

CONCESSION AGREEMENT FOR PROVISION OF ELECTRIC VEHICLE CHARGING FACILITIES

PARTIES:

- 1) Plymouth City Council, an elected administrative body for Plymouth whose registered office address is Ballard House, Plymouth, Devon, PL1 3BJ, ("**PCC**"); and
- 2) [INSERT], (the "**EV Charging Operator**")

(each a "party" and together the "parties" unless the context otherwise includes the Landlord)

BACKGROUND

- A) PCC has entered into grant funding agreement(s) with its Funder(s) ("**Funding Agreement**") under which PCC is entitled to receive funding to procure the delivery of up to 50 Mobility Hubs within Plymouth. Each Mobility Hub will comprise charging infrastructure for electric vehicles (EVs), e-bikes and dedicated car club parking bays.
- B) PCC wishes to engage the EV Charging Operator, to collaborate with the providers of car clubs and E-Bikes and supply, install, operate and maintain EV charging infrastructure at Mobility Hubs of varying size which form part of the PCC Mobility Hubs portfolio of properties ("**Selected Sites**").
- C) The EV Charging Operator shall enter into a separate lease with the Landlord of each Selected Site.
- E) This Concession Agreement sets out the legally binding terms under which the EV Charging Operator will, on a concession basis (and at its own cost and risk as regards to utilisation), supply, install, operate and maintain electric vehicle charging facilities and support the provision of car clubs and E-Bikes at the Mobility Hubs.

1 Definitions:

The following definitions apply in this Concession Agreement:

Affected Party	has the meaning given to it under clause 17.1 of the Concession Agreement.
Agreed Purposes	the performance by each party of its obligations under the Concession Agreement, the Lease, and in the case of PCC, its Funding Agreement(s), and the promotion of the products and services that form the subject of this Concession Agreement.
App	the EV Charging Operator's mobile application.
Background IPR	all Intellectual Property Rights in and to information, data, techniques, know-how, inventions, discoveries, software, designs, models, databases and materials (regardless of the form or medium in which they are disclosed or stored) which are provided by one party (whether belonging to that party or to a third party) to the other party for use pursuant to this Concession Agreement, and whether before or after the date of this Concession Agreement, except any Foreground IPR.
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business

Car Club	a membership scheme which enables individuals to rent electric cars which will be based at the Mobility Hubs.
Car Club Operator	the operator responsible for providing the Car Club.
Change of Control	if a person or body which Controls any body corporate ceases to do so or if another person acquires Control of it, " Control " having the meaning given to it under Section 450 of the Corporation Tax Act 2010.
Charge Point	an EV charge point unit located at a Selected Site, comprising the relevant column, tethered cable for connection of that pillar to an EV (where applicable), relevant internal equipment (including software and telecommunications equipment) and, if applicable, any integrated battery storage unit.
Charge Point Specification	the specification for the relevant Charge Points and Charging Stations set out in Schedule 4.
Charging Bay	a parking bay at a Mobility Hub which has its own connection to a Charge Point.
Charging Station	for any particular Mobility Hub, means all of the Charge Points installed (or to be installed) at that Mobility Hub under the Concession Agreement and/or Lease, together with all associated Enabling Infrastructure, but excluding any electrical infrastructure which forms part of the relevant DNO owned electricity distribution network.
Commencement Date	the date that this Concession Agreement has been signed by both parties.
Concession Agreement	the terms and Schedules set out in this agreement.
Concession Agreement Term	the period commencing on the Commencement Date and ending on the earlier of the date when this Concession Agreement is terminated or 10 years after 1 April 2023, subject to any extension agreed by the parties in accordance with clause 3.
Confidential Information	all information or data (whether oral, visual or recorded in writing, in any other medium or by any other method) obtained by or disclosed to one party pursuant to or in connection with this Concession Agreement (including, without limitation, any information relating to a party's operations, processes, services, materials, data, plans, ideas, intentions, proposals, market opportunities, terms of business, research, know-how, design rights, trade secrets, software, finances, customers, employees, students and business affairs or a party's or other party's Intellectual Property Rights).
Connection Cables	cabling infrastructure which connects a Charging Station to the relevant grid or on-site generation connection point.
Data Discloser	a party that discloses Shared Personal Data to the other party.

Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.
Parking Station	Parking Station
DNO	Distribution Network Operator.
E-Bike	an electric bicycle provided by the E-Bike Share Operator for use in connection with the Mobility Hubs.
E-Bike Share Operator	the operator responsible for providing the E-Bike sharing services at each Mobility Hub.
E-Bike Charging Services	services by which a User is allowed to use and draw electricity from a Parking Station for the purposes of charging an E-Bike.
EIRs	the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
Enabling Infrastructure	any feeder pillars or substations, underground cabling, foundations, guard rails or other civil works or electrical infrastructure which are separate from a particular Charge Point but which are required for that Charge Point to operate properly and safely, including items which are required for the purposes of that Charge Point being connected electrically to an appropriate point of connection with the relevant electricity DNO or other electricity supply point;
Fault	<p>in respect of any Charging Station, means any fault, breakdown, malfunction (including any complete or partial loss of the functionality required for the provision of User Charging Services or E-Bike Charging Services), loss, destruction, damage or other occurrence which results in a Charging Station, (or a part of it) no longer being in good repair or good working order, including circumstances in which:</p> <ul style="list-style-type: none"> (a) the relevant fault etc. constitutes or arises from any breach of the Concession Agreement, standards and requirements; (b) the relevant fault etc. arises from a relevant part of a Charging Station or Charge Point wearing out; or (c) the relevant fault etc. arises from any misuse or damage by a User or

other third party or from any other force majeure event.

FOIA

the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Force Majeure Event

any circumstance not within a party's reasonable control or ability to avoid, including, *without limitation*:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent (where such failure or action is not directly caused by any wrongful action, omission or delay by the party seeking to rely on a Force Majeure Event pursuant to clause 18);
- (f) collapse of buildings, fire, explosion or accident;
- (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party or employees of the party seeking to rely on this clause, or companies in the same group as the party seeking to rely on a Force Majeure Event pursuant to clause 18);
- (h) interruption or failure of utility service.

Foreground IPR

means all Intellectual Property Rights in and to all information, data, techniques, know-how, results, inventions, discoveries, software, designs, databases, models and materials (regardless of the form or medium in which they are disclosed or stored) identified, created, discovered, developed or which arise in the course of and pursuant to the Concession Agreement.

Funder(s)	the Department of Transport Transforming Cities Fund and any other funders who are providing funding to PCC pursuant to the Funding Agreement(s).
Good Industry Practice	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company/service provider within the relevant industry as the EV Charging Operator.
Grid Connection Agreement	an agreement entered into with the DNO in respect of the grid connection for a Mobility Hub.
Gross Revenue	the aggregate of all payments received by the EV Charging Operator in respect of: (i) User Charging Services; or (ii) the provision of any other service, or the carrying out of any other business activity at a Selected Site directly associated with a Charging Station and/or its operation including but not limited to advertising or marketing revenue.
Information Totem	an above ground structure providing information and other journey planning services to Users of Mobility Hubs.
Information Totem Operator	the person responsible for operation of the Information Totem.
Insolvency Event	<p>A party suffers an Insolvency Event if:</p> <ol style="list-style-type: none"> it suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986; it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction; a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with its winding up other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction; an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over it; the holder of a qualifying floating charge over its assets has become entitled to appoint or has appointed an administrative receiver; a person becomes entitled to appoint a receiver over all or any of its assets or a receiver is appointed over all or any of its assets;

- g. a creditor or encumbrancer of it attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- h. any event occurs, or proceeding is taken, with respect to it in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (g) (inclusive); or
- i. it suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Installation Services

those Services described in clause 5.

Intellectual Property Rights

patents, rights to inventions, trademarks, service marks, registered designs, copyrights and related rights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above.

Journey Planner/MAAS App

a mobile application which will enable people to plan routes across a range of transport services and providers.

Journey Planner/MAAS App Operator

the person providing and operating the Journey Planner/MAAS App.

Journey Planner/MAAS App Platform

the software platform sitting behind the Journey Planner/MAAS App.

Key Personnel

has the meaning given to it in clause 31.1

KPIs

the KPIs set out in Schedule 3.

Landlord

has the meaning given to it in recital C.

Lease

a lease granted by a Landlord to the EV Charging Operator in respect of a particular Selected Site, as amended from time to time, in order to enable the EV Charging Operator to perform its obligations under this Concession Agreement.

Lease Commencement Date

in respect of the Lease for a particular Selected Site, the date when the Lease for that Selected Site comes into force.

MID

Measuring Instruments Regulations SI 2016/1153.

Mobility Hub	a multi-modal mobility/journey hub designed to offer a variety of transport modes and provide connectivity to public transport networks.
Operation and Maintenance Services	those Services listed as operation and maintenance services in Schedule 2.
Operating System	all software used by the EV Charging Operator to provide User Charging Services.
Parking Station	a parking location for an E-Bike which is provided by the E-Bike Share Operator at a Mobility Hub which may include facilities for charging an E-Bike.
PCC Revenue Share	[]% share of all Gross Revenue, exclusive of any applicable VAT.
Permitted Recipients	the parties to this Concession Agreement, the employees of each party, any third parties engaged to perform obligations in connection with this Concession Agreement, the Funder and the Landlord.
Proposal	the proposal for the Services put forward by the EV Charging Operator as part of its tender application to be awarded this Concession Agreement.
Quarter Day	each of 1 January, 1 April, 1 July and 1 October.
Quarterly Report	the report to be provided in accordance with clause 19.
Section 50 Highways Licence	a licence granted under section 50 of the New Roads and Street Works Act 1991 to install works across or along a public highway.
Selected Site	a particular site listed in Schedule 1, as amended from time to time in accordance with clause 3.4, at which the EV Charging Operator is required to install, operate and maintain a Charging Station as part of a Mobility Hub under this Concession Agreement (and all sites listed in Schedule 1 shall together be the " Selected Sites ").
Services	the services to be provided by the EV Charging Operator under this Agreement, including but not limited to the Installation Services and the Operation and Maintenance Services.
Shared Personal Data	<p>the personal data to be shared between the parties under this Concession Agreement. Shared Personal Data shall include but not be confined to the following categories of information:</p> <ul style="list-style-type: none"> (a) user vehicle type, model and make; (b) vehicle registration number where necessary; (c) utilisation of each Charge Point and Charging Stations by any person or vehicle;

- (d) information in respect of payments made in respect of User Charging Services (anonymised where possible);
- (e) names and job positions of personnel, employees or agents of the EV Charging Operator who attend or are required to provide operation, maintenance or customer service obligations under the Concession Agreement; and
- (f) addresses and postcode areas of Users.

Selected Term **Site** **Concession** has the meaning given to it under clause 3.3.

Tenant for any Selected Site (where applicable) any third-party tenant of the Landlord which operates the relevant site, property or premises on or at that Selected Site under the terms of a lease granted by the relevant Landlord.

UK Data Protection Legislation all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (EU) 2016/679; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

User a person who uses or (as the context requires) wishes to use a particular Charging Station for the purposes of charging an EV.

User Charging Services services by which a User is allowed to use and draw electricity from a Charge Point for the purposes of charging an EV.

Warning Notice the following wording "**EV CHARGING ONLY, ANY USE OF PARKING BAY WITHOUT ALSO CHARGING EV VEHICLE IS STRICTLY PROHIBITED**".

2 Interpretation

- 2.1 Unless otherwise expressly stated, the rules of interpretation set out in this clause 2 apply in this Concession Agreement.
- 2.2 The contents page, headings and sub-headings in this Concession Agreement are for ease of reference only and do not affect the meaning of Concession Agreement.
- 2.3 Words in the singular include the plural and vice versa.
- 2.4 References to one gender include all genders.
- 2.5 Any words following the terms "include" and "including" or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

- 2.6 General words do not have a restrictive meaning because they are preceded or followed by specific words indicating a particular type, class or category.
- 2.7 A reference to a person includes an individual, firm, partnership, company, association, organisation or trust (in each case whether or not having a separate legal personality).
- 2.8 A reference to a company includes any company, corporation or any other body corporate (wherever incorporated).
- 2.9 A reference to a clause, paragraph or Schedule is to a clause or paragraph of or schedule to this Concession Agreement and a reference to this Concession Agreement includes its Schedules and appendices.
- 2.10 A reference to legislation is a reference to all legislation having effect in the United Kingdom from time to time, including:
- (a) directives, decisions and regulations of the Council or Commission of the European Union (where this remains applicable to the law of the United Kingdom);
 - (b) Acts of Parliament;
 - (c) orders, regulations, consents, licences, notices and bye laws made or granted:
 - (i) under any Act of Parliament; or
 - (ii) under any directive, decision or regulation of the Council or Commission of the European Union; or
 - (iii) by a local authority or by a court of competent jurisdiction; and
 - (d) any mandatory codes of practice issued by a statutory body.
- 2.11 A reference to particular legislation is a reference to that legislation as amended, modified, consolidated, re-enacted or replaced from time to time and to all subordinate legislation made under it from time to time.
- 2.12 Obligations owed by or to more than one person are owed by or to them jointly and severally.
- 2.13 An obligation of any party not to do something includes an obligation not to cause or allow that thing to be done.
- 2.14 A reference to the consent or approval means the prior consent in writing of the relevant party, signed by or on behalf of the relevant party.
- 2.15 A reference to property includes any part or parts of that property.

3 Commencement and Term

- 3.1 This Concession Agreement shall commence on the Commencement Date and shall continue, unless otherwise terminated in accordance with the terms of this Agreement, until the earlier of:
- (a) the termination or expiry of each and every Lease (whether such Leases come into force before, on or after the Commencement Date) that the EV Charging Operator has entered into with a Landlord in respect of the Selected Sites; and
 - (b) the end of the Concession Agreement Term.

- 3.2 At any time during the first 3 months of the seventh year of the Concession Agreement Term, PCC may, at its sole discretion, offer to extend the Concession Agreement Term by a further period of 4 years, thereby extending the period in clause 3.1(b) from 10 years to 14 years. Any such extension shall be subject to the EV Charging Operator agreeing to install new Charge Points before the end of the eighth year of the Concession Agreement Term.
- 3.3 The EV Charging Operator's rights and obligations under this Concession Agreement in respect of each Selected Site shall commence upon the Lease Commencement Date and shall continue until the earlier of:
- (a) the expiry or earlier termination of the relevant Lease; and
 - (b) termination of the application of the Concession Agreement to the relevant Selected Site in accordance with the terms of this Concession Agreement (**"Selected Site Concession Term"**).
- 3.4 The parties may agree, in writing, to vary the Selected Sites (including, for the avoidance of doubt, adding to, removing or substituting the sites comprising the Selected Sites). In the event that the parties agree to remove a particular site from the Selected Sites, the terms of this Concession Agreement shall cease to apply to that particular site from the date agreed by the parties.
- 3.5 During the first 8 years of the Concession Agreement Term, the EV Charging Operator shall, subject to achieving satisfactory Quarterly Performance Ratings, have a right of first refusal for all additional locations for PCC Mobility Hubs which are confirmed after the date of this Concession Agreement.
- 3.6 PCC is considering operating the Charging Stations itself in future and therefore reserves the right to purchase the Charging Stations from the EV Charging Operator at any time after 1 April 2030. If PCC wishes to exercise this right:
- (a) PCC shall notify the EV Charging Operator in writing;
 - (b) following receipt of such notice, the parties shall work together, acting in good faith, to agree the terms of such purchase as soon as reasonably practicable;
 - (c) the price paid for the Charging Stations shall be determined based on the market value for Charging Stations (see clause 3.7 below); and
 - (d) on completion of the purchase this Agreement shall automatically terminate.
- 3.7 For the purposes of clause 3.6, the market value shall be calculated by a jointly appointed expert with expertise in the valuation of EV infrastructure. Any disputes shall be determined in accordance with the dispute resolution procedure in clause 36.

4 Provision of Charging Stations

- 4.1 The EV Charging Operator will supply and install at the Mobility Hubs a minimum of 300 Charge Points and 300 Charging Bays which comply with the Proposal and meet the Charge Point Specification at the Mobility Hubs in accordance with the timescales set out in clause 5 below.

5 Installation Services and Obligations

- 5.1 Subject to the grid connection and underground cabling costs pursuant to clause 5.5 below, the EV Charging Operator shall design, provide, install and operate each Charging Station and perform the Services in relation thereto at its own cost and risk in accordance with the standards and KPIs set out under this Concession Agreement.

- 5.2 For the avoidance of doubt the EV Charging Operator will not be responsible for design of the Mobility Hubs or any above ground civil works.
- 5.3 The Parties agree and understand that the overriding objective for installation of Charging Stations across all Selected Sites is that the roll-out is to be completed as soon as reasonably practicable and with a minimum of 300 Charging bays, each with its own Charge Point at 50 Mobility Hubs successfully installed and commissioned by 31 December 2024, whilst ensuring that relevant works and Services are scheduled in such a way as to fit in with and to minimise any disruption to local DNO grid and connection works.
- 5.4 Bearing the above overriding objective for installation, the EV Charging Operator agrees to complete the roll-out of Charging Stations at all Selected Sites in accordance with the timetable in Schedule 5, as may be updated or amended by PCC acting reasonably from time to time (the "**Installation Timetable**"), taking into account local DNO grid and connection works timeframes.
- 5.5 The EV Charging Operator will be responsible for all costs associated with the installation of the Charging Stations from and including the feeder pillar to the Charge Points and all below ground dig and asset costs (civils, cabling, ducting etc.). PCC will reimburse the EV Charging Operator all costs imposed by the DNO in relation to connection of the Charging Stations and Selected Site to the grid up to but not including the feeder pillar, and for any grid reinforcement works costs associated with the Mobility Hubs.
- 5.6 At a reasonable time (having regard to the Installation Timetable) prior to installation of any Charging Station at any Selected Site and in any event no less than 3 calendar months prior to the proposed commencement of installation works, the EV Charging Operator will provide a report to PCC and, where required by PCC, the Landlord setting out the relevant installation details for approval by PCC, in the form required by PCC (the "**Installation Overview**") as well as satisfactory risk assessment method statements (RAMS) and method statements.
- 5.7 The Installation Overview will set out, amongst other matters:
- (a) cable routes to be used;
 - (b) infrastructure to be used and works to be undertaken in installing, connecting and commissioning the Charging Stations and Enabling Infrastructure;
 - (c) where a Parking Station(s) is to be installed at a Selected Site, infrastructure to be used and works to be undertaken to connect such Parking Stations and the associated electricity sub meter;
 - (d) where an Information Totem(s) is to be installed at a Selected Site, infrastructure to be used and works to be undertaken to connect such Information Totem and the associated electricity sub meter;
 - (e) type of Charge Point(s) to be installed and whether the proposal is for a single or phased deployment of Charge Points;
 - (f) the timeframe for the grid connection application to be submitted;
 - (g) required underground civils and electrical works for the grid connection;
 - (h) works to be undertaken by DNO and works to be undertaken by or on behalf of the EV Charging Operator;
 - (i) timescales for carrying out all necessary works and installation Services in respect of Charge Points and underground works at the Selected Site.
- 5.8 PCC will, acting reasonably, respond with its approval or rejection or request for changes in respect of the Installation Summary as soon as reasonably practicable.

- 5.9 Any approval given by PCC under clause 5.8 will be a conditional approval and the installation of any Charge Point and/or Enabling Infrastructure at a Selected Site will be subject to a final approval being given by PCC (not to be unreasonably withheld or delayed).
- 5.10 For the avoidance of doubt, all Charge Points are, unless otherwise specifically agreed in writing by PCC to the contrary, to be of a type that is consistent and compliant with the particular requirements required by PCC, including as set out in:
- (a) the Charging Station requirements set out in relation to the relevant Selected Sites in Schedule 1;
 - (b) the Charge Point Specification at Schedule 4;
 - (c) the relevant final approved Installation Overview; and
 - (d) the Installation Timetable.
- 5.11 As part of the Installation Services the EV Charging Operator will:
- (a) at its cost, install wiring at the Selected Site which the E-Bike Share Operator has confirmed is suitable to connect charging equipment for E-Bikes;
 - (b) at its cost, install wiring at the Selected Site which the Information Totem Operator has confirmed is suitable to connect the Information Totem;
 - (c) ensure suitable electricity sub meters are installed to enable the electricity consumed by the E-Bike Share Operator to be accurately monitored and either a sub meter or suitable other assessment method to determine the consumption of electricity by the Information Totem;
 - (d) supply and install the necessary traffic signs and road and bay marking for all Charge Points; and
 - (e) provide bollards or other protective equipment as required.
- 5.12 The EV Charging Operator shall ensure that, in addition to the general service standards set out in Clause 11:
- (a) the Installation Services are carried out in accordance with all applicable legislation and standards including but not limited to:
 - (i) the latest edition of the BS 7671 IET Wiring Regulations;
 - (ii) the latest edition of the IET Code of Practice for Electric Vehicle Charging Equipment Installation;
 - (iii) any relevant Section 50 Highways Licence;
 - (iv) the latest British standards.
 - (b) all Charging Stations are installed in accordance with manufacturer instructions;
 - (c) the electrical supply allows the Charging Stations to operate at full rated capacity;
 - (d) the design of the Charging Stations complies with BS 8300:2009+A1:2020 or the latest version of such standard at the time of installation;
 - (e) any installation on the public highway or footpath allows the contracting authority to meet its statutory and policy obligations; and

- (f) the Installation Services consider the PCC defined constraints for EV charging solutions: kerbside, footway, bollard or equivalent protection.
- 5.13 At each Check-In Meeting (as defined in Clause 19) PCC will be entitled to review the progress of the EV Charging Operator with respect to the roll-out of Charging Stations at the Selected Sites. In the event that the EV Charging Operator is not, in the reasonable opinion of PCC, (taking into account the Installation Timetable, monthly reports and PCC's reasonable instructions given to the EV Charging Operator in the previous quarter(s) and requirements under its Funding Agreements) making satisfactory progress in relation to such roll-out, or in any event a Selected Site or Selected Sites have not achieved installation and commissioning by their installation deadline set out in the Installation Timetable, PCC will be entitled to terminate the terms of the Concession Agreement in relation to all Selected Sites where installation and commissioning of the Charging Stations have not occurred.
- 5.14 PCC will be entitled to remove any particular sites as a Selected Site where either: (a) the installation of a Charging Station has not commenced at that site; or (b) a Lease has not yet been entered into in respect of that site, such that the Concession Agreement shall no longer apply to those sites, provided that PCC shall be entitled to exercise this right in respect of any particular Selected Site no earlier than:
 - (a) 12 months after the commencement of the relevant Lease (where a Lease has been entered into in respect of the relevant Selected Site); or
 - (b) 12 months after the commencement of the Concession Agreement Term (where a Lease in respect of a Selected Site has not yet commenced).
- 5.15 For the avoidance of doubt, the effect of any removal of a site from the Selected Sites pursuant to clause 5.13 and/or clause 5.14 is that the Concession Agreement will remain in force as regards all other Selected Sites, but there will no obligation on PCC to allow the EV Charging Operator to install any further Charge Points at sites that have been removed from the Selected Sites, whether or not the relevant Leases had commenced in relation to them.
- 5.16 For the avoidance of doubt, title and risk in the Charging Stations and the Enabling Infrastructure shall be held and continue to be held by the EV Charging Operator (excepting the Connection Cables, which shall continue to vest in the EV Charging Operator until the expiry or termination of the relevant Lease) unless clause 22.3 applies or the parties enter into a separate written asset transfer agreement in respect thereof.

6 Electricity Supply

- 6.1 In respect of each Selected Site during the relevant Selected Site Concession Term, the EV Charging Operator shall be responsible (subject to clause 6.2 below) at its own cost for the purchase and maintenance of electricity required for the operation of the Mobility Hub, including:
 - (a) operation and maintenance of each Charging Station, and provision of User Charging Services and E-Bike Charging Services;
 - (b) lighting;
 - (c) CCTV;
 - (d) Information Totem; and
 - (e) electricity for other Mobility Hub operators, including but not limited to electricity for E-Bike Charging Services and charging of car club vehicles;

whether pursuant to a power purchase agreement entered into in relation to on-site generation (where required by PCC) or pursuant to purchase of electricity from the grid through a licensed electricity supplier.

6.2 The EV Charging Operator shall enter into an agreement with PCC and:

- (a) the Car Club Operator which shall confirm the arrangements for the supply and purchase of electricity at Mobility Hubs for the purposes of the Car Club;
- (b) the E-Bike Share Operator which shall confirm the arrangements for the supply and purchase of electricity at Mobility Hubs for the purposes of charging the E-Bike Share Operator's electric bikes using the Parking Stations.

6.3 For each Mobility Hub:

- (a) the EV Charging Operator will be responsible for securing and maintaining a Grid Connection Agreement for each Mobility Hub, including liaison with the DNO where appropriate;
- (b) the EV Charging Operator will comply with the applicable terms of any relevant Grid Connection Agreement or other applicable grid requirements and, with the exception of any temporary interruption specifically agreed to by both PCC and the Landlord in advance, will not do or fail to do anything that would cause an interruption to the electricity supply required for the purposes of each Mobility Hub;
- (c) subject to the above, the EV Charging Operator will use all reasonable endeavours, acting in accordance with Good Industry Practice, to ensure a sufficient supply of electricity to the Mobility Hub at each Selected Site. In particular, the EV Charging Operator shall liaise with and cooperate with the Landlord (if necessary) to secure any necessary increased level of grid connection capacity which the EV Charging Operator reasonably requires for the purposes of operating the Mobility Hub;
- (d) PCC shall be responsible for any costs of electricity supplied to and consumed by the Information Totem, the CCTV and the lighting;
- (e) for the avoidance of doubt, the EV Charging Operator shall be responsible for any costs of electricity supplied to and consumed by the Charging Stations;
- (f) consumption of electricity by the Charging Stations will be determined by the MID approved metering systems built into the Charging Stations;
- (g) consumption of electricity by the Parking Stations will be determined by separate meters for each such activity at each Selected Site;
- (h) any changes to the electricity supply or grid connection for a Mobility Hub must be approved in advance in writing by PCC.

7 Operation of Charging Stations

7.1 Once any Charging Station (or part of it, where it comprises multiple Charge Points to be deployed in a phased manner) has been properly installed and commissioned, the EV Charging Operator shall:

- (a) to the extent that it is not impeded from doing so by any additional works at the Mobility Hub, commence and continue to provide the User Charging Services via the Charging Station (or the relevant part of it); and
- (b) provide the Operation and Maintenance Services and otherwise operate and maintain each Charging Station and Enabling Infrastructure (including by way of responding to and remedying any Faults) in accordance with the standards, obligations and service levels (including the KPIs) set out under the Concession Agreement,

for the remainder of the Selected Site Concession Term.

Availability

- 7.2 All Charging Stations installed will be made available to the general public for use 24 hours a day, 7 days a week, 365 days a year including the provision of a call centre and User support (unless otherwise agreed between the parties in writing) subject to any specific site restrictions which apply to any particular Selected Site (as set out in the relevant Lease) or any specific maintenance obligations set out in this Agreement which prevent the EV Charging Operator from doing so.

Warning Notice

- 7.3 The EV Charging Operator will clearly mark each Charge Point at a Selected Site with the Warning Notice and will ensure such Warning Notice is apparent and clearly displayed throughout the Selected Site Concession Term.

Use of parking bays

- 7.4 The EV Charging Operator will use reasonable endeavours to ensure that designated Charging Bays are not routinely occupied or obstructed by internal combustion engine vehicles or other such vehicles or constructs which fail to make use of User Charging Services.
- 7.5 The EV Charging Operator will provide dedicated charging bays and associated charging infrastructure for use by the Car Club Operator in accordance with the Specification and the Proposal. Advertising
- 7.6 The EV Charging Operator shall ensure that all Charging Stations installed at the Selected Sites and the parking bays associated with each Charging Station will be clearly marked with the EV Charging Operator's branding, to be approved in advance by PCC, such approval not to be unreasonably withheld or delayed. No other advertising shall be permitted by the EV Charging Operator at the Charging Stations.

8 Charges

- 8.1 The EV Charging Operator shall be responsible for enabling and managing payments made by Users for User Charging Services.
- 8.2 The EV Charging Operator will be responsible for setting the charges to be paid by Users in respect of User Charging Services subject to meeting the following conditions:
- (a) the charges must be consistent across all Charging Stations;
 - (b) the use of any overstay fee for a vehicle that has completed charging but is left in a parking bay and thereby preventing use by other vehicles shall be in line with industry recognised standards and agreed in advance by PCC;
 - (c) the EV Charging Operator will conduct annual benchmarking against tariffs for comparable charge points of the same charging capacity in the UK and present such analysis to PCC along with any proposed changes to the kWh charges as a result of such benchmarking exercise;
 - (d) all kWh charges shall be subject to an annual review which shall reflect any fluctuation across the UK electric vehicle charging market;
 - (e) following the prior written agreement of PCC (not to be unreasonably withheld), before the end of each year of this Concession Agreement, charges may be increased annually in line with inflation.

9 Helpdesk and Support

- 9.1 The EV Charging Operator will create and maintain separate customer service lines via the App and the telephone for Users and PCC in order to address questions, or queries or deal with issues experienced at or by the Charge Points by Users and/or PCC as appropriate. Such service lines shall be manned by personnel 24 hours a day, 7 days a week, 365 days a year and the availability of the User customer service line shall be clearly marked at each Charge Point for User convenience. The PCC service line shall be manned directly by a member of the EV Charging Operator's Key Personnel. Where possible the EV Charging Operator should take the caller through possible remote remedies. Where remote remedies do not solve the caller's issue a ticket for physical intervention will be provided.
- 9.2 The EV Charging Operator shall be responsible for setting out a clear complaints procedure for Users, which is in line with PCC's existing complaints procedure. The Operator shall display its complaints policy on the App. All complaints are to be dealt with in a courteous and efficient manner and shall be recorded and categorised and presented back to PCC as part of the reporting process set out in clause 19.

10 Requirements for the App and the Operating System

- 10.1 The EV Charging Operator will be responsible for developing, maintaining, managing and updating the Operating System and, where applicable, the App.
- 10.2 The EV Charging Operator will ensure that the Operating System and the App use software which is compliant with the Network and Information Systems Regulations 2018, the Common Sec, ISO7001 or equivalent to ensure that data is stored, transmitted and received securely.
- 10.3 The Operating System must meet:
- (a) W3C Web Content Accessibility Guidelines 2.1 to priority AA including embedded media; and
 - (b) the requirements of the EU Web Accessibility Directive.
- 10.4 The EV Charging Operator must ensure that sufficient and adequate malware and other security measures are implemented and maintained in respect of all software in the Operating System and the App.
- 10.5 The EV Charging Operator acknowledges and agrees that PCC has ambitions to provide a journey planner and mobility as a service ("MAAS") offering to enable people to plan routes across a range of transport services and providers. The EV Charging Operator agrees that, when required to do so, it shall take all reasonable steps to ensure that the App is fully integrated with the Journey Planner/MAAS App and the Journey Planner/MAAS Platform.

11 Service Standards

- 11.1 The EV Charging Operator shall provide its obligations and Services under this Concession Agreement in respect of each Selected Site and Charging Station in accordance with Good Industry Practice and in doing so shall:
- (a) comply with all applicable laws, grid requirements, industry standards and codes;
 - (b) ensure all of the EV Charging Operator's personnel performing the EV Charging Operator's obligations under this Concession Agreement (including any subcontractors or agents of the EV Charging Operator) have all relevant certifications and training;
 - (c) make good, to the reasonable satisfaction of PCC and the Landlord, any damage caused to a Selected Site or Charging Station in the course of the EV Charging

Operator carrying out any of its rights, obligations or otherwise, in undertaking any activities under the Concession Agreement;

- (d) perform all Services and obligations in an efficient, professional manner and with due care and utmost diligence, as promptly as is practicable and in line with any and all applicable KPI response time requirements, including in response to requests made by PCC under the scope of this Concession Agreement;
- (e) take all reasonable steps to ensure a clear and consistent User experience across the various Mobility Hubs;
- (f) diligently comply with all reasonable requirements, instructions or directions communicated by PCC in relation to the Charging Station or any part of it (except only where to do so would require the EV Charging Operator to materially breach the terms of this Concession Agreement or applicable law);
- (g) maximise long term Gross Revenue and PCC Revenue Share for the duration of the Selected Site Concession Term;
- (h) not make any modification to a Charging Station that would be inconsistent with or prejudice the minimum functionality or performance requirements set out in the Concession Agreement and/or that could be reasonably considered to have any adverse impact on the Mobility Hub or PCC Revenue Share without the approval of PCC, not to be unreasonably withheld or delayed;
- (i) minimise disruption to PCC and the Landlord and occupants of any neighbouring land of the Selected Site;
- (j) minimise the direct and indirect costs to be incurred by PCC whether under this Concession Agreement or any other connected agreement in relation to the Selected Site;
- (k) promptly pay all invoices for the supply of electricity to the Mobility Hubs;
- (l) take all reasonable steps to ensure a consistent supply of electricity to the Mobility Hubs;
- (m) at all times act in good faith and in the best interests of PCC; and
- (n) honour the known obligations of and restrictions on PCC (including obligations and restrictions that ought reasonably to be deduced by a competent and experienced service provider) and, in particular those obligations and restrictions placed upon PCC by its Funder(s) as well as obligations under FOIA and the EIRs.

11.2 The EV Charging Operator will ensure that each Charge Point and item of Enabling Infrastructure installed at a Selected Site (including any item which may be installed from time to time as a replacement for the whole or part of any Charge Point or item of Enabling Infrastructure):

- (a) complies with all applicable laws and grid requirements and with any other minimum functionality or performance requirements set out in the applicable Lease, this Concession Agreement or subsequently agreed functionality and performance requirements;
- (b) is fit for purpose, of satisfactory quality, CE marked (where applicable) and free from defects in design, materials and workmanship;
- (c) is new at the point of installation; and

- (d) is not the subject of any security interest or adverse title, other than any security interest approved by PCC (not to be unreasonably withheld or delayed).

11.3 The EV Charging Operator shall:

- (a) obtain and maintain in force (or where applicable, procure that others obtain and maintain) during the continuance of the Concession Agreement Term all licences, permits and consents which are necessary for the provision of the Services and EV Charging Operator's obligations under this Concession Agreement (excepting planning permissions which shall be the responsibility of PCC and Section 50 highways licences where the EV Charging Operator shall draft the application but the application shall be submitted by PCC) achievement of the KPIs and the timetables set by the parties (including the Installation Timetable) and shall perform its Services and obligations in accordance with the same;
- (b) ensure that, throughout the Concession Agreement Term it has the right to perform its Services and obligations imposed on it under this Concession Agreement;
- (c) commit and deploy sufficient resources (including materials, equipment, services, financial, administrative and personnel) in order to fulfil its Services and obligations under this Concession Agreement promptly, effectively and in accordance with the requirements and standards required of it under this Concession Agreement;
- (d) ensure that it co-operates at all times with all other parties engaged by or with PCC in relation to the development of the Mobility Hubs (including the Funder, Landlords, E-Bike Share Operator, Information Totem Operator, Car Club Operator and all relevant third parties) and shall perform its obligations and Services in accordance with all reasonable directions issued by PCC (and/or PCC's nominee(s)).

11.4 Without prejudice to any other rights and remedies available to it under this Concession Agreement, in the event of any breach of the installation, operation and maintenance requirements and Services, or otherwise in the event of any Fault, PCC is entitled to require any and all relevant Faults or breaches of to be remedied in accordance with the service standards and KPIs set out in this Concession Agreement.

11.5 All Services and obligations of the EV Charging Operator under this Agreement shall be undertaken by properly authorised, experienced, qualified and, where relevant, certified personnel. The EV Charging Operator shall remain responsible for all acts and breaches committed by any of its personnel, agents, representative or contractors pursuant to this Concession Agreement.

12 KPIs

12.1 The EV Charging Operator shall meet or exceed all KPIs.

12.2 The EV Charging Operator shall retain records, communications and documents in relation to its responses to queries, issues, performance of Services, responses to Faults and any other event for which a KPI applies during the Concession Agreement Term, including receipt and response times, manner of communications, records of any information or documents requested and shall keep such records and materials available for review by PCC and its auditors during the Concession Agreement Term and for a period of two (2) years thereafter.

12.3 The EV Charging Operator shall prioritise all communications, Faults and Services based on the response times and requirements specified within the KPIs or, where no urgency level has been expressly assigned to it, the EV Charging Operator shall prioritise based on its reasonable assessment of the urgency level of the event or circumstances.

12.4 The parties may, on a case-by-case basis, agree in writing to a reasonable extension or amendment to any particular response or responses or to the severity level service credit amounts attributable to the KPIs.

12.5 The parties shall meet once every three (3) months to discuss the EV Charging Operator's performance against the KPIs and to score performance based on the score ratings in Schedule 3 ("**Quarterly KPI Rating**"). The Quarterly KPI Ratings will be taken into account by PCC when considering any extension of the Agreement Term.

12.6 Persistent breach by the EV Charging Operator of KPIs shall be considered a material breach of this contract for the purposes of Clause 22 (Suspension and Termination) of this Agreement.

13 Data

13.1 The EV Charging Operator will use all reasonable endeavours to ensure public visibility and knowledge of the Charging Stations' existence, live availability and location, including ensuring that the Charging Stations feature on relevant national databases (including "Zap-Map") and on relevant EV charging applications and websites (including PCC's website if required) in order to attract or promote prospective Users, at the EV Charging Operator's cost. For the avoidance of doubt:

- (a) this obligation shall not preclude PCC and/or the Landlord from undertaking such additional marketing or inclusion of the Charging Stations on relevant databases, applications and websites where they deem it appropriate;
- (b) the EV Charging Operator shall ensure no personal data is shared publicly whilst complying with its obligations under this clause.

13.2 To the extent permitted by applicable law, and in particular, Data Protection Legislation, the EV Charging Operator will provide PCC with access to data as well as access to its sensors and monitoring systems showing, on a live basis with the following data in respect of each Selected Site :

- (a) the availability of each Charge Point and Charging Stations;
- (b) the utilisation of each Charge Point and Charging Stations generally and frequency including day of week and time of day for utilisation;
- (c) dwell times for vehicles at each Charge Point;
- (d) plug in duration/charge time duration for EVs for each User's charging session in respect of each Charge Point;
- (e) whether the Charge Points used are rapid, fast or slow charging;
- (f) energy supplied during each incident of use;
- (g) type and make of EV using the Charge Point;
- (h) the number of incidents as compared against the previous month of the use of Charge Point parking bays or otherwise obstruction of the Charge Points by non-EVs and/or vehicles not making use of User Charging Services;
- (i) periods during which any of the relevant Charge Points were experiencing Faults and/or were unable to provide User Charging Services; and
- (j) such other information as PCC may reasonably require.

13.3 The EV Charging Operator shall provide PCC with monthly reports setting out the data (in anonymised form where such data is personal data and where the value to PCC in receiving data in such format would not be reasonably expected to be materially reduced by such anonymisation) under clause 13.2 in relation to each Selected Site and shall also include in such reports the Gross Revenue collected in respect of each Selected Site, setting out how

much of each Selected Site's Gross Revenue is directly attributable to the provision of User Charging Services.

- 13.4 PCC shall be entitled to review, use and share data obtained or provided from the Charging Stations:
- (a) to audit and verify PCC's entitlement to a share of Gross Revenue;
 - (b) to monitor the EV Charging Operator's performance against the KPIs;
 - (c) to comply with its Funders' requirements and sharing obligations pursuant to the Funding Agreement(s); and
 - (d) to undertake research, analysis, development, education and marketing of such research in relation to the public use of EVs and EV charging as well as the utilisation of the Mobility Hubs.
- 13.5 All data obtained and or provided from the Charging Stations shall be the property of PCC and PCC grants the EV Charging Operator a royalty-free, non-exclusive, revocable licence to use such data for the purposes of performing its obligations under this Concession Agreement.
- 13.6 The EV Charging Operator shall ensure that each Charge Point is added to the National ChargePoint Registry (or any successor registry) and ensure that the entries are kept up to date.

14 Data Protection

- 14.1 The EV Charging Operator shall implement appropriate technical and organisational security measures designed to protect the security of any personal and other information and data collected and/or processed from Users and vehicles parking in the Charge Point parking bays.
- 14.2 The EV Charging Operator will ensure that the software of all Charging Stations and each Charge Point shall be fully compliant with the latest version of the Open Charge Point Protocol as amended from time to time and allows users to pay by credit or debit card.
- 14.3 The EV Charging Operator will ensure that it has in place and maintains a clear and comprehensive privacy policy which has been approved by PCC. Upon PCC's approval of the EV Charging Operator's privacy policy, the EV Charging Operator shall make it available online for review by any Users and members of the public at all times. Such privacy policy shall set out the information collected at the Charging Stations, how it is used, why it is collected, who it is shared with, how long it is retained, measures taken to ensure the information is kept safe and what rights Users have in relation to it. The EV Charging Operator will comply with its privacy policy throughout the Concession Agreement Term.

Each party acknowledges that one party will be a Data Discloser and will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

- 14.4 Each party shall comply with all the obligations imposed on a controller under the UK Data Protection Legislation, and any material breach of the UK Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Concession Agreement with immediate effect.
- 14.5 Each party shall:
- (a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

- (b) give full information to any data subject whose personal data may be processed under this Concession Agreement of the nature of such processing. This includes giving notice that, on the termination of this Concession Agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
- (c) process the Shared Personal Data only for the Agreed Purposes;
- (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Concession Agreement;
- (f) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data including but not limited to:
 - (i) any systems used to process personal data are fully tested and accredited by an authorised company on an annual basis;
 - (ii) any systems used have proactive monitoring in place to identify any breach proactively; and
 - (iii) there is a procedure in place to secure and supply any audit information or log files associated with any breach;
- (g) not transfer any personal data received from the Data Discloser outside the European Economic Area unless the transferor:
 - (i) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
 - (ii) ensures that:
 - (A) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; or
 - (B) there are appropriate safeguards in place pursuant to Article 46 GDPR; or
 - (C) binding corporate rules are in place; or
 - (D) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

14.6 Each party shall assist the other in complying with all applicable requirements of the UK Data Protection Legislation. In particular, each party shall:

- (a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- (b) promptly inform the other party about the receipt of any data subject access request;

- (c) provide the other party with reasonable assistance in complying with any data subject access request;
- (d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- (e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the UK Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the other party without undue delay on becoming aware of any breach of the UK Data Protection Legislation;
- (g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Concession Agreement unless required by law to store the personal data;
- (h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- (i) maintain complete and accurate records and information to demonstrate its compliance with this clause 144 and allow for audits by the other party or the other party's designated auditor; and
- (j) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the UK Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the UK Data Protection Legislation.

14.7 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the UK Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

15 Provision of information

15.1 Subject to requirements of Confidentiality and Data Protection, PCC will provide such information and other co-operation as the EV Charging Operator may reasonably request for the purposes of complying with its obligations under this Concession Agreement, including in relation to the installation and subsequent operation and maintenance of Charge Points, Enabling Infrastructure and wider Mobility Hub. This includes information relating to access details and key points of contact. However, it would not be considered reasonable for these purposes for the EV Charging Operator to request that PCC do anything that would require PCC to incur any external cost (including the cost of engaging any contractor or consultant) unless the EV Charging Operator agrees to reimburse such costs.

16 Payments

16.1 No fees or charges will be payable by PCC to the EV Charging Operator unless expressly set out under this Concession Agreement or otherwise separately agreed in writing by the parties.

- 16.2 The EV Charging Operator shall be entitled to generate revenue from Charging Stations by way of the provision of User Charging Services in accordance with the obligations and restrictions under this Concession Agreement.
- 16.3 From 1 April 2023, the EV Charging Operator shall pay PCC the PCC Revenue Share within 30 days of the end of the month to which the Gross Revenue Share relates.
- 16.4 For the avoidance of doubt, the EV Charging Operator shall be entitled to retain the amount of the Gross Revenue less the PCC Revenue Share.
- 16.5 In accordance with clause 13.3, from 1 April 2023, the EV Charging Operator shall provide PCC with monthly reports as to accrual of Gross Revenue received in respect of the previous month and the PCC Revenue Share payable in respect of that month. The EV Charging Operator shall also provide details of how the Gross Revenue and the PCC Revenue Share have been calculated, with supporting evidence.
- 16.6 PCC and its employees, agents and auditors Funders and the Landlord (the latter in respect of that Landlord's Selected Site only) shall be entitled to inspect financial records of the EV Charging Operator in order to verify the monthly reports and any Gross Revenue accrued and the EV Charging Operator shall provide any such party exercising such right with all such reasonable assistance and access as is reasonably required.
- 16.7 Without prejudice to PCC's and the Landlords' rights and remedies under this Concession Agreement and in particular to its rights of inspection under clause 16.6, to the extent that PCC disputes any calculation of a month's Gross Revenue and/or the amount of the PCC Revenue Share, the disputing party and the EV Charging Operator shall promptly provide each other with such information in their possession and control relevant to the calculation of Gross Revenue and PCC Revenue Share to substantiate their position and shall meet in good faith no later than twenty (20) Business Days from the date on which the disputing party sends notice of the disputed Gross Revenue and/or PCC Revenue Share amounts (as applicable). Where PCC and the EV Charging Operator fail to agree on the correct Gross Revenue and the PCC Revenue Share due in any month or months, either party may appoint an independent adjudicator to evaluate the evidence and to conclude the correct amounts and such valuation shall be final and binding on all the parties (including, where applicable, any non-disputing party).
- 16.8 Where, following the process set out under clause 16.7 it is determined that any PCC Revenue Share amounts reported and applied were inaccurate, the EV Charging Operator shall make adjustments to the next instalment of the PCC Revenue Share payment accordingly or, where no PCC Revenue Share is to be payable, the relevant party(ies) to whom the adjusted sums are due as a result of the determination of the service credit amount shall invoice the other(s) for the outstanding amount.

17 Liability & Insurance

- 17.1 The EV Charging Operator will indemnify PCC against any third-party claims (including User claims) arising out of or connected to the Services (including the installation, operation, maintenance or use of any Charging Stations), provided that:
- (a) the EV Charging Operator shall be entitled to recover from PCC any amount paid to PCC under this indemnity to the extent that any such amounts were caused by the wilful misconduct or negligence by PCC or any of its personnel and/or any breach of this Concession Agreement by PCC; and
 - (b) the EV Charging Operator will have the right to take over the conduct of any third-party claim of this kind, subject to obtaining prior approval from PCC (not to be unreasonably withheld or delayed) before agreeing any settlement.

- 17.2 Neither party (the "defaulting party") will be liable for any indirect or consequential economic loss or loss of business, revenue or opportunity which the other party suffers as a result of any negligence or breach by the defaulting party.
- 17.3 Where either party suffers loss (other than loss excluded by clause 17.2) as a result of any negligence or breach by the other party (the defaulting party), the defaulting party's liability for that loss will be limited as follows:
- (a) where the EV Charging Operator is the defaulting party, no limitation will apply in respect of its liability to indemnify PCC in respect of any third party claim as referred to in paragraph 17.1;
 - (b) for loss in respect of physical damage to property, liability will be limited to £10million per occurrence or series of related occurrences;
 - (c) for any other loss, liability will be limited to £5 million per occurrence or series of related occurrences.
- 17.4 The EV Charging Operator will be required to maintain appropriate insurance policies as follows:
- (a) employers' liability insurance with a level of cover not less than £10 million per occurrence;
 - (b) public liability insurance with a level of cover not less than £10 million per occurrence;
 - (c) product liability insurance with a level of cover not less than £10 million per occurrence and in the aggregate;
 - (d) professional indemnity insurance with a level of cover not less than £2 million per occurrence and in the aggregate.
- 17.5 To the extent that any insurance policy premium of the Landlord or PCC is, as a result of the installation and operation of the Charging Stations at the Selected Sites (or any one of them), increased by the relevant insurance provider, the EV Charging Operator shall be responsible to pay PCC the additional cost increase to such insurance policy or policies.
- 17.6 Nothing in this Concession Agreement is intended to limit or exclude either party's liability in respect of:
- (a) death or personal injury;
 - (b) fraud or fraudulent misstatement;
 - (c) anything which by law cannot be limited or excluded.

18 Force Majeure

- 18.1 Subject to clause 18.4 and provided it has complied with 18.2, if a party ("**Affected Party**") is prevented, hindered or delayed from performing any of its obligations under this Concession Agreement by a Force Majeure Event the Affected Party shall not be in breach of this Concession Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 18.2 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 2 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential

duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Concession Agreement; and

- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 18.3 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 12 weeks in respect of any particular Selected Sites, the party not affected by the Force Majeure Event may elect to remove the relevant site affected by the Force Majeure as a Selected Site by giving written notice to the Affected Party, or where the Force Majeure event affects all Selected Sites, terminate the Concession Agreement, by giving 2 weeks' written notice to the Affected Party.
- 18.4 The EV Charging Operator warrants that:
- (a) on the Commencement Date it is aware of events which have been or continue to occur which could be construed to be a Force Majeure Event but that it has taken all reasonably practicable steps to ensure that there will be no negative effect or non-performance of the Concession Agreement as a result of any such event; and
 - (b) as such, any such event set out under sub-clause 18.4(a) which continues or returns at or after the Commencement Date shall not be considered to be a Force Majeure Event for the purposes of this Concession Agreement.

The parties agree that the above warranty includes and relates to, without limitation, the Coronavirus disease (also known as COVID-19) and circumstances in which the effect of Coronavirus would have the effect of preventing the EV Charging Operator's ability to source resources and perform its obligations under this agreement.

- 18.5 For the avoidance of doubt the EV Charging Operator's responsibility for responding to and fixing Faults and undertaking repairs, replacements and maintenance of the Charging Stations, Charge Points and Enabling Infrastructure at its own cost shall include circumstances where the need for such remedy, repair or replacement has been caused by a Force Majeure Event.

19 Meetings and reports

- 19.1 The parties shall meet within 2 weeks of each Quarter Day (or such other frequency of meetings required by PCC) ("**Check-in Meeting**"). To fulfil the objectives of this clause each party shall ensure that the Check-in Meeting is attended by the appropriate people in order to efficiently discuss the operation and management of the Services. The objectives of the Check-In Meeting are to:
- (a) explain to PCC in reasonable detail the progress of installation and commissioning of the Charging Station at each Selected Site, including but not limited to information on: what requirements and works have been fulfilled, what requirements, works and activities are ongoing and who is responsible for such works or activities, any delays or prospective delays to total installation and/or commissioning of the relevant Charge Points or any one of them and any correspondence or negotiations with the DNO or other authority in relation to permits, licences or obligations or works to be fulfilled or maintained;
 - (b) explain to PCC in reasonable detail the remedy of any breach or Fault(s);
 - (c) inform PCC of any other material progress, delays, or significant drops or increases in Gross Revenue;
 - (d) review the EV Charging Operator's performance against KPIs; and

- (e) once at least one Charging Station has been commissioned, present the latest Quarterly Report, a copy of which shall be provided to PCC within 5 Business Days of the relevant Quarter Day.
- 19.2 The EV Charging Operator shall also provide an annual report which shall be submitted to PCC within 5 Business Days of 31 March in each year which shall collate the information provided in the Quarterly Report to give annual figures and include a section on lessons learned during that year.

20 Compliance with Instructions by PCC

During the Concession Agreement Term the EV Charging Operator shall follow the reasonable guidelines and instructions issued by PCC in relation to the Services and obligations under this Concession Agreement where such instructions or guidance are reasonably connected to the Concession Agreement and would not cause a conflict with or breach of any applicable laws.

21 PCC's Rights of Remediation

- 21.1 In the event of any breach by the EV Charging Operator (including a failure to comply with relevant KPIs in respect of the fixing of Faults), PCC will have the right to provide a warning notice to the EV Charging Operator requiring it to remedy the breach or Faults within a reasonable timeframe (taking into account the severity of the breach and requirement for action) as specified by PCC in its warning notice. If the EV Charging Operator fails to remedy such Fault within the timeframe given, PCC will have the right to liaise with the relevant Landlord to secure rights of access and pursuant to that may:
- (a) access the relevant Selected Site and take remedial action itself, or procure that a third-party alternative provider undertakes such remedial action to fix a relevant breach or Fault or perceived hazard; and
 - (b) recover from the EV Charging Operator any costs reasonably incurred by PCC in taking such action, including reasonable costs incurred in engaging a third party to fix a relevant Fault, breach or perceived hazard; and
 - (c) in no circumstances shall PCC be liable to the EV Charging Operator for any breach of the EV Charging Operator's insurance, warranties, guarantees or third-party agreements as a result of PCC taking such action.
- 21.2 Where PCC wishes to exercise rights referred to above, the EV Charging Operator will provide such reasonable support as PCC may request for these purposes.

22 Suspension and Termination

- 22.1 If PCC reasonably considers that:
- (a) the EV Charging Operator has committed a material breach of this Concession Agreement (including in respect of any one or more Selected Sites); and/or
 - (b) there is a material risk of damage to PCC's reputation or goodwill by continuing with the Concession Agreement in respect of any or all Selected Sites,

PCC may, at its sole discretion, by giving written notice to the EV Charging Operator, suspend the EV Charging Operator's provision of the Services (including the EV Charging Operator's installation, operation and maintenance of the Charging Station) at the affected Selected Site(s) for a reasonable period of time while PCC investigates and considers the most appropriate course of action.

- 22.2 Without prejudice to any other rights and remedies available to either party under the Concession Agreement:

- (a) PCC may terminate this Concession Agreement in respect of any or all of the Selected Site(s) immediately on notice in the event that there has been a material breach of this Concession Agreement by the EV Charging Operator in relation to any Selected Site(s) which is not capable of remedy or, being capable of remedy, has not been remedied by the EV Charging Operator within either the timeframe for remedy set by PCC under this Concession Agreement or, where not stipulated, within 20 Business Days;
- (b) PCC may terminate this Concession Agreement in its entirety immediately in the event that:
 - (i) there has been a material breach or breaches of this Concession Agreement by the EV Charging Operator in relation to 3 or more Selected Sites which is not capable of remedy or, being capable of remedy, has not been remedied by the EV Charging Operator within either the timeframe for remedy set by PCC under this Concession Agreement or, where not stipulated, within 20 Business Days in each case;
 - (ii) subject to clause 25, the EV Charging Operator assigns the benefit of this Concession Agreement or sub-contracts the whole or part of the EV Charging Operator's rights and obligations without PCC's prior written consent;
 - (iii) there has been a material breach in relation to persistent failure to meet KPIs in relation to 3 or more Selected Sites as determined by PCC or the Landlord acting reasonably;
 - (iv) the EV Charging Operator is subject to an Insolvency Event;
 - (v) the EV Charging Operator undergoes a Change of Control.

22.3 On termination of the Concession Agreement in respect (whether in relation to 1 or more Selected Sites):

- (a) subject to subsection 22.3(c) the EV Charging Operator shall remove its branding and equipment situated at the relevant Selected Site(s) (which for the avoidance of doubt, are not part of the Charging Stations or Enabling Infrastructure);
- (b) where the Lease in respect of the Charging Stations continues and subject to clause 22.3(c) below, the EV Charging Operator shall leave the Charging Station(s) and Selected Site(s) in a good, safe condition and causing no damage to any remaining infrastructure, cables or property;
- (c) only where instructed to do so by PCC, remove the Charge Points;
- (d) unless otherwise agreed in writing by the Landlord and the EV Charging Operator, title in the Enabling Infrastructure for the Selected Site shall revert to PCC and the EV Charging Operator shall immediately enter into a transfer agreement with PCC, transferring ownership (with full title guarantee and with all relevant licences and guarantees) of the Enabling Infrastructure to PCC for the consideration of £1 or less;
- (e) unless otherwise agreed in writing by the Landlord and the EV Charging Operator, the EV Charging Operator shall ensure that all relevant Grid Connection Agreements are in the name of PCC and, where they are not already in the name of PCC, ensure they are promptly novated to PCC or such other third party nominated by PCC;

- (f) each party shall return to the other party, as soon as possible, all Confidential Information it holds with regard to the other party in respect of the Concession Agreement; and
- (g) where applicable, the EV Charging Operator will provide PCC with all reasonable assistance, information and documentation required by PCC for the effective and smooth handover of the EV Charging Operator's Services and obligations under the Concession Agreement (where necessary), taking all reasonable care and skill to ensure that there is minimal disruption to PCC, the Landlord and the Mobility Hub or the public.

23 Intellectual Property

- 23.1 Each party shall retain ownership of the Intellectual Property Rights in its Background IPR. No licence to use any Intellectual Property Rights is granted or implied by this Concession Agreement except the rights expressly set out in this Concession Agreement.
- 23.2 The EV Charging Operator warrants that it holds all licences, grants and rights (including Intellectual Property Rights) necessary in the Charging Stations, Enabling Infrastructure and data shared under this Concession Agreement in order to provide the Charging Stations and Enabling Infrastructure to PCC with full title guarantee.
- 23.3 All Foreground IPR produced by the EV Charging Operator shall vest in the EV Charging Operator. The EV Charging Operator hereby grants a licence, or shall procure the direct grant of a licence to PCC, of a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable licence to PCC to use and publish the EV Charging Operator's Background IPR and Foreground IPR for the purposes of receiving and using the Services provided under this Concession Agreement and in order to comply with its obligations under the Funding Agreement(s).
- 23.4 The EV Charging Operator warrants that the receipt, use and onward supply or sharing of the EV Charging Operator's Services, obligations and data (including any Background IPR and the Foreground IPR) by PCC in accordance with this Concession Agreement shall not infringe the rights, including any Intellectual Property Rights, of any third party.
- 23.5 The EV Charging Operator shall indemnify PCC in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by PCC arising out of, or in connection with any claim brought against PCC for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, supply or correct use of the Services, Background IPR and Foreground IPR.

24 Confidential Information

- 24.1 Each party (the "**Receiving Party**") will keep confidential, and will not disclose, any and all Confidential Information of the other party ("**Disclosing Party**") which is disclosed to or obtained by it under or as a result of or in connection with this Concession Agreement and will not use such Confidential Information or divulge it to any third party or employee without the other party's prior written consent except:
 - (a) in the case of disclosure by PCC:
 - (i) where it is required to be disclosed due to the statutory obligations imposed on PCC as a county council, including but not limited to those obligations imposed under FOIA and the EIRs;
 - (ii) where it is required to be disclosed to the Landlord of a particular Selected Site in order for the Landlord to assess the commercial viability of the

continuation of the Lease and the terms of the Concession Agreement in respect of that Selected Site; and

- (iii) where it is required to be disclosed to the Funder or to any other third party pursuant to the Funding Agreement; and

(b) in the case of disclosure by either party:

- (i) where it is required to be disclosed for the purposes of performing its obligations or pursuing its rights under this Concession Agreement;
- (ii) where such information was disclosed to the Receiving Party lawfully and without restriction as to its disclosure by a third party who did not obtain it (whether directly or indirectly) from the Disclosing Party and did not breach any confidentiality obligations by making such disclosure;
- (iii) where such information was in the public domain at the time the Receiving Party received it or has subsequently entered the public domain other than because of a breach of this clause 24.3 or of any obligation of confidentiality owed by the Receiving Party or by any of its employees or agents to the Disclosing Party; or
- (iv) where it is required to be disclosed by the applicable laws or by order or regulation of a court or regulatory body of competent jurisdiction.

24.2 The Receiving Party must ensure that its employees, officers and agents and any relevant third parties to whom it discloses Confidential Information in accordance with clause 24.1 are aware of the confidential nature of the Confidential Information and comply with the provisions of this Clause 24.4 as if they were the Receiving Party under this clause.

24.3 Any information disclosed orally that is identified by the Disclosing Party as or is reasonable to assume would reasonably be considered to be held as Confidential Information shall be treated as Confidential Information in the same way as if it had been reduced to writing at the time of disclosure to the Receiving Party.

24.4 The Receiving Party shall not, during a period of two (2) years after the termination or expiry of this Concession Agreement use or disclose any such Confidential Information for any purpose other than set out under clause 24.1 or for which the Disclosing Party has expressly provided consent for in writing.

25 Assignment

25.1 Neither party shall assign or transfer its rights and obligations under the Concession Agreement to any third party without the express written approval of the other party, such approval not to be unreasonably withheld or delayed, provided that:

- (a) PCC may assign or transfer its rights and obligations under this Concession Agreement without the prior approval of the EV Charging Operator to:
 - (i) its Funder; or
 - (ii) in respect of any particular Selected Site, the relevant Landlord of that Selected Site; and
- (b) the EV Charging Operator shall be entitled to assign its benefit under the Concession Agreement by way of security in favour of a funder subject to notice of this being promptly provided to PCC.

26 Statements and Warranties

26.1 The EV Charging Operator warrants that it holds all the skills, knowledge and abilities necessary to carry out this Concession Agreement in accordance with the terms included herein.

26.2 Each party confirms that:

- (a) it holds all the powers and faculties necessary to enter into this Concession Agreement and to perform the obligations and fulfil its warranties hereunder; and
- (b) it will act in accordance with all applicable laws throughout the Concession Agreement Term.

27 Notices

27.1 Any notice given to a party under or in connection with this Concession Agreement shall be given in writing and shall be delivered by hand or by pre-paid first class post or other next day delivery service.

27.2 Addresses for notification purposes

Any notice sent by post shall be sent to the addresses that appear as follows:

PCC

Attn: [INSERT]

Email: [INSERT]

Address: [INSERT]

EV CHARGING OPERATOR

Attn: [INSERT]

Email: [INSERT]

Address: [INSERT]

or such other address as a party has notified the other party by notice in writing.

27.3 A notice will be deemed delivered and effective:

- (a) where sent by post, the second Business Day after the date on which it is sent; and
- (b) where sent by recorded delivery or courier or otherwise hand-delivered, upon the delivery confirmation; and

For the avoidance of doubt, any such date of effectiveness of any notice shall not affect the legal date of receipt or effectiveness of notices served in accordance with a legal procedure or claims process pursuant to a dispute.

28 Severability

If any part of this Concession Agreement is found by any court or other competent authority to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of this Concession Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

29 Costs and Expenses

Each party shall pay its own expenses (including legal costs) incurred in the preparation and execution of this Concession Agreement.

30 Contracts (Rights of Third Parties) Act 1999

30.1 Subject to clause 30.2, this Concession Agreement does not give rise to any rights under Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Concession Agreement unless otherwise expressly stated in this Concession Agreement.

30.2 Each Landlord of a Selected Site shall be entitled to enforce the relevant rights provided under this Agreement in respect of the relevant Selected Site.

31 Key Personnel

31.1 The EV Charging Operator shall appoint a suitably experienced, skilled and qualified person to liaise and correspond with PCC in respect of the Selected Sites and this Concession Agreement and shall immediately notify the EV Charging Operator of such person, providing appropriate and direct contact details ("**Contract Manager**").

31.2 Where PCC reasonably believes that the Contract Manager is not suitable for the role of key personnel, whether due to their experience, failure to oversee the Services and obligations of the EV Charging Operator under this Concession Agreement or due to failure to promptly and diligently correspond, cooperate and assist PCC to PCC's reasonable satisfaction, PCC shall be entitled to require the EV Charging Operator to remove such individual from their role as Contract Manager and/or their role in relation to the EV Charging Operator's performance of the Concession Agreement and to replace such individual immediately.

31.3 In the event that any Contract Manager ceases to be the Contract Manager, the EV Charging Operator shall immediately inform PCC of this and notify PCC of any interim or permanent replacement personnel who shall take on the role of Contract Manager, providing direct contact details for such individual.

32 Entire Agreement

This Concession Agreement constitutes the entire agreement between the parties and supersedes any agreements relating to the subject matter of this Concession Agreement made or existing between the parties before or simultaneously with this Concession Agreement.

33 Variation

Except as otherwise permitted by this Concession Agreement, no change to its terms shall be effective unless it is in writing and signed by or on behalf of both parties.

34 Exclusion of Warranties

In entering into this Concession Agreement, each party acknowledges that it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided in this Concession Agreement and all conditions, warranties or other terms implied by law are excluded to the fullest extent permitted by law.

35 No agency

The EV Charging Operator acknowledges that it is acting as an independent contractor and not as an agent or fiduciary of PCC and it will not hold itself out to be acting in either such capacity and, save as otherwise expressly provided in this Concession Agreement, shall have no authority to act on behalf of PCC for any purpose relating to the Concession Agreement

and shall not be entitled to enter into contractual arrangements on behalf of, or otherwise bind, PCC without PCC's prior written consent.

36 Governing Law, Jurisdiction and Disputes

- 36.1 This Concession Agreement and any disputes arising out of it (including non-contractual disputes or claims) shall be governed by the laws of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Concession Agreement or its subject matter or formation.
- 36.2 Notwithstanding any other provision of this Concession Agreement, the parties each have the right to refer a dispute arising under this Concession Agreement to adjudication, and either party may at any time give to the other notice in writing of his intention to do so. Any information submitted by the referring party to the adjudicator shall be copied at the same time to the other Party.

THIS **CONCESSION AGREEMENT** has been signed on the date stated at the beginning of it.

Executed by **Plymouth City Council**
acting
by
:_____

Signature

Executed by **[INSERT]** acting
by
:_____

Signature

Schedule 1 – [To be completed post award]

1 Selected Sites that the EV Charging Operator shall enter into a Lease and to which the Concession Agreement terms apply

[illegible]

Schedule 2

Services

1 Installation Services

The EV Charging Operator shall provide the Installation Services as set out in clause 5.

2 Service and Maintenance Standards

2.1 From the point of installation, the EV Charging Operator shall meet the following service and maintenance standards:

(a) Account Management

- (i) Scheduled activity regarding visual inspections, both reactive and proactive provided on a quarterly basis and in line with KPI times.

(b) Inspection & Remote Monitoring

- (i) Annual hardware inspection carried out in line with items defined under the latest EIC Edition standards;
- (ii) 24/7 Remote monitoring of equipment to identify faults, including the ability to remotely reboot and restart where applicable.

(c) Reactive Maintenance / repair

- (i) The Service Provider shall provide 24-hour facilities, 365 days a year for the reporting of, and attendance to Emergency Faults.

2.2 In addition, from the point of installation, the EV Charging Operator shall, in respect of each Charging Station:

- (a) take all reasonable steps to reduce to a minimum the downtime of the Charge Points arising from operational disturbances or maintenance insofar as possible under the scope of Services;
- (b) carry out remedial actions, operations or Charging Station shut-down where required by a relevant authority including OFGEM or the DNO;
- (c) ensure reasonable health and safety measures and maintenance including the shutdown of the Charging Stations and placement of any necessary safety warning boards at the Charging Stations where there is an emergency and/or it is reasonably believed that the continued operation of the Charging Station or any part of it poses a risk to the public or any employee at the Selected Site;
- (d) optimise the operation of the Charge Points and take measures so as to prolong each Charge Point's useful life to the extent that this does not negatively affect the performance of the Charging Stations or cause undue disturbance to PCC or the Site operations;
- (e) without prejudice to the KPI requirements in Schedule 3 and the requirement to act promptly, perform, where possible, all maintenance activities requiring or resulting in a reduction or disruption of the Mobility Hub or which may disrupt or prevent User access to other Charge Points outside of Business Hours and in particular during

times which previous months' data have shown have comparatively low frequency of Users;

- (f) undertake preventative maintenance of the Charging Stations and Enabling Infrastructure and parts thereof to ensure continued operational and performance capability and to ensure that the Charging Stations are in reasonably good visual and operational condition. In undertaking this task, the EV Charging Operator shall perform general cleaning and maintenance tasks aimed at enhancing the operability, visual condition and in particular, preventing the possible occurrence of future errors, disruptions or reduction in performance, and shall replace any component parts where there has been significant wear and tear or where there is a reasonable belief that the parts of the Charging Stations or Enabling Infrastructure may wear out or fail to perform to the standards required in the foreseeable future;
- (g) clean the external parts of the Charging Stations, including the screens and plugs and any additional internal parts and cables where dirt or dust could reasonably be expected to materially affect that component part's performance and such other parts of the enabling Infrastructure and Charging Stations as PCC reasonably requires, in accordance with Good Industry Practice no less than twice every calendar year on dates and times agreed with PCC;
- (h) inform PCC of all technical matters relating to the operation of the Charging Stations and steps taken to prolong its useful life and provide reasonable notice to the Landlord in advance of any planned on-site works;
- (i) replace the Charging Station and Enabling Infrastructure (or component parts) where such parts:
 - (i) are failing to operate in accordance with the standards required and are not capable of effective remedy; or
 - (ii) have been materially damaged or lost;

at the EV Charging Operator's own cost, excepting where such damage or failure has occurred as a direct result of the gross negligent actions or omissions of the Landlord in which case the EV Charging Operator shall continue to be responsible for the repair, maintenance and replacement but this shall be at the Landlord's cost;
- (j) install temporary security signage and barriers when undertaking any inspection, checks or maintenance activities where such activity could reasonably be expected to create a hazard or disruption to the use of the Charge Point or parking bays at the Selected Site;
- (k) document the procedures, frequency and results of all error messages, incidence of Fault and all maintenance and cleaning activity in a maintenance log book;
- (l) following each incidence of maintenance, repair or replacement, leave the Selected Site and the Charging Stations in a suitable and safe condition;
- (m) upon expiry of the Selected Site Concession Term, leave the Selected Site in good condition and shall provide PCC or the Landlord (at PCC's option) with the operating and maintenance manual, owner documentation and any other relevant documentation relating to the maintenance and/or running of the Charging Stations, Enabling Infrastructure and parking bay sensors.

2.3 Where any PCC personnel become aware of any Fault or any other occurrence at a Selected Site which is likely to interfere with the operation of a Charging Station in accordance with the relevant standards, the EV Charging Operator will be notified of this promptly in accordance with communication protocols agreed between the parties for these purposes.

2.4 The Parties agree that the Landlord shall be entitled to liaise directly with the EV Charging Operator and /or PCC where:

- (a) the Landlord becomes aware of any Fault or occurrence at its relevant Mobility Hub which is likely to interfere with the operation of User Charging Services or the rest of the Mobility Hub; or
- (b) where it reasonably believes that any KPIs are not being adequately met or wishes to seek evidence from the EV Charging Operator in relation to its performance of the relevant KPIs in accordance with this Concession Agreement and/or the Lease; or
- (c) where there is an actual or potential hazard, emergency or obstruction to or at the Charging Station;

and the EV Charging Operator hereby agrees to diligently cooperate, assist and liaise in good faith with the Landlord in respect thereof.

2.5 Subject to the exercise by PCC of rights referred to in clause 21 in respect of remedying EV Charging Operator breaches, PCC will use all reasonable endeavours to ensure that its employees, agents and contractors (other than the EV Charging Operator itself) do not, without the EV Charging Operator's prior written consent, operate, dismantle, modify, remove or attempt maintenance of, or otherwise tamper with or interfere with, any Charging Station.

2.6 The EV Charging Operator will ensure response times for fault diagnosis and remedial action are provided as soon as reasonably practicable for both remote and attended service and in any event in accordance with the table below;

Severity Level	Action required	Response Time
Equipment severity one incident (Emergency Fault).	Requires emergency isolation: Investigate, call the emergency services, and make safe. Carry out emergency rectification works (including cost of replacement parts).	2 hours from notification.
Equipment severity two incident HARDWARE (Non-emergency Fault).	Requires action to make the Charge Points operational: Investigate and carry out operational rectification works (including cost of replacement parts).	24 hours from notification.
Equipment severity three incident (Non-emergency Fault).	Requires cosmetic action: Carry out cosmetic rectification works (including cost of replacement parts).	Up to 10 days from notification.

Schedule 3**KPIs**

1. The EV Charging Operator will need to meet the following KPIs which will be evaluated on a Quarterly basis:
 - Fulfilment of the Charging Station rollout in accordance with the Installation Timetable;
 - Charging Stations will be available 24hrs a day, 7 days a week;
 - Charging Station up time 98%;
 - Service and maintenance services in line with the service standards set out in clause 11 and Schedule 2.

Issues regarding the Charging Stations will be communicated to PCC within 24 hours.

In accordance with clauses 12 and 19, quarterly performance meetings will be held, and the contract will be scored on an annual basis. Each KPI will be scored using the following scoring guidance:

Subjective score	Rating	Linked rating
Excellent	5	Fully meets KPIs
Good	4	Meets 3 KPIs and only minor failure on the fourth (for example, falling a few days behind on Installation Timetable)
Acceptable	3	Fully meets at least 2 KPIs and close to meeting the remaining 2 KPIs
Poor	2	Either: - fails to meet 3 or more KPIs (minor failures); or - fails to meet 1 or more KPIs (significant failure eg Charging Station network down for several days)
Very Poor	1	Failure to meet 3 or more KPIs (major failure)

Performance against these KPIs will be monitored and used to inform a decision on the continued performance of the EV Charging Operator and contract extension in accordance with clause 12.5.

Schedule 4

Requirements for each Charge Point

The EV Charging Operator shall ensure that each Charge Point meets the following requirements:

- Standards:
 - Complies with the Alternative Fuels Infrastructure Regulations 2017
 - Complies with Automated & Electric Vehicles Act 2018
 - IEC/EN 61851-1-2017
 - ISO/IEC 14443-1-2018
 - Complies with latest BS and International Organisation for Standardisation (ISO) on Commencement Date (currently ISO 15118)
- Enclosure:
 - Materials – fully corrosion protected, 10-year guaranteed housing life
 - Ingress protection (IP54 minimum)
 - Impact resistance – IK10 minimum rated, appearance, dimensions
- Charging Outlets: The consideration of all outlet configurations is deemed applicable for this Concession Agreement, selection should reflect and be selected for their applicability to the location, Selected Site User case and useful life to PCC. This would include but is not limited to:
 - On-street slow and fast Charge Points
 - 3kW – 6kW
 - 7kW – 22kW (single or 3 phase)
 - 25kW DC
 - Rapids or above
 - 50kW DC
 - 43kW AC
 - 100kW+ DC
 - AC charging equipment will have Type 2 socket outlets
 - All DC units to have tethered cables and connector types that enable the widest possible access to charge for Users
- Network connection:
 - Wireless – GPRS/GSM M2M with 3G option (minimum)
 - Ethernet connection
 - Charging protocols (OCPP 1.6 or higher)
- User Interface:
 - Status display – The Charge Point must include indicator lights/info panel on the power supply and in-use display status
 - Shall display instructions for payment /access (as appropriate)
 - Shall allow payment on an ad-hoc basis
 - Provision of contactless or chip and pin payment with a credit or debit card (mandatory for all rapid charging points)
 - Live availability data remotely accessible to customers

The Charge Points shall also:

- comply with the Disability Discrimination Act (DDA) 1995 guidelines, British Standards Institute (BSI) accessibility standards for EV charge points and any other relevant legislation or accessibility standards
- display simple and clear information describing how to use the Charge Point which includes provisions such as diagrams for non-English speakers
- be OCPP 2.0 ready and is OCPI 2.1 as a minimum and shall maintain industry-standard minimum versions which can be used with any network provider.

- clearly display details of any precautions necessary to ensure safe operation with Active Implantable Medical Devices
- be OCPP 2.0 ready, if not there should be a demonstratable implementation strategy to put this in place in a timely manner
- be capable of modulating the power output in accordance with commands sent from the OCPP back office

Schedule 5

Installation Timetable

The EV Charging Operator will ensure that a minimum of fifty (50) Mobility Hubs are fully operational by 31 December 2024 and that:

- The first batch of 10 Mobility Hubs will be operational by 31 March 2023
- The second batch of 10 Mobility Hubs will be operational by 30 September 2023
- The third batch of 10 Mobility Hubs will be operational by 31 March 2024
- The fourth batch of 10 Mobility Hubs will be operational by 30 September 2024
- The fifth batch of 10 Mobility Hubs will be operational by 31 December 2024

Schedule 6

Management Information

Management Reports

In accordance with clause 19, the Operator will provide Quarterly Reports in electronic format to PCC. Such reports shall include the information and data in the table below. PCC shall retain the complete ownership of the raw data provided and any use of it will be at the discretion of PCC subject to appropriate data protection policies.

Type of information	Data required
Management information	<p>Number of registered Users</p> <p>Utilisation rate of Charging Stations on the network (Average utilisation of Charging Stations and at Mobility Hub level)</p> <p>Average energy usage in kWh per User/ per charging session (Overall network and at Mobility Hub level)</p> <p>Average number of charging sessions per Mobility Hub</p> <p>Average energy usage in kWh per registered User per year</p> <p>Total energy usage in kWh (Quarterly/Annually)</p> <p>Customer satisfaction data</p> <p>Network uptime data</p> <p>Any other information reasonably requested by PCC from time to time</p> <p>Car club</p> <ul style="list-style-type: none"> - Total number of charging sessions overall and per Mobility Hub - Average energy usage in kWh per User/ per charging session - Total energy usage in kWh (Quarterly/Annually)