreement, including the Schedules and all other documents referred to in this Agreement except an Operator Contract;
“Agreement Commencement Date”	the date for commencement of this Agreement specified in Schedule 1;
“Agreement Expiry Date”	the date on which this Agreement expires being that date 5 (five) clear Business Days after the Trial End Date;
“Agreement Reference”	the reference number for this Agreement

Number	as set out in Schedule 1;
“Agreement Termination Date”	has the meaning set out in Clause 28.9;
“Borough Level Plan”	an Operator's plan for use of e-scooters in the area within the jurisdiction of a Participating Borough;
“Borough Licence”	has the meaning set out in Clause 5.19;
“Business Continuity Plan”	the plan attached at Schedule 8 to this Agreement;
“Business Day”	any day excluding Saturdays, Sundays or public or bank holidays in England;
“Cessation Plan”	a plan agreed between the Parties or determined by the Administrator pursuant to Clause 30: <ul style="list-style-type: none"> (a) to give effect to a Declaration of Ineffectiveness; or (b) to give effect to a Public Procurement Termination Event;
“Change Date”	has the meaning set out in Clause 28.10.1;
“Change in Law”	any: <ul style="list-style-type: none"> (a) amendment, alteration or modification to or repeal of existing law (or any elements thereof and including guidance), relating to the design and/or use of e-scooters; (b) introduction of any new law (or any elements thereof); (c) judgment of a competent court which changes a binding precedent or the interpretation of any relevant legislation; <p>which takes effect after the Agreement Commencement Date;</p>
“Charges”	the charges payable by the Operator in connection with the Trial, comprising either an initial, up-front Full-service Charge or a Ride-through Charge, and a Per-vehicle

Charge payable each Trial Period;

“Confidential Information”	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Administrator and/or a Participating Borough (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Administrator and/or Participating Borough;
“Consents”	all permissions, consents, registrations, approvals, certificates, permits, licenses, statutory agreements and authorisations required by law and all necessary consents and agreements required from any third parties for the performance of the Service by the Operator, including the Administrative Order;
“Contract Co-ordinator”	the person named as such in a Full-service Contract or Ride-through Borough, or such other person as notified to the Operator by the Participating Borough;
“Contract Information”	this Agreement and any Operator Contract in their entirety (including from time to time agreed changes to the Agreement or to any Operator Contract);
“Data”	principally, the journey data captured by Vehicles, as further set out in the Specification but includes other Trial data;
“Data Platform”	the IT system provided by the Administrator for the sharing of data about Vehicle usage and other Trial data;
“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; (b) Directive (EU) 2016/680 (the Law

Enforcement Directive);

- (c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including the Data Protection Act 2018;
- (d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and
- (e) the Privacy and Electronic Communications (EC Directive) Regulations 2003;

“Declaration of Ineffectiveness”

a declaration of ineffectiveness in relation to this Agreement made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 113(2)(a);

“DfT”

the Department for Transport;

“Disputing Parties”

in relation to a Dispute or difference arising out of or related to:

- (i) this Agreement, will be the Parties, and
- (ii) an Operator Contract, will be the parties to such Operator Contract;

“Eligible Borough”

each of the thirty two London Boroughs and the City of London Corporation;

“E-scooter Parking Licence”

the licence between the Operator and the Administrator in relation to any parking spaces the Administrator makes available on TfL Premises;

“Exit Plan”

the plan to be carried out by the Operator in connection with termination of this Agreement and/or an Operator Contract;

“Force Majeure Event”

any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such

event has materially affected the ability of the Affected Party to perform its obligations in accordance with the terms of this Agreement 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, and provided always the Covid-19 virus and its impacts shall not constitute a Force Majeure Event;

“Full-service Borough”

a Participating Borough that allows Vehicles to be parked and distributed in, as well as travel through the area within the jurisdiction of the Full-service Borough;

“Full-service Borough's Premises”

any thoroughfare, land or premises (including temporary buildings) controlled, owned or occupied by or on behalf of the relevant Full-service Borough;

“Full-service Charge”

the non-refundable up-front charge payable by the Operator in consideration of deploying its Vehicles in the area within the jurisdiction of each Full-service Borough;

“Full-service Contract”

an Operator Contract between a Full-service Borough and an Operator;

“Full-service Request”

a request to an Operator by a Full-service Borough to enter into a Full-service Contract;

“Geographic Requirements”

the requirements and restrictions for the use of e-scooters within the specific jurisdiction of a Participating Borough or the Administrator, such as zoning;

“Guarantor”

any person who agrees to act as guarantor under a Parent Company Guarantee;

“Health and Safety Legislation”

all legislation or regulatory codes of practice, circulars, guidance notes and equivalent controls which have as a purpose or effect the protection or prevention of harm to human health, the environment or health and safety, including the Covid-19 pandemic;

“Holding Company”	any company which from time to time directly or indirectly controls the Operator as set out by section 1159 of the Companies Act 2006;
“Insolvency Event”	any of the following: <ul style="list-style-type: none"> (a) the Operator and/or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order; (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of either or both of the Operator or the Holding Company; (c) being a company, either or both of the Operator or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency); (d) either or both the Operator or the Holding Company 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; (e) being an individual or firm, the Operator becoming bankrupt or dying; or (f) any similar event to those in (a) to (e) above occurring in relation to either or both of the Operator or the Holding Company under the law of any applicable jurisdiction for those purposes;
“Insurances”	has the meaning set out in Clause 21;
“Intellectual Property”	any patent, know-how, trade mark or name, service mark, design right,

“Rights”	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, 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 Personnel”	the Operator’s key personnel named as such in Schedule 1 or any relevant Operator Contract;
“London Level Mobilisation Plan”	an Operator’s overall plan for providing e-scooters in accordance with the Specification;
“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;
“Low Income/Equitable Access Plans”	the Operator’s plan, as attached at Schedule 10 and agreed by the Administrator, by which the Operator will support access to its e-scooter rental service, as further described in the Specification;
“Materials”	all equipment and materials other than the Operator Equipment forming part of the Service;
“Maximum Fleet Size”	the maximum number of Vehicles that can be deployed by the Operator, as further set out in Section 9.3 of the Specification;
“Minimum Vehicle Requirement”	the minimum number of Vehicles that may be deployed in the relevant Full-service Borough;
“Operator”	the entity named at the head of this Agreement or its permitted successor or

	assign;
“Operator Contract”	the contract between the Operator and a Participating Borough, being either a Full-service Contract or a Ride-through Contract, entered into in accordance with the Operator Contract Request procedure as provided in Clause 5;
“Operator Contract Start Date”	the date on which the Operator can either (i) start provision of e-scooter rental services under a Full-service Contract or (ii) use the thoroughfares for e-scooter rental service under a Ride-through Contract;
“Operator Contract Effective Date”	the date from which an Operator Contract is in effect;
“Operator Contract Request”	a request from a Participating Borough to an Operator to enter into either a Full-service Contract (Full-service Request) or a Ride-through Contract (Ride-through Request);
“Operator Equipment”	the Vehicles, together with all that equipment and materials of whatsoever nature used by the Operator to maintain the Vehicles;
“Operator’s Manager”	the person who is identified as the Operator’s Manager in the Operator Contract;
“Operator Personnel”	all those persons, including employees, officers, suppliers, sub-contractors and agents engaged by the Operator in connection with the provision of e-scooter rental and including the Key Personnel;
“Parent Company Guarantee”	a duly executed parent company guarantee from such Holding Company or other person of the Operator, in each case as the Administrator approves in writing;
“Participating Borough”	an Eligible Borough participating in the Trial, either on a full-service basis as a Full-service Borough, or on a ride-through basis as a Ride-through Borough;

“Participation Agreement”	the agreement between the Administrator and a Participating Borough setting out the obligations of each party in respect of the Trial;
“Participation Commencement Date”	the date for commencement of the Participation Agreement;
“Participation Expiry Date”	the date on which the Participation Agreement expires being that date five (5) Business Days from the Trial End Date;
“Participation Termination Date”	that date, earlier than the Participation Expiry Date, on which the Participation Agreement terminates, whether as a result of notice being served by one of the parties to the Agreement, or automatically as a result of some other trigger e.g. early termination of the Trial;
“Parties”	the Administrator and the Operator (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be;
“Permitted Fleet Size Review”	the process for reviewing each Operator's Permitted Fleet Size as set out in the Specification;
“Permitted Fleet Size”	the maximum number of Vehicles that can be deployed by the Operator in the Trial Area, during a specific Trial Period;
“Per-vehicle Charge”	the charge payable by the Operator to reflect the average number of Vehicles being deployed during the preceding Trial Period, as further described in the Specification;
“Personal Data”	has the meaning given to it in the Data Protection Legislation;
“Processing”	has the meaning given to it in the Data Protection Legislation;
“Procurement Manager”	the person named as such in Schedule 1 or such other person as notified to the Operator by the Administrator;
“Project Board”	has the meaning set out in the Specification;

“Public Procurement Termination Event”	has the meaning given to it in Clause 30.7;
“Public Procurement Termination Grounds”	any one or more of the grounds described in either Regulation 73(1) of the Public Contracts Regulations 2015;
“Public Safety Reasons”	any current or imminent circumstance that in the opinion of a Participating Borough and/or the Administrator has or may have a serious impact on the health, safety and/or security of the public (including members of the emergency services) and/or Users;
“Remedial Action Plan”	has the meaning given to it in Clause 11.6;
“Revised Start Date”	the revised date for starting provision under a Full-service Contract, being TP Day 1 of the next Trial Period following the original Operator Contract Start Date;
“Ride-through Borough”	a Participating Borough that only allows Vehicles to travel through the area within the jurisdiction of the Ride-through Borough;
“Ride-through Charge”	the non-refundable up-front charge payable by the Operator in consideration of Ride-through Boroughs permitting the Operator's Vehicles to use thoroughfares within their respective jurisdictions;
“Ride-through Contract”	an Operator Contract between a Ride-through Borough and the Operator;
“Ride-through Request”	a request to the Operator by a Ride-through Borough to enter into a Ride-through Contract;
“Service”	the e-scooter rental service as further set out in the Specification;
“Service Level”	the required levels of Service, as further provided in Clause 11.5 and Section 29 of the Specification;
“Service Response to ITT”	the Operator's response to Section [n] of the Invitation to Tender for the Service, exhibited in Schedule 5;

“Specification”	the specification and other requirements set out in Schedule 3 to this Agreement;
“Suspension Period”	has the meaning set out in Clause 28.10.2 of this Agreement;
“TfL”	Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
“TfL Group”	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 TfL Group” shall refer to TfL or any such subsidiary;
“TfL Premises”	the thoroughfares, land and other premises (including temporary buildings) controlled, owned or occupied by or on behalf of any member of the TfL Group (including for the avoidance of doubt the Administrator) that have been confirmed from time to time as available for use in the Trial;
“TP Day”	a day of a Trial Period, where “TP Day [n] ” denotes the specific day of the relevant Trial Period;
“Transparency Commitment”	a public 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 relevant authority’s own published transparency commitments;
“Trial”	the trial for e-scooter rental services in London pursuant to DfT’s Future of Transport programme and which is subject to the prior making of an Order pursuant to Section 44 of the Road Traffic Act 1988;
“Trial Area”	collectively: (i) the thoroughfares within the jurisdiction and control of each Participating Borough; and

(ii) TfL Premises,

from time to time, subject to the Geographic Requirements;

“Trial End Date”	the date on which the Trial Term ends, being [date] or, where extended, the last date of the extension period;
“Trial Objectives”	has the meaning set out in Clause 4;
“Trial Period”	has the meaning set out in Clause 3.4, where “Trial Period [n]” denotes the relevant Trial Period in the Trial Term;
“Trial Term”	the period during which the Trial is in operation, commencing in accordance with the provisions of Clause 3.3 and ending in accordance with the provisions of Clause 3.4;
“User”	a Vehicle user;
“VAT”	value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature;
“Vehicle”	an e-scooter deployed by the Operator for the purposes of the Trial; and

- 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 this Agreement;
- 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 this Agreement;
- 1.5 headings are included in the Agreement for ease of reference only and do not affect the interpretation or construction of the Agreement;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Agreement 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 of this Agreement 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 3 (Service Specification), in which case the provisions in Schedule 3 shall prevail.

1.8 except as otherwise expressly provided in any Operator Contract, and subject to Clause 1.7, if there is any inconsistency between the Schedules, any Operator Contract or any other document referred to in or incorporated into this Agreement or any Operator Contract, the order of priority for the purposes of construction is:

1.8.1 this Administration Agreement;

1.8.2 the Schedules;

1.8.3 the relevant Operator Contract(s);

1.8.4 any other document referred to in or incorporated by reference into this Agreement (including the Service Response to ITT) or any Operator Contract;

1.9 the Schedules form part of the Agreement and will have the same force and effect as if expressly set out in the body of the Agreement;

1.10 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture;

1.11 the word “day” means a calendar day, i.e. a 24-hour period commencing at midnight; and

1.12 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. ADMINISTRATION AGREEMENT

2.1 The purpose of this Agreement is to:

2.1.1 provide a mechanism whereby a Participating Borough may require the Operator to enter into an Operator Contract;

2.1.2 provide the framework for the administration of the Trial by the Administrator; and

- 2.1.3 set out the obligations of the Parties.
- 2.2 An Eligible Borough is under no obligation to actively participate in the Trial, but should it decide to do so, in effect becoming a Participating Borough, then:
- 2.2.1 it must do so in compliance with its obligations as set out in this Agreement, including the Specification; and
- 2.2.2 it must enter into a binding Operator Contract with each Operator so that each Operator's e-scooters can either:
- i. be ridden, parked and distributed in the area within the Participating Borough's jurisdiction (Full-service Contract), or
 - ii. be ridden on the Participating Borough's thoroughfares (Ride-through Contract).
- 2.3 The Operator shall not commence any e-scooter rental unless it has:
- 2.3.1 written confirmation from the Administrator that its insurances and policies are satisfactory for the purposes of the Trial;
- 2.3.2 at least one Full-service Contract in place with a Participating Borough;
- 2.3.3 procedures in place to ensure Users are notified of the conditions that apply to travel in the Trial Area.
- 2.4 Once at least one Full-service Contract is in place between the Operator and a Participating Borough, the Operator may use available TfL Premises within the Trial Area.
- 2.5 A Participating Borough may change its status from a Full-service Borough to a Ride-through Borough and vice versa, but may only be a Full-service Borough once, i.e. the following status changes are possible (i) Full-service -> Ride-through; (ii) Ride-through -> Full-service -> Ride-through. A change of status is subject to the following notice periods:
- Full-service Borough to Ride-through Borough – ten (10) days' notice;
 - Ride-through Borough to Full-service Borough – thirty one (31) days' notice.
- 2.6 In the event that the Administrative Order is rescinded, each Party shall notify the other of all DfT communications received to this effect and this Agreement shall terminate as provided under Clause 28.1.9.
- 2.7 This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent the Administrator from engaging any

other organisations or persons to provide services similar to or the same as the Service.

3. TERM OF THIS AGREEMENT, TRIAL TERM AND TERM OF OPERATOR CONTRACTS

- 3.1 This Agreement (but not an Operator Contract) commences on the Agreement Commencement Date and continues in force until the Agreement Expiry Date unless terminated earlier in accordance with its terms.
- 3.2 From the Agreement Commencement Date, the Operator shall implement the London Level Mobilisation Plan in accordance with the provisions of Schedule 6 (Mobilisation).
- 3.3 The Trial Term commences on [] or such other date to be confirmed in writing by the Administrator no later than three (3) days prior to TP Day 1 of Trial Period 1.
- 3.4 The Trial Term shall run for up to thirteen consecutive 28-day periods (each day being a “**TP Day**”), each period being a “**Trial Period**”. The Trial Term may be extended for a further six Trial Periods subject to the Administrator giving the Operator not less than fourteen (14) days' written notice of such extension. In the event that the Trial Term is extended, the Trial End Date shall be the last day of the extended Trial Term.
- 3.5 A Full-service Contract or Ride-through Contract comes into effect between the parties in accordance with the Operator Contract Request procedure set out in Clause 5.
- 3.6 A Full-service Contract or Ride-through Contract may be terminated in accordance with its terms but such termination shall not, in and of itself, give rise to the termination of any other Full-service Contract or Ride-through Contract to which the Operator is a party.
- 3.7 Where this Agreement is terminated in accordance with its terms, then all Full-service Contracts and Ride-through Contracts to which the Operator is a party shall terminate. The E-scooter Parking Licence also terminates.
- 3.8 Each Full-service Contract and Ride-through Contract automatically terminates on the Trial End Date, as does the E-scooter Parking Licence.

4. TRIAL OBJECTIVES

- 4.1 The objectives for the Trial are primarily:
- 4.1.1 To explore and understand the appropriate e-scooter operating standards, safety standards, environmental standards, regulations and city-level management powers required to ensure they benefit e-scooter users as well as Londoners as a whole,

and feed this insight gleaned through data collection into the DfT ahead of any changes to relevant legislation;

- 4.1.2 To understand the impact of e-scooters on air quality and demand for travel by car, walking, cycling and public transport as well as where e-scooters can enhance transport options and complement existing public transport;
- 4.1.3 To establish the changes in infrastructure required (if any) for rental e-scooter schemes to deliver a safe and attractive environment on our streets;
- 4.1.4 To understand user and non-user reaction to e-scooters, their attitudes and perceptions;
- 4.1.5 To understand the commercial viability of rental e-scooters in London, determine any areas of market failure including inequality in access and to understand the total cost impacts for Eligible Boroughs and TfL; and
- 4.1.6 To understand how e-scooters might support ongoing restart and recovery objectives by providing a relatively green alternative to both private car and capacity restricted public transport, as part of London's wider re-opening following the coronavirus pandemic,

being the “**Trial Objectives**”.

5. OPERATOR CONTRACT REQUEST PROCEDURE

- 5.1 The Operator Contract Request procedure involves a Participating Borough issuing to each Operator either:
 - 5.1.1 a Full-service Request, where the Participating Borough is participating as a Full-service Borough; or
 - 5.1.2 a Ride-through Request, where the Participating Borough is participating as a Ride-through Borough.
- 5.2 The Participating Borough is responsible for completing the Full-service Requests or the Ride-through Requests, as applicable, and ensuring that all measures required to facilitate the use of Vehicles within its Borough are completed or capable of completion by its proposed Operator Contract Start Date, and, as applicable, take account of each Operator's London Level Mobilisation Plan.
- 5.3 The Administrator deals with the administration of Operator Contract Requests. This includes issuing all the Operator Contract Requests for a specific Participating Borough to Operators at the same time, and seeking confirmation from each Operator that the required Insurances are in place.

- 5.4 The Participating Borough shall supply the completed Operator Contract Requests to the Administrator. The Administrator will then issue them to Operators no later than twenty eight (28) days prior to the start of the Trial Period in which the Full-service Contract or Ride-through Contract is required to start. A Participating Borough may not issue Operator Contract Requests that will start later than Trial Period 6.
- 5.5 The Operator must respond to an Operator Contract Request within the time limit set out in the Request. If for any reason the Administrator cannot complete the Operator Contract Request procedure in time to allow the Operator Contract to start by TP Day 1 of the Trial Period in which the Contract is intended to start, the Contract Start Date will be TP Day 1 of the following Trial Period.
- 5.6 Nothing in this Agreement shall require any Borough to exercise its option to enter into an Operator Contract with any Operator.

Full-service Requests

- 5.7 The Full-service Requests shall be in the form set out in Schedule 4 and shall attach the Administrator's invoice for the Full-service Charge.
- 5.8 On receipt of a Full-service Request, the Operator shall:
- 5.8.1 sign and return both signature pages of the Full-service Request in accordance with the provisions set out in the Request;
 - 5.8.2 pay the Full-service Charge to the Administrator in accordance with the provisions set out in the invoice;
 - 5.8.3 submit the relevant Borough Level Plan directly to the Full-service Borough.
- 5.9 On receipt of the signed and dated signature pages of the relevant Full-service Request from the Administrator, and notification from the Administrator that the relevant Full-service Charge has been paid, the Full-service Borough shall:
- 5.9.1 sign and date both signature pages;
 - 5.9.2 return one signed and dated signature page to the Administrator; and
 - 5.9.3 confirm the Contract Start Date to the Administrator in writing, such Contract Start Date to be TP Day 1 of a Trial Period and be consistent with the requirements of each Operator's London Level Mobilisation Plan and the Borough Level Plan for that Full-service Borough.
- 5.10 The Administrator shall then forward the signed and dated signature page to the Operator and confirm the Contract Start Date for the relevant Full-service Contract, which shall be the same for all Operators.

Ride-through Requests

- 5.11 The Ride-through Requests shall be in the form set out in Schedule 9 and shall attach the Administrator's invoice for the applicable Ride-through Charge.
- 5.12 On receipt of a Ride-through Request, the Operator shall:
- 5.12.1 sign and return both signature pages of the Ride-through Request in accordance with the provisions of the Request;
 - 5.12.2 pay the Ride-through Charge to the Administrator in accordance with the provisions set out in the invoice.
- 5.13 On receipt of the signed and dated signature pages of the Ride-through Request from the Operator, and notification from the Administrator that the Ride-through Charge has been paid, the Ride-through Borough shall:
- 5.13.1 sign and date both signature pages;
 - 5.13.2 return one signed and dated signature page to the Administrator; and
 - 5.13.3 confirm the Contract Start Date to the Administrator in writing, such Contractor Start Date to be TP Day 1 of a Trial Period and be consistent with the requirements of each Operator's London Level Mobilisation Plan.
- 5.14 The Administrator shall then forward the signed and dated signature page to the Operator and confirm the Contract Start Date for the relevant Ride-through Contract, which shall be the same for all Operators.

Formation of and liability under Operator Contracts

- 5.15 Failure by the Operator to comply fully with the provisions of Clause 5.8 (response to Full-service Requests) or Clause 5.12 (response to Ride-through Request) will result in the relevant Full-service Contract / Ride-through Contract not being formed.
- 5.16 The Administrator shall in no way be liable for the obligations of either a Participating Borough or the Operator arising in connection with any Operator Contract.

Change in the status of a Participating Borough (Full-service to Ride-through and vice versa)

- 5.17 If a Participating Borough decides to change its status, the Administrator shall send the Operator a new Operator Contract Request, either a Full-service Request or a Ride-through Request, as appropriate, in accordance with the notice periods set out in Clause 2.5.

- 5.18 When a Full-service Borough or a Ride-through Borough issues notice of its change in status, the current Operator Contract (whether Full-service or Ride-through) terminates on the day preceding the Operator Contract Effective Date under the subsequent Operator Contract.

Borough Licences

- 5.19 Where a Full-service Borough enters into a Full-service Contract it may require the Operator to enter into a separate licence for e-scooter parking in the area within the jurisdiction of the Full-service Borough ("**Borough Licence**"). For the avoidance of doubt:
- 5.19.1 any Borough Licence issued by a Full-service Borough is a separate arrangement from the E-scooter Parking Licence with the Administrator;
- 5.19.2 the Administrator shall have no liability in respect of any such Borough Licence;
- 5.19.3 a Full-service Borough does not have the right to charge the Operator any fee in relation to any such Borough Licence.

6. PROVISION OF THE SERVICE

6.1 The Operator:

- 6.1.1 shall provide the Service to a Participating Borough in accordance with this Agreement (including the Specification), its Service Response to ITT, and the terms of the relevant Operator Contract;
- 6.1.2 acknowledges that it has sufficient information about the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Service in accordance with an Operator Contract;
- 6.1.3 shall not be excused from any obligation or liability under this Agreement or the terms of the relevant Operator Contract due to any misinterpretation or misunderstanding by the Operator of any fact relating to the Specification or otherwise to this Agreement or relevant Operator Contract; and
- 6.1.4 shall comply with all lawful and reasonable directions of the Administrator and/or the relevant Participating Borough relating to its performance of the Service under any Operator Contract.
- 6.2 The Parties shall use all reasonable endeavours to work co-operatively with each other and the Participating Boroughs with a view to achieving the Trial Objectives, and shall ensure that suitably senior personnel are briefed and available to meet the management and governance arrangements set out in the Specification, including attendance at the meetings of the Project Board. The Administrator shall circulate terms of

reference for the Project Board as soon as reasonably practicable following the Agreement Commencement Date.

- 6.3 Notwithstanding anything to the contrary in this Agreement, the discretion of either the Administrator or any Participating Borough in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement or any Operator Contract.
- 6.4 The Operator shall provide the Service under each Operator Contract:
- 6.4.1 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 Service and with sufficient resources including project management resources;
 - 6.4.2 in accordance with any specific performance standards, Service Levels or other obligations contained in this Agreement and, in the absence of any specific performance standards, Service Levels or obligations, in a timely, economic, efficient and reliable manner;
 - 6.4.3 in conformance in all respects with the Specification and so that the Service fulfils the purpose indicated by or to be reasonably inferred from the Specification;
 - 6.4.4 in accordance with the methodology, technology, plans, schedules, policies, processes, approaches set out in, outlined, or referred to in the Service Response to ITT;
 - 6.4.5 in compliance with the Administrative Order and all other relevant Consents (including the giving of notices and the obtaining of any such consents) and taking steps so as not to prejudice the renewal of any such Consents;
 - 6.4.6 in accordance with all applicable Law, including all applicable Health and Safety Legislation;
 - 6.4.7 in accordance with measures which ensure that adequate and appropriate maintenance and support services are available and in place for all vehicles, systems and infrastructure, hardware and software used by Operator in the delivery of the Service;
 - 6.4.8 in co-operation with the Administrator, each Participating Borough, and any third party engaged to provide services to the Administrator, including a third party which is a competitor of the Operator;
 - 6.4.9 in a manner that shall not embarrass the Administrator or any Participating Borough (meaning by its actions or omissions contrary to the spirit of this Agreement that cause material

adverse public comment concerning the Administrator or a Participating Borough) or otherwise brings the Administrator or a Participating Borough into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Administrator or a Participating Borough, regardless of whether or not such act or omission is related to the Operator's obligations under this Agreement;

6.4.10 in conformance with any policies notified to it by the Administrator from time to time; and

6.4.11 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being or property.

6.5 The Operator shall remove any member of its staff from the provision of the Service at the reasonable request of the Administrator, forthwith (and without any compensation being payable) if the Administrator can demonstrate that any such member of the Operator's staff:

6.5.1 has not co-operated with the Administrator in meeting its reasonable requests for the provision of information relating to the Service;

6.5.2 has breached the confidentiality obligations in clause 25 (Confidentiality); or

6.5.3 has been guilty of any misconduct which, if such member of the Operator's staff had been an employee of the Administrator, would have entitled the Administrator to summarily to dismiss that employee; or

6.5.4 is not performing the Service demonstrating the skill and experience expected of staff which would reasonably and ordinarily be expected from a skilled, efficient and experienced staff member carrying out services that are the same or similar to the Service,

and, in each case, replace such individual.

6.6 The Operator shall provide a Business Continuity Plan to the Administrator for approval no later than thirty (30) days from the Agreement Commencement Date and implement such amendments to the Business Continuity Plan as the Administrator may reasonably require. The Operator shall maintain and comply with the agreed Business Continuity Plan throughout the Trial Term and shall not amend such Business Continuity Plan without the Administrator's prior written approval.

6.7 The Operator shall not be liable for any failure to provide the Service in accordance with this Agreement or in accordance with an Operator Contract to the extent that such failure is caused by a breach by either

the Administrator of its obligations under this Agreement or a Participating Borough of its obligations under the relevant Operator Contract.

6.8 The Administrator shall, throughout the term of this Agreement at its own cost:

6.8.1 facilitate sharing of the Data produced in the course of the Trial;

6.8.2 implement measures which ensure that adequate and appropriate maintenance and support services are available and in place for all systems and software used by the Administrator solely to facilitate the Operator's delivery of the Service, including the Data Platform.

7. DATA AND REPORTING

7.1 The Operator shall provide Data for each Vehicle and its trial activity more widely in accordance with the Specification and hereby agrees to enter into a data sharing agreement where required by the Administrator. Additional categories of data reporting may be added over the course of the Trial.

7.2 The Operator shall work with the provider of the Data Platform to ensure that the feeds for Data are compatible with such Platform and permit upload to the Platform as required by the Administrator.

7.3 The Operator shall throughout the term of this Agreement maintain and comply with a recognised information security management system in connection with its storage and management of Data.

7.4 The Administrator shall be entitled to share the Data as may be set out in any data sharing agreement, and use the Data produced during the course of the Trial for the purposes of publishing reports about the methodology and findings of the Trial during and after the Trial has concluded.

8. DYNAMIC FLEET MANAGEMENT

8.1 Each Full-service Request sets out the Minimum Vehicle Requirement for the relevant Full-service Borough. Thereafter the relevant Full-service Borough shall give the Operator written notice of any change to its Minimum Vehicle Requirement (subject to the Permitted Fleet Size across the Trial Area), effective for the next Trial Period.

8.2 The Specification sets out the parameters that determine the number of Vehicles that may be deployed by the Operator as at Trial Period 1. Thereafter, with effect from Trial Period 2, the number of Vehicles deployed is determined by the Permitted Fleet Size Review process (as defined below). The Operator shall not deploy any e-scooters in addition to the number of Vehicles permitted pursuant to this Agreement.

- 8.3 The Administrator shall work with the Operator, the Participating Boroughs, London Councils and other Project Board members and relevant stakeholders such as the police services to conduct a review of the Operator's current Service and hence its Permitted Fleet Size (a “**Permitted Fleet Size Review**”) as set out in the Specification. The Permitted Fleet Size requirements apply to the Operator's fleet of Vehicles when used as part of the Trial, regardless of any agreements that the Operator may have in place with private landowners adjacent to Participating Boroughs.
- 8.4 From the TP Day 1 of Trial Period 1, where feasible, a Permitted Fleet Size Review shall be conducted every twenty eight (28) days in the final seven days of the relevant Trial Period (i.e. TP Days 22-28), subject always to the Administrator varying these timescales for operational reasons.
- 8.5 The Administrator reserves the right to:
- 8.5.1 revise the parameters used in Permitted Fleet Size Reviews at any point during the Trial Term; and/or
- 8.5.2 where it reasonably determines that the frequency for conducting a Permitted Fleet Size Review is not viable, conduct Reviews less frequently,
- subject to giving the Operator reasonable written notice.
- 8.6 Following a Permitted Fleet Size Review, any changes to the Permitted Fleet Size deployed apply from TP Day 1 of the next Trial Period. The Operator must apply any decrease in Vehicle numbers resulting from a Permitted Fleet Size Review from TP Day 1 of the next Trial Period, while an increase in Vehicle numbers is optional, subject always to the Minimum Vehicle Requirements.
- 8.7 In the event that Data is unavailable to evidence any stage of the Permitted Fleet Size Review process, the Administrator shall notify the Operator and the Operator shall provide the required Data in a format and timescale reasonably acceptable to the Administrator, depending on the type of Data and the Review stage to which such Data relates.
- 8.8 If no Data is available or the Operator cannot reasonably provide it to the Administrator as required pursuant to Clause 8.7, the Administrator shall have discretion to change the Permitted Fleet Size, having first consulted with relevant stakeholders.
- 8.9 Intentional provision of false Data by the Operator shall be deemed a material breach of this Agreement for the purposes of Clause 28.1.

9. CHARGES AND PAYMENT

- 9.1 The Charges comprise the Full-service Charge, the Ride-through Charge and the Per-vehicle Charge. The level of Charges is set with a view to cost recovery by Participating Boroughs. The structure of the Charges is as set out in the Specification.
- 9.2 The Full-service Charge is payable per Full-service Borough, and the Ride-through Charge is payable per Ride-through Borough. The Operator is invoiced for each of these Charges as part of the Operator Contract Request procedure as further set out in Clause 5.
- 9.3 The Per-vehicle Charge is payable in arrears for each Trial Period in which Vehicles are deployed in Full-service Boroughs. The invoice for the Per-vehicle Charge shall show the total Charge payable by the Operator for the relevant Trial Period, broken down by the amounts due to Full-service Boroughs and the Administrator. Invoices are payable within thirty (30) days of the invoice date.
- 9.4 The Administrator shall allocate and distribute the monies it receives in respect of the Charges to the Participating Boroughs as set out in the Specification.
- 9.5 All Charges exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.
- 9.6 The Operator shall notify the Administrator promptly if it considers that the Charges in any invoice have not been calculated correctly and/or if the invoice contains any other error or inadequacy, and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Administrator shall, as applicable, submit a revised invoice to the Operator.
- 9.7 The Operator shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.
- 9.8 No receipt of monies in respect of the Charges by the Administrator or act or omission or approval by the Administrator (whether related to receipt of monies or otherwise) shall indicate or be taken to indicate the Administrator's acceptance or approval of the Service or any part of it or any act or omission of the Operator, or otherwise prejudice any rights, powers or remedies which the Administrator or a Participating Borough may have against the Operator, or absolve the Operator from any obligation or liability imposed on the Operator under this Agreement or under an Operator Contract.
- 9.9 The Operator is not entitled to receive payment under this Agreement or any Operator Contract for any costs of staff, facilities, equipment, materials, taxes, fees and other costs associated with operating a

business in the UK or any other expenses whatsoever that it may incur in connection with this Agreement or the provision of the Service to a Participating Borough and neither the Administrator or any of the Participating Boroughs shall have any responsibility or liability in relation to any of the foregoing.

- 9.10 The Operator shall be liable to pay any fines, costs, claims, damages or expenses including any such fines, costs, claims, damages or expenses incurred by the Administrator, an Eligible Borough or the police service, in respect of:
- 9.10.1 any obstruction of the highway by its Vehicles or removal of such obstructing Vehicles;
 - 9.10.2 any circumstances in relation to the provision of the Service that are contrary to, or do not comply with, the Specification; and
 - 9.10.3 the removal and/or storage of any Vehicles not removed from:
 - 9.10.3.1 the area within the jurisdiction of a Participating Borough within five (5) days of the termination of the Operator Contract with that Participating Borough; or
 - 9.10.3.2 the Trial Area within five (5) days of the termination of this Agreement.
- 9.11 The Operator acknowledges and agrees that in the event that it does not collect any Vehicles being stored by a public authority (whether the Administrator, an Eligible Borough or the police service), having been notified in writing of such storage and the ten-day timescale for collection, that authority, without any further reference to the Operator, shall have the right to dispose of such uncollected Vehicles as it sees fit and retain any proceeds for its own use.
- 9.12 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Agreement from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The Parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.13 The Operator shall provide the Service in accordance with the agreed Low Income/Equitable Access Plans set out in Schedule 10.
- 9.14 Failure by the Operator to pay the Charges set out in this Clause 9 shall be deemed a material breach of this Agreement for the purposes of Clause 28.1.

10. WARRANTIES AND OBLIGATIONS

10.1 Without prejudice to any other warranties expressed elsewhere in this Agreement or implied by law, the Operator warrants, represents and undertakes that:

10.1.1 the Operator:

10.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform this Agreement and any Operator Contract; and

10.1.1.2 is aware of the purposes for which the Service is required and acknowledges that the Administrator is and Participating Boroughs are reliant upon the Operator's expertise and knowledge in the provision of the Service; and

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

10.1.2 the Agreement is executed by a duly authorised representative of the Operator;

10.1.3 all materials, equipment and goods, including the Vehicles supplied by the Operator pursuant to provision of the Service shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design, in conformance in all respects with the Specification and fit for the purpose of the Service; and

10.1.4 all documents, drawings, computer software and any other material used by the Operator in the provision of the Service, including any application supplied to a User, and/or supplied to the Administrator or a Participating Borough whether under this Agreement or under an Operator Contract, including the Application Programming Interface (API), shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.

10.2 Each warranty and obligation in this Clause 10 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of this Agreement.

11. MANAGEMENT OF THIS AGREEMENT

- 11.1 The Administrator authorises the Procurement Manager to act as the Administrator's representative for all purposes of this Agreement and the Operator shall deal with the Procurement Manager (or his or her nominated representative) in respect of all matters arising under this Agreement, unless notified otherwise.
- 11.2 The Operator's Manager shall act as the Operator's representative for all purposes of this Agreement and any Operator Contract. The Operator's Manager and the Key Personnel shall:
- 11.2.1 attend all contract meetings pursuant to this Agreement or an Operator Contract; and
 - 11.2.2 be available to the Administrator and/or a Participating Borough to resolve any issues arising in connection with this Agreement or any Operator Contract.
- 11.3 The Operator may only make any changes to the Operator's Manager or Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of the Administrator (which shall not be unreasonably withheld).
- 11.4 No act of or omission by or approval from either the Administrator or the Procurement Manager in performing any of their respective duties under or in connection with this Agreement shall in any way operate to relieve the Operator of any its duties, responsibilities, obligations or liabilities under this Agreement.
- 11.5 The Administrator shall notify the Operator of the Service Levels no later than seven (7) days from the Agreement Commencement Date or within such other time period as the Administrator may confirm in writing.
- 11.6 Notwithstanding any rights that the Administrator has under this Agreement, in the event that the Operator fails to meet a Service Level or has committed a breach of this Agreement, the Administrator shall have the right to require the Operator to prepare a Remedial Action Plan within three (3) days of being notified of such requirement by the Administrator, such Remedial Action Plan subject to the Administrator's approval and to set out the actions required to remedy the failure or breach as applicable, together with the Party responsible for the completion of such actions, and the date by which such actions must be completed.
- 11.7 In the event that the Parties, acting reasonably, cannot agree a Remedial Action Plan, or the Operator fails to prepare a Remedial Action Plan, the Administrator shall have the right to terminate this Agreement pursuant to 28.1.1.
- 11.8 The Parties shall implement any agreed Remedial Action Plan in accordance with its timescales and shall make reasonable efforts to

adhere to any improvements resulting from the Remedial Action Plan for the term of this Agreement.

12. OPERATOR PERSONNEL

- 12.1 The Parties agree that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) do not apply on the Agreement Commencement Date or on the expiry or termination of this Agreement.
- 12.2 Nothing in this Agreement will render the Operator Personnel, an employee, agent or partner of the Administrator or of any member of the TfL Group by virtue of the provision of the Service by the Operator and the Operator shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Operator Personnel.
- 12.3 The Operator shall provide the Operator Personnel as necessary for the proper and timely performance and management of the Service in accordance with the relevant Operator Contract. All Operator Personnel deployed on work relating to an Operator Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Administrator.
- 12.4 The Operator shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed in provision of the Service and shall take all reasonable steps to avoid changes to any of its staff designated as Key Personnel. The Operator shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 12.2 shall apply to the proposed replacement personnel.
- 12.5 The Operator shall pay to the Operator Personnel not less than the amounts declared to the Administrator (if any) as part of the tender process for the provision of the Service and not less than the amounts to which the Operator Personnel are contractually entitled.

13. SUB-CONTRACTING AND CHANGE OF OWNERSHIP

- 13.1 The Operator shall not assign or sub-contract all or any part of the Service without the prior written consent of the Administrator which may be refused or granted subject to such conditions as the Administrator sees fit.
- 13.2 Where the Operator sub-contracts all or any part of the Service to any person, the Operator shall:
- 13.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Operator under the relevant Operator Contract insofar as they relate to the Service or part of

them (as the case may be) which that sub-contractor is required to provide;

- 13.2.2 be responsible for payments to that person; and
- 13.2.3 remain solely responsible and liable to the Administrator or the relevant Participating Borough for any breach of this Agreement or the relevant Operator Contract or any performance, non-performance, part-performance or delay in performance of any of the Service by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Operator;
- 13.2.4 on or before the Agreement Commencement Date notify the Administrator in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Operator to the Administrator under this Agreement;
- 13.2.5 promptly notify the Administrator in writing of any change to the information notified under Clause 13.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Agreement Commencement Date;
- 13.2.6 without prejudice to the provisions of Clause 15, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;
- 13.2.7 include a term in each sub-contract (of any tier):
 - 13.2.7.1 requiring payment to be made by the Operator, or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract, to the sub-contractor within a specified period not exceeding thirty (30) days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements;
 - 13.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Operator, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements; and
 - 13.2.7.3 entitling the Operator or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract to terminate that sub-contract if the

relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law; and

13.2.7.4 a requirement that the sub-contractor includes a provision having the same effect as 13.2.7.3 above in any sub-contract it awards.

13.3 The Operator shall give notice to the Administrator within ten (10) Business Days where:

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

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

13.3.3 (in the case of an unincorporated Operator) give notice to the Administrator if there is any change in the management personnel of the Operator, which alone or taken with any other change in management personnel not previously notified to the Administrator, equates to a change in the identity of 50% or more of the management personnel of the Operator.

13.4 Upon the occurrence of any of the events referred to in Clause 13.3 above, the Authority shall have the right to terminate the Agreement and all Operator Contracts in existence, in accordance with Clause 28.1.3.

14. CONFLICT OF INTEREST

14.1 The Operator warrants that it does not and will not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Service or any member of the TfL Group, save to the extent fully disclosed to and approved by the Administrator.

14.2 The Operator shall check for any conflict of interest at regular intervals throughout the term of this Agreement and in any event not less than once in every six months and shall notify the Administrator in writing immediately upon becoming aware of any actual or potential conflict of interest with the Service or any member of the TfL Group and shall work with the Administrator to do whatever is necessary (including the separation of staff working on, and data relating to, the Service from the matter in question) to manage such conflict to the Administrator's satisfaction, provided that, where the Administrator is not so satisfied, it may terminate this Agreement and all Operator Contracts, in existence, in accordance with Clause 28.1.4.

15. COMPLIANCE WITH POLICIES AND LAW

15.1 The Operator, at no additional cost to the Administrator or any Participating Borough:

15.1.1 undertakes to procure that all the Operator Personnel comply with all of the Administrator's policies and standards that are relevant to the performance of the Service, including those relating to safety, security, business ethics, drugs and alcohol and any other regulations specified by the Administrator (or its nominee) and in connection with access to the Data Platform, such policies and standards being made available to the Operator by the Administrator on request;

15.1.2 shall provide the Service in compliance with and shall ensure that the Operator Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Operator's business or the Administrator's business, from time to time in force which are or may become applicable to the Service. The Operator shall promptly notify the Administrator if the Operator is required to make any change to the Service for the purposes of complying with its obligations under this Clause 15.1.2;

15.1.3 without limiting the generality of Clause 15.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

15.1.4 acknowledges that the Administrator is under a duty under section 159 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "Relevant Protected Characteristic") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Service, the Operator shall assist and cooperate with Administrator where possible in satisfying this duty;

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

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

15.1.5.2 eliminate unlawful discrimination; and

- 15.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation;
- 15.1.6 where applicable and without limiting the generality of Clause 15.1.2, shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it;
- 15.1.7 without prejudice to any other provision of this Clause 15.1 or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of the Administrator's Traffic Manager as may be made available to the Operator from time to time. For the purposes of this Clause 15.1.7, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 18 of the Traffic Management Act 2004; and
- 15.1.8 shall promptly notify the Operator Personnel and the Administrator of any health and safety hazards that exist or may arise in connection with the performance of the Service.

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

- 15.2 Without prejudice to Clause 15.1, the Operator shall comply with the Administrator's workplace harassment policy as updated from time to time (copies of which are available on request from the Administrator) and with the Administrator's Code of Conduct (which is available on the Administrator's website, www.tfl.gov.uk).
- 15.3 In providing the Service the Operator shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Operator's activities may impact on the environment) to the need to:
 - 15.3.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
 - 15.3.2 enhance the environment and have regard to the desirability of achieving sustainable development;
 - 15.3.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
 - 15.3.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

16. LONDON LIVING WAGE

- 16.1 For the purposes of this Clause 16, the following expressions have the corresponding meanings:

- “CCSL”** the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Administrator from time to time;
- “London Living Wage”** the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);
- “Subcontractor”** a sub-contractor (of any tier) of the Operator.

16.2 The Operator acknowledges and agrees that the Mayor of London pursuant to section 165 of the Greater London Authority Act 1999 has directed that members of the TfL Group ensure that the London Living Wage be paid to anyone engaged by any member of the TfL Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on the Administrator’s estate in the circumstances set out in Clause 16.3.1.

16.3 Without prejudice to any other provision of this Agreement and any Operator Contract, the Operator shall:

16.3.1 ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Service:

16.3.1.1 for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year;

16.3.1.2 on the Administrator’s estate including premises and land owned or occupied by the Administrator; and

16.3.1.3 on the estate of any Participating Borough with whom the Operator holds an Operator Contract including premises and land owned or occupied by the relevant Participating Borough,

be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage;

16.3.2 ensure that none of:

16.3.2.1 its employees; nor

16.3.2.2 the employees of its Sub-contractors;

engaged in the provision of the Service be paid less than the amount to which they are entitled in their respective contracts of employment;

16.3.3 provide to the Administrator such information concerning the London Living Wage as the Administrator or its nominees may reasonably require from time to time, including (without limitation):

16.3.3.1 all information necessary for the Administrator to confirm that the Operator is complying with its obligations under Clause 16; and

16.3.3.2 reasonable evidence that Clause 16.3.1 has been implemented;

16.3.4 disseminate on behalf of the Administrator to:

16.3.4.1 its employees; and

16.3.4.2 the employees of its Sub-contractors;

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

16.3.5 cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including:

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

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

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

16.4 For the avoidance of doubt the Operator shall:

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

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

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

16.5 The Administrator reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Operator's staff and the staff of its Sub-contractors.

- 16.6 Breach of the provisions of this Clause 16 shall be deemed a material breach of this Agreement for the purposes of Clause 28.1.

17. CORRUPT GIFTS AND PAYMENT OF COMMISSION

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

18. OPERATOR EQUIPMENT

- 18.1 The Operator shall ensure that all Operator's Equipment and all Materials meet all minimum safety standards required from time to time by law and conform strictly to the Specification, the provisions of the Administrative Order, and all statements and other requirements in this Agreement and any Operator Contract.

19. RECORDS, AUDIT AND INSPECTION

- 19.1 The Operator shall, and shall procure that its Sub-contractors shall:
- 19.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Service and the Operator's obligations under this Agreement and any Operator Contract and all transactions entered into by the Operator for the purposes of this Agreement and an Operator Contract ("**Records**"); and
 - 19.1.2 retain all Records during the term of this Agreement for a period of not less than six (6) years (or such longer period as may be required by law), except Records containing Personal Data (as defined in Data Protection Legislation) which shall only be retained for as long as necessary following termination or expiry of this Agreement or an Operator Contract ("**Retention Period**").
- 19.2 The Administrator and any person nominated by the Administrator has the right to audit any and all Records at any time during the Retention Period on giving to the Operator what the Administrator considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Operator's performance of the Service (including compliance with Clause 15.1) and the Operator shall give all reasonable assistance to the Administrator or its nominee in conducting

such inspection, including making available documents and staff for interview.

20. INDEMNITY

20.1 Subject to Clause 20.2, the Operator shall indemnify, keep indemnified and hold harmless the Administrator, the other members of the TfL Group (including their respective employees, sub-contractors and agents), and each Participating Borough (each an “**Indemnified Party**”) against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of this Agreement or any Operator Contract by the Operator (or any of its employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of this Agreement or an Operator Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Operator (or any of its employees or sub-contractors).

20.2 The Operator is not responsible for and shall not indemnify the Administrator or any Participating Borough for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under this Agreement or an Operator Contract as applicable by either the Administrator and/or any other member of the TfL Group, or by any Participating Borough, including by any of the employees or agents of the Administrator, any member of the TfL Group, or Participating Borough.

20.3 Neither the Administrator nor any Participating Borough shall have any liability for any Losses incurred or suffered by the Operator that arise under or in connection with this Agreement or any Operator Contract save to the extent that any such liability for such Losses cannot be excluded by law.

21. INSURANCE

21.1 The Operator will at its sole cost maintain:

21.1.1 employer’s liability of not less than £5 million per occurrence;

21.1.2 motor liability insurance as required by law to cover the legal liability of the Operator and the User;

21.1.3 public liability insurance to cover the Operator’s legal liability for death or injury or property damage, such insurance to be in an amount of not less than £10 million per occurrence and shall extend to cover the legal liabilities of the User;

21.1.4 product liability insurance to cover legal liability for death or injury or property damage, such insurance to be in an amount of not less than £10 million per occurrence and in the aggregate per annum;

- 21.1.5 insurance to cover loss or damage to or theft of the Vehicles in an amount normal and customary for a business of similar nature and scale; and
- 21.1.6 professional indemnity insurance or, where professional indemnity insurance is not available, a “financial loss” extension to the product liability insurance referred to in Clause 21.1.4 or if applicable the public liability insurance referred to in Clause 21.1.3. Such insurance or “financial loss” extension shall be renewed for a period of six years (or such other period as the Administrator may stipulate) following the expiry or termination of the Agreement or relevant Operator Contract. Such insurance or “financial loss” extension shall be in an amount of not less than £5 million per occurrence”,

together the “**Insurances**”.

- 21.2 The public liability, product liability and employer’s liability insurances shall extend to indemnify the Administrator as principal.
- 21.3 The insurance cover will be maintained with a reputable insurer on terms which are normal and customary for the nature and scale of the Service.
- 21.4 The Operator will produce evidence to the Administrator and/or the Participating Borough on reasonable request of the insurance policies set out in Clause 21.1 and payment of all premiums due on each policy.
- 21.5 The Operator warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 21.1 being or becoming void, voidable or unenforceable.
- 21.6 In the event that any of the Insurances are cancelled or not renewed, the Operator shall immediately notify the Administrator and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Administrator.
- 21.7 The Administrator shall have right at any point during the term of this Agreement to require the Operator to increase the level of insurance cover in respect of the Insurances.

22. THE ADMINISTRATOR’S DATA

- 22.1 The Operator acknowledges the Administrator's ownership of Intellectual Property Rights which may subsist in the Administrator’s data. The Operator shall not delete or remove any copyright notices contained within or relating to the Administrator’s data.
- 22.2 The Operator and the Administrator shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Agreement) to preserve the integrity of the

Administrator's data and to prevent any corruption or loss of the Administrator's data.

23. INTELLECTUAL PROPERTY RIGHTS

- 23.1 The Administrator's Intellectual Property Rights in all documents, drawings, computer software and any other work used in or supplied to support the provision of the Service shall remain vested in and the property of the Administrator or licensed to the Administrator as appropriate. The Administrator hereby grants to the Operator a royalty-free, non-exclusive licence for the duration of this Agreement to use such Intellectual Property Rights as the Administrator may from time to time notify the Operator that it may use for the sole purpose of performing its obligations under this Agreement or under an Operator Contract.
- 23.2 The Operator's Intellectual Property Rights in all documents, drawings, computer software and any other work used in or supplied to support the provision of the Service shall remain vested in and the property of the Operator or licensed to the Operator as appropriate. The Operator hereby grants to the Administrator a royalty-free, non-exclusive licence for the duration of this Agreement to use and to sub-licence to any Participating Borough such Intellectual Property Rights as the Operator may from time to time notify the Administrator that it or a Participating Borough may use for the sole purpose of performing its obligations under either this Agreement or under the Participation Agreement.

24. PRIVACY, DATA PROTECTION AND CYBER SECURITY

- 24.1 The Operator shall comply with all its obligations under Data Protection Legislation and all the Operator's policies relevant to data protection. The Operator shall notify the Administrator of any changes to its data protection policies and provide copies of same to the Administrator on request.
- 24.2 As at the Agreement Commencement Date, neither Party is carrying out Processing on behalf of the other. Any Data that is derived from Personal Data will require assessment by the Administrator. Where deemed necessary by the Administrator, the relevant parties shall agree and enter into an additional binding agreement (such as a data sharing agreement) or variation to this Agreement in accordance with the Data Protection Legislation.
- 24.3 The Operator shall not use Data accessed via the Data Platform under this Agreement to identify natural persons. Each Party shall take all reasonable steps to mitigate the risk of re-identification of such persons.
- 24.4 The Operator must follow the 10 Steps to Cyber Security issued by the National Cyber Security Centre, and implement any other security standards reasonably requested by the Administrator from time to time.

25. CONFIDENTIALITY AND ANNOUNCEMENTS

- 25.1 Subject to Clause 26, the Operator will keep confidential any and all Confidential Information that it may acquire in relation to the Administrator and/or a Participating Borough.
- 25.2 The Operator will not use the Confidential Information of the Administrator and/or a Participating Borough for any purpose other than to perform its obligations under this Agreement. The Operator will ensure that its officers and employees comply with the provisions of Clause 25.1.
- 25.3 The obligations on the Operator set out in Clause 25.1 will not apply to any Confidential Information which:
- 25.3.1 the Operator can demonstrate is in the public domain (other than as a result of a breach of this Clause 25); or
 - 25.3.2 any Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or
 - 25.3.3 to the extent that such disclosure is to the Secretary of State for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agents and sub-contractors.
- 25.4 The Operator shall keep secure all materials containing any information in relation to the Agreement and its performance.
- 25.5 Subject always to the provisions of Clause 7 and Clause 24, the Administrator and/or a Participating Borough shall be entitled to share any and all information available to it in respect of or ancillary to this Agreement or any Operator Contract (including Confidential Information) with any other Participating Borough, provided always that the Administrator and/or a Participating Borough take reasonable steps to ensure that the Operator's Confidential Information is shared only on a need-to-know basis and is kept confidential.
- 25.6 The Operator shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Agreement or that it is providing the Service to the Administrator or in relation to any matter under or arising from the Agreement unless specifically granted permission to do so in writing by the Administrator. The Administrator shall have the right to approve any announcement before it is made.
- 25.7 The provisions of this Clause 25 will survive any termination of this Agreement for a period of six (6) years from termination.

26. FREEDOM OF INFORMATION AND TRANSPARENCY

26.1 For the purposes of this Clause 26:

26.1.1 “**FOI Legislation**” means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance or statutory codes of practice issued by the Information Commissioner, the Ministry for Justice, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

26.1.2 “**Information**” means information recorded in any form held by the Administrator or by the Operator on behalf of the Administrator or a Participating Borough; and

26.1.3 “**Information Access Request**” means a request for any Information under the FOI Legislation.

26.2 The Operator acknowledges that the Administrator and each Participating Borough:

26.2.1 is subject to the FOI Legislation and agrees to assist and cooperate with the Administrator to enable the Administrator and any Participating Borough to comply with its obligations under the FOI Legislation; and

26.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Operator.

26.3 Without prejudice to the generality of Clause 26.2, the Operator shall and shall procure that its sub-contractors (if any) shall:

26.3.1 transfer to, as applicable, the Procurement Manager (or such other person as may be notified to the Operator by the Administrator or a Participating Borough) each Information Access Request relevant to this Agreement or an Operator Contract, the Service or any member of the TfL Group or any Participating Borough that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access Request; and

26.3.2 in relation to Information held by the Operator on behalf of the Administrator or a Participating Borough, provide the Administrator or the relevant Participating Borough with details about and/or copies of all such Information that the Administrator or Participating Borough requests and such details and/or copies shall be provided within five (5) Business Days of a request from the Administrator or the relevant Participating Borough (or such other period as the may be reasonable in the circumstances),

and in such forms as the Administrator or Participating Borough may reasonably specify.

- 26.4 In respect of information relating to the Administrator or a Participating Borough, the Administrator and as applicable the Participating Borough shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.
- 26.5 The Operator shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Administrator or as applicable the relevant Participating Borough.
- 26.6 The Operator acknowledges that the Administrator and the Participating Boroughs are subject to the Transparency Commitment. Accordingly, notwithstanding Clause 25.1 and this Clause 26, the Operator hereby gives its consent for the Administrator and each relevant Participating Borough to publish the Contract Information to the general public.
- 26.7 The Administrator or, as applicable, a Participating Borough may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Administrator or Participating Borough may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.
- 26.8 The Administrator or Participating Borough as applicable may in its absolute discretion consult with the Operator regarding any redactions to the Contract Information to be published pursuant to Clause 26.6. The Administrator or Participating Borough shall make the final decision regarding publication and/or redaction of the Contract Information.

27. DISPUTE RESOLUTION

- 27.1 Any dispute or difference arising out of or related to this Agreement or an Operator Contract shall be referred to as a “**Dispute**”. Each of the Disputing Parties shall use all reasonable endeavours to negotiate in good faith and settle any Dispute.
- 27.2 If the Dispute is not settled through discussion between the Procurement Manager or Contract Co-ordinator (as applicable) and a representative of the Operator within a period of seven (7) Business Days of the date on which the Dispute arose, either Disputing Party may by notice to the other refer the Dispute in writing to a director or chief executive (or equivalent) (“**Senior Personnel**”) of each of the Disputing Parties for resolution.
- 27.3 If the Dispute is not resolved within fourteen (14) Business Days of referral to the Senior Personnel, the Disputing Parties shall attempt in

good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Disputing Party may give notice to the other Disputing Party (“**Notice**”) to commence such process and the Notice shall identify one or more proposed mediators.

- 27.4 If the Disputing Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within twenty eight (28) Business Days of the service of the Notice, either Disputing Party may apply to the Centre for Effective Dispute Resolution (“**CEDR**”) in London to appoint a mediator. The costs of that mediator shall be divided equally between the Disputing Parties or as the Disputing Parties may otherwise agree in writing.
- 27.5 Where a dispute is referred to mediation under Clause 27.3, the Disputing Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 27.6 If the Disputing Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Disputing Parties’ authorised representatives, shall be final and binding on the Disputing Parties.
- 27.7 For the avoidance of doubt, the Operator shall continue to: (i) act in accordance with the Agreement and/or Operator Contract; and (ii) provide the Service in accordance with the relevant Operator Contract, without delay or disruption while the Dispute is being resolved pursuant to this Clause 27.
- 27.8 Neither Disputing Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 27 and Clause 28 shall not apply in respect of any circumstances where such remedies are sought.
- 27.9 If any Dispute raises issues which relate to a Dispute between a Participating Borough and the Operator arising under an Operator Contract or otherwise affects the relationship or rights of a Participating Borough under an Operator Contract, then the Administrator may include as part of its submissions made to the mediator or to the courts submissions made by the Participating Borough as appropriate.
- 27.10 The provisions of Clause 27.9 in respect of the Administrator shall apply *mutatis mutandis* to a Participating Borough in relation to a Dispute under this Agreement or under an Operator Contract.

28. BREACH AND TERMINATION OF AGREEMENT

- 28.1 Without prejudice to any right to terminate at common law, the Administrator may terminate this Agreement and a Participating Borough may terminate its Operator Contract by giving notice to the Operator if:

- 28.1.1 in addition and without prejudice to Clauses 28.1.2 to 28.1.4 (inclusive), the Operator has committed any material or persistent breach of this Agreement or a right of termination for material breach has arisen under an Operator Contract and, in the case of such a breach that is capable of remedy, fails to remedy that breach within the timeframe set out in a Remedial Action Plan or as otherwise specified in writing by the Administrator (or, as applicable, the relevant Participating Borough); or
 - 28.1.2 the Operator fails to meet the Revised Start Date under a Full-service Contract; or
 - 28.1.3 in the event that there is a change of ownership referred to in Clause 13.3 or the Operator is in breach of Clause 13.3; or
 - 28.1.4 the Administrator is not satisfied on the issue of any conflict of interest in accordance with Clause 14; or
 - 28.1.5 the Operator or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or
 - 28.1.6 the Operator commits any of the money laundering related offences listed in the Public Contracts Regulations 2015; or
 - 28.1.7 the Operator has abandoned or otherwise repudiated an Operator Contract; or
 - 28.1.8 a Participating Borough has a right of termination under an Operator Contract; or
 - 28.1.9 the Administrative Order is rescinded; or
 - 28.1.10 there is a Change in Law which renders operation of the Service wholly or partly illegal; or
 - 28.1.11 the Operator fails to comply in the performance of the Service with legal obligations in the fields of environmental, social or labour law.
- 28.2 This Agreement shall terminate automatically where the Trial is cancelled or terminated by an authority other than by the Administrator.
- 28.3 The Administrator shall have the right to terminate this Agreement immediately on giving notice if the Operator is subject to an Insolvency Event.
- 28.4 Without prejudice to any of the Administrator's and/or a Participating Borough's other rights, powers or remedies (whether under this Agreement or otherwise) if the Operator is in breach of any of its warranties and/or obligations under Clauses 10, 14 and/or 21 and/or any of its other obligations in respect of the Service under this Agreement, the Operator shall, if required to do so by the Administrator or the

Participating Borough, promptly remedy the Service or part of it at its own expense to ensure compliance with such warranties and/or obligations.

- 28.5 Neither the Administrator, a Participating Borough nor the Operator shall be deemed to be in breach of this Agreement, or otherwise liable to the other party(ies) in any manner whatsoever, for any failure or delay in performing its obligations under this Agreement or an Operator Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than four (4) weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on another party's performance of its obligations under this Agreement or an Operator Contract (the "**Affected Party**") then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate this Agreement (or as applicable the relevant Operator Contract) immediately upon giving notice to the Affected Party. If this Agreement or an Operator Contract is terminated in accordance with this Clause 28.5 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.
- 28.6 Without prejudice to the Administrator's right to terminate this Agreement under Clause 28.1, Clause 28.3 or to terminate at common law, the Administrator may terminate this Agreement at any time without cause subject to giving the Operator written notice of the period specified in Schedule 1.
- 28.7 The Administrator and the Operator may terminate this Agreement at any time by mutual agreement.
- 28.8 A notice to terminate served pursuant to this Clause 28 shall state the last day on which the Service is to be provided, subject to such notice period being not less than fourteen (14) days unless the Parties agree otherwise in writing or termination is pursuant to Clause 28.2.
- 28.9 For the purposes of this Agreement, the Agreement Termination Date shall be either the date of termination set out in any notice served pursuant to this Clause 28, or the date on which this Agreement terminates automatically pursuant to Clause 28.2.
- 28.10 To the extent that the Administrator has a right to terminate this Agreement under this Clause 28 then, as an alternative to termination, the Administrator may by giving reasonable notice to the Operator:
- 28.10.1 require the Operator to provide part only of the Service with effect from the date specified in the Administrator's notice ("**Change Date**") whereupon the provision of the remainder of the Service will cease and the definition of "the Service" shall be construed accordingly, and the Charges applicable with effect from the Change Date will be adjusted proportionately or, if in the Administrator's opinion a proportionate adjustment would not be

reasonable, in such manner as the Administrator may determine;
or

28.10.2 with effect from the date stated in the notice until such time as the Administrator reasonably requires (the “**Suspension Period**”):

28.10.2.1 suspend this Agreement which shall have the effect of suspending all Operator Contracts held by the Operator; or

28.10.2.2 for Full-service Boroughs only, suspend the Operator's right to park its Vehicles in one or more specific Full-service Boroughs as set out in the notice to the Operator.

28.11 In the event that the Administrator suspends this Agreement or suspends the Operator's parking rights pursuant to 28.10.2 above,

28.11.1 the Operator shall:

28.11.1.1 work in good faith with the Administrator and the relevant Participating Boroughs to determine which actions under the Operator's Exit Plan are appropriate in response to the suspension, taking into account the likely duration of and reasons for such suspension;

28.11.1.2 implement the actions identified pursuant to Clause 28.11.1.1; and

28.11.2 the Administrator and the relevant Participating Boroughs shall provide such information to the Operator as it reasonably requires to implement the suspension for the Suspension Period.

28.12 A Suspension Period shall be no more than three (3) months in duration unless agreed otherwise by the Project Board.

28.13 Where the Administrator requires resumption of the suspended Service or right of parking, it shall serve not less than forty eight (48) hours' notice of Service resumption. If the Administrator does not serve such notice, this Agreement shall terminate at the end of the Suspension Period, the last day of the Suspension Period shall be deemed to be the Agreement Termination Date, and the provisions of Clause 29 shall apply.

28.14 A Participating Borough shall have the right on notice to immediately suspend provision of the Service of all Operators in the area within its jurisdiction for Public Safety Reasons.

28.15 The Administrator shall have the right to suspend the Service provided by either all Operators in the entire Trial Area, or the Service provided by a specific Operator for Public Safety Reasons.

28.16 Following suspension of the Service for Public Safety Reasons, the Administrator shall have the right to terminate this Agreement or, as applicable, the Participating Borough shall have the right to terminate the relevant Operator Contracts on notice. The Service shall remain suspended for the duration of the notice period. In the event that the Administrator or, as applicable, the Participating Borough requires the Operator to resume provision of the Service it shall give the Operator not less than forty eight (48) hours' notice of Service resumption. The duration of the Trial Term shall not be extended due to suspension for Public Safety Reasons unless the Administrator notifies the Operator otherwise.

29. CONSEQUENCES OF TERMINATION OR EXPIRY

29.1 The termination or expiry of this Agreement shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.

29.2 Upon expiry or termination of this Agreement (howsoever caused):

29.2.1 the Operator shall, at no further cost to the Administrator or any Participating Borough, carry out its obligations under the Exit Plan;

29.2.2 the Administrator shall and each Participating Borough shall provide all co-operation reasonably required by the Operator in order to implement its Exit Plan;

29.2.3 the Operator shall (subject to Clauses 20, 30.1 and 30.4, and/or the provisions of any security for due performance supplied by the Operator) pay the Administrator any Charges remaining due up to the date of termination or expiry calculated so far as is possible in accordance with the provisions of this Agreement or otherwise reasonably determined by the Administrator.

30. DECLARATION OF INEFFECTIVENESS AND PUBLIC PROCUREMENT TERMINATION EVENT

30.1 In the event that a court makes a Declaration of Ineffectiveness, the Administrator shall promptly notify the Operator. The Parties agree that the provisions of Clause 29 and Clauses 30.1, 30.2, 30.4 to 30.6 (inclusive) and 30.12 shall apply as from the time when the Declaration of Ineffectiveness is made.

30.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness in respect of the period prior to the Declaration of Ineffectiveness, save as otherwise expressly provided to the contrary in Clauses 31.1 to 31.6 inclusive.

- 30.3 During any court proceedings seeking a Declaration of Ineffectiveness, the Administrator may require the Operator to prepare a Cessation Plan in accordance with this 30.3 by issuing a notice in writing. As from the date of receipt by the Operator of such notification from the Administrator, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Administrator shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 30.3.1 an orderly and efficient cessation of the Service; and
 - 30.3.2 minimal disruption or inconvenience to the Administrator, Participating Boroughs, Users or to public passenger transport services or facilities,
 - 30.3.3 in accordance with the provisions of Clauses 30.2 to 30.6 (inclusive) and which the Parties agree would have effect in the event that a Declaration of Ineffectiveness is made.
- 30.4 Where there is any conflict or discrepancy between the provisions of Clause 30 and Clauses 30.2 to 30.6 (inclusive) and 30.12 or the Cessation Plan, the provisions of these Clauses 30.2 to 30.6 (inclusive) and 31.12 and the Cessation Plan shall prevail.
- 30.5 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 Administrator) in the event that a Declaration of Ineffectiveness is made.
- 30.6 The Administrator shall pay the Operator's reasonable costs in assisting the Administrator in preparing, agreeing and complying with the Cessation Plan, provided always that the Administrator shall not be liable to the Operator for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Agreement pursuant to any Declaration of Ineffectiveness.
- 30.7 Without prejudice to the Administrator's rights of termination implied into the Contract by regulation 83(3) of the Public Contracts Regulations 2015 in the event that the Administrator exercises its right to terminate pursuant to this Clause 30.7 (a "**Public Procurement Termination Event**"), the Administrator shall promptly notify the Operator and the Parties agree that:
- 30.7.1 the provisions of Clause 30 and these Clauses 30.7 to 30.11 (inclusive) shall apply as from the date of receipt by the Operator of the notification of the Public Procurement Termination Event; and
 - 30.7.2 if there is any conflict or discrepancy between the provisions of Clause 29 and these Clauses 30.7 to 30.11 (inclusive) or the Cessation Plan, the provisions of these Clauses 30.7 to 30.11 (inclusive) and the Cessation Plan shall prevail.

- 30.8 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 for in Clauses 30.7 to 30.11 inclusive.
- 30.9 As from the date of receipt by the Operator 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 Administrator shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 30.9.1 an orderly and efficient cessation of: (i) the Service; or (at Administrator's election), (ii) the part of the Service which are affected by the Public Procurement Termination Grounds; and
- 30.9.2 minimal disruption or inconvenience to the Administrator, Participating Boroughs, Users or to public passenger transport services or facilities,
- in accordance with the provisions of Clauses 30.8 to 30.11 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.
- 30.10 Upon agreement, or determination by the Administrator, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 30.11 The Administrator shall pay the Operator's reasonable costs in assisting the Administrator in preparing, agreeing and complying with the Cessation Plan provided always that the Administrator shall not be liable to the Operator for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Agreement as a result of Public Procurement Termination Grounds.
- 30.12 For the avoidance of doubt, the provisions of this Clause 30 (and applicable definitions) shall survive any termination of the Agreement following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

31. QUALITY AND BEST VALUE

The Operator acknowledges that the Administrator and each Participating Borough is a best value authority for the purposes of the Local Government Act 1999 and as such the Administrator and each Participating Borough is required to make arrangements to secure continuous improvement in the way it exercises its functions, (having regard to a combination of economy, efficiency and effectiveness), and as such, the Operator shall, notwithstanding that the Service is provided pursuant to the Trial, seek to provide the Service in a manner that

secures continuous improvement in Service delivery under any Operator Contract including in respect of all interactions with the Administrator, Participating Boroughs, stakeholders and Users.

32. SURVIVAL

The provisions of Clauses 1, 6, 7, 9, 10, 13, 14, 15, 18, 20, 23, 25, 27-30 (inclusive), 32-36 (inclusive), 37-43 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of this Agreement. In addition, any other provision of this Agreement which by its nature or implication is required to survive the termination or expiry of this Agreement or relevant Operator Contract shall do so.

33. RIGHTS OF THIRD PARTIES

33.1 Save that (i) any member of the TfL Group has the right to enforce the terms of this Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999 (“**Third Party Act**”), (ii) each Operator Contract incorporates the terms and conditions of this Agreement, 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.

33.2 Notwithstanding Clause 33.1, the Parties are entitled to vary or rescind this Agreement without the consent of any or all members of the TfL Group or a Participating Borough.

34. CONTRACT VARIATION

Save where the Administrator may require an amendment to the Service as set out in the Specification, this Agreement may only be varied or amended with the written agreement of both Parties. The Administrator shall not vary this Agreement without varying in the same manner any other administration agreement for the Trial then in existence.

35. NOVATION

35.1 The Administrator may novate or otherwise transfer this Agreement (in whole or in part).

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

35.3 Subject to Clause 11, this Agreement is personal to the Operator who shall not assign the benefit or delegate the burden of this Agreement or otherwise transfer any right or obligation under this Agreement.

36. NON-WAIVER OF RIGHTS

No waiver of any of the provisions of this Agreement or any Operator 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 38. The single or partial exercise of any right, power or remedy under this Agreement shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

37. ILLEGALITY AND SEVERABILITY

If any provision of this Agreement (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 this Agreement and the remaining provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Administrator's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Administrator and the Operator shall immediately commence good faith negotiations to remedy such invalidity.

38. NOTICES

38.1 With the exception of invoices, any notice, demand or communication in connection with this Agreement or Operator Contract will be in writing and may be delivered by hand, email or post addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other party in writing in accordance with this Clause as an address to which notices and other documents may be sent.

38.2 The notice, demand or communication will be deemed to have been duly served providing that a copy of it has also simultaneously been sent by email to the Operator's Manager, Procurement Manager or Contract Co-ordinator (as applicable):

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

38.2.2 if delivered by post, two (2) Business Days after being posted or in the case of airmail fourteen (14) Business Days after being posted; or

38.2.3 if delivered by email, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.

39. ENTIRE AGREEMENT

39.1 Subject to Clause 39.2:

39.1.1 this Agreement and all documents referred to in this Agreement contain all of the terms which the Parties have agreed relating to the subject matter of this Agreement and such documents and supersede and extinguish any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Service. Neither Party has been induced to enter into this Agreement by a statement which it does not contain; and

39.1.2 without prejudice to the Operator's obligations under this Agreement, the Operator is responsible for and shall make no claim against the Administrator in respect of any misunderstanding affecting the basis of the Operator's tender in respect of this Agreement or any incorrect or incomplete information howsoever obtained.

39.2 Nothing in this Clause 39 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

40. COUNTERPARTS

This Agreement and any Operator 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.

41. RELATIONSHIP OF THE PARTIES

Nothing in this Agreement or any Operator Contract constitutes, or shall be deemed to constitute, a partnership between the Parties, or between the Operator and a Participating Borough. Except as expressly provided in this Agreement, 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.

42. 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 this Agreement.

43. GOVERNING LAW

The Agreement shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 28, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement provided that the Administrator has the right in its absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which the

Operator is incorporated or in which any assets of the Operator may be situated. The Parties agree irrevocably to submit to that jurisdiction.

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

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

Signature

Print name and position

Date:

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

Signature

Print name and position

Date:

SCHEDULE 1 - KEY AGREEMENT INFORMATION

1 **Agreement Reference Number:**

2 **Name of Operator:**

3 **Agreement Commencement Date:**

4 **Trial Term:** the period [Spring 2021 – Spring 2022] or as otherwise notified and/or extended by the Administrator in accordance with Clause 3.

5 **Details of the Procurement Manager**

Name: [name of relevant technical contact]

Address: [relevant TfL company address]

Tel: 020 8XXX XXXX

Fax: 020 8XXX XXXX

Email:

6 **Operator’s Key Personnel:**

Name & Position	Contact Details	Area of Responsibility

7 **Notice period in accordance with Clause 28.6 (termination without cause):**

Twenty eight (28) days

8 **Address for service of notices and other documents in accordance with Clause 38:**

For the Administrator: [relevant TfL company address]

For the attention of: XXX

For the Operator:

relevant company address]

For the attention of: XXX

SCHEDULE 2 – INITIAL PARTICIPATING BOROUGHES

The Eligible Boroughs anticipated to be the initial Participating Boroughs following the Agreement Commencement Date are:

Participating Borough	Full-service	Ride-through only
Barnet	✓	
Brent		✓
Camden	✓	
City of London	✓	
Ealing	✓	
Hammersmith and Fulham	✓	
Hounslow	✓	
Kensington and Chelsea	✓	
Lambeth	✓	
Newham		✓
Richmond Upon Thames	✓	
Southwark	✓	
Tower Hamlets		✓
Westminster	✓	

SCHEDULE 3 – THE SPECIFICATION

SCHEDULE 4 – FORM OF FULL SERVICE REQUEST

To: [Operator] (the “**Operator**”)

Address: [Operator Address]

From: [Full-service Borough] (the “**Full-service Borough**”)

Address: [Full-service Borough Address]

Date:

Provision of a trial e-scooter rental service (the “Service”)

This Full-service Request uses the defined terms set out in the Administration Agreement dated [date].

By virtue of an agreement dated [date] (the “**Participation Agreement**”) made between (1) the Administrator and (2) the Full-service Borough, the Full-service Borough is a “Participating Authority” as defined in the Administration Agreement.

The Full-service Borough hereby notifies the Operator that with effect from [date *NB must be TP Day 1 of a Trial Period*], (the “**Contract Start Date**”), it requires provision of the Service in accordance with the terms and conditions attached to this Full-service Request. The Minimum Vehicle Requirement as at the Contract Start Date (and during the first Trial Period in which the Service is provided) shall be [20] Vehicles.

Please find the Full-service Contract Terms and Conditions attached to this Full-service Request. Any queries regarding this Full-service Request must be directed to the Full-service Borough's Contract Co-ordinator named below in the first instance.

Contact details for [Borough name]'s Contract Co-ordinator are:

Name: [Full-service Borough Contract Co-ordinator]

e- mail address: [Contract Co-ordinator Address]

Postal address:

Telephone:

The Operator must sign and return both signature pages to this Full-service Request no later than []. Please e-mail signed and dated signature pages in pdf format and also send the paper versions to:

Name: [Administrator Team]

e- mail address: [Administrator Team Address]

Telephone:

Attachments: Full-service Contract Terms and Conditions ([n] pages).

[DN: On receipt of the signed and dated signature pages from the Operator, the Administrator will arrange for signing and dating by the Full-service Borough. One copy of the completed signature page will be returned to the Operator.]

Signature Page

THE PARTIES BELOW HEREBY ACKNOWLEDGE AND AGREE that they wish to enter into a Full-service Contract on the terms and conditions attached to this Full-service Request.

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

Print name and position

Date:

Signed by)
for and on behalf of)
the **Full-service Borough**)

Print name and position

Date:

Signature Page (Counterpart)

THE PARTIES BELOW HEREBY ACKNOWLEDGE AND AGREE that they wish to enter into a Full-service Contract on the terms and conditions attached to this Full-service Request.

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

Print name and position

Date:

Signed by)
for and on behalf of)
the **Full-service Borough**)

Print name and position

Date:

Attachment 1 – Full-service Contract Terms and Conditions

1 Contract Formation

- 1.1 This Operator Contract is formed between the Full-service Borough and the Operator named in the Full-service Request to which these Terms and Conditions are attached, and is effective from the date of the latest signature on the signature pages of that Request (the “**Operator Contract Effective Date**”).
- 1.2 This Operator Contract is made pursuant to:
- 1.2.1 Clause 5 of the Administration Agreement of [date] between (1) Transport for London as Administrator of a trial of e-scooter rental services (the “**Trial**”) and (2) the Operator a provider of the Service on a trial basis; and
- 1.2.2 Clause 4 of a Participation Agreement of [date] between (1) [TfL] as Administrator of the Trial and (2) the Full-service Borough as a recipient of e-scooter services on a trial basis.
- 1.3 This Operator Contract incorporates the terms and conditions of the Administration Agreement to the fullest extent applicable such that references to a “**Participating Borough**” shall mean the Full-service Borough, and for the avoidance of doubt references in Clauses 22, 36, 37, 39, 41, 42 and 43 to the “**Administrator**”, a “**Party**”, or “**Parties**” shall be read as references to a Participating Borough as applicable, and references to the “**Agreement**” shall be read as a reference to this Operator Contract.
- 1.4 In this Operator Contract the words and expressions defined in the Administration Agreement shall, except where the context requires otherwise, have the meanings given in the Administration Agreement.
- 1.5 In this Operator Contract:
- 1.5.1 references to Schedules are, unless otherwise provided, references to schedules of this Operator Contract; and
- 1.5.2 references to the “**Parties**” are to the Full-service Borough and the Operator (each a “**Party**”) unless otherwise provided.

2 Operator Contract Term, Service Commencement

- 2.1 This Operator Contract commences on the Operator Contract Effective Date and continues in force until and including the Trial End Date unless terminated earlier in accordance with its terms or the terms of the Administration Agreement.
- 2.2 The Operator shall make all reasonable efforts to carry out its obligations under the London Level Mobilisation Plan and the Borough Level Plan by the Contract Start Date. In the event that the Borough Level Plan is not

completed by 00:01 of TP Day 8 of the relevant Trial Period, the Contract Start Date shall be amended such that the Service starts on TP Day 1 of the next Trial Period (the “**Revised Start Date**”). If the Operator fails to provide the Service from the Revised Start Date, provided always that the failure is not as a result of a failure or delay on the part of the Full-service Borough, the Full-service Borough shall have the right to terminate this Operator Contract for material breach.

- 2.3 The Operator shall provide the Service with effect from the Contract Start Date up to and including the Trial End Date or (if earlier) the date upon which this Operator Contract is terminated in accordance with its terms or the terms of the Administration Contract.
- 2.4 The Full-service Borough shall have the right at any point during the term of this Operator Contract to introduce, amend or otherwise vary the Geographic Requirements.
- 2.5 If so required by the Full-service Borough, the Operator shall enter into a Borough Licence, provided always the Full-service Borough shall not require any consideration for the grant of such Borough Licence and use a Licence in the same form for each Operator. Failure by the Operator to enter into such Borough Licence shall entitle the Full-service Borough to terminate this Operator Contract for material breach.

3 Warranties and Obligations

- 3.1 Without prejudice to any other warranties expressed elsewhere in this Operator Contract or implied by law, the Operator warrants, represents and undertakes that this Operator Contract is executed by a duly authorised representative of the Operator.

4 Management of this Operator Contract

- 4.1 The Full-service Borough authorises the Contract Co-ordinator to act as its representative for all purposes of this Operator Contract and the Operator shall deal with the Contract Co-ordinator (or his or her nominated representative) in respect of all matters arising under this Operator Contract, unless notified otherwise.
- 4.2 The Full-service Borough’s Contract Co-ordinator in respect of this Operator Contract is named in the Full-service Request and the Operator’s Key Personnel in respect of this Operator Contract are named in the Borough Level Plan.
- 4.3 No act of or omission by or approval from either the Full-service Borough, or the Contract Co-ordinator in performing any of their respective duties under or in connection with this Operator Contract shall in any way operate to relieve the Operator of any its duties, responsibilities, obligations or liabilities under this Operator Contract.

- 4.4 The Operator shall not be liable for any failure to provide the Service in accordance with this Operator Contract to the extent that such failure is caused by a breach by either the Administrator of its obligations under the Administration Agreement or the Full-service Borough of its obligations under this Operator Contract.
- 4.5 Notwithstanding any rights that the Full-service Borough has under this Operator Contract, in the event that the Operator has committed a breach of this Operator Contract, the Full-service Borough shall have the right to require the Operator to prepare a Remedial Action Plan within three (3) days of being notified of such requirement by the Contract Co-ordinator. Such Plan is subject to the Contract Co-ordinator's approval and is to set out the actions required to remedy the failure or breach as applicable, together with the Party responsible for the completion of such actions, and the date by which such actions must be completed.
- 4.6 In the event that the Parties, acting reasonably, cannot agree a Remedial Action Plan, or the Operator fails to prepare a Remedial Action Plan, the Full-service Borough shall have the right to terminate this Operator Contract for material breach.
- 4.7 The Parties shall implement any agreed Remedial Action Plan in accordance with its timescales, and shall make reasonable efforts to adhere to any improvements resulting from the Remedial Action Plan until and including the Trial End Date unless this Operator Contract is terminated earlier in accordance with its terms or the terms of the Administration Agreement.

5 Operator Personnel

- 5.1 The Parties agree that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) do not apply on the Operator Contract Effective Date or on the expiry or termination of this Operator Contract.
- 5.2 Nothing in this Operator Contract will render the Operator Personnel an employee, agent or partner of the Full-service Borough by virtue of the provision of the Service by the Operator and the Operator shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Operator Personnel.
- 5.3 The Operator shall provide the Operator Personnel as necessary for the proper and timely performance and management of the Service.
- 5.4 The Full-service Borough shall:
- 5.4.1 provide such co-operation in connection with the timely progression of issues and provision of information as the Operator may reasonably require to enable the Operator to meet its obligations under the Administration Agreement and any

Operator Contract at all reasonable times in accordance with the provisions of the Specification and the other provisions of this Operator Contract;

- 5.4.2 use its reasonable endeavours to facilitate communications between the Operator and relevant stakeholders including the other Participating Boroughs where such communications are necessary in order for the Operator to be able to perform its obligations under this Operator Contract.
- 5.5 Without prejudice to any of the Full-service Borough's other rights, powers or remedies, the Full-service Borough may (without liability to the Operator) deny access to such Operator Personnel to any premises of the Full-service Borough and/or require that any Operator Personnel be immediately removed from performing the Service if such Operator Personnel in the Full-service Borough's view have not been properly trained in any way required by the Operator Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Full-service Borough shall notify the Operator of such denial and/or requirement in writing and the Operator shall comply with such notice and provide a suitable replacement (with the Contract Co-ordinator's prior consent in the case of Key Personnel).
- 5.6 The Operator shall give the Full-service Borough, if so requested, full particulars of all persons who are or may be at any time employed on the Operator Contract and shall take all reasonable steps to avoid changes to any of its staff designated as Key Personnel. The Operator shall give the Full-service Borough reasonable notice of any proposals to change Key Personnel and Clause 5.2 shall apply to the proposed replacement Operator Personnel.
- 5.7 The Operator shall indemnify, keep indemnified and hold harmless the Full-service Borough from and against all Losses which the Full-service Borough incurs or suffers in relation to the Operator Personnel or any person who may allege to be the same (whenever such Losses may arise).

6 Risk in Operator Equipment

- 6.1 Risk in all Operator Equipment and the Materials shall be with the Operator at all times regardless of whether or not the Operator's Equipment and Materials are located at the Full-service Borough's Premises.

7 Indemnity

- 7.1 Subject to Clause 7.2, the Operator is responsible for and shall indemnify, keep indemnified and hold harmless the Full-service Borough (the "**Indemnified Party**") against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of either this Operator Contract or the

Administration Agreement by the Operator (or any of its employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of this Operator Contract or the Administration Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Operator (or any of its employees, agents or sub-contractors).

- 7.2 The Operator is not responsible for, and shall not indemnify the Full-service Borough for, any Losses to the extent that such Losses are caused by any breach or negligent performance by the Full-service Borough of any of its obligations under this Operator Contract.

8 Assignment and Third Party Rights

- 8.1 Except as permitted by clause 13 of the Administration Agreement, the Operator shall not assign or sub-contract all or any part of the Service.
- 8.2 The Parties do not intend that any of the terms of this Operator Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

9 Termination of Participation Agreement

- 9.1 Without prejudice to any right to terminate this Operator Contract at common law, or pursuant to the terms of the Administration Contract incorporated by reference pursuant to Clause 1.3 above, this Operator Contract shall terminate automatically where the Participation Agreement is cancelled or terminated.

SCHEDULE 5 – SERVICE RESPONSE TO ITT

[Operator's response to be inserted]

Annex A – Copy Administrative Order
[copy of DfT's administrative order]

SCHEDULE 6 – MOBILISATION

1. The purpose of the mobilisation period is to ensure that the Operator is in a position to provide the Service to all those potential Full-service Boroughs listed in Schedule 2 should they all decide to require the Service from TP Day 1, Trial Period 1.
2. The Operator shall implement its London Level Mobilisation Plan in accordance with the timescales set out therein.
3. On receipt of a Full-service Request, the Operator shall produce a Borough Level Plan for implementing the Service in the relevant Borough and shall submit such Borough Level Plan within six (6) days of receipt of the Full-service Request to the relevant Full-service Borough's Contract Co-ordinator as set out in the Full-service Request.
4. Any delay in implementing the London Level Mobilisation Plan that is not the result of a delay by the Administrator and/or a Full-service Borough shall be treated as a material breach of this Agreement.
5. Any delay in implementing a Borough Level Plan shall be dealt with in accordance with the provisions of Clause 2.2 of the relevant Operator Contract.
6. While the Operator does not need to implement a Borough Level Plan for a Ride-through Borough, it must ensure that all relevant Operator Personnel and Users are aware of the Geographic Requirements that apply to use of Vehicles in each Ride-through Borough.

SCHEDULE 7 – EXIT PLAN

[Operator's Exit Plan to be approved by the Administrator, to include provisions to ensure that e-scooters are removed from both Full-service and Ride-through Boroughs on termination of the relevant Operator Contracts.]

SCHEDULE 8 – BUSINESS CONTINUITY PLAN

SCHEDULE 9 – FORM OF RIDE-THROUGH CONTRACT REQUEST

To: [Operator] (the “Operator”)

Address: [Operator Address]

From: [Ride-through Borough] (the “Ride-through Borough”)

Address: [Ride-through Borough Address]

Date:

Permission for a trial e-scooter rental service (the “Service”) to ride through

This Ride-through Request uses the defined terms set out in the Administration Agreement dated [date].

By virtue of an agreement dated [] (the “**Participation Agreement**”) made between (1) the Administrator; and (2) the Ride-through Borough, the Ride-through Borough is a “Participating Authority” as defined in the Administration Agreement.

The Ride-through Borough hereby notifies the Operator that with effect from [date *NB must be TP Day 1 of a Trial Period NB must be TP Day 1 of a Trial Period*], (the “**Contract Start Date**”), it permits the Service to operate in the area within the jurisdiction of the Ride-through Borough subject to the terms and conditions attached to this Ride-through Request.

Any queries regarding this Ride-through Request must be directed to [Ride-through Borough]'s Contract Co-ordinator named below in the first instance.

Contact details for [Borough name]'s Contract Co-ordinator are:

Name: [Ride-through Borough Contract Co-ordinator]

e- mail address: [Contract Co-ordinator Address]

Postal address:

Telephone:

The Operator’ Key Personnel are: []

The Operator must sign and return both signature pages to [Borough name]'s Ride-through Request no later than []. Please e-mail signed and dated signature pages in pdf format and also send the paper versions to:

Name: [Administrator Team]

e- mail address: [Administrator Team Address]

Attachments: Ride-through Contract Terms and Conditions ([n] pages).

[DN: On receipt of the signed and dated signature pages from the Operator, the Administrator will arrange for signing and dating by the Ride-through Borough. One copy of the completed signature page will be returned to the Operator.]

Signature Page

THE PARTIES BELOW HEREBY ACKNOWLEDGE AND AGREE that they wish to enter into a Ride-through Contract on the terms and conditions attached to this Ride-through Request.

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

Print name and position

Date:

Signed by)
for and on behalf of)
the **Ride-through Borough**)

Print name and position

Date:

Signature Page (Counterpart)

THE PARTIES BELOW HEREBY ACKNOWLEDGE AND AGREE that they wish to enter into a Ride-through Contract on the terms and conditions attached to this Ride-through Request.

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

Print name and position

Date:

Signed by)
for and on behalf of)
the **Ride-through Borough**)

Print name and position

Date:

Attachment 1 – Ride-through Contract Terms and Conditions

1 Contract Formation

- 1.1 This Operator Contract is formed between the Ride-through Borough and the Operator named in the Ride-through Request to which these Terms and Conditions are attached, and is effective from the date of the latest signature on the signature pages of that Request (the “**Operator Contract Effective Date**”).
- 1.2 This Operator Contract is made pursuant to:
 - 1.2.1 Clause 5 of the Administration Agreement of [date] between (1) Transport for London as Administrator of a trial of e-scooter rental services (the “**Trial**”) and (2) the Operator as provider of the Service on a trial basis; and
 - 1.2.2 Clause 4 of the Participation Agreement of [date] between (1) Transport for London as Administrator of the Trial and (2) the Ride-through Borough.
- 1.3 This Operator Contract incorporates the terms and conditions of the Administration Agreement to the fullest extent applicable such that references to a “**Participating Borough**” shall mean the Ride-through Borough, and for the avoidance of doubt references in Clauses 22, 36, 37, 39, 41, 42 and 43 to the “**Administrator**”, a “**Party**”, or “**Parties**” shall be read as references to a Participating Borough as applicable, and references to the “**Agreement**” shall be read as a reference to this Operator Contract.
- 1.4 In this Operator Contract the words and expressions defined in the Administration Agreement shall, except where the context requires otherwise, have the meanings given in the Administration Agreement.
- 1.5 In this Operator Contract:
 - 1.5.1 references to Schedules are, unless otherwise provided, references to schedules of this Operator Contract; and
 - 1.5.2 references to the “**Parties**” are to the Ride-through Borough and the Operator (each a “**Party**”) unless otherwise provided.

2 Operator Contract Term, Service Commencement

- 2.1 This Operator Contract commences on the Operator Contract Effective Date and continues in force until and including the Trial End Date unless terminated earlier in accordance with its terms or the terms of the Administration Agreement.
- 2.2 The Operator may operate the Service in the Ride-through Borough with effect from the Contract Start Date up to and including the Trial End Date or (if earlier) the date upon which this Operator Contract is terminated in accordance with its terms or the terms of the Administration Agreement.

2.3 The Ride-through Borough shall have the right at any point during the term of this Operator Contract to introduce, amend or otherwise vary the Geographic Requirements.

3 Warranties and Obligations

3.1 Without prejudice to any other warranties expressed elsewhere in this Operator Contract or implied by law, the Operator warrants, represents and undertakes that this Operator Contract is executed by a duly authorised representative of the Operator.

4 Management of this Operator Contract

4.1 The Ride-through Borough authorises the Contract Co-ordinator to act as its representative for all purposes of this Operator Contract and the Operator shall deal with the Contract Co-ordinator (or his or her nominated representative) in respect of all matters arising under this Operator Contract, unless notified otherwise.

4.2 The Ride-through Borough's Contract Co-ordinator in respect of this Operator Contract and the Operator's Key Personnel in respect of this Operator Contract are named in the Ride-through Request.

4.3 No act of or omission by or approval from either the Ride-through Borough, or the Contract Co-ordinator in performing any of their respective duties under or in connection with this Operator Contract shall in any way operate to relieve the Operator of any its duties, responsibilities, obligations or liabilities under this Operator Contract.

4.4 The Operator shall not be liable for any failure to operate the Service in accordance with this Operator Contract to the extent that such failure is caused by a breach by either the Administrator or the Ride-through Borough of their respective obligations in connection with the Service.

4.5 The Ride-through Borough shall for the duration the Service is performed by the Operator at its own cost provide such co-operation in connection with the timely progression of issues and provision of information as the Operator may reasonably require to enable the Operator to operate the Service at all reasonable times in accordance with the provisions of the Specification and the other provisions of this Contract.

4.6 Notwithstanding any rights that the Ride-through Borough has under this Operator Contract, in the event that the Operator has committed a breach of this Operator Contract, the Ride-through Borough shall have the right to require the Operator to prepare a Remedial Action Plan within three (3) days of being notified of such requirement by the Contract Co-ordinator, Such Plan is subject to the Contract Co-ordinator 's approval and is to set out the actions required to remedy the failure or breach as applicable, together with the Party responsible for the completion of such actions, and the date by which such actions must be completed.

4.7 In the event that the Parties, acting reasonably, cannot agree a Remedial Action Plan, or the Operator fails to prepare a Remedial Action Plan, the Contract Co-ordinator shall have the right to terminate this Operator Contract for material breach.

5 The Parties shall implement any agreed Remedial Action Plan in accordance with its timescales, and shall make reasonable efforts to adhere to any improvements resulting from the Remedial Action Plan.

6 Risk in Operator Equipment

6.1 Risk in all Operator Equipment and the Materials shall be with the Operator at all times.

7 Indemnity

7.1 Subject to Clause 7.2, the Operator is responsible for and shall indemnify, keep indemnified and hold harmless the Ride-through Borough (the “**Indemnified Party**”) against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of either this Operator Contract or the Administration Agreement by the Operator (or any of its employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of this Operator Contract or the Administration Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Operator (or any of its employees, agents or sub-contractors).

7.2 The Operator is not responsible for, and shall not indemnify the Ride-through Borough for, any Losses to the extent that such Losses are caused by any breach or negligent performance by the Ride-through Borough of any of its obligations under this Operator Contract.

8 Assignment and Third Party Rights

8.1 Except as permitted by clause 13 of the Administration Agreement, the Operator shall not assign or sub-contract all or any part of the Service.

8.2 The Parties do not intend that any of the terms of this Operator Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

9 Termination of Participation Agreement

9.1 Without prejudice to any right to terminate this Operator Contract at common law, or pursuant to the terms of the Administration Contract incorporated by reference pursuant to Clause 1.3 above, this Operator Contract shall terminate automatically where the Participation Agreement is cancelled or terminated.

SCHEDULE 10 – LOW INCOME/EQUITABLE ACCESS PLANS

[Plans agreed with the Administrator, as per the response to ITT]