

**LONDON CYCLE HIRE SCHEME AGREEMENT**

**Schedule 6 – Termination Compensation**

## SCHEDULE 6

### Termination Compensation

#### 1. Termination Compensation

- 1.1 Table 1 in paragraph 1.7 below sets out the circumstances of termination and Partial Termination in which Termination Compensation shall be payable by TTL to the Service Provider.
- 1.2 The Service Provider shall take all reasonable steps to mitigate the amount of any Termination Compensation payable by TTL.
- 1.3 Payments for LCHS Assets (if any) on termination, Partial Termination or expiry will be subject to, and made in accordance with, the provisions of Clause 64 (*Consequences of Termination, Partial Termination or Expiry*).
- 1.4 Transfer of Service Provider Personnel on termination or Partial Termination and related liabilities shall be subject to TUPE and the provisions of Schedule 39 (*Service Provider Personnel*).
- 1.5 In no event shall the Service Provider be entitled to recover twice for the same cost, loss or expense:
- (A) under different categories of Termination Compensation; or
  - (B) in relation to the LCHS Assets.
- 1.6 In relation to Partial Termination:
- (A) the sums recoverable in accordance with this Schedule 6 shall be such sums as relate to the relevant Service Elements that have been partially terminated; and
  - (B) the references to Clause numbers in Table 1 below shall be the Clause numbers relevant to the circumstances which triggered the Partial Termination in accordance with Clause 62.11 (*Termination*).

#### 1.7 **Table 1**

Type of Termination Event	Event	Termination Compensation payable (capitalised terms defined in paragraph 1.8 below)
<b>Expiry of Agreement</b>	Expiry	None
<b>TfL default</b>	Termination by the Service Provider in accordance with Clause 62.2 ( <i>Termination</i> ).	The sum of:
<b>Termination due to delay to Key Milestone caused by a Compensation Event.</b>	Termination by TTL in accordance with Clause 62.4(f) ( <i>Termination</i> ) where delay to a Key Milestone is due to a Compensation Event and the Service Provider has fully complied with Clause 56	<ul style="list-style-type: none"> <li>(a) Service Provider Capital Costs;</li> <li>(b) Service Provider Wasted Implementation Costs;</li> <li>(c) Service Provider Breakage Costs; and</li> <li>(d) Service Provider Lost Profits.</li> </ul>

Type of Termination Event	Event	Termination Compensation payable (capitalised terms defined in paragraph 1.8 below)
	<i>(Compensation Events).</i>	
<b>Termination by TTL for convenience.</b>	Termination by TTL in accordance with Clause 62.5 <i>(Termination).</i>	
<b>London Cycle Hire Scheme becomes illegal. London Cycle Hire Scheme is cancelled.</b>	Termination by TTL in accordance with Clause 62.4(j) <i>(Change in Law).</i>	
	Termination by TTL in accordance with Clause 62.4 <i>(Termination)</i> , <b>except</b> for: (a) Clause 62.4(f) <i>(Termination)</i> where delay to a Key Milestone is due to a Compensation Event and the Service Provider has fully complied with Clause 56 <i>(Compensation Events)</i> ; (b) Clause 62.4(j) <i>(Change in Law)</i> ; (c) Clauses 60.6 and 62.4(m)(vi) <i>(Force Majeure)</i> ; or (d) Clause 62.4(m) (vii) <i>(Step-in Rights)</i> where the period of TTL’s exercise of its Step-in Rights due to one or more No Fault Triggers has exceeded twelve (12) Months in aggregate; or (e) Clause 62.5 <i>(Termination for convenience).</i>	The sum of: (a) Service Provider Capital Costs.
<b>No Fault Trigger of Step-in Rights in excess of twelve (12) Months.</b>	Termination by TTL in accordance with Clause 62.4(m)(vii) <i>(Step-in Rights)</i> where the period of TTL’s exercise of its Step-in Rights due to one or more No Fault Triggers has exceeded twelve (12) Months in aggregate.	The sum of: (a) Service Provider Capital Costs; (b) Service Provider Wasted Implementation Costs; (c) Service Provider Breakage Costs; and (d) Service Provider Lost Profits.
<b>Other</b>	Termination by the Service Provider in breach of the Service Provider’s rights and obligations under the	None.

Type of Termination Event	Event	Termination Compensation payable (capitalised terms defined in paragraph 1.8 below)
	Agreement.	
<b>Termination by either Party</b>		
<b>Force Majeure.</b>	Termination by either Party in accordance with Clause 60.7 ( <i>Force Majeure</i> ) in respect of the Service Provider or Clause 60.6 ( <i>Force Majeure</i> ) in respect of TTL.	The sum of: (a) Service Provider Capital Costs; (b) Service Provider Wasted Implementation Costs; and (c) Service Provider Breakage Costs.

1.8 For the purposes of this Schedule 6, the following terms have the corresponding meanings:

**“Service Provider Breakage Costs”** means, subject always to paragraph 1.2 of this Schedule 6, any reasonable costs, expenses and liabilities which are incurred or suffered by the Service Provider as a direct result of the termination of the Agreement and which relate to:

- (a) the termination of any Sub-Contracts or Notified Supply Contracts which were novated to the Service Provider in accordance with Clause 45 (*Novation or Management of Supply Contracts*), which are used primarily for the provision of the Services and which are not novated to TTL or a New Service Provider in accordance with the provisions of this Agreement;
- (b) any redundancy costs which the Service Provider incurs or suffers in respect of the Service Provider Personnel engaged directly and principally in the provision of the Services in accordance with Schedule 39 (*Service Provider Personnel*); and
- (c) the termination of any lease, licence or other property arrangement for the applicable Premises. Except to the extent that the term of the lease, licence or other property arrangement for the applicable Premises exceeds the Initial Term (or the Extended Term if TTL has given notice pursuant to Clause 2.2).

The Service Provider Breakage Costs excludes those costs, expenses and liabilities:

- (i) falling within the definitions of Service Provider Wasted Implementation Costs or Service Provider Capital Costs; and
- (ii) incurred or suffered by the Service Provider in respect of the Premises;

**“Service Provider Capital Costs”** means an amount representing the Service Provider’s capital expenditure in:

- (a) implementing the LCHS Assets and Operational Services which has not, as at the Termination Date (or Partial

Termination Date) been recovered through the Service Charges, as set out in the Financial Model, less:

- (i) such sum as TTL pays to the Service Provider for the relevant Service Provider Assets in accordance with the exercise of its option under Clause 64.2(b) (*Consequences of Termination, Partial Termination or Expiry*); or
- (ii) if TTL does not exercise its option under Clause 64.2(b) (*Consequences of Termination, Partial Termination or Expiry*), an amount equivalent to:
  - (A) the Net Book Value of each such Service Provider Asset as at the Expiry Date, Termination Date or Partial Termination Date less;
  - (B) any amount that has been, or should have been, entered into the Asset Register in relation to such Service Provider Asset pursuant to Schedule 12 (*Asset Management*).
- (b) obtaining licences in relation to Software forming part of the Licensed Materials (as set out in the Financial Model) where such licences are novated to TTL or a New Service Provider in accordance with the provisions of this Agreement that and for which such costs have not (at the Termination Date or Partial Termination Date) been recovered through the Milestone Payments and/or the Charges, as set out in the Financial Model;

**“Service Provider means either:**  
**Lost Profits”**

- (a) zero (0), in circumstances where termination occurs prior to the achievement of Milestone 28 (Full Service Ready for Service Testing Complete/Full Service Ready for Go-Live), except where termination is in accordance with Clause 62.5 (*Termination*); or
- (b) in other circumstances of termination, the profit shown in the Financial Model or in such other documentary evidence as TTL may reasonably require for the shorter of:
  - (i) the period of one (1) year from the Termination Date or Partial Termination Date, as applicable; or
  - (ii) the remainder of the Initial Term or the remainder of the Extended Term, as applicable,

provided that, in the case of Partial Termination, it shall be limited to that proportion of such profit as is shown in the Financial Model for those Service Elements that have been partially terminated;

**“Service Provider means either:**  
**Wasted Implementation Costs”**

- (a) zero (0) in circumstances where termination occurs after the achievement of Milestone 28 (Full Service Ready for Service Testing Complete/Full Service Ready for Go-Live); or
- (b) where termination occurs prior to Milestone 28 (Full Service Ready for Service Testing Complete/Full Service Ready for Go-Live), an amount equal to such of the costs and expenses properly and reasonably incurred by the Service Provider in delivering the Design Services and Build Services during the Implementation Phase in accordance with the Implementation Plan that has not (at the Termination Date or Partial Termination Date) been recovered through the Milestone Payments, except for such amounts:
  - (i) which are included in the definition of Service Provider Capital Costs; and
  - (ii) which are payable by TTL in relation to TTL Assets in accordance with Clause 64.2 (*Consequences of Termination, Partial Termination and Expiry*).