

**AMENDMENT NO. 2**  
**TO**  
**CLIPPER® MEMORANDUM OF UNDERSTANDING**

This Amendment No. 2 to the Clipper® Memorandum of Understanding dated as of November 10, 2011, as amended by Amendment No. 1, dated as of December 1, 2011 (collectively, the “MOU”) by and among the Metropolitan Transportation Commission (“MTC”) and the following transit operators participating in the Clipper® program (referred to herein as “Operator” or “Operators”), is effective as of June 30, 2013 (“Effective Date”):

Alameda-Contra Costa Transit District (“AC Transit”); Golden Gate Bridge Highway and Transportation District (“GGBHTD”); the San Francisco Bay Area Rapid Transit District (“BART”); the City and County of San Francisco, acting by and through its Municipal Transportation Agency (“MTA”); the San Mateo County Transit District (“SamTrans”); the Santa Clara Valley Transportation Authority (“VTA”); the Peninsula Corridor Joint Powers Board (“Caltrain”); the San Francisco Bay Area Water Emergency Transportation Authority (“WETA”); and any other transit operators that implement Clipper® and execute this MOU after the Effective Date.

MTC and the Operators are referred to herein as “the Parties” or individually, as a “Party”.

The Parties agree to amend the MOU as follows:

1. Subpart E of Article I, Operator Responsibilities, is deleted.
2. Subpart D of Article II, MTC Responsibilities, is deleted.
3. Appendix B, Clipper® Cost and Revenue Allocation, is deleted and the revised Appendix B is substituted, as attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, this Amendment #2 to the MOU has been duly authorized and executed by the Parties hereto on the dates specified below.

**Metropolitan Transportation Commission**

Approved as to Form:

\_\_\_\_\_  
Steve Heminger, Executive Director

\_\_\_\_\_  
Adrienne D. Weil  
General Counsel

Date: \_\_\_\_\_

**Alameda Contra Costa Transit District**

Approved as to Form:

\_\_\_\_\_  
David J. Armijo, General Manager

\_\_\_\_\_  
~~Kenneth Scheidig,~~  
~~Acting General Counsel~~  
David A. Wolf  
General Counsel

Date: \_\_\_\_\_

**Golden Gate Bridge Highway and  
Transportation District**

Approved as to Form:

\_\_\_\_\_  
Denis J. Mulligan, General Manager

\_\_\_\_\_  
David J. Miller  
General Counsel

Date: \_\_\_\_\_

**San Francisco Bay Area Rapid Transit  
District**

Approved as to Form:

\_\_\_\_\_  
Grace Crunican, General Manager

\_\_\_\_\_  
Matt Burrows, General Counsel

Date: \_\_\_\_\_

**City and County of San Francisco  
Municipal Transportation Agency**

Approved as to Form:  
Dennis J. Herrera, City Attorney

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Edward D. Reiskin, Director of  
Transportation

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Robin M. Reitzes  
Deputy City Attorney

Date: \_\_\_\_\_

Municipal Transportation Agency Board of  
Directors  
Resolution No. \_\_\_\_\_  
Dated: \_\_\_\_\_

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Secretary, MTAB

**San Mateo County Transit District**

Approved as to Form:

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Michael J. Scanlon, General Manager/CEO

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David J. Miller  
General Counsel

Date: \_\_\_\_\_

**Santa Clara Valley Transportation  
Authority**

Approved as to Form:

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Michael T. Burns, General Manager

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Robert Fabela  
General Counsel

Date: \_\_\_\_\_

**Peninsula Corridor Joint Powers Board**

Approved as to Form:

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Michael J. Scanlon, Executive Director

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David J. Miller  
General Counsel

Date: \_\_\_\_\_

**San Francisco Bay Area Water Emergency  
Transportation Authority**

Approved as to Form:

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Nina Rannells, Executive Director

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Stanley S. Taylor, III  
Attorney for WETA

Date: \_\_\_\_\_

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## Appendix B

### Clipper<sup>®</sup> Cost and Revenue Allocation

#### 1. Cost Allocation Among Operators

The allocation of Clipper<sup>®</sup> operating costs to each Operator shall be based on a combination of revenue collected and the number of fee payment transactions processed. “Revenue collected” shall mean the fee collected on behalf of each Operator by the Clipper<sup>®</sup> clearinghouse (*e.g.*, the price charged to ride on the Operator’s transit system, the value of pass sales, the amount of parking fees paid). A “fee payment transaction” shall mean any activity in which a Clipper<sup>®</sup> card is used to receive service on or from an Operator’s system (*e.g.*, to ride on the Operator’s transit system, to park on the Operator’s property). A fee payment transaction shall be attributed to the Operator on whose system the service was provided, except that a transaction in which a patron uses a Muni Fast Pass to ride BART will be attributed to MTA. All fee payment transactions are included for purposes of allocating Clipper<sup>®</sup> operating costs, regardless of whether the transaction results in a reduction of the amount of stored value or stored rides on a Clipper<sup>®</sup> card (*e.g.*, use of a monthly pass on a transit system, intra-operator transfers, entry and exit transactions for a single ride where both transactions are required to compute the appropriate fare payment).

One-third (1/3) of Clipper<sup>®</sup> operating costs shall be allocated to Operators based on each Operator’s share of total revenue collected by the Clipper<sup>®</sup> clearinghouse, as defined above. Two-thirds (2/3) of Clipper<sup>®</sup> operating costs shall be allocated to Operators based on each Operator’s share of total fee payment transactions processed by the Clipper<sup>®</sup> clearinghouse, as defined above.

In addition to the Clipper<sup>®</sup> operating costs allocated in accordance with Appendix B.2.B(i) herein, each Operator shall be responsible for payment of:

- a. Clipper<sup>®</sup> Data Server (CDS) Store operating costs specified below for any CDS Store implemented on such Operator’s site; and
- b. Credit/debit interchange fees charged through an Operator-specific credit/debit gateway associated with Clipper<sup>®</sup> sales through add value machines, ticket office terminal devices and ticket vending machines. This responsibility is subject to review pursuant to Article I.F to ensure that no single Operator is unfairly burdened by such fees.
- c. Incremental Clipper<sup>®</sup> operating costs established by and/or resulting from Clipper<sup>®</sup> Contract change orders requested and funded by an Operator for such Operator’s use and benefit shall be the responsibility of such Operator. This applies to costs or portions of costs that would otherwise be MTC’s responsibility as described below.

2. Clipper<sup>®</sup> Costs

A. MTC Operating and Maintenance Costs. MTC shall pay the following Clipper<sup>®</sup> operating costs:

- i. All fixed operating costs of the Clipper<sup>®</sup> clearinghouse and equipment maintenance services costs as specified in the Clipper<sup>®</sup> Contract's Price Schedule (Attachment 2 to the Clipper<sup>®</sup> Contract) (the "Price Schedule"), including:
  - a. Item 3.20 Program Management – Operations and Maintenance
  - b. Item 3.30 Clipper<sup>®</sup> Testbed Operations & Maintenance
  - c. Item 5.31 Operator Help Desk
  - d. Item 5.32 Reporting
  - e. Item 5.33 Asset Management
  - f. Item 6.0 Equipment Maintenance Services
  - g. Item 10.21(a) Location Acquisition
  - h. Item 10.22 Location Servicing and Support
  - i. Item 10.23 (a) Acquisition Payment for Third Party Location
  - j. Item 12.0 Network Management
  - k. Item 13.22 Basic Monthly Operations and Admin
- ii. Variable Clipper<sup>®</sup> operating costs as specified in the Price Schedule (Attachment 2 to the Clipper<sup>®</sup> Contract), specifically:
  - a. Item 8.10(a-g) Card Distribution Services
  - b. Item 8.11 Card Distribution Services
  - c. Item 8.12 Card Distribution Services
  - d. Item 8.20 Cardholder Education
  - e. Item 8.31 Location Acquisition for Completion of Distribution Network
  - f. Item 8.32 Location Acquisition for Completion of Distribution Network
  - g. Item 8.41 Pass Through of Amounts Paid for Installation of Phone Lines
  - h. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
- iii. All other lump sum and capital expense items specified in the Price Schedule not enumerated above or covered by Section 2.B; and
- iv. \$7,120,000 in incentives to be allocated to Operators to pay operating costs, as shown in Section 4, Incentive Payments, below.

B. Operator Operating Costs.

- i. Operators shall pay the following listed Clipper<sup>®</sup> operating costs in accordance with the cost sharing formula in Appendix B.1, reduced by any amounts payable by MTC pursuant to 2.A(iv) above. References to Item numbers refer to the corresponding prices payable to the Clipper<sup>®</sup> Contractor under the Clipper<sup>®</sup>

Contract Price Schedule, which are subject to annual price adjustment as specified in Article 13.6 of the Clipper<sup>®</sup> Contract:

- a. Item 7.10 Regional Transit Connection (RTC) Clipper<sup>®</sup> Card Production
- b. Item 9.24 Balance Protection Services Registration
- c. Item 9.25 Lock/unlock Clipper<sup>®</sup> Application
- d. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
- e. Item 10.11 Clipper<sup>®</sup> E-purse Load
- f. Item 10.12 Pass/Stored Ride Load
- g. Item 10.24 Employer Program Commission
- h. Item 11.0 Autoload Services
- i. Item 12.22.89 Fixed Monthly Service Fee to Support Clipper<sup>®</sup> Data Server Store
- j. Item 13.22.45 Supplemental Monthly Operations and Admin (except as reduced by MTC in accordance with Section 4.1, Incentive Payments)
- k. Item 13.31 Clipper<sup>®</sup> Transaction Fee
- l. Item 13.60 Incremental Gateway Fees
- m. Item 13.70 Incremental Debit Card Interchange Fees
- n. Item 13.80 Incremental Credit Card Interchange Fees
- o. Item 13.90 Pass Through Website Credit Card Processing Fees
- p. Reimbursement of MTC bank fees and direct bank charges in connection with the Clipper<sup>®</sup> bank account(s) in excess of the amounts reimbursed under Section 3.A below
- q. Direct payment or reimbursement of MTC costs for network communication.
- r. Direct payment or reimbursement of MTC costs for materials necessary for additional printing, e.g. secondary printing or personalization, on Clipper<sup>®</sup> cards

- ii. Changes or Additions to Operator Operating Costs Items. Substantive changes or additions to the Operator-paid operating cost items set forth in B(i)(a-o) require an amendment to this Appendix B and approval of all Parties to the MOU as of the date of the change or addition.

- C. MTC shall invoice each Operator on a monthly basis for its share of the operating costs. The Operators shall pay MTC within fifteen (15) calendar days of receipt of such invoice.

### 3. Revenue Allocation

Revenues generated by Clipper<sup>®</sup> during any period of time, including interest earnings on funds held by the clearinghouse and excluding fare revenues or parking fees collected on behalf of and distributed to Operators, shall be utilized as follows:

- A. To offset MTC's bank fees and direct bank charges related to the managing of the Clipper<sup>®</sup> accounts;
- B. After deduction of MTC's bank fees and charges under 3.A above, to reduce the Operators' Clipper<sup>®</sup> operating costs listed in 2.B(i) above; and
- C. After payment of Operators' Clipper<sup>®</sup> operating costs listed in 2.B(i) above, to be allocated to Operators using the formula specified in Section 1 herein.

Notwithstanding the above, fees charged cardholders for card acquisition, card replacement, balance restoration, failed Autoload funding recovery, card refund processing, and other card-related activities shall be reserved to pay for future card procurements; provided, however, that surcharges on limited use cards or other fare media imposed by an Operator to pay for the acquisition, implementation, administration and replacement of such fare media shall be distributed to and retained by such Operator. (For clarity, any surcharge imposed by an Operator as part of its fare structure shall be considered "fare revenue" and shall be distributed to and retained by such Operator.)

### 4. Incentive Payments

MTC's \$10,000,000 in incentive funds shall be allocated to pay operating costs associated with Phase II as follows:

- (1) \$2,880,000 contingency to Contractor (for payment of Clipper<sup>®</sup> Contract Price Schedule Item No. 13.22.45) for transaction assurances in the event minimum transaction volumes (20,000,000 transactions/month) are not achieved. If the minimum transaction volumes are met and these funds are not needed, MTC may reallocate the remaining funds to other purposes; and
- (2) \$7,120,000 to individual Operators, to be applied as a credit against Phase II variable operating costs, a portion of which has already been credited to certain individual Operators:

AC Transit	\$862,227
BART	2,128,016
Caltrain/SamTrans	484,744
Golden Gate Transit	634,239
MTA	2,327,503
SCVTA	683,271