

**MEMORANDUM OF PARTICIPATION**

**IN THE THIRD FURTHER VARIATION OF THE ASSOCIATION OF LONDON  
GOVERNMENT TRANSPORT AND ENVIRONMENT COMMITTEE AGREEMENT**

This Memorandum of Participation is executed on behalf of *[INSERT FULL NAME  
OF AUTHORITY]* for the purposes of Clause 1.1 of the Agreement intending it to be  
incorporated into the Agreement in accordance with Clause 1.1.

Signed: .....

Name/s and .....

Status of signatory/ies: .....

| DATED

2015

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**LONDON COUNCILS  
TRANSPORT AND ENVIRONMENT COMMITTEE\***

(\*ALL REFERENCES IN THIS AGREEMENT TO ALGTEC ARE TO BE CONSTRUED AS REFERRING  
TO LONDON COUNCILS TEC)

**THIRD FURTHER VARIATION OF ALGTEC AGREEMENT  
("the Fifth ALGTEC Agreement")**

Ref: TL0016/005 (AP)

THIS AGREEMENT is made this

2015

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BETWEEN the London local authorities listed in Schedule 1 hereto ("the Participating Councils") and Transport for London of 14<sup>th</sup> Floor, Windsor House, 42-50 Victoria Street, London SW1H 0TL (together referred to as "the Parties")

#### RECITALS

- A. By an agreement dated 13 December 2001 ("the First ALGTEC Agreement") the Parties arranged for certain functions to be discharged by a joint committee established under specific and all other enabling powers known as the Association of London Government Transport and Environment Committee ("ALGTEC").
- B. The First ALGTEC Agreement was varied by an agreement dated 1 May 2003 ("the Second ALGTEC Agreement").
- C. The First ALGTEC Agreement was further varied by an agreement dated 30 November 2006 ("the Third ALGTEC Agreement").
- D. In December 2006 ALGTEC changed its name to the London Councils Transport and Environment Committee ("the Committee").
- E. The First ALGTEC Agreement was further varied by an agreement dated 8 June 2009 ("the Fourth ALGTEC Agreement") which *inter alia* included a new Part 3(D) in Schedule 2 of the First ALGTEC Agreement for the delegation to the Committee of the exercise of any statutory functions conferred on the Parties relating to transport, environment and planning matters subject to consultation and the written agreement of the Parties.
- F. On the 18 February 2012 section 1 of the Localism Act 2011 came into effect which provides local authorities with the power to do anything that individuals generally may do, and is known as "the general power of competence".
- G. Section 56 and Schedule 4 of the Protection of Freedoms Act 2012 impose certain conditions concerning the recovery of unpaid parking charges on private land. As a consequence of those provisions those receiving and disputing a parking ticket on private land must be offered free access to an independent appeals service. On the 15 March 2012 the Committee resolved to tender for the provision of an independent appeals service to the British Parking Association ("the BPA"). The 2012 Act was enacted on the 1 May 2012 and it came into force on the 1 October 2012.
- H. On the 14 June 2012 the Committee resolved to contract with the BPA for the provision of the independent appeals service for parking on private land in England and Wales on a full cost recovery basis.
- I. On 17 July 2014 the Committee resolved to recommend to the Participating Councils that they delegate to the Committee, under Part 3(D) of Schedule 2 of the First ALGTEC Agreement, the exercise of further functions under section 6 of the Road Traffic Regulation Act 1984 and all other enabling powers, to enable the Committee to make any necessary traffic orders for the purposes of implementing and enforcing on the Participating Councils' roads a scheme to enhance road safety by requiring the fitting of safety mirrors and side guards to all Heavy Goods Vehicles over 3.5 tonnes in London

("the London Safer Lorry Scheme"). At 27 October 2014, all the Participating Councils had made the delegation in the same form, and this variation to the First ALGTEC Agreement had also been agreed by Transport for London, as required under Clause 15.1 of the First ALGTEC Agreement.

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- J. The Participating Councils now wish (for the avoidance of doubt) to confirm that the exercise of functions delegated to the Committee to enter into the arrangements for the delivery of the independent parking appeals service on private land are delivered pursuant to section 1 of the Localism Act 2011. The purpose of this agreement ("the Fifth ALGTEC Agreement") is, therefore, to vary further the First ALGTEC Agreement.

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## IT IS HEREBY AGREED AS FOLLOWS:

### 1. EXECUTION AND COMMENCEMENT

- 1.1 This Agreement is executed by each Party signing the annexed Memorandum of Participation on behalf of that Party and such Memorandum shall be evidence of execution by that Party when Memoranda signed by all Parties are incorporated into this Agreement.
- 1.2 This Agreement shall commence on the date of execution by the last of the Parties to execute it. ("the Fifth ALGTEC Agreement")

### 2. DELEGATION OF FUNCTIONS

- 2.1 For the avoidance of doubt, and to confirm that the general power of competence under section 1 of the Localism Act 2011 is delegated to the Committee for the purposes of providing a private parking appeals service in accordance with section 56 and Schedule 4 of the Protection of Freedoms Act 2012, the First ALGTEC Agreement is hereby varied as follows –

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- 2.1.1 After clause 4.1(C) of the First ALGTEC Agreement insert:

*4.1(D) The Schedule 1 Part 1 Participating Councils have delegated to ALGTEC the functions set out in Part 3(E) of Schedule 2 of this Agreement. The Participating Councils may revoke this delegation in accordance with clause 13.2, that is with the unanimous consent of all the Participating Councils or otherwise in accordance with clause 13.2.3.*

- 2.1.2 After clause 13.4 of the First ALGTEC Agreement insert:

*13.5 Part 3(E) of Schedule 2 of this Agreement may be terminated by ALGTEC by a resolution of ALGTEC passed in accordance with the joint committee's normal procedures.*

- 2.1.3 Paragraph 1 of Part 4 of Schedule 2 of the First ALGTEC Agreement shall be varied by replacing the words "Parts 1-3(D)" with;

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*"Parts 1-3(E)"*

2.1.4 After Part 3(D) of Schedule 2 of the First ALGTEC Agreement insert:

**PART 3(E) FUNCTIONS – PARKING ON PRIVATE LAND APPEALS SERVICE**

1. *The general power of competence under section 1 of the Localism Act 2011 for the purpose of providing, on a full cost recovery basis, an independent appeals service for disputes arising in respect of parking on private land (with reference to section 56 and Schedule 4 of the Protection of Freedoms Act 2012).*

## SCHEDULE 1

### THE PARTICIPATING COUNCILS

The London Borough of Barking and Dagenham  
The London Borough of Barnet  
The London Borough of Bexley  
The London Borough of Brent  
The London Borough of Bromley  
The London Borough of Camden  
The London Borough of Croydon  
The London Borough of Ealing  
The London Borough of Enfield  
The Royal Borough of Greenwich  
The London Borough of Hackney  
The London Borough of Hammersmith and Fulham  
The London Borough of Haringey  
The London Borough of Harrow  
The London Borough of Havering  
The London Borough of Hillingdon  
The London Borough of Hounslow  
The London Borough of Islington  
The Royal Borough of Kensington and Chelsea  
The Royal Borough of Kingston-upon-Thames  
The London Borough of Lambeth  
The London Borough of Lewisham  
The London Borough of Merton  
The London Borough of Newham  
The London Borough of Redbridge  
The London Borough of Richmond upon Thames  
The London Borough of Southwark  
The London Borough of Sutton  
The London Borough of Tower Hamlets  
The London Borough of Waltham Forest  
The London Borough of Wandsworth  
The City of Westminster  
The Mayor and Commonalty and Citizens of the City of London

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DATED 13 DECEMBER, 2001

**ASSOCIATION OF LONDON GOVERNMENT  
TRANSPORT AND ENVIRONMENT COMMITTEE: AGREEMENT\***

[\*KNOWN AS LONDON COUNCILS TRANSPORT AND ENVIRONMENT  
COMMITTEE FROM DECEMBER 2006 - ALL REFERENCES IN THIS  
AGREEMENT TO ALGTEC ARE TO BE CONSTRUED AS REFERRING TO  
LONDON COUNCILS TEC]<sup>1</sup>

Ref: TL0100/003/LJ

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<sup>1</sup> Note that appears in the Further Variation dated 30 November 2006 and the Second Further Variation dated 8 June 2009

THIS AGREEMENT is made this 13<sup>th</sup>. day of December, 2001

BETWEEN THE Councils listed in Schedule 1 hereto and Transport for London of 14<sup>th</sup>. Floor, Windsor House, 42-50 Victoria Street, London SW1H 0TL in pursuance of arrangements made under sections 73 and 74 Road Traffic Act 1991 (as amended by section 283 Greater London Authority Act 1999), sections 101(5) and 101(5B) and 102 Local Government Act 1972, section 20 Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000, the Local Authorities (Goods and Services) Act 1970 and all other enabling powers

**1. RECITALS**

1.1 By the Transport Committee for London Agreement dated 15 January, 1998, as amended by the Association of London Government Agreement dated 1 April, 2000, the Councils named in Schedule 1, in the interests of achieving greater efficiency and economy in the use of their resources, delegated the functions previously carried out by joint committees established under Sections 101 and 102 Local Government Act 1972 (as amended) and known as the London Lorry Ban and the London Committee on Accessible Transport ("LCAT") respectively to the joint committee established pursuant to Section 73 Road Traffic Act 1991 known as the Parking Committee for London and changed the name of the Parking Committee for London to the Transport Committee for London to reflect its wider remit

1.2 On 30<sup>th</sup> August, 2000, Transport for London became a member of the



Transport Committee for London in accordance with section 283 Greater London Authority Act 1999 for the purposes of the functions set out in Parts 1 and 2 of Schedule 2

- 1.3 On 20<sup>th</sup> June, 2000, the name of Transport Committee for London was changed to the Association of London Government Transport and Environment Committee ("ALGTEC")
- 1.4 The Councils referred to in Clause 1.1 above are herein collectively named "the Participating Councils"
- 1.5 The functions discharged by ALGTEC are set out in Schedule 2
- 1.6 The functions of some of the Participating Councils set out in Schedule 2 are the responsibility of the executive of those Councils under executive arrangements adopted for the purposes of section 10 Local Government Act 2000 while the functions of other Councils remain the responsibility of the Councils themselves
- 1.7 It is expedient that any Participating Council which should adopt executive arrangements after the date of this Agreement should be able through arrangements made by their mayors, executives, members of executives, committees of executives, executive leaders or council managers (as appropriate) to continue as or to become parties to this Agreement

IT IS HEREBY AGREED AS FOLLOWS

## **2. COMMENCEMENT AND DURATION**

2.1 This Agreement shall commence on 13<sup>th</sup>. December, 2001 ("the Commencement Date") and shall replace the Agreement referred to in Recital 1.1, above, and shall continue until terminated in accordance with the provisions of Clause 13 below

## **3. DEFINITIONS AND INTERPRETATION**

3.1 "ALG" means the Association of London Government, the joint committee of all the Participating Councils established in accordance with the Association of London Government Agreement referred to in Recital 1.1 above

3.2 "the ALG Agreement" means the agreement of even date herewith made by all the Participating Councils

3.3 "the Finance Officer" means the Finance Officer appointed in accordance with Clause 8.3

3.4 "the Previous Agreement" means the Transport Committee for London Agreement referred to in Recital 1.1 above

[3.4(A) "the Schedule 1 Part 2 Participating Councils" means those Councils listed in Schedule 1 Part 2 hereto]<sup>2</sup>

3.5 The Schedules annexed hereto are intended to form part of this Agreement

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<sup>2</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

3.6 Words importing the singular shall include the plural and vice versa  
Words importing any gender shall include both genders and words  
importing persons shall include bodies corporate, unincorporated  
associations and partnerships

3.7 Clause headings are inserted for reference only and shall not affect the  
interpretation or construction of this Agreement

#### 4. FUNCTIONS OF ALGTEC

4.1 As from the Commencement Date the Participating Councils and (insofar  
as relevant) Transport for London have delegated the functions set out in  
Schedule 2 to ALGTEC

[4.1(A) As from the Second ALGTEC Agreement Commencement Date the  
Schedule 1 Part 2 Participating Councils have delegated the functions set  
out in Schedule 2 Part 3(A) to ALGTEC. Any of the Participating Councils  
listed in Schedule 1 Part 1 may elect at any time to delegate the functions  
set out in Schedule 2 Part 3(A) to ALGTEC. Such delegation is hereby  
deemed a minor variation for the purposes of Clause 15.1 and this  
Agreement shall thereafter be construed as if each of those Participating  
Councils were listed in Schedule 1 Part 2. Any of the Schedule 1 Part 2  
Participating Councils may at any time revoke the delegation of the  
functions set out in Schedule 2 Part 3(A) to ALGTEC. Such revocation is  
hereby deemed a minor variation for the purposes of Clause 15.1 and this  
Agreement shall thereafter be construed as if that Schedule 1 Part 2

Participating Council's name were removed from Schedule 1 Part 2]<sup>3</sup>

[4.1(B) As from 30<sup>th</sup> November 2006 the Schedule 1 Part 1 Participating Councils have delegated to ALGTEC the functions set out in Part 3(B) of Schedule 2 of this Agreement. Any of the Schedule 1 Part 1 Participating Councils may at any time revoke the delegation of the functions set out in Part 3(B) of Schedule 2 in accordance with Clause 13.2]<sup>4</sup>

[4.1(C) As from 8<sup>th</sup> June 2009 the Schedule 1 Part 1 Participating Councils have delegated to the Committee the functions set out in Part 3(C) and Part 3(D) of Schedule 2 to this Agreement. Any of the Schedule 1 Part 1 Participating Councils may at any time revoke the delegation of the functions set out in Part 3(C) and Part 3(D) of Schedule 2 in accordance with Clause 13.2]<sup>5</sup>

4.2 In September of each year ALGTEC shall submit a policy statement in respect of the discharge of its functions in the following financial year to the ALG for consultation regarding the contents of the policy statement, such consultation to take place before the end of that calendar year

## **5. MEMBERSHIP AND CONSTITUTION OF ALGTEC**

5.1 Each Participating Council and Transport for London shall appoint a representative to ALGTEC in accordance with law and its own constitutional arrangements

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<sup>3</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

<sup>4</sup> Substituted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009

<sup>5</sup> Inserted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009

- 5.2 Each Participating Council and Transport for London shall as soon as practicable after becoming party to this Agreement notify the Director of ALGTEC of the identity of its representative and the identity of any substitute representative
- 5.3 Each Participating Council and Transport for London shall be entitled by notice in writing in accordance with Clause 5.4 below to remove such representative from ALGTEC at any time or until he ceases to be entitled to be a representative of that Participating Council or Transport for London under the constitutional arrangements applicable to the appointing Participating Council or Transport for London and by like notice to appoint to ALGTEC any other representative from that Participating Council or Transport for London in place of the representative so removed
- 5.4 A notice of appointment or removal shall be signed by a duly authorised officer of the Participating Council or Transport for London as the case may be and shall take effect upon delivery thereof to the Director of ALGTEC
- 5.5 Every representative appointed pursuant to Clause 5.1 shall hold office until he is either removed from office or dies or resigns or until he ceases to be entitled to be a representative of the Participating Council or Transport for London under the constitutional arrangements applicable to that Participating Council or Transport for London

## **6. MEETINGS AND PROCEEDINGS OF ALGTEC**

- 6.1 ALGTEC shall hold at least 2 meetings each year one of which shall be an Annual General Meeting
- 6.2 Subject to Clause 6.1 above, meetings of ALGTEC shall be called in accordance with the Standing Orders set out in Schedule 6 of the ALG Agreement and the procedure to be adopted at such meetings shall be determined in accordance with those Standing Orders
- 6.3 No representative appointed by [a Participating Council or]<sup>6</sup> Transport for London shall be entitled to speak or vote or receive papers relating to any question arising in respect of a function to which [that Participating Council or]<sup>7</sup> Transport for London does not subscribe and shall not be counted as part of the quorum for the meeting or part thereof wherein such question is considered

## **7. LEAD AUTHORITY FUNCTIONS**

- 7.1 ALGTEC may by agreement with the Participating Council and/or the ALG appoint one or more of the Participating Councils and/or the ALG to act as its agent in discharging all or any of the functions which are set out in Schedule 3
- 7.2 In the event that any Participating Council or the ALG withdraws its consent to discharge a Lead Authority function it shall give (unless otherwise agreed) not less than six calendar months' written notice (to

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<sup>6</sup> inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

expire on 31st March) of its Intention to do so to

- 7.3 ALGTEC may terminate the appointment of a Participating Council or the ALG in respect of any Lead Authority function following a majority vote of the members of ALGTEC
- 7.4 Subject to Clause 7.5 below, any termination pursuant to Clause 7.3 may be made by ALGTEC giving (unless otherwise agreed) not less than six calendar months' notice in writing to the Participating Council or ALG of its Intention to terminate the appointment and may be given at any time.
- 7.5 Notwithstanding Clause 7.4, If the Participating Council or ALG is in material breach of any of its obligations in respect of a Lead Authority function (whether the obligations are contained in this Agreement or in any Service Level Agreement for the time being between ALGTEC and the Participating Council or ALG) any such termination pursuant to Clause 7.3 may be made at any time thereafter by ALGTEC giving not less than one calendar month's notice in writing to the Participating Council or ALG of its intention to terminate the appointment
- 7.6 Notwithstanding Clause 7.2 above if ALGTEC is in material breach of any of its obligations to the Participating Council or ALG (whether the obligations are contained in this Agreement or in any Service Level Agreement between ALGTEC and the Participating Council or ALG) the Participating Council or ALG may withdraw its consent to act in respect of a Lead Authority function by giving not less than three calendar months'

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<sup>7</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

notice in writing to ALGTEC of its Intention to withdraw its consent

7.7 ALGTEC shall reimburse each Participating Council and/or ALG appointed under this Clause 7 all costs and charges including VAT correctly levied in the provision of all services provided by that Participating Council and/or ALG hereunder (or arising/outstanding under the Previous Agreement) within 30 days of receipt of invoices submitted by it to ALGTEC

7.9 The consideration payable by ALGTEC to each Participating Council and/or ALG appointed or acting under this Clause 7 shall be subject to audit by ALGTEC and the Participating Council(s) and/or ALG shall upon request make available all accounts records and other documents reasonably required for such purpose

7.10 Upon the termination of any appointment of a Participating Council or ALG under this Clause 7 howsoever occasioned, the Participating Council or ALG shall be entitled to claim from ALGTEC any outstanding costs reasonably incurred in the performance of its duties in respect of a Lead Authority function

PROVIDED THAT if ALGTEC appoints ALG to discharge the functions set out in paragraph 2 and/or 3 of Schedule 3, references to ALG shall be construed as meaning all the Participating Councils acting by ALG

## **8. OBLIGATIONS OF ALGTEC**

8.1 ALGTEC shall carry out the functions contained in Schedule 2 and in so doing shall act in the collective interests of the Participating Councils and



(Insofar as relevant) Transport for London

- 8.2 ALGTEC shall comply with the Standing Orders set out in Schedule 6 of the ALG Agreement, the Financial Regulations contained in Schedule 7 of the ALG Agreement and the financial arrangements contained in Clauses 11 and 12
- 8.3 ALGTEC shall procure the appointment of a Finance Officer to be responsible for the proper administration of the financial affairs of ALGTEC
- 8.4 ALGTEC shall procure the appointment of an auditor approved by the Audit Commission to complete an audit of the annual accounts of ALGTEC at the end of each financial year. Copies of audited accounts shall be sent to each of the Participating Councils and the relevant extracts of the audited accounts shall be sent to Transport for London

**9. OBLIGATIONS OF PARTICIPATING COUNCILS AND TRANSPORT FOR LONDON**

- 9.1 Each Participating Council and Transport for London shall:
- 9.1.1 contribute to the costs and expenses of ALGTEC in accordance with the provisions of Clause 12 and Schedule 4
- 9.1.2 provide ALGTEC with such information as is required by ALGTEC to carry out the functions set out in Schedule 2 and to recover costs in accordance with Schedule 4
- 9.1.3 act jointly in relation to those functions of ALGTEC set out

in Schedule 2

9.1.4 share any information, including (In so far as they may in accordance with the Data Protection Act 1998) 'personal data', as defined under the Data Protection Act 1998, in order to comply with their obligations under this Agreement]<sup>8</sup>

## 10. ASSETS AND LIABILITIES

10.1 The assets and liabilities which vested in ALGTEC prior to the Commencement Date shall continue to so vest following the Commencement Date

## 11. FINANCIAL ARRANGEMENTS

11.1 In October of each year ALGTEC shall cause draft budgets for the following financial year to be sent in respect of the operation of each of the functions contained in Schedule 2 for comment by the Participating Councils and ALG and shall send a draft budget for the following financial year in respect of the operation of the functions contained in Parts 1 and 2 of Schedule 2 to Transport for London. The budget for each function shall be finalised and approved by ALGTEC in December of each year or such other date as shall be agreed by ALGTEC. The annual budget (including any contingency sum) in respect of any function shall not be exceeded without the prior approval of ALGTEC

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<sup>8</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

- 11.2 ALGTEC shall cause proper accounts to be kept and shall make all accounts records and other documents available for inspection by any Participating Council on request and shall make all accounts records and other documents relevant to the Schedule 2 Parts 1 and 2 functions available for inspection by Transport for London on request
- 11.3 Whenever any sum of money is recoverable from or payable by a Participating Council and/or Transport for London it may be deducted from any sum then due to that Participating Council and/or Transport for London and vice versa
- 11.4 ALGTEC shall cause a separate balance sheet to be maintained for all payments received from the Participating Councils and Transport for London in respect of each of the functions set out in Schedule 2 such payments to be held as nominee for the Participating Council or Transport for London as the case may be

## **12. COSTS AND EXPENSES**

- 12.1 The costs and expenses of ALGTEC shall be reimbursed by the Participating Councils and Transport for London in accordance with the provisions of Schedule 4. This shall be subject to review by ALGTEC. For the avoidance of doubt the consent of all Councils and Transport for London participating in each of the functions set out in Part 2 of Schedule 2 shall be required to change the basis on which costs are apportioned in respect of that function
- 12.2 In the event ALGTEC cannot reach agreement at a meeting of ALGTEC

on the proportions in which the costs and expenses of ALGTEC are to be defrayed by the Participating Councils and Transport for London the matter shall be referred to an arbitrator nominated by the Chartered Institute of Arbitrators and the decision of the arbitrator shall be binding on ALGTEC. The costs of any arbitration hereunder shall be met by the Participating Councils and Transport for London in equal shares.

12.3 ALGTEC shall cause to be notified each of the Participating Councils and Transport for London by not later than 31st January in each year of the amount due from that Participating Council and Transport for London under Clause 12.1 other than in relation to the Concessionary Fares Scheme (as described in Schedule 2 Part 3) such notification to include a breakdown of the sums payable in respect of each of the heads set out in Schedule 4 (other than the Concessionary Fares Scheme) and the date on which payment is due. In addition, in relation to the Concessionary Fares Scheme, ALGTEC shall cause to be notified to each of the Participating Councils by not later than 31 January in each year of the amount due from that Participating Council in relation to the share to be borne by it of the cost of the Current Concessions (as defined in Schedule 2 Part 3) in the ensuing fiscal year and as to the date(s) on which payment by that Participating Council is due to the Transport Operators (as defined in Schedule 2 Part 3) by direct payment by that Participating Council to Transport for London and to ALGTEC for payments to the Association of Train Operating Companies or its successors.

12.4 Interest shall accrue at the rate of 2 per cent above the base rate for the

time being of National Westminster Bank Plc on all amounts due to ALGTEC Transport for London or the Transport Operators (as defined in Clause 12.3) pursuant to Clause 12.3 from the due date of payment until the date of payment in full Inclusive

- 12.5 In the event of any disagreement as to the amount of costs and expenses to be borne by Transport for London and/or any Participating Council Transport for London and/or the Participating Council(s) in dispute shall not later than 14th February or a date agreed with the Finance Officer following the date of notification under Clause 12.3 notify the Finance Officer of the nature of the dispute and shall provide full supporting reasoning and documentation as appropriate to the Finance Officer. The Finance Officer and Transport for London and/or the Participating Council(s) shall thereafter use all reasonable endeavours to resolve the dispute. In the event that the dispute remains unresolved on 14th March or a date to be decided by the Finance Officer following the date of notification under Clause 12.3 the matter shall be referred by ALGTEC to an independent Chartered Accountant of not less than ten years' standing. Any such independent Chartered Accountant shall be deemed to act as an expert and not as an arbitrator and his determination shall in the absence of manifest error be binding on ALGTEC and Transport for London and/or the Participating Council(s). In the event that the dispute is resolved at first instance by the Finance Officer or by the Chartered Accountant in favour of Transport for London and/or the Participating Council(s) interest shall not be payable on any outstanding sums In the

event that the dispute is resolved in favour of ALGTEC by the Chartered Accountant interest shall accrue on all outstanding payments in accordance with Clause 12.4 Costs of arbitration hereunder shall be met by the unsuccessful party

### **13. TERMINATION AND BREACH**

- 13.1 The termination of this Agreement or any part thereof however caused and the serving of notice to terminate shall be without prejudice to any obligations or rights of any of the parties which have accrued prior to such termination and shall not affect any provision of this Agreement which is expressly or by implication provided to come into effect on or to continue in effect after such termination
- 13.2 Without prejudice to any other rights or remedies this Agreement or any part thereof shall terminate on the earlier of:-
- 13.2.1 unanimous agreement of all the Participating Councils and Transport for London in respect of the functions set out in Part 2 of Schedule 2
  - 13.2.2 unanimous agreement of all the Participating Councils in respect of the functions set out in Part 3 of Schedule 2
  - 13.2.3 where by reason of any change in law or other reason not attributable to the fault of the Participating Councils and/or Transport for London they shall be prohibited from giving effect to their obligations hereunder

13.3 This Agreement may be terminated in relation to any Participating Council by ALGTEC by written notice effective on receipt on the occurrence of any of the following events:-

13.3.1 that Participating Council materially breaches any of the provisions of this Agreement and in the case of a breach capable of remedy fails to remedy the same within 28 days of being notified of the breach by ALGTEC and being required to remedy the same; or

13.3.2 where by reason of any change in law or other reason not attributable to the fault of the Participating Council or Transport for London that Council or Transport for London shall be unable to give effect to its obligations hereunder

PROVIDED THAT termination under Clause 13.3.1 cannot take place in respect of the Schedule 2 Part 1 functions

13.4 This Agreement may be terminated by any Participating Council in respect of:

13.4.1 the London Taxicard Scheme as set out in Part 3 of Schedule 2 for which the period of notice shall be six months to expire on 31st March;

13.4.2 the Schedule 2 Part 2 functions (the London Lorry Ban) by the Participating Council giving one year's notice to expire

on 31<sup>st</sup>. March<sup>9</sup>

## **14. GENERAL**

### **14.1 Notices**

All notices which are required to be given hereunder shall be in writing. Any such notice may be delivered personally or by first class prepaid letter or facsimile transmission and shall be deemed to have been served if by personal delivery when delivered if by first class post 48 hours after posting and if by facsimile transmission on successful transmission. Any notice sent by facsimile transmission shall be confirmed by letter delivered personally or by first class pre-paid post by the close of business on the next following business day (in which case, the effective notice shall be deemed to be that sent by facsimile transmission)

### **14.2 Continuing Agreement**

All provisions of this Agreement shall so far as they are capable of being performed and observed continue in full force and effect notwithstanding termination except in respect of those matters then already performed

### **14.3 Good Faith**

Each of the parties undertakes with each of the others to do all things reasonably within its powers which are necessary or desirable to give effect to the spirit and intent of this Agreement

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<sup>9</sup> Barnet, Havering, Hillingdon and Redbridge have terminated under this clause 13.4.2



#### **14.4 Further Assurance**

Each of the parties shall (and shall insofar as it is able use its reasonable endeavours to procure that any necessary third party with whom such party has entered into any contractual or other arrangement for the purposes of this Agreement shall) do execute and perform all such further deeds documents assurances acts and things as any other party may reasonably require by notice in writing to the first party to carry the provisions of this Agreement into full force and effect

#### **14.5 Waiver**

No failure to exercise and no delay in exercising on the part of any of the parties any right power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right power or privilege preclude any other or further exercise thereof or the exercise of any other right power or privilege The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies otherwise provided by law

#### **14.6 Severability**

Notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable the remaining provisions of this Agreement shall continue in full force and effect

#### **[14.7 The Data Protection Act 1998 ('the DPA')**

14.7.1 The ALG is the data controller in respect of the processing

of all personal data, required for:

- i. the performance by ALGTEC of its obligations set out in this Agreement, and
- ii. the performance by the ALG of its obligations set out in Schedule 3 when acting as Lead Authority for ALGTEC

14.7.2 Each of the parties shall take all necessary steps to ensure that they comply with the provisions of the DPA when processing any personal data held by them as a result of the performance of their obligations under this Agreement

14.7.3 The meaning of 'data controller', 'processing' and 'personal data' in this Clause shall be as defined in the DPA<sup>10</sup>

## 15. ENTIRE AGREEMENT

15.1 This Agreement, the ALG Agreement and any service level agreements between ALGTEC and any Participating Council(s) discharging any Lead Authority functions constitute the entire agreement between the parties with respect to the matters dealt with herein and supersedes any previous agreement between the parties in relation to such matters. No variation of this Agreement other than variations which ALGTEC reasonably considers to be minor shall be valid or effective unless made by one or more instruments in writing signed by all the parties. For the purposes of this clause minor variations shall not involve any additional financial

contributions other than those specifically provided for herein and each Participating Council and Transport for London shall be given 28 days' notice of the variation which shall only come into effect if no objection is received from any Participating Council and/or Transport for London during the notice period

## **16. EXECUTION**

- 16.1 This Agreement is executed by each party signing the annexed Memorandum of Participation on behalf of that party and such Memorandum of Participation shall be evidence of execution by that party when Memoranda executed by all the parties are incorporated into this Agreement

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<sup>10</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

**SCHEDULE 1**

**PART 1**

**THE PARTICIPATING COUNCILS**

**Council**

The London Borough of Barking  
and Dagenham

The London Borough of Barnet

The London Borough of Bexley

The London Borough of Brent

The London Borough of Bromley

The London Borough of Camden

The London Borough of Croydon

The London Borough of Ealing

The London Borough of Enfield

The London Borough of Greenwich

The London Borough of Hackney

The London Borough of Hammersmith and Fulham

The London Borough of Haringey

The London Borough of Harrow

The London Borough of Havering

The London Borough of Hillingdon

The London Borough of Hounslow

The London Borough of Islington

The Royal Borough of Kensington & Chelsea

The Royal Borough of Kingston-upon-Thames

The London Borough of Lambeth

The London Borough of Lewisham

The London Borough of Merton

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**The London Borough of Newham**

**The London Borough of Redbridge**

**The London Borough of Richmond upon Thames**

**The London Borough of Southwark**

**The London Borough of Sutton**

**The London Borough of Tower Hamlets**

**The London Borough of Waltham Forest**

**The London Borough of Wandsworth**

**The City of Westminster**

**The Mayor and Commonalty and  
Citizens of the City of London**

**[PART 2**

**THE SCHEDULE 1 PART 2 PARTICIPATING COUNCILS**

The London Borough of Barking and Dagenham

The London Borough of Barnet

The London Borough of Brent

The London Borough of Camden

The London Borough of Croydon

The London Borough of Ealing

The London Borough of Enfield

The London Borough of Greenwich

The London Borough of Hackney

The London Borough of Hammersmith and Fulham

The London Borough of Haringey

The London Borough of Harrow

The London Borough of Hillingdon

The London Borough of Hounslow

The London Borough of Islington

The Royal Borough of Kensington and Chelsea

The London Borough of Lambeth

The London Borough of Lewisham

The London Borough of Merton

The London Borough of Newham

The London Borough of Richmond upon Thames

The London Borough of Southwark

The London Borough of Sutton



The London Borough of Tower Hamlets

The London Borough of Waltham Forest

The London Borough of Wandsworth

The City of Westminster

The Mayor and Commonalty and Citizens of the City of London]<sup>11</sup>

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<sup>11</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

## SCHEDULE 2

### **PART 1 FUNCTIONS: IN RESPECT OF ARRANGEMENTS PURSUANT TO SECTION 73 and 74 ROAD TRAFFIC ACT 1991 (as amended)<sup>12</sup>**

#### **1. STATUTORY**

- (a) Appoint parking adjudicators for the purposes of the Road Traffic Act 1991 subject to the Lord Chancellor's consent
- (b) Provide accommodation and administrative staff for the parking adjudicators
- (c) Determine the penalty charge levels and fees for de-clamping vehicle recovery storage and disposal subject to the approval of the Secretary of State
- (d) Determine the rate of discount for early payment of penalty charge notices
- (e) Determine the form for aggrieved motorists to make representations to Local Authorities under Section 71 of the Act
- (f) Determine the places at which parking adjudicators are to sit
- (g) Make and publish an annual report in writing to the Secretary of State on the discharge by the parking adjudicators of their functions

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<sup>12</sup> Although sections 73 & 74 of the Road Traffic Act 1991 have now been repealed, these arrangements continue in force until such time as they are varied or replaced by virtue of regulations 15(2) & 24(3) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

## **2. NON-STATUTORY**

Any functions (subject to Section 111 of the Local Government Act 1972) which ALGTEC agrees are appropriate for its implementation. Without prejudice to the generality of the foregoing such functions may include but not be limited to the following:-

- (a) The publication and updating as necessary of the Code of Practice for Parking in London
- (b) The co-ordination and maintenance of vehicle removal and clamping operations
- (c) The establishment and maintenance of a communications and control service to deal with vehicle removals
- (d) The establishment and maintenance of a communications and control service to deal with wheel clamping
- (e) The establishment of links with the Metropolitan and City Police the County Courts and the DVLA
- (f) The co-ordination of -
  - (i) payment facilities
  - (ii) pound facilities
- (g) The maintenance of records detailing persistent evaders and ringed vehicles
- (h) Ticket Processing
- (i) General data collection and service monitoring
- (j) The co-ordination of publicity and public relations activities
- (k) the establishment of common training standards in connection with parking standards the accreditation of training centres and award of qualifications
- (l) the establishment of London-wide parking schemes

Any changes to the agreed non-statutory functions shall be approved and evidenced in writing by ALGTEC

In the event of ALGTEC electing to provide any of the non-statutory functions detailed above any Participating Council and/or Transport for London may (without obligation to do so) avail itself of the services provided at the costs set out in Schedule 4

**PART 2 FUNCTIONS: IN RESPECT OF THE IMPLEMENTATION AND ENFORCEMENT OF THE GREATER LONDON (RESTRICTION OF GOODS VEHICLES) TRAFFIC ORDER 1985**

**("THE LONDON LORRY BAN")**

To provide for the implementation and enforcement of the Greater London (Restriction of Goods Vehicles) Traffic Order 1985 (the Principal Order) including, but not limited to, the monitoring of the effectiveness of the said implementation and enforcement, the examination of vehicles, the issue of permits including the consideration of appeals arising from the refusal or conditioning of permits, the erection of adequate signs, liaison with the police, the prosecution of offences arising under the Principal Order and any amendment thereto approved from time to time, the updating of technical information on new vehicle designs, the taking of all necessary steps to promote and make amending supplementary and other variation orders affecting the Principal Order and the determination and implementation of policy and the giving of advice.

**PART 3 : IN RESPECT OF TRAVEL CONCESSION ARRANGEMENTS UNDER SECTION 244 GREATER LONDON AUTHORITY ACT 1999**

**1. DEFINITIONS**

In this Part 3 of this Schedule 2:

- 1.1 "Concession" means the reduction or waiver of a fare or charge (either absolutely or subject to terms limitations or conditions) granted pursuant to Section 240 of the Greater London Authority Act 1999 or any successor legislation;
- 1.2 "Current Concessions" means the Concessions applicable to the London Concessionary Fares Scheme for each fiscal year as such Concessions are described in current Contracts in force with the Transport Operators (or their agents) or such other Concessions as may be unanimously agreed by the Participating Councils and the Transport Operators;
- 1.3 "Limited Concessions" means Current Concessions where a reduced fare is charged on certain limited stop or express bus services such reduced fare to be determined by ALGTEC.
- 1.4 "External Auditor" means the District Auditor or such firm of Chartered Accountants as the Audit Commission may from time to time determine;
- 1.5 "Functions" means powers and duties and includes the power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of those functions;

- 1.6 "Hours of Availability" means the times during the day and during the week in which the Transport Operators agree to apply the Concessions;
- 1.7 "the London Taxicard Scheme" means the scheme established to provide a taxi service for disabled Londoners who find it difficult or impossible to use bus, underground or railway services to travel around London or in the vicinity of London;
- 1.8 "the London Taxicard Scheme Participating Councils" means the Participating Councils who have notified to ALGTEC their agreement to participate in the London Taxicard Scheme for a period of not less than one fiscal year (1 April to 31 March) in any contract period for that Scheme.
- 1.9 "The Transport Operators" means all or any of London Regional Transport, Transport for London, a PPP company for the purposes of section 210 Greater London Authority Act 1999, Docklands Light Railway and any independent transport service operators or their successors, as defined in section 240(6) Greater London Authority Act 1999.

## **2. CONCESSIONARY FARES SCHEME**

2.1 ALGTEC shall carry out the following functions:-

- (a) all arrangements pursuant to Section 244 of the Greater London Authority Act 1999 (or any subsequent re-enactment

or amendment of that section); and

- (b) all administrative arrangements made with a view to, or consequent upon, the arrangements referred to in paragraph (a) of this Clause;

all as more particularly described below subject to such conditions and restrictions as may from time to time be agreed by the Participating Councils.

- 2.2 In particular ALGTEC shall have the power to negotiate contracts in the name of the Participating Councils not exceeding seven years in duration (the duration of such contracts current at the date of this Agreement not to be exceeded without the consent of all the Participating Councils) with the Transport Operators which shall be binding on all the Participating Councils and ALGTEC shall have the power to agree to reimburse to the Transport Operators the cost of Concessions granted pursuant to Section 240 of the Greater London Authority Act 1999 except the unanimous consent of the Participating Councils shall be required for any increase, decrease or variation in the Current Concessions (but not the Limited Concessions any increase, decrease or variation in which may be agreed by ALGTEC) and for any increase, decrease or variation in the Hours of Availability.
- 2.3 To manage on behalf of the Participating Councils the Concessionary Fares Scheme and in particular to make

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arrangements to reimburse to the Transport Operators the cost of the Current Concessions.

- 2.4 To make appropriate arrangements for the Issue of travel permits, photocards, blind persons cards etc to eligible persons for the purpose of the Concessionary Fares Scheme.
- 2.5 To carry out or have carried out or commission and oversee such research and survey work as shall from time to time be deemed necessary for the calculation of an appropriate reimbursement to the Transport Operators for providing concessionary travel on their services;
- 2.6 To approve survey work associated with assessment of the volume and notional value of bus travel made by holders of concessionary free travel permits;
- 2.7 To monitor and assess the performance of the consultants selected to carry out the work of the Greater London Bus Passenger Survey;
- 2.8 To approve survey work associated with the London Underground, Docklands Light Railway and any such other rail survey work as is deemed appropriate;
- 2.9 To approve survey work associated with establishing payment to bus operators or other independent bus operators.
- 2.10 To negotiate with Post Office Counters Limited or other bodies agency legal agreements and charges for the distribution of elderly



and/or disabled persons' travel permits.

2.11 Providing that nothing herein shall prevent any of the Participating Councils from setting their own eligibility criteria for the discretionary elements of the Concessionary Fares Scheme

**3. DELEGATION OF FUNCTIONS IN RELATION TO THE LONDON TAXICARD SCHEME**

3.1 The London Taxicard Scheme shall be subject to such general conditions and restrictions as may from time to time be unanimously agreed by the London Taxicard Scheme Participating Councils PROVIDED THAT nothing herein shall prevent any of the Participating Councils from setting their own eligibility criteria for the discretionary elements of the London Taxicard Scheme

3.2 ALGTEC shall have the duty to carry out tendering procedures and the power to enter into contracts (not exceeding four years in duration) in the name of the London Taxicard Scheme Participating Councils with taxi operators which shall be binding on all the London Taxicard Scheme Participating Councils whereby ALGTEC pays the taxi operators the sums due from each of those London Taxicard Scheme Participating Councils for taxi journeys made by persons who are approved members of the Scheme and resident in the area of the Council concerned provided such journeys are made in accordance with the particular restrictions respectively imposed by each such Council.

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- 3.3 To provide policy and development advice concerning the London Taxicard Scheme to London Taxicard Scheme Participating Councils and any other relevant organisations.
- 3.4 To manage the day to day operation and budget of the London Taxicard Scheme to ensure that agreed strategic aims, objectives and targets of the Scheme are fully implemented in accordance with ALGTEC's Annual Business Plan and so as to comply with eligibility, membership, budgetary provision and trip allocation requirements specified by London Taxicard Scheme Participating Councils.
- 3.5 To make appropriate arrangements for the issue of taxicards, photocards etc. to eligible persons for the purpose of the London Taxicard Scheme.
- 3.6 To prepare an Annual Business Plan for the London Taxicard Scheme for incorporation within the overall ALGTEC Annual Business Plan for submission to ALGTEC and taking account of economic, demographic, technical and other relevant considerations.
- 3.7 To prepare, monitor and review the Annual Budget for the London Taxicard Scheme and authorise expenditure from the Budget in accordance with financial regulations and procedures in force.

#### **4. ACCESSIBLE TRANSPORT**

- 4.1 ALGTEC may consider issues relating to accessible transport in London and inform, advise and consult with the Participating Councils so as to assist them in formulating policies and in carrying out their powers and duties in the field of accessible transport for people with disabilities.
- 4.2 ALGTEC may consider issues relating to the accessibility of transport whenever any new service of public transport, e.g. trams or service on the Thames, is being developed.
- 4.3 To prepare policy reports for, and give advice on matters concerning transport for mobility handicapped people
- 4.4 To originate, plan and execute research and development initiatives in the field of transport for people with disabilities, and report as appropriate.

**[PART 3(A): IN RESPECT OF ROADSIDE VEHICLE EMISSIONS TESTING  
AND ISSUING OF FIXED PENALTY NOTICES PURSUANT TO THE ROAD  
TRAFFIC (VEHICLE EMISSIONS) (FIXED PENALTY) (ENGLAND)  
REGULATIONS 2002**

1. Pursuant to Regulation 6(1) and in accordance with Regulation 6(2) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 ("the Regulations") authorise any officer or person -
  - 1.1 to carry out tests on vehicles which are in, or which are about to pass through, or which have passed through an area designated as an air quality management area; and
  - 1.2 to issue fixed penalty notices in respect of emission offences; and
  - 1.3 to carry out any other functions required or permitted by Part 5 of the Regulations.
- 2 The reduction or waiver of fixed penalties in accordance with Regulation 19 of the Regulations.
- 3 The withdrawal of a fixed penalty notice in accordance with Regulation 20 of the Regulations.
- 4 The recovery of unpaid fixed penalties in accordance with Part 8 of the Regulations.
- 5 The prosecution of offences arising under Regulation 9(7), Regulation 11(2) and Regulation 18(2) of the Regulations.
- 6 The service of a fresh fixed penalty notice in accordance with Regulation 23(4)(e) of the Regulations.

- 7 The carrying out of any other function required or permitted by the Regulations.]<sup>13</sup>

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<sup>13</sup> Inserted by Variation (also known as the Second ALGTEC Agreement) dated 1 May 2003

**[PART 3(B) FUNCTIONS: IN RESPECT OF FUNCTIONS UNDER THE  
LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON ACT  
2003 AND THE LONDON LOCAL AUTHORITIES ACT 2004**

1. To set the levels of fixed penalties for any fixed penalty offences under the London Local Authorities and Transport for London Act 2003 and the London Local Authorities Act 2004.
  
2. To undertake any other functions that are required or permitted to be undertaken by a joint committee of London local authorities under the London Local Authorities and Transport for London Act 2003 and the London Local Authorities Act 2004.]<sup>14</sup>

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<sup>14</sup> Inserted by Further Variation (also known as the Third ALGTEC Agreement) dated 30 November 2006

**[PART 3(C) FUNCTIONS: IN RESPECT OF THE EXERCISE OF  
FUNCTIONS UNDER THE LONDON LOCAL AUTHORITIES ACT 2007**

1. To publish a code of practice in accordance with section 11 of the London Local Authorities Act 2007 (unauthorised advertising: measures to be taken).
2. To publish a code of practice in accordance with section 25 of the London Local Authorities Act 2007 (powers to require removal of waste unlawfully deposited) after consultation with each of the Participating Councils.
3. In accordance with section 28 of the London Local Authorities Act 2007 (disposal of removed vehicles), to prescribe the sum to be paid as a bond under subsection 4(5) of the Refuse Disposal (Amenity) Act 1978.
4. To set the levels of penalty charges in accordance with sections 66 of the London Local Authorities Act 2007.
5. To undertake any other functions that are required or permitted to be undertaken by a joint committee of London local authorities under the London Local Authorities Act 2007.]<sup>15</sup>

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<sup>15</sup> Inserted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009

**[PART 3(D) FUNCTIONS: IN RESPECT OF THE EXERCISE OF ANY OF  
THE PARTICIPATING COUNCILS' STATUTORY FUNCTIONS  
CONFERRED UNDER EXISTING OR FUTURE LONDON ACTS AS THEY  
RELATE TO TRANSPORT, ENVIRONMENT AND PLANNING MATTERS**

1. To undertake any other functions conferred on the Participating Councils and Transport for London under any other legislation insofar as such legislation relates to transport, environment and planning matters, subject to consultation with the Participating Councils and the written agreement of each Participating Council and, insofar as is relevant, Transport for London, such functions to be listed at paragraph 2 below.
  
2. Pursuant to paragraph 1 above, the further functions which the Participating Councils, and where relevant Transport for London, have agreed shall be exercised by the Committee under Part 3(D) of this Agreement are:  
  
...
  
3. At such time as amendments are made under this Part 3(D), the Committee shall provide each Participating Council and Transport for London with an updated copy of this Part 3(D) reflecting the amendments to paragraph 2.]<sup>16</sup>

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<sup>16</sup> Inserted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009



#### **PART 4 FUNCTIONS: GENERAL**

1. To do anything which is calculated to facilitate or is conducive or incidental to any of the functions set out in [Parts 1-3D]<sup>17</sup> of this Schedule ("the Functions")
2. To procure the employment of such staff on such terms and conditions of employment as ALGTEC considers appropriate to discharge the Functions
3. To enter into contracts for goods works and services in relation to any aspect of the Functions or such other functions as ALGTEC can lawfully discharge and to enter into service level agreements with any of the Participating Councils in relation thereto. For the avoidance of doubt the Participating Councils have hereby delegated to ALGTEC the function of negotiating and entering into a contract with Transport for London for the purposes of the recovery of costs pursuant to section 275(3) Greater London Authority Act 1999 to ALGTEC (the installation operation and maintenance of traffic signal and associated traffic control equipment on borough roads and associated advice)
- [4. To undertake any policy actions on behalf of the Participating Councils in relation to any aspect of the Functions or other such functions as ALGTEC can lawfully discharge, including functions conferred on the Participating Councils under any legislation insofar as such legislation relates to transport, environment and planning matters, such policy actions to be subject to consultation with the Participating Councils

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<sup>17</sup> Substituted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009

5. To publish any statutory codes of practice in relation to any aspect of the Functions or other such functions as ALGTEC can lawfully discharge, including functions conferred on the Participating Councils under legislation insofar as such legislation relates to transport, environment and planning matters
6. In this Part of this Schedule:
- (a) "policy action" shall mean any of the following actions on behalf of the Participating Councils:
- (i) the lobbying of Government bodies in relation to proposed legislation and Government policy,
  - (ii) responding to Government consultations,
  - (iii) liaising with other persons and bodies and representing the views of the Participating Councils in relation to the development of policies,
  - (iv) drafting policies, guidance, model documents and codes of practice for adoption or use by the Participating Councils PROVIDED THAT no policy or code of practice so drafted shall be deemed to have been adopted by a Participating Council unless approval to it has been given by that Council or it is a statutory code of practice which falls within paragraph 6(b) below
- (b) "statutory code of practice" shall mean a code of practice published (after consultation with each of the Participating Councils) in response to a stipulation in an Act of Parliament or

In subordinate legislation or in response to an undertaking given to Parliament that certain powers contained in that Act of Parliament or subordinate legislation may not be or will not be (as the case may be) exercised until a joint committee of the London local authorities has published a code of practice in relation thereto]<sup>18</sup>

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<sup>18</sup> Inserted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009

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**SCHEDULE 3**  
**LEAD AUTHORITY FUNCTIONS**

1. To procure or provide such professional advice including but not limited to financial, legal, surveying and personnel as ALGTEC shall require for the due and proper execution of its duties
2. To employ staff to undertake any ALGTEC function and/or to provide payroll facilities and access to pension arrangements for staff employed by ALGTEC
3. To negotiate and execute contracts in respect of goods, works, services and property transactions on behalf of ALGTEC on request
4. To institute and defend in its own name any court proceedings on behalf of ALGTEC on request
5. Such further functions as may be agreed by ALGTEC

## **SCHEDULE 4**

### **COSTS AND EXPENSES**

#### **PART 1: IN RESPECT OF FUNCTIONS PURSUANT TO SECTION 73(1) ROAD TRAFFIC ACT 1991 (APPOINTMENT OF PARKING ADJUDICATORS)(AS AMENDED)**

1. The following costs shall be apportioned equally amongst the Participating Councils and Transport for London :-
  - 1.1 Appoint parking adjudicators for the purposes of the Road Traffic Act 1991 subject to the Lord Chancellor's consent
  - 1.2 Determine the penalty charge levels and fees for de-clamping vehicle recovery storage and disposal subject to the approval of the Secretary of State
  - 1.3 Determine the rate of discount for early payment of penalty charge notices
  - 1.4 Determine the form for aggrieved motorists to make representations to Local Authorities under Section 71 of the Act
  - 1.5 The publication and updating as necessary of the Code of Practice for Parking in London
  - 1.6 General data collection and service monitoring
  - 1.7 The co-ordination of publicity and public relations activities
  - 1.8 The establishment of common training standards in connection with parking standards the accreditation of training centres and award of

qualifications

- 1.9 The establishment of London-wide parking schemes
- 2, The following costs shall be apportioned according to the number of PCNs Issued:
  - 2.1 Provision of accommodation and administrative staff for the parking adjudicators
  - 2.2 The establishment of links with the Metropolitan and City Police the County Courts and the DVLA
  - 2.3 The co-ordination of -
    - 2.3.1 payment facilities
    - 2.3.2 pound facilities
  - 2.4 The maintenance of records detailing persistent evaders and offenders
3. The following costs shall be apportioned according to actual use:
  - 3.1 The marginal costs of the functions set out in Clause 2 above together with those set out below
  - 3.2 The co-ordination and maintenance of vehicle removal and clamping operations
  - 3.3 The establishment and maintenance of a communications and control service to deal with vehicle removals

3.4 The establishment and maintenance of a communications and control service to deal with wheel clamping

3.5 Ticket Processing

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**PART 2: IN RESPECT OF THE LONDON LORRY BAN**

1. The amounts of the contributions of each Participating Council shall be determined so that the expenditure (including an apportionment of staffing, premises and general administration costs) in respect of which they are payable is borne by the Participating Council in proportion to the populations of their respective areas
2. For the purposes of paragraph 1 above the population of any area shall be taken to be the total resident population of the area of each Participating Council on 30th June in the financial year beginning two years before the beginning of the financial year in respect of which the expenditure is payable as estimated by the Registrar General in accordance with the Levying Bodies (General) Regulations 1992 (or any future method of calculation introduced by any amendment or re-enactment thereof)
3. Transport for London shall be treated as if had a resident population equal to the average resident population of the Participating Councils as determined in accordance with paragraph 2 above for the purposes of calculating its contribution to the costs of the London Lorry Ban



**PART 3: IN RESPECT OF FUNCTIONS PURSUANT TO SECTION 240  
GREATER LONDON AUTHORITY ACT 1999 (TRAVEL CONCESSIONS)**

- [1. The cost of reimbursement to The Transport Operators in respect of the concessionary fares scheme, together with the cost of survey and other work needed to assess the reimbursement due to The Transport Operators, are:
- (a) in respect of permits issued to eligible London residents, allocated to Participating Councils in proportion to the number of persons resident in those boroughs holding valid permits to travel on 30<sup>th</sup> September in those years in which permits are reissued, or on such other dates as ALGTEC may determine following consultation with the Participating Councils, subject to any decision taken by ALGTEC in accordance with section 244 of the Greater London Authority Act 1999 and Clause 12.1 of the Agreement to vary these arrangements; and
  - (b) in respect of permits issued to eligible persons under section 145A(4) of the Transport Act 2000, allocated to Participating Councils in such proportions as may be agreed by ALGTEC in accordance with section 244 of the Greater London Authority Act 1999 and Clause 12.1 of the Agreement.]<sup>19</sup>

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<sup>19</sup> Substituted by Second Further Variation (also known as the Fourth ALGTEC Agreement) dated 8 June 2009. This paragraph now needs to be read in conjunction with the consent award dated 8 October 2008, which changes the basis of apportionment.

2. All costs arising out of the exercise of the delegated functions in relation to the London taxicard scheme (including an apportionment of staffing, premises and general administration costs) are allocated to Participating Councils in proportion to their share of the total membership of the London taxicard scheme as at 30th September in the preceding year.

**PART 4: GENERAL**

1. The annual costs of ALGTEC in respect of premises staffing IT audit general administration and all associated and ancillary costs including the costs and expenses of the Lead Authority(ies) together with any future costs not provided for herein and shall be reimbursed by the Participating Councils as reasonably determined by ALGTEC following consultation with the Participating Councils



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# London Councils' TEC Executive Sub Committee

## TEC Agreement – POPLA Amendment

Item No: 04

**Report by:** Nick Lester      **Job title:** Corporate Director, Services  
**Date:** 11 September 2014  
**Contact Officer:** Nick Lester  
**Telephone:** 0207 934 9905      **Email:** [nick.lester@londoncouncils.gov.uk](mailto:nick.lester@londoncouncils.gov.uk)

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### Summary:

This report seeks the agreement of the TEC Executive to recommend to all councils that they each formally resolve to expressly delegate the exercise of section 1 of the Localism Act 2011 to the TEC joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract, confirming for the avoidance of doubt that the existing arrangements are and have been delivered on that basis to-date, and that the TEC Governing Agreement be formally varied accordingly. The service has been provided on a cost recovery basis by London Councils since October 2012 and it is proposed that it should continue in this way until the end of the contract period in October 2015. An express delegation of the exercise of section 1 for this purpose by individual councils, and the variation of the TEC Governing Agreement to reflect this, would remove any legal doubt as to TEC's authority to deliver the service and allow London Councils' auditors, PWC, to conclude an outstanding issue in relation to an objection to the accounts.

### Recommendations: Members are recommended to:

- Recommend to all 33 London local authorities that they: formally confirm that the functions delegated to TEC to enter into the arrangement with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011; resolve to expressly delegate the exercise of section 1 of the 2011 Act to the TEC joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract; and that the TEC Governing Agreement be varied to this end.

## **Background**

On 15<sup>th</sup> March 2012 TEC agreed that London Councils should provide an appeals service for parking on private land for the British Parking Association under contract. This was on the basis that this would complement the service provided by PATAS which deals with appeals made against parking enforcement on the highway. It was considered at the time that providing the service on a cost-recovery basis would be in the public interest as: restrictions on parking within London on private land would have a direct impact upon London local authorities, their resources and residents; a significant proportion of the public affected and inclined to avail themselves of the POPLA service were likely to come from the Greater London area; and, having regard to those matters, as TEC was the only interested, qualified bidder. On 14<sup>th</sup> June 2012, TEC received a report to say that the basis for providing such a service had been accepted by the BPA and agreed that a contract should be entered into to provide the service.

The service, known as POPLA (Parking on Private Land Appeals) started on the 1<sup>st</sup> October 2012 and has since provided the appeals service to more than 25,000 motorists. The service operates on a full cost recovery basis and at no cost to the London Council Tax payer.

An objection was raised on the London Councils consolidated accounts by an interested person (residing within London) that TEC did not have the legal power to provide the service. London Councils' auditors, PWC, have, for some time, been investigating this and numerous other objections submitted by the same individual.

PWC has informed London Councils of legal advice it has had from the Audit Commission on the Commission's view on the power of London Councils to provide the POPLA service. In essence, the Audit Commission advice accepts that the London local authorities have the power under Section 1 of the Localism Act 2011 to provide the service and that the exercise of these functions could be delegated to TEC. London Councils agrees with this conclusion.

The Audit Commission advice, however, questions whether the exercise of those functions has been properly delegated to TEC. The issue turns on whether the Committee could be said: to have existing delegated authority under the terms of the TEC Governing Agreement; alternatively whether it made or confirmed such a delegation by virtue of the decisions it made to provide the service in 2012; or whether each individual authority should have expressly resolved to delegate the exercise of section 1 of the 2011 Act to the joint committee for the purposes of TEC's delivery of the POPLA service with the TEC Agreement being formally varied accordingly.

PWC has asked for London Councils' view on this advice in advance of making a formal determination about the objection. London Councils and its legal advisors remain of the view that the service is currently being delivered by TEC on a lawful basis on behalf of all the participating authorities with their consent and proper authority under the existing terms of the TEC Governing Agreement, and confirmed by the Committee resolving to provide the service in 2012 with these matters having been raised with local authorities prior to those decisions being taken in the normal way in respect of TEC business. However, it is accepted, that there is room for argument as to whether individual councils had to state expressly that they agreed that the arrangement with the BPA was pursuant to exercise by TEC of their powers under section 1 of the 2011.

## **Next Steps**

Taking active and expedient steps to expressly clarify the authority of TEC to deliver the POPLA service is intended to satisfy London Councils' auditors and inform their determination in respect of the objection raised by the interested member of the public on the consolidated accounts for the 2012/13 year. Further, this would help PWC to sign off the TEC and the consolidated accounts for 2013/14 by the statutory deadline.

Accordingly, for the avoidance of doubt and to facilitate a conclusion to the issue with the Auditor PWC and the objector, it is recommended that all authorities be asked to:

- (a) formally confirm that the exercise of functions delegated to TEC to enter into the arrangement with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011;
- (b) formally resolve to expressly delegate the exercise of section 1 of the 2011 Act to the TEC joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract; and
- (c) take all relevant steps to give effect to the matters set out in (a) and (b) above through a formal variation to the TEC Governing Agreement

#### **Legal Implications for London Councils**

The legal implications are set out in the body of the Report.

#### **Financial implications for London Councils**

There are no financial implications for London Councils from this recommendation

#### **Equalities Implications for London Councils**

There are no equalities implications for the boroughs or London Councils arising from this report.

