

DATED:

2022

**CAMBRIDGESHIRE COUNTY
COUNCIL**

and

**HUNTINGDONSHIRE DISTRICT
COUNCIL**

AGENCY AGREEMENT

**Relating to the provision of
Civil Parking Enforcement
in Huntingdonshire District**

Legal Services
Cambridgeshire County Council

???????

Cambridgeshire

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PARTIES

1. **CAMBRIDGESHIRE COUNTY COUNCIL** of County Hall, ??????, Cambridgeshire ??? / (the “County Council”); and
2. **HUNTINGDONSHIRE DISTRICT COUNCIL** of ?????? Huntingdonshire, ?????? (the “District Council”)

BACKGROUND

- a. The County Council and the District Council are local authorities as defined by Section 270(1) of The Local Government Act 1972, (the 1972 Act);
- b. For the purposes of The Road Traffic Regulation Act 1984, (the 1984 Act), the County Council is the Highway Authority for all roads in the County of Cambridgeshire (other than motorways and all-purpose trunk roads);
- c. The principal objective of Civil Parking Enforcement is to achieve compliance with The Traffic Management Act 2004, (the 2004 Act), to be self-financing and achieve integration between on-street and off-street parking management and enforcement within Cambridgeshire;
- d. The Functions which are the subject of this Agreement are functions of the Executive (as defined by The Local Government Act 2000, (the 2000 Act) and by virtue of Section 19 of the 2000 Act and the 2000 Regulations the Executive of a local authority may arrange for functions which are the responsibility of the Executive of that local authority to be discharged by another local authority or the Executive of another local authority;
- e. In accordance with these statutory provisions and in pursuance of the key objective of Civil Parking Enforcement in Cambridgeshire, the Executive of the County Council has authorised the discharge by the District Council of certain Functions of the County Council relating to Civil Parking Enforcement on roads and off-street car parks for which the County Council is responsible in the District Council's administrative area as set out in Clauses 5 and 6 of this Agreement upon the terms of this Agreement;
- f. The District Council is willing and has agreed to exercise these Functions on the County Council's behalf in pursuance of Section 101 of the 1972 Act;
- g. From xxx 2023, Huntingdonshire District is to be classified as a Civil Enforcement Area and Special Enforcement Area in accordance with the 2004 Act;
- h. The District Council acknowledge the powers delegated under this Agreement are non-transferable (and cannot be sub-contracted) without the express approval of the County Council;
- i. This Agreement has been entered into by the County Council by virtue of the decision of the

County Council's Cabinet Member dated XXX and by the District Council by virtue of the decision of the Cabinet Members on YYY.

SECTION 1 – PRELIMINARY

1. **Definitions and Interpretation**

1.1 In this Agreement, unless the context otherwise requires, the words and phrases set out in Schedule 1 shall have the meanings ascribed to them in Schedule 1.

1.2 In this Agreement:

1.2.1 time shall mean British Summer Time throughout the period during which such time is in force but otherwise shall mean Greenwich Mean Time;

1.2.2 a reference to any act of parliament, order, regulation, statutory instrument or the like shall include a reference to any amendment, modification or re-enactment of the same;

1.2.3 words importing one gender shall include the other; words in the singular shall include the plural and vice versa and word importing individuals shall be treated as importing corporations and vice versa;

1.2.4 clause headings and notes are for ease of reference only and do not affect the interpretation of the Agreement;

1.2.5 a reference to a clause, schedule, section, part or appendices is a reference to a clause, schedule, section, part or appendices within this Agreement unless expressly stated otherwise;

1.2.6 except where expressly stated otherwise, any decision, agreement, request, consent, approval (including whether performance is to the satisfaction of a party), action or other step of a similar nature (together "Approvals") required to be taken by a party shall be taken reasonably and in good faith and shall not be unreasonably withheld or delayed provided that it shall be reasonable to withhold or delay any such Approval if:

(i) the giving of such Approval would have a materially adverse effect on the proper discharge of the Functions, or

(ii) if in the reasonable opinion of the party from whom the Approval is sought the giving of such Approval by it would cause it to be in breach to any extent of any of its obligations to which it is subject under any Law.

1.3 The Schedules to this Agreement form part of this Agreement.

2. Commencement and Duration of Agreement

- 2.1 The Agreement shall commence on the Commencement Date and unless terminated earlier in accordance with the terms of this Agreement will remain in force for an initial period of five (5) years.
- 2.2 No later than twelve (12) Months before the end of the Initial Period the County Council may (in consultation with the District Council) agree with the District Council to extend the Agreement Period by a further period or periods of up to five (5) years (an "Extension").
- 2.3 Any such Extension shall be on the same or substantially the same terms and conditions as under this Agreement subject to any necessary changes that may be agreed.

3. Principles of Collaboration and Cooperation

- 3.1 The District and County Council agree to adopt the following principles of collaboration and cooperation when exercising the Functions and discharging the terms and conditions of this Agreement (Principles):
- a. collaborate and co-operate; in particular, but not limited to, cooperating with any consultation into and implementation of new parking technology(ies) to provide the delegated Functions;
 - b. be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities as set out in this Agreement;
 - c. be open. Communicate openly about major concerns, issues or opportunities relating to this Agreement;
 - d. learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
 - e. adopt a positive outlook. Behave in a positive, proactive manner;
 - f. adhere to statutory requirements and best practice. Comply with all applicable laws and standards;
 - g. act in a timely manner. Respond accordingly to requests for support and maintenance;
 - h. deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities of this agreement (having obtained required express approvals as defined in this Agreement); and
 - i. act in good faith to support compliance with these Principles.
- 3.2 There are many benefits to be gained from collaborative working including:
- a. efficiencies leading to reduced cost;
 - b. less duplication and a reduction in waste;
 - c. integration of teams and systems;
 - d. common strategies and objectives;
 - e. maximising innovation throughout the delivery model; and
 - f. mitigation of risk through joint management.

SECTION 2 – DELEGATION OF FUNCTIONS

4. Delegation and Agency

4.1 In exercise of the powers contained in Section 19 of the 2000 Act and the 2000 Regulations and in accordance with Section 101 of the 1972 Act and subject to the terms and conditions of this Agreement the County Council hereby authorises the District Council to discharge the County Council's Functions on behalf of the County Council within the District Council's administrative area.

4.2 Notwithstanding Clause 4.1 and as provided in Sections 19(4) and (5) of the 2000 Act nothing herein contained shall prevent the County Council from exercising the Functions provided that the County Council will not exercise any of the Functions except for some good and sufficient reason and then only after agreement with the District Council as to both the necessity for the action on the part of the County Council and as to the time when it will be exercised such agreement also to include when the Function will be handed back PROVIDED that such agreement shall not be necessary where the urgency of the situation in the reasonably held opinion of the County Council does not permit of such consultation.

4.3 Should the County Council terminate the agreement before the completion of the initial 5 years of the District acting as an agent, the County Council shall pay back to the District a proportion of the initial investment made by HDC which includes capital and revenue costs associated with completion of TRO mapping and digitisation, project management, remedial works and any other costs fairly associated with the implementation of CPE within the District incurred by the District Council. 100% of these costs will be owed by the County to the district, less 20% for each year of full operation. It shall be considered that following 5 years of operation as the agent, the district council will have no implementation costs owed back should the County terminate.

4.4 Notwithstanding Clause 4.1 hereof the District Council may in any particular case request the County Council to exercise any of the Functions in which case the County Council may in its discretion (acting reasonably) exercise the Function or Functions to the extent of the request and to the exclusion of the District Council.

4.5 In the event that the County Council exercises its rights in Clauses 4.2 and /or 4.3, and notwithstanding Clause 4.3, it shall fully and promptly indemnify the District Council against any and all losses claims demands liabilities or proceedings whatsoever and howsoever arising suffered or incurred by the District Council as a result of such exercise of the County Council's rights.

5. Functions

5.1 The Functions are:

5.1.1 the exercise of all duties and powers of the County Council pursuant or incidental to the provisions of: (i) Sections 72-76, Section 78-79 and Schedule 8 Part 2 of the 2004 Act as applied and amended by the Designation Order; (ii) Sections 63A, 101 and 102

of the 1984 Act as amended by the Designation Order, and (iii) the exercise of any other power given to the County Council pursuant to the Designation Order PROVIDED THAT the Functions shall not include any duties or powers of the County Council pursuant to Section 77 of the 2004 Act as amended by the Designation Order nor the functions of the Street Authority under the New Roads and Street Works Act 1991 and as the same are amended re-enacted consolidated or replaced from time to time; and

5.1.2 the exercise of any powers given to the County Council pursuant to any law for the management of the Huntingdonshire CPE save and except such powers vested in the County Council for the making and management of all Traffic Regulation Orders. The management of the Traffic Regulation Orders shall include a commitment of the County Council to maintain an up to date digital database that shall be made available to the District Council, with full access, to undertake the Functions so described in this agreement.

5.2 Without prejudice to the generality of Clause 5.1 it is declared that the Functions include:

5.2.1 the administration of Parking Schemes made by order of the County Council excluding the administration and collection of charges for Parking Permits. Huntingdonshire to have full access to the County Council Orders live permit database for enforcement and administration purposes. The County Council to ensure their IT system is to be compatible with the HDC chosen system by ensuring open API's for key data points.

5.2.2 HDC would undertake enforcement of any such permit schemes within the terms of this agreement. Should the County Council introduce new permit or on street charging schemes subsequent to this agreement, the level of enforcement of these needs to be considered by the County Council through consultation with the Districts Parking Services, the District Council may consider the introduction of these would incur more costs for the Districts, for which the additional revenue costs may be recharged to the County.

5.2.3 the maintenance of pay and display equipment and the collection of charges for on-street parking and parking in the County Council Off-Street Assets in accordance with the County Council defined procedures. Should either the County Council or HDC revert to fully cashless parking this element of the agreement to be the subject of amendment by variation using supplements to this agreement.

5.2.4 the issuing of Penalty Charge Notices (PCNs) and the collection of Penalty Charges in both the Civil Enforcement Area and Special Enforcement Area in accordance with the County Council defined procedures as agreed with HDC. For clarity the Functions **do not** include the enforcement and administration of moving traffic contraventions;

5.2.5 the dealing with the representations correspondence and appeals arising from the issuing of PCNs in accordance with the County Council defined procedures as agreed with HDC within a joint enforcement policy;

5.2.6 provision of a competent IT system, chosen by HDC, to deal specifically with CPE,

parking administration including the ability of the IT system to interact with all external parties required for the successful provision of the Functions.

5.2.7 the taking of steps to recover payments due, including instructing registered or certificated bailiffs (or enforcement agent). As all PCN, debt recovery income will be retained by HDC, then the recovery procedure will be a HDC procedure including the collection of European debt.

5.2.8 The exercise of the powers for immobilisation and the removal, recovery, storage and disposal of vehicles and collection of charges in connection with such activities in accordance with the County Council defined procedures will not form part of the Functions and this will be retained by the County Council as agreed with HDC within a joint enforcement policy;

5.2.9 the registration of debts at the appropriate County Court, including the making of any witness statements in accordance with HDC debt recovery procedures as the debt belongs to HDC.

5.3 Subject to Clause 9.2, to the extent that it is contractually entitled to do so, the District Council shall in consultation with the County Council, provide services in relation to any CPZ that may be introduced in Huntingdonshire by the County Council. This would be managed in accordance with the County Council's defined procedures as may be amended and revised from time to time by the County Council and issued to the District Council.

5.4 Subject to clause 5.3 the District Council shall carry out the Functions in clauses 5.1.2 and 5.2 relating to any such future Huntingdonshire CPZ in accordance with the County Council's defined procedures as may be amended and revised, in consultation with the District Council and issued to the District Council from time to time by the County Council.

6. Limitations on and Exceptions from Functions

6.1 The District Council shall not commence the exercise of powers under the 2004 Act for the immobilisation, removal, recovery, storage and disposal of vehicles and collection of charges in connection therewith in respect of the Functions until the County Council has given prior consent for the use of those powers (such approval not to be unreasonably withheld or delayed) and the District Council are satisfied (acting reasonably) that its implementation shall be cost neutral.

6.2 This Agreement does not confer upon the District Council, without the prior written consent of the County Council, the power or right to:

6.2.1 implement new pay and display schemes for on-street parking; or

6.2.2 make or manage Traffic Regulation Orders, provided that this Agreement shall not remove or otherwise limit any such powers or right as have otherwise been conferred on the District Council; or

6.2.3 alter or in any other way add to or remove from the on-street parking charges; or

6.2.4 implement new pay and display schemes for any County Council Off-Street Parking; or

6.2.5 alter or in any other way add to or remove from the County Council Off-Street Parking charges.

SECTION 3 – DISCHARGE OF FUNCTIONS

7. Exercise of Agency

7.1 This Agreement supersedes any and all agreements or understandings whether written or oral between the County Council and the District Council relating to the matters which are the subject of this Agreement.

7.2 In exercising the Functions, the District Council hereby agrees with the County Council that so far as practicable having regard inter alia to the District Council's rights and powers it shall discharge the Functions in accordance with the Service Level Agreement and any relevant guidance and have regard to and comply with all statutory and legislative requirements associated with the Functions.

7.3 Both the County Council and District Council will join the Parking and Traffic Regulations Outside London Adjudication Joint Committee in order to provide the adjudication facility required by the 2004 Act and the District Council will operate and administer an appeals procedure to the Parking Adjudicators appointed by the Adjudication Service.

7.4 The County Council and the District Council hereby warrant and represent each to the other that it has full capacity and power to enter into this Agreement and that in doing so it has complied with all applicable Laws and accordingly it will fully and promptly indemnify the other party against all costs losses expenses claims demands or proceedings suffered or incurred by that party as a result of inaccuracy to any extent of the warranty and representation contained in this clause.

8. Operational Arrangements

8.1 The District Council will, in collaboration with the County Council for the on street element, devise an operational parking enforcement policy and will obtain the prior approval of the County Council to any material amendment to this policy which may in any manner affect the Functions (such approval not to be unreasonably withheld or delayed).

8.2 The County Council in consultation with the District Council, reserves the right to establish a standard countywide requirement for the uniform(s) to be worn by the Civil Enforcement Officers in the course of their duties in accordance with guidance issued by the Department for Transport.

8.3 The logo of the District Council will be required to be displayed on all Civil Enforcement Officer's uniforms and all stationery relating to the carrying out of the Functions.

8.4 The logos of the County Council and the District Council will be required to be displayed on the PCNs.

- 8.5 As the Highway Authority, the County Council will remain the Order-making Authority for on-street Traffic Regulation Orders and for the County Council's Off-Street Parking, with the District Council retaining responsibility for making any other off-street orders subject to the necessary approval of the County Council.
- 8.6 As the Highway Authority, the County Council will remain responsible for all physical and digital records of Orders with the District Council to be granted for the purpose of enforcing and administering CPE and for no other reason. The District Council will not be permitted to alter in any way the order records provided by the County Council. The County Council commits to ensuring that the Order records are kept up to date and accurate for use by the District Council.
- 8.7 The County Council retains the right to alter the full and/or discounted monetary amount of on-street Penalty Charges in consultation with the District Council and subject where necessary to the approval of the Secretary of State.
- 8.8 The County Council retains the right in consultation with the District Council to set the level of on-street parking charges including residents' and other Parking Permits but shall in doing so have regard to the provisions of Section 5 (Financial Arrangements) and any other relevant provisions of this Agreement.
- 8.9 Any reduction of the charges pursuant to clause 8.6 shall be cost neutral to the District Council.
- 8.10 The Parking Schemes will be operated in accordance with the relevant Traffic Regulation Orders. On-street Parking Permits will be issued by the County Council and only in accordance with the County Council's procedures for managing any CPZs issued by the County Council and notified to the District Council from time to time.
- 8.11 The County Council will be responsible for all on-street signs and lines maintenance work. Where a safety issue is noted by the District Council it shall notify the County Council and only undertake emergency safety works on approval from the County Council.
9. **Review of Operational and Other Functional Arrangements**
- 9.1 The parties shall on the first and fourth anniversaries of the Commencement Date undertake a full review of this Agreement with particular reference to the costs, income, expenditure and effectiveness of the arrangements during the preceding period of the Agreement, and with the intention, on the fourth anniversary, of agreeing an extension thereof before the end of the Initial Period.
- 9.2 Notwithstanding the general review provisions in Clause 9.1 the County Council will annually formally review with the District Council the District Council's discharge of the Functions and the operation of this Agreement and any agreed changes both financial and operational will be recorded as a Variation to this Agreement. HDC retain the right to levy an increase in charges to the County Council for work over and above this agreement as a result of the introduction or amendment of restrictions / schemes or amendments to this agreement by the County Council
- 9.3 The District Council will take all reasonable steps to avoid any conflict between its own

requirements and those of the County Council as traffic authority in relation to the discharge of the Functions. In the event of any such conflict arising in this regard the matter will be resolved in accordance with the Dispute Resolution Procedure.

SECTION 4 –INDEMNITIES AND INSURANCE

10. Indemnities

- 10.1 The County Council shall be responsible for and shall indemnify the District Council against all and any claims for compensation (including the ancillary costs incurred by the successful claimant and the District Council) arising from the exercise of the Functions but this shall not apply where the District Council is proven to be negligent in discharging the Functions and such negligence has directly caused the circumstances leading to the claim for compensation.
- 10.2 The District Council shall use all reasonable endeavors to undertake the Functions in such a way as to minimise third party claims for compensation damages or otherwise or any legal liability arising in connection with or incidental to the carrying out of the Functions through the negligence default acts or omissions of the District Council or its employees' agents or contractors.
- 10.3 Subject to clause 12 the District Council shall indemnify the County Council against any claim made against the County Council as a result of a negligent act or negligent omission by the District Council or its employees and contractors in discharging the Functions and such negligence has directly caused the circumstances leading to the claim for compensation.
- 10.4 As the Highway Authority, the County Council retain full responsibility and liability for the Highway in totality including but not limited to on street furniture, assets and condition of the highway within the District Council. The District Council can not be held liable in the event of all and any compensation claim against the County Council arising from negligence by the County Council in maintaining the Highway and assets.

11. Insurances

- 11.1. Notwithstanding and independently of the District Council's obligations in this Agreement, the District Council shall maintain at its own expense public liability insurance throughout the period of this Agreement. The level of cover per incident under such policy at the date of this Agreement shall be at least ten million pounds (£10,000,000) (even in the situation that the District Council's general policy for public liability insurance is amended).

12 Conduct of Claims

- 12.1 This clause 12 shall apply to the conduct, by a party from whom an indemnity is sought under this Agreement, of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity. The party having, or claiming to have, the benefit of the indemnity is referred to as the "Beneficiary" and the party giving the indemnity is referred to as the "Indemnifier". Accordingly:
- 12.2 In the event that the Beneficiary receives any notice, demand, letter, or other document concerning any claim arising from the discharge the purported discharge or the failure to discharge the Functions or any of them from any third party it shall notify the Indemnifier of the claim as soon as reasonably practicable and in any event within twenty (20) Working Days

of receipt of the same.

- 12.3 The Indemnifier shall (subject to it giving to the Beneficiary an indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations. The Beneficiary shall give the Indemnifier all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim.
- 12.4 With respect to any claim conducted by the indemnifier pursuant to clause 12.3:
- 12.4.1 the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the claim;
- 12.4.2 the Indemnifier shall not bring the name of the Beneficiary into disrepute; and
- 12.4.3 the Indemnifier shall not pay or settle such claims without the prior consent of the Beneficiary, such consent not to be unreasonably withheld or delayed.
- 12.5 The Beneficiary shall be free to pay or settle any claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- 12.5.1 the Indemnifier is not entitled to take conduct of the claim in accordance with clause 12.3; or
- 12.5.2 the Indemnifier fails to notify the Beneficiary of its intention to take conduct of the relevant claim within twenty (20) Working Days of the notice from the Beneficiary under clause 12.2; or
- 12.5.3 the Indemnifier fails to comply in any material respect with the provisions of clause 12.4.
- 12.6 The Beneficiary shall be free at any time to give notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which clause 12.3 applies. On receipt of such notice the Indemnifier shall promptly take all steps necessary to transfer the conduct of such claim to the Beneficiary, and shall provide to the Beneficiary all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim.

13. **Limitation of Liability**

- 13.1 In respect of any claims of liability arising out of the willful default of the District Council its employees, agents or contractors, the District Council's liability for all reasonably foreseeable loss suffered by the County Council as a result of the default giving rise to the claim, shall be a maximum of £10,000,000 (ten million pounds).
- 13.2 Notwithstanding any other provision of this Agreement neither party shall be liable to the other party (as far as permitted by Law) for indirect special or consequential loss or damage in connection with this Agreement which shall include, without limitation, any loss of or damage

to profit, revenue, contracts, anticipated savings, goodwill or business opportunities.

- 13.3 Subject always to the other provisions of this clause, the provisions of Clause 13.2 shall not be taken as limiting the right of either party to claim from the other for additional operational and administrative costs and expenses resulting directly from the default including negligence of the other party.
- 13.4 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
- 13.5 Where under this Agreement one party (for the purposes of this clause, the “Payer”) is liable to reimburse the other (for the purposes of this clause, the “Beneficiary”) for any costs or expenses suffered or incurred by the Beneficiary the Payer’s liability shall be limited to those costs and expenses that have been reasonably incurred by the Beneficiary provided that:
- 13.5.1 the provisions of this clause 13.5 shall not apply to any costs that are the subject of clause 13.1 or any loss or damage to which sub-clause 13.4 relates and
- 13.6 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for death or personal injury.

SECTION 5 – FINANCIAL ARRANGEMENTS

14. General Principles

- 14.1 The parties declare their intention that the discharge of the Functions shall be cost neutral to the County Council for the duration of the agreement, save for the management of the Orders, permit schemes and signs and lines provision and maintenance, by the County Council, and accordingly the District Council shall be fully responsible for and shall fully and promptly indemnify the County Council against all costs expenses and liabilities whatsoever suffered or incurred by the County Council during this period arising directly in relation to the discharge of the Functions or any of them including without limitation:
- 14.1.1 any costs and expenses incurred whether directly or indirectly in relation to the management and administration of this Agreement in relation to the Functions and the performance of its obligations hereunder
- 14.2 Without prejudice to the County Council’s obligations in clause 14.1:
- 14.2.1 the District Council shall use all reasonable endeavours and the County Council shall use all reasonable endeavours to ensure that the Functions shall so far as possible be run efficiently and economically with the aim to make the discharge of the Functions totally self-financing and cost neutral to the County Council;
- 14.2.2 any integrated operation between on-street parking and off-street parking enforcement shall be kept financially separate from any future CPZ income, each of which is to be recharged by the District Council to the appropriate cost centre;
- 14.2.3 the costs of management of future CPZ elements of the discharge of the Functions shall be borne by the County Council;

14.2.4 the costs of the on-street enforcement and administration element of the discharge of the Functions shall be ultimately met by the District Council if such costs are not otherwise satisfied using available resources in the Joint Enforcement Account. Additional costs may be agreed as a result of the introduction by CCC of new TRO's/MTO's. These will be paid by CCC in addition to this agreement.

14.2.5 the costs of the District Council's off-street parking enforcement, including the processing of PCNs and recovery of Penalty Charges, shall be met by the District Council if such costs are not otherwise satisfied using available resources in the Joint Enforcement Account (see clause 16.1 below).

14.3 The accounts specified in sub-clauses 14.3.1 and 14.3.2 shall be maintained by the District Council as separate accounts in respect of the income and expenditure relevant to this Agreement:

14.3.1 the District Council's on-street parking account; and

14.3.2 the Joint Enforcement Account

15. **Huntingdonshire District Council On-street Parking Account**

15.1 The District Council shall establish and maintain an account to be known as the Huntingdonshire District Council On-Street Parking Account which shall include the following income and expenditure items:

Income	Expenditure
<ul style="list-style-type: none"> • Income from management of any future CPZ • Income from on-street pay and display machines • Income from the County Council off-street assets • Additional funding from CCC to cover costs over and above this initial agreement as a result of CCC requests. 	<p>The District Council's costs attributable to the discharge of the Functions in connection with on-street parking (and County Council, off-street assets) including, when requested by the County Council, any costs of emergency maintenance of traffic signs and road markings.</p> <p>The District Council's costs to administer (not enforce which will be covered from PCN income) the on street pay and display areas, including machine maintenance, collection and banking charges including mobile transaction charges.</p> <p>Cross-subsidy by HDC as required to make good any deficit in the on-street parking section of the Joint Enforcement Account.</p> <p>Other expenditure authorised by the County Council and permitted under the 2004 Act (as amended) including any additional work as a result of the introduction of new schemes/TRO's such as increased pay and display areas.</p>

15.2 By the end of the first quarter following the end of a financial year the District Council shall submit an annual financial summary to the County Council which will be invested in maintenance of sign/lines within the district.

15.3 For the avoidance of doubt, the provisions of this clause 15 shall be without prejudice to and shall not in any way or to any extent limit, diminish, obviate, reduce or extinguish the County Council's obligations in clauses 14 and 20.

15.4 All annual financial summaries, submitted by the District Council, in accordance with clause 15.2, shall include the following information:-

15.4.1 the period to which the summary relates;

15.4.2 the District Council's full business name and address; and

15.4.3 the name and address of the County Council.

15.4.4 A detailed breakdown of the services provided and the associated costs and income.

16. **Joint Enforcement Account (on street).**

16.1 The District Council shall establish a Joint Enforcement Account (on street), which shall include the following items:

Income	Expenditure
<ul style="list-style-type: none">• PCN income actually received by the District Council split between on and off street. This amount shall not include PCN's which have been issued but in respect of which payment of any penalty charge has not been received by the District Council.• Legal and other fees and costs recovered (on street)• Any income which is the subject of clause 14.3.2	<ul style="list-style-type: none">• The costs of the District Council in discharging the Functions relating to the enforcement and administration other than that of on-street paid for parking on the terms of this Agreement• Legal and other fees and costs on street, provided that any such amounts are subject to the express prior consent of the County Council, such consent not to be unreasonably withheld.

16.2 Income to and expenditure from the Joint Enforcement Account shall be recorded in such manner by the District Council as to separately identify on-street and off-street Income and Expenditure Items by the recording of such items to either the on-street sub-section of the Joint Enforcement Account ("On-Street Sub-Section") or the off-street sub-section of the Joint Enforcement Account ("Off-Street Sub-Section") thereby enabling the origin of any surpluses or deficits to be apportioned and the parties to fulfil both the requirements of the 2004 Act and their respective financial reporting obligations to the Secretary of State.

16.3 In the event that the Joint Enforcement Account is in deficit, the District Council shall make good any deficit to the Joint Enforcement Account.

16.4 Any surplus or deficit in the Joint Enforcement Account will be retained or covered by the District Council.

16.5 Any surplus in the on-street section of the Joint Enforcement Account will be held by the District Council will be held on a rolling 5 year account and any surpluses gained with that 5 year period are used in the first instance to offset deficits accrued.

16.6 Any deficit in the on-street section of the Joint Enforcement Account shall be met by the District Council.

16.7 Any deficit in the District Council's off-street section of the Joint Enforcement Account shall be met by the District Council.

16.8 Any surplus in the District Council's off-street section of the Joint Enforcement Account shall accrue to the District Council.

16.9 For the avoidance of doubt, the provisions of this clause 16 shall be without prejudice to and shall not in any way or to any extent limit, diminish, obviate, reduce or extinguish the District Council's obligations in clause 14.1.

16.10 At the end of the final year of this Agreement the District Council shall submit to the County Council of costs and agree amounts should invoices need to be raised. Any invoices shall be paid by the respective Council within 30 days of its receipt. The provisions of this clause 16.13 shall survive the expiry or early termination of this Agreement. Should this Agreement be extended (to be agreed prior to end of the agreement) then this process will be as previous years.

17. **Annual Budget**

17.1 In discharging the Functions, the District Council shall use its reasonable endeavours to discharge the Functions as efficiently and in the most cost effective manner.

17.2 Notwithstanding Clause 9.2, should the County Council increase the need for enforcement over and above this initial agreement, due to the introduction of new Traffic Orders or CPZ's or to increase the number of visits, then a variation order/agreement will be required from the County Council agreeing to cover any increase in costs to the District Council to ensure any increases are cost neutral to the District Council. These costs will be recorded on the joint enforcement account.

18. **Annual Reconciliations**

18.1 By the end of the first quarter of the following Financial Year the District Council shall send to the County Council a reconciliation (each such reconciliation being an "Annual Reconciliation") in accordance with clause 18.5 below in respect of each Account detailing individual Income and Expenditure Items and the total of all Income and Expenditure Items over the course of the preceding Financial Year and which, under the terms of this Agreement, fail to be accounted for in the Accounts.

18.2 Each Annual Reconciliation shall detail actual Income and Expenditure Items to have affected the Accounts during the preceding Financial Year.

18.3 Each Annual Reconciliation shall include a closing balance for each of the Accounts and a comparison of that closing balance against the relevant Annual Budget used to determine the Agreed On-Street Annual Costs and the Agreed Off-Street Annual Costs.

18.4 Within 30 days of the Expiry Date the District Council shall submit to the County Council a final reconciliation ("Final Reconciliation") which shall include all the same information required to be included in an Annual Reconciliation together with an invoice for any sum due to it from the County Council under the terms of this Agreement. Payment may be due if CCC introduce new TROs, CPZ's and they cost more to enforce/ manage than any income they generate to the District Council. These costs are extra to this Agreement and the District Council is entitled to claim for any deficits generated as a result of such increases.

18.5 Within 30 days of the date on which the District Council submits an Annual Reconciliation or a Final Reconciliation to the County Council the District Council shall notify the County Council of the balance in the On-Street Sub-Section of the Joint Enforcement Account and the District Council shall retain any surpluses under the terms of this agreement.

18.6 Any Annual Reconciliation or a Final Reconciliation prepared in accordance with this Agreement shall reflect the following policies:

18.6.1 the parties shall agree how the actual costs of enforcement are to be apportioned between the On-Street Sub-Section and the Off-Street Sub Section of the Joint Enforcement Account for the purposes of the Annual Reconciliation.

18.6.2 any Annual Reconciliation or Final Reconciliation shall clearly detail the amount of any cross-subsidy of either sub-section of the Joint Enforcement Account.

18.6.3 any surplus or deficit shall be dealt with in accordance with the remaining provisions of this Agreement.

19. **Management Information**

19.1 In addition to any other information, it is required to provide under the terms of this Agreement (including any reconciliation), the District Council shall provide to the County Council on a Monthly basis the following up-to-date and accurate management information:

19.1.1 In relation to the on-street parking enforcement under the terms of this agreement, details of all income received, the number of contraventions, the numbers of PCNs issued, the proportion of income received in connection with issued PCNs, the proportion of PCNs cancelled and income from pay and display machines;

19.1.2 In connection with on-street parking, details of all income received including details of the origin of that income, such as pay and display.

19.1.3 Data relating to the performance of the District Council in meeting its objectives under the terms of this Agreement, including a review of performance carried out by reference to the terms of the Service Level Agreement; and

19.1.4 Any other information required by the County Council from time to time and reasonably available to the District Council in connection with the discharge of the Functions during the preceding Month, in a format agreed by the parties from time to time.

20. **Annual Statements of Account**

20.1 The District Council shall in respect of each Financial Year prepare separate statements of Income and Expenditure Items in respect of each of the Accounts ("Annual Accounts"). Such Annual Accounts shall be prepared as soon as practicable after the end of the Financial Year to which they relate and shall be submitted by the District Council by the end

of the first quarter of the following financial year to the County Council to which relevant accounts relate. Such Annual Accounts shall be drawn up in accordance with the policies and practices of the Chartered Institute of Public Finance and Accountancy.

20.2 Following the submission of the Annual Accounts the District Council shall cause them to be audited ("Audited Annual Accounts") as soon as practicable and will provide to the County Council a certified copy of such Audited Annual Accounts.

20.3 Each Party shall make the records relating to the Annual Accounts available for inspection by the other party and/or the internal and external auditors of that other party and access to the relevant records offices people and information technology systems will be made available by each party to the other at reasonable times on reasonable prior notice.

20.4 Each party shall as and when requested by the other to do so provide to the other or any of the other's internal or external auditors any and all records data documents accounts and other information the other may request in order for the other to satisfy itself that the party to whom the request is made has complied with its obligations in clauses 15, 16 and 17.

21 Other Financial Matters

21.1 The parties agree that they will have proper regard to the objective of making the Functions self-financing as soon as practicable when:

21.1.1 considering the District Council's budget for the discharge of the Functions; or

21.1.2 any approval is to be given under this Agreement; or

21.1.3 taking any steps affecting the Functions.

21.2 The District Council shall pay the Adjudication Service Levy as set by the Adjudication Service or imposed by statute directly to that organisation and the levy (Traffic Penalty Tribunal) relating to PCNs issued for on-street parking.

21.3 The parties shall co-operate with each other in the preparation and submission of any accounts required to be submitted to the Department for Transport and/or the Home Office or any successor body to either pursuant to the 2004 Act.

SECTION 6 – PERSONNEL

22. Personnel

22.1 The District Council shall ensure that all Civil Enforcement Officers, and their Supervisors, are of suitable character and are appropriately qualified, experienced and trained in the area of work which they are to perform including the provision of a satisfactory relevant checks for all Civil Enforcement Officers and their Supervisors who are in uniform engaged in providing

the Functions and who have direct contact with the public

- 22.2 The District Council agree to comply with any reasonable guidance or advice provided by the County Council, by reference to either parties policies in connection with the safeguarding of children and vulnerable adults.
- 22.3 In addition to compliance with the general policy, the District Council warrants that at all times throughout the duration of this Agreement, the District Council have no reason to believe - that any person who is employed or engaged by the District Council in the provision of the Functions is barred from any activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) and any regulations made thereunder or as amended from time to time.
- 22.4 Throughout the duration of the Agreement, the District Council shall not employ or use the services of any person who is barred from or whose previous conduct or records (where the District Council is aware of such previous conduct or records) indicate that he or she would not be suitable to carry out any of the Functions to be supplied under this Agreement or any Regulated Activity (as defined in Part 1 of Schedule 5 to the Safeguarding Vulnerable Groups Act 2006 as amended), or, it has been established through checks conducted by the District Council, may otherwise present a risk to children or vulnerable adults that he/she may come into contact with during the term of this Agreement.
- 22.5 In performing its obligations under this Agreement, the District Council will comply with the Modern Slavery Act 2015.

23. **Equal Opportunities and Human Rights**

- 23.1 The District Council shall comply with its obligations relating to equal opportunities and human rights.

24. **TUPE**

- 24.1 Prior to the instigation of civil parking enforcement, on-street enforcement is not undertaken by either authority. Should the contractual arrangement between the two authorities cease, TUPE should be considered where applicable at that time
- 24.2 The County Council and the District Council agree that where the identity of a provider (including the County Council) of any service which constitutes, or which will constitute one of the services to be performed in the discharge of the Functions is changed in anticipation of or changes pursuant to or upon expiry or termination of this Agreement then the change in the identity of such provider may constitute a Relevant Transfer.

SECTION 7 – TERMINATION

25. **Expiry**

- 25.1 This Agreement shall terminate on the Expiry Date unless it shall have been terminated earlier in accordance with the provisions of this Agreement.

26. Termination

- 26.1 Without prejudice to clause 26.2 to allow for succession planning in the event that either party wishes to terminate this agreement at any time prior to the completion of the Initial Period and any Extensions it shall give to the other party a minimum of 12 Months' notice in writing provided that in the event that any Extension has been made for a period of less than 12 Months the period of notice required to terminate this Agreement shall be not less than half the duration of such Extension.
- 26.2 This Agreement may be terminated by either party giving to the other three (3) Months' notice expiring at any time if the other party commits a material breach of the terms of the Agreement PROVIDED that prior to the service of such notice there has been a reasonable attempt by the parties to resolve any dispute between them arising from such breach or the allegation of such a breach.
- 26.3 In the event that any breach in respect of which a notice to terminate has been served pursuant to clause 26.2 has been remedied by the breaching party before the expiry of 30 days from the date of such notice the notice shall thereupon be and be deemed to have been withdrawn and this Agreement shall continue in full force and effect as if such notice had never been served.
- 26.4 Where the Agreement is terminated pursuant to Clause 26.1 the County Council shall be fully responsible for and shall fully and promptly indemnify the District Council against all costs and expenses and liabilities whatsoever suffered or incurred by the District Council arising directly in relation to the discharge of the Functions limited to a 12-month notice period.

27. Consequences of Expiry or Termination

- 27.1 In the event of termination however and whenever occurring:
- 27.1.1 the parties shall:
- 27.1.1.1 fully co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage and properly and timeously execute any documents necessary;
 - 27.1.1.2 enter into such arrangements with each other as they may agree concerning the ownership and control of assets acquired, if any, particularly where such assets may have been acquired for use by third parties;
 - 27.1.1.3 use their reasonable endeavours to agree an amicable financial settlement between them;
 - 27.1.1.4 immediately transfer or return any property including data belonging wholly to the other party, to that other party or in the event that any such property comprises information reports analysis studies or data of any description and belongs jointly to the parties provide to the other party a copy of such property;
 - 27.1.1.5 enter into a new agreement to disaggregate the parking enforcement functions to enable the County Council to perform its enforcement and administration functions relating to on-street parking and the District Council to perform its enforcement and administration functions relating to off-street parking;

- 27.1.1.6 continue under the terms of this agreement with regard to the PCNs issued by the District Council prior to the termination of this agreement.

SECTION 8 - DISPUTE AVOIDANCE AND DISPUTE RESOLUTION

28. Referral to Officers, Chief Executives and Leaders

- 28.1 Subject to the provisions of Clause 28.2, any dispute arising under, or in connection with this Agreement (“Dispute”) shall be dealt with in accordance with this Clause 28 and neither party shall be entitled to commence or pursue any legal proceedings under the jurisdiction of the courts in connection with any such dispute until the procedures set out in this Clause 28 have been exhausted.
- 28.2 Clause 28.1 shall be without prejudice to the rights of termination stated in Section 7.
- 28.3 All disputes between the parties arising out of or relating to this Agreement shall in the first instance be referred to the Authorised Officer of both parties who shall attempt in good faith to resolve the dispute.
- 28.4 Where the Authorised Officers do not within ten (10) Working Days (or such longer period as the parties may agree) of notification of a Dispute achieve a solution acceptable to both parties, and provided no right of termination has been exercised, then the matter shall be referred to the Chief Executives of both parties who shall endeavour to meet promptly, and in any event within fifteen 15 Working Days of the referral to them of the Dispute, and shall in good faith discuss and seek to resolve the dispute.
- 28.5 In the event of an unresolved Dispute between the Chief Executives the matter in Dispute shall be referred for resolution to the Leaders of each of the parties who may be advised by their respective Chief Executives, Authorised Officers or any other person.

29. Mediation and Litigation

- 29.1 If any Dispute has not been resolved pursuant to the provisions of Clause 28.5 within fifteen (15) Working Days of the date on which it is referred for resolution under the said clause 28.5, that Dispute may be referred by either party to a mediator (the “Mediator”) to be appointed by the Centre for Effective Dispute Resolution in England .
- 29.2 The Mediator shall determine the rules and procedures by which the mediation shall be conducted save that:
- 29.2.1 each party shall be entitled to make a written statement of its case to the mediator prior to the commencement of the mediation provided that such statement shall be provided to the mediator not less than 14 days or such other period as may be agreed by the mediator before the mediation is to commence; and

- 29.2.2 within 14 days of the conclusion of the mediation the mediator shall provide a written report to the parties which report shall set out the nature of the dispute and the nature of its resolution if any.
- 29.3 The Mediator shall be entitled to be paid his reasonable fee which shall be paid by the County Council from the Joint Enforcement Account.
- 29.4 Other than in respect of emergencies neither party shall be entitled to commence litigation procedures until the completion of the mediation in accordance with this clause.
- 29.5 Unless this Agreement has been terminated each party shall continue to perform its obligations under this Agreement notwithstanding the existence or subject of a Dispute.

SECTION 9 – GENERAL

30. Confidentiality

- 30.1 No party to this Agreement shall, without the prior written consent of the other party, at any time hereafter (including after termination or expiry of this Agreement) make use of for its own purposes or disclose, reveal to or discuss with any person this Agreement or any information contained therein or any documents, information or material provided pursuant to or in contemplation of this Agreement or any document or information provided or prepared pursuant to or in contemplation of this Agreement, all of which information shall be deemed to be confidential ("Confidential Information"), and the parties shall treat all Confidential Information as strictly private and confidential except insofar as is necessary for the parties to publish or otherwise disclose information in order to comply with its duties under the Information Acts or as otherwise set out in 30.2 below.
- 30.2 The obligations of the parties under 30.1 shall not apply to:
- 30.2.1 information, which at the time of disclosure is in the public domain;
 - 30.2.2 information, which is or was lawfully in the possession of or becomes available to the parties from a source other than the parties provided that the source of such information was not subject to any agreement or other duties relating to confidential information;
 - 30.2.3 any disclosure of information required by law or the order of any court of competent jurisdiction or under the conditions of any governmental or regulatory authority; or
 - 30.2.4 any disclosure of information by the parties to their legal, financial or other professional advisers provided that such advisers have been informed by the parties in advance of its confidential nature.
- 30.3 Nothing in this clause 30 shall prevent either party from using data processing techniques,

ideas and know-how gained during the performance of this Agreement in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information or an infringement by either party of any Intellectual Property Right.

30.4 Nothing in this clause 30 shall require any party to carry out any act which would put it in breach of any law, court order or banking or other regulatory requirement.

30.5 Each party shall fully and promptly indemnify and keep indemnified the other party against all action, claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of any breach by such party of this Clause 30.

31. **Provision of Statistical Information, Accounts & other Documents**

31.1 Each Party shall make available to the other such relevant statistical information within its possession as the other party, as a public body, may from time to time reasonably require and the timetable for this shall be as set out in the Service Level Agreement (appended at Schedule 3 to this Agreement).

31.2 Without prejudice to any provision in this Agreement requiring the keeping of records, the supply of statistics, or the provision of information, each party shall keep such other records and details of or concerning discharge of the Functions and the performance of their respective obligations under this Agreement as the other party may by notice in writing require and shall produce or provide copies of such records and details to the other party as, when and in such form as that other may reasonably require. The Parties agree a retention period for such records of six (6) years.

31.3 Without prejudice to any provision in this Agreement each party shall keep and maintain all necessary information and shall provide all necessary assistance to enable the other party to complete all necessary official returns or statistics of which the providing party has notice and which are related to the Functions.

31.4 Each party shall provide the other such assistance and information as the other party may require to enable that other party to properly allocate such expenditure as it may incur in relation to the discharge of the Functions or under this Agreement between its various budgets.

32. **Freedom of Information**

32.1 The District Council acknowledges that the County Council is subject to the requirements of the Information Laws and shall assist and fully and promptly cooperate with the County Council to enable the County Council to comply with its information disclosure obligations.

32.2 The District Council shall or shall procure that its Sub-contractors (where applicable) shall:

32.2.1 transfer to the County Council all requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a request for Information;

32.2.2 provide the County Council with a copy of all Information in its possession or power in the form that the County Council requires within five (5) Working

Days (or such other period as the County Council may reasonably specify) of the County Council's request; and

- 32.2.3 provide all necessary assistance as reasonably requested by the County Council to enable the County Council to respond to the request for Information within the time for compliance set out in the Information Laws.
- 32.3 In no event shall the District Council respond directly to a request for Information unless expressly authorised to do so by the County Council.
- 32.4 Where the County Council receives a request for Information relating to this Agreement, the District Council or the Services that the County Council reasonably considers to be commercially sensitive and/or confidential it shall not disclose the same without first:
- 32.4.1 notifying the District Council in writing; and
- 32.4.2 allowing the District Council, a reasonable opportunity (taking into account timescales set by Law) to make representations to the County Council as to disclosure of such information.
- 32.5 The District Council acknowledges that (notwithstanding the provisions of clause 32.4) the County Council may, acting in accordance with the Department of Constitutional Affairs' "Code of Practice on the Discharge of the Functions of Public Authorities" under Part 1 of the Freedom of Information Act 2000 ("the Code") or any such other relevant code or guidelines and any directions of the Information Commissioner, be obliged under the Information Laws to disclose Information concerning this Agreement, the District Council or the Services:
- 32.5.1 in certain circumstances without consulting the District Council; or
- 32.5.2 following consultation with the District Council and having taken their views into account,
- provided always that where clause 32.5.1 applies the County Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the District Council advanced notice or failing that, to draw the disclosure to the District Council's attention after any such disclosure.
- 32.6 The County Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement, or any other agreement whether the commercially sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the Information Laws.
- 32.7 Subject to the District Council's legal obligations (including under the Data Protection Legislation), the District Council shall at no additional cost to the County Council ensure that all information is retained for disclosure in accordance with the requirements for the keeping of records under this Agreement and shall permit the County Council to inspect such records as requested from time to time.
- 32.8 In the event that the District Council incurs or would incur costs in actively locating, retrieving

and extracting Information in assisting the County Council to respond to a request for Information, the District Council must inform the County Council of such likely costs and the County Council will inform the District Council in writing whether or not it still requires the District Council to assist with complying with the request. If the County Council informs the District Council to proceed with the request, the County Council will reimburse the District Council for such costs as the District Council incurs to the extent that it is itself entitled to reimbursement of such costs in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

32.9 The District Council acknowledges that the commercially sensitive Information identified to the County Council, if any, is of indicative value only and that the County Council may be obliged to disclose it in accordance with clause 32.5.

33. **Intellectual Property Rights**

33.1 Save as expressly granted under this Agreement, neither the County Council nor the District Council shall acquire any right title or interest in any Intellectual Property Rights vested in or licensed to the other party prior to or independently of the performance by the relevant party of its obligations under this Agreement.

33.2 In the absence of prior written agreement by the County Council to the contrary, all Intellectual Property Rights created by the District Council or any employee, agent or Sub-Contractor of the District Council:

- in the course of exercising the Functions; or
- exclusively for the purpose of exercising the Functions,

shall by virtue of this Agreement be vested in the County Council on creation.

33.3 The District Council shall indemnify (and keep indemnified) the County Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the exercise of the Functions, except to the extent that such liabilities have resulted directly from the County Council's failure properly to observe its obligations under this clause 32.

33.4 The Parties agree to cooperate with any consultations and/or subsequent installation of new parking technologies to exercise the Functions set out in this Agreement and to negotiate and agree (in good faith) any additional intellectual property rights required by the Parties as a result of these new technologies.

34. **Data Protection**

34.1 Both parties shall, and the District Council shall procure that its Representatives shall, duly observe all their obligations under the Data Protection Legislation, which arise in connection with the performance of this Agreement.

34.2 The District Council shall perform its obligations under this Agreement in such a way as to

ensure that it does not cause the County Council to breach any of its applicable obligations under the Data Protection Legislation .

35. Audit Information and Access

35.1 Each party's external and internal auditors shall have the like powers set out in Part II of the Audit Commission Act 1998, as updated by the powers set out in the Local Audit and Accountability Act 2014. Each party shall at all reasonable times (including following the expiry or earlier termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal or audit:

- (a) immediate access to,
- (b) permission to copy and remove any copies of, and
- (c) permission to remove the originals of -

any books, records and information in its possession or control of which in any way relates to or are or were used in connection with this Agreement or the discharge of the Functions including (but without limitation) any of each party's data and any such information stored on a computer system.

35.2 Each party will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting party in carrying out any investigations other than any which are already under way at the Commencement Date in relation to matters which are relevant to the subject matter of this Agreement and any investigations which are carried out after the termination or expiry of this Agreement

36. Notices

36.1 Any demand, notice, or other communication required to be given under the Agreement shall, unless expressly stated otherwise, be in writing and shall be treated as validly served if:

36.1.1 served personally on the addressee;

36.1.2 sent by pre-paid recorded delivery post or courier service; or

36.1.3 sent by facsimile transmission, subject to a receipt confirming delivery to the address of the party referred to in the Agreement or to another address which has been notified in writing by that party to the other under the provisions of this Clause 38.

36.1.4 Any notice that complies with Clause 35.1 shall be deemed to have been received by the addressee when delivered:

36.1.5 personally, or by recorded delivery post or courier service, on the date of delivery;

provided that the notice was delivered within Working Hours but otherwise on the next Working Day.

37. Successors

37.1 The provisions of the Agreement are binding on any statutory successors of the parties unless otherwise expressly or by necessary implication so provided for in this Agreement.

38. **Relationship of Parties**

38.1 Save to the extent expressly conferred by this Agreement the District Council shall not be or be deemed to be an agent of the County Council and the District Council shall not hold itself out as having authority or power to bind the County Council in any way.

38.2 Nothing in the Agreement shall be construed as creating a partnership or as a contract of employment as between the District Council and the County Council.

39. **Prevent Duty**

39.1 The District Council acknowledges that the County Council has a duty under the Counter Terrorism and Security Act 2015 ("CTSA 2015") to have due regard to the requirement to prevent people from being drawn into terrorism ("Prevent Duty"). The District Council shall, and shall procure that its Representatives shall, give all reasonable assistance and support to the County Council in meeting its duty as a specified authority pursuant to the CTSA 2015 (and all regulations made thereunder) and the District Council shall have regard to the statutory guidance issued under section 29 of the CTSA 2015.

40. **Illegality and Severability**

40.1 In the event that any part of this Agreement shall be or become or be declared void, invalid, illegal or unenforceable (together "Invalidity") for any reason whatsoever including by reason of the provisions of any Law or change thereto or any decision of any Court or Regulatory Body having jurisdiction over the parties or this Agreement, the parties hereby expressly agree that subject to clause 40.2 the remaining parts and provisions of this Agreement shall continue in full force and effect with such amendments as are necessary to ensure that the balance of obligations remains so far as possible the same as under the Agreement or as may be agreed between the parties.

40.2 In the event that any such Invalidity is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the parties shall immediately commence good faith negotiations to remedy such Invalidity provided that in the event that they are unable to do so within 30 days (or such other period as they may agree) either party may terminate this Agreement by notice in writing to the other.

41. **Third Party Rights**

41.1 The parties do not intend that any person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of this Agreement.

42. **Variations**

42.1 This Agreement may be varied at any time by agreement in writing between the parties and such agreed variation(s) shall be endorsed on or attached to this Agreement and no variation or amendment shall be actionable until the endorsement or attachment has been executed by

both parties.

43. **Waiver**

43.1 The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Agreement.

43.2 No term or provision of the Agreement shall be considered as waived by any party unless a waiver is given in writing by that party and specifically states that it is a waiver of such term or provision.

43.3 No waiver under Clause 43.1 shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, clauses or provisions of this Agreement unless (and then only to the extent that) it is expressly stated in that waiver.

44. **Set- Off**

44.1 Notwithstanding anything else in this Agreement whenever under this Agreement any sum of money shall be recoverable from or payable by the one party to the other, the same may be deducted from any sum then due, or which at any time thereafter may become due from that party to the other under this Agreement.

45. **Counterparts**

45.1 The Agreement may be executed in one or more counterparts and any party may enter into the Agreement by executing a counterpart. Any single counterpart or a set of counterparts executed in either case by all the parties shall constitute one and the same agreement and a full original of the Agreement for all purposes.

46. **Law of Agreement**

46.1 The Agreement shall be subject by the laws of England and subject to the exclusive jurisdiction of the English Courts.

IN WITNESS of which the parties have executed and delivered this Agreement as a Deed the day and year first above written.

EXECUTED as a **DEED**
by the affixing of the **COMMON SEAL** of
CAMBRIDGESHIRE COUNTY COUNCIL
in the presence of:

Authorised Signatory

EXECUTED as a **DEED**
by the affixing of the **COMMON SEAL** of
HUNTINGDONSHIRE DISTRICT COUNCIL
in the presence of:

Authorised Signatory

SCHEDULE 1- DEFINITIONS

In accordance with Clause 1.1, in this Agreement the following words shall have the meanings set out below:

"the 1972 Act" "the 1984 Act" "the 2000 Act" "the 2004 Act" "Account"	The Local Government Act 1972; The Road Traffic Regulation Act 1984; The Local Government Act 2000; The Traffic Management Act 2004; The District Council's On-Street Parking Account and the Joint Enforcement Account required to be maintained by the District Council under the terms of this Agreement;
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<p>“Adjudication Process”</p> <p>“Adjudication Service Levy”</p> <p>“Agreed On-Street Annual Costs”</p> <p>“Agreement”</p> <p>“Agreement Period”</p> <p>“Annual Accounts”</p> <p>“Annual Budget”</p> <p>“Annual Reconciliation”</p> <p>“Appropriate Pension Provision”</p>	<p>The Parking and Traffic Regulations Outside London Adjudication Joint Committee or such other organization as is approved by the Secretary of State and charged with amongst other things the responsibility of dealing with disputes between local authorities (including the District Council) within the County of Cambridgeshire and other local authorities and appellants;</p> <p>The amounts levied by the Adjudication Service and payable in accordance with this Agreement;</p> <p>The estimate, agreed by the parties each of the District Council’s total annual costs in discharging the element of the Functions relation to on-street parking (by reference to the expenditure items listed in the table at clause 15.1) in respect of a Financial Year;</p> <p>This agency agreement including all the schedules hereto;</p> <p>The Initial Period plus any Extension under clause 2;</p> <p>As defined in Section 5;</p> <p>As defined in Section 5;</p> <p>A reconciliation prepared in accordance with Clause 19</p> <p>In respect of:</p> <ul style="list-style-type: none"> a) Transferring Employees, either: <ul style="list-style-type: none"> - Membership or continued membership or continued eligibility for membership of the pension scheme of which they were members , or were eligible to be members, or were in a waiting period to become a member of, prior to the Relevant Transfer; or - Pension rights which are certified by the Government Actuary’s Department (“GAD”) as being broadly comparable to the terms of the pension scheme of which they were, or were eligible to be members. b) New Employees, either: <ul style="list-style-type: none"> - Membership of a good quality employer pension scheme, being either: - A contracted-out final salary based defined benefit scheme, or - A defined contribution scheme under which the employer must match employee contributions by up to at least 6 per cent; or - A stakeholder pension scheme, under which the employer matches employee contributions by up to at least 6 per cent.
<p>“Approved Emergency safety Work”</p>	<p>Emergency safety works approved by the County Council’s Parking Strategy Team;</p>
<p>“Audited Annual Accounts”</p>	<p>As defined in Clause 19;</p>
<p>“Authorised Officer”</p>	<p>The officer (s) of each respective party duly appointed by that party and notified to the other party from time to time as being responsible for the management of all aspects of this Agency Agreement on behalf of that party including any deputies or replacement(s) appointed in addition to him or in his stead (as the case may be)</p>
<p>“Change in Law”</p>	<p>The coming into effect after the Commencement Date of:</p> <ul style="list-style-type: none"> (a) Legislation (statutes, enactments, orders, regulations or other similar instruments) other than any legislation which on the Commencement Date had been published: <ul style="list-style-type: none"> (i) In a draft Bill as part of a Government Departmental Consultation Paper; (ii) In a Bill; (iii) In a draft statutory instrument; or (iv) As a proposal in the Official Journal of the European Communities, <p>Save that the exclusion of those draft Bills, Bills, statutory instruments or proposals referred to in</p>

<p>“Civil Enforcement Area”/ “CEA” “Civil Enforcement Officers” “Civil Parking Enforcement”/ “CPE” “CPZ” “Commencement Date” Confidential Information” “Data Protection Legislation” “Designation Order” “DfT” “Expiry Date” “Extension” “Final Reconciliation” “Financial Year” “Functions” “Income and Expenditure Items” “Information Acts” “Initial Period” “Joint Enforcement Account” “Law” “Month” “Off-Street Assets”</p>	<p>paragraphs (i) to (iv) of paragraph (a) of this definition shall not apply to the extent that any related legislation which is subsequently enacted is materially different in nature and effect compared to the relevant draft Bill, Bill, statutory instrument or proposal</p> <p>(b) Any Guidance or</p> <p>(c) Any applicable judgment of a relevant court of law which changes a binding precedent or creates a binding precedent where none previously existed;</p> <p>Has the same meaning as in the 2004 Act; Has the same meaning as in the 2004 Act; Has the same meaning as in the 2004 Act; A controlled parking zone in Huntingdonshire; [insert commencement date] or such other date as agreed between the parties; As defined in Clause 29.1; means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and from 25 May 2018 the General Data Protection Regulation and any legislation implemented in connection with the General Data Protection Regulation and any replacement legislation coming into effect from time to time and all applicable laws and regulations relating to the processing of personal data and privacy, including as where applicable the guidance and codes of practice issued by the Information Commissioner; To be inserted when title known.</p> <p>The Department for Transport; The day of the Agreement Period; As defined in Clause 2.2; Has the meaning given to it in Clause 19; Each period of 12 months beginning on 01 April in one year and ending on 31 March in the next year or such other period of 12 months in substitution as may be designated by the County Council and in relation to such period, if any, at the beginning of this Agreement means such period of less than 12 months as run from the Commencement Date to the 31 March immediately following thereafter; The functions referred to in Clause 5; The income items and expenditure items to be credited or debited (as appropriate) to either the District Council’s On-Street Parking Account or the Joint Enforcement Account in accordance with either the table at clause 15.1 (in the case of the District Council’s On-street Parking Account) or clause 16.1 (in the case of the Joint Enforcement Account); The Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Act 1998 (as superseded by the Data Protection Act 2018 and the General Data Protection Regulations 2018) and any codes of practice and guidance made pursuant to the same as amended or replaced from time to time; The period commencing on the Commencement Date and ending on the fifth anniversary of the Commencement Date]; The joint enforcement account referred to in Clause 16.1; Means any Act of Parliament or subordinate legislation within the meaning of Section 21 (1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, any statutory guidance or binding code of practice, any binding precedent of a relevant Court of Law and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom and as the same are amended from time to time; A calendar month and “Monthly” shall be construed accordingly; The parking assets owned by the County Council in the District of Huntingdonshire:</p>
<p>“On-Street Parking Account” “On-Street Sub-Section” “Parking Adjudicator” “Parking Enforcement Provider” “Parking Enforcement Services summary</p>	<p>The on-Street parking Account referred to in Clause 15.1; The on-street sub-section of the Joint Enforcement Account; Has the same meaning as in the 2004 Act; Being the officers appointed by the District Council to carry out the Functions under this Agreement; The services to be provided as included in Schedule 2 to this Agreement</p>

“Parking Permits”	The permits and dispensations issued under the provisions of the Traffic Regulation Orders for Parking Schemes;
“Parking Schemes”	The parking schemes introduced in residential and other areas of the administrative area of the District Council under Traffic Regulation Orders to provide parking bays solely for the use of residents and other authorized users;
“Penalty Charge”	Has the same meaning as in the 2004 Act;
“Penalty Charge Notice” or “PCN”	Has the same meaning in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;
“Quarter”/“Quarterly”	A period of 3 consecutive calendar months ending on 31 st March, 30 th June, 30 th September and 31 st December as appropriate;
“Report”	A report containing the information, and in the format, set out in Section 5;
“Secretary of State”	The Secretary of State for Transport or such other person charged with general responsibility for road transport under the 1984 and 1991 Acts in relation to England;
“Special Enforcement Area”	Has the same meaning as in the 2004 Act;
“Street Authority”	Has the meaning given to it in the New Roads and Street Works Act 1991;
“Sub-Contractor”	The contractors or service providers engaged by the District Council to provide goods, services or works to, for or on behalf of the District Council for the purposes of providing the Functions to the County Council;
“Supervisor”	A Civil Enforcement Officer acting in a supervisory capacity;
“Termination Notice”	As defined under Section 7;
“Traffic Regulation Order”	An order made pursuant to the 1984 Act (as amended);
“TUPE”	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) and or any other regulations enacted for the purpose of implementing the Directive into English law (as amended);
“Variation”	A formal variation of the Services or the Agreement in accordance with the Agreement;
“Working Days” (Enforcement)	Monday to Saturday inclusive, but excluding Christmas Day, Good Friday and Bank Holidays in England;
“Working Days” (Office)	Monday to Friday inclusive but excluding Christmas Day, Good Friday and Bank Holidays in England.
“Working Hours” (Enforcement)	Enforcement core hours to be 8am to 3.30pm on Working Days (Enforcement). Hours will be worked either side of this is dependent on seasonality to maximise use of daylight hours.
“Working Hours” (Office)	Office core hours to be 10am to 3pm on Working Days (Office).

SCHEDULE 2- Supplementary Documentation (to include enforcement policy and parking enforcement service summary)