

Transport Trading Limited  
5 Endeavour Square  
London  
E20 1JN

13 June 2022

Dear Terry,

**Revenue Collection Contract – Amendment Agreement – binding offer of Proposed Extension**

1. In 2014, Transport Trading Limited ("TTL") and Cubic Transportation Systems Limited (the "**Contractor**") (together, the "**Parties**") entered into a contract for the maintenance of the existing ticketing and fare collection system and provision of revenue collection services on behalf of TTL ("**Contract**"). The Contract expires on 15 August 2025.
2. TfL is in the pre-tender stages of retendering the RCC services ("**RCC Procurement**"). In parallel, TTL and the Contractor have been in discussions to extend the Contract. Given the complexity and importance to TfL and the travelling public of these services and the time required to complete the competitive tender and handover, and taking into account numerous contingent factors which could delay this process, including anticipated delays in completing the replacement card reader roll-out programme, TfL considers that the RCC needs to be extended by one year, until 15 August 2026 in order to give sufficient flexibility and certainty that these contingent programme risks can be managed appropriately.
3. The Parties have agreed that, if approved by Transport for London and TTL, TTL may during a limited period accept the Contractor's binding offer to extend the Contract on agreed revised terms as further described in paragraphs 4 to 8 below (the "**Proposed Extension**").

**Proposed Extension**

4. Additionally, the Contractor is pleased to confirm its irrevocable (subject to paragraphs 6 and 7 below) offer to TTL of the terms set out in Annex 1 (*Agreed Amendments*) to Appendix 1 (*Amendment Agreement*) to this letter, which will (if accepted by TTL) give effect to the Proposed Extension (the "**Proposed Terms**").
5. The Contractor agrees that its offer to TTL of the Proposed Terms shall remain valid and capable of acceptance by TTL until 5 August 2022 at 23:59 (the "**Expiry Date**"). If TTL accepts the Proposed Terms in writing before the Expiry Date, then TTL shall promptly execute the Amendment Agreement set out in Appendix 1 (*Amendment Agreement*) (the "**Amendment Agreement**").
6. TTL acknowledges the Proposed Terms shall not be valid or capable of acceptance by TTL after the Expiry Date, and, if not accepted by TTL on or prior to the Expiry Date, the Contractor's execution of the Amendment Agreement shall be deemed to have no legal effect.
7. The Contractor and TTL agree that this letter shall terminate upon the earlier of:
  - 7.1 execution of the Amendment Agreement by TTL and the Contractor; and
  - 7.2 the Expiry Date.

8. This letter does not create any obligation on TTL to, and there is no representation from TTL that it will, enter into the Amendment Agreement.

**General terms applicable to this letter**

9. Subject to the remaining provisions of this paragraph 9, neither Party shall release any announcement or despatch any announcement or public notice relating to this letter unless the form and content of such announcement or notice have been submitted to, and agreed by, the other Party. Nothing in this paragraph 9 shall prohibit:
  - 9.1 TTL publishing a voluntary ex ante transparency notice (in accordance with Regulation 99 of the Public Contracts Regulations 2015) in relation to this letter or the Amendment Agreement;
  - 9.2 if the Amendment Agreement is executed, TTL publishing a modification notice (in accordance with Regulation 72(3) of the Public Contracts Regulations 2015) in relation to the Amendment Agreement;
  - 9.3 TTL or Transport for London disclosing the existence and contents of this letter to:
    - (a) the public, to the extent such information is included in the public-facing version of Transport for London's Finance Committee papers which consider the Proposed Extension (a copy of which TfL has provided to the Contractor prior to the date of this letter); and
    - (b) potential bidders in relation to the RCC Procurement, provided that to the extent that such disclosed contents includes Contractor Confidential Information which is not included in the papers referred to in paragraph 9.3(a), TTL has first consulted with the Contractor about the disclosure of such information and has taken into account the reasonable requirements of the Contractor in relation to the disclosure of such information; or
  - 9.4 either Party or Transport for London from making any announcement or notice as required by law or regulation or any regulatory body in which case, the announcement or notice shall only be released after consultation (to the extent reasonably practicable) with the other Party and after taking into account the reasonable requirements of the other Party as to the content of such announcement or notice.
10. No variation of this letter will be effective unless it is in writing and signed by or on behalf of the Parties. The expression "variation" shall include any variation, supplement, deletion or replacement howsoever effected.
11. This letter is intended to be legally binding.
12. This letter may be executed in any number of counterparts by the Parties on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall constitute one and the same instrument.
13. No term of this letter is enforceable by a person who is not a party to this letter under the Contracts (Rights of Third Parties) Act 1999, save that Transport for London may enforce paragraphs 9.2, 9.3 and 9.4. The Parties may by agreement amend this letter without obtaining the consent of Transport for London notwithstanding that any such amendment may relate to any benefits conferred on Transport for London.
14. Each Party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this letter.
15. This letter and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
16. Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction in relation to any dispute or claim arising out of or in connection with this letter (whether contractual or non-contractual in nature).

17. Each Party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

**SIGNED** for and on behalf of  
**CUBIC TRANSPORTATION SYSTEMS LIMITED**

Signature:

A blacked-out signature, completely redacted.

Name (block capitals):

A blacked-out name, completely redacted.


Position:

Managing Director

Date: 13 June 2022

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

Signature:

Name (block capitals): 

Position: Service Owner Payment Technology, Contract Manager, RCC

Date:

**APPENDIX 1**  
**AMENDMENT AGREEMENT**



13/06/22

.....2022

**TRANSPORT TRADING LIMITED**  
and  
**CUBIC TRANSPORTATION SYSTEMS LIMITED**

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**RCC AMENDMENT AGREEMENT**  
amending the Contract for the maintenance  
of the ticketing and fare collection system and  
provision of revenue collection services  
(dated 29 July 2014)

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**THIS AGREEMENT** is made on .....2022<sup>13/06/22</sup>

**BETWEEN:**

- (1) **TRANSPORT TRADING LIMITED**, a company incorporated in England and Wales (under company registration number 03914810), whose registered office is at 5 Endeavour Square, London, United Kingdom, E20 1JN ("**TTL**"); and
  - (2) **CUBIC TRANSPORTATION SYSTEMS LIMITED**, (company registration number 01381707) whose registered office is at AFC House, Honeycrock Lane, Salfords, Redhill, Surrey RH1 5LA (the "**Contractor**"),
- (each a "**Party**" and collectively the "**Parties**").

**BACKGROUND:**

- (A) In 2014, TTL and the Contractor entered into a contract for the maintenance of the existing ticketing and fare collection system and provision of revenue collection services on behalf of TTL.
- (B) This Agreement is intended to document changes to be made to the Original Agreement as part of an extension of the Original Agreement required by TTL.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Terms defined in the Original Agreement shall, unless otherwise defined in this Agreement (including the Recitals) or a contrary intention appears, bear the same meaning when used in this Agreement and the following terms shall have the following meanings:

"**Agreement**" means this amendment agreement;

"**Amended Agreement**" means the Original Agreement, as amended pursuant to this Agreement;

"**Effective Date**" means the date of this Agreement; and

"**Original Agreement**" means the agreement for the maintenance of the existing ticketing and fare collection system and provision of revenue collection services on behalf of TTL entered into between the Parties and dated 29 July 2014;

- 1.2 The provisions of Clause 1 (*Definition and Interpretation*) of the Original Agreement (as amended by this Agreement) shall also apply to this Agreement. References to clauses and schedules are to clauses and schedules of this Agreement unless otherwise specified.

**2. AMENDMENT**

- 2.1 With effect from the Effective Date the Original Agreement shall be amended as set out in Part A of Annex 1 (*Agreed Amendments*) to this Agreement.
- 2.2 The rights and obligations of the Parties (among others) relating to their performance under the Original Agreement on and after the Effective Date shall be governed by and construed in accordance with the terms of the Amended Agreement.
- 2.3 The Parties shall comply with Part B of Annex 1 (*Agreed Amendments*) in relation to updates to the other relevant documents referred to therein.

**3. CONTINUATION**

Subject to the terms of this Agreement, the Original Agreement shall remain in full force and effect and this Agreement does not, except as expressly set out herein, modify, waive, discharge or novate any rights or obligations of the Parties under the Original Agreement which have accrued on or before the Effective Date.

4. **WAIVER**

Each Party specifically confirms that this Agreement amends the Original Agreement notwithstanding any formal requirements in those documents in relation to agreeing changes to such agreements (which are, to the extent necessary, waived in relation to this Agreement).

5. **COSTS**

Each Party to this Agreement shall pay its own costs, charges and expenses incurred in the preparation, completion and implementation of this Agreement, and the documents referred to in this Agreement.

6. **SEVERABILITY**

If any provision or provisions of this Agreement (or any document referred to in this Agreement) is or at any time becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining provisions of this Agreement (or such document) shall not in any way be affected or impaired thereby.

7. **ENTIRE AGREEMENT AND VARIATION**

7.1 Each Party agrees that this Agreement:

7.1.1 constitutes the whole agreement in relation to its subject matter and supersedes any previous agreement between the Parties in relation to its subject matter; and

7.1.2 without prejudice to the generality of the foregoing and, to the extent permitted by law, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

7.2 Each Party agrees that this Agreement is made on the basis that neither Party has been induced to enter into this Agreement by, nor has relied on, any statement, representation, warranty, assurance, covenant, indemnity, undertaking or commitment ("**Representation**") which is not expressly set out in this Agreement.

7.3 Each Party's only right of action in relation to any Representation given or action taken in connection with this Agreement is for breach of this Agreement. All other rights and remedies in relation to any such Representation (including those in tort or arising under statute) are excluded.

7.4 No variation of this Agreement will be effective unless it is in writing and signed by or on behalf of the Parties. The expression "variation" shall include any variation, supplement, deletion or replacement howsoever effected.

8. **THIRD PARTY RIGHTS**

No term of this Agreement is enforceable by a person who is not a party to this Agreement under the Contracts (Rights of Third Parties) Act 1999.

9. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

10. **GOVERNING LAW AND JURISDICTION**

10.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any noncontractual disputes or claims) shall be governed by and construed in accordance with English law.

10.2 Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction in relation to any dispute or claim arising out of or in connection with this Agreement (whether contractual or non-contractual in nature).



10.3 Each Party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

11. **NOTICES**

11.1 Any notice or other document to be served under this Agreement may be delivered by hand or sent by post or fax to the party to be served at its address appearing in this Agreement as follows:

**to TTL at:**

Transport Trading Limited  
5 Endeavour Square  
London  
United Kingdom  
E20 1JN

Marked for the attention of:  
TTL Contract Manager  
(with a copy to: General Counsel)

**to the Contractor at:**

Cubic Transportation Systems Limited:  
AFC House  
Honeycrook Lane  
Salfords  
Redhill  
Surrey  
RH1 5LA  
(with a copy to:  
Cubic Corporation  
9333 Balboa Avenue  
San Diego  
California 92123  
USA

Attention: General Counsel)\

Marked for the attention of:  
Company Secretary

or at such other address or fax number as it may have notified to the other Party in accordance with this Clause 11.1. Any notice or other document sent by post will be sent by prepaid first class recorded delivery post.

11.2 In proving service of a notice or document it will be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted as a prepaid first class or equivalent recorded delivery letter or that the fax was properly addressed and despatched, as the case may be.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

**SIGNED BY** )  
duly authorised to sign for and on behalf of )  
**TRANSPORT TRADING LIMITED** )

**SIGNED** for and on behalf of  
**CUBIC TRANSPORTATION SYSTEMS LIMITED**

Signature:

A blacked-out signature, completely obscured by a thick black marker.

Name (block capitals):

A blacked-out name, completely obscured by a thick black marker.

Position:

Managing Director

Date: 13 June 2022

## ANNEX 1

### AGREED AMENDMENTS

#### **Part A – Amendments to the Original Agreement**

The Parties agree to amend the Original Agreement as follows:

##### **1. Extension**

a. Clause 5.4 shall be deleted and replaced with the following:

5.4 *TTL will have the option to extend the Initial Term one or more times (each an "Extended Term") on the same terms and conditions by serving notice to the Contractor of at least twelve (12) months provided that the total Term (excluding the Handback Period) will not exceed eleven (11) years. The Parties acknowledge and agree that TTL has given the relevant notices required under this Clause 5.4 and that the Extended Term shall expire on 15 August 2026.*

##### **2. Excess Profits to cease to apply in relation to Charges with effect from 1 April 2022**

With effect on and from 1 April 2022:

- a. clauses 42 and 65.10.7 of the Agreement shall both be deleted and each replaced with "NOT USED";
- b. the definitions of "Excess Profit Amount" and "Excess Profit Threshold" shall be deleted from Schedule 1 (*Definitions*);
- c. the words "and calculation of the Excess Profit Amount pursuant to Schedule 12.2 (*Value for Money*)" are deleted from paragraph 5.1.1(g) of Schedule 12.1 (*Charges and the Financial Model*);
- d. in Schedule 12.2 (*Value for Money*):
  - i. paragraphs 1.1.3(c), 1.1.4(b), 3.3.2(e) and 4 shall all be deleted and replaced with "NOT USED";
  - ii. the words "including the accuracy of the calculation of the excess profit set out in the Financial Report" are deleted from paragraph 3.3.5;
  - iii. the words "including the calculation of the excess profit set out in the Financial Report" are deleted from paragraph 3.3.6; and
  - iv. each of the four references to "the calculation of excess profit" are deleted from paragraph 3.3.7; and
- e. the words "Subject to paragraph 4 of Schedule 12.2 (*Value for Money*), Profit shall be shared with TTL in accordance with Clause 42 (*Excess Profit*) and paragraph 4 of Schedule 12.2 (*Value for Money*)" are deleted from paragraph 5.8.1 of Schedule 12.3 (*Contract Variation Procedure*).

##### **3. No Indexation of Charges after 1st April 2021**

- a. In paragraph 5.1 of Schedule 12.2 (*Value for Money*), the words "*and ending on 1<sup>st</sup> April 2021*" are inserted after the words "*starting with the TTL Financial Year 2015-2016*". Contractor agrees that none of the Charges or other amounts payable by TTL shall be indexable after 1 April 2021, and waives any rights to index any such amounts at any time after 1 April 2021. For the avoidance of doubt the Parties have agreed that work to be funded from the Performance Assurance Fund and the capital expenditure the sums

will continue to be subject to the Indexation provisions for the Indexable Amounts in accordance with Schedule 12.3 (*Contract Variation Procedure*).

- b. The words "*Subject to paragraph 5.2.7,*" are inserted at the beginning of paragraph 5.2.1 of Schedule 12.2 (*Value for Money*), and a new paragraph 5.2.7 is added into of Schedule 12.2 (*Value for Money*) as follows:

5.2.7 *With effect on and from 2<sup>nd</sup> April 2021, none of the Charges or other amounts payable by TTL shall be Indexable Amounts under this Agreement. All other amounts referred to in this Agreement which are expressed as being indexable, or subject to indexation, shall continue to be Indexable Amounts on and from 2<sup>nd</sup> April 2021.*

- c. With effect on and from 1<sup>st</sup> April 2022, paragraphs 5.3.2 to 5.3.4 of Schedule 12.2 (*Value for Money*) shall be deleted and replaced by the following:

5.3.2 *Where it is proposed to increase the LLW, the Contractor shall review the potential impact of such an increase on the capital expenditure element of the Charges in relation to Variations (but not any other Charges) and notify TTL as soon as practicable of such potential impact.*

5.3.3 *Each time the LLW is increased on or after 1 April 2022, the Contractor shall review whether such change in the LLW increases the costs to the Contractor of delivering the capital expenditure element of in-flight or future Variations.*

5.3.4 *Where the Contractor can demonstrate to TTL's reasonable satisfaction that the increase to the LLW has increased the Contractor's cost of delivering the capital expenditure element of in-flight or future Variations in a manner which is not adequately compensated by indexation in accordance with paragraph 5.2, TTL and the Contractor shall agree a revision to the capital expenditure element of the Charges in relation to such Variations to address the excess cost increase over and above that compensated by indexation.*

- d. In paragraph 5.1.1(h)(ii) of Schedule 12.1 (*Charges and the Financial Model*), the words "*(provided that none of the Charges or other amounts payable by TTL shall be subject to Indexation after 1<sup>st</sup> April 2021)*" are inserted after the words "*sums subject to, and sums not subject to, Indexation*".

- e. In Schedule 12.3 (*Contract Variation Procedure*):

i. in paragraph 3.4.6(i) the words "*(provided that, with effect on and from 1<sup>st</sup> April 2021, no such operating costs shall be indexable)*" are inserted after the words "*specifying the proportion of such operating costs which is to be indexable*";

ii. in paragraph sub-paragraph 5.1.1(h) the word "*indexation*" is replaced by "*indexation (but, on and from 1<sup>st</sup> April 2021, only in relation to the capital expenditure element of the Charges)*";

iii. the following is added as a new paragraph 5.9.2:

*The Parties acknowledge and agree that, when the Contractor prepares a Performance Assurance Submission in accordance with Paragraph 3.3.2 of Schedule 8.2 (Asset Management & Maintenance) in relation to work to be funded from the Performance Assurance Fund, the calculation of the relevant cost shall (as referred to in Paragraph 3.3.2(f) of Schedule 8.2 (Asset Management & Maintenance)) be calculated in accordance with the provisions of paragraphs 4 and 5 of Schedule 12.3 (Contract Variation Procedure) and shall therefore be indexed in the same manner as Variations (including after 1<sup>st</sup> April 2021).*

- iv. in paragraph 6.1.2 the words "(in which case indexation shall be applied in relation to the capital expenditure element of the Project or Programme which is incurred in that subsequent TTL Financial Year)" shall be inserted at the end of the sentence; and
- v. in Appendix 4 (Contractor's Proposal) the row for "OPEX VALUE INDEXED" is amended to state "OPEX VALUE INDEXED (UP TO, BUT NOT AFTER, 1<sup>st</sup> APRIL 2021)".

#### 4. Cycle Hire

The heading of Clause 77.3 shall be changed to "*Magnetic Tickets and Cycle Hire*" and Clause 77.3.1 shall be deleted and replaced with the following:

77.3.1 *TTL may elect to remove Magnetic Tickets and/or Cycle Hire from the scope of this Agreement during the Term, and the Parties acknowledge and agree that TTL may terminate (in whole or in part) any and/or all of the Services provided by the Contractor in respect of Magnetic Tickets and/or Cycle Hire by written notice to the Contractor with immediate effect or effective from such date as TTL may specify in such notice (provided that, in the case of the Services provided by the Contractor in respect of Cycle Hire, the effective date of such termination shall not be before 1 May 2025).*

#### 5. Performance Assurance Fund

- a. The Parties shall update the Financial Model as follows:
  - i. In respect of the sums to be paid by TTL to the Contractor that comprise the Performance Assurance Fund, to be deposited in the Joint Account, pursuant to paragraph 3.2.3 of Schedule 8.2 (*Asset Management & Maintenance*), the Parties agree that the Financial Model shall be updated to reflect TTL paying an additional amount of ██████████ over the duration of the Term, in accordance with the following breakdown and timeframes:

Timeline	Amount
1 April 2023 – 1 August 2023	██████████
2 August 2023 – 1 August 2024	██████████
2 August 2024 – 31 August 2025	██████████
1 September 2025 – Expiry Date	£0

- b. In Schedule 8.2 (*Asset Management & Maintenance*):
  - i. The following is added to the end of Paragraph 3.2.2
 

*If the Contractor does seek TTL's prior approval and consent in advance of withdrawing funds from the Joint Account for the purpose of performing Performance Assurance, TTL shall not unreasonably withhold such consent.*
  - ii. In Paragraph 3.2.7 the words "any unused amounts within the Performance Assurance Fund and" shall be deleted from the start of Paragraph 3.2.7(a) and those words shall be inserted at the start of Paragraph 3.2.7(b). The reference to the DCC Investment Fund, and the associated sharing of the amount (if any) left in the DCC Investment Fund on the Expiry Date (or such earlier date as agreed between TTL and the Contractor), shall remain in clause 3.2.7(a);

iii. Paragraph 3.3.7 shall be deleted and replaced with the following:

3.3.7 *If (a) the Parties agree not to proceed with a programme of Performance Assurance, or (b) the Contractor seeks TTL's prior approval and consent in advance of withdrawing funds from the Joint Account for the purpose of performing Performance Assurance and TTL unreasonably withholds such consent, then the Parties shall agree the impact on performance and any relief to Service Levels reasonably required by the Contractor as set out in the relevant Performance Assurance Submission through the Variation Procedure.*

## **Part B – Consequential actions**

In light of the above amendments to the Original Agreement, the Parties agree that:

### **1. DCC Investment Fund**

In respect of the DCC Investment Fund, the Parties agree that:

- a. the Parties shall in good faith work to establish a defined process for the monitoring and assurance of the management of the DCC Investment Fund to ensure that all funds in the DCC Investment Fund are drawn down and used to meet the shared aims of the Parties (such that, by the Expiry Date, the balance of the DCC Investment Fund is nil);
- b. if the Parties agree to implement a Variation to update the Card Readers, TTL shall instruct the Contractor to draw down the full balance of the DCC Investment Fund to apply to the Charges for that Variation (so that the balance of the DCC Investment Fund is nil at the expiry of the Contract); and
- c. if the Parties agree to implement any other Variation, TTL may instruct Contractor to draw down some or all of the balance of the DCC Investment Fund to apply to the Charges for that Variation.

### **2. Financial Model**

- a. The Parties shall as soon as reasonably practicable update the Financial Model to reflect the amendments set out in this Annex and, to that end:
  - i. Contractor shall, by 31 October 2022, update of the Financial Model to reflect the amendments set out in this Annex and provide that updated Financial Model to TTL for review; and
  - ii. Paragraph 5.3 of Schedule 12.1 (*Charges and the Financial Model*) shall apply.
- b. Once the updated Financial Model has been finalised in accordance with Paragraph 5.3 of Schedule 12.1 (*Charges and the Financial Model*), the Parties shall calculate a trueup of the Charges so as to put the Parties in the financial position that they would have been in if the updated Financial Model had applied from 1<sup>st</sup> April 2021 (including to credit TTL for any indexing after 1<sup>st</sup> April 2021 that has already been charged to TTL), and the net balance of such true-up shall then be added to or credited against (as applicable) the next invoice payable by TTL to the Contractor under the Agreement.

### **3. Flow-through changes to Documentation**

To the extent that any updates to the Documentation are reasonably required to give effect to the additional 12 month period in the Extended Term (referred to in paragraph 1 of Part A of this Annex), the Parties shall cooperate with each other in good faith to agree in writing the relevant updates to such Documentation as soon as reasonably practicable (or, where

the existing contractual provisions provide for the relevant Documentation to be updated on an annual (or more frequent) basis, such Documentation may be updated as part of that next update).

**4. Extension of Baker Street Lease**

The Parties shall as soon as reasonably practicable (and in any event by 5 August 2022) extend the Baker Street Lease, on its current terms, so that expires on 15 August 2026.