



CONTRACT FOR PROVISION OF SCHOOL BUS SERVICE

Evergreen Contract

Consolidated Version - 1 July 2013

SERVICE NAME

CONTRACT NUMBER

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CONTRACT FOR THE PROVISION OF SCHOOL BUS SERVICES

Parties

THE PUBLIC TRANSPORT AUTHORITY OF WESTERN AUSTRALIA, a body corporate established under section 5 of the *Public Transport Authority Act 2003* ("**Authority**")

and

THE PERSON OR PERSONS NAMED IN ITEM 1 SCHEDULE 13 ("**Contractor**")

1 GENERAL PROVISIONS

1.1 Definitions and Interpretation

The definitions and interpretation provisions set out in Schedule 1 apply to this Contract.

1.2 Provision of evidence prior to payment by Authority

Where, under the terms of this Contract, the Authority is obliged to pay, or reimburse the Contractor for, any costs or expenses incurred by the Contractor, the Authority is not so obliged to pay, or reimburse the Contractor for, any amount unless and until the Contractor has provided to the Authority such written evidence (including, without limitation, a quotation, an invoice or a receipt) as the Authority reasonably requires in order to verify the amount claimed by the Contractor.

2 GOOD FAITH

The Parties agree to act reasonably and in good faith in respect of all negotiations, consultations and discussions with each other under this Contract.

3 SERVICE

3.1 Provision of the Service

In consideration of payment by the Authority of the Service Charge, the Contractor agrees with the Authority to provide the Service as set out in Schedule 6 during the Contract Term and otherwise in accordance with the provisions of this Contract.

3.2 Service standards

Except as otherwise provided in this Contract, the Contractor must perform the Service and the Contractor's Obligations:

- (a) safely;
- (b) in compliance, in all respects, with the provisions of this Contract;
- (c) entirely at the Contractor's own risk; and
- (d) in accordance with the Performance Standards.

3.3 Governmental Authorisations and Legislative Requirements

The Contractor must:

- (a) obtain and maintain all Governmental Authorisations; and
- (b) in performing the Service and the Contractor's Obligations, comply with all Legislative Requirements.

4 VARIATIONS TO SERVICE

4.1 Variations by Authority by advance written notice

- (a) The Authority may at any time, by notice in writing to the Contractor, vary any one or more of:
 - (i) the Bus Aide Duties;

- (ii) the Bus Warden Duties;
 - (iii) the School Bus Drivers' Instructions;
 - (iv) the School Bus Specifications (including the Wheelchair Lift Specifications but excluding changes made by bus manufacturers); and
 - (v) the matters which must be covered by the Safety Management Plan or the Emergency Plan.
- (b) Subject to clause 4.3(a), a variation under clause 4.1(a) may be either permanent or for a particular period, as specified by the Authority in its notice, and takes effect in accordance with that notice.
 - (c) The Contractor must comply with, and give effect to, any variation made under this clause 4.1 as soon as reasonably practicable after the Authority's notice is given, and for so long as the Authority requires it.
 - (d) The Authority must pay, or reimburse the Contractor for, the Contractor's reasonable costs incurred in complying with any variation made under clause 4.1(a).

4.2 Variations by Authority without advance written notice

- (a) The Authority or the Co-ordinator may at any time, by notice to the Contractor, vary any one or more of:
 - (i) the Approved Route (varying either or both of the Morning Route and the Afternoon Route), the Route Map, the Standard Daily kilometres or any component of it, or the Car Running Kilometres;
 - (ii) the Approved Depot (but only if the Approved Depot, as varied, is at the same location as the Actual Depot);
 - (iii) the Schools, the Approved Students, and the Pick-Up Locations, Drop-Off Locations or any other part of the Student Details for any Approved Students (and where the Authority makes a variation pursuant to this clause 4.2(a)(iii), item 5 of Schedule 6 applies); or
 - (iv) the parts of the Contract dealing with safety,
 and may specify that the Contractor must give immediate effect to the variation or must give effect to the variation at or from a particular time.
- (b) Before issuing a variation notice under this clause 4.2, the Authority will liaise with the Contractor and take into account any local knowledge advised by the Contractor before deciding to issue a variation notice.
- (c) A notice given under clause 4.2(a) may be given verbally, provided that the Authority confirms the details of the variation (and provides evidence of the reasons for the variation) by written notice to the Contractor within 10 Business Days after the verbal notice is given.
- (d) Subject to clause 4.3(a), a variation made under this clause 4.2 may be either permanent or for a particular period, as specified by the Authority in its notice given in respect of the variation, and will take effect in accordance with that notice.
- (e) The Contractor must comply with, and give effect to, any variation made under this clause 4.2 immediately or as otherwise required by the Authority, and for so long as the Authority requires it.

4.3 Permanent variations and Service Charge

- (a) If a variation which the Authority makes:
 - (i) is expressed to apply for 30 days or longer; or
 - (ii) will result in an increase or a decrease in the Service Charge by more than 10% of the amount of the Service Charge payable immediately before the variation is made,
 the variation will be a Permanent Variation.
- (b) The making of a Permanent Variation under clause 4.2 is a Recalculation Event.

- (c) Notwithstanding the above, transport of Approved Students who attend kindergarten is not deemed to be a Permanent Variation even if they attend kindergarten for 15 hours or more per week.

4.4 Contractor to notify particular variations

Where the Contractor knows, other than by way of notice from the Authority, that:

- (a) an Approved Student will no longer require the School Bus; or
- (b) for any other reason, in the opinion of the Contractor, the Approved Route is no longer appropriate,

the Contractor must, within 10 Business Days after the Contractor comes to know, notify the authority, providing details of the relevant circumstance and of any variation to the Approved Route which the Contractor considers is necessary. The Authority may, but need not, make a variation under clause 4.2 in respect of a Contractor's notice given under this clause 4.4.

4.5 Variations under Minister's or Authority's statutory power

Where the Minister or the Authority gives the Contractor a direction in order to comply with any obligation imposed on the Minister or the Authority by any Act or Legislative Requirement, and which direction has the effect of varying any of the Contractor's Obligations:

- (a) the Contractor must comply with that direction as soon as reasonably practicable after it is given; and
- (b) this Contract is varied to the extent that, and for so long as, the direction is inconsistent with its terms.

The Authority must pay, or reimburse the Contractor for, the Contractor's reasonable costs incurred in complying with any direction issued by the Minister or the Authority under this clause.

4.6 Termination on reduction of Standard Daily Kilometres

If the Authority makes a Permanent Variation:

- (a) which has the effect of varying the Standard Daily Kilometres; and
- (b) as a result of it, the number of kilometres in the Standard Daily Kilometres is 50% or less than the number of kilometres in the Standard Daily Kilometres as it was at the Effective Date,

The Contractor may, at any time while the circumstance described in clause 4.6(b) exists, terminate this Contract by giving prior notice to the Authority of at least 3 months, or such lesser period of notice as the Authority reasonably agrees.

4.7 Metropolitan Fringe Contract

Without otherwise limiting the rights of the Authority under this clause 4, if item 6 of Schedule 13 specifies that this Contract is a Metropolitan Fringe Contract:

- (a) subject to clause 4.7(b), the Authority may, under clause 4.2(a)(i), vary the Approved Route by specifying an entirely different route as the Morning Route and/or the Afternoon Route; but
- (b) the first Pick-Up Location for the first Approved Student to be picked up on a new route specified under clause 4.7(a) cannot, unless the Contractor otherwise agrees, be more than 100 kilometres from the Actual Depot.

If the Authority varies the Approved Route under this clause 4.7, the Contractor may, at any time during the period of 20 Business Days after the Authority's notice of the variation is given, notify the Authority that the Contractor wishes to terminate this Contract. If the Contractor does so, the Authority will notify the Contractor of the time at which this Contract will terminate (which time must be not later than 90 days after the Contractor's notice is given) and this Contract will terminate at that time.

4.8 Road conditions

The Contractor must advise the Authority as soon as reasonably practicable after any road on the Approved Route, or any road on which the School Bus ordinarily travels before and after travelling over the Approved Route, is unsealed and becomes sealed, or vice versa.

5 SCHOOL BUS

5.1 School Bus

- (a) The Contractor must only perform the Service using the Specified School Bus.
- (b) The Contractor will be deemed to comply with this clause 5.1(a) where the Contractor uses a vehicle other than the Specified School Bus to perform the Service:
 - (i) under clause 5.2; or
 - (ii) with the prior written consent of the Authority (which consent must not be unreasonably withheld),but only for so long as the Authority consents to the Contractor using that other vehicle.
- (c) The Authority and the Contractor must comply with the provisions of Schedule 10 in relation to the Specified School Bus. Where the Contractor is at any time using a vehicle other than the Specified School Bus to perform the Service, the Authority and the Contractor must comply with so much of Schedule 10 as is reasonably practicable.

5.2 Alternative vehicle

If the Specified School Bus does not comply with any provision of this Contract or any requirement of the Authority issued under it, or for any other reason the Contractor is unable to use it to perform the Service, the Contractor must, at the Contractor's sole cost and expense, make suitable arrangements approved by the Authority for the performance of the Contractor's Obligations.

5.3 Size of the School Bus

The Authority may notify the Contractor that it requires the Contractor to use a vehicle to perform the Service which has the seating capacity specified by the Authority and the Contractor must comply with such notice issued as soon as reasonably practicable.

5.4 New School Bus

- (a) Unless the Parties otherwise agree, and subject to clause 5.3 and 5.4(b), the Contractor will:
 - (i) use the Specified School Bus to perform the Service for the duration of its Service Life; and
 - (ii) replace the Specified School Bus at the end of its Service Life with a vehicle with a seating capacity specified by the Authority.
- (b) The Authority may, after consultation with the Contractor, by written notice to the Contractor, require the Contractor to replace the Specified School Bus prior to the end of its Service Life:
 - (i) on grounds of safety; and
 - (ii) with a vehicle with a seating capacity specified by the Authority.

The Contractor must comply with any notice issued under this clause 5.4(b) as soon as reasonably practicable. The Contractor will be deemed to comply with a notice issued under clause 5.4(b) if the Contractor uses a vehicle to perform the Service which has a seating capacity equal to or greater than the seating capacity specified by the Authority in its notice.

5.5 Recalculation Event

Compliance by the Contractor with a notice issued under clause 5.3 or clause 5.4 is a Recalculation Event but, for the purposes of the recalculation and subsequent calculation of the Service Charge, the new vehicle which the Contractor uses in complying with clause 5.3 or 5.4 (as the case may be) will be taken to have the seating capacity specified by the Authority in its notice given under clause 5.3 or 5.4 (as the case may be), regardless of the actual seating capacity of the new vehicle.

6 DRIVERS, BUS AIDES AND BUS WARDENS

6.1 Drivers

Unless otherwise agreed by the Authority the Contractor must:

- (a) employ and be solely responsible for, so far as permitted by law, all Drivers necessary for the Contractor to fully and properly perform the Service;
- (b) keep the Authority advised of the names of all Drivers; and
- (c) comply with, and where applicable, ensure the Driver complies with, the provisions of Schedule 7.

6.2 Bus Aides

- (a) If the Authority so directs, the Contractor must, at the Contractor's expense, engage suitable persons to carry out the Bus Aide Duties on the School Bus.
- (b) If the Contractor has engaged a person to carry out the Bus Aide Duties on the School Bus and there is at any time no longer a need for the person to carry out those duties, the Contractor:
 - (i) may cease using the Bus Aide with the prior approval of the Authority; or
 - (ii) must cease using the Bus Aide if the Authority so directs.
- (c) A direction by the Authority under clause 6.2(a), or approval or direction by the Authority under clause 6.2(b), is a Recalculation Event.
- (d) The Contractor must:
 - (i) keep the Authority advised of the names of all Bus Aides; and
 - (ii) comply with the provisions of Schedule 8.

6.3 Bus Wardens

- (a) If the Authority so directs, the Contractor must, at the Contractor's expense, engage suitable persons to carry out the Bus Warden Duties at a Transfer Point.
- (b) The Authority may require the Contractor to reduce the number of Bus Wardens or remove a Bus Warden or Transfer Point by giving the Contractor one month's written notice.
- (c) A direction by the Authority under clause 6.3(a) or clause 6.3(b), is each a recalculation Event.
- (d) The Contractor must:
 - (i) keep the Authority advised of the names of all Bus Wardens; and
 - (ii) comply with the provisions of Schedule 9.
- (e) The Authority agrees to provide to the Contractor:
 - (i) a first aid kit for each Transfer Point; and
 - (ii) for each Bus Warden engaged by the Contractor:
 - (A) an initial provision of personal protective equipment, comprising a raincoat for wet weather and a vest for dry weather;
 - (B) a once only payment to reimburse the Contractor towards the cost of supplying a hat to each Bus Warden appointed; and
 - (C) an induction package that includes all Acts and Regulations relevant to the Bus Warden's duties, a training DVD, a behaviour management guide and any additional material to support the safe operation of the Transfer Point.

6.4 Removal of Driver, Bus Aide or Bus Warden

- (a) The Authority may, at any time or times, by notice to the Contractor require the Contractor to remove any Driver from performing any part of the Service, or any Bus Aide or Bus Warden from performing any part of the Bus Aide Duties or Bus Warden Duties respectively, if:
 - (i) the Authority reasonably believes that the continued performance by the Driver, Bus Aide or Bus Warden constitutes a risk to the safety or well-being of the Students or employees of the Contractor or any other person; and

- (ii) at the same time as or prior to notifying the Contractor, the Authority:
 - (A) provides written reasons why it wishes the Driver, Bus Aide or Bus Warden to be removed; or
 - (B) notifies the Contractor that it will not provide written reasons to the Contractor on the grounds that to do so would be detrimental to the interests of any or all of the Driver, Bus Aide, Bus Warden, a Student and an employee of the Contractor.
- (b) Where the Authority gives notice that it requires the Contractor to remove a person as a Driver, Bus Aide or Bus Warden, the Contractor must not, from the time that the Contractor receives or is taken to receive the Authority's notice, without the Authority's prior written consent:
 - (i) if the Driver, Bus Aide or Bus Warden is the Contractor, perform; or
 - (ii) If the Driver, Bus Aide or Bus Warden is a person other than the Contractor, employ or engage that person in any capacity in connection with, the Service, or any service similar to the Service which the Contractor provides to the Authority.
- (c) Subject to clause 6.4(d), if a Driver, Bus Aide or Bus Warden makes or brings a Claim against the Contractor in respect of the Contractor's compliance with a notice given by the Authority under clause 6.4(a), the Authority will indemnify the Contractor for any amount:
 - (i) the Contractor agrees to pay to the Driver, Bus Aide or Bus Warden in order to settle the Claim; or
 - (ii) a court requires the Contractor to pay by way of compensation in favour of the Driver, Bus Aide or Bus Warden in respect of that Claim.
- (d) The indemnity in clause 6.4(c) will not apply unless the Contractor:
 - (i) notifies the Authority as soon as the Contractor receives notice of the Claim;
 - (ii) provides the Authority with all such documents, information and assistance as the Authority reasonably requests in connection with the Claim;
 - (iii) uses reasonable endeavours in good faith to defend the Claim; and
 - (iv) does not offer or agree to settle or compromise the Claim without the prior consent of the Authority.

7 EQUIPMENT AND TRAINING

7.1 Office equipment

The Contractor must:

- (a) supply and take all reasonable steps to maintain in good working order, repair and condition and upgrade from time to time during the Contract Term such office or communication equipment, software or other requirement as is reasonably specified by the Authority from time to time; and
- (b) keep the Authority advised of the current number, address or other contact details for that equipment or requirement.

It is deemed to be reasonable for the Authority to specify under this clause 7.1 that the Contractor must supply and maintain equipment, software or a requirement:

- (c) where the equipment, software or requirement is specified in item 9 of Schedule 13; or
- (d) where the Authority makes, or is bound to make, any payment or reimbursement to the Contractor in respect of the equipment, software or requirement under this Contract.

7.2 Training

The Authority may from time to time notify the Contractor that it requires any or all of the Contractor, Drivers, Bus Aides and Bus Wardens to undergo particular training related to the performance of the Service. If the Authority issues a notice under this clause 7.2:

- (a) the Contractor must attend, and (if the Authority requires it) ensure that all Drivers, Bus Aides and Bus Wardens attend, all training referred to in the Authority's notice, but a person will not be required to attend training:
- (i) on a day which is not a School Day, unless the person otherwise agrees (but for the avoidance of doubt a person can be required to attend training in the evening on a School Day); or
 - (ii) where that person has a reasonable explanation for not doing so; and
- (b) the Authority will:
- (i) pay, or reimburse the Contractor for, the reasonable cost incurred by the Contractor, a Driver, Bus Aide or Bus Warden in attending training in compliance with the Authority's notice, including reasonable travel, accommodation and living expenses (consistent with government policy on travel applicable to public servants) directly incurred by them as a result of attending training; and
 - (ii) pay to the Contractor:
 - (A) a rate per hour of the dollar value at that time of the variable "R" in the Driver's Wages Component of Part 2 of Schedule 3 in respect of each hour during which a Driver, and (if the Contractor is not a Driver) each hour during which the Contractor, attends training (and the amount paid for the training session is the "**D Payment**"),

plus

an amount for superannuation calculated as x% of the D Payment (where x has the same meaning as in the Superannuation Component of Part 2 of Schedule 3)

plus

an amount for workers' compensation calculated as x% of the D Payment (where x has the same meaning as in the Workers' Compensation Component of Part 2 of Schedule 3); and
 - (B) a rate per hour of the dollar value at that time of the variable "R" in the Bus Aide's Wages Component of Part 2 of Schedule 3 in respect of each hour during which a Bus Aide attends training, (and the amount paid for the training session is the "**BA Payment**"),

plus

an amount for superannuation calculated as x% of the BA Payment (where x has the same meaning as in the Superannuation Component of Part 2 of Schedule 3)

plus

an amount for workers' compensation calculated as x% of the BA Payment (where x has the same meaning as in the Workers' Compensation Component of Part 2 of Schedule 3); and
 - (C) a rate per hour of the dollar value at that time of the variable "R" in the Bus Warden's Wages Component of Part 2 of Schedule 3 in respect of each hour during which a Bus Warden attends training, (and the amount paid for the training session is the "**BW Payment**"),

plus

an amount for superannuation calculated as x% of the BW Payment (where x has the same meaning as in the Superannuation Component of Part 2 of Schedule 3)

plus

an amount for workers' compensation calculated as x% of the BW Payment (where x has the same meaning as in the Workers' Compensation Component of Part 2 of Schedule 3),

if the Contractor, Driver, Bus Aide or Bus Warden (as the case may be) attends training in compliance with the Authority's notice.

Where the Authority pays a D Payment, a BA Payment, or a BW Payment to the Contractor under this clause 7.2 in respect of training attended by a Driver, Bus aide or Bus Warden, the Contractor must pay the amount of that payment to the Driver, Bus Aide or Bus Warden (as the case may be).

The Authority will use reasonable endeavours to provide the Contractor with as much advance notice as possible of any requirement for training which is to be the subject of a notice under this clause 7.2 and, in any event, must provide at least 10 Business Days' advance notice of any requirement for training.

7.3 No obligation to provide training

For the avoidance of doubt, nothing in clause 7.2 obliges the Authority to provide training or obliges the Authority to pay for training undertaken by the Contractor, Drivers, Bus Aides or Bus Wardens (notwithstanding that the training is undertaken in connection with the Services or the Contract), other than training the subject of a notice given under clause 7.2(a).

8 PERFORMANCE STANDARDS AND FIVE YEAR REVIEW

8.1 Performance Standards

The Contractor acknowledges and agrees that:

- (a) the Contractor must deliver the Service in accordance with the Performance Standards;
- (b) meeting the Performance Standards is essential to the adequate provision of the Service and is a means of measuring acceptable standards of performance to permit the Authority to determine whether the Contract should be terminated immediately before, or permitted to continue at, each Renewal Date;
- (c) the consequence of the Contractor failing to meet a Performance Standard ought to reflect both the degree to which or how often the Contractor fails to meet a Performance Standard, and the seriousness of the failure;
- (d) Schedule 2 is reflective of the principles described in clause 8.1(c) by allocating more demerit points for more serious failures or non-compliances;
- (e) if the Contractor fails to comply with a Performance Standard, the Contractor will attract the number of demerit points allocated to that non-compliance in Schedule 2;
- (f) If the Contractor accumulates 30 demerit points before a Renewal Date the Authority will terminate the Contract, in accordance with clause 18.4(b);
- (g) the Performance Standards do not include certain events or circumstances that entitle the Authority to terminate the Contract before a Renewal Date;
- (h) any demerit points accumulated in a 5 year period up to, but not including, a Renewal Date are extinguished on that Renewal Date (i.e. do not carry over into the next 5 year period); and
- (i) the points allocated in Schedule 2 for failure to meet the Performance Standards is reasonable in the circumstances having regard to the principles underlying this Contract.

8.2 Contractor to notify Authority

The Contractor must notify the Authority orally not later than the next Business Day after becoming aware that a Performance Standard has not been met, describing:

- (a) the incident; and
- (b) the action taken, or to be taken, to rectify the situation (where relevant) and to avoid a repetition of that situation.

The Contractor must provide written notice confirming the above, within 5 Business Days.

8.3 Authority to notify Contractor

If the Authority becomes aware other than by notice from the Contractor under clause 8.2, that a Performance Standard has not been met, the Authority may also take action as set out in clause 8.4.

8.4 Authority to determine and record non-compliance

Subject to clause 8.5, if the Authority forms the view that, at any time during the relevant Renewed Term there has been a failure to meet a Performance Standard, the Authority must consider the information

available and make a determination on whether to record the event as a non-compliance with the Performance Standard and if so, record it as a non-compliance, allocate to the Contractor the relevant number of demerit points set out in Schedule 2 against that Performance Standard and notify the Contractor of that decision.

8.5 Where Contractor fails to notify

- (a) If the Authority forms the view that at any time during the Contract Term, the Contractor has failed to notify the Authority in accordance with clause 8.2, the Authority may notify the Contractor of such failure.
- (b) The Contractor must respond in writing to the Authority within 10 Business Days of receiving the Authority's notice under clause 8.5(a) and provide to the Authority, such information as required by clause 8.2 and an explanation as to why it failed to notify the Authority.
- (c) The Authority must consider information provided in accordance with clause 8.5(b) by the Contractor, and if the Authority is reasonably satisfied that the failure to provide notice in accordance with clause 8.2 occurred because of circumstances beyond the reasonable control of the Contractor the Authority will:
 - (i) if relevant, consider the information provided in accordance with clause 8.5(b) prior to making a determination under clause 8.4; and
 - (ii) not record a non-compliance for the failure to provide notification in accordance with clause 8.2.
- (d) If the Authority is reasonably satisfied the Contractor's failure to notify a failure to meet a Performance Standard under the clause 8.2 was not because of circumstances beyond the reasonable control of the Contractor, the Authority:
 - (i) is not required to consider any information contained in the notice provided in accordance with clause 8.5(b) before making a determination under clause 8.4; and
 - (ii) may also make a determination under clause 8.4 for the failure to provide a notification in accordance with clause 8.2.

8.6 Maximum demerit points

Where, through the process described in this clause 8, the Contractor accumulates 30 or more demerit points before a Renewal Date, the Authority will terminate the Contract in accordance with clause 18.4(b).

9 PAYMENT FOR THE SERVICE

9.1 Service Charge

The Authority will pay to the Contractor the Service Charge in accordance with clause 9.2, as adjusted in accordance with clauses 9.3 and 9.4.

9.2 Payment of Service Charge

- (a) The Authority will pay to the Contractor the Service Charge for each School Day on which the Contractor performs the Service in accordance with this Contract.
- (b) The Authority will pay the Service Charge to the Contractor fortnightly in arrears by direct bank transfer to such bank account as is from time to time notified by the Contractor to the Authority, or at such other time and in such other manner as the Authority reasonably determines.

9.3 Adjustment at the end of School Term

- (a) The Contractor must, for each School Day on which the Service is performed, record such information as the Authority specifies for the purposes of this clause 9.3(a) in connection with:
 - (i) the route or number of kilometres driven by the School Bus in performing, or in connection with performing, the Service;
 - (ii) if there is a Bus Aide, the extent to which the Bus Aide travels on the School Bus; and
 - (iii) any other matter reasonably specified by the Authority.
- (b) Not later than 10 Business Days after the end of each School Term, the Contractor must submit to the Authority a statement, in the form specified from time to time by the Authority, of:

- (i) the Total Standard Daily Kilometres for the School Term;
- (ii) a total figure for the School Term representing the aggregate of the following for each School Day during the School Term:

the Payable Kilometres

plus

Where the School Bus was returned to the Approved Depot after picking up and dropping off Students prior to the commencement of school on that School Day, the Morning Unloaded Kilometres

plus

where the School Bus was returned to the Approved Depot after picking up and dropping off Students at the end of school on that School Day, the Afternoon Unloaded Kilometres,

or such other summary information in respect of the number of kilometres driven by the School Bus in performing, or in connection with performing, the Service as the Authority reasonably specifies; and

- (iii) if this Contract is a Bus Aide Contract, the total number of School Days during the School Term when the Bus Aide did not travel on the School Bus.

The Contractor must still submit a Statement, even if it evidences that it has travelled the relevant kilometres corresponding to the payment received (i.e. nil adjustment).

- (c) The Authority will, on the basis of the Contractor's statement, calculate the Adjustment Amount (if any) for the School Term in accordance with Part 4 of Schedule 3 and:

- (i) if the Contractor was Underpaid during the School Term, the Authority will pay the Adjustment Amount to the Contractor in the manner specified in clause 9.2(b) no later than the time at which the third subsequent fortnightly payment of the Service Charge is due after the Contractor lodges its statement pursuant to clause 9.3(b); and
- (ii) if the Contractor was Overpaid during the School Term, the Authority may deduct the Adjustment Amount from subsequent Service Charge payments to the Contractor in such amounts and over such period of time as the Authority determines (provided that the Authority must act reasonably in determining the instalment amounts to be deducted and the time at which those amounts will be deducted),

but if the Authority cannot comply with clause 9.3(c)(i) or (ii) because there are no further payments of the Service Charge to be made to the Contractor, the Authority must notify the Contractor of the Adjustment Amount as soon as reasonably practicable after it determines it, and:

- (iii) where clause 9.3(c)(i) applies, the Authority must pay the Adjustment Amount to the Contractor; and
- (iv) where clause 93(c)(ii) applies, the Contractor must pay the Adjustment Amount to the Authority,

Not later than the time at which the Authority notifies the Contractor the Adjustment Amount must be paid (and the Authority must act reasonably in determining the time at which the Adjustment Amount must be paid).

- (d) The Contractor warrants to the Authority that the contents of each statement made under clause 9.3(b) are accurate and complete.

The Authority acknowledges and agrees that the only consequence of a warranty made under this clause 9.3(d) being untrue when made or taken to be made by the Contractor is as provided for in clause 9.4.

9.4 Adjustment to correct error or misclaim

Where the Authority at any time reasonably determines that a warranty made by the Contractor pursuant to clause 9.3(d) for a School Term was untrue when made or taken to be made and:

- (a) that the Contractor knew that the warranty was untrue:

- (i) the Authority may calculate or recalculate the Adjustment Amount for that School Term using any information which the Authority has and notify the Contractor of the amount of any Overpayment, and the Contractor must repay that Overpayment to the Authority within such time as the Authority specifies (and for the avoidance of doubt, the Authority may do this whether or not the Contractor lodged a statement for the School Term); and
 - (ii) a Default will be deemed to have occurred; or
- (b) clause 9.4(a) does not apply, the Authority may exercise its rights under clause 9.4(a)(i) if the end of the School Term in question was no longer than 3 years prior to the time at which the Authority determines the Contractor's warranty was untrue.

9.5 Occasional Amounts

The Authority will pay to the Contractor the amounts specified in Part 3 of Schedule 3 at the times referred to in Part 3 of Schedule 3.

9.6 Recalculation of Service Charge

The Service Charge is to be recalculated:

- (a) each time a Recalculation Event occurs, in accordance with Part 1 of Schedule 4; and
- (b) at the times specified in Part 2 of Schedule 4, in accordance with Part 2 of Schedule 4.

When the Service Charge is recalculated, the recalculated amount will become the Service Charge from the time specified in Schedule 4 in respect of that recalculation, and will be the Service Charge until the next recalculation occurs in accordance with this clause 9.6.

9.7 Periodic Review of Service Charge

The Authority and the Contractor must conduct a Review of the Components of the Service Charge during a Review Period in a Review Year in accordance with Schedule 5.

9.8 No Right to Additional Payment

Except where this Contract expressly provides to the contrary, the Contractor:

- (a) must bear all costs and expenses of providing the Service and otherwise performing the Contractor's Obligations; and
- (b) will not be entitled to any other fee or payment, other than the Service Charge, for providing the Service and otherwise performing the Contractor's Obligations.

9.9 Failure to Adjust

If the Authority fails to make any adjustment to or deduction from any payment in respect of the Service Charge due to the Contractor at any time, the Authority may make that adjustment or deduction at any later time in consultation with the Contractor, provided that:

- (a) the Authority gives to the Contractor not less than two weeks' prior notice that the Authority is to make the adjustment or deduction; and
- (b) when it gives notice, the Authority provides details to the Contractor as to the reason for the adjustment or deduction.

The Authority will act reasonably in determining the period of time over which any adjustments or deductions are made.

9.10 Overpayment

If the Authority makes an overpayment to the Contractor, the Contractor must, as soon as the Contractor becomes aware of it:

- (a) immediately notify the Authority in writing of the overpayment; and
- (b) repay to the Authority the full amount of any overpayment in those amounts and at those times as the Authority may determine. The Authority will act reasonably, and in consultation with the Contractor, in determining the period of time over which, the Contractor is to repay any overpayments.

9.11 Set-off

If the Contractor fails to pay any amount due to the Authority including:

- (a) any amount due under any contract, agreement or deed entered into between the Authority and the Contractor, other than this Contract; or

- (b) any amount for damages (liquidated or otherwise),
the Authority may:
- (c) deduct the relevant amount from any money due to the Contractor by the Authority, including the Service Charge, provided that the Authority gives at least 10 Business Days' prior notice to the Contractor of its intention to do so; and
- (d) if there is still a deficiency, recover that deficiency as a debt due to the Authority by the Contractor.

The Authority will act reasonably in determining the time at which it will effect the set-off.

9.12 Pass-through of wages

- (a) The Contractor acknowledges that part of the Service Charge represents compensation to the Contractor for remuneration it provides to Drivers, Bus Aides and Bus Wardens in connection with the Service (that part referred to in this clause as the "**Remuneration**"). The Contractor agrees that it will remunerate Drivers, Bus Aides and Bus Wardens based on the amount of Remuneration it receives, to the intent that the Contractor will not make any windfall or profit in respect of the Remuneration.
- (b) Without limiting clause 9.12(a), where the Contractor pays:
 - (i) to each Driver, an amount per hour worked by the Driver of at least the amount of the base rate per hour (plus, where applicable an appropriate amount for each of sick leave, annual leave, long service leave, leave loading and public holiday pay) which the Authority from time to time notifies the Contractor it applies for the purposes of determining the variable "R" in the Drivers' Wages Component of Part 2 of Schedule 3; and
 - (ii) to each Bus Aide, an amount per hour worked by the Bus Aide of at least the amount of the base rate per hour (plus, where applicable, an appropriate amount for sick leave, annual leave, long service leave, leave loading and public holiday pay) which the Authority from time to time notifies the Contractor it applies for the purposes of determining the variable "R" in the Bus Aide's Wages Component of Part 2 of Schedule 3; and
 - (iii) to each Bus Warden, an amount per hour worked by the Bus Warden of at least the amount of the base rate per hour (plus, where applicable, an appropriate amount for sick leave, annual leave, long service leave, leave loading and public holiday pay) which the Authority from time to time notifies the Contractor it applies for the purposes of determining the variable "R" in the Bus Warden's Wages Component of Part 2 of Schedule 3,

The Contractor will be deemed to be complying with clause 9.12(a).

10 GST

10.1 Exclusive of GST

Unless expressly included, the consideration for any Supply does not include GST.

10.2 Adjustment for GST

To the extent that any Supply is a Taxable Supply, the consideration for that Supply is to be increased by the amount of GST payable in respect of that Supply.

10.3 Registration for GST

- (a) The Contractor acknowledges that it is registered for GST under the GST Law and will advise the Authority if it ceases to be so registered.
- (b) The Authority acknowledges that it is registered for GST under the GST Law and will advise the Contractor if it ceases to be so registered.

10.4 Recipient Created Tax Invoices

- (a) Unless otherwise requested in writing by the Contractor, and subject to:
 - (i) the Contractor being registered for GST under the GST Law; and

- (ii) the Contractor and the Authority entering into a recipient created tax invoice agreement with the Authority in form and content reasonably specified by the Authority,

the Authority will produce Recipient Created Tax Invoices in respect of Taxable Supplies made by the Contractor under this Contract.

- (b) Where the Authority produces Recipient Created Tax Invoices for a Supply under clause 10.5(a), the Contractor must not produce a Tax Invoice in respect of that Supply.

10.5 Time for Payment

- (a) The other Party must pay or reimburse the Party who makes a Supply which is a Taxable Supply ("**Supplying Party**") for GST at the same time as satisfying the payment obligation for the Supply to which the GST relates, provided that the Supplying Party has first provided a Tax Invoice in respect of that Supply, except where a Recipient Created Tax Invoice has been produced for that Supply. If the time for satisfying the payment obligation for the Supply to which the GST relates cannot be determined, then the reimbursement for GST must be paid on demand.
- (b) Despite any other provision of this Contract, the Supplying Party is not entitled to recover from the other Party any amount of GST the Supplying Party has paid or is liable to pay in relation to or in connection with any outgoing, expense or cost paid or payable by it, if it is entitled to receive a credit for that GST.

11 FARES

11.1 Fare Paying Students

- (a) Subject to clause 11.1(b), the Authority may from time to time notify the Contractor of which Students are required to pay a fare for conveyance on the School Bus ("**Fare Paying Students**").
- (b) The Authority may:
 - (i) only give a notice under clause 11.1(a) in respect of a Student whose Pick-up Location is in an area which the Authority determines is a public transport area; and
 - (ii) not give a notice under clause 11.1(a) if this Contract is an Education Support Contract.
- (c) The Driver must not carry Fare Paying Students on the School Bus unless those Students have paid such fares as are specified in writing by the Authority from time to time.
- (d) The Authority will pay the Contractor an extra sum, in addition to the Administration component of the Service Charge, to administer the collection and remittance of fares, as set out in Schedule 3.
- (e) Each of the following is a Recalculation Event:
 - (i) the circumstance where the Contractor is not required to collect fares and then becomes required to collect fares; and
 - (ii) the circumstance where the Contractor is required to collect fares and then is no longer required to collect fares.

11.2 Fare collection equipment

The Authority will provide any equipment necessary for the collection and ticketing of the fares referred to in clause 11.1 to the Contractor and item 5 in Part 1 of Schedule 10 will apply in respect of that equipment.

11.3 Collecting of Fares

The fares referred to in clause 11.1 must be collected by the Driver and held by the Contractor on trust for the Authority until paid, or accounted for, to the Authority in the manner and at the times specified in writing by the Authority from time to time.

11.4 Fares to be authorised

The Contractor must ensure that the Driver does not collect fares, or otherwise require payment from Students, unless those Students are Fare Paying Students.

12 DEALING WITH CONTRACT

12.1 Contractor May Not Deal With Contract

- (a) Without the Authority's prior written consent, such consent not to be unreasonably withheld, the Contractor may not Deal With this Contract or any right, interest or obligation of the Contractor under it.
- (b) Where:
 - (i) the Contractor is a corporation, any change in the beneficial shareholding of the issued shares of the Contractor; or
 - (ii) the Contractor is the trustee of a unit trust, any change in the beneficial ownership of the issued units of the trust (other than for the purpose of reconstruction of the trust),

shall be deemed an assignment of this Contract and will require the prior written consent of the Authority pursuant to clause 12.1(a).

12.2 Death or incapacity of Contractor

- (a) If an Event described in clause 12.2(c)(i) occurs, this Contract does not terminate other than in accordance with the succeeding provisions of this clause 12.2.
- (b) If the Contractor:
 - (i) is one natural person; or
 - (ii) includes a natural person trading in a partnership operating without a partnership deed,

(Natural Person)

the Natural Person may, from time to time, notify the Authority of the name and contact details of either one person, or two or more natural persons together, to be a Substitute Person for the purposes of this clause (and that person is, or those persons together are, referred to in this clause as the "**Nominated Person**").

- (c) Subject to clause 12.2(d), if the Natural Person dies, or is unable to perform the Contractor's Obligations because the Natural Person becomes subject to any Legislative Requirements relating to mental health or physical or mental incapacity or becomes permanently disabled by accident, physical or mental illness, or infirmity (and any such event is referred to in this clause as an "**Event**") and

either:

- (i) at the time the Event occurs there is a Nominated Person and the Nominated Person exists; or
- (ii) if clause 12.2(c)(i) does not apply, within 90 days after the Event occurs, a person who has been granted probate or administration in respect of the Natural Person notifies the Authority of a person, or two or more natural persons together, to be a Substitute Person for the purposes of this clause,

(the Nominated Person or the person or persons notified pursuant to clause 12.2(c)(ii) being the "**Substitute Person**"), the Authority will, at some time during the period of 6 months after the Event occurs, offer to enter into a contract with the Substitute Person on the same terms and conditions as this Contract for a term equal to the balance of the Contract Term.

- (d) The Authority is not obliged to comply with clause 12.2(c) unless:
 - (i) the Authority (acting reasonably) is satisfied that, if the Natural Person wished to assign its rights and novate its obligations under this Contract to the Substitute Person, the Authority would consent to such assignment and novation;
 - (ii) the Substitute Person provides to the Authority such information and assistance as the Authority requests in order to be satisfied; and
 - (iii) the Substitute Person agrees to assume the pre-existing rights and obligations of the Contractor under the Contract by signing a deed of novation on terms provided by the Authority.
- (e) Any offer made by the Authority under clause 12.2(b) may not be expressed to expire, or revoked, until at least 10 Business Days after it is made.

- (f) If the Authority makes an offer under clause 12.2(c) and that offer is accepted, this Contract will be novated to the Substitute Person by execution of a deed of novation on terms provided by the Authority.
- (g) It is a Default if any of the following occurs in relation to an Event:
 - (i) the Authority makes an offer under clause 12.2(e) which is not accepted prior to its expiry of revocation; or
 - (ii) there is no Nominated Person in existence at the time the Event occurs and no person is subsequently notified in accordance with clause 12.2(c)(ii); or
 - (iii) there is a person nominated as a Substitute Person but the Authority is not obliged to comply with clause 12.2(c) because of clause 12.2(d).
- (h) The Authority may, at any time after an Event occurs:
 - (i) issue any direction concerning the performance of the Contractor's Obligations to the Contractor or any other person involved in performing the Contractor's Obligations; or
 - (ii) perform the Service.

13 RECORDS, REPORTING AND INSPECTION

13.1 Records

The Contractor must keep and provide to the Authority the written records referred to in Schedule 11 in accordance with the requirements set out in Schedule 11.

13.2 Inspection and interview

- (a) Without limiting any other obligation of the Contractor under this Contract to make records available, the Contractor must, upon 5 Business Days' notice from the Authority, make available, for audit or inspection by any person nominated by the Authority:
 - (i) all Records; and
 - (ii) any other records which the Contractor from time to time holds or maintains in connection with the provision of the Service.
- (b) The Contractor must, within the period of time specified in a notice given by the Authority under this clause, make available, for inquiry or interview by the Authority, all Drivers, Bus Aides and Bus Wardens.
- (c) The Authority must give the Contractor 2 Business Days' prior notice of any meeting between the Authority and a Driver, Bus Aide or Bus Warden in relation to this Contract.
- (d) The Contractor has the right to be present, or to have a representative present, at any meeting between the Authority and a Driver, Bus Aide or Bus Warden in relation to this Contract.
- (e) The Contractor must take all reasonable steps to ensure that all Drivers, Bus Aides and Bus Wardens cooperate with and provide to the Authority all information that the Authority may require.

13.3 Observation of Contractor's operations

- (a) Any person nominated by the Authority (this person being the "**Observer**") may, at any time the School Bus is being used to provide the Service, board and ride on the School Bus in order to observe the Contractor's operations, provided that the Authority:
 - (i) has given to the Contractor at least 2 Business Days notice, or less notice as agreed, of the observation; and
 - (ii) has advised the Contractor of the primary reason for the observation.
- (b) Where an Observer is to observe or assess the manner in which the Driver drives the School Bus, the Observer must possess at least appropriate qualifications to drive a vehicle of a kind similar to the School Bus in circumstances similar to the circumstances in which the Driver drives the School Bus.
- (c) Where the Authority exercises its rights under clause 13.3(a) in order to investigate or consider whether the Contractor is properly performing the Contractor's Obligations and the Observer

provides a written report or notes to the Authority in respect of the observation, subject to clause 13.3(c), the Authority will not take any action on the basis of the report or notes unless it has:

- (i) provided a copy of the report or notes to the Contractor (but the Authority must provide a copy of the report or notes to the Contractor within 48 hours of receiving it from the Observer, in any event); and
- (ii) provided to the Contractor a reasonable opportunity to respond to the report or notes (and for the purposes of this clause, the Contractor will have a "reasonable opportunity" if it is asked to provide a verbal response to the Authority).

For the avoidance of doubt, the Authority will not be taken to be investigating or considering whether the Contractor is properly performing the Contractor's Obligations if the Observer boards the School Bus merely to apprise himself or herself as to the nature of the Services.

13.4 Acknowledgement

The Contractor acknowledges and agrees that this Contract and information compiled under or held in relation to this Contract or to the Services, are subject to the *Freedom of Information Act 1992*.

14 COMPLIANCE AND WARRANTIES

14.1 Contractor's representations and warranties

The Contractor represents and warrants to the Authority that:

- (a) **authority:** the Contractor has full power and authority to enter into this Contract and to perform the Contractor's Obligations;
- (b) **authorisations:** the Contractor and each other relevant person has taken all necessary action to authorise the execution, delivery and performance of this Contract in accordance with its provisions;
- (c) **binding obligations:** this Contract constitutes legal, valid and binding obligations and, subject to any necessary stamping and registration, is enforceable in accordance with its provisions, subject to laws generally affecting creditors' rights, and to principles of equity;
- (d) **no trustee:** except as expressly disclosed in writing to the Authority, the Contractor is not entering this Contract as the trustee of any trust or for and on behalf of any other person; and
- (e) **transaction permitted:** the execution, delivery and performance by the Contractor of this Contract does not and will not violate any encumbrance or document that is binding on the Contractor or any of the Contractor's assets.

The Contractor acknowledges that the Authority has entered into this Contract on the basis of each of the Contractor's representations and warranties contained in this Contract, including those in this clause 14.1.

14.2 Survival of Contractor's representations and warranties

The Contractor acknowledges that all representations and warranties given by the Contractor:

- (a) survive the execution, termination or completion of this Contract;
- (b) are regarded as repeated on each day during the Contract Term with respect to the facts and circumstances then subsisting; and
- (c) are independent, and are not limited by reference to any other warranties in any relevant conditions or otherwise in this Contract.

14.3 No other representations or warranties by Authority

Except for:

- (a) the express warranties and representations set out in this Contract; and
- (b) those implied provisions or warranties that are imposed by any Act that are mandatory and cannot be excluded,

the Authority gives no warranties regarding this Contract, or anything in connection with it or contemplated by it and the Authority will not be liable, and the Contractor will have no Claim against the Authority, in respect of any information obtained by the Contractor in respect of the Service.

14.4 Contractor has made its own enquiries

The Contractor acknowledges and agrees that it has obtained and examined all information relevant to the risks, contingencies and other circumstances that could affect the Contractor's Obligations, the cost of complying with the Contractor's Obligations or the financial return to be derived from the Service, and that it has not, in entering into this Contract, relied on any express or implied statement, representation, undertaking, assurance, covenant or agreement made by the Minister, or the Authority or any other person on their behalf (whether oral, written or otherwise and whenever alleged to be made or given) (each of these being an "**Assurance**") other than those set out in this Contract. The Authority may not rely on this clause in respect of an Assurance given or made in circumstances where the Authority knew that:

- (a) the relevant Assurance was not true when made or given; and
- (b) the Contractor relied on the Assurance in entering into the Contract.

15 RISK AND INDEMNITIES BY CONTRACTOR

15.1 Indemnity by Contractor

Except to the extent caused or contributed to by:

- (a) the Authority;
- (b) any defect in the design, manufacture, condition or installation of any equipment installed in the School Bus by the Authority pursuant to item 5(a) of Part 1 of Schedule 10; or
- (c) any defect in the design, manufacture or condition of any wheelchair or similar mobility device used by a Student on the School Bus,

the Contractor must, at all times, indemnify and keep the Authority indemnified from and against all and every Claim and Loss arising from any one or more of the following:

- (d) any injury to, or the death of, any person;
- (e) any damage to, or destruction or loss of the property of any person;
- (f) any Default;
- (g) any default of a Driver, Bus Aide or Bus Warden;
- (h) an event or circumstance arising from the Contractor's providing the Service, including Claims by any person against the Authority in respect of personal loss, damage, injury, or death and loss of or damage to any property;
- (i) any dangerous circumstance created or contributed to directly by the Contractor, a Driver, Bus Aide or Bus Warden;
- (j) the use of, or failure of, any defective School Bus;
- (k) the unauthorised or unlawful use by any Driver, Bus Aide or Bus Warden of any Confidential Information; and
- (l) any breach of any of the Contractor's representations and warranties contained in this Contract.

15.2 No consequential loss

Notwithstanding the indemnity in clause 15.1, neither Party is liable to the other for any consequential loss arising from any Claim, including loss of profit, business opportunity, goodwill or reputation.

16 INSURANCES

16.1 Contractor to effect and maintain insurances

The Contractor must effect and maintain during the Contract Term and for such time as the Contractor provides the Service, the following insurances:

- (a) public liability insurance policy that provides cover in relation to liability arising out of any claim by any person (including the Authority) in respect of:
 - (i) personal injury, death, disease or illness (including mental illness); and
 - (ii) loss of, or damage to, or loss of use of property,
 arising out of or in relation to the Service, with a limit of cover in respect of any one occurrence at least equal to \$20,000,000 and have no limit to cover in relation to the aggregate of the amount of all claims made during the period of cover of the policy;
- (b) insurance required under the *Workers Compensation and Injury Management Act 1981 (WA)* and for employer's liability at common law (with a limit of cover for any one occurrence at least equal to \$50,000,000) and an extension to the policy to indemnify the Authority as principal for the Authority's liability, under any statute relating to workers' or accident compensation, to persons engaged by the Contractor; and
- (c) comprehensive motor vehicle insurance for:
 - (i) the School Bus for at least the written-down value which is accorded to it for the purposes of calculating the Service Charge or, if no written-down value is accorded to it, then its current market value: plus
 - (ii) liability to third parties for:
 - (A) loss or damage to property; and
 - (B) personal injury, death, disease or illness (including mental illness) to the extent not covered by compulsory third party insurance,
 with a limit of cover for any one occurrence at least equal to \$20,000,000.

16.2 Terms of public liability cover

The public liability insurance policy must:

- (a) cover the Contractor, all subcontractors and their respective representatives, agents and employees for their respective rights, interests and liabilities;
- (b) cover the Authority in respect of any liability arising out of any act or omission of the Contractor, or any subcontractor or of their respective representatives, agents or employees;
- (c) include cover for unregistered vehicles, plant and machinery.

16.3 Evidence of insurance

Upon request, the Contractor must provide to the Authority:

- (a) proof of each policy of insurance, including any varied or replacement policy, taken out by the Contractor, under this clause 16; and
- (b) certificates of currency for each policy of insurance referred to in clause 16.1.

17 CONFIDENTIAL INFORMATION

17.1 Contractor to keep confidential

The Contractor must keep the Confidential Information confidential, and must not without the Authority's prior consent:

- (a) disclose the Confidential Information to any person, other than:
 - (i) those of the Drivers, Bus Aides and Bus Wardens requiring the Confidential Information for the purposes of this Contract or complying with any Act or Legislative Requirement; or
 - (ii) to the extent necessary to provide a potential permitted assignee of the Contractor's Obligations with information in connection with the Contractor's Obligations; or
 - (iii) to employees, legal advisers, accountants and other consultants of the Contractor who require the information in order to advise the Contractor,

provided that the Contractor must only disclose Confidential Information in accordance with this clause if the person to whom the Confidential Information is to be disclosed agrees to keep it confidential; or

- (b) use or permit any Driver, Bus Aide, or Bus Warden to use any of the Confidential Information for any purpose other than in relation to the performance of the Contractor's Obligations.

17.2 No obligation to keep confidential

Clause 17.1 does not apply where:

- (a) Confidential Information is made public other than by the Contractor, a Driver, Bus Aide, or Bus Warden; or
- (b) the Contractor, a Driver, Bus Aide or Bus Warden is required at law to disclose the Confidential Information.

18 TERMINATION

18.1 Contractor's right to terminate

The Contractor may, on giving not less than 3 months' notice to the Authority, terminate this Contract.

18.2 Authority's right to terminate where service no longer required

- (a) The Authority may, at any time, terminate this Contract by giving not less than 3 months' notice to the Contractor if the Authority, in its absolute discretion, determines that the performance of the Service by the Contractor is no longer required.
- (b) Without otherwise limiting the Authority's discretion under clause 18.2(a) or the Authority's rights under the remainder of this clause 18, the Authority may terminate this Contract under clause 18.2(a) because the Authority proposes to merge or consolidate the Approved Route with one or more other routes over which a service of a kind similar to the Service is currently provided.

18.3 Default

It is a Default if any of the following occurs:

- (a) the Contractor accumulates 30 points or more in any part of a Renewed Term under the Performance Standards Regime;
- (b) any material representation or warranty made, or any Records, documents or other information given, by the Contractor under this Contract is false or misleading when made or given or taken to be made or given; or
- (c) any Governmental Authorisation required to provide the Service ceases to be effective; or
- (d) the occurrence of an Insolvency Event in respect of the Contractor; or
- (e) the occurrence of an event described in clause 12.2(g); or
- (f) the Contractor Deals With the Contract or any of the Contractor's Obligations without the prior written consent of the Authority.

18.4 Authority's right to terminate - other circumstances

The Authority may terminate this Contract by serving on the Contractor a notice to that effect where:

- (a) a breach of the Contractor's Obligations has occurred that the Authority reasonably determines poses an immediate risk to the safety or well-being of Students; or
- (b) a Default of the kind referred to in clause 18.3(a) has occurred; or
- (c) other than a Default of the kind referred to in clause 18.4(a) or 18.4(b), the Contractor has committed, or permitted to occur, a Default, and where that Default can be remedied, has failed to remedy that Default to the reasonable satisfaction of the Authority within 7 Business Days of receipt of a written notice from the Authority (or such longer period specified in the Authority's notice) identifying the Default and requesting that it be remedied; or
- (d) for any reason, the Contractor withdraws or refuses to perform the Service in circumstances where this Contract requires it to perform the Service.

Subject to clause 20, termination of this Contract pursuant to the Authority's notice will take effect at and from the time specified in the Authority's notice.

18.5 Additional powers of the Authority - suspension

- (a) If at any time a Default has occurred, which Default has not been waived by the Authority or remedied by the Contractor to the satisfaction of the Authority, and:
- (i) the Authority has issued a notice under clause 18.4; or
 - (ii) the Contractor is not complying with the whole or any part of the Contractor's Obligations (even where the Contractor has issued a notice of dispute under clause 20.1 and the dispute has not been resolved or determined);
- the Authority may, without limiting any other rights of the Authority under this Contract, at law, in equity or otherwise, do any one or more of the following:
- (iii) suspend any payment to the Contractor;
 - (iv) suspend the provision of the Service by the Contractor; and
 - (v) undertake the Service, and, if the Authority undertakes the Service the Contractor must pay to the Authority on demand, the difference between:
 - (A) the cost of the Authority undertaking the Service; and
 - (B) the amount that the Authority would have had to pay to the Contractor had the Contractor completed the Service.
- (b) If at any time:
- (i) the Contractor, a Driver, Bus Aide or Bus Warden is failing to comply with a Legislative Requirement or fails to obtain or maintain a Governmental Authorisation; and
 - (ii) in the reasonable opinion of the Authority there is a risk to the safety or well being of Students or others travelling on the School Bus,
- the Authority may suspend the provision of the Service by the Contractor and undertake the Service. For the avoidance of doubt, the Authority may not suspend any payment to the Contractor in this circumstance, but suspension of the provision of the Service may, at the Authority's discretion, be a Recalculation Event.

19 OPTION TO PURCHASE SCHOOL BUS

19.1 Option to purchase School Bus

- (a) The Contractor grants to the Authority an option to purchase the School Bus, which may be exercised by the Authority if an Option Trigger Event occurs.
- (b) The Contractor must give written notice to the Authority immediately upon the occurrence of an Option Trigger Event in paragraph (a) or (c) of the definition of "Option Trigger Event".

19.2 Exercise of Option by Authority

The Authority may exercise the Option by giving an Option Notice to the Contractor at any time within 20 Business Days after the Authority becomes aware of an Option Trigger Event.

19.3 Effect of exercise of Option

If the Authority exercises the Option in accordance with clause 19.1:

- (a) the Contractor is bound to sell to the Authority or the authority's nominee, and the Authority or its nominee is bound to purchase from the Contractor, the School Bus for the Purchase Price;
- (b) completion of the purchase is to occur on the later of:
 - (i) one month after the date the Option Notice is regarded as given and received under clause 22.8 in this Contract; and
 - (ii) one month after the date the Valuer has determined the Purchase Price; and
- (c) where the Option is exercised with respect to a School Bus which is subject to a Security Interest:

- (i) the Contractor must procure the discharge of the Security Interest promptly and in a manner satisfactory to the Authority; and
- (ii) the Contractor must authorise the Authority to pay the full amount of the Purchase Price directly to the secured party.

19.4 Valuer to determine Purchase Price

The Purchase Price is to be determined by the Valuer.

19.5 Determination of Purchase Price

The Valuer will determine the value of the School Bus so that it reflects the market value of the School Bus based on the following assumptions:

- (a) the Authority buys the School Bus on terms and conditions as are usual in a sale of vehicles of the type required by the Authority under the Contract;
- (b) the Purchase Price of the School Bus is GST-inclusive;
- (c) no value attaches to any licence or permit or contract related to the School Bus; and
- (d) account and weight should be given to the sale prices obtained for vehicles similar to the School Bus, including current sale prices.

19.6 Valuer's capacity

The Valuer is to act as an expert and not an arbitrator, and the decision of the Valuer is final and binding.

19.7 Contractor's obligations in relation to Option

Until the Option is exercised by the Authority and the completion of the purchase of the School Bus by the Authority has occurred, the Contractor must maintain the School Bus to a standard appropriate to the school bus transport industry in Western Australia, and, in so far as is reasonable, in a condition that complies with the specifications referred to in Schedule 10 (Part 2) (Specification of School Bus).

19.8 Contractor not to deal with School Bus

Without limiting any other provision in this Contract, until the Option is exercised and the completion of the purchase of the School Bus by the Authority has occurred, the Contractor must not do any of the following:

- (a) sell or transfer the School Bus, or dispose of any interest in it that cannot be terminated at the option of the Contractor without the consent of any third party at the time of completion of the sale of the School Bus to the Authority or its nominee pursuant to the exercise of the Option;
- (b) unless the Contractor complies with clause 19.9, create any Security Interest, or allow any Security Interest to subsist, over the School Bus other than a lien that arises by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue; or
- (c) grant an option over the School Bus which is inconsistent with the Option.

19.9 Contractor to obtain consent of secured party

On or before the Variation Date and at any time when the Contractor changes financiers, the Contractor must, at its own cost, obtain the consent of any person (if any) which has a Security Interest over the School Bus pursuant to a deed, substantially in the form set out in Schedule 12, Part 2. The Contractor must also enter into the deed substantially in the form set out in Schedule 12, Part 2.

19.10 Authority's right to access to and use of depots

If the Authority exercises the Option, the Contractor agrees to provide to the Authority access to and use of any depots, storage locations or facilities used to store the School Bus and/or provide the Service, and to do so at fair commercial charges.

19.11 Authority's right binds subsequent owners

Where the Contractor is the owner or lessee of the depots, storage locations or facilities referred to in clause 19.10, if it transfers, sells or otherwise disposes of any of its interest in those depots, storage

locations or facilities it must procure that any transferee, purchase or other acquirer enters into a binding agreement with the Authority, to the satisfaction of the Authority, on substantially the same terms to that which the Authority and the Contractor have agreed with respect to access to and use of the depots, storage locations or facilities.

19.12 Valuer may determine fair commercial charges

The Valuer may determine what 'fair commercial charges' are for the purposes of clause 19.10 if the Authority and the Contractor cannot agree on the charges.

19.13 Valuer's costs

The Contractor and the Authority will pay in equal shares the costs of the Valuer.

20 DISPUTE RESOLUTION

20.1 Parties must use reasonable endeavours to settle disputes

If any dispute arises between the Authority or an authorised representative of the Authority and the Contractor as to any matter arising out of this Contract, the Contractor and the Authority must, in good faith and by discussion and negotiation, endeavour to settle the dispute reasonably within 10 Business Days of one party advising the other party in writing that a dispute exists, or within such other period as may be agreed between the parties.

20.2 Independent mediation

If the dispute is not resolved within the period in clause 20.1, the parties must endeavour to settle the dispute by independent mediation.

20.3 Appointment of independent mediator

If a mediator is not jointly appointed within 10 Business Days of the end of the period in clause 20.1, either party may request the State Chair of the Institute of Arbitrators and Mediators Australia to appoint a mediator independent of the parties and, if necessary, determine the rules for the conduct of the mediation and the payment of the mediator's fees.

20.4 Commencement of proceedings

If the dispute is not resolved within 20 Business Days of the appointment of the mediator, either party may then, but not earlier, commence proceedings relating to the dispute in any court of competent jurisdiction.

20.5 Obligations to be performed

Each party must continue to perform its obligations under this Contract even though a dispute exists.

20.6 Clause survives termination of Contract

This clause 20 survives termination of this Contract.

21 CONTRACTOR'S RELATIONSHIP WITH THE AUTHORITY

- (a) The Parties acknowledge and agree that nothing in this Contract may be construed to make either of them a partner, agent, employee or joint venturer of the other.
- (b) The relationship between the Authority and the Contractor is that a principal and independent contractor, and the Contractor acknowledges that:
 - (i) nothing in this Contract is to be taken as constituting the Contractor and its Drivers, Bus Aides or Bus Wardens to be employees or agents of the Authority;
 - (ii) the Contractor must, unless otherwise provided by the Contract, exercise independent control, management and supervision in the performance of the Service; and
 - (iii) neither the Contractor, nor any Driver, Bus Aide or Bus Warden has any right or authority to assume nor create any obligations of any kind, nor to make any

representations or warranties on behalf of the Authority or to bind the Authority in any respect.

22 GENERAL

22.1 Act by agents

Anything to be done or performed by the Authority may be done and performed by:

- (a) any of the Authority's officers or employees or any consultants engaged by the Authority; or
- (b) any persons or class of persons from time to time notified by the Authority to the Contractor for the purpose of this clause 22.1.

22.2 Ensure compliance by others

Where a provision of this Contract requires, or prohibits, the Contractor to do a thing, the Contractor must ensure that all Drivers, Bus Aides and other persons within the control of the Contractor comply with that provision.

22.3 Severance

Any provision of this Contract which is invalid or unenforceable is to be read down, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the other provisions of this Contract.

22.4 Exercise of Powers

- (a) A Party may exercise a Power at that Party's discretion, and separately or concurrently with any other Power.
- (b) A single exercise of a Power by a Party does not prevent a further exercise of that, or of any other Power, by that Party.
- (c) If a Party fails to exercise, or delays in exercising, a Power, that does not prevent its exercise.

22.5 Further assurances

Each Party will promptly, at that Party's expense, do anything that the other Party reasonably requires to effect, perfect or complete the provisions of this Contract and any transaction contemplated by it.

22.6 Legal costs

Subject to any express provision in this Contract to the contrary, each Party will bear its own legal and other costs and expenses relating to this Contract, but the Authority will pay any duty which is payable on this Contract.

22.7 Powers cumulative

Subject to any express provision in this Contract, the powers of a Party under this Contract are cumulative, and are in addition to any other Powers of that Party.

22.8 Service of Notices

Every Notice (other than directions to be given by the Authority to the Contractor that may be oral):

- (a) must be given in legible writing and in English addressed as shown below:
 - (i) if to the Authority, to the following address, email address and/or facsimile number:
Managing Director
Public Transport Authority
Public Transport Centre
West Parade
PERTH WA 6000
Fax (61 8) 9326 2781
Email: schoolbus@pta.wa.gov.au
 - (ii) if to the Contractor, to the Contractor's address for service, e-mail address and/or facsimile number as set out in Item 5 of Schedule 13, but if the Contractor comprises more than one person, the Authority is only required to send one Notice to those persons,

- or as specified to the sender by any Party by notice from time to time;
- (b) must be signed by:
 - (i) the Party, and where more than one person comprises a Party, by all persons comprising that Party;
 - (ii) a duly authorised attorney of that Party; or
 - (iii) in the case of a Party which is a corporation - a director or secretary or under the common seal of the corporation; or
 - (iv) in the case of the Authority - by any representative of the Authority; or
 - (v) by a solicitor on behalf of that Party; and
 - (c) will be treated as having been given by the sender and received by or served on the addressee:
 - (i) if by delivery in person, when delivered to the addressee;
 - (ii) on the day which is the third Business Day after the date of posting - where posted by registered post within Australia to an address within Australia;
 - (iii) on the day which is the eighth Business Day after the date of posting - where posted by air mail registered post from a place within Australia to an address outside Australia or posted from a place outside Australia to an address within Australia;
 - (iv) if by facsimile transmission, on the date of transmission where a transmission report is produced by the facsimile machine by which the facsimile message was transmitted which indicates that the facsimile message was transmitted in its entirety to the facsimile number of the recipient;
 - (v) but if the transmission (in the case of facsimile) is on a day that is not a Business Day or is after 4.00pm (addressee's time) it will be treated as having been duly given on the succeeding Business Day; and
 - (vi) if by e-mail transmission, on the date of transmission where a return receipt is issued to by the sender's information system which indicates that the e-mail was received by the recipient.

22.9 Notice by website online registration

Notwithstanding clause 22.8:

- (a) the Contractor may (but is not obliged to) give notice to the Authority under the following parts of the Contract, by entering the relevant information by logging into the "Contractor's Login" page of the website, www.schoolbuses.wa.gov.au, using its log in details:
 - (i) Clause 4.4 - (variations to Students and Approved Route);
 - (ii) Clauses 6.1(b), 6.2(d) and 6.3(d) - (change to Driver, Bus Aide or Bus Warden);
 - (iii) Clause 9.2(b) - (change to bank account details);
 - (iv) Clause 9.3(b) - (end of term distance adjustment statement);
 - (v) Clause 22.8 - (change to address details);
 - (vi) Schedule 6, item 4 - (preparation of Timetable and Narrative);
 - (vii) Schedule 6, items 7(c) and 8(c) - (Student Incident Reports, Accident Reports and Near Miss Reports);
 - (viii) Schedule 10, Part 1, item 10 - (change to location of Actual Depot); and
 - (ix) Schedule 11, item 3(b) - (Student Attendance Register); and
- (b) the Authority may give notice to the Contractor under clause 9.3(c) of the Adjustment amount by posting that information in the "Payment Summaries" information of the Contractor and accessible to the Contractor by logging into the "Contractor's Login" page of the website, www.schoolbuses.wa.gov.au, using the Contractor's log in details.

22.10 Statutory Powers

Nothing contained in or implied by this Contract has the effect of constraining, or placing any fetter on, any person, in exercising any Statutory Power.

22.11 Survival

Nothing will release the Contractor from any of the Contractor's Obligations that, by their nature, survive completion of the Service, or the termination of this Contract, including all warranties, representations or undertakings and obligations of indemnity or confidentiality.

22.12 Taxes

Except as otherwise expressly provided in this Contract, the Contractor must:

- (a) pay any Tax in respect of:
 - (i) the execution, delivery, performance, release, discharge, amendment, enforcement or attempted enforcement or otherwise in respect of the following:
 - (A) this Contract (except duty which the Authority is obliged to pay under clause 22.6);
 - (B) a document entered into or signed under this Contract; or
 - (C) a transaction contemplated under this Contract;
 - (ii) any payment made or to be made, or other act, matter or thing, done or to be done, under, arising out of or in any way connected with this Contract or any document or transaction referred to in the preceding paragraph; or
 - (iii) any money payable by the Contractor to the Authority;
- (b) pay fines, penalties or other costs in respect of a failure to pay a Tax described in the preceding sub-clause except to the extent that a fine, penalty or other cost is caused by the Authority's negligence; and
- (c) indemnify and keep indemnified and save harmless the Authority from and against an amount so payable.

22.13 Variation

Except for variations provided for under this Contract, a provision of, or right created under, this Contract may not be:

- (a) waived except in writing signed by the Party granting the waiver; or
- (b) varied except by an instrument in writing signed by the Parties.

22.14 Waiver

The waiver by a Party of a breach by another Party of any provision of this Contract does not operate as a waiver of another or continuing breach by that Party of the same, or any other, provision of this Contract.

EXECUTED as a deed.

SCHEDULE 1 - DEFINITIONS AND INTERPRETATION

1. Definitions

Words which have a defined meaning in Schedule 3 have the same meaning when used in the remainder of this Contract, unless the context otherwise requires.

Accident means any event:

- (a) involving the death of or injury to any person;
- (b) involving the loss of or damage to any property of any person (including to the School Bus or any property of the Contractor),

arising out of or in connection with, or relating to the performance of, the Contractor's Obligations.

Accident Report means a written report detailing, in respect of an Accident:

- (a) the names of those involved in the Accident and any injuries which they sustained;
- (b) the nature of the Accident;
- (c) the name of the school attended by any Students involved in the Accident;
- (d) the date and time of the Accident;
- (e) any damage or loss to property arising from the Accident and the names of the persons who owned that property at the time;
- (f) any action taken by the Contractor, Driver or Bus Aide at the time of the Accident.

Act means every Act of the Parliament of the Commonwealth, and of the State, and includes every rule, regulation, by-law, proclamation, code of practice or order made under or pursuant to an Act or regulation, now in existence, or which comes into existence.

Actual Depot means, at any time, the location at which the School Bus is usually kept while not being used to perform the Service, as notified by the Contractor to the authority under item 7(b) of Schedule 13, at that time.

Actual Kilometres has the meaning set out in Part 4 of Schedule 3.

Additional School means a school, not being on the approved Route, which has pupils who travel along all or part of the approved Route to and from that school, and as advised in writing by the Authority to the Contractor from time to time.

Adjustment Amount has the meaning set out in Part 4 of Schedule 3.

ADR means a design rule in the Australian Design Rules for motor vehicles issued by the Commonwealth Department of Transport and Regional Services or equivalent Commonwealth government department.

Afternoon Route means, on any day, the route marked on the relevant Route Map as the "afternoon run" for that day, as varied from time to time by the Authority under clause 4.2.

Approved Depot means the depot referred to in item 7(a) of Schedule 13, as varied by the Authority from time to time under clause 4 or as otherwise agreed by the Authority and the Contractor.

Approved Route means, on any day, the Morning Route for that day together with the Afternoon Route for that day, as varied from time to time by the Authority under clause 4.2.

Approved Route Distance has the meaning set out in Part 1 of Schedule 3.

Approved School means any school, being on the Approved Route, which is marked and named on the Route Map.

Approved Student means a Student approved under item 3 of Schedule 6, as varied from time to time by the Authority under clause 4.2.

atf has the meaning set out in clause 4 of this Schedule.

Australian Business Number has the same meaning as under the GST Law.

Bus Aide means a person engaged to perform the Bus Aide Duties under clause 6.2.

Bus Aide Duties means those duties set out in Part 2 of Schedule 8, as varied from time to time by the Authority under clause 4.1.

Bus Aide Contract has the meaning set out in Part 1 of Schedule 3.

Bus Warden means, if required by the authority, a person engaged by the Contractor to perform the Bus Warden Duties.

Bus Warden Duties means the duties set out in Part 2 of Schedule 9, as varied from time to time by the Authority under clause 4.1.

Business Day means a day other than Saturday, Sunday or public holiday in Western Australia.

Car Running Kilometres has the meaning set out in Part 1 of Schedule 3.

Claim means any claim or cause of action in contract, tort, under any Act, or otherwise.

Class means the class of vehicle into which the School Bus falls, as determined in accordance with the following criteria:

- (a) a Class A School Bus is a vehicle with a maximum seating capacity of 24 adults and up to 27 primary students, with a service life of 10 years;
- (b) a Class B School Bus is a vehicle with a seating capacity of 43 adults, with a service life of 15 years;
- (c) a Class C School Bus is a vehicle with a seating capacity of 57 adults and a maximum of 83 primary students, with a service life of 15 years;
- (d) a Class D School Bus is a vehicle with a maximum passenger seating capacity of 15 adults, with a service life of 10 years;
- (e) a Class F School Bus is a vehicle with four wheel drive capability and with seating capacity of 17 adults and a maximum seating capacity of 21 primary students, with a service life of 15 years;
- (f) a Class G School Bus is a vehicle with four wheel drive capability and with a seating capacity of 24 adults and a maximum seating capacity of 32 primary students, with a service life of 15 years; and
- (g) a Class H School Bus is a vehicle with four wheel drive capability and with a seating capacity of 34 adults and a maximum seating capacity of 49 primary students, with a service life of 15 years,

or as otherwise determined from time to time by the Authority. Where the Authority requires the Contractor to use a vehicle with a certain passenger seating capacity in accordance with clause 5.3 or 5.4, for the purposes of calculation of the Service Charge, the capacity of the School Bus or the Class into which it falls will be determined on the passenger seating capacity required by the Authority under clause 5.3 or 5.4, regardless of the actual passenger seating capacity of the vehicle.

Component has the same meaning as in Schedule 3.

Confidential Information means all knowledge, information, documents, reports, notes memoranda, images, material or knowledge stored in writing, in electronic or machine readable form or otherwise, relating to Students or the Student Details.

Contract means this contract.

Contractor's Obligations means the covenants, agreements and obligations contained in the Contract (including without limitation the obligation to provide the Service) or imposed under any Act to be observed or performed by the Contractor.

Contract Term means the period commencing on the Effective Date and continuing on and from the Variation Date, for each Renewed Term unless terminated in accordance with clause 18.

Co-ordinator means the person or the person holding the position from time to time notified by the Authority to the Contractor as the co-ordinator for the purposes of this Contract. The Authority may, if it wishes, appoint as the Co-ordinator any person whom the Authority considers has local knowledge of the community in which the Service is to be provided.

Corporations Act means the *Corporations Act 2001 (Cth)*.

CPI has the meaning set out in Part 1 of Schedule 3

Deal With the Contract or any rights or obligations under it includes:

- (a) sell, novate, assign, transfer or encumber;
- (b) grant any option, lease or licence in respect of; and
- (c) in any manner subcontract, alienate, dispose of, or part with possession of, or declare oneself trustee of or in relation to;

the Contract or any rights or obligations under it.

Default has the meaning given in clause 18.3.

Driver means any person (including the Contractor) driving or otherwise in control of the School Bus whilst performing the Service.

Drop-off Location means, in respect of an Approved Student:

- (a) the drop-off location specified in the Student Details for that Approved Student; or
- (b) any alternative drop-off location notified to the Contractor by the parent or guardian of the Approved Student which is, at the time the notice is given, a Pick-Up Location or Drop-Off Location for at least one Approved Student other than the Approved Student for whom notice is given.

Education Support Contract has the meaning set out in item 2 of this Schedule.

Education Support Bus has the meaning set out in item 2 of this Schedule.

Effective Date means the date specified in item 2 of Schedule 13.

Emergency means the occurrence of, or imminent risk of occurrence of, any Accident including, without limitation, the occurrence of a medical emergency involving a passenger on the School Bus.

Emergency Plan means the plan prepared by the Contractor in accordance with item 8(a)(ii) of Schedule 6 from time to time.

Existing Contract means:

- (a) each contract or document specified in item 8 of Schedule 13; and
- (b) any other contract, document, arrangement, binding obligation or undertaking (whether express, implied, arising by operation of law or otherwise and whether at law, in equity or otherwise) in connection with a document referred to in paragraph (a).

Governmental Agency means any government or any governmental, semi-governmental, local or municipal, public, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency, person (including any Minister) or other entity (State or Federal).

Governmental Authorisation includes:

- (a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption under any Act or Legislative Requirement, or by or with a Governmental Agency; and
- (b) any consent or authorisation regarded as given by a Governmental Agency due to the expiration of the period specified by a statute within which the Governmental Agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute.

GST means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Law or otherwise on a supply.

GST Act means the A New Tax System (Goods and Service Tax) Act 1999 (Cth).

GST Law has the same meaning as in the GST Act.

indexed in accordance with change in CPI has the meaning set out in Part 1 of Schedule 3.

Insolvency Event means the happening of any of these events in respect of the Contractor:

- (a) an application is made to a court for an order or an order is made that a body corporate be wound up; or
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate, or one of them is appointed, whether or not under an order; or

- (c) except to reconstruct or amalgamate while solvent on terms approved by the Authority, a body corporate enters into, or resolved to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (d) a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Authority or is otherwise wound up or dissolved; or
- (e) a body corporate is or states that it is insolvent; or
- (f) as a result of the operation of section 459F(1) of the Corporations Act, a body corporate is taken to have failed to comply with a statutory demand; or
- (g) a body corporate is or makes a statement from which it may be reasonably deduced by the Authority that the body corporate is, the subject of an event described in section 459C(2)(B) or section 585 of the Corporations Act; or
- (h) a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- (i) a person becomes insolvent under administration as defined in section 9 of the Corporations Act or action is taken which could result in that event; or
- (j) anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Insurer means any insurer which has provided a policy of insurance referred to in clause 16.1.

Legislative Requirement includes:

- (a) the requirements of every Act; and
- (b) every certificate, licence, consent, permit and requirement of any Governmental Agency.

Loss means any loss, damage, cost, expense or liability.

Metropolitan Area has the same meaning set out in Schedule 3.

Metropolitan Fringe Contract means a contract where the approved Depot is in the Metropolitan Area and is identified in item 6 of Schedule 13 as a metropolitan fringe contract.

Minister means the Minister of the State to whom the administration of the Public Transport authority Act 2003 is for the time being committed by the Governor of the State and, where the context permits, includes any person acting with or under the authority of the Minister, whether express or implied.

Morning Route means, on any day, the route marked on the relevant Route Map as the "morning run" for that day, as varied from time to time by the Authority under clause 4.2.

Narrative means the written notice of the Approved Route, as approved by the Authority.

Near Miss means any event arising out of or in connection with, or relating to the performance of, the Contractor's Obligations that, but for some intervening event or act, may have resulted in an Accident (i.e. involving:

- (a) the death of or injury to any person;
- (b) material loss of or damage to any property of any person (including to the School Bus or any property of the Contractor).

Near Miss Report means a written report detailing, in respect of a Near Miss involving a Student or a School Bus:

- (a) the names of those involved in the Near Miss and any injuries or property damage which they sustained;
- (b) the nature of the Near Miss;
- (c) the name of the school attended by any Students involved in the Near Miss;
- (d) the date and time of the Near Miss;
- (e) any action taken by the Contractor, Driver or Bus Aide at the time of the Near Miss to rectify the situation.

Notice means any notice, request, demand, consent, direction, or approval.

Option means the option granted by the Contractor to the Authority in clause 19.

Option Notice means a notice substantially in the form set out in Part 1 of Schedule 12.

Option Trigger Event means:

- (a) an Insolvency Event occurs in respect of the Contractor;
- (b) the Contract is terminated by the Authority or the Contractor before the expiry of the term of that Contract; or
- (c) the School Bus is subject to a Security Interest in favour of any person (other than the Authority), the circumstances where that Security Interest is enforced.

Overpaid has the meaning set out in Part 4 of Schedule 3 and **Overpayment** has a corresponding meaning.

Parties means each of the parties to this Contract and **Party** means any of the Parties.

Performance Standards or Performance Standards Regime means the performance indicators, standards and requirements as set out in Schedule 2.

Permanent Variation is a variation by the Authority under clause 4 which:

- (a) is a Permanent Variation by virtue of clause 4.3(a); or
- (b) the Authority specifies is permanent in the notice it gives under clause 4.1 or clause 4.2 (as the case may be) in respect of that variation.

Pick-up Location means, in respect of an approved Student:

- (a) the pick-up location specified in the Student Details for that Approved Student; or
- (b) any alternative pick-up location notified to the Contractor by the legal guardian of the Approved Student which is at the time the notice is given, a Pick-Up Location or Drop-Off Location for at least one Approved Student other than the Approved Student for whom the notice is given.

Power means a right, power, remedy or authority under this Contract, or otherwise at law or in equity and includes any Statutory Power.

PPI has the meaning set out in Part 1 of Schedule 3.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Purchase Price means the market value of the School Bus, as determined by the Valuer, based on the assumptions set out in clause 19.5.

Recalculation Event means an event which gives rise to a recalculation and variation of the Service Charge in accordance with Schedule 4.

Recipient Created Tax Invoice has the same meaning as in the GST Act.

Records means the records required to be kept and maintained by the Contractor under clause 13.1.

Related Party of a person means:

- (a) if the person is a company:
 - (i) a related body corporate of that company (as that term is defined in section 50 of the Corporations Act);
 - (ii) a director, secretary or shareholder of that company or a company referred to in paragraph (a), or a Related Party of that director, secretary or shareholder;
 - (iii) a person who controls (as that term is defined in section 50AA of the Corporations Act) that company or a company referred to in paragraph (a), and a Related Party of that person; and
 - (iv) a partner of that company or a person who is trustee of a trust in relation to which the company benefits, or is capable of benefiting; and
- (b) if the person is a natural person:

- (i) any company in respect of which that person would be a Related Party, a related body corporate of that company (as that term is defined in section 50 of the Corporations Act) and a Related Party of either of those companies;
- (ii) a parent, child, sibling, spouse or de facto spouse of that person and any company in respect of which any of those persons would be a Related Party; and
- (iii) a partner of that person or a person who is a trustee of a trust in relation to which the person benefits, or is capable of benefiting.

Removal Notice means a notice issued under clause 6.4(a).

Renewal Date has the meaning set out in item 10 of Schedule 13.

Renewed Term means a period of five (5) years commencing on 1 July and ending on 30 June five years after.

Route Map means the map or maps as signed for identification purposes by the Parties and as varied from time to time by the Authority under clause 4 and replaced with a map or maps which the authority issues as the replacement Route Map.

Safety Management Plan means the safety management plan prepared by the Contractor in accordance with item 8(a)(i) of Schedule 6 from time to time.

School means an Approved School or an Additional School.

School Bus means the Specified School Bus and any other vehicle which the Contractor uses to provide the Service.

School Bus Contract has the meaning set out in Part 1 of Schedule 3.

School Bus Drivers' Instructions means those instructions to Drivers that are set out in Part 2 of Schedule 7, as varied from time to time by the Authority under clause 4.

School Bus Specifications means those specifications for School Buses set out in Part 2 of Schedule 10, as varied from time to time by the Authority under clause 4, and any other reasonable requirements of the Authority regarding the School Bus as are notified to the Contractor from time to time.

School Day means any day on which an Approved School or an Additional School is open for attendance of Students.

School Term means a school term of an Approved School or an Additional School and, where there is more than one Approved School or Additional School and their school terms do not start on the same date and finish on the same date, the School Term commences on the day the first School's school term starts and ends on the day the last School's school term ends.

Security Interest means

- (a) a security interest which is subject to the PPSA; or
- (b) any other mortgage, pledge, lien or charge; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Service means the service as specified in clause 3 and Schedule 6, as varied from time to time by the Authority under clause 4.

Service Charge means the daily payment amount calculated in accordance with Schedule 3, and varied in accordance with Schedule 4, from time to time.

Service Life means:

- (a) in respect of the vehicle which is the Specified School Bus at the Variation Date, if the vehicle:
 - (i) is a Class A or D vehicle, the period of 10 years commencing on the date the vehicle first went into service, or such longer period of years as is agreed between the Authority and the Contractor; or
 - (ii) is a Class B, C, F, G or H vehicle, the period of 15 years commencing on the date the vehicle first went into service, or such longer period of years as is agreed between the Authority and the Contractor; and

- (b) in respect of any other vehicle which is the Specified School Bus, the service life (whether measured in kilometres travelled, years or otherwise) which the Authority from time to time specifies for that vehicle.

Specified School Bus means the vehicle or vehicles described in item 4 of Schedule 13, any vehicle that the Contractor uses in complying with clause 5.2 or 5.3, or any vehicle which the Authority agrees is the "Specified School Bus".

Standard Daily Kilometres has the meaning set out in Part 1 of Schedule 3.

State means the State of Western Australia.

State Body means the Authority, the State of Western Australia and each agency, authority and instrumentality of the State of Western Australia.

Statutory Power of an entity means any right, power, discretion, authority, duty or function exercisable by the entity or any other person, vested in them by any Act or Legislative Requirement.

Student means a pupil of an Approved School or an Additional School.

Student Behaviour Management Guidelines means the guidelines of the same name issued by the Authority from time to time and available on the Authority's website, www.schoolbuses.wa.gov.au

Student Details means the following in respect of a Student:

- (a) name;
- (b) street and mail addresses;
- (c) date of birth;
- (d) telephone number;
- (e) legal guardians' names;
- (f) medical and behaviour conditions;
- (g) Pick-Up Location and Drop-Off Location; and
- (h) the days of the week on which that Student is scheduled to travel on the School Bus,

as varied by the Authority under clause 4 from time to time.

Student Incident Report means a written report prepared in accordance with item 6(b) of Schedule 6.

Substitute Person has the meaning set out in clause 12.2(c).

Supply means any supply of any goods, services or other things under or in connection with this Contract.

Tax means:

- (a) a tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or
- (b) income, stamp or transaction duty, tax or charge,

Other than GST, that is or may be at any time assessed, levied, imposed or collected by a Governmental Agency and includes interest, fines, penalties, charges, fees or other amounts imposed on or in respect of any of the above.

Tax Invoice has the same meaning as in the GST Act.

Taxable Supply has the same meaning as in the GST Act.

Testing Notice means a notice issued by the Authority under item 2(a) of Schedule 8.

Timetable means, at any time the most recent timetable prepared by the Contractor pursuant to item 4 of Schedule 6.

Total Actual Kilometres is the sum of the Actual Kilometres for each School Day during the School Term.

Total Standard Daily Kilometres is the sum of the Standard Daily Kilometres for each School Day during the School Term.

Transfer Point means a location nominated by the Authority to the Contractor from time to time, where Students are delivered to by a School Bus under this Contract or another Contract, to enable Students to transfer to another School Bus to complete their journey to or from School.

Transfer Point Incident Report means a written report in the form specified by the Authority from time to time, to report an incident that occurs at a Transfer Point.

Underpaid has the meaning set out in Part 4 of Schedule 3 and **Underpayment** has a corresponding meaning.

Unloaded Kilometres has the meaning set out in Part 1 of Schedule 3.

Wheelchair Lift Specifications means those specifications for a School Bus which is equipped to carry wheelchairs and occupants, as set out in Part 3 of Schedule 10, as varied from time to time by the Authority under clause 4.1.

2. Education Support

If item 6 of Schedule 13 specifies that this Contract is an Education Support Contract, then:

- (a) this Contract is an "**Education Support Contract**"; and
- (b) the School Bus is an "**Education Support Bus**".

3. Approvals, consents, determinations or waivers

Subject to any express provision of this Contract, where any agreement, approval, consent, determination or waiver is required from or to be made by the Authority:

- (a) the Contractor must obtain that agreement, approval, consent, determination or waiver in writing;
- (b) the Authority may:
 - (i) grant or refuse that approval or consent, or make that determination or waiver, in the Authority's sole and absolute discretion, without giving any reason for that grant, refusal or making; and
 - (ii) grant that approval or consent, or make that determination or waiver, subject to any conditions the Authority may, in the Authority's sole and absolute discretion, impose.

4. Trustee

In item 1 of Schedule 13, a reference to a Contractor "atf" (as trustee for) a named trust or fund is a reference to the Contractor in its personal capacity and in its capacity as trustee for that named trust or fund. If the Contractor is referred to in this manner, it enters into this Contract in its personal capacity and in its capacity as trustee for the named trust or fund.

5. Interpretation

In the Contract:

- (a) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate, Governmental Agency or other legal entity;
- (b) the expression:
 - "comply with" includes observe and perform;
 - "permit" includes suffer or cause including by way of omission;
 - "provision" includes term, provision, condition, obligation, requirement, agreement, presentation, warranty, covenant, stipulation, obligation and undertaking; and
 - "including" and similar expressions are not words of limitation;
- (c) a reference to:
 - (i) any Act, Legislative Requirement, statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

- (ii) anything (including to any right or to the Service) includes:
 - (A) any act, omission, deed, matter or thing, including any document; and
 - (B) a part of that thing;
- (iii) a condition or clause includes its sub-conditions or sub-clauses;
- (iv) a document, including this Contract, includes:
 - (A) all amendments or supplements to or replacements or novations of that document; and
 - (B) any deed, agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (v) the Contractor includes the Contractor's officers, employees, agents and subcontractors and all, each and every or any of them;
- (vi) doing anything includes, making, executing, doing or signing anything;
- (vii) any gender includes every other gender;
- (viii) a month means a calendar month;
- (ix) the Minister or the Authority includes the Minister's or the Authority's (as the case may be) officers, employees, agents and subcontractors and all, each and every or any of them;
- (x) a part, condition, sub-condition, clause, annexure, exhibit or schedule is a reference to a part clause, annexure, exhibit or schedule to this Contract and a reference to this Contract includes any annexure, exhibit and schedule;
- (xi) a party to a document includes that party's permitted successors and assigns;
- (xii) a person includes a natural person, firm, corporation, body, institute, association, authority, tribunal, the trustee of any trust or settlement, or any other entity;
- (xiii) a person, other than a party to this Contract, whether statutory or not:
 - (A) that ceases to exist; or
 - (B) whose powers or functions are transferred to another person or body,
 is a reference to the person that replaces it, or that substantially succeeds to its powers or functions;
- (xiv) liquidation includes official management, appointment of an administrator or provisional administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any person, or death; and
- (xv) a covenant or agreement on the part of two or more persons binds them jointly and severally;
- (d) no provision of this Contract will be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of this Contract or that provision;
- (e) headings and underlining are for convenience only, and do not affect the interpretation of this Contract; and
- (f) a reference to an item is to the item in the Schedule in which it appears.

SCHEDULE 2 - PERFORMANCE STANDARDS REGIME

For the purposes of this Schedule 2:

- (a) **Assessment Notice** has the meaning given to that term by section 4 of the WWC Act.
- (b) **Class 1 Offence** has the meaning given to that term by section 7(1) of the WWC Act.
- (c) **Class 2 Offence** has the meaning given to that term by section 7(2) of the WWC Act.
- (d) **Interim Negative Notice** has the meaning given to that term by section 4 of the WWC Act.
- (e) **Negative Notice** has the meaning given to that term by section 4 of the WWC Act.
- (f) **SMP** means a safety management plan.
- (g) **WWC Act** means the *Working with Children (Criminal Record Checking) Act 2004 (WA)*.
- (h) A reference to a person who controls or is 'in control' of the Contractor means, where the Contractor is a company:
 - (i) a director of that company; or
 - (ii) a person who owns 50% or more of the shares in the company; or
 - (iii) a person who exercises 50% or more of the voting rights in the company; or
 - (iv) a person who has the capacity to determine the outcome of decisions about the company's finances and operations.

In determining whether a person has 'control' for the purposes of paragraph (iv) above:

- (i) the practical influence the person can exert (rather than the rights they can enforce) is the issue to be considered; and
- (ii) any practice or pattern of behaviour affecting the company's finances or operations is to be taken into account.

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
Safety Systems	1. Current Safety Management Plan (SMP)	The Authority is to conduct a compliance review every two years. (i.e. 5 reviews over 10 years)	<p>1. Compliant SMP</p> <p>2. Corrective actions in content of, or compliance with, SMP, identified by the Authority and notified to Contractor to be addressed within timeframe nominated by the Authority (acting reasonably, according to the particular circumstances).</p>	<p>(a) For a new contract, a Contractor will need to submit an SMP as part of its tender bid.</p> <p>(b) Existing Contract to be novated to a new party.</p> <p>Failure to complete a corrective action as notified by Authority and within time frame nominated by the Authority.</p>	<p>Authority will not award contract if SMP not provided with tender bid by tender closing date.</p> <p>Authority will not consent to novation of contract to incoming contractor unless SMP of incoming contractor is submitted to the Authority as part of the request by outgoing contractor to the Authority to consent to the novation, and the SMP is acceptable to the Authority.</p> <p>(a) If the Contractor does not complete the corrective action by the due date = 1 demerit point.</p> <p>(b) The Authority will send a reminder notice with a new due date (First Extended Due Date). Failure to comply with corrective action by the First Extended Due Date = 2 demerit points.</p> <p>(c) The Authority will send a second reminder notice with a new due date (Second Extended Due Date). Failure to comply with corrective action by the Second Extended Due Date = 5 demerit points.</p> <p>If corrective action still not completed, the Authority may issue a default notice, as</p>

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
					compliant safety management plan and implementation of compliant safety management system is an essential term of the Contract.
	2. Vehicles meet road worthiness standards and appropriate school bus specifications.	Vehicle inspection, conducted by the Authority twice each calendar year.	<p>(a) Vehicle passes inspection without any corrective action required or conditions attached.</p> <p>(b) Corrective actions/conditions imposed by the Authority following inspection, are addressed by the Contractor within a time frame nominated by the Authority.</p>	<p>Nil</p> <p>Safety critical issues identified in corrective actions/conditions imposed (usually via the issuing of Defect Direction - i.e. yellow sticker).</p> <p>Non safety critical issues (usually via the issuing of an Urgent Repair Certificate).</p>	<p>Nil</p> <p>Three (3) demerit points plus Contractor must meet conditions/corrective actions within time frame nominated by issuer of inspection report (i.e. the Authority before vehicle is allowed on the road.</p> <p>If Contractor fails to have non-safety critical items repaired/rectified by due date to the Authority's satisfaction, the Authority will issue a reminder notice with a new due date (First Extended Due Date).</p> <p>Failure to comply with corrective action by the First Extended Due Date = 1 demerit point.</p> <p>The Authority will continue to issue further reminder notices until all corrective actions are met to the Authority's satisfaction, and each time another reminder notice is sent, one further demerit point accrues.</p>

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
	3. Safe operation of school bus	Mandatory reporting as per contract	3.1 No drug or alcohol related driving conviction (Part 5, Division 2 of Road Traffic Act) by Contractor or driver for events occurring whilst performing the Services.		<p>Ten (10) demerit points per incident where driver is the Contractor, a director of the Contractor or someone in control of the Contractor.</p> <p>Five (5) demerit points per incident for employee driver (who is not the Contractor or in control of the Contractor).</p> <p>Note: Authority not precluded from exercising other rights under the Contract to have driver removed or to issue default/termination notice.</p>
		Mandatory reporting as per contract	<p>3.2 Safe driving - do not exceed speed limits as prescribed by regulations 11 and 17 of the Road Traffic Code whilst providing the Services.</p> <p>3.3 Safe driving - no other traffic offence committed whilst performing the Service.</p>	<p>An infringement notice is issued to Contractor or driver for driving the school bus:</p> <p>(a) up to 9km/hr over the speed limit;</p> <p>(b) more than 9km/hr but not more than 19km/hr over the speed limit</p> <p>(c) more than 19km/hr</p> <p>(a) Traffic offence (other than as set out in 3.1 or 3.2 above) committed / resulting in the recording of demerit points by the</p>	<p>One (1) demerit point per incident.</p> <p>Two (2) demerit points per incident.</p> <p>Four (4) demerit points per incident.</p> <p>Note: 50% reduction in points accruing if offender is an employee driver other than a director of the Contractor or person who controls the Contractor.</p>

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
				<p>Director-General of Transport against that person in the demerit points register maintained under section 104O of the Road Traffic Act 1974 as follows:</p> <ul style="list-style-type: none"> (i) 2 or 3 demerit points (ii) 4 demerit points or more (b) Commission of a crime under Road Traffic Act 1974 (not dealt with as a summary conviction penalty) (c) Commission of a crime dealt with by way of summary conviction penalty 	<p>Two (2) demerit points</p> <p>Four (4) demerit points</p> <p>Thirty (30) demerit points</p> <p>Thirty (30) demerit points</p> <p>Note: Authority not precluded from exercising other rights under the Contract to have driver removed or to issue default/termination notice.</p> <p>Note: 50% reduction in points accruing if offender is an employee driver other than a director of the Contractor or person who controls the Contractor.</p>

			3.4 Safety Submission of Accident Reports and Near Miss Reports.	Failure by Contractor to submit an Accident Report or Near Miss Report (orally and in writing) within time limits set out in Schedule 11, item 4.	One (1) demerit point per failure
Reliability	4.Children arriving to school before classes start and departing shortly after school finishes	<ul style="list-style-type: none"> (a) Random audit (i.e. physically checking arrival and departure times); and (b) Substantiated school complaints; and (c) Substantiated parent complaints 	<p>Bus to arrive at, and depart from, each school within 10 minutes of the scheduled arrival time (and departure time, respectively as set out in the Narrative.</p> <p>No more than 5 late incidents per annum.</p>	5 incidents (through audit or school/parent substantiation) of late arrival or late departure per calendar year.	<p>Two (2) demerit points.</p> <p>Every additional substantiated incident over 5 in one calendar year attracts and additional one (1) demerit point.</p>

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
Professional Standards	5. Contractor / Drivers / Bus Aides/Bus Wardens to maintain a high level of professional standards and ethics	5.1 Mandatory reporting as per the Contract	No convictions recorded against: (a) the Contractor, Driver, Bus Aide or Bus Warden that is a Class 1 or Class 2 Offence under the WWC Act; (b) the Driver (or Contractor) that results or is likely result in the loss of "F class endorsement" on the driver's licence of the Driver or Contractor.	If Contractor, Driver, Bus Aide or Bus Warden: <ul style="list-style-type: none"> is convicted or a Class 1 Offence or Class 2 Offence; ceases to have a current assessment notice under WWC Act; receives a Negative Notice or Interim Negative Notice under WWC Act; (except in the case of a Bus Aide or Bus Warden) ceases to have an "F endorsement" on their driver's licence. 	Authority may direct Contractor to remove offending Driver/Bus Aide / Bus Warden from providing the Services as per Contract. If Contractor / Driver ceases to have an "F endorsement" on their driver's licence (other than for medical reasons) = 5 demerit points plus the Authority may exercise other default/termination rights under the Contract. If Contractor or anyone that controls the Contractor: <ul style="list-style-type: none"> is convicted of a Class 1 Offence or Class 2 Offence; ceases to have a current Assessment Notice under WWC Act; receives a Negative Notice or Interim Negative Notice under WWC Act, = 30 demerit points plus the Authority may exercise default / termination rights under the Contract.
		5.2 Substantiated complaints of discrimination	No substantiated cases of discrimination against the Contractor, Driver, Bus Aide or Bus Warden.	Determination of discrimination under Equal Opportunity Act 1984 (WA) is made by State Administrative Tribunal or determination of discrimination is made pursuant to a Commonwealth Act dealing with discrimination.	Three (3) demerit points.

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
Administration	6. Timely completion of returns as part of contractual requirements	6.1 End of term temporary route variations	Within time required by clause 9.3(b) of the Contract.	Failure to meet due date under clause 9.3(b).	<p>If Contractor fails to submit a return by the due date - one (1) demerit point.</p> <p>The Authority will issue a reminder notice with a new due date (First Extended Due Date).</p> <p>Failure to comply with reminder notice by the First Extended Due Date =- 1 demerit point.</p> <p>The Authority will continue to issue further reminder notices until relevant information is received to the Authority's satisfaction, and each time another reminder notice is sent, one further demerit point accrues.</p>
		6.2 Submission of time tables and confirmation of Narrative.	Within time required by Schedule 11, item 4.	Failure to meet due date.	<p>If Contractor fails to submit Timetable and confirm Narrative by the due date = one (1) demerit point.</p> <p>The Authority will issue a reminder notice with a new due date (First Extended Due Date).</p> <p>Failure to comply with reminder notice by the First Extended Due Date = 1 demerit point.</p> <p>The Authority will continue to issue further reminder notices until relevant information is received to the Authority's satisfaction, and each time another reminder notice is sent, one further demerit point accrues.</p>

Category	KPI	Measurement Mechanism	Measurement Standard	Event	Consequence
		6.3 Contractor to advise of students to be removed from Approved Student List provided by the Authority (clause 4.4 Contract).	Within 10 Business Days of Contractor becoming aware of students no longer using school bus.	Failure to meet due date.	If Contractor fails to notify the Authority of Approved Students no longer using the School Bus, and this information comes to the Authority's notice by other means, Contractor will incur two (2) demerit points.
		6.4 Submission of reports, documents as required by Item 4 of Schedule 11.	Within time limit required by Item 4 of Schedule 11.	Failure to submit information by due date.	<p>One (1) demerit point per failure.</p> <p>The Authority will issue a reminder notice with a new due date (First Extended Due Date).</p> <p>Failure to comply with reminder notice by the First Extended Due Date = 1 demerit point.</p> <p>The Authority will continue to issue further reminder notices until relevant information is received to the Authority's satisfaction, and each time another reminder notice is sent, one further demerit point accrues.</p>

SCHEDULE 3 - SERVICE CHARGE CALCULATION

PART 1 DEFINED TERMS AND CONCEPTS

The following terms and concepts are used in this Schedule and in Schedule 4.

Afternoon Unloaded Kilometres is, for any day:

- (a) the number of kilometres which the Authority determines is in the Afternoon Unloaded; or
- (b) the number of kilometres otherwise determined by the Authority.

Age means the number of whole years which have elapsed since the School Bus was purchased new, whether by the Contract or another person.

Approved Route Distance is the number of kilometres per School Day which the Authority determines the Driver must drive over the Approved Route.

Average Weekly Earnings means the rate specified as *Average Weekly Earnings; States & territories; Full-time adult ordinary earnings; Western Australia* published by the Australian Bureau of Statistics. A reference to any amount being **indexed in accordance with change in Average Weekly Earnings** over a particular period (**Period**) is a reference to that amount being increased or decreased (as the case may be) by the same proportion as the Average Weekly Earnings last published before the end of the Period increased or decreased from the Average Weekly Earnings last published before the start of the Period.

Bus Aide Contract means this Contract is a **Bus Aide Contract** if the Authority has notified the Contractor pursuant to clause 6.2(a) that it requires a Bus Aide to be on the School Bus and will continue to be a Bus Aide Contract until the Authority gives an approval or a direction in accordance with clause 6.2(b).

Bus Warden Contract means this Contract is a **Bus Warden Contract** if the Authority has notified the Contractor pursuant to clause 6.3(a) that it requires a Bus Warden at a Transfer Point and will continue to be a Bus Warden Contract until the Authority gives an approval or a direction in accordance with clause 6.3(b).

Car Running Kilometres means the number of kilometres (if any) specified in the Route Map. Each of the Car Running Component, and that part of the Drivers' Wages Component which related to Car Running, will apply unless and until the Authority determines they are to no longer apply, in which case each will no longer form part of the calculation of the Service Charge.

Class Bus Price means:

- (a) the Average price for the relevant School Bus in the relevant price band set out in Table 1 below, current as at July 2012; and
- (b) indexed as at 1 July each year in accordance with the change in PPI over the previous 12 month period.

For the avoidance of doubt, the prices listed in Table 1 (both the Band value range and the average price range) will be updated after each indexation by the movement in the appropriate CPI.

Table 1
ROI Bands

Class	Band Value Range	Average Price
Class A	Band 1 \$0K to \$154K	\$135,225
Class A Wheelchair	Band 1 \$0K to \$205K	\$179,122
Class B	Band 1 \$0K to \$308K	\$269,757
	Band 2 +\$308K to \$400K	\$380,978
	Band 3 +\$400K	\$409,358
Class B Wheelchair	Band 1 \$0K to \$359K	\$322,052
	Band 2 +\$359K to \$436K	\$424,978
	Band 3 +\$436K	\$456,947
Class C	Band 1 \$0K to \$333K	\$314,991
	Band 2 +\$333K to \$410K	\$385,852
	Band 3 +\$410K to \$431K	\$417,675
	Band 4 +\$431K	\$435,939
Class C Wheelchair	Band 1 \$0K to \$462K	\$426,974
	Band 2 +\$462K to \$503K	\$477,768
	Band 3 +\$503K	\$509,674
Class D	Band 1 \$0K to \$103K	\$57,162
Class F	Band 1 \$0K to \$205K	\$177,036
Class G	Band 1 \$0K to \$257K	\$200,398
Class H	Band 1 \$0K to \$359K	\$301,990

Component means a component specified in column 1 of either Section A or Section B of Part 2.

CPI means the Consumer Price Index as published by the Australian Bureau of Statistics. A Reference to any amount being **indexed in accordance with change in CPI**, or any component of CPI, over a particular period (**Period**) is a reference to that amount being increased or decreased (as the case may be) by the same proportion as the CPI (or that component) last published before the end of the Period increased or decreased from the CPI (or that component) last published before the start of the Period.

Daily Tasks (DT) means pre-engine checks, refuelling of a School Bus and untangling of seatbelts after completion of each Morning Route and Afternoon Route.

Depreciation means straight line depreciation over the Service Life of the School Bus, applying a residual value of 10% for A Class and D Class School Buses and 5% for B Class, C Class, F Class, G Class and H Class School Buses and **Depreciated** has a corresponding meaning.

Education Support Contract means a School Bus Contract which is expressed in item 6 of its Schedule 13 to be an Education Support Contract.

Mainstream Contract means a School Bus Contract which is not an Education Support Contract.

Metropolitan Area is that area within either or both of the Peel Region (as referred to in Schedule 1 of the *Regional Development Commissions Act 1993*) and the "metropolitan region" (within the meaning of the *Metropolitan Region Town Planning Scheme Act 1959*).

Model means the model of the School Bus.

Morning Unloaded Kilometres is, for any day:

- (a) the number of kilometres which the Authority determines is in the Morning Unloaded; or
- (b) the number of kilometres otherwise determined by the Authority.

Operating Region means the region (being either the Metropolitan Area or a "region" as described in the *Regional Development Commissions Act 1993*) which the Authority from time to time determines is the Operating Region for this Contract.

Payable Kilometres has the meaning set out in Part 4.

PPI means the relevant Producer Price Index as published by the Australian Bureau of Statistics.

School Bus means the Specified School Bus set out in item 4 of Schedule 13, as amended from time to time to identify the purchase of a new Bus.

School Bus Contract means this Contract, together with each other contract (if any):

- (a) which is expressed to be a School Bus Contract (whether by containing this definition or otherwise); or
- (b) which the Authority otherwise notifies the Contractor is a School Bus Contract.

School Bus Price means at any time, what the Authority has determined as at that time is the new purchase price quoted by a supplier for a Standard vehicle of the same model as the School Bus.

Standard in relation to a vehicle, means the standard model of the vehicle, fitted as necessary to comply with the School Bus Specifications and (if relevant) the Wheel Chair Specifications.

Standard Daily Kilometres means the sum of the **Approved Route Distance** and the **Unloaded Kilometres**.

Total School Days means in a year, the number which the Authority determines as the total number of "School Days" for that year.

Unloaded Kilometres are set distances which are intended to broadly represent the distance which the School Bus travels prior to, and after, being used to perform the Service each School Day. The unloaded routes for a day are shown as the **Morning Unloaded** and the **Afternoon Unloaded** on the relevant Route Map and are, generally, the route between the Approved Depot and the start of the Approved Route, and the route between the end of the Approved Route and the Approved Depot. The Unloaded Kilometres comprise the **Morning Unloaded Kilometres** and the **Afternoon Unloaded Kilometres**.

Year means a calendar year.

PART 2

CALCULATION OF THE SERVICE CHARGE (CLAUSE 9.2 AND DEFINITION OF SERVICE CHARGE)

The Service Charge is calculated by adding up the "\$ value per day" for each element specified in the table below.

Where, at any time and for any reason other than as a result of periodic review pursuant to Schedule 5, a Component cannot be calculated (whether because the basis for the Component no longer exists, or any other reason), the rates and prices which applied and were used to determine the \$ value per day for that Component immediately before the Component could no longer be calculated will be used to calculate the \$ value per day for that Component until the next periodic review pursuant to Schedule 5.

[See next page]

<i>Component</i>	<i>Description</i>	<i>\$ value per day</i>
Insurance	<p>(a) For comprehensive motor vehicle insurance - an amount determined by the Authority to be a figure representative of the annual comprehensive insurance premium for the School Bus (based on the band value range of each Class of Bus, as set out in Table 1 of the definition of "Class Bus Price" in this Schedule 3, and as adjusted in accordance with that definition) increased or decreased (as applicable) by CPI Insurance.</p> <p>(b) For public liability insurance - an amount determined by the Authority to be a figure representative of the annual insurance premium for public liability insurance, increased or decreased (as applicable) by CPI Insurance.</p> <p>CPI - Insurance means the group, sub group and expenditure class (6401.0 Insurance and Financial Services, Insurance) component of the Consumer Price Index published by the Australian Bureau of Statistics. The amount is calculated by comparing the indices for current June quarter to that of the preceding June quarter to the annual comprehensive insurance premiums.</p>	This amount divided by the Total School Days
Vehicle registration and third party	The annual vehicle registration fee and third party risk insurance charge payable on the School Bus under the Road Traffic Act 1974.	This amount divided by the Total School Days
Administration	<p>The annual amount below, depending on the number of School Bus Contracts to which the Contractor, or a Related Party of the Contractor, is a party (Relevant Contracts) at that time:</p> <p>Where there are one or more Relevant Contracts:</p> <ul style="list-style-type: none"> • \$11,269 for each Relevant Contract which is a Mainstream Contract • \$14,293 for each Relevant Contract which is an Education Support Contract, <p>but reduced by the following discounts:</p> <ul style="list-style-type: none"> • where there are 3 Relevant Contracts, the amount payable for the third Relevant Contract is reduced by \$1,724; and • where there are 4 or more Relevant Contracts, the amount payable for each Relevant Contract after the first, is reduced by \$3,448. 	This amount divided by the Total School Days
Fare Collection Administration Fee	<p>PLUS, where the Contractor collects and remits fares from Fare Paying Students, the Authority will calculate and pay the Contractor a Fare Collection Administration Fee of \$12.25 per day, calculated as follows: $D = R \times T$ where</p> <p>D = Daily Fare Administration Fee R = \$18.85 per hour</p>	<p>Plus \$12.25 per day if Contractor collects fares.</p> <p>Plus, amount for superannuation.</p>

Component	Description	\$ value per day
	<p>T = time, based on 39 minutes per day =- 0.65</p> <p>PLUS, for superannuation:</p> <p>X% of D, where x is the WorkCover ANZIC rate no. 61220 (being the Short Distance Bus Transport rate set by the Premium Rates Committee established under s.147 of the Workers' Compensation and Injury Management Act 1981).</p>	
Bus Warden Management Fee	This amount is payable only if this Contract is a Bus Warden Contract. A daily amount being 66% of Bus Warden wages and entitlements.	Per day =- This daily amount.
Return on Investment	An annual amount, being the amount which is 10.5% of the Class Bus Price at the time the amount is determined.	This amount divided by the Total School Days
Depreciation	The annual amount of Depreciation payable in the particular year on the basis that the School Bus Price of the School Bus is Depreciated.	This amount divided by the Total School Days
Garaging	<p>(1) An annual amount of \$584, if the Authority determines the Contractor keeps the School Bus in a garage at the Contractor's residential address which provides full or partial shelter.</p> <p>(2) An annual amount of \$2,111 per School Bus:</p> <p>(a) where the Contractor is required by law to park the School Bus elsewhere than the Contractor's residential address; or</p> <p>(b) if the Authority determines the Contractor provides the Service from a depot (being located other than the Contractor's residential address),</p> <p>But subject to the Contractor providing evidence of payment of the cost of such parking.</p> <p>(3) An annual amount of \$1,056 in respect of Buses with a wheelchair lift, where the Contractor is required to store seats offsite, subject to the Contractor providing evidence of payment for the cost of such storage.</p>	This amount divided by the Total School Days
Driver's wages	<p>A daily figure calculated as follows:</p> <p>The amount determined in accordance with the following formula</p> <p>IF $(M + DT \leq 4)$, $M (R + LA)$</p> <p>else</p> <p>$M (R + LA)$</p>	This daily amount

Component	Description	\$ value per day
	<p>M is the minimum number of driving hours for which the Authority will pay, which is 4</p> <p>R is:</p> <ul style="list-style-type: none"> • where the Authority determines that the School Bus has less than 25 seats, \$36.09; and • where the Authority determines that the School Bus has 25 seats or more, \$37.00. <p>LA is the rate (if any), expressed in dollars, which the authority determines is to apply to the Operating Region of this Contract.</p> <p>Plus the amount determined in accordance with the following formula</p> $\left\{ \left\{ \frac{(\text{SDK} + \text{CRK}) - \text{MK}}{\text{AK}} + \text{DT} \right\} \times (\text{R} + \text{LA}) \right\}$ <p>where:</p> <p>SDK is the Standard Daily Kilometres.</p> <p>CRK is the Car Running Kilometres (if any)</p> <p>MK is, until determination by the Authority as set out below, the number of kilometres which the Driver is deemed to drive in the minimum number of hours specified for the purposes of the variable M described above and:</p> <ul style="list-style-type: none"> • in the case of Mainstream Contracts, for an A Class vehicle, is 240.8. For a B Class vehicle is 214.8. For a C class vehicle is 194.0. For a D Class vehicle is 268.8. For an F, G or H Class vehicle is 192.4; • in the case of Education Support Contracts (Non wheelchair), for an A, B and D Class vehicle, is 128; and • in the case of Education Support Contracts (Wheelchair), for an A, B and C Class vehicle, is 126.8. <p>AK is the number of kilometres per hour which the Driver is deemed to drive per hour, and:</p> <ul style="list-style-type: none"> • in the case of Mainstream Contracts, for an A Class vehicle, is 60.2. For a B Class vehicle is 53.7. For a C Class vehicle is 48.5. For a D Class vehicle is 67.2; • in the case of Education Support Contracts (Non wheelchair), for an A, B and D Class vehicle is 32; and • in the case of Education Support Contracts (Wheelchair), for an A and B Class vehicle is 31.7; and • in the case of an F, G or H Class vehicle, is 48.1. 	

Component	Description	\$ value per day
	<p>DT is, until determination by the Authority as set out below, the number of minutes payable to the Driver for undertaking Daily Tasks:</p> <ul style="list-style-type: none"> • in the case of A Class Buses, is 17 minutes; • in the case of B Class Buses, is 20 minutes; • in the case of C Class Buses, is 21 minutes; • in the case of D Class Buses, is 13 minutes; • in the case of F, G or H Class Buses, is 17 minutes. <p>The amount determined in accordance with the following formula.</p> <p>DT = (minutes payable ÷ 60)</p> <p>R and LA have the same meaning as they have for the purposes of the formula above</p>	
Bus Aide's Wages	<p>This amount is payable only if this Contract is a Bus Aide Contract.</p> <p>A daily figure calculated in accordance with the formula set out above (DT and LA are not applicable to this formula) for the Driver's Wages Component, with the exception that R is \$33.41.</p>	The daily amount
Bus Warden's Wages	<p>This amount is payable only if this Contract is a Bus Warden Contract. A daily amount being:</p> <p>Hourly rate (as at 1 July 2012, is \$27.36) x 3 hours x number of Bus Wardens engaged.</p>	\$ value per day = This daily amount
Superannuation	<p>A daily amount, being:</p> <p>X% of the Driver's Wages Component daily figure</p> <p>plus</p> <p>If this Contract is a Bus Aide Contract, x% of the Bus Aide's Wages Component daily figure, where x is the charge contribution set under the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).</p> <p>plus</p> <p>if this Contract is a Bus Warden Contract x% of the Bus Warden's Wages component daily figure, where x is the charge contribution set under the <i>Superannuation Guarantee (Administration Act) 1992</i>.</p>	This daily amount

Component	Description	\$ value per day
Workers' Compensation	<p>A daily amount, being: X% of the Driver's Wages Component daily figure.</p> <p>plus</p> <p>If this Contract is a Bus Warden Contract, x% of the Bus Warden's Wages daily figure</p> <p>plus</p> <p>where x is the WorkCover's ANZIC rate No. 61220 (being the Short Distance Bus Transport rate set by the Premium Rates Committee established under s.147 of the <i>Workers' Compensation and Injury Management Act 1981</i>).</p>	This daily amount
Repairs and Maintenance	<p>A daily figure determined in accordance with the following formula: (SDK x KM Service Rate)</p> <p>where</p> <p>SDK is the Standard Daily Kilometres.</p> <p>KM Service Rate is the rate per kilometre set out below against the relevant Class of Bus:</p> <ul style="list-style-type: none"> • Class A - \$0.3290 • Class A (with wheelchair) - \$0.3630 • Class B - \$0.3930 • Class B (with wheelchair) - \$0.5060 • Class C - \$0.4380 • Class C (with wheelchair) - \$0.5060 • Class D - \$0.2370 • Class F - \$0.3660 • Class G - \$0.4390 • Class H - \$0.5230 	This daily amount
Unsealed Road Running	<p>This component applies only if the number of kilometres of unsealed road in the Approved Route, together with the Morning Unloaded and the Afternoon Unloaded (together, the "Gravel Run"), is more than 1% of the Standard Daily Kilometres, then the KM Service Rate, referred to in "Repairs and Maintenance Component" above, will be increased by 9% of its value.</p>	This Component, if it applies, is to increase the Repairs and Maintenance Component

Component	Description	\$ value per day
Tyres	<p>A daily amount calculated in accordance with the following formula:</p> $\text{SDK} \times \frac{\text{TP}}{\text{TKM}}$ <p>where:</p> <p>SDK is the Standard Daily Kilometres</p> <p>TP is:</p> <ul style="list-style-type: none"> • Where the School Bus has dual rear wheels, the quoted price which the Authority obtains in writing from Bearepairs as its "Statewide price" for 6.5 new tyres, inclusive of fitting and balancing; • Where the School Bus does not have dual rear wheels, the quoted price which the Authority obtains in writing from Bearepairs as its "Statewide price" for 4.5 new tyres, inclusive of fitting and balancing; <p>for a school bus of the same Class as the School Bus.</p> <p>The Class tyre prices requested will be based on the (manufacturer recommended) tyre size used on the majority of buses in the School Bus fleet i.e. 50% or greater, as recorded by the Authority, for that Class of vehicle.</p> <p>TKM is:</p> <ul style="list-style-type: none"> • where this Contract is a Mainstream Contract and the School Bus is an A Class School Bus, 44,000; • where this Contract is a Mainstream Contract and the School Bus is a B Class School Bus, 50,000; • where this Contract is a Mainstream Contract and the School Bus is a C Class School Bus, 63,000; • where this Contract is a Mainstream Contract and the School Bus is a D Class School Bus, 38,000; • where this Contract is a Mainstream Contract and the School Bus is an F, G or H Class School Bus, 50,000; • where this Contract is an Education Support Contract and the School Bus is an A Class School Bus, 43,000; • where this Contract is an Education Support Contract and the School Bus is a B Class School Bus, 33,000; and • where this Contract is an Education Support Contract and the School Bus is a D Class School Bus, 35,000. 	This daily amount

Component	Description	\$ value per day
Fuel	<p>A daily amount calculated in accordance with the following formula: SDK x FC x RFP where: SDK is the Standard Daily Kilometres FC is the fuel consumption expressed in litres per kilometre and is:</p> <ul style="list-style-type: none"> • for a Mainstream Contract where the School Bus is an A Class School Bus aged 0 - 5 years, 0.1681; • for a Mainstream Contract where the School Bus is an A Class School Bus aged >5 - 10 years, 0.1537; • for a Mainstream Contract where the School Bus is a B Class School Bus aged 0 - 5 years, 0.2344; • for a Mainstream Contract where the School Bus is a B Class School Bus aged >5 - 10 years, 0.2176; • for a Mainstream Contract where the School Bus is a B Class School Bus aged >10 - 15 years, 0.2088; • for a Mainstream Contract where the School Bus is a C Class School Bus aged 0 - 5 years, 0.3279; • for a Mainstream Contract where the School Bus is a C Class School Bus aged >5 - 10 years, 0.3020; • for a Mainstream Contract where the School Bus is a C Class School Bus aged >10 - 15 years, 0.2870; • for a Mainstream Contract where the School Bus is a D Class School Bu8s aged 0 - 5 years, 0.0978; • for a Mainstream Contract where the School Bus is a D Class School Bus aged >5 - 10 years, 0.1025; • for a Mainstream Contract where the School Bus is an F Class School Bus aged 0 - 15 years, 0.1916; • for a Mainstream Contract where the School Bus is a G Class School Bus aged 0 - 15 years, 0.2720; • for a Mainstream Contract where the School Bus is an H Class School Bus aged 0 - 15 years, 0.3653; 	This daily amount

Component	Description	\$ value per day
	<ul style="list-style-type: none"> • for an Education Support Contract where the School Bus is an A Class School Bus aged 0 - 5 years, 0.1836; • for an Education Support Contract where the School Bus is an A Class School Bus aged >5 - 10 years, 0.1510; • for an Education Support Contract where the School Bus is a B Class School Bus aged 0 - 5 years, 0.3098; • for an Education Support Contract where the School Bus is a B Class School Bus aged >5 - 10 years, 0.2807; and • for an Education Support Contract where the School Bus is a B Class School Bus aged >10 - 15 years, 0.2600. <p>With effect from the first payment date after 30 June 2013, the FC will be carried forward for the remaining residual Service Life of the vehicle. A new fuel consumption survey will be undertaken as part of the Five Yearly Review (Schedule 5).</p> <p>For the avoidance of doubt, the Authority need not specify a different fuel consumption for air conditioned and non-air conditioned buses.</p> <p>RFP for a region (as calculated by the Authority) will be based on the monthly average FuelWatch Price for that region.</p> <p>Regional Fuel Prices are to be sourced for each of the following:</p> <ul style="list-style-type: none"> • Metropolitan Area • Peel • South West • Great Southern • Wheatbelt • Goldfields/Esperance • Midwest • Gascoyne • Pilbara • Kimberley 	

Component	Description	\$ value per day																		
Air conditioning	<p>A daily amount calculated in accordance with the following formula: $SDK \times ACR \times (1 + RI)$ where: SDK is the Standard Daily Kilometres. ACR is the relevant air conditioning rate for the Class of the School Bus, as follows:</p> <ul style="list-style-type: none"> • where the School Bus is an A Class School Bus, 0.0722 • where the School Bus is a B or C Class School Bus, 0.1015 • where the School Bus is a D Class School Bus, 0.0722 • where the School Bus is an F, G or H Class School Bus, 0.1015 <p>RI is the regional uplift listed below, expressed as a decimal, which applies for the Operating Region of this Contract -</p> <table data-bbox="427 715 824 991"> <tr><td>Metropolitan Area/Peel</td><td>Nil</td></tr> <tr><td>South West</td><td>0.037</td></tr> <tr><td>Great Southern</td><td>0.051</td></tr> <tr><td>Wheatbelt</td><td>0.034</td></tr> <tr><td>Goldfields/Esperance</td><td>0.079</td></tr> <tr><td>Midwest</td><td>0.056</td></tr> <tr><td>Gascoyne</td><td>0.146</td></tr> <tr><td>Pilbara</td><td>0.096</td></tr> <tr><td>Kimberley</td><td>0.103</td></tr> </table>	Metropolitan Area/Peel	Nil	South West	0.037	Great Southern	0.051	Wheatbelt	0.034	Goldfields/Esperance	0.079	Midwest	0.056	Gascoyne	0.146	Pilbara	0.096	Kimberley	0.103	
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Car running	<p>This Component applies unless and until the Authority notifies the Contract that it will no longer apply. During any time that the Component does not apply because of a notification given by the Authority under this Schedule, the Authority will pay to the Contractor an amount calculated by multiplying the Variable Charge (as defined in Part 4 of this Schedule) by the Car Running Kilometres.</p> <p>A daily amount determined in accordance with the following formula: $CRK \times RR$ where CRK is the Car Running Kilometres (if any)</p>																			

Component	Description	\$ value per day
	RR is the rate (expressed in dollars per kilometre) published by the Royal Automobile Club of WA (Inc) in a table titled "Vehicle Reimbursement Rates" (or similar) as the average rate for a large (3 litre capacity or greater) vehicle.	

Daily Charge

PART 3

OCCASIONAL PAYMENTS

Component	Details	Time of payment
Duty	Where the Contractor obtains a new vehicle to be used as the School Bus pursuant to a requirement or direction of the Authority issued under this Contract, the Authority will, while duty is payable at law on vehicle transfers pay to the Contractor an amount equal to the amount of duty which the Contractor would have been liable to pay under the <i>Duties Act 2008</i> on the vehicle transfer if the price of the transfer were the School Bus Price.	Not later than 20 Business Days after the Contractor provides evidence to the Authority (in accordance with clause 1.2) in respect of the amount claimed by the Contractor
Communication	<p>Where the Contractor obtains a new vehicle to be used as the School Bus pursuant to a requirement or direction of the Authority issued under this Contract, and the Authority has agreed in writing to pay for a two-way radio on the new vehicle, the Authority will pay to the Contractor, on provision of proof that the two-way radio has been installed, an amount equal to the amount paid by the Contractor for purchase and installation of the two-way radio, to an upper limit of:</p> <ul style="list-style-type: none"> • from the Variation Date until the 30 June immediately following the Variation Date, \$651; • from the 1 July immediately following the Variation Date until the following 30 June, \$651 indexed in accordance with change in CPI; and • from each subsequent 1 July until the following 30 June, the amount as previously indexed, indexed in accordance with change in CPI. 	Not later than 20 Business Days after the Contractor provides evidence to the Authority (in accordance with clause 1.2) in respect of the amount claimed by the Contractor
Disposal of School Bus	<p>If:</p> <ul style="list-style-type: none"> • the Contractor terminates the Contract in accordance with clause 4.6 or 4.7; or • the Authority terminates the Contract pursuant to clause 18.2(a); or • the Authority requires the Contractor to use a different vehicle as the School Bus under clause 5.3 and, in order to comply with clause 5.3, the Contractor is required to obtain a new vehicle, <p>and the Contractor disposes of the School Bus within 3 months after:</p> <ul style="list-style-type: none"> • the termination takes effect; or 	

Component	Details	Time of payment
	<ul style="list-style-type: none"> • the Contractor first uses the different vehicle under clause 5.3; or • the School Bus has reached the end of its service life, (as the case may be) (either date being the "Reference Date"), <p>the Authority will, subject to the condition set out below, pay to the Contractor the amount by which the Notional School Bus Value exceeds the Sale Price, where:</p> <p>Notional School Bus Value is the School Bus Price at the Reference Date minus the total amount which the Authority paid to the Contractor during the Contract Term on account of the Depreciation Component</p> <p>Sale Price means the price for which the Authority is satisfied the Contractor sold the School Bus.</p> <p>Condition: The Authority will only make a payment in respect of this Disposal of School Bus Component if the Authority:</p> <ul style="list-style-type: none"> (a) is satisfied that the School Bus, when sold, was in the same condition as it was at the Reference Date; and (b) receives an independent valuation of the School Bus (current at, or no more than 3 months before or after, the Reference Date) from a licensed valuer (licensed under the Land Valuers Licensing Act 1978 (WA)). 	<p>Not later than 20 Business Days after the Contractor provides evidence to the Authority (in accordance with clause 1.2) in respect of the amount claimed by the Contractor</p>
Seat Belts	<p>Until such time as costs for repairs to seat belts are incorporated into the repairs and maintenance component of the Service Charge, payable under Part 2 of this Schedule 3, the Authority agrees to reimburse the Contractor costs reasonably incurred (to the Authority's satisfaction) for any repairs or replacements to seat belts on the School Bus.</p>	<p>Not later than 20 Business Days after the Contractor provides evidence to the Authority (in accordance with clause 1.2) in respect of the amount claimed by the Contractor.</p>

PART 4

Calculation of the Adjustment Amount

The intention of the Parties is that the Contractor will, in the end result, be paid on the basis of the number of payable kilometres over which the School Bus was actually driven in providing the Service, rather than on the basis of the Standard Daily Kilometres (although these two figures may be the same).

The **Adjustment Amount** for a School Term is intended to represent the difference between the total Service Charge which the Contractor was actually paid during the School Term (which is based on the Standard Daily Kilometres), and what the Contractor should have been paid for performing the Service during the School Term (taking into account the number of kilometres in the actual trips made by the School Bus and other factors - an adjustment based on Bus Aide presence will also be made, if applicable). If there is a difference, the amount of this difference, depending on whether it demonstrates the Contractor was paid more or less than the Contractor should have been paid, will be paid by the Authority to the Contractor, or repaid by the Contractor to the Authority (as the case may be), in accordance with clause 9.

The Adjustment Amount is calculated in accordance with the following formula:

(Kilometre Difference x Variable Charge) *with an adjustment to be made for* the Bus Aide Amount where:

Kilometre Difference is the difference between the **Total Standard Daily Kilometres** (the sum of the Standard Daily Kilometres for every School Day during the School Term) and the **Total Actual Kilometres** (the sum of the Actual Kilometres for every School Day during the School Term).

The **Actual Kilometres** for a School Day is:

- (a) the number of Payable Kilometres which the Authority determines the School Bus travelled in performing the Service on that School Day; plus
- (b) unless the Authority determines that the School Bus was not returned to the Approved Depot after picking up and dropping off Students prior to the commencement of school on that School Day, the Morning Unloaded Kilometres; plus
- (c) unless the Authority determines that the School Bus was not returned to the Approved Depot after picking up and dropping off Students at the end of school on that School Day, the Afternoon Unloaded Kilometres.

Payable Kilometres is, for a School Day, the number of kilometres over which the School bus was driven;

- (a) between the beginning and the end of the Morning Route; and
- (b) between the beginning and the end of the Afternoon Route, where it was reasonably necessary for those kilometres to be driven on that School Day to perform the Service in accordance with this Contract. Without otherwise limiting this definition, it is not reasonably necessary:
 - (c) for the School Bus to deviate from the Approved Route, or to re-drive any part of the Approved Route, unless that deviation or re-driving is occasioned by:
 - (i) a request by the Authority; or
 - (ii) matters outside of the Contractor's control and is reasonably necessary in order to provide the Service; or
 - (d) for the School Bus to be driven to pick up or drop off Students who the Contractor or Driver knows are not attending at school that day or otherwise do not need to be picked up or dropped off on that day.

Variable Charge is the rate determined by the Authority, expressed in cents per kilometre, as the variable charge for the School Term in respect of which the adjustment is being made.

The adjustment for the **Bus Aide Amount** will be made where the School Bus is a Bus Aide Bus, and is an amount calculated by multiplying the \$ value per day for the Bus Aide's Wages Component which applied on the last day of the School Term, by the number of School Days during the School Term on which a Bus Aide did not travel on the School Bus.

Where the Total Standard Daily Kilometres is less than the Total Actual Kilometres for the School Term, the Contractor was **Underpaid** during the School Term. In this case, the **Adjustment Amount** will be the amount calculated in accordance with the formula, less the Bus Aide Amount (if any) and clause 9.3(c)(i) will apply.

Where the Total Standard Daily Kilometres is greater than the Total Actual Kilometres for the School Term, the Contractor was **Overpaid** during the School Term. In this case, the **Adjustment Amount** will be the amount calculated in accordance with the formula, plus the Bus Aide Amount (if any), and clause 9.3(c)(ii) will apply.

SCHEDULE 4 - RECALCULATION OF SERVICE CHARGE

PART 1

Recalculation as a result of a Recalculation Event

When a Recalculation Event specified in the first column occurs, the Service Charge is to be recalculated to incorporate the changed circumstance specified in the second column. The recalculated Service Charge will apply from the time specified in the third column.

Unless the context otherwise requires, terms used in this Schedule and which are defined in Schedule 3, have the same meaning when used in this Schedule.

<i>Recalculation Event</i>	<i>Changed circumstance Or variable in Schedule 3</i>	<i>Time for recalculated Service Charge to apply</i>
The Standard Daily Kilometres change as a result of Permanent Variation or where the Authority determines, pursuant to the exercise of powers under clause 18.5(b), that a Recalculation Event has occurred	Standard Daily Kilometres	From the first School Day that the Service is provided with the changed Standard Daily Kilometres
Requirement by Authority that a Bus Aide be used in accordance with clause 6.2(a)	This Contract becomes a Bus Aide Contract	From the first School Day that the Bus Aide is present on the School Bus
Authority approves or directs Contractor to cease using a Bus Aide, in accordance with clause 6.2(b)	This Contract ceases to be a Bus Aide Contract	From the first School Day that the Bus Aide ceases to be present on the School Bus on a permanent basis
Requirement by Authority that a Bus Warden be used in accordance with clause 6.3(a)	This Contract becomes a Bus Warden Contract	From the first School Day that the Bus Warden is present at the Transfer Point
Authority approves or directs Contractor to cease using a Bus Warden, in accordance with clause 6.3(b)	This Contract ceases to be a Bus Warden Contract	From the first School Day that the Bus Warden ceases to be present at the Transfer Point
Increase or decrease in the number of School Bus Contracts to which the Contractor or a Related Party of the Contractor is a party	Number of School Bus Contracts taken into account for the Administration Component	From the first School Day after the change in the number of School Bus Contracts
Change in vehicle which is the School Bus in accordance with the Contract (clause 5.5)	Class and other characteristics of School Bus	From the first School Day that the new vehicle which complies with the Contract is used to provide the Service
Change in garaging situation of School bus (item 10 of Part 1 of Schedule 10)	Garaging situation of School Bus for the purposes of the Garaging Component	From the first School Day that the Service is provided with the new garaging situation

Recalculation Event	Changed circumstance Or variable in Schedule 3	Time for recalculated Service Charge to apply
The Authority changes the Service Life of the School Bus	Service Life	If: <ul style="list-style-type: none"> the Service Life is changed in conjunction with a change in the vehicle which is the School Bus, then from the first School Day that the new vehicle which complies with the Contract is used to provide the Service; or there is a change in the Service Life but no change in the vehicle which is the School Bus at that time (that is, the Service Life of a vehicle in service is changed), from the date specified by the Authority
Where the Contractor is not obliged to collect fares and then becomes obliged to collect fares, or is obliged to collect fares and is then not obliged to collect fares (clause 11)	That part of the Administration Component representing an amount (if any) which the Authority determines the Contractor is entitled to as a result of being required to collect fares	From the first School Day on which the Contractor is obliged to collect fares, or is not obliged to collect fares (as the case may be)
Any change in any other element or variable used to calculate the Service Charge in accordance with Part 2 of Schedule 3	Various	From the date specified by the Authority

PART 2

Regular recalculation

Component	Updated details for Component	Time of effect
Insurance	Reset at a new amount determined by the Authority prior to 1 July each year in accordance with the procedure specified for the Insurance Component in Schedule 3	From the first day the Service is performed after 1 July in each year
Vehicle registration and third party	Reset when there is a change to the amount of the vehicle registration fee or third party risk insurance charge applicable to the School bus under the Road Traffic Act 1974	From the first day the Service is performed after the change to the amount of the statutory charge takes effect
Administration	Indexed as at each 1 July in accordance with change in CPI over the previous 1 July to 30 June.	From the first day the Service is performed after 1 July in each year
Fare Administration Collection Fee	Indexed as at each 1 July in accordance with change in Average Weekly Earnings over the previous 1 July to 30 June	From the first day the Service is performed after 1 July in each year

Component	Updated details for Component	Time of effect
Return on investment	No recalculation of the percentage rate specified in Schedule 3, but Class Bus Price is indexed as 1 July in accordance with change in PPI over the previous 12 month period.	From the first day the Service is performed after 1 July in each year
Depreciation	No recalculation	Not applicable
Garaging	Indexed as at each 1 July in accordance with change in CPI over the previous 1 July to 30 June	From the first day the Service is performed after 1 July in each year
Driver's Wages	Indexed as at each 1 July in accordance with change in Average Weekly Earnings over the previous 1 July to 30 June	From the first day the Service is performed after 1 July in each year
Bus Aide's Wages	Indexed as at each 1 July in accordance with change in Average Weekly Earnings over the previous 1 July to 30 June	From the first day the Service is performed after 1 July in each year
Bus Warden's Wages	Indexed as at each 1 July in accordance with change in ABS Wage Price Index Total Hourly Rats of Pay Excluding Bonuses (All Sectors) - 6345.0, over the previous 1 July to 30 June	From the first day the Service is performed after 1 July in each year
Superannuation	Reset when the charge contribution set under the <i>Superannuation Guarantee (Administration) Act 1992</i> (Clth) changes	From the time the change to the charge contribution changes
Workers' compensation	Reset each 1 July in accordance with the ANZIC rate no. 61220 (being the Short Distance Bus Transport rate set by the Premium Rates Committee established under s. 147 of the <i>Worker's Compensation and Injury Management Act 1981</i>)	From the first day the Service is performed after 1 July in each year
Repairs and maintenance	Indexed as at each 1 January and 1 July in accordance with changes in the Transportation Group of CPI (Perth)	From the first day the Service is performed after 1 January or 1 July (as the case may be) in each year
Unsealed road running	No recalculation	Not applicable
Tyres	Indexed as at each 1 January and 1 July using what the Authority determines to be the Beaurepairs Statewide prices applying at that time	From the first day the Service is performed after 1 January or 1 July (as the case may be) in each year
Air conditioning	Indexed as at each 1 January and 1 July in accordance with changes in the Transportation Group of CPI (Perth)	From the first day the Service is performed after 1 January or 1 July (as the case may be) in each year
Fuel	Reset at the commencement of each month, using the monthly average FuelWatch Price for diesel for each Operating Region	From the first day every month the Service is performed during the School Term
Car running	Reset each 1 July in accordance with changes to the rate (expressed in dollars per kilometre) published by the Royal Automobile Club of WA (Inc) in a table titled "Vehicle Reimbursement Rates)" (or similar) as the average rate for a large (3 litre capacity or greater) vehicle.	From the first day the Service is performed after 1 July in each year

SCHEDULE 5 - FIVE YEARLY REVIEW

1. Definitions

Words defined in Schedule 1 have the same meaning when used in this Schedule 5 and, in this Schedule 5, the following words have the following meanings, unless the context otherwise requires:

Component has the same meaning as in Schedule 3.

Composite Rate Model means the manner of calculating the Service Charge by reference to the aggregate of the amounts determined from time to time for the Components in accordance with Schedule 3, and of indexing the Components in accordance with Schedule 4.

Contractor Representative means a person who is determined by the Authority to qualify as a Contractor Representative in accordance with item 4(e), and any representative or nominee of that person.

Determination means a determination made by the Minister in accordance with item 7(g).

Issue means the situation where it is evidence that there is a real question whether:

- (a) that portion of the Service Charge payable to Contractors which is attributable to a Component does not appropriately reflect the actual net costs:
 - (i) incurred by Contractors; or
 - (ii) which would be incurred by a reasonable and prudent contractor in the position of a Contractor who made reasonable endeavours to achieve cost savings,
for the relevant Component in providing school bus services under the School Bus Contracts; or
- (b) the basis for determining or indexing the relevant Component is inappropriate or inapplicable, where the question of what is "appropriate" is to be determined by reference to the Review Principles and by reference to the consideration that the provisions of Schedules 3 and 4 must be applied to all Contractors; or
- (c) the manner of calculation of the Service Charge would result in a breach of, or an adverse consequence or situation in connection with, a State Agreement.

Issue Notification means a written submission that, as a result of an Issue in respect of a Component, each School Bus Contract should be varied and which:

- (a) identifies the relevant Component to which it relates;
- (b) states why the party making the notification considers an Issue exists, and provides details of the nature of the Issue;
- (c) contains or refers to such evidence as is relevant or required (in accordance with the Review Principles) to support the view of the party making the notification; and
- (d) sets out variations which the party making the notification proposes be made to Schedule 3, Schedule 4 and the remainder of the Contract, either as an agreement of the kind referred to in item 9(a), or as a determination of the Minister in accordance with item 7(g), in respect of the Issue.

Issue Notification Period has the meaning set out in item 3.

Nomination Form means a completed notice in the form set out in attachment 1 to this Schedule.

Nomination Period has the meaning set out in item 3.

Non-Represented Contractor means a Contractor who is not a Represented Contractor.

Represented Contractor is a Contractor who has lodged a notice with the Authority in accordance with item 4(a) in relation to a Contractor Representative.

Response Submission Period has the meaning set out in item 3.

Review means a review of each Component of the Service Charge, to be carried out in a Review Period of a Review Year pursuant to this Schedule 5.

Review Committee means, in respect of a Review, the committee appointed for that Review in accordance with item 7.

Review Period means the period of 12 months commencing on 1 July in a Review Year (i.e. first Review Period commences on 1 July 2017 second Review Period commences on 1 July 2022).

Review Principles means the principles set out in item 7(f).

Review Year means the year 2017 and every fifth year from the previous Review Year.

State Agreement means any agreement or arrangement between the State of Western Australia or any Governmental Agency in Western Australia on the one hand, and one or more Governmental Agencies on the other, which is binding, or failure to comply with which could result in an adverse consequence for the State of Western Australia.

2. **Reviews to be undertaken every five years**

The Parties agree that they will have the opportunity to review the existence and manner of calculation of each Component, and the manner in which the Component is indexed in accordance with Schedule 4, in accordance with the procedures set out in this Schedule 5, during a Review Period.

3. **Process of Review**

Each Review Period will contain a number of periods of set duration, as follows:

<i>Period</i>	<i>Duration</i>
Nomination Period	1 July until 21 July
Issue Notification Period	1 August until 31 August
Response Submission Period	1 September until 30 November
Negotiations / agreed outcome	1 February until 30 April
Ministerial consent and revised contract	1 May until 30 June

4. **Nomination of Contractor Representatives**

- (a) **(Contractor to nominate)** The Contractor may nominate a person as a contractor representative by giving the Authority during the Nomination Period a Nomination Form. The Contractor may only nominate one person as contractor representative, irrespective of the number of School Bus Contracts the Contractor operates. A nomination will be irrevocable. A person nominated may be a natural person, a body corporate or an association and a person may nominate himself or herself.
- (b) **(Contractor gives notice)** If the Contractor gives the Authority a Nomination Form, the Contractor is taken to agree with the Authority:
- (i) that the person nominated in the Nomination Form, and any representative or nominee of that person, has full authority to represent and bind the Contractor in respect of this Contract throughout the Review and that the Authority is entitled to rely on that agreement without being bound to make any inquiry in that regard;
 - (ii) that, unless it is aware of evidence which means it would be unreasonable for it to do so, the Authority may deal with any person who purports to be a person nominated in

- the Nomination Form or a representative or nominee of that person, without making any inquiry as to the person's identity; and
- (iii) that the Contractor consents to being a Represented Contractor and acknowledges what that involves.
- (c) **(Contractor does not give notice)** If the Contractor does not give the Authority a Nomination Form during the Nomination Period, the Contractor is taken to agree that it will not participate in the Review through a Contractor Representative and the Contractor consents to being a Non-Represented Contractor and acknowledges what that involves.
 - (d) **(Contractor Representatives determined)** The Authority will, as soon as practicable after the end of the Nomination Period, determine those persons who qualify as Contractor Representatives in accordance with the principles in item 4(e).
 - (e) **(Test for Contractor Representative)** A person will qualify as a Contractor Representative if:
 - (i) the person is nominated in Nomination Forms given by persons who together represent contractors of at least 10% of the number of School Bus Contracts which were in existence at 9:00am on the first day of the Nomination Period; or
 - (ii) the Authority otherwise determines that the person should be a Contractor Representative.
 - (f) **(Authority's determination final)** The Authority's decision as to whether a person qualifies as a Contractor Representative is final and binding, subject to any obvious error made by the Authority in tabulating Nomination Forms. For the avoidance of doubt, if the Authority (acting reasonably) is unable to determine the person whom a Contractor wishes to nominate as a contractor representative (whether because the Contractor does not use a Nomination Form or for some other reason), it need not take into account the Contractor's nomination.
 - (g) **(Contractor Representative appointed for Review)** A person will only be a Contractor Representative for the purposes of the Review for which that person is appointed.

5. Issues and Issue Notifications

- (a) **(Lodging Issue Notifications)** During the Issue Notification Period:
 - (i) each Contractor Representative may lodge with the Authority an Issue Notification; and
 - (ii) the Authority may lodge with each Contractor Representative an Issue Notification, in respect of one or more Components.
- (b) **(Contractor submissions)** The Contractor may, if it is a Non-Represented Contractor, lodge with the Authority an issue Notification within the Issue Notification Period.
- (c) **(Referral to Review Committee)** The Authority will forward to the Review Committee, at the end of the Issue Notification Period, each Issue Notification given under item 5.

6. Response Submission Period

During the Response Submission Period each Contractor Representative and the Authority may lodge a detailed written response on each Issue set out in the other Party's Issue Notification, or an Issue Notification lodged by a Non-Represented Contractor in accordance with item 5 above.

7. Review Committee

- (a) **(Constitution)** The Review Committee for a Review will comprise of:
 - (i) a chairperson, who must be appointed by the Minister and who will act as a facilitator only;
 - (ii) 2 members, representing the authority; and
 - (iii) each Contractor Representative determined in accordance with items 4(e) and (f).
- (b) **(Review Committee appointed for single Review)** A Review Committee will be formed for the purpose of one Review, so that a new Review Committee must be selected for each Review. The term of appointment of a member of the Review Committee is for the duration of the Review.

- (c) **(Assistance)** The Contractor and the Authority will do all things reasonably necessary or appropriate to assist the Review Committee to undertake its functions as contemplated by this Schedule 5.
- (d) **(Review Committee procedures and powers)** The Review Committee may determine its own procedures and may inform itself of any matter in any manner it sees fit. Without limiting this item, the Review Committee may seek further submissions or information (whether written or oral) from any person.
- (e) **(Review Committee to undertake review)** The Review Committee will, for each Component:
- (i) take into account Issue Notifications, responses and submissions referred to it under items 5 and 6; and
 - (ii) on the basis of the Review Principles, make a written recommendation to the Minister in respect of each Component the subject of an Issue Notification which sets out:
 - A. such variations to Schedule 3 and Schedule 4; and
 - B. such ancillary or consequential variations to the remainder of this Contract which are necessary as a result of variations to Schedule 3 or Schedule 4 (to the intent that a Determination is to have the primary effect of amending either or both of Schedule 3 or Schedule 4 and variations to the rest of the Contract are to be merely ancillary or consequential to that variation), a

as are necessary in order to ensure that:

 - C. the Component appropriately reflects the actual net costs incurred by Contractors for the relevant Component in providing school bus services under the School Bus Contracts or which would be incurred by a reasonable and prudent contractor in the position of a Contractor who made reasonable endeavours to achieve cost savings; and
 - D. the basis for determining or indexing the Component is appropriate and applicable,

where the question of what is "appropriate" is to be determined by reference to the Review Principles and by reference to the consideration that the provisions of Schedules 3 and 4 must be applied to all Contractors; and

 - E. the time from which those variations will take effect, which may not be before 1 February in the year following a Review Year.
- (f) **(Review Principles)** The Review Principles are as follows:
- (i) the purpose of the Composite Rate Model, including the review procedure set out in this Schedule 5, is to balance the interests of the Authority in procuring school bus services for a commercially fair value and the interests of Contractors in receiving a commercially fair income for provision of those services in the absence of a competitive tender process;
 - (ii) the Composite Rate Model is an average cost model so that the starting point is to be the average actual costs incurred by Contractors in providing the services the subject of the School Bus Contracts;
 - (iii) the cost elements set out in the Components will primarily be spread across the service life of each school bus rather than being paid in a lump sum or being varied across the service life of each school bus;
 - (iv) it may be determined that a payment for a Component not be averaged across Contracts or spread over the service life of the school bus where:
 - (A) it is administratively practical to do so;
 - (B) there is no material increase in the administrative costs to the Authority; and
 - (C) the administrative obligations and commercial outcomes imposed by the Composite Rate Model on the Parties are reasonable when compared with contracts for school bus services awarded under a competitive tender process,

and for the avoidance of doubt, this includes the application of regional uplifts where the considerations in (A) - (C) above apply and it can be clearly shown that material regional cost differences exist;

- (v) each of:
 - (A) actual income earned by Contractors from sources other than the Authority from assets for which Contractors are compensated under School Bus Contracts; and
 - (B) the fact that there is potential to make savings across School Bus Contracts through bulk purchasing of inputs, is a relevant consideration.
- (vi) the Party seeking to change a Component must present sufficient evidence to reasonably prove that the current quantum paid to Contractors in respect of the Component is not appropriate;
- (vii) evidence must be based on:
 - (A) benchmarks that are directly relevant to the particular Component; or
 - (B) detailed sampling of the Western Australian school bus fleet, provided that the
- (viii) each of:
 - (A) the Return on Investment Component; and
 - (B) the determination or meaning of the Approved Depot, insofar as it relates to the calculation of the Standard Daily Kilometres,

is not a Component permitted for review and can only be varied by agreement of the Authority.
- (g) **(Decisions)** If the Review Committee:
 - (i) resolves certain Issue Notifications in an agreed manner, within the negotiations/ agreed outcome period set out in item 3, the Authority shall make recommendations to the Minister based on those agreed resolutions, for the Minister's approval;
 - (ii) cannot reach agreement on any Issue Notifications with the negotiations / agreed outcome period set out in item 3, the Authority will refer the unresolved matters to the Minister for determination.

The Authority shall make all submissions to the Minister under this item 7(g) no later than 1 May in the relevant Review Period.

- (h) **(Decisions and determinations)** Subject to item 7(i), each decision and determination of the Minister made in accordance with item 7(g) of this Schedule 5 will be final and binding and the Parties must give effect to it.
- (i) **(Intervening events)** If any event or circumstance occurs during a Review Period which is not completed by this Schedule 5 and which has the effect that it is not possible for the relevant Review to be carried out in accordance with this Schedule 5 or which has the effect that, if the Review is carried out in accordance with this Schedule 5 it will cause material adverse effect to a Party, the Parties shall confer with the Minister and the Minister may issue a determination with respect to what is to be done to address that impossibility or material adverse effect so that the Review may proceed.
- (j) **(Certain Determinations not to take effect)** A Determination will not be binding, and the Authority and the Contractor will not be obliged to give effect to it, where the certain or likely effect or result of the Determination would be that:
 - (i) a breach of any written law would occur; or
 - (ii) any State Agreement would be breached or an adverse consequence or situation in connection with it would arise.

8. Notification of decisions to Contractor

Once the Minister has made a determination as to each Issue Notification, the Authority will notify the Contractor Representatives and the Non-Represented Contractors.

9. Agreement

- (a) **(Agreement at any time)** At any time during the Review Period, the Authority may agree with all Contractor Representatives unanimously as to:
- (i) variations of the kind referred to in item 7(g) to be made in respect of a Component; or
 - (ii) any other variation to be made to this Contract.
- (b) **(Notification to Contractor)** In the event that an agreement of the kind referred to in item 9(a) is made, the Authority will notify the Contractor of the variations.

10. Variation of School Bus Contracts

When the Minister makes a determination or the Review Committee agrees to amend the Contract (and it is approved by the Minister), the Contract will be varied in terms of the Determination or agreement with effect from the time specified by the Minister.

11. Withdrawal of Issue Notification

Any person who has lodged an Issue Notification may withdraw that Issue Notification at any time, in which case the Issue Notification will cease to have effect.

12. Savings

The Parties agree that the validity of any agreement between any persons pursuant to the procedures set out in this Schedule 5, or any determination by the Minister, will not be invalid or called into question by reason only of:

- (a) any defect or irregularity in the constitution of the Review Committee or in the appointment or qualifications of a member of the Review Committee; or
- (b) any failure by any person (other than the Review Committee) to following the procedures set out in this Schedule 5.

Attachment 1

Nomination Form

FORM FOR NOMINATION AS CONTRACTOR REPRESENTATIVE

Name of Contractor

nominates

Name of person nominated as contractor representative

As my/our/its contractor representative in relation to:

Contract number: _____

Service name: _____

For the purposes of item 4 of schedule 5 of that Contract.

Sign

Full name of signatory

Name of company, and capacity of signatory, if signing for and on behalf of company
(* do not complete if inapplicable)

Date:

SCHEDULE 6 - THE SERVICE

1. Service requirements

- (a) Except as otherwise provided in this Contract, and subject to item 1(b) and 1(c), the Contractor must ensure that on each School Day during the Contract Term, the Driver:
 - (i) prior to the commencement of school on the School Day:
 - (A) drives the School Bus over the Morning Route;
 - (B) picks up Approved Students waiting at their respective Pick-up Locations;
 - (C) stops at each Approved School and each Transfer Point (if any) on the Morning Route to drop off the relevant Approved Students; and
 - (D) drops off all other Approved Students (if any) at their respective Drop-Off Locations;
 - (ii) at the end of school on the School Day:
 - (A) drives the School Bus over the Afternoon Route;
 - (B) reports to the first Approved School on the Afternoon Route at the time school is scheduled to finish, picks up the relevant Approved Students and departs from the Approved School in a timely manner;
 - (C) picks up the other Approved Students (if any) waiting at their respective Pick-up Locations, in a timely manner; and
 - (D) drops off all Approved Students at their respective Drop-off Locations; and
 - (iii) complies with the Timetable and Narrative in undertaking the activities referred to in items 1(a)(i) and (ii).
- (b) If the Contractor fails to comply strictly with item 1(a), the Authority will not treat that failure as a breach of this Contract if the Authority (acting reasonably) is satisfied that:
 - (i) the failure to comply was due to an act, circumstance or thing beyond the reasonable control of the Contractor and the Contractor used its best endeavours to comply with item 1(a); or
 - (ii) it was otherwise reasonable in the circumstances for the Contractor to fail to comply.
- (c) The Contractor must ensure that:
 - (i) on each School Day, the Driver does not drive the School Bus over a portion of the Approved Route to pick up or drop off a Student who the Driver knows is not or will not be travelling on the School Bus on that School Day, if the Driver would not otherwise need to drive over that portion of the Approved Route; and
 - (ii) the Driver does not drive the School Bus over a portion of the Approved Route where to do so would result in a breach of clause 3.2.

2. Conveyance of other passengers

The Contractor must ensure that, except with the prior approval of the Co-ordinator or the Authority (which need not be given in writing), no passengers are carried on the School Bus whilst it is being used to perform the Service, other than:

- (a) representatives of the Authority;
- (b) Students;
- (c) teachers or other staff from Schools;
- (d) the Contractor, Drivers and Bus Aides; and
- (e) any person:

- (i) training to be a Driver or a Bus Aide; or
- (ii) who wishes to observe the Contractor's operations for the purpose of acquiring the Contractor's business,
but only where that person has obtained a National Police Certificate or other document satisfactory to the Authority, which discloses that the person has not been convicted of a criminal offence.

For the avoidance of doubt, the Co-ordinator or the Authority may approve a category or class of persons who may be carried on the School Bus. Any person who falls within a category or class of persons at that time approved by the Co-ordinator or the Authority may be carried on the School Bus while it is being used to perform the Service.

3. Nomination of Approved Students

The Authority must ensure that:

- (a) the Contractor has from time to time been advised of those Students who attend the Approved Schools and the Additional Schools who are approved as students whom the Contractor is required to pick up and drop off over the Approved Route; and
- (b) the Contractor has been advised of the Student Details in respect of each of the Students approved pursuant to item 3(a).

4. Preparation of Timetables

Not later than 20 Business Days after the commencement of the first School Term each year, the Contractor must confirm or amend the Narrative provided by the Authority and prepare a written timetable setting out the estimated times each day that each Approved Student will be picked up from, and dropped off at, the Pick-Up Location and Drop-Off Location for that Approved Student and provide a copy of the timetable to the Authority and the Co-ordinator.

5. Variation

Where the Authority makes a variation under clause 4.2(a)(iii):

- (a) the Authority must ensure that Authority's notice given under that clause contains such information as is necessary to appropriately update the information held by the Contractor in respect of the matters referred to in items 3(a) and 3(b); and
- (b) if that variation affects the pick up or drop off times of any of the Approved Students, the Contractor must:
 - (i) promptly advise the parents or guardians of the affected Students of the Students' new pick up or drop off times, and
 - (ii) not later than 20 Business Days after the Authority gives written notice under clause 4.2(a)(iii), prepare a revised version of the Narrative and Timetable and provide a copy to the Authority and the Co-ordinator.

6. Control over Students and Student Incident Reports

The Contractor must ensure that each Driver:

- (a) exercises reasonable control over the behaviour of the Students on the School Bus consistent with the Student Behaviour Management Guidelines; and
- (b) whenever there is an incident of, in the reasonable opinion of the Driver, improper or unruly conduct or misbehaviour by any Student which comes to the Driver's notice, prepares and promptly submits to the Authority or the Co-ordinator (if any) a written report in the form specified by the Authority which details:
 - (i) the names of those involved in the incident;
 - (ii) the nature of the incident;
 - (iii) the name of the school attended by those involved in the incident;
 - (iv) the date and time of the incident; and
 - (v) any action taken by the Driver or a Bus Aide at the time of the incident.

7. Refusal to Carry Students

- (a) Subject to clause 11.1(c) and item 7(b), the Contractor and the Driver must not, without the prior consent of the Authority or the Co-ordinator, refuse to carry an Approved Student on the School Bus.
- (b) Where the Contractor or Driver holds a reasonable belief that a Student on the School Bus constitutes, or is likely to constitute, a danger to the health, safety or well-being of the Contractor, the Driver, the Student himself or herself or any other person on the School Bus, the Contractor or Driver may:
 - (i) stop the School Bus and arrange for the Student to be removed from the School Bus and placed in the care of a responsible adult; or
 - (ii) convey that Student to either the School attended by that Student or the Student's home,

And thereafter refuse to carry that Student on the School Bus unless otherwise directed in writing to do so by the Authority.

The Authority agrees that it will not direct the Contractor under this item 7 unless and until it has taken what it considers to be appropriate action in respect of that Student concerned.

- (c) The Contractor must immediately notify the Authority of any action taken by the Contractor or a Driver under items 6(b) and 7(b) and the reasons for such action.

8. Safety, Accidents, Near Misses and Emergencies

- (a) Prior to the commencement of the first School Term in each year, the Contractor must prepare or have in place:
 - (i) a written safety management plan in connection with the Service, based on the framework for the plan provided by the Authority (and the Contractor is not obliged to prepare the plan until the Authority has provided such framework); and
 - (ii) a written plan of the procedures to be followed in the event of an Emergency in connection with the Service or the workplace, containing the information specified in the Safety Management Plan,and must provide a copy of each plan to the Authority.
- (b) The Contractor must:
 - (i) at all times comply with, and ensure that each Driver, Bus Aide and Bus Warden complies with, the Safety Management Plan; and
 - (ii) upon the occurrence of an Accident, Near Miss or an Emergency, comply with, and ensure that each Driver and Bus Aide involved in, or affected by, the Accident, Near Miss or Emergency complies with, the relevant procedures described in the Emergency Plan and any direction issued by the Authority or the Co-ordinator.
- (c) The Contractor must prepare an Accident Report in respect of each Accident, and a Near Miss Report in respect of each Near Miss involving a Student or a School Bus, as soon as reasonably practicable after the relevant Accident or Near Miss and must keep and submit a copy of that report to the Authority in accordance with Schedule 11.
- (d) If either Party becomes aware of the existence of an Emergency, it must immediately advise the other Party of the existence and nature of the Emergency.
- (e) The Authority may at any time notify the Contractor that it must undertake certain action in relation to any matter concerning or impacting on safety in connection with performance of the Service, and the Contractor must promptly comply with any such notice.

SCHEDULE 7 - DRIVERS

PART 1 - REQUIREMENTS FOR DRIVERS

1. General Requirements

Unless otherwise agreed by the Authority, the Contractor must ensure that each Driver:

- (a) complies with all Legislative Requirements and holds all appropriate qualifications, permits and licences, including without limitation, holding an "F" class endorsement on their driver's licence;
- (b) holds a current basic first aid certificate from St John Ambulance Australia, or such other first aid qualification approved by the Authority;
- (c) has applied for, obtains and keeps current, an "assessment notice" under (and within the meaning of) the Working With Children (Criminal Record Checking) Act 2004, and provides documents satisfactory to the Authority, to evidence that fact;
- (d) is capable of doing the things which a Driver is required under this Contract to do;
- (e) keeps and maintains the Records that relate to such of the Service that is performed by the Driver;
- (f) whilst engaged in the provision of the Service, complies with the School Bus Drivers' Instructions.

2. Offences

The Contractor must inform the Authority (providing full details) immediately after it becomes aware of the matter, if any Driver:

- (a) ceases to hold any Governmental Authorisation in respect of, relating to, or required for the operation of the School Bus, including the driving of it, or any qualification, permit or licence notified by the Authority under item 1(a);
- (b) is charged with or convicted of committing any traffic offence whilst performing the Service; or
- (c) receives a "Negative Notice" or an "Interim Negative Notice" when applying for or renewing an assessment notice pursuant to the Working With Children (Criminal Record Checking) Act 2004.

The terms "Negative Notice" and "Interim Negative Notice" have the meaning given to those terms in the Working with Children (Criminal Record Checking) Act 2004.

PART 2 - SCHOOL BUS DRIVERS' INSTRUCTIONS

3. Drivers must:

- (a) comply with the requirements of the Code of Practice on Fatigue Management for Commercial Vehicle Drivers approved by the Minister as a code of practice under section 57 of the *Occupational and Safety and Health Act 1984* (WA) and with other requirements advised by the Authority from time to time;
- (b) deal with Students in accordance with the requirements set out or referred to in items 6 and 7 of Schedule 6;
- (c) maintain a neat, clean personal appearance and wear clothing with shoes or boots, and socks where appropriate, to maintain a reasonable standard of appearance;
- (d) regulate the speed of the School Bus to ensure the maximum safety and comfort of passengers and abide by all road traffic laws in force from time to time;
- (e) ensure that any escape doors on the School Bus remain unlocked whilst there are passengers on board;
- (f) ensure that whenever practicable, passengers are seated whilst the School Bus is in motion;

- (g) from time to time warn disembarking passengers of road and traffic dangers;
- (h) before crossing, stop the School Bus at railway crossings that do not have flashing lights and at intersections of main roads;
- (i) at the conclusion of every morning run and afternoon run, inspect the School Bus to ensure that all passengers have disembarked; and
- (j) comply with the provisions of the Safety Management Plan which are applicable to Drivers; and
- (k) untangle seat belts at the conclusion of every Morning Route and Afternoon Route.

4. Drivers must not:

- (a) use any profane or obscene language in the presence or hearing of any Student;
- (b) smoke while providing the Service;
- (c) be under the influence of any drugs, including liquor (as defined in the *Liquor Control Act 1988 (WA)*) and prescribed medications, but the Driver may take medication where the Contractor has advised the Authority of the fact that the Driver needs to take the medication and has provided to the Authority a medical certificate which demonstrates that the medication will not in any way impair the Driver's ability to perform the Service in accordance with the Contract;
- (d) consume liquor (as defined in the *Liquor Control Act 1988 (WA)*) within eight hours prior to, or during, the time at which the Driver provides the Service;
- (e) carry any firearms on the School Bus, nor objects of a heavy or bulky nature including fuel in containers other than the fuel tanks of the School Bus;
- (f) allow any doors to remain open whilst the School Bus is in motion;
- (g) leave the School Bus with Students on board whilst its engine is running, unless it is for the purpose of assisting a Student or their luggage on or off the School Bus, and a Bus Aide is on board;
- (h) permit the School Bus to proceed with the gears disengaged for a greater distance than is reasonable having regard to all of the circumstances;
- (i) open the doors of the School Bus to allow passengers to disembark if there is possible danger to those passengers from approaching vehicles;
- (j) permit luggage or other objects to be placed in the aisle of the School Bus or in front of any doors or emergency exits; and
- (k) permit passengers to:
 - (i) ride in a position so as to obstruct the Driver's view; or
 - (ii) ride on the steps or entry area of the School Bus.

SCHEDULE 8- BUS AIDES

PART 1 - REQUIREMENTS FOR BUS AIDES

1. General Requirements

Unless otherwise agreed by the Authority, the Contractor must ensure that each Bus Aide:

- (a) holds all appropriate qualifications, permits and licences;
- (b) holds a current senior first aid certificate from St John Ambulance Australia or such other first aid qualification approved by the Authority;
- (c) is capable of doing the things which a Bus Aide is required under this Contract to do;
- (d) has applied for, obtains and keeps current, an "assessment notice" under (and within the meaning of) the Working With Children (Criminal Record Checking) Act 2004, and provides documents satisfactory to the Authority to evidence that fact; and
- (e) performs and complies with the Bus Aide Duties.

2. Authority may require tests - Testing Notice

- (a) The Authority may, if its Managing Director, acting reasonably, considers it is necessary in order to ensure the safety or well-being of Students, notify the Contractor that the Authority requires a Bus Aide to undergo specified medical, psychological or psychiatric tests. The Authority's notice must be signed by the Managing Director personally. If the Authority gives notice in accordance with this item the Contractor must, subject to item 2(b), promptly take all reasonable steps to ensure that the Bus Aide:
 - (i) undergoes the tests specified in the notice; and
 - (ii) provides the results of the tests to the Managing Director.
- (b) The Authority will pay, or reimburse the Contractor or a Bus Aide for, the cost of any test the Managing Director requires be undertaken by the Bus Aide under this clause.

3. Offences

The Contractor must inform the Authority (providing full details) immediately after it becomes aware of the matter, if any Bus Aide:

- (a) ceases to hold any Governmental Authorisation in respect of, relating to, or required for the performance of the Bus Aide Duties, or any qualification, permit or licence notified by the Authority under item 1(a); or
- (b) receives a "Negative Notice" or an "Interim Negative Notice" when applying for or renewing an assessment notice pursuant to the Working With Children (Criminal Record Checking) Act 2004.

The terms "Negative Notice" and "Interim Negative Notice" have the meaning given to those terms in the Working With Children (Criminal Record Checking) Act 2004.

PART 2 - BUS AIDES DUTIES

4. Bus Aides must:

- (a) assist in the transfer of ambulant and wheelchair bound Students on and off the School Bus;
- (b) supervise Student behaviour on the School Bus to ensure safe and secure travel;
- (c) secure wheelchair and Student restraints in the appropriate manner;
- (d) attend to the individual needs of Students on the School Bus, including liaising with the Driver on issues relating to matters such as heating and cooling on the School Bus;

- (e) demonstrate a positive, caring and supportive attitude to Students at all times, including engaging Students in conversation during the trip where possible;
- (f) maintain a neat and clean appearance and wear clothing with shoes or boots, and socks where appropriate, to maintain a reasonable standard of appearance;
- (g) work co-operatively with the Driver to ensure the safe passage of Students for the duration of the journey; and
- (h) comply with the provisions of the Safety Management Plan which are applicable to Bus Aides.

5. Bus Aides must not:

- (a) use any profane or obscene language in the presence or hearing of any Student;
- (b) smoke while providing the Service;
- (c) be under the influence of any drugs, including liquor (as defined in the *Liquor Control Act 1988 (WA)*) and prescribed medications, but the Bus Aide may take medication where the Contractor has advised the Authority of the fact that the Bus Aide needs to take the medication and has provided to the Authority a medical certificate which demonstrates that the medication will not in any way impair the Bus Aide's ability to perform the Bus Aide Duties in accordance with this Contract; or
- (d) consume liquor (as defined in the *Liquor Control Act 1988 (WA)*) within eight hours prior to, or during, the time at which the Bus Aide performs the Bus Aide Duties.

SCHEDULE 9- BUS WARDENS

PART 1 - REQUIREMENTS FOR BUS WARDENS

1. General Requirements

Unless otherwise agreed by the Authority, the Contractor must ensure that each Bus Warden:

- (a) holds a current basic first aid certificate from St John Ambulance Australia, or such other first aid qualification approved by the Authority;
- (b) has applied for, obtains and keeps current, an assessment notice under the *Working with Children (Criminal Record Checking) Act 2004*, and provides documents satisfactory to the Authority to evidence that fact;
- (c) is capable of doing the things which a Bus Warden is required under this Contract to do;
- (d) keeps and maintains the Records that relate to such of the Service that is performed by the Bus Warden; and
- (e) performs and complies with the Bus Warden duties set out in Part 2 below.

2. Offences

The Contractor must inform the Authority (providing full details) immediately after it becomes aware of the matter, if any Bus Warden receives a 'Negative Notice' or an 'Interim Negative Notice' when applying for or renewing an "assessment notice" pursuant to the *Working with Children (Criminal Record Checking) Act 2004 (WA)*.

The terms "assessment notice", "Negative Notice" and "Interim Negative Notice" have the meaning given to those terms in the *Working With Children (Criminal Record Checking) Act 2004 (WA)*.

PART 2 - BUS WARDEN DUTIES

3. Positive Obligations

A Bus Warden must:

- (a) look after the Approved Students for parents and guardians;
- (b) help Approved Students to transfer to and from the bus safely;
- (c) notify by drivers of any passenger changes and make sure drivers are not distracted by the children;
- (d) monitor the efficiency of buses in respect to adherence to published timetables;
- (e) provide parents and guardians, where required, with relevant information concerning bus schedules;
- (f) provide support to Approved Student in the event an Approved Student fails to meet their bus connection;
- (g) provide appropriate assistance to passengers in emergency situations including liaison with emergency services and assist with operational issues involving evacuation;
- (h) provide information to Schools and parents and guardians where appropriate;
- (i) note and pass on to the Contractor, names of misbehaving children that may distract or interfere with the safe operation of the Transfer Point;
- (j) identify, observe and report any student behavioural issues by completing a Student Incident Report in the form specified by the Authority from time to time and in accordance with clause 6(b) of Schedule 6;

- (k) complete Transfer Point Incident Reports in the form specified by the Authority from time to time when an incident occurs;
- (l) conduct daily inspections of loading/transfer area and prepare weekly reports for submission to the Authority, addressing operation, safety and behavioural issues;
- (m) maintain a neat, clean personal appearance and wear protective clothing supplied by the Authority with shoes or boots, and socks where appropriate, to maintain a reasonable standard of appearance; and
- (n) comply with the provisions of the:
 - (i) Safety Management Plan and Emergency Plan which are applicable to Bus Wardens (including, without limitation, having the Authority supplied First Aid Kit available at the Transfer Point each day during the School Term); and
 - (ii) behaviour management guide and other induction materials supplied by the Authority under clause 6.3(e) of this Contract.

4. Negative Obligations

A Bus Warden must not:

- (a) use any profane or obscene language in the presence or hearing of any Student;
- (b) smoke while providing the Service;
- (c) be under the influence of any drugs, including liquor (as defined in the *Liquor Control Act 1988 (WA)*) and prescribed medications, but the Bus Warden may take medication where the Contractor has advised the Authority of the fact that the Bus Warden needs to take the medication and has provided to the Authority a medical certificate which demonstrates that the medication will not in any way impair the Bus Warden's ability to perform the Service in accordance with the Contract; or
- (d) consume liquor (as defined in the *Liquor Control Act 1988 (WA)*) within eight hours prior to, or during, the time at which the Bus Warden provides the Service.

5. Contractor Obligations

The Contractor must:

- (a) provide to the Authority, Student Incident Reports and Transfer Point Incident Reports delivered by the Bus Warden as soon as reasonably practicable after the occurrence of each incident the subject of the report;
- (b) liaise with appropriate school staff to resolve any incidents involving students reported by the Bus Warden to the Contractor (this cannot be delegated to the Bus Warden);
- (c) submit to the Authority a fortnightly report addressing any operational or general issues affecting the operation of the Transfer Point; and
- (d) maintain and, if required, replace any first aid kit supplied by the Authority for use at the Transfer Point.

SCHEDULE 10- SCHOOL BUS

PART 1 - GENERAL

1. New vehicle information

The Contractor must, prior to using any vehicle as the School Bus for the first time, notify the Authority of the following details in respect of the vehicle:

- (a) seating capacity;
- (b) registration number and vehicle identification number;
- (c) make;
- (d) model; and
- (e) any other details which the Authority (acting reasonably) notifies to the Contractor for the purposes of this item 1.

2. Documentation

The Contractor must ensure that at all times whilst providing the Service, the most current versions of the following documents are located on the School Bus and are known to, and accessible by, the Driver and the Bus Aide:

- (a) the Student Details;
- (b) the Emergency Plan; and
- (c) the Safety Management Plan.

3. School Bus standards and maintenance

Unless otherwise agreed in writing by the Authority, the Contractor must, at the Contractor's sole cost and expense:

- (a) ensure the School Bus is safe, roadworthy and clean;
- (b) where the School Bus is of a Class to which those specifications apply, ensure the School Bus complies in all respects with:
 - (i) the School Bus Specifications, and
 - (ii) where the Contractor is required to carry any Student who is in a wheelchair or requires a passenger restraint system, the Wheel Chair Specifications;
- (c) where the School Bus is of a Class to which those specifications apply, maintain the School Bus in the condition set out in the School Bus Specifications and, if applicable, the Wheel Chair Specifications;
- (d) maintain and service the School Bus in accordance with the School Bus manufacturer's recommended maintenance and service schedule; and
- (e) put in place a prudent and appropriate system of regular checking of the School Bus which incorporates such checks and procedures as are necessary or desirable to ensure that the School Bus meets the requirements of this item 3.

4. Repairs

- (a) The Authority may, from time to time, direct the Contractor to carry out such repairs to and maintenance of the School Bus which are reasonably necessary to ensure the safe performance of the Service.
- (b) Subject to item 4(c), the Contractor must immediately arrange for:
 - (i) any repairs to or maintenance of the School Bus as are necessary to enable the performance of the Contractor's Obligations, including replacement parts and components; and

- (ii) any repairs or maintenance that the Authority directs the Contractor to carry out under item 4(a).
- (c) If:
 - (i) the Authority issues a direction to the Contractor under item 4(a); and
 - (ii) the Contractor disputes that direction,
 the Contractor may notify the Authority of that fact and, if it does so, must provide to the Authority a written statement of an Approved Repairer that is not reasonably necessary for the Authority's direction to be carried out. If the Contractor gives notice and provides a written statement in respect of a direction of the Authority:
 - (iii) the Contractor must carry out the Authority's direction if the Authority notifies the Contractor that it still requires its direction to be carried out, but need not carry out the Authority's direction otherwise; and
 - (iv) if the Contractor complies with a notice by the Authority that it still requires its direction to be carried out and it eventuates that it was not reasonably necessary for the Authority's direction to be carried out, the Authority must bear the reasonable cost of the making of the repairs or undertaking the maintenance the subject of the Authority's direction.

For the purposes of this item, an "**Approved Repairer**" is, for any repairs or maintenance, a person listed or acknowledged by an industry body or other vehicle owner's representative body as an "approved repairer" for that type of repair or maintenance.

5. Additional equipment in School Bus

- (a) When requested by the Authority and at the Authority's expense, the Contractor must allow the Authority to install and maintain in the School Bus such additional equipment for or in connection with the Service as the Authority deems necessary.
- (b) The Authority must comply with all applicable Legislative Requirements when installing any equipment pursuant to this item 5.
- (c) When requested by the Authority, the Contractor must allow the Authority to remove from the School Bus the equipment referred to in item 5(a), and the Authority must make good any resulting damage to the School Bus.
- (d) The Authority may issue a notice requiring the Contractor to install and maintain in the School Bus such additional equipment for or in connection with the Service as the Authority deems necessary, and the Contractor must promptly comply with any such notice. The Authority will pay, or reimburse the Contractor for, the reasonable costs incurred by the Contractor in complying with a notice issued under this item 5(d).
- (e) Unless the Authority notifies the Contractor otherwise, all equipment installed in the School Bus pursuant to this clause is and will remain the property of the Authority.

6. Inspections

The Authority or any nominee of the Authority may:

- (a) at any time the School Bus is being used to provide the Service; or
 - (b) on any School Day between 7am and 6pm; or
 - (c) on any day other than a School Day, between 7am and 6pm and after giving prior notice (which need not be in writing) of at least 24 hours or such shorter period as the Contractor agrees,
- inspect the School Bus and may, for that purpose, access and ride the School Bus.

7. Submission of School Bus for inspection

The Authority may at any time, by notice to the Contractor of not less than 5 Business Days, require the Contractor to:

- (a) take the School Bus to a location reasonably specified by the Authority;

(b) at that place, submit the School Bus for inspection by the Authority or its nominee,

And the Contractor must comply with that notice.

8. Contractor to Provide Access

If the Authority wishes to inspect the School Bus in accordance with item 6 or 7, the Contractor must promptly provide proper and complete access to the School Bus, and any documents, records or other thing which this Contract requires the Contractor to keep on the School Bus. Without limiting this item 8, the Authority may request the Contractor's permission to drive the School Bus as part of inspecting it and the Contractor's permission in this regard may not be unreasonably withheld.

The Authority must take reasonable measures to exercise its rights under items 6 and 7 in a manner which causes minimal disruption to the performance of the Service by the Contractor.

9. Signage

The Contractor must ensure that all signage relating to the Service is removed from the School Bus when it ceases to be used for the purpose of providing the Service.

10. Actual Depot

The Contractor must provide the Authority with written details of the location at which the School Bus is usually kept while not performing the Service, including without limitation details of the type of any garaging arrangement or structure used. If that location changes, the Contractor must promptly notify the Authority and provide written details of the new location.

PART 2 - SCHOOL BUS SPECIFICATIONS

These specifications apply to A, B, C, D, F, G, H Class School Buses, and any other Classes to which the Authority from time to time determines.

Class A School Bus is a vehicle with a maximum seating capacity of 20 adult seats with a primary conversion of 27 or 24 adults with no primary conversion, with a service life of 10 years.

Class B School Bus is a vehicle with a seating capacity of 43 adults, with a service life of 15 years.

Class C School Bus is a vehicle with a seating capacity of 57 adults and a maximum of 83 primary students, with a service life of 15 years.

Class D School Bus is a vehicle with a maximum passenger seating capacity of 15 adults, with a service life of 10 years.

Classes of School Bus (4 Wheel Drive Vehicles)

Class F School Bus is a vehicle with a seating capacity of 17 adults and a maximum seating capacity of 21 primary students, with a service life of 15 years.

Class G School Bus is a vehicle with a seating capacity of 24 adults and a maximum seating capacity of 32 primary students, with a service life of 15 years.

Class H School Bus is a vehicle with a seating capacity of 34 adults and a maximum seating capacity of 49 primary students, with a service life of 15 years.

1. GENERAL

1.1 School Bus must be fit for use and licensable

Every vehicle used as a contract School Bus must be roadworthy, appropriate to the conditions under which it will be driven, comply with all applicable acts, Australian Standards, Australian Design Rules (ADRs), ISO Standards and all specifications set out below relevant to the particular vehicle and its safe operation, and be licensed or licensable for use in Western Australia. If there is any inconsistency between this specification and any applicable Act, Standard or ADR then the Act, Standard or ADR will prevail.

1.2 Seatbelts mandatory on new School Buses

All seats on new school buses must be ADR 68 compliant seats (i.e. passenger and driver seats), fitted with lap-sash seat belts of a type approved by the Authority.

1.3 Fire Suppression System

From 1 July, 2014 each Education Support Bus must have installed an engine fire suppression system approved by the Authority.

1.4 School Bus must be approved before use on Service

Prior to being used on a contract school bus service (Service), each School Bus must be inspected and approved by a vehicle inspector appointed by the Authority (PTA Inspector) as acceptable for use on the Service, and the Contractor will, at the Contractor's expense, make the School Bus available for inspection at a location nominated by the Authority.

1.5 Items may not be fitted to or removed from School Bus without Authority's Approval

No item, including any item classified as an accessory, may be fitted to or removed from a School Bus unless the Contractor has applied in writing to the Authority to have the item fitted or removed and the fitment or removal has been approved by a PTA Inspector.

1.6 Authority may amend Specification

The Authority reserves the right to amend this specification, and will give Contractors not less than 1 months' notice in writing if it does so, unless the amendment relates to a matter of safety such as to require immediate action, in which case the Authority may amend the specification and verbally advise Contractors of the amendment.

2. STANDARD SPECIFICATION OF SCHOOL BUS

2.1 Engine

The School Bus must be diesel powered.

2.2 Transmission

All School Buses purchased after 1 July 2010, may be fitted with an automatic or manual transmission.

2.3 Air Conditioning

All School Buses purchased after 1 July 2010, must be air conditioned.

2.4 Brakes

An audible warning device indicating low system vacuum/air must be fitted in addition to the requirements of any relevant ADR.

2.5 Wheels and Tyres

All wheels must be fitted with steel-belt radial-ply tyres of a load or ply rating not lower than that set by the manufacturer.

2.6 Colours and Markings

The School Bus must be painted with a high-grade baked enamel finish as follows:

- (a) all solid areas above the lower edge of the passenger compartment windows must be white;
- (b) all solid areas below the windows must be in a colour matching Readymix Orange and must be relieved by a strip painted in a colour matching Hawthorn Green not less than 50 mm and not greater than 150 mm in width running longitudinally around the vehicle.

2.7 Exterior Signage –All Decals to be UV Rated

- (a) Other than as provided in this item, no symbols or markings may be placed on the outside of the School Bus without the prior approval from the Authority.
- (b) The words 'SCHOOL BUS' and 'CAUTION' must be displayed in Hawthorn Green or black lettering mounted on a white background not less than 100 mm in height at the front and rear of the vehicle. The "CAUTION" must be located as high and as central as practical and the "SCHOOL BUS" must be central as low as practical on the white portion. **(Fig1&2)(c)**
Symbolic 'child crossing' signs must be positioned as far to the right as practicable and must also be displayed at the front and rear of the School Bus, and located in a position designated by a PTA Inspector. **(Fig 1&2)**

- (d) The Contractor's name, address and telephone number may be placed on the front right-hand side of the School Bus in Hawthorn Green or black letting provided the lettering is no more than 50 mm high.
- (e) A radio call sign may be placed on the rear right-hand side of the School Bus provided it is in black or white lettering no more than 100 mm high.
- (f) Disability access signs are permitted where required.
- (g) Internal top step must have 'Caution Step' sign in lettering not less than 25mm in size with durable perspex clear covering.
- (h) DO NOT OVERTAKE TURNING VEHICLE signage must be 400mm x 400mm square type. For class B, C, G and H vehicles. These signs must be mounted just above the rear bumper on the left and right hand sides of the vehicle. **(Fig 3)**
- (i) A100 SPEED LIMITED signage must be placed on or just above the rear bumper in a central position for vehicles fitted with speed limiter.



Fig 1

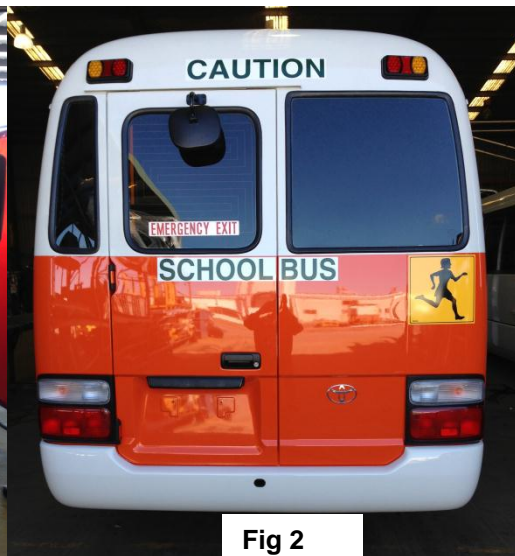


Fig 2



Fig 3

2.8 Passenger Service Doors

- (a) The School Bus may not have external plug type forward opening doors.

- (b) If the School Bus has seating capacity for more than 24 adult passengers, passenger entry door must have a door-sensitive safety edge.
- (c) All entry doors held in the closed position by air pressure or electrical means must have an external and internal visual release control to allow for manual opening in an emergency.
“D” class commuter to be fitted with auto entrance door
- (d) The release control must be located as close to the door as possible and be clearly labelled.
- (e) All entry doors located to the rear of the Driver must have an 'open position' audible warning device fitted to operate when the emergency brake is in the released position.
- (f) Door steps shall be guarded where there may be potential to fall through side gaps. (**Fig 4**)



Fig 4

2.9 Emergency Exits

All equipment supplied for the breaking of emergency glass windows must be securely attached to the School Bus and have audible warning devices fitted to warn the Driver if they are dislodged.

2.10 Fire Extinguisher

- (a) The School Bus must contain at least one efficient and operational fire extinguisher of a type approved by the Authority and conforming to AS 2444 (20B minimum rating, fitted with hose), which must be stored securely in an accessible location and its location notified by appropriate signage as designated by a PTA Inspector.
- (b) Fire extinguishers must be inspected in accordance with Australian Standards (AS 1851) and passed and date stamped by an organisation competent and authorised to provide appropriate certification.

2.11 First Aid Kits and Safety Triangles

The School Bus must contain a first aid kit or kits which comply with Australian Standards 2675-1983 Kit B and are stored in an enclosed cabinet displaying appropriate signage at the front of the bus.

Class A, D and F to have 2 First Aid Kits and 5 Safety Triangles

Class B, C, G and H to have 3 First Aid Kits and 6 Safety Triangles

Note: 1 Safety Triangle for each First Aid Kit to be placed with the First Aid Kits for B and C Class, the additional 3 Safety Triangles should be placed in the vehicle's Tool Box.

2.12 Electrical

Unless otherwise permitted by the Authority, the School Bus must be fitted with an audible reverse warning buzzer, and high-level roof-mounted clearance/stop and direction indicator lights, mounted as close as possible to the outside edge of the body.

2.13 External Roof Racks

The School Bus must not be fitted with external roof racks.

2.14 Under-floor Storage Bins

Under-floor storage bins are allowed provided that they do not affect gross vehicle mass or reduce the seating capacity of the School Bus.

2.15 Frontal Impact Protection Bars

Bull bars, Roo bars or Nudge bars must not be fitted to School Busses that service metropolitan Schools and associated routes. Permission to fit a bar for other services must be approved by the Authority.

2.16 Corrosion Prevention

All school busses purchased after 1 July 2014 must have corrosion/rust protection applied to the chassis and body.

2.17 Driver's View

Drivers Position

The driver must have adequate visible, audible and physical access to the passenger compartment for monitoring and interaction particularly in the case of an emergency within the cabin.

- (a) The Driver, when in his/her normal driving position, must have an adequate view of passenger access doors and approaches, including the first 2 windows to the rear of the entry door.
- (b) The vehicle must be fitted with suitably placed internal or external mirrors, including a convex mirror of a minimum size of 165 mm² to the front left-hand side.
- (c) The mirrors described in item 2.15(b) are additional to the mandatory driving mirrors.

2.18 Passenger Seats and Seatbelts

- (a) All passenger seats must face the direction of travel and be at least 300 mm wide and not able to be reclined.
- (b) Where seats are raised to allow for stepped floors no seat cushion height may exceed 150 mm above the seat cushion height of the seat directly in front.
- (c) If the School Bus is fitted with seatbelts for use by passengers, the seatbelts must be of a lap-sash type (ADR 68/00) with retractor approved by the Authority and fitted in accordance with all relevant ADRs.
- (d) If the School Bus is fitted with seatbelts for use by passengers, it must have an interior sign fitted that is visible to all passengers and which displays the words 'FASTEN SEATBELTS WHILST SEATED' (or similar) and the sign must:
 - (i) if fitted to a School Bus with seating capacity for more than 24 adult passengers, must be a flashing sign that flashes no more than 30 seconds after the door is closed; and
 - (ii) if fitted to a School Bus with seating capacity of up to 24 adult passengers, must be illuminated or made of a reflective material. (Fig 5)



Fig 5

2.19 Regulation Card

A card showing the rules for bus travel approved by the Authority must be prominently displayed in the School Bus in a card holder designed for that purpose.

2.20 Communications Equipment

- (a) The School Bus must be fitted with a functioning mobile telephone with 'hands-free' kit, two-way radio or equivalent communications device approved by the Authority, which must be switched on whenever students are being transported.
- (b) If the School Bus transports Students to education support facilities, it must have a functioning mobile telephone with 'hands-free' kit, which must be switched on whenever students are being transported.

2.21 Luggage Racks

- (a) If the School Bus has seating capacity for more than 24 adult passengers (excluding wheelchair buses) it may (optional) be fitted with luggage racks. **(Fig 6)**
- (b) Where luggage racks are fitted, the luggage racks must:
 - (i) extend as far as practicable along both sides of the School Bus from the front seat to the rear of the body;
 - (ii) have a minimum width of 450 mm with an aperture at least 200 mm wide;
 - (iii) have bars or lips along the edges and be closed at the front to prevent accidental dislodgment of school bags or other items, and have no sharp edges or corners and be fully enclosed; and
 - (iv) not have mesh racks.



Fig 6

2.22 Child Alarm

From 1 July 2013 all new School Buses must be fitted with a child alarm. The alarm must be an audible alarm that is hard wired into the vehicle where it must activate when the engine ignition switch is turned off. The alarm disabling switch must be located inside and at the rear of the vehicle in such a position that it requires the driver to walk along the aisle to the rear of the vehicle to activate the alarm disabling switch. There may be a delay of up to 30 seconds before the alarm sounds in order to provide time to conduct an inspection and disable the alarm.

The disabling switch can be either a button or a key configuration and must have a slight delay so that it can be deactivated by the driver before it goes off. The audible alarm can be either the vehicle horn or sound emitted from the child alarm. The audible alarm must be loud enough for a person to hear it from a distance of up to 10 metres and should, as a minimum, emit 95 decibels. Child alarms such as a Doran Sleeping Child Check Monitor or Ashley Group Child Alarm are considered suitable.

The operating procedure for the child alarm must be laminated and affixed in a location which is clearly visible by the driver to enable the driver to deactivate the alarm system.

PART 3 - WHEELCHAIR LIFT SPECIFICATIONS

These specifications apply to A Class, B Class, C Class and D Class School Buses, and any other Classes to which the Authority from time to time determines they apply.

1. Seating

- (a) Construction or alteration of a vehicle to carry wheelchairs and/or occupant restraint systems must provide the maximum normal seating compatible with the number of wheelchair and restraint positions required.
- (b) Seats and restrained wheelchairs must be facing in the direction of travel.

2. Wheelchair Lift

All work must be in accordance with:

- (a) AS 2942 "Wheelchair Occupant Restraint Assemblies for Motor Vehicles" and appended recommendations and guidelines;
- (b) the School Bus Specifications;
- (c) the Road Traffic (Vehicle Standards) Regulations 2002; and
- (d) the Road Traffic (Vehicle Standards) Rules 2002.
- (e) The operating system must have provision for manual operation in the event of failure of the primary functions.
- (f) Vehicles purpose built for the installation of a wheelchair lift must have a duplicate set of batteries secured and housed in a compartment with an access hatch.
- (g) The batteries must be identical and interchangeable with those supplied by the vehicle chassis manufacturer.
- (h) The duplicate battery set must be charged by the vehicle engine charging system through a commercially procurable battery isolating device designed for the purpose. This must be arranged in such a manner as not to affect the normal vehicle operation.

3. Notices

- (a) A notice must be displayed on the inside of the wheelchair lift door, printed clearly with all instructions for the safe use and operation of the lift and must include instructions for manual operation in even of failure of the primary operations.
- (b) The notice must be protected by a durable perspex covering.

4. Restraint Tracking

- (a) Heavy duty floor-mounted tracking, of a type approved by the Authority, is to be fitted to the full length of both sides of the passenger area of the vehicle in accordance with the tracking manufacturer's instructions.
- (b) The tracking must be compatible with the types of wheelchairs and restraint systems specified by the Authority for use on the vehicle.
- (c) Anchor points to be clearly marked on the tracking surface so as to allow wheelchair clear space requirements as specified in AS 2942.
- (d) The tracking to be clearly marked to allow correct seat spacing, as specified in the ADR, when normal seats are fitted.
- (e) As of 1 July 2013, all vehicles must be fitted with 17mm structural ply flooring.
- (f) Wheelchair access door to have a warning light and audible alarm that is activated when the wheel chair access door is opened while the park brake is disengaged.

SCHEDULE 11- RECORDS

1. Contractor to keep records

The Contractor must create and retain the following written records:

- (a) Accident and Near Miss Reports;
- (b) Emergency Plans;
- (c) Safety Management Plans;
- (d) Student Incident Reports;
- (e) details of the fares collected pursuant to clause 11;
- (f) details of the dates and nature of repair, service and maintenance work carried out on the School Bus;
- (g) the records referred to in clause 9.3(a) (adjustment at the end of School Term);
- (h) documentary evidence of the extent to which each Driver meets the requirements as to qualifications set out in items 1(a), 1(b) and 1(c) of Part 1 of Schedule 7; and
- (i) documentary evidence of the extent to which each Bus Aide meets the requirements as to qualifications set out in items 1(a), 1(b) and 1(d) of Part 1 of Schedule 8;
- (j) documentary evidence of the extent to which each Bus Warden meets the requirements as to qualifications as set out in items 1(a) and (b) of Part 1 of Schedule 9;
- (k) pay-roll records for all staff performing Service-related duties;
- (l) details of any costs incurred by the Contractor in or in connection with performing the Service or complying with the Contractor's Obligations which are not referred to above; and
- (m) any other records the Authority (acting reasonably) requires the Contractor to keep from time to time.

2. Retention of Records

The Contractor must retain the Records for a period of not less than 7 years from the date of the Record.

3. Student Attendance Register

If the School Bus is an Education Support Bus, the Contractor must:

- (a) on each School Day on which the Contractor provides the Service, record the names of Students who travelled on the School Bus that day;
- (b) submit to the Authority, in the form prescribed by the Authority, a report which sets out the names of Students who travelled on the School Bus each School Day during:
 - (i) each period of 4 weeks during a School Term; and
 - (ii) if the period from the end of a 4-week period referred to in item 3(b)(i) until the end of a School Term in less than 4 weeks, then that shorter period,

not less than 5 Business Days after the end of the relevant period.

4. Provision of Records to the Authority

The Contractor must provide the Record referred to in column A below to the Authority by the corresponding time referred to in column B below:

A	B
Adjustments at end of each School Term (clause 9.3)	No later than 10 Business Days after end of School Term
Proof of insurances (clause 16.3)	No later than 10 Business Days after a

	request by the Authority.
A	B
Confirm Narrative provided by Authority	Not later than 20 Business Days after the commencement of the Service and/or any change to the Service which affects the pick-up or drop off times for Approved Students.
Timetable (Schedule 6, item 4)	Not later than 20 Business Days after the commencement of the Service and/or any change to the Service which affects the pick-up or drop off times for Approved Students.
Safety Management Plan (Schedule 6, item 8)	Prepare or have in place before commencement of first School Term each year.
Student Incident Report - Those incidents reportable as specified in the Student Behaviour Management Guidelines (Schedule 6, item 6(b))	Within the time period specified in the Student Behaviour Management Guidelines.
Accident and Near Miss Reports (Schedule 6, item 8(c))	Within the time period specified in the Safety Management Plan after the occurrence of the Accident or Near Miss involving a Student or School Bus, that is the subject of the report.
Advice of Emergency (Schedule 6, item 8(d))	As soon as reasonably practicable after the Emergency.
School Bus maintenance records (Schedule 11, item 1(f))	Not later than 5 Business Days after a request by the Authority.
Documentary evidence of Drivers' compliance with the requirements of item 1(a), (b) & (c) of Schedule 7.	Not later than 5 Business Days after a request by the Authority.
Documentary evidence of any matter concerning a Driver referred to in item 2 of Schedule 7 (e.g. loss of licence, Negative Notice or Interim Negative Notice)	Immediately after Contractor is notified.
Documentary evidence of Bus Aides' compliance with the requirements of items 1(a), (b) & (d) of Part 1 of Schedule 8.	Not later than 5 Business Days after a request by the Authority.
Documentary evidence of any matter concerning a Bus Aide referred to in item 3 of Schedule 8 (e.g. Negative Notice or Interim Negative Notice).	Immediately after Contractor is notified.
Documentary evidence of Bus Warden's compliance with the requirements of items 1(a) & (b) of Part 1 of Schedule 9.	Not later than 5 Business Days after a request by the Authority.
Documentary evidence of any matter concerning a Bus Warden referred to in item 2 of Schedule 9 (e.g. Negative Notice or Interim Negative Notice).	Immediately after Contractor is notified.
Student Attendance Register (Schedule 11, item 3)	Not less than 5 Business Days after the end of the relevant period referred to in item 3(b) above.

A	B
Notify Authority if Option Trigger Event occurs (i.e. Insolvency Event in respect of Contractor, or if Security Interest is enforced over the Contractor's business or property by holder of Security Interest) (Clause 19.1(b)).	Immediately upon occurrence of Option Trigger Event.
Any other Records not referred to above.	Not later than 5 Business Days after a request by the Authority.

PART 2 - SECURED PARTY CONSENT DEED

By: *(insert name of secured party)* and

By: *(insert name of Contractor)*

For the benefit of: Public Transport Authority of Western Australia

(Insert name of secured party) (**Secured Party**), being the secured party in relation to a security interest registered on the Personal Property Securities Register under registration number *(insert = registration number)* (**Security Interest**), consents to the option to purchase (**Option**) the vehicle *[insert description of the vehicle]* (**Bus**) to be granted by *(Insert Name of Contractor)* (**Contractor**) to the Public Transport Authority of Western Australia (**Authority**) pursuant to the contract to provide school bus services, as to be varied and consolidated on and from 1 July 2013 by a deed of variation and consolidation substantially in the form attached (**Contract**) on the following terms:

- 1 The Security Party agrees that it will not, in exercising its rights under or in connection with the Security Interest, update, use, encumber, sell, transfer or otherwise deal with the Bus (or any interest in it) without first giving the Authority an option in writing to purchase the Bus on the terms and conditions set out in the Contract (except that references to 'Contractor' are replaced by 'Secured Party') (**Secured Party's Offer**).
- 2 The Authority may only accept the Secured Party's Offer by giving to the Secured Party the documents required to effect completion of the purchase within one month after the later of:
 - (a) receiving the Secured Party's Offer; and
 - (b) determination of the Market Value of the Bus by the Valuer,Or such extended period as may be agreed between the Authority and the Secured Party.
- 3 If the Authority does not accept the Secured Party's Offer in accordance with clause 2 above, then the Secured Party may operate, use, encumber, sell, transfer or otherwise deal with the Bus (or any interest in it).
- 4 In addition to the Authority's rights under paragraphs 1 to 3 above, if the Authority exercises its Option at any time pursuant to the terms of the Contract (the Contractor agrees it will promptly give notice of such exercise to the Secured Party), the Secured Party agrees that it will, promptly upon being informed of the Authority's exercise of the Option, release, in a manner satisfactory to the Authority, the Security Interest over the Bus, provided that the Contractor authorises and directs the Authority to pay the full amount of the Purchase Price (as defined in Schedule 1 of the Contract) directly to the Secured Party. The Secured Party acknowledges that any amount received from the Authority pursuant to this paragraph 4 will be applied to discharge any amounts owing by the Contractor to the Secured Party which are secured by the Bus ("**Secured Money**").

If, after the Secured Party applies, in accordance with this paragraph 4, all amounts received pursuant to this paragraph:

- (a) Secured Money is still owing by the Contractor to the Secured Party, those amounts will remain outstanding and payable by the Contractor pursuant to the applicable agreement between the Contractor and the Secured Party (but any such outstanding amounts will not affect any release of the Security Interest over the Bus); and
- (b) the amounts received by the Secured Party exceeds the Secured Money, the Secured Party agrees to immediately pay the excess amount to the Contractor.

Further, if and to the extent that the Option constitutes a security interest as defined in the *Personal Property Securities Act 2009 (Cth)* (**PPSA**) (a **security interest**) in the Bus, granted by the Contractor in favour of the Authority (**First Security**):

- (a) the Secured Party acknowledges and agrees that the First Security ranks in priority to the Security Interest; and

- (b) this document is an agreement to subordinate the Security Interest for the purposes of section 61 of the PPSA;
- (c) the subordination contained in this document is only for the benefit of the Authority, and not the Contractor or any person who is not the Authority; and
- (d) the Authority may exercise any power, right of remedy under or in respect of the First Security without notifying the Secured Party.

The order of priority set out above applies despite anything that, but for this paragraph, would affect that order of priority, including:

- (a) the fact that the Authority and/or the Secured Party has notice of the other's security interest;
- (b) the respective dates on which any secured money is advanced or becomes owing or payable;
- (c) the respective dates of creation, perfection or registration on any register of the security interests;
- (d) anything contained in any security agreement which the Authority or the Secured Party are a party to;
- (e) the grant by the Authority, the Secured Party or any other person of any time, waiver or other indulgence or concession;
- (f) the discharge or release of the Contractor or any other person, whether in whole or in part;
- (g) the failure by the Authority or a Secured Party to give notice to the other or the Contractor of any default by any person; or
- (h) any laches, acquiescence, delay, act, omission or mistake on the part of or suffered by the Authority, the Secured Party or any other person in relation to this document, any other security interest or any other document or agreement.

This document may be executed in counterparts.

This document is governed by the laws of the State of Western Australia.

Date:

EXECUTED as a deed.

EXECUTED for and on behalf of

(Name of Secured Party)

under a Power of Attorney dated and registered
in _____, and the
Attorney certifies that he/she is a
*and has not received notice of revocation of that
Power of Attorney, in the presence of:*

Signatory of Attorney

Name of Attorney

Witness *(Signature)*

Name *(Please print)*

Occupation

Address

The above execution block may need to be amended to suit the requirements of the Secured Party, which the Secured Party may elect to do in accordance with its own procedures provided that those procedures are satisfactory to provide for the valid execution of a deed. The important point is that this document must be signed by a person authorised to sign on behalf of the Secured Party in terms of the granting of the consent in a manner which provides for the valid execution of a deed.

(insert appropriate execution block for the Contractor)

SCHEDULE 13 – CONTRACT DETAILS

- Item 1: Name of Contractor:
ABN/ACN:**
- Item 2: Effective Date**
19 January 2004
- Item 3: Variation Date**
1 July 2013
- Item 4: Specified School Bus**
Vehicle Class:
Vehicle Registration Number:
Vehicle Identification Number (VIN):
Vehicle Model:
Vehicle Year of Manufacturer:
- Item 5: Contractor’s Address for Service**
<Insert details on physical address for the purpose of serving notices>
- Item 6: Type of Service**
This Contract is a
- Item 7: (a) Approved Depot**
- (b) Actual Depot**
- Item 8: Existing Contract**
1. **Contract Name:** <Contract Name> **Contract No:** <Contract Number>
Contract between the Authority and <Original Contracting Entity> (Original Contractor) (Effective Date 19 January 2004).
 2. **Novations and Variations**
 - 2.1 **Novations**
 - (a) Deed of Novation dated <date seal placed on deed> between the Authority and <Name of outgoing contractor> (Original Contractor) and <Name of incoming contractor> (New Contractor) (Effective Date Insert date)
<EXAMPLE>
 - 2.2 **Variations**
 - (a) Variations to the Contract as varied by the CRM Review Panel between 19 January 2004 and 30 June 2013.
 - (b) Deed of Variation and Consolidation dated <seal date> between the Authority and <Contractor’s name> (Variation Date 1 July 2013).
 3. **Variation Date:** 1 July 2013

Item 9: Office Equipment

The required office equipment and software are:

- (a) a telephone and associated connection;
- (b) a computer with internet connection which
 - (i) is compatible with Microsoft Outlook;
 - (ii) is able to receive and send e-mail attachments in Microsoft Word, Excel format, Rich Text format and Portable Document format (PDF);
 - (iii) is able to connect to the Authority's School Bus Service website and download documents.

Item 10: Renewal Date

1 July 2018 and, for each occasion that the Authority renews this Contract in accordance with its terms, every other fifth anniversary from the previous renewal date (i.e. 1 July 2023, 1 July 2028, 1 July 2032 etc).

VARIATION NUMBER:	<notice of variation number in register>
DATE OF ISSUE:	<effective date of variation>

SCHEDULE 14 – ROUTE MAP AND NARRATIVE

[See attachments hereunder]