



# **The North Essex Parking Partnership**

## **Joint Committee Agreement 2022**

A combined parking service for North Essex

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**THIS AGREEMENT is made on the                      day of                      2022**

**Between:**

- (1) **Essex County Council**, of PO Box 11 County Hall, Chelmsford, Essex (“the Council”); and
- (2) **Colchester Borough Council** of Rowan House, 33 Sheepen Road Colchester CO3 3WG (“the Lead Authority”); and
- (3) **Braintree District Council** of Causeway House, Bocking End, Braintree, CM7 9HB; and
- (4) **Epping Forest District Council** of Civic Offices, High Street, Epping CM16 4BZ; and
- (5) **Harlow District Council** of Civic Offices, The Water Gardens, Harlow, CM20 1WG; and
- (6) **Tendring District Council** of Town Hall, Station Road, Clacton on Sea CO15 1SE; and
- (7) **Uttlesford District Council** of Council Offices, London Road, Saffron Walden, CB11 4ER.

## **BACKGROUND**

- (A) The Council has power and responsibilities under the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 and otherwise for the enforcement of on street civil parking enforcement.
- (B) The Council seeks to delegate the control of local parking policies and the management of the associated functions to be delivered in accordance with the terms of this Agreement.
- (C) The efficient and effective delivery of policy objectives will be achieved through the creation of an integrated service that joins together enforcement, signs and lines maintenance and traffic regulation order activity.
- (D) The overarching objective is to establish a sustainable parking enforcement service that meets countywide and local policy objectives.

## **1. Definitions and Interpretation**

1.1 In this Agreement:

- |                               |  |
|-------------------------------|--|
| <b>“the Act”</b>              | means the Local Government Act 1972;   |
| <b>“Annual Business Plan”</b> | means the document prepared in accordance with paragraph 23.15 which details the Joint Committee’s strategy, objectives, and financial performance and forecast information; |

<b>“Annual Report”</b>	means the report(s) which sets out the Joint Committee’ activities, finance and performance for the preceding year;
<b>“Commencement Date”</b>	means the date set out in paragraph 3.1;
<b>“the Committee Members”</b>	means those members appointed to the Joint Committee in accordance with paragraph 5.2;
<b>“the Council”</b>	means Essex County Council;
<b>“Deficit Reserve Fund”</b>	means a sum of up to £400,000 which is maintained in the Joint Parking Account by the Lead Authority as set out in Appendix F;
<b>“Executive”, “Executive Member” and “Executive Leader”</b>	have the same meaning as in the Local Government Act 2000;
<b>“Income”</b>	means the sum paid into the Joint Parking Account by the Lead Authority from the enforcement of PCNs plus any fees received for Parking Permits and any other sum received for any enforcement-related activity in relation to the functions set out in clause 2.2 and clause 10;
<b>“Joint Committee”</b>	means the governance body established under the agreement to oversee the North Essex Parking Partnership;
<b>“Joint Parking Account”</b>	means the account(s) provided for the Joint Committee for the on street fund as set out in paragraph 25.1, which may be through a single account or by partitioned accounts for each Partner Authority;
<b>“Joint Parking Service”</b>	means the integrated service joining together enforcement, signs and lines maintenance and traffic regulation order activity;
<b>“Lead Authority”</b>	means Colchester Borough Council for North Essex Parking Partnership;
<b>“New Provider”</b>	means the person or entity operating the Partner Authorities’ parking from the date upon which this Agreement terminates;

<b>“North Essex”</b>	means the administrative areas of the districts of Braintree, Epping Forest, Harlow, Tendring and Uttlesford and the borough of Colchester;
<b>“North Essex Parking Partnership or NEPP”</b>	means the Joint Committee set up for the purposes of civil parking enforcement in the administrative areas of the districts of Braintree, Epping Forest, Harlow, Tendring and Uttlesford, and the borough of Colchester as may be varied from time to time;
<b>“Operational Period”</b>	means the period set out in paragraph 3.1;
<b>“Part 1”</b>	as set out in Appendix F;
<b>“Part 2”</b>	as set out in Appendix F;
<b>“Part 3”</b>	as set out in Appendix F;
<b>“PCNs”</b>	means Penalty Charge Notices;
<b>“Parking Policy Framework”</b>	means the parking policy published by NEPP;
<b>“the Partner Authorities”</b>	means; <ul style="list-style-type: none"> <li>(a) Essex County Council;</li> <li>(b) Colchester Borough Council;</li> <li>(c) Braintree District Council;</li> <li>(d) Epping Forest District Council;</li> <li>(e) Harlow District Council;</li> <li>(f) Tendring District Council; and</li> <li>(g) Uttlesford District Council;</li> </ul>
<b>“South Essex Parking Partnership”</b>	means the Joint Committee set up for the purposes of civil parking enforcement in the administrative areas of the districts of Maldon and Rochford, the city of Chelmsford and the boroughs of Brentwood, Castlepoint and Basildon as may be varied from time to time;
<b>“Surplus”</b>	means the sum remaining from the Income derived from business-as-usual functions set out in Appendix F after deduction of: operating costs (including staff costs) required for the provision of on street civil

	parking enforcement and charging, relevant signs and lines maintenance;
<b>“Transfer Deficit Reserve”</b>	means a sum of £300,000 brought forward from the previous operating arrangements;
<b>“Treasurer”</b>	means the Treasurer of the Lead Authority;
<b>“TRO”</b>	means Traffic Regulation Order.

1.2 In this Agreement, except where the context otherwise requires:

1.2.1 the masculine includes the feminine and vice-versa;

1.2.2 the singular includes the plural and vice-versa;

1.2.3 a reference in this Agreement to any Clause, Sub-Clause, Paragraph, Schedule, Appendix or Annex is, except where it is expressly stated to the contrary, a reference to such Clause, Sub-Clause, Paragraph, Schedule, Appendix or Annex of this Agreement;

1.2.4 save where stated to the contrary, any reference to this Agreement or to any other document shall include any permitted variation, amendment, or supplement to such document;

1.2.5 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

1.2.6 headings are for convenience of reference only.

## **2. The Joint Committee**

2.1 The Partner Authorities have agreed to form a Joint Committee to manage the North Essex Parking Partnership in accordance with the provisions contained in sections 101 and 102 of the Act, section 20 of the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and The Local Authorities (Alternative Arrangements) (England) Regulations 2001 (as amended) and any other enabling legislation.

2.2 The Council shall delegate to the Joint Committee the responsibility for on street civil parking enforcement and charging, relevant signs and lines maintenance and the power to make relevant traffic regulation orders in accordance with the provisions contained within the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 to enable the Joint Committee to carry out the functions set out in paragraph 10.

2.3 The Joint Committee shall operate under the name “The North Essex Parking Partnership” (or such other name as may from time to time be decided on by the Joint Committee).

### **3. The Term**

- 3.1 The Joint Committee shall be operational for a period of five years (“the Operational Period”) commencing on 1 April 2022 (“the Commencement Date”) unless, with the written consent of all the Partner Authorities, the Operational Period is extended for an additional 12 months on three consecutive occasions, to a maximum term of eight years.
- 3.2 The decision whether to extend the Operational Period shall be taken by the Council not less than fifteen months before the end of the Operational Period.
- 3.3 The Joint Committee’s consent must be obtained in writing to the proposed extension and shall be delivered to the Council not less than twelve months before the end of the Operational Period.

### **4. Service Level**

- 4.1 The vision and aim of the Joint Committee will be to provide a parking service that results in a merging of services to provide a single, flexible enterprise providing full parking services for the Partner Authorities. It will be run from a central office, with outstations providing bases for local operations. There will be a common operating model, adopting best practices and innovation, yet also allowing variation in local policies and decision-making. Progress will be proportional to the level of investment in the Annual Business Plan.

### **5. Membership of the Joint Committee**

- 5.1 The Joint Committee shall consist of seven members of the Partner Authorities, appointed by those authorities in accordance with paragraph 5.2.
- 5.2 Subject to paragraphs 5.3 and 5.4, each of the Partner Authorities shall appoint one of its Members to be a member of the Joint Committee (“Committee Members”).
- 5.3 The Council, the Lead Authority, Braintree District Council, Epping Forest District Council, Harlow District Council, Tendring District Council and Uttlesford District Council shall each appoint no more than one Executive Member.
- 5.4 A person who is disqualified under Part 5 of the Act from being a Member of a relevant authority shall be disqualified from membership of the Joint Committee.
- 5.5 Each Partner Authority may change its appointed Committee Member at any time provided that written notice of any such change is given to the Clerk to the Joint Committee, taking effect upon receipt. Such written notice may be given by electronic mail.
- 5.6 Each Partner Authority may send up to two appropriate officers to meetings of the Joint Committee (or any Sub-Committee) to support their Committee Member and Parking Partnership Group Manager in attendance at that meeting.

- 5.7 For the avoidance of doubt decisions relating to the functions set out in paragraph 10 concerning those borough and districts within North Essex shall be taken by the Joint Committee only.
- 5.8 Each Partner Authority will identify a key contact who will be the first point of contact for communications regarding this Agreement and functions relating to the Joint Committee and shall be identified in Appendix C, this Appendix will be kept updated as changes occur.
- 5.9 Any administrative area within North Essex, not forming part of the Joint Committee from 1 April 2022, may be joined as a member at a later date provided;
- 5.9.1 all governance processes have been adhered to for the relevant authority;
- 5.9.2 the Joint Committee agrees to their membership;
- 5.9.3 the authority's membership is on the basis of this Agreement, and shall not be varied, save for acknowledgement of the new membership, whose signatories shall form a new appendix and shall be signed by the Joint Committee; and
- 5.9.4 provided they are permitted by law/regulation to join a joint committee.
- 5.10 A Member of any borough or district may be able to attend any meeting of the Joint Committee, or sub committee, provided consent to do so has been given by the Chairman of the Joint Committee and may take part in any discussions, but may not vote.

## **6. Tenure of office and casual vacancies**

- 6.1 A member of the Joint Committee will hold office until one of the following occurs;
- 6.1.1 they resign in writing and deliver such resignation to the Chairman of the Joint Committee, who shall forthwith notify such resignation to the Chief Executive of the relevant Partner Authority or to his nominating body;
- 6.1.2 they are removed or replaced by the Partner Authority that appointed them;
- 6.1.3 they are disqualified from membership of the Joint Committee as they have failed to attend any meeting of the Joint Committee, or any meeting of a sub committee, for a continuing six month period, unless approved by the relevant Partner Authority, and communicated to the Clerk;
- 6.1.4 they cease to be eligible for appointment to the Joint Committee in the capacity in which they were appointed; or
- 6.1.5 the Partner Authority withdraws from the Joint Committee in accordance with the provisions set out in paragraph 38.

6.2. Such vacancies occurring under paragraph 6.1.1 – 6.1.4, shall be filled as soon as possible by the relevant Partner Authority which appointed the member to the Joint Committee whose membership has ceased.

## **7. Voting**

7.1 Each Partner Authority shall have one vote at meetings of the Joint Committee or any sub-committee. Each Partner Authority member, if present, or the substitute member at the meeting will cast the Partner Authority's vote.

7.2 Any question coming before the Joint Committee shall be decided by a simple majority of those present and voting.

7.3 All voting shall be by a show of hands, unless recorded votes have been requested by any Committee Member, and any member shall have the right to have the way he voted (or abstained) recorded in the minutes.

7.4 In the case of an equality of votes the Chairman or in his absence the Vice Chairman, or the person presiding over the meeting in their absence, shall have the casting vote.

## **8. Substitute Members**

8.1 A Partner Authority may appoint another Executive Member or Member of the Policy Committee (subject to paragraph 5.3 and 5.4) of the same Partner Authority to be a substitute member and attend a meeting of the Joint Committee in the absence of the Member appointed under paragraph 5.2.

8.2 In such circumstances that member shall give the Clerk written notice not later than the day before the start of the meeting on the day advising that they are unable to attend and that the substitute member named in the notice will attend in their place.

## **9. Chairman and Vice Chairman of the Joint Committee**

9.1 The Joint Committee shall at its annual meeting appoint a Chairman who shall be a member of the Joint Committee, who shall unless paragraph 6 applies, remain in office until his successor is appointed.

9.2 The Joint Committee shall at its annual meeting appoint a Vice Chairman, who shall, unless paragraph 6 applies, remain in office until his successor is appointed.

## **10. Functions to be exercised by the Joint Committee**

10.1 The Joint Committee shall exercise the functions set out in Appendix A.

10.2 Any sub committee established by any of the individual Partner Authorities may not exercise any function set out Appendix A.

10.3 The Joint Committee may perform such other functions as the Partner Authorities may from time to time delegate to the Joint Committee with the written agreement of the Joint Committee.

- 10.4 The Joint Committee is authorised to delegate any of its functions (including for the avoidance of doubt the enforcement and/or cancellations of PCN's) to the Parking Partnership Group Manager or nominated deputy of the Lead Authority.
- 10.5 This Agreement is without prejudice to each Partner Authority's other powers and responsibilities for their respective areas and each Partner Authority agrees that it will not exercise its functions in relation to the function of the Joint Committee except;
  - 10.5.1 via the Joint Committee;
  - 10.5.2 via powers delegated to an officer by the Joint Committee; or
  - 10.5.3 after consulting the other Partner Authorities.

## **11. The Lead Authority**

- 11.1 The Lead Authority via its Parking Partnership Group Manager and staff shall deliver all aspects of on street civil parking enforcement (the "Joint Parking Service"). Specifically it will;
  - 11.1.1 ensure that any significant change to the machines, signage, surface or lines in any of the Partner Authority areas are subject to prior agreement of the Joint Committee;
  - 11.1.2 ensure each Partner Authority area shall receive a share of the available management, enforcement and operational resources in line with identified needs and priorities within the approved Annual Business Plan;
  - 11.1.3 discharge the Joint Committee's responsibilities in relation to health and safety and welfare legislation;
  - 11.1.4 investigate complaints about the operational functions of the Joint Committee; and
  - 11.1.5 handle and respond to Freedom of Information Act and Environmental Information Regulations requests concerning the overall functions or decisions of the Joint Committee.
  - 11.1.6 with the approval of the Joint Committee, enter into and sign contracts and agreements on behalf of the Joint Committee to deliver the functions set out in Appendix A.
  - 11.1.7 operate in accordance with the Privacy arrangements set out in Annex A.

## **12. The Partner Authorities**

- 12.1 The Partner Authorities agree;
  - 12.1.1 any intellectual property created by or on behalf of the Joint Committee shall belong to the Council. The Council grants to the Lead Authority a royalty-free, non-

exclusive licence in any such intellectual property for the sole purpose of managing the operation of on street parking for the North Essex Parking Partnership during the term of the agreement.

- 12.1.2 each will handle and respond to Freedom of Information Act and Environmental Information Regulations requests for information relating to on street parking services for their respective Authorities;
  - 12.1.3 upon receipt of a request under the Freedom of Information Act and Environmental Information Regulations which relate to the functions of the Joint Committee, shall notify and cooperate with the Lead Authority as soon as possible; and
  - 12.1.4 to provide reasonable facilities within their respective areas (if so required by the Lead Authority on behalf of the Joint Committee) for the essential use by staff employed on behalf of the Joint Committee to enable them to perform their duties (including welfare and IT facilities) without any charge over and above the annual contribution which will be reviewed as part of the annual review process.
- 12.2 The following functions will not be delegated to the Joint Committee unless otherwise agreed separately by the Partner Authorities;
- 12.2.1 ownership and/or stewardship of car-park assets, including maintenance, repair and upgrading; or
  - 12.2.2 responding to customers who contact the Partner Authorities directly. The Partner Authorities response will be limited to provision of a form to complete for 'appeals', provision of e-forms or via enhanced Internet. Other administrative functions will be transferred to the Lead Authority where they relate to the functions of the Joint Committee. The Partner Authorities will not have direct access to back office staff (except recourse to the Lead Authority for telephone advice if necessary).
  - 12.3.3 be bound by the Privacy arrangements set out in Annex A.

### **13. The Council**

- 13.1 The Council agrees to;
  - 13.1.1 review all complaints not falling within paragraph 11.1.4 relating to the Joint Committee;
  - 13.1.2 handle and respond to all Freedom of Information Act and Environmental Information Regulations requests relating to the terms and conditions of this Agreement; and
  - 13.1.3 be bound by the Privacy arrangements set out in Annex A.

### **14. Level of Joint Committee Decision Making**

- 14.1 The Joint Committee will be responsible for;

- 14.1.1 overseeing the provision of the baseline services contained in Appendix A;
  - 14.1.2 agreeing future Annual Business Plans for the Joint Committee;
  - 14.1.3 agreeing all new, or revised, strategies and processes for the implementation of the Partner Authorities' policies (such as enforcement);
  - 14.1.4 agreeing the level of service provision through the annual budget setting process and as set out in this Agreement;
  - 14.1.5 annually agreeing the level of fees and charges pertaining to the Joint Committee (to be proposed to each Partner Authority's appropriate decision-making body for final approval as appropriate);
  - 14.1.6 agreeing an annual budget proposal to be submitted to each Partner Authority's appropriate decision making body for final approval;
  - 14.1.7 making decisions relating to the use of funding of end of year deficits and surpluses as set out in clause 23;
  - 14.1.8 determining whether the Joint Committee should continue as a member of the British Parking Association and any other partnership arrangements;
  - 14.1.9 approving an Annual Report to be made available to the Partner Authorities; and
  - 14.1.10 functions under the Road Traffic Regulation Act 1984, Traffic Management Act 2004 (Part 6 s. 72/3) and regulations pertaining to it.
- 14.2 The Joint Committee may not delegate the functions referred to in paragraph 14.1.
- 14.3 The Joint Committee will not have responsibility for staffing decisions but the Partner Authorities agree that the appointment of a replacement for the Parking Partnership Group Manager will be carried out in consultation between all Partner Authorities.
- 14.4 Operational decisions and details for the Joint Parking Service will be delegated by the Joint Committee to the Parking Partnership Group Manager of the Lead Authority or a nominated deputy as set out in this Agreement and the Annual Business Plan as a framework within which operational implementation and decisions will be taken as appropriate by the Parking Partnership Group Manager or a nominated deputy.

## **15. Parking Policy Framework**

- 15.1 The Joint Committee will have and keep under review the North Essex Parking Partnership county wide Parking Management Policy Framework relating to on street civil parking enforcement.

## **16. The Council's Contractors**

- 16.1 The Joint Committee shall delegate the Lead Authority to make use of the Council's current contractual arrangements with third parties if it so chooses in respect of signs

and lines related activity, where such contractual arrangements allow or with agreement of the third party and the Council.

- 16.2 Such use shall be restricted to the Council's integrated service provider, namely;
  - 16.2.1 Ringway Jacobs Limited of Albion House Springfield Road, Horsham RH12 2RW;
  - 16.2.2 where applicable their successors during the Operational Period.
- 16.3 The Lead Authority shall notify the Council of its intention to use of the Council's Contractor and shall issue to the Council's key contact named in Appendix C those instructions to be provided to the third party contractor.
- 16.4 The Council shall ensure that such instructions are provided to the third party contractor as soon as reasonably possible.
- 16.5 The Council shall invoice the Lead Authority for those works carried out under those instructions, and such payment shall not unreasonably be withheld, and in any event shall be paid within 28 days of receipt of such invoice.
- 16.6 The Lead Authority shall be permitted to utilise the Council's contractors in relation to the operation of the Joint Parking Service but shall not be precluded from appointing alternative contractors as it sees fit.

## **17. Meetings of the Joint Committee**

- 17.1 The first meeting of the Joint Committee shall be the annual meeting for the year and thereafter the first meeting held after 1 April in any year shall be the annual meeting.
- 17.2 The Joint Committee shall meet at least four times in each year save and except that;
  - 17.2.1 the Chairman may in his discretion cancel any meeting if in his opinion there is insufficient business to be transacted; or
  - 17.2.2 a meeting may be convened at any time on the requisition of the Chairman or not less than three members of the Joint Committee delivered in writing to the Lead Authority.
- 17.3 The dates and locations for the meetings in any year shall be agreed at the annual meeting of the Joint Committee.
- 17.4 The Lead Authority shall ensure that a digital or printed copy of the agenda for each meeting, any relevant reports and the minutes of the previous meeting shall be despatched by the Clerk to the Joint Committee, at least five (5) clear days before such meeting to each Committee Member, excepting that other items of urgent business may be considered with the agreement of the Chairman, at the end of business at any meetings.

- 17.5 At the same time, such papers, or digital versions of the same, will also be despatched to all relevant parties and /or posted on the relevant website(s) as notified to the Clerk to the Joint Committee from time to time.
- 17.6 The agenda shall contain notice of all business, except urgent business, which is required to be brought before the Joint Committee either in the ordinary course of business, or which is brought by the Chairman, the Vice-Chairman or the Clerk to the Joint Committee.
- 17.7 Meetings of the Joint Committee will be open to the public and press except where the Joint Committee resolves that the press and public be excluded (which may only be during consideration of items containing confidential or exempt information within the meaning of Schedule 12A of the Act). Each meeting will have a public question time in which members of the public may ask questions or make statements on a matter within the remit of the Joint Committee.
- 17.8 In addition to paragraph 5.10, the Chairman in consultation with the Vice Chairman, Lead Authority, Parking Partnership Group Manager, or a Partner Authority may invite any person to attend a meeting of the Joint Committee for the purpose of making a presentation, or participating in discussion, on any item relevant to the Joint Committee's functions where that person is able to provide a professional or commercial viewpoint, which the proposer considers would be of assistance to the Joint Committee.

## **18. Quorum**

- 18.1 The Quorum for meetings of the Joint Committee is three members present.

## **19. Minutes**

- 19.1 The minutes of the meeting shall be recorded as an accurate account of the meeting and circulated to all members of the Joint Committee, and shall be reviewed at the next available meeting, signed by the Chairman or in his absence the Vice Chairman or the person presiding over the meeting in their absence, confirming that they are an accurate account of that meeting.
- 19.2 Minutes of the Joint Committee shall (subject to the provisions of paragraph 17.7) be available to the public and press as though they were minutes of a meeting of a Partner Authority by posting on the relevant website(s).

## **20. Support**

- 20.1 The Clerk to the Joint Committee shall be appointed by the Lead Authority.
- 20.2 The functions and responsibilities of the Clerk to the Joint Committee shall be as follows;
- 20.2.1 to make all necessary arrangements for the convening of meetings of the Joint Committee and any Sub-Committees;

- 20.2.2 to provide, or where necessary, procure the provision of, all necessary advice on the technical, legal and financial implications of matters under consideration by the Joint Committee or relevant to the Joint Committee's functions;
- 20.2.3 to bring to the attention of the Joint Committee matters which are relevant to the Joint Committee's functions and which merit consideration by the Joint Committee;
- 20.2.4 to arrange for the taking and maintenance of the minutes of meetings, and circulate the agendas, notices and other communications to all members of the Joint Committee and any sub-committees and any other as notified, and ensure that the business of the Joint Committee at its meetings are conducted in accordance with legal requirements; and
- 20.2.5 to manage and co-ordinate the day-to-day affairs of the Joint Committee and its administrative support.
- 20.3 The business address for all communications relating to the administration of the Joint Committee's affairs shall be the Lead Authority's address as set out in Appendix B.
- 20.4 The Clerk appointed under paragraph 20.1 for the time being providing such support will discharge the proper officer functions under the Act that relates to the meetings of the Committee.
- 20.5 The Partner Authorities agree that reasonable costs incurred as a result of providing the Clerk's support shall be payable from the Joint Parking Account.

## **21. Sub Committees**

- 21.1 The Joint Committee may appoint such sub committees as it considers appropriate to exercise such functions as may be delegated to it by the Joint Committee and to advise the Joint Committee in the discharge of its functions, save and except that the Joint Committee may not delegate to any sub committee that approval of the Joint Committee's budget or Annual Business Plan or the fixing of the annual contributions by the Partner Authorities.
- 21.2 The Joint Committee will determine the membership and terms of reference of the sub committee, and the quorum for its meetings, when it is appointed.
- 21.3 If the Joint Committee appoints more than one sub committee to exercise one or more of its functions then it shall ensure that the Lead Authority allocates particular matters to a sub committee first on the basis of the availability of the members required to constitute the sub committee, and thereafter by rotation, and summons meetings accordingly.

## **22. Finance Arrangements**

- 22.1 Any Surplus carried forward from the Joint Parking Account at the close of financial year 2021-22 and prior to this agreement shall be retained by the Joint Committee and the Joint Committee shall be responsible for the allocation of such Surplus between the Partner Authorities; with the Surplus to be re invested in accordance with the

provisions set out in Section 55 of the Road Traffic Regulation Act 1984 subject to the Partnerships maintaining from these funds the agreed Deficit Reserve.

- 22.2 Any Surplus achieved during the term of this agreement will be invested into three key areas referenced as Part 1, Part 2 and Part 3.
- 22.3 The provision of enforcement services outside of the Business As Usual Services will be reported separately and will have their own surplus sharing arrangements (not held in the Joint Parking Account) and will be added to Table 2 in Appendix F.
- 22.4 The Joint Committee shall provide to the Council full audited annual returns within 28 days of the date of approval of such annual returns by the Joint Committee.
- 22.5 The Joint Committee will develop an Annual Business Plan no later than the 31 December prior to the start of each financial year.
- 22.6 All signs and lines maintenance or replacement required as part of a new county council capital scheme will be funded through that scheme by the Council, regardless of whether the Joint Committee will deliver the work.
- 22.7 All signs and lines maintenance or replacement required as part of a development proposal will be funded by the relevant developer, regardless of whether the Joint Committee will deliver the work.
- 22.8 All signs and lines requiring reinstatement due to work carried out during the Operational Period by the Council or its Contractors shall be funded by the Council.
- 22.9 The Section 151 Officer of the Lead Authority will appoint a treasurer to the Joint Committee (“the Treasurer”).
- 22.10 The Treasurer will maintain the Joint Parking Accounts and will ensure that any monies due to the Joint Parking Account are only applied to the expenses of the Joint Committee.
- 22.11 The Treasurer shall produce to the Joint Committee a financial report for the Joint Committee at least 6 monthly.
- 22.12 The Treasurer shall prepare an annual budget which shall be presented to the Joint Committee for consideration, challenge and approval in accordance with the budgetary timetable of the Lead Authority.
- 22.13 It is agreed that the basis upon which each of the Partner Authorities charge the Joint Parking Account with overheads will be consistent with that used in their authority for their own services provided always that any such charges are reasonable and can be supported by any financial or management information required by the Treasurer.
- 22.14 All interest generated on funds held by either the Lead Authority or the Council shall be held within a Joint Parking Account shall remain within that Joint Parking Account.

## **23. Income**

- 23.1 All Income received by the Joint Committee shall cover the cost of; i) the on-street parking enforcement operation and; ii) the provision of enforcement services outside the business as usual process, as specified in Appendix F, and any surplus above these costs will be allocated as set out in Appendix F and shall be re-invested in accordance with the provisions set out in Section 55 of the Road Traffic Regulation Act 1984.
- 23.2 All income payable in respect of penalty charge notices issued prior to termination or expiry of this Agreement shall be paid to the Joint Parking Account.

## **24. Accounting**

- 24.1 The Lead Authority shall maintain a ring-fenced cost centre within its general fund for balances for the Joint Committee's on-street fund ("the Joint Parking Account") as set out in Appendix E.
- 24.2 The Lead Authority shall ensure that money paid or transferred into the Joint Parking Account is only applied to the expenses of the Joint Committee and shall not transfer or pay any money out of any of the Joint Parking Accounts except in accordance with this Agreement or with the written permission of the Joint Committee.
- 24.3 The Financial Provisions and the Financial Management of Deficits and Surpluses which are set out in clause 23.2 and 23.4 are shown in more detail in Appendices E and F.

## **25. Budget Setting for the Joint Committee**

- 25.1 In each year the Partner Authorities shall, when they each set their annual general fund budget for the next financial year, fix the amount that they commit to pay or transfer into the Joint Parking Account for on-street parking (in respect of deficit support if applicable) during the financial year, and in recommending the final contribution to their council, each Partner Authority's appropriate decision making body shall have regard to any recommendations made by the Joint Committee.

## **26. Capital Expenditure**

- 26.1 The Joint Committee may from time to time seek capital funding from any or all the Partner Authorities in accordance with any of the Partner Authorities' capital approval processes, and for the avoidance of doubt any capital monies advanced by a Partner Authority may only be spent for the purpose for which those monies were advanced.
- 26.2 In the event that a capital advance is made by a Partner Authority in accordance with paragraph 26.1, repayment (in whole or in part) of the capital and interest thereof may be made to the Partner Authority if there are sufficient funds available in the Joint Parking Account for that Partner Authority.
- 26.3 The Joint Committee will repay any capital money paid by that Partner Authority to the Joint Committee for the purposes of the functions of the Joint Committee where one or more of the following applies;

- 26.3.1 the money has not been spent or contractually committed within twelve months of the payment of capital to the Joint Committee; or
- 26.3.2 legislation provides that such monies will no longer become payable provided that such monies have not been contractually committed at that time.

## **27 Audit**

- 27.1 The Partner Authorities agree that any costs incurred by the Joint Committee by any audit required by the Audit Commission or any replacement body in relation to the accounting records and accounts of the Joint Committee shall be payable from the Joint Parking Account.
- 27.2 Internal and external Audit requirements shall be determined by the Lead Authority.

## **28. Monitoring and Assessment**

- 28.1 The Joint Committee will be responsible for monitoring and assessing in terms of its:
  - 28.1.1 general strategic performance as measured by a range of indicators as the Partner Authorities may agree from time to time including but not limited to, financial performance, ticket sales figures, income, national indicators, customer satisfaction levels, funding leverage and key achievements;
  - 28.1.2 performance in carrying out this Agreement; and
  - 28.1.3 progress in fulfilling the Annual Business Plan.
- 28.2 The Joint Committee will receive presentations and progress reports on key issues and notable projects.
- 28.3 The Joint Committee will issue an Annual Report of its activities, finances and performance to the Partner Authorities and other appropriate parties. The Joint Committee will publish the report on its website.

## **29 Scrutiny Arrangements**

- 29.1 The decisions made by (and, for the avoidance of doubt, not mere recommendations of) the Joint Committee may be subject to the individual scrutiny arrangements of each Partner Authority operating under executive arrangements.
- 29.2 Decisions or actions of the Joint Committee shall be notified to all those to whom the papers etc are despatched in accordance with paragraph 18.6 within seven (7) working days of the decision being reached or the actions being taken, as the case may be.
- 29.3 Committee Members and their officer advisers shall fully co-operate with the relevant Scrutiny Committee of any of the Partner Authorities and shall, where requested, attend any meeting of any relevant Scrutiny Committee.

### **30. Call in**

- 30.1 The provisions set out in paragraphs 30.3 – 30.14 shall apply to all relevant Partner Authorities with executive responsibility for the function to which the decision or action relates.
- 30.2 Those functions delegated to the Joint Committee under paragraph 2.2 remain part of the Councils executive function, to which only the Council shall apply paragraph 30.3 – 30.14.
- 30.3 Any decision or other action taken of the Joint Committee may be called in for scrutiny by Members of any Partner Authority operating under executive arrangements. A decision is called in by Members of such a Partner Authority in the same way in which they would call in a decision of each Partner Authority's Executive or Committee except that;
- 30.3.1 decision or other action taken may not be called-in after 5pm on the 5th working day after the date upon which the decision is published; and
- 30.3.2 a call in of such a decision or other action taken may only be made if the decision or other action taken affects that Partner Authority whose membership wishes to call in the decision or action.
- 30.4 Once a decision or other action taken has been called in it may not be implemented until the scrutiny arrangements of the relevant Partner Authority whose membership has called in the decision or action has been completed. Where a relevant Scrutiny Committee (or full Council) makes recommendations to the Joint Committee, the Joint Committee shall arrange for the decision or action to be reconsidered in the light of comments made by the relevant Scrutiny Committee (or full Council) and the final decision or action of the Joint Committee shall not be subject to call in.
- 30.5 The call-in procedure set out in paragraph 30.1 shall not apply where the decision or action being taken by the Joint Committee is certified by the Joint Committee as urgent. (A decision will be deemed to be urgent if any delay likely to be caused by the call in procedure would prejudice the Joint Committee, the public's or a third party's interests or the decision relates to the commencement of a statutory consultation process).
- 30.6 A Scrutiny Committee of a Partner Authority must notify the Joint Committee if it includes in its work programme any aspect of policy development or review relating to the work or functions of the Joint Committee.
- 30.7 Where a Scrutiny Committee of a Partner Authority has formed recommendations on proposals for policy development as referred to in paragraph 30.6, a Scrutiny Committee shall prepare a formal report and submit it for consideration by the Joint Committee.
- 30.8 The Joint Committee shall consider the report of a Scrutiny Committee within fifteen (15) working days of it being submitted to the Clerk to the Joint Committee and shall issue a formal response to such a report.

- 30.9 Where any Partner Authority member or officer is required to attend a Scrutiny Committee, the Chairman of that Committee will inform the Monitoring Officer (or Chief Executive as appropriate) of their own authority.
- 30.10 That Monitoring Officer (or Chief Executive as appropriate) shall inform the Partner Authority member or officer in writing giving at least ten (10) working days notice of the meeting at which he is required to attend, such notice to state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the Scrutiny Committee.
- 30.11 Where the account to be given to the Scrutiny Committee will require the production of a report, the Partner Authority member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 30.12 Where in exceptional circumstances, the Partner Authority member or officer is unable to attend on the required date, the Scrutiny Committee shall in consultation with the Partner Authority member or officer arrange an alternative date for attendance which shall be as soon as practicable in relation to the original date specified.
- 30.13 If, having considered the decision or action, a Scrutiny Committee remains concerned about it, then it may refer it back to the Joint Committee for reconsideration, setting out in writing the nature of its concerns. If referred back to the Joint Committee for reconsideration the Joint Committee will have a further seven (7) working days to consider whether to amend the original decision or revise the original action taken before reaching a final decision or taking final action.
- 30.14 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Clerk to the Joint Committee, and a report to the Joint Committee with proposals for review if necessary.

### **31. Conduct and expenses of members**

- 31.1 All Committee Members shall observe at all times the provisions of the Code of Conduct adopted by their respective authorities.
- 31.2 Each Partner Authority shall be responsible for meeting any expenses to which any Committee Member or officer appointed by them, as its representative, is entitled as a result of their attendance at meetings of the Joint Committee.

### **32. Liability of Joint Committee Members**

- 32.1 Committee Members appointed by each of the Partner Authorities shall have the same responsibilities and liabilities as those which apply when sitting on other committees and bodies as appointed representative on behalf of their respective authorities.
- 32.2 Where any contractual arrangements are authorised by the Joint Committee, any liabilities arising under those arrangements will be met by the relevant Partner Authority.

32.3 Indemnification for any liabilities which arise shall be resolved as a matter between the Committee Member and their respective authority.

### **33. Expenses of the Joint Committee**

33.1 The expenses of the Joint Committee incurred in the discharge of the Joint Committee functions (except the costs associated with the Clerks duties covered in paragraph 20.5) will be paid by the Lead Authority and by any Partner Authority whose Monitoring Officer has dealt with or exercised their functions in relation to such matters.

33.2 The other Partner Authorities will make payments to the Partner Authority that has incurred expenses under paragraph 33.1, to pay them in such proportions as the Partner Authorities shall all agree or in the case of disagreement as shall be determined by a single arbitrator agreed on by the Partner Authorities, or, in default of agreement, appointed by the Secretary of State.

33.3 In determining the allocation of expenses the Partner Authorities or any arbitrator appointed under paragraph 34.2 will have regard to the following principles:

33.3.1 the nature and purpose of the expense;

33.3.2 whether such expense relates to North Essex or a particular district or borough; and

33.3.3 whether the agreement of the Joint Committee was given to the incurring of such an expense.

### **34. Insurance**

34.1 The costs of Public Liability Insurance and employee insurance for the Joint Parking Service will be covered by Lead Authority's corporate insurance arrangements where that liability arises due to the actions of the Joint Parking Service. Where a liability arises due to the actions of an individual Partner Authority, that Partner Authority shall remain responsible for the liability.

34.2 All costs including claims administration and legal costs associated with this insurance will be paid out of the Joint Parking Account.

34.3 All insurance claims made against or on behalf of the Joint Parking Service or the Joint Committee will be managed by the Lead Authority.

34.4 All Partner Authorities will cooperate with insurance claims investigations and notify the Lead Authority of any potential claims as soon as is reasonably practicable and take all reasonable action to prevent and minimise any loss.

34.5 In relation to insurance for buildings & contents and other assets, it is the responsibility of the individual Partner Authorities separately to ensure that the appropriate insurance arrangements are in place. Consequently, the insurance cost for buildings and assets shall not be charged to the Joint Parking Account.

34.6 The Lead Authority shall consider any reasonable request made by the Partner Authorities for the purpose of facilitating the procurement, administration and maintenance of any insurance relating to the Joint Parking Service.

## **35 TUPE**

35.1 The Provisions set out in Appendix D shall be applicable in relation to any claims brought against the Lead Authority by former staff of the other Partner Authorities where such claims seek to rely on the operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).

## **36. Variation**

36.1 Any future amendments to this Agreement will be put before a meeting of the appropriate decision-making body of each of the Partner Authorities and will be adopted by each Partner Authority committing that authority to membership of the Joint Committee and to the terms and conditions of this Agreement.

## **37. Withdrawal from the Joint Committee**

37.1 A Partner Authority may serve notice in writing to the Lead Authority at least twelve (12) months before the date on which it is to take effect, that they will be withdrawing from the Joint Committee, provided that any such notice is co-terminus with the end of a financial year.

37.2 Upon which the Lead Authority shall as soon as practical draw up accounts showing the financial out turn of the Joint Parking Accounts which will be dealt with in accordance with the process set out in Appendix E.

## **38. Termination of the Joint Committee**

38.1 The Council or the Lead Authority may terminate this Agreement on twelve (12) months written notice to the other and remaining Partner Authorities to be provided where possible, but not exclusively, to coincide with the end of the financial year.

38.2 The Council or the Lead Authority may terminate this Agreement if another Partner Authority commits a fundamental breach of this Agreement.

38.3 In the event of this Agreement being terminated in accordance with paragraph 38, Appendix C, shall have effect.

38.4 Without affecting any other right or remedy available to it, the Lead Authority or Council may terminate this Agreement on four (4) weeks' written notice as a result of a structural change order implementing a proposal submitted to the Secretary of State under section 2 of the Local Government and Public Involvement in Health Act 2007 which results in the Lead Authority or Council being wound up and dissolved.

38.5 Without affecting the rights of the Lead Authority or the Council to terminate this Agreement pursuant to clause 38.4, any party's rights and obligations under this Agreement shall be transferred to a successor authority (the "Successor Authority")

notified to the Council as a result of a structural change order implementing a proposal submitted to the Secretary of State under section 2 of the Local Government and Public Involvement in Health Act 2007 which results in that party being wound up and dissolved (the “Exiting Party”).

- (a) The Exiting Party shall notify the Council and the Lead Authority in writing of the name of the Successor Authority. All of the Exiting Party’s rights, benefits, interest, liabilities and title to and in the Agreement shall vest in the Successor Authority. For the avoidance of doubt, such Successor Authority may comprise a unitary authority, a town council, a parish council or a combined authority.
- (b) The remaining parties to the Agreement hereby accept the transfer of the Exiting Party’s rights, benefits, interest, liabilities and title to and in the Agreement to the Successor Authority.
- (c) Following such transfer, any references in this Agreement relating to the exiting party shall be construed as a reference to the Successor Authority.

### **39. Third party rights**

- 39.1 No term of this Agreement is intended to give any entitlement as against either party to any person who is not a party to this Agreement.
- 39.2 No term of this Agreement may be enforced by any person other than a party to this Agreement under the Contracts (Rights of Third Parties) Act 1999.

### **40. Dispute Resolution**

- 40.1 Any dispute or difference shall be first referred to a meeting of each of the Partner Authorities involved in the dispute. The Partner Authorities agree to discuss and, in good faith, attempt to resolve any such dispute or difference in accordance with the spirit of partnership working. In the event that the relevant Partner Authorities are unable to resolve the dispute then the matter shall be referred to the Chief Executives of each of the Partner Authority involved in the dispute who shall try to resolve the dispute by agreement.

### **41. Counterparts**

- 41.1 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.

THE COMMON SEAL OF  
**Essex County Council**  
was hereunto affixed in the presence of:-

Attesting Officer

The Common Seal of )  
**Colchester Borough Council** )  
was hereunto affixed )  
in the presence of: )

Mayor

Proper Officer

The Common Seal of )  
**Braintree District Council** )  
was hereunto affixed )  
in the presence of )

Authorised Signatory

The Common Seal of )  
**Epping Forest District Council** )  
was hereunto affixed )  
in the presence of )

Authorised Signatory

The Common Seal of )  
**Harlow District Council** )  
was hereunto affixed )  
in the presence of )

Authorised Signatory

The Common Seal of )  
**Tendring District Council** )  
was hereunto affixed )  
in the presence of )

Authorised Signatory

The Common Seal of            )  
**Uttlesford District Council** )  
was hereunto affixed        )  
in the presence of            )

Authorised Officer

## APPENDIX A

The Joint Committee shall exercise the following functions:

1. Collection of charges for on street parking within the permitted parking area;
2. The administration of residents' parking schemes and the collection of charges for permits;
3. Issuing Penalty Charge Notices;
4. Deal with all correspondence, appeals, adjudication and representations to the Traffic Tribunal arising from those functions set out in paragraph 10 and Appendix A where appropriate;
5. Take steps necessary to recover payments and charges due under these functions;
6. Immobilisation, removal, recovery, storage and disposal of vehicles in connection with the above activities;
7. Procurement and maintenance of signs and lines relating to on-street enforcement;
8. Determine the levels and nature of fees and charges in respect of on street car parking provisions in North Essex;
9. Establish and manage the cost of the operation incurred under the Joint Committee;
10. Manage any surplus or deficit in accordance with the requirements contained in paragraphs 23.1 to 23.3 and Appendix F of the Joint Committee Agreement;
11. Provide a forum to discuss strategic issues relating to parking across North Essex;
12. Provide a forum to review at a strategic level the success of the Joint Committee;
13. Set local parking policies, ensuring that primary legislation obligations are met. This includes design of parking policies with respect to:
  - a. Traffic network;
  - b. Safety;
  - c. Environment;
  - d. Public transport quality and accessibility;
  - e. Disabled persons;
  - f. Kerb space demands; and
  - g. Sustainable/Active travel
14. Make relevant traffic regulation orders as permitted under the Road Traffic Regulation Act 1984 and in line with the agreed Parking Management Policy Framework and other local policies.

15. Maintain parking related road signs and road markings to ensure compliance with the Traffic Regulation Order.
16. Other duties which legislation as amended from time to time requires, or which are added by virtue of clauses within the Joint Committee Agreement.

## APPENDIX B

### Partner Authorities key contacts:

Essex County Council,  
Seax House  
County Hall,  
Chelmsford,  
Essex, CM1 1QH.

Jo Heynes,  
Interim Head of  
Network and Safety.

07720 097272  
[jo.heynes@essexhighways.org](mailto:jo.heynes@essexhighways.org)

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33 Sheepen Road,  
Colchester,  
Essex, CO3 3WG.

Richard Walker,  
Parking Partnership  
Group Manager.

01206 282708  
[richard.walker@colchester.gov.uk](mailto:richard.walker@colchester.gov.uk)

Braintree District Council,  
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Bocking End,  
Braintree,  
Essex, CM7 9HB.

Paul Partridge,  
Head of Operations.

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[paulpa@braintree.gov.uk](mailto:paulpa@braintree.gov.uk)

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Director Contracts

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The Water Gardens,  
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Essex , CM20 1WG.

Joe McGill,  
Property and  
Facilities Manager.

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[joe.mcgill@harlow.gov.uk](mailto:joe.mcgill@harlow.gov.uk)

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Town Hall,  
Station Road,  
Clacton on Sea,  
Essex, CO15 1SE.

Ian Taylor,  
Assistant Head of  
Technical and  
Procurement  
Services.

01255 686982  
[itaylor@tendring.gov.uk](mailto:itaylor@tendring.gov.uk)

Uttlesford District Council,  
Council Offices,  
London Road,  
Saffron Walden,  
Essex, CB11 4ER.

Angela Knight,  
Assistant Director  
Resources

01799 510510  
[aknight@uttlesford.gov.uk](mailto:aknight@uttlesford.gov.uk)

## **APPENDIX C**

Provisions which shall have effect on termination of this Agreement.

### **1. Financial liability on dissolution**

- 1.1 At the termination of this Agreement the Lead Authority shall as soon as practicable draw up accounts showing the financial out-turn of the Joint Parking Accounts.
- 1.2 The Joint Committee shall be managed so that as the final out-turn of the Joint Parking Accounts is maintained. At the dissolution of the Partnerships; the Part 1 will be retained by NEPP and agreement will be reached on how this will be allocated across all partner authorities, Part 2 will be retained by NEPP for distributions to the partners as determined by the Joint Committee, and Part 3 is retained by the Council.
- 1.3 In the event that the Agreement is terminated then any final surplus (including any and all deficit reserves) will be distributed in accordance with the distribution provisions set out in Parts 1, 2 and 3.

### **2. Transfer of Staff on dissolution**

- 2.1 In this paragraph “New Provider” means the person operating the Partner Authorities parking from the date upon which this Agreement terminates.
- 2.2 All employees who, during the last year of operation of this Agreement, spent more than 50% of their time on issues specifically relating to the Partner Authority parking shall be eligible to transfer to the New Provider (unless the TUPE regulations which are in force at the relevant time provide otherwise).
- 2.3 Other employees shall continue to be employed by the Lead Authority, unless the parties agree otherwise.
- 2.4 The Lead Authority shall use all reasonable endeavours to ensure that their employees co-operate with, the New Provider for a period of 1 year after the termination of this Agreement in order to effect a seamless transfer of Partner Authority parking to the New Provider.
- 2.5 For the purpose of facilitating the transfer of any person’s employment from the Lead Authority to the New Provider, the Lead Authority shall supply to the Partner Authority (as appropriate) promptly on request (which may be earlier than any timescales set under TUPE legislation) such information as Partner Authority shall reasonably require (including information required under TUPE legislation) in order to facilitate the transfer of employees from the Lead Authority to the New Provider.

### **3. Assets on dissolution**

- 3.1 Subject to paragraph 3.2, when this Agreement expires or is terminated for any reason, any assets which belong to one Partner Authority but which are in the custody of the other Partner Authority shall, if requested, be returned to the original Partner Authority.

3.2 Where this Agreement terminates and assets are stored by the Lead Authority on behalf of the service, then to the extent that those assets are not collected by the New Provider within one (1) month from the date of termination, the Partner Authority storing the assets shall continue to store the assets for up to one (1) year from the date of termination, subject to the payment of reasonable storage charges by the New Provider.

#### **4. Property**

4.1 Title to the following property shall be transferred to each Partner Authority or New Provider (as appropriate) on the termination of this Agreement;

4.1.1 All fixed property belonging to the Lead Authority which is used at or in the Partner Authority's premises (other than temporarily) on the termination or expiry of this Agreement;

4.1.2 All property belonging to the Lead Authority to the extent that it relates to an individual Partner Authority's parking asset base (including the relevant part of any database records). 'Property' in this paragraph includes plant, software licenses and operating leases.

4.2 All property belonging to the Partner Authorities but in Lead Authority's possession shall be returned to the respective Partner Authority immediately upon termination or expiry of this Agreement.

4.3 The Lead Authority shall promptly supply each Partner Authority with a copy of all intellectual property which belongs to each respective Partner Authority or which each respective Partner Authority is entitled to use (such copy to be supplied in such format as each Partner Authority shall reasonably require).

4.4 The Lead Authority shall provide reasonable assistance with the installation of any software on any computer equipment.

4.5 If plant equipment or services has been purchased for the use (directly or indirectly) of the Partner Authorities parking then the parties shall sell the equipment and split the proceeds of sale as agreed by the Joint Committee.

## **APPENDIX D**

### **Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) Indemnity provisions etc in favour of the Lead Authority (Colchester Borough Council).**

#### **Indemnity provisions**

1. Each Partner Authority undertakes to indemnify and keep indemnified the Lead Authority against all costs liabilities and expenses incurred or suffered in connection with any claim by one of their former employees (“the claimant”) where;
  - a). the claimant has, by operation of TUPE, transferred to the Lead Authority in connection with the set up/operation of the North Essex Parking Partnership; and
  - b). the claim arises from, or is otherwise referable to, the claimant’s employment with the Partner Authority prior to the TUPE transfer date.
2. Each Partner Authority also undertakes to indemnify and keep indemnified the Lead Authority against all costs liabilities and expenses incurred or suffered in connection with any claim by an employee or former employee of the Partner Authority (or by an individual asserting such status) that s/he has, or should have, transferred to the Lead Authority under TUPE.
3. For the avoidance of any doubt it is hereby declared that the indemnity provisions set out in paragraphs 1 and 2 above shall be applicable to all TUPE transfers that may occur in connection with the operation of the North Essex Parking Partnership.

#### **Duty to co-operate**

4. Where the Lead Authority is in receipt of a claim (or has good reason to believe that it may receive a claim in the near future) the Partner Authority concerned shall, if so required by the Lead Authority, use its best endeavours to supply any background information (including any relevant correspondence or records) which is in its possession and which is reasonably required by the Lead Authority for the purpose of assessing/defending such claim.
5. In addition, the Partner Authority shall, if so required by the Lead Authority, designate one of its own staff (e.g. from its own Human Resources Department (or equivalent)) as a point of reference for any inquiries or requests that the Lead Authority may have.

#### **Handling of Claims**

6. Where the Lead Authority is in receipt of a claim which falls within paragraphs 1 or 2 above, the Lead Authority may (at its absolute discretion) require the Partner Authority concerned to handle such claim (including the conduct of any court/tribunal proceedings) at its own expense and as agent for the Lead Authority.

## **APPENDIX E: North Essex Parking Partnership Provisions**

### **Financial Provisions**

1. Further to paragraph 22.6, and subject to the provisions combined within paragraph 9 below, each Partner Authority shall be responsible for any deficit shown in the Partner Authority's partitioned account and shall be required to meet such deficit from their respective General Fund.
2. The Treasurer shall in his absolute discretion decide the amount of working balance which will be maintained for the Joint Parking Account.

### **The Financial Management of Deficit and Surpluses**

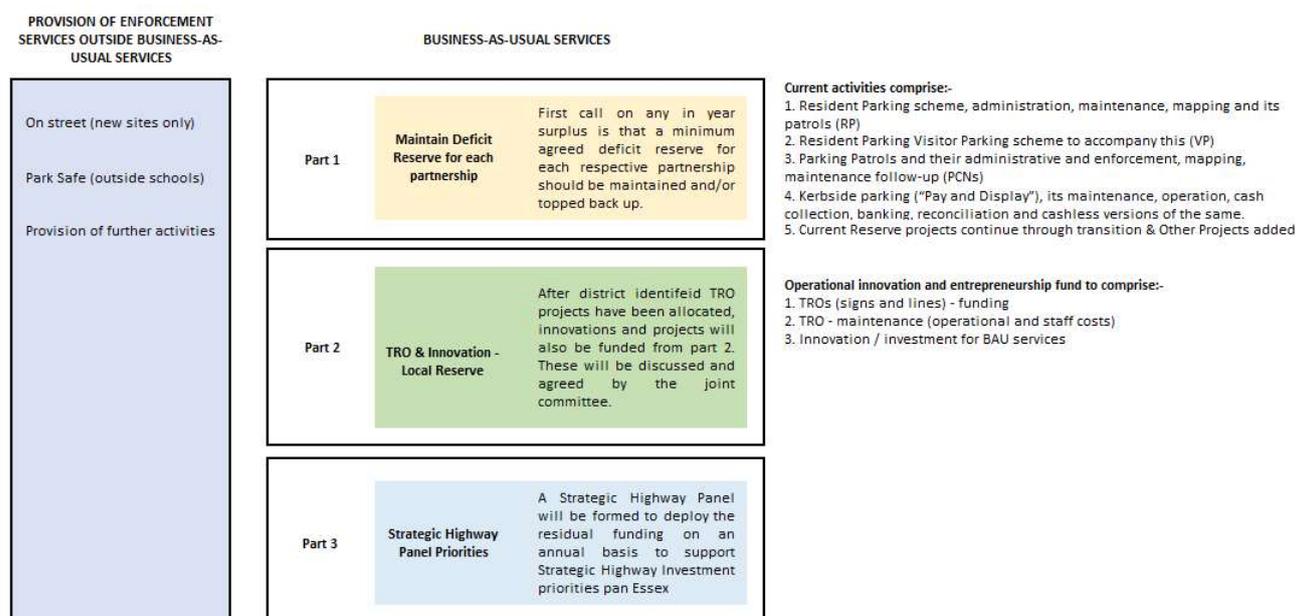
3. The Treasurer shall produce forecasts, estimates and targets of income and expenditure for each Partner Authority.
4. Any total deficit in relation to a specific Partner Authority parking account not exceeding £15,000 will be carried forward to that Partner Authority's parking account for the next financial year.
5. In the event that a forecast or estimate suggests that a deficit exceeding £15,000 will arise in relation to a specific Partner account the North Essex Parking Partnership Manager and relevant Partner Authority will develop and deliver to the Joint Committee for consideration and approval at their next quarterly meeting a plan (which shall include an implementation timescale) to deal with any current and forecast deficit to bring their account back into balance within 12 months of the submission of the Partner Authority plan hereinafter referred to.
6. The Joint Committee shall consider the plan set out above and shall only be at liberty to amend or modify the same where the Joint Committee considers that the plan is not financially viable or will not reduce or address any deficit forecast within the 12 month period set out in paragraph 5 above. The Joint Committee shall approve the plan with or without amendment.
7. In the event the Partner Authority agrees to implement the plan agreed by the Joint Committee the deficit in the relevant Partner Authority account at the end of that financial year will be carried forward to the next financial year.
8. In the event that the Partner Authority either fails to submit a plan (as set out above), does not implement a plan or the plan fails to reduce the deficit (within the specified timescale) as approved by the Joint Committee in paragraphs 9 and 10 the deficit shown in the Partner Authority's partitioned account shall, upon the expiry of 28 days from the date of service by the Lead Authority of a formal written demand on the relevant Partner Authority for payment, become payable by the relevant Partner Authority as a contract debt AND the Lead Authority may institute court proceedings in its own name for recovery of such debt as agent for and on behalf of the Joint Committee.

9. Any surplus in the Joint Parking Account shall first be applied to create/maintain a working balance in the Joint Parking Accounts after which the Treasurer may at his absolute discretion apply any surplus to meet current or future deficits or to fund new capital projects within the boundary area of the Partner Authorities whose accounts are in surplus.
10. Where a Partner Authority is in deficit and can demonstrate to the satisfaction of the Joint Committee that it has:
  - (i) fully complied with the aforementioned provisions set out in this Appendix E and explored all avenues available to it to increase income, and
  - (ii) has implemented all income generating schemes which are available to it and which it might reasonably be expected to pursue, and
  - (iii) has taken all reasonable steps to reduce costs to the lowest possible level:then such deficit shall be underwritten by the Joint Parking Account.
11. Where conditions set out within paragraph 10 above have not been met the individual Partner Authority will be responsible for the recorded deficit.

## APPENDIX F

### Financials

- Diagram 1 below sets out the funding model for Business-As-Usual Services described in this Agreement, as well as Enforcement Services outside the business-as-usual process.



**Diagram 1: Model for Services within the Agreement**

- Further to clause 22.2, any Surplus from the civil enforcement of on street parking arrangements achieved during the term of this Agreement will be invested into three key areas, referenced as Part 1, Part 2 and Part 3 in Diagram 1 above;
  - The principle in **Part 1** ensures the maintenance of a suggested Deficit Reserve Fund of up to £400,000 per partnership (as defined in this Agreement). This level of reserve must be maintained (and topped up as appropriate) before any Surplus is moved into Part 2 and Part 3 of the diagram. The level of Deficit Reserve Fund will be monitored through the quarterly meetings. Provided that the Deficit Reserve Fund is maintained, any deficit risk will be minimised to the members of the partnership.
    - In the unlikely event that an operational deficit occurs which is not able to be contained within the Annual Business Plan (i.e. the Deficit Reserve Fund or the cessation of spending in Part 2 and Part 3, or the reduction of any other part of operational expenditure as appropriate), then the remaining deficit will be supported on an equal basis by each of the 7 members of the respective Joint Committees.

- 2.1.3 Note that any cessation of spending in Part 2 and Part 3 as described in 2.1.2 above is to be agreed between the Lead Authority and ECC.
- 2.1.4 At the commencement of the Agreement, it is recognised that North Essex Parking Partnership and South Essex Parking Partnerships already have the required funding for the Deficit Reserve Fund.
- 2.1.5 Any Surplus generated after the Part 1 Deficit Reserve Fund has been maintained at the agreed level will be split on the following basis between Part 2 (55%) and Part 3 (45%) subject to the conditions of Part 2 below.
- 2.2 **Part 2** is used for local needs as set out in the Annual Business Plan and specifically;
- the operational and funding costs for TROs and the essential maintenance of parking related signs and lines; and
  - innovation around different ways to manage parking within each partnership.
- 2.2.1 Any capital and/or innovation funds required above the level agreed in the Annual Business Plan that cannot be contained within Part 2 can be bid for in Part 3 and will be considered on merit against other county-wide priorities.
- 2.2.2 It is recognised that there are fixed and ongoing commitments in relation to ongoing TRO costs therefore any in-year Surplus must cover the costs set out in Table 1: Part 2 Breakdown. Therefore a priority is to ensure that these costs are always covered within the 55% split.
- 2.2.3 In the event that the 55% share does not cover the required costs in the table below, those costs will be covered but the remainder will be allocated to Part 3.

**Table 1: Part 2 Breakdown**

<b>Part 2 breakdown</b>	<b>Value</b>
a) TRO delivery (operational and funding costs plus essential maintenance of parking related signs and lines)	£339,000
b) Innovation to manage on street parking	within existing reserve
<b>TOTAL ANNUAL CAP</b>	<b>£339,000</b>

\*These figures will be reviewed on an ongoing basis and any changes will be agreed between ECC and the Lead Authority

Note: The surplus generated in one year will be allocated for spend in the subsequent year.

- 2.3 The principle in **Part 3** is to cover Essex wider strategic highways priorities and is to be governed through a Strategic Panel. The Panel will be led by the ECC cabinet member however recognising the two Parking Partnership chairmen will also be closely involved in the Strategic Panel bid review. Bids for the allocation of the funding contained in Part 3 will be put forward by officers from each Partner Authority, the Joint Parking Committees and/or the Council.

- 2.3.1 The remainder of the Surplus after Part 1 and Part 2 has been fulfilled will be utilised for county-wide priorities within the respective districts, in line with section 55 of the RTA 1984. ECC will work with the two Lead Authorities to develop the assessment criteria for bids for the distribution of funding in Part 3; bids will be put forward by officers from both the partnerships and ECC.
- 2.3.2 In Diagram 1, the box to the left of the model for Part 1, Part 2 and Part 3 shows the Provision of Enforcement Services outside the business-as-usual process, as described in 2.6 below.
- 2.4 It is proposed that existing parking operational activities will be expanded in addition to the business-as-usual activities in 2.1 to 2.3 above. The model for these activities is detailed below; these are not included within Parts 1, 2 and 3 above as they are delivered under a separate arrangement, as set out in Table 2 – Arrangements for services outside of business-as-usual activities.

**Table 2 – Model for new and existing services**

Description	NEPP
<b>On Street P&amp;D Parking:</b>	
a) existing sites	All costs, P&D income and PCN income flow into the BAU model (parts 1, 2 and 3)
b) additional sites	Equipment investment and maintenance costs funded by ECC
	Net income (P&D and PCN) to ECC after management / operational costs
	Where ECC don't want to pursue any proposed new sites but JC do, the JC would fund but income would flow through the business as usual model (parts 1, 2 and 3)
<b>Park Safe (outside schools):</b>	Camera equipment investment and maintenance cost, plus management cost - all funded by ECC
	PCN income returned to ECC

## **Annex A**

### **Information Handling**

#### **1. Definitions and Interpretation**

- 1.1 In this Annex A, the definitions set out in Section 1 of the Agreement and Annex B (Data Protection) of this Agreement will apply.

#### **2. Resolution of Inconsistency**

- 2.1 The Lead Authority shall immediately upon becoming aware of the same notify the Council of any inconsistency between the provisions of the Data Protection Legislation and the standards, guidance and policies applicable under this Schedule (or between those standards, guidance and policies) and the Council, as soon as practicable, shall advise the Lead Authority which provision the Lead Authority shall be required to comply with (but not so as to place the Lead Authority in breach of any Data Protection Legislation or other obligation under legislation).

#### **3. Protection of Information**

- 3.1 The confidentiality, integrity and availability of Information and on the security provided in relation to Information is a material element of this Agreement.
- 3.2 The Lead Authority shall and shall at all times provide a level of security which:
- 3.2.1 is in accordance with Good Industry Practice, Data Protection Legislation and this Agreement;
- 3.2.2 complies with the Council's Information Policy;
- 3.2.3 meets any specific security threats identified from time to time by the Council; and
- 3.2.4 complies with applicable ISO standards and in particular ISO/IEC27001 and ISO/IEC27002.

- 3.3 The Lead Authority shall ensure that it provides comparable technical and policy coverage of security to Information as if it were being processed directly by the Council. This shall include but not be limited to the following:
  - 3.3.1 All mobile storage systems and hardware shall be encrypted to at least industry standards.
  - 3.3.2 All staff shall be appropriately vetted before use in the services which are the subject of this Agreement.
  - 3.3.3 All staff shall receive adequate information governance training which shall be regularly refreshed.
  - 3.3.4 All buildings and physical environments shall be subject to appropriate physical security and protection.
  - 3.3.5 The Lead Authority shall permit access to Information by employees of the Council only as may be specifically designated by the Council.
  - 3.3.6 The Lead Authority shall securely destroy all Information provided or created under this Agreement and no longer required to be retained in accordance with this Agreement.
- 3.4 The Lead Authority will have in place fully tested and effective disaster recovery and business continuity plans.
- 3.5 The Lead Authority shall observe the following principles when handling data.
  - 3.5.1 Every proposed use or transfer of Personal Data within or from the organisation should be clearly defined and scrutinised, with continuing uses regularly reviewed by an appropriate guardian as appropriate.
  - 3.5.2. Personal Data shall not be used unless it is absolutely necessary. Personal Data shall not be used unless there is no alternative.

- 3.5.3 The minimum necessary Personal Data shall be used. Where use of Personal Data is considered essential, each individual item of information shall be justified with the aim of reducing identification.
- 3.5.4 Access to Personal Data shall be on a strict need to know basis. Only those individuals who need access to Personal Data shall have access to it, and they shall only have access to the data that they need to see for the stated purpose.
- 3.5.5 All staff handling Personal Data shall be made aware of their responsibilities and obligations to respect personal confidentiality.
- 3.5.6 All persons handling Personal Data shall understand and comply with the Data Protection Legislation. Every use of Personal Data information must be lawful.
- 3.6 Any Information received by the Lead Authority from the Council under this Agreement or generated by the Lead Authority pursuant to this Agreement shall remain at all times the property of the Council. It shall be identified, clearly marked and recorded as such by the Lead Authority on all media and in all documentation.
- 3.7 The Lead Authority shall not, save as required by this Agreement, without the prior written consent of the Council disclose to any other person any Information provided by the Council under this Agreement.
- 3.8 The Lead Authority shall advise the Council of any intention to procure the services of any other agent or subcontractor in connection with this Agreement and shall pay due regard to any representations by the Council in response.
- 3.9 The Lead Authority shall observe and comply with the Council's confidentiality requirements applicable from time to time.
- 3.10 The Lead Authority shall take all necessary precautions to ensure that all Information obtained from the Council under or in connection with this Agreement, is given only to such of the Lead Authority's staff and professional advisors or consultants engaged to advise the Lead Authority in connection with this Agreement as is strictly necessary for the performance of this Agreement, and is treated as confidential and not disclosed (without prior written approval) or used by any such staff or such professional advisors or consultants otherwise than for the purposes of this Agreement.

- 3.11 The Lead Authority shall not use any Information it receives from the Council otherwise than for the purposes of this Agreement.
- 3.12 With regard to Council Data:
- 3.12.1 The Lead Authority shall not delete or remove any proprietary notices contained within or relating to the Council Data.
- 3.12.2 The Lead Authority shall not store, copy, disclose, or use the Council Data except as necessary for the performance of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council.
- 3.12.3. To the extent that Council Data is held and/or processed by the Lead Authority, the Lead Authority shall supply that Council Data to the Council in a mutually agreed format.
- 3.12.4. The Lead Authority shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data.
- 3.12.5 The Lead Authority shall perform secure back-ups of all Council Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity and Disaster Recovery Plan. The Lead Authority shall ensure that such back-ups are available to the Council at all times upon.
- 3.12.6 The Lead Authority shall ensure that any system on which the Lead Authority holds any Council Data, including back-up data, is a secure system that complies with the Council's Information Policy.
- 3.12.7 If the Council Data is corrupted, lost or sufficiently degraded as a result of the Lead Authority's Default so as to be unusable, the Council may:
- 3.12.7.1 require the Lead Authority (at the Lead Authority's expense) to restore or procure the restoration of Council Data in full and in not later than three (3) days (subject to any agreed business continuity and disaster recovery plan); and/or
- 3.12.7.2 in default thereof itself restore or procure the restoration of Council Data, and shall be repaid by the Lead Authority any reasonable expenses incurred in doing so.

- 3.12.8 If at any time the Lead Authority suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Lead Authority shall notify the Council immediately and inform the Council of the remedial action the Lead Authority proposes to take.

#### **4. Disclosures by the Council**

4.1 Nothing in this Agreement shall prevent the Council disclosing any Information:

4.1.1 for the purpose of the examination and certification of the Council's accounts; or

4.1.2 any examination pursuant to Section 6 (1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council has used its resources; or

4.1.3 to any government department or any other contracting authority (as defined in The Public Contracts Regulations 2015). All government departments or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a Lead Authority which is not part of any government department or any contracting authority; or

4.1.4 to any person engaged in providing any services to the Council for any purpose relating to or ancillary to this Agreement provided that in disclosing information the Council discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

#### **5. Accessibility of Data**

5.1 Where the Lead Authority is undertaking work on behalf of the Council to develop new systems, practices or documentation in processing of data, the Lead Authority shall ensure that these have the ability to extract data in an accessible format.

#### **6. Know-how**

6.1 Nothing in this Agreement shall prevent either party from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Information the subject of this Agreement.

## **7. Information Breach**

7.1 The Lead Authority shall ensure any Information Breach is reported to the Council within 1 Working Day whether actual, potential or attempted.

7.2 The Lead Authority will ensure any Information Breach is internally investigated, and appropriate remedial action is taken, along with supporting the Council in any investigation by it.

7.3 The Lead Authority will immediately take all reasonable steps to remedy such breach and to protect the integrity of both parties against any actual, potential or attempted breach or threat and any equivalent attempted breach in the future.

## **8. Breach, termination and continuance**

8.1 The Lead Authority shall indemnify the Council for any breach of the requirements of this schedule which renders the Council liable for any costs, fines, claims or expenses under Data Protection Legislation howsoever arising.

8.2 A material failure on the part of the Lead Authority to comply with the provisions of this schedule shall entitle the Council to terminate this Agreement with immediate effect and to recover the costs incurred in consequence as a civil debt from the Lead Authority.

8.3 On termination of this Agreement howsoever arising the Lead Authority shall when directed to do so by the Council, and instruct all its agents and Sub-Lead Authorities to:

8.3.1 transfer to the Council the whole or any part of the Personal Data and other Information received or acquired by the Lead Authority for the purposes of or in the course of the delivery of the services the subject of this Agreement; and

- 8.3.2 destroy or erase the whole or any part of such Personal Data and other Information retained by the Lead Authority and provide to the Council such proof of destruction as the Council may reasonably require.
- 8.4 The provisions of this paragraph shall continue in effect notwithstanding termination of this Agreement.

## **Annex B**

### **Data Protection**

1. The terms and expression used in this Annex B (Data Protection) shall have the meanings set out below in so far as they are not defined in Annex A or elsewhere in this Agreement.

<b>Agreed Purposes</b>	such data sharing of Personal Data for the purposes of the Council being enabled to discharge its statutory functions and duties and corporate aims and objectives arising from its duty to commission and ensure the provision of the Joint Parking Service under this Agreement and such other services similar or complementary to the Joint Parking Service under this Agreement;
<b>Controller</b>	has the meaning given to it in section 6 of the DPA 2018.
<b>Council Data</b>	means any and all of the following: (a) all data, records, information, text, drawings, reports diagrams, images, or sounds generated or processed by the Lead Authority or provided to the Lead Authority for processing under this Agreement which at all times shall remain the property of the Council or;  (b) any documentation and information produced by or received from or on behalf of the Council in relation to the Agreement and stored on whatever media;  (c) any information or data provided by, obtained or created on behalf of the Council in performing the Agreement and in the case of Personal Data, any data processed on behalf of the Council where the Council is the Controller
<b>Data Loss Event</b>	means any event that results, or may result, in unauthorised access to Personal Data under this Agreement and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement including any Personal Data Breach.
<b>Data Processing Schedule</b>	means Part1of this Annex B (Data Protection) that sets out the processing the Lead Authority is authorised to undertake under this Agreement.
<b>Data Protection Impact Assessment</b>	means an assessment by the Council of the impact of the envisaged processing on the protection of Personal Data.

<b>Data Protection Legislation</b>	<p>means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation:</p> <ul style="list-style-type: none"> <li>(a) the UK GDPR;</li> <li>(b) the DPA 2018;</li> <li>(c) the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and</li> <li>(d) the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and which are applicable to a Party.</li> </ul>
<b>Data Protection Officer</b>	has the meaning given to it in the Data Protection Legislation.
<b>Data Subject</b>	means the identified or identifiable living individual to whom the Personal Data relates.
<b>Data Subject Right Request</b>	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation.
<b>DPA 2018</b>	means the Data Protection Act 2018 and regulations made thereunder.
<b>FOIA</b>	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation as amended or re-enacted from time to time and any Act substantially replacing the same
<b>Information</b>	has the meaning given under Section 84 of the FOIA, which shall include (but is not limited to) information in any form whether relating to the past, present or future and may in particular consist of data, documentation, programs, (including the source code of any programs which the Council has the right to use), computer output, voice transmissions, correspondence, calculations, plans, reports, graphs, charts, statistics, records, projections, maps, drawings, vouchers, receipts and accounting records and may consist of or be stored in any form including paper,

microfilm, microfiche, photographic negative, computer software and any electronic medium and references herein to Information shall include reference to the medium in which it is stored.

**Information Breach**

means any event that results, or may result, in unauthorised access to Council Data held by the Lead Authority under this Agreement, and/or actual or potential loss and/or destruction of Council Data in breach of the Agreement, including any Personal Data Breach.

**Personal Data**

has the meaning given in the Data Protection Legislation being any information relating to an identified or identifiable living individual that is processed by the Lead Authority on behalf of the Council as a result of, or in connection with, the provision of the Joint Parking Service; an identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

**Permitted Recipients**

the Parties to this Agreement, the employees of each Party and any third parties properly engaged by the Parties to this Agreement to perform obligations in connection with this Agreement.

**Personal Data Breach**

has the meaning given in the Data Protection Legislation.

**Processor**

has the meaning given in the Data Protection Legislation being a natural or legal person, public authority, agency or other body which processes personal data on behalf of the Controller.

**Protective Measures**

means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**Records of Processing Activities**

has the meaning given in the Data Protection Legislation.

**Shared Personal Data**

means:

- (a) all such Personal Data shared between the Parties in relation to the Joint Parking Service by the Lead Authority; and/or all such Personal Data that is reasonably required by the Council in order to ensure compliance with the Council's statutory duties and other duties in relation to its functions, powers and responsibilities under the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 and otherwise for the enforcement of on street civil parking and highways duties
- (b) details of all outstanding PCNs on expiry or termination of this Agreement
- (c) correspondence and enquiries from the general public relating to the Joint Parking Service in accordance with the categories of specified personal data and special category personal data set out in Part 2 (Shared Personal Data) of Annex B (Data Protection) and all practices, protocols and agreements agreed between the Parties from time to time.

**Standard Contractual Clauses (SCC)**

means the Information Commissioner's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries (controller-to-processor transfers), or such alternative clauses as may be approved by the Information Commissioner from time to time.

**Sub-processor**

means any third party appointed to process Personal Data on behalf of the Lead Authority related to this Agreement.

**UK GDPR**

means the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) as defined within section 3(10) (as supplemented by section 205(4)) of the DPA 2018, as amended or re-enacted from time to time and any United Kingdom Act recognised in UK law substantially replacing the same.

2. Each Party, including its Sub-Contractors and their Staff shall comply with all applicable requirements of the Data Protection Legislation. The provisions in this Annex B (Data Protection) are in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
3. The Lead Authority shall give all reasonable assistance to the Council necessary to enable it to comply with its obligations under the Data Protection Legislation and to meet its duties in the commissioning and delivery of the Joint Parking Service. The parties shall comply with Annex A (Information Handling). Each Party shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach, of the Data Protection Legislation.
4. In the event that the Lead Authority does not have a security policy that complies with the Council's relevant standard, the Council shall be entitled to establish its own systems audit for evaluating and monitoring the effectiveness of the Lead Authority's data protection systems and shall be entitled to deduct the reasonable cost of so doing from sums due to the Lead Authority.
5. The Parties acknowledge that under this Agreement for the purposes of the Data Protection Legislation: the Council shall be the Controller of any Personal Data it provides to the Lead Authority in relation to the Joint Parking Service and the Lead Authority (and its permitted contractor, sub-contractor or agent if applicable) shall be the Processor of that Personal Data and shall process (or shall ensure that its permitted contractor, sub-contractor or agent if applicable processes) that Personal Data in accordance with the Data Processing Activities and this Annex B (Personal Data). The Lead Authority agrees that:
  - 5.1.1 the only processing it is authorised by the Council to do is listed in the Data Processing Schedule and may not be amended or otherwise determined by the Lead Authority;
  - 5.1.2 the Parties shall enter into any supporting data processing agreements necessary to ensure compliance with the Data Protection Legislation and good practice; and
  - 5.1.3 the Lead Authority shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.
6. The Lead Authority shall be the Controller of any Personal Data generated or processed in relation to the Joint Parking Service that has not been provided by the Council and shall process (or shall ensure that its permitted contractor, sub-contractor or agent if applicable processes) that Personal Data in accordance with this Annex B and the Data Protection Legislation.
7. Each Party agrees that the disclosure of the Shared Personal Data is necessary and such sharing and disclosure shall be compliant with the Agreed Purposes and the Data Protection Legislation. The relevant Shared Personal Data is set out within Part 2 of this Annex B (Data Protection). The Council and the Lead Authority agree to share the Shared Personal Data in accordance with this Agreement including Annex A (*Information Handling*) and agree to:

- 7.1.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
  - 7.1.2 give full information to any data subject whose Personal Data may be processed under this Agreement of the nature of such processing. This includes giving notice that, on the termination of this Agreement, Personal Data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
  - 7.1.3 process the Shared Personal Data only for the Agreed Purposes;
  - 7.1.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - 7.1.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Agreement.
8. The Lead Authority shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:
  - 8.1. a systematic description of the envisaged processing operations and the purpose of the processing;
  - 8.2. an assessment of the necessity and proportionality of the processing operations in relation to the Joint Parking Service;
  - 8.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 8.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
9. The Lead Authority shall, in relation to any Personal Data processed in connection with its obligations under this Agreement process that Personal Data only in accordance with the Data Protection Legislation and Data Processing Schedule, unless the Contactor is required to do otherwise by Legislation. If it is so required, the Lead Authority shall promptly notify the Council before processing the Personal Data unless prohibited by Legislation.
10. The Lead Authority shall ensure that it has in place Protective Measures that comply with the Data Protection Legislation and the Council's Information Policy to protect against a Data Loss Event having taken account of the:
  - 10.1. nature of the data to be protected;
  - 10.2. harm that might result from a Data Loss Event;

- 10.3. state of technological development; and
  - 10.4. cost of implementing any measures.
11. The Council reserves the right to review the Protective Measures at any point and the Lead Authority shall facilitate such review. Where the Protective Measures in paragraph 10 do not comply with the Data Protection Legislation or the Council's Information Policy, the Lead Authority shall implement any remedial changes to the Protective Measures requested by the Council at the Lead Authority's expense.
12. The Lead Authority shall ensure that:
- 12.1. the Staff do not process Personal Data except in accordance with this Agreement (and in particular the Data Processing Schedule);
  - 12.2. it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
    - 12.2.1. are aware of and comply with the Lead Authority's duties under this Annex B (Data Protection), Annex A (Information Handling) and the Data Processing Schedule;
    - 12.2.2. are subject to appropriate confidentiality undertakings with the Lead Authority or any permitted Sub-processor;
    - 12.2.3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
    - 12.2.4. have undergone adequate training in the use, care, protection and handling of Personal Data.
13. The Lead Authority shall notify the Council immediately if it:
- 13.1. receives any Data Subject Right Request or purported Data Subject Right Request;
  - 13.2. receives a request to rectify, block or erase any Personal Data;
  - 13.3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 13.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

- 13.5. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Legislation; or
- 13.6. becomes aware of a Data Loss Event,  
  
and the Lead Authority's obligation to notify shall include the provision of further information to the Council in phases, as details become available.
14. Taking into account the nature of the processing, the Lead Authority shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:
  - 14.1. the Council with full details and copies of the complaint, communication or request;
  - 14.2. such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Right Request within the relevant timescales set out in the Data Protection Legislation;
  - 14.3. the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 14.4. assistance as requested by the Council following any Data Loss Event;
  - 14.5. assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.
15. The Lead Authority shall maintain complete and accurate Records of Processing Activities. This requirement does not apply where the Lead Authority employs fewer than 250 staff, unless:
  - 15.1. the Council determines that the processing is not occasional;
  - 15.2. the Council determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
  - 15.3. the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
16. The Lead Authority shall allow for audits of its data processing activity by the Council or the Council's designated auditor.
17. The Lead Authority shall designate a data protection officer if required by the Data Protection Legislation.

18. The Council may in complying with a statutory obligation or any guidance issued by the Information Commissioner's Office on not less than thirty (30) Working Days' notice, revise this Annex B (Data Protection) by amending, revising or replacing it with any provisions which are compliant and/or any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
19. The Parties agree to take account of any rulings and/or guidance issued by the Information Commissioner's Office.
20. The Lead Authority shall at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on expiry or termination of this Agreement unless the Lead Authority is required by Legislation to retain the Personal Data.
21. The Lead Authority shall provide the Council with contact details of at least one employee as a point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the Lead Authority's compliance with the Data Protection Legislation.
22. At the written direction of the data discloser, the other Party shall delete or return Shared Personal Data and copies thereof to the data discloser on expiry or termination of this Agreement unless required by Legislation to store the Personal Data.
23. The Lead Authority shall use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from Personal Data transfers.

#### **Outside of the UK processing**

24. The Lead Authority shall not transfer or otherwise process any Personal Data outside of the UK (including any proposed sub-processing) unless the prior written consent of the Council has been obtained and all the following conditions are fulfilled at all times in relation to such processing:
  - 24.1. either:
    - 24.1.1. the Lead Authority is processing the Personal Data in a territory which is subject to adequacy regulations under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals as identified in the Data Processing Schedule; or
    - 24.1.2. the Lead Authority has provided appropriate technical and organisational data security measures and safeguards in relation to the transfer (in accordance with the UK GDPR Article 46) as consented to by the Council prior to any such processing commencing and if agreed at the commencement of this Agreement as set out in the Data Processing Schedule;

- 24.2. the Data Subject has enforceable rights and effective legal remedies;
- 24.3. the Lead Authority complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
- 24.4. the Lead Authority shall prior to commencing any processing confirm its processes for challenging requests by any governmental and/or law enforcement authority to access any Personal Data and shall confirm the robustness of such processes to the Council's satisfaction;
- 24.5. the Lead Authority shall immediately notify the Council of any requests for access to or actual access to Personal Data from or by governmental and/or law enforcement authorities so that the Council can intervene unless truly prohibited by law from doing so;
- 24.6. the Lead Authority shall prior to any such processing commencing provide statistics as to how often and what types of requests have been complied with in relation to Personal Data in the past 24 months so that the Council can assess the likelihood of its Personal Data being accessed on an on-going basis;
- 24.7. the Lead Authority shall on request relocate specified data processing activities (or parts thereof) to other countries or ultimately cease processing and the Lead Authority and Council shall agree the impact of any such change to this Agreement - for the avoidance of doubt, any request arising from the Lead Authority being non-compliant with the Data Protection Legislation and/or the measures in place which were agreed for any such processing is automatically deemed to be a reasonable request and any such change must be agreed within 3 Working Days and all processing must cease unless the Council agrees otherwise;
- 24.8. the Lead Authority shall comply with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
- 24.9. the Lead Authority shall comply with any other requirements specified by the Council including anything necessary to comply with any guidance or requirement issued by the Information Commissioner;
- 24.10. if any Personal Data transfer between the Council and the Lead Authority (where the Council is the entity exporting Personal Data to the Lead Authority outside the UK) requires execution of the SCC in order to comply with the Data Protection Legislation, the Parties will complete all relevant details in, and execute, the SCC (or any replacement thereof), and take all other actions required to legitimise the transfer.

### **Sub-processing**

25. In relation to any sub-processing of any Personal Data related to this Agreement by a Sub-processor, the Lead Authority must comply with the following:
- 25.1. prior to any such sub-processing commencing, the Lead Authority must obtain the written consent of the Council providing the Council with details in writing of the intended Sub-processor and processing;
  - 25.2. the Lead Authority shall provide the Council with such information regarding the Sub-processor at all times (including in relation to any request for consent under the paragraph above) as the Council may reasonably require which includes any such requirements as would be imposed by the Council under this Schedule 11 (Data Protection) in relation to the Lead Authority;
  - 25.3. if the Council consents to such proposed sub-processing, the Lead Authority must enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Agreement relating to data protection including this Annex B (Data Protection), Annex A (Information Handling) and the Data Processing Schedule such that they apply to the Sub-processor and provide a copy of such agreement to the Council;
  - 25.4. if the Council consents to the appointment by the Lead Authority of a Sub-processor located outside the UK, the Lead Authority must enter into the SCC (or any replacement thereof) with the Sub-processor prior to the Sub-processor processing any Personal Data relating to this Agreement and provide a copy of the executed SCC to the Council - the Lead Authority agrees that the SCC will take priority over the terms of any other agreement between the Lead Authority and the Sub-processor whether entered into before or after the date the SCC are entered into;
  - 25.5. if the Council consents to such proposed sub-processing, the Lead Authority shall:
    - 25.5.1. procure compliance by the Sub-processor with the obligations relating to data processing under this Agreement;
    - 25.5.2. remain fully liable for all acts or omissions of any Sub-processor;
    - 25.5.3. maintain control over all of the Personal Data it entrusts to the Sub-processor; and
    - 25.5.4. be deemed to control legally any Personal Data controlled practically by or in the possession of its Sub-processor;
    - 25.5.5. ensure that the Sub-processor's contract terminates automatically on termination of this Agreement for any reason.

## ANNEX B – DATA PROTECTION

### PART 1

#### DATA PROCESSING SCHEDULE

1. The Lead Authority shall comply with any further written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Part 1.

DETAILS	DESCRIPTION
<b>Subject matter of the processing</b>	On-street Penalty Charge Notices and all on-street associated permits and dispensations and the making of parking related Traffic Regulation Orders
<b>Duration of the processing</b>	5 years from 01/07/2022 plus extensions of 1+1+1 years [the agreement initial term and any subsequent extensions]
<b>Nature and purposes of the processing</b>	Nature of the processing includes: <ol style="list-style-type: none"><li>a. collection,</li><li>b. recording,</li><li>c. organisation,</li><li>d. structuring,</li><li>e. storage of personal data for the provision of Parking Notice and Permit processing services.</li></ol>
<b>Type of Personal Data</b>	<ol style="list-style-type: none"><li>a. Vehicle Registration Mark</li><li>b. name</li><li>c. address</li><li>d. email address</li><li>e. telephone number</li></ol>
<b>Categories of Data Subject</b>	<ol style="list-style-type: none"><li>a. Students</li><li>b. Suppliers</li><li>c. Carers (&amp; Reps)</li><li>d. Employees/contractors</li><li>e. School staff</li><li>f. ECC officers</li><li>g. General public</li><li>h. Representatives</li></ol>
<b>Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data</b>	The data will be retained by the Lead Authority for the duration of the Agreement and thereafter returned to the Council in line with the obligations in this Agreement.
<b>Legal Basis for processing Personal Data outside the UK</b>	Not applicable.

## **ANNEX B – DATA PROTECTION**

### **PART 2**

#### **SHARED PERSONAL DATA**

1. The following types of Personal Data will be shared between the parties during the Agreement Term:
  - Name
  - Address
  - Telephone number
  - Email address
  - Vehicle registration number
  - Vehicle location
  - Information provided in a written challenge or representation
  
2. The following types of special categories of Personal Data will be shared between the Parties during the Agreement Term:  
Not applicable as at the date of this Agreement.
  
3. The Parties will review and update the lists in this Annex 2 (Shared Personal Data) during the Operational Period as necessary to ensure that the Council has access to such Shared Personal Data as is necessary for the Agreed Purposes.
  
4. The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.