
SCHOOL BUS SERVICE

TENDERED RATE MODEL CONTRACT

CONTRACT TO PROVIDE SCHOOL BUS SERVICE

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FORMAL INSTRUMENT OF AGREEMENT CONTRACT TO PROVIDE SCHOOL BUS SERVICE

This Formal Instrument of Agreement is included as an example only.

THIS CONTRACT is made on the day of 20.....

BETWEEN:

PUBLIC TRANSPORT AUTHORITY OF WESTERN AUSTRALIA, a body corporate established under the *Public Transport Authority Act 2003* (WA), of the Public Transport Centre, West Parade, Perth, Western Australia (PTA)

and

..... (Contractor)
of Example Only

BACKGROUND

The PTA is desirous that a service for the transport of approved students to and from approved schools (being the Service described in the Contract) should be performed, and has accepted a Tender lodged by the Contractor for the provision of the Service.

AGREEMENT

In consideration of the promises set out in the Tender and this Contract, the parties agree that:

- (a) Words, terms and expressions used in this Contract have the meanings respectively assigned to them in the General Conditions of Contract or elsewhere in the Contract.
- (b) The following documents comprise this Contract:
 - This Formal Instrument of Agreement;
 - The General Conditions of Contract;
 - The Schedules to the General Conditions of Contract.
- (c) In consideration of the promise by the PTA to pay the Contractor such amounts as may be due to the Contractor under this Contract at the times and in the manner set out in this Contract, the Contractor covenants with the PTA to provide the Service in accordance in all respects with the provisions of this Contract.
- (d) In consideration of the Contractor providing the Service, the PTA covenants with the Contractor to pay the Contractor such amounts as may be due to the Contractor under this Contract at the times and in the manner set out in this Contract and to observe any and all other obligations on its part contained in this Contract.

The Contractor agrees to commence providing the Service from the Commencement Date set out in Schedule 7 (Particulars of Items) of the General Conditions.

GENERAL CONDITIONS OF CONTRACT

CONTRACT TO PROVIDE SCHOOL BUS SERVICE

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GENERAL CONDITIONS OF CONTRACT

CONTRACT TO PROVIDE SCHOOL BUS SERVICE

1 DEFINITIONS, INTERPRETATION AND COMPLIANCE

1.1 Definitions

In this Contract, the following terms have the corresponding meanings, unless the context requires otherwise.

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| Accident | An event arising out of or in connection with or relating to the performance of the Contractor's Obligations that involves the death of any person, injury to any person, or the loss of or damage to the property of any person (including damage to the School Bus or any property of the Contractor). |
| Act | An Act of the Parliament of the Commonwealth or of the State, including any 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. |
| Afternoon Route | 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 PTA. |
| Alternative Vehicle | A vehicle, being a vehicle other than the School Bus, which is used by the Contractor to provide the Service in accordance with clause 7. |
| Annual Fixed Costs (AFC) | <p>The total annual fixed costs of providing the Service as tendered by the Contractor in its Tender.</p> <p>The fixed cost components are periodically reviewed and, where appropriate, adjusted by reference to the review/indexation mechanisms listed in the table included in Schedule 8 (Service Charge - Rates and Prices).</p> <p>The AFC is expressed in GST-inclusive Australian dollars per year.</p> |
| Approved Daily Kilometres (ADK) | <p>The distance approved by the PTA as the distance that would have to be travelled by the School Bus each School Day in order to:</p> <ul style="list-style-type: none"> ▪ provide the Service over the Approved Route (ie the Approved Route Distance); and ▪ travel to and from the Approved Route (ie the Unloaded Kilometres). <p>Initially, the ADK will have the same value as the Tendered Daily Kilometres (TDK), but may vary in the course of the Contract due to Approved Route Variations, including the addition or removal of Students.</p> <p>The ADK is expressed in kilometres per day.</p> |
| Approved Distance Variation | A variation in the distance of the Approved Route approved in writing by the PTA. |
| Approved Bus Aide | <p>A person nominated by the Contractor and approved by the PTA to perform the duties of a Bus Aide on the School Bus.</p> <p>A reference in this Contract to a Bus Aide is, unless the context requires otherwise, to an Approved Bus Aide.</p> |
| Approved Driver | <p>A person nominated by the Contractor and approved by the PTA to drive the School Bus.</p> <p>A reference in this Contract to a Driver is, unless the context requires otherwise, to an Approved Driver.</p> |

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| Approved Route | <p>The route approved by the PTA that would need to be travelled by the School Bus in order to provide the Service.</p> <p>The Approved Route usually consists of a Morning Route and an Afternoon Route, which may or may not be the same.</p> <p>The Approved Route is marked on a Route Map approved or varied by the PTA in accordance with clause 5.</p> |
| Approved Route Distance | <p>The total distance of the Approved Route, based on road centre line data or such other data or methodologies as may be appropriate and approved by the PTA, being the distance that would have to be travelled by the School Bus from the first Pick-up Location to the last Drop-off Location for both the Morning Route and the Afternoon Route.</p> <p>The Approved Route Distance is expressed in kilometres.</p> |
| Approved School | <p>A school at which Students travelling on the Service are dropped off and picked up, including any Government school (as defined in the <i>School Education Act 1999 (WA)</i>) and any other school marked and named on the Route Map as being on the Approved Route.</p> |
| Approved Student | <p>A student approved by the PTA to travel on the School Bus.</p> <p>A reference in this Contract to a Student is, unless the context requires otherwise, to an Approved Student.</p> |
| Bus Class | <p>A class used by the PTA to differentiate between types of vehicle used as school buses.</p> <p>The PTA may, but is not obliged to, classify the vehicles used as school buses according to size, mass, passenger seating capacities or such other vehicle characteristics as may be appropriate.</p> <p>The PTA may, from time to time, amend or vary the classes of school bus or the criteria used to classify them.</p> |
| Bus Storage Location | <p>The location or address at which the School Bus is normally stored when not in use.</p> |
| Business Day | <p>A day other than a Saturday, a Sunday or a Public Holiday.</p> |
| CEO | <p>The person who is, or is acting in the position of, the Chief Executive Officer of the PTA (whether or not the position which that person occupies is referred to as the 'Chief Executive Officer').</p> |
| Charter Work | <p>Use of the School Bus for a purpose other than the provision of the Service in return for monetary or in-kind payment.</p> |
| Commencement Date | <p>The date on which this Contract commences as set out in Schedule 7 (Particulars of Items).</p> |
| Confidential Information | <p>All knowledge, information, documents, reports, notes, memoranda and material relating to the Contract, whether recorded in writing or stored in electronic or machine readable form or otherwise.</p> |
| Contract | <p>The Formal Instrument of Agreement, these General Conditions and the Schedules.</p> |
| Contract Term | <p>The period of this Contract which:</p> <ul style="list-style-type: none"> (a) commences on the Commencement Date and expires on the Termination Date; or (b) if this Contract is terminated before the Termination Date, the period commencing on the Commencement Date and expiring on the date of termination. |
| Contractor | <p>The party described as the Contractor in the Formal Instrument of Agreement, including, to the extent permitted and/or required by law or</p> |

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| | context, the Contractor's personal representatives, successors and permitted assigns, employees, consultants, agents and invitees. |
| Contractor's Obligations | The covenants, agreements and obligations contained in this Contract (including, without limitation, the obligation to provide the Service) or which are imposed on the Contractor under an Act or Legislative Requirement. |
| Coordinator | <p>A person approved by the PTA to act as coordinator for the purposes of assisting with the coordination of contract school bus services and of whom the Contractor has been notified.</p> <p>The role of coordinator may be undertaken by the principal or employee of an Approved School or a person who has local knowledge of the community in which the Service is to be provided.</p> |
| Corporations Act | <i>Corporations Act 2001</i> (Cth) |
| Daily Variable Costs (DVC) | <p>The total daily variable costs of providing the Service as tendered by the Tenderer.</p> <p>The variable cost components are periodically indexed or reviewed and, where appropriate, adjusted by reference to specified review/indexation mechanisms listed in the table included in Schedule 8 (Service Charge - Rates and Prices).</p> <p>The DVC is expressed in GST-inclusive Australian dollars per day.</p> |
| Default | <p>It is a Default if any of the following occurs:</p> <ul style="list-style-type: none"> (a) the Contractor makes any material representation or gives any warranty to the PTA or an authorised representative of the PTA in relation to this Contract which is false or misleading when made or taken to be made; (b) the Contractor fails to maintain the School Bus, or fails to carry out any repairs to the School Bus when reasonably directed to do so by the PTA or an authorised representative of the PTA; (c) the Contractor provides Records, documents or other information to the PTA that are false, inaccurate or misleading in a material way; (d) any Government Authorisation required by the Contractor to provide the Service ceases to be effective; (e) an Insolvency Event in respect of the Contractor; (f) the Contractor commits a breach of contract or act of default not contemplated in this definition which has, in the opinion of the PTA, the potential to undermine the safety of the Service. |
| Department of Education and Training (DET) | The Department of Education and Training of Western Australia. |
| Distance Adjustment Amount (DAA) | A monetary amount by which the Contractor is determined to have been overpaid or underpaid during a School Term based on a situation where the total distance used by the PTA to calculate the daily rates for a School Term and the actual distance travelled by the School Bus in transporting Students to Approved Schools over a School Term varies by more than a nominated tolerance level (currently $\pm 5\%$). |
| Drop-off Location | <p>In respect of an Approved Student:</p> <ul style="list-style-type: none"> (a) the drop-off location specified in the Student Details for that Student; or (b) an alternative drop-off location of which the Contractor has been notified by the parent/carer of the Student which is, at the time the notice is given, a Pick-up Location or Drop-off Location for at least one other Approved Student. |

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| Emergency | The occurrence of, or imminent risk of the occurrence of, any Accident, including without limitation, the occurrence of a medical emergency involving the driver of, or a passenger on, the School Bus. |
| Fare Paying Students | Students required by the PTA to pay a fare in order to travel on the School Bus. |
| Fixed Costs Daily Rate | An amount determined as owed to the Contractor for each day the Service is provided in a year, based on: <ul style="list-style-type: none"> ▪ Annual Fixed Costs (AFC); and ▪ Number of School Days in the School Year. |
| General Conditions | These General Conditions of Contract. |
| Government Authorisation | Includes: <ul style="list-style-type: none"> (a) any consent, registration, filing, agreement, notarisaton, certificate, licence, approval, permit, authority or exemption under any Act or Legislative Requirements, or by or with a Government agency; and (b) any consent or authorisation regarded as given by a Government agency due to the expiration of the period specified by a statute within which the Government agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute. |
| GST | A goods and service tax or similar value added tax levied or imposed in Australia under or pursuant to the GST Act or a similar Act. |
| GST Act | <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth). |
| Insolvency Event | The happening of any of the following events in respect of the Contractor: <ul style="list-style-type: none"> (a) an application is made to a court for an order or an order is made that a body corporate be wound up; (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; (c) except to reconstruct or amalgamate whilst solvent on terms approved by the PTA, a body corporate enters into, or resolves 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; (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 whilst solvent on terms approved by the PTA or is otherwise wound up or dissolved; (e) a body corporate is or states that it is insolvent; (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; (g) a body corporate is or makes a statement from which it may be reasonably deduced by the PTA that the body corporate is, the subject of an event described in section 459C(2)(B) or section 585 of the Corporations Act; (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; (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; |

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| | (j) anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction. |
| Insurances | The insurances described in and conforming to the requirements contained in Schedule 5 (Particulars of Required Insurances). |
| Legislative Requirement | The requirements of any Act, regulation or by-law and any certificate, licence, consent, permit or requirement of any Government agency. |
| Minister | The Minister appointed by the State Government as responsible for the PTA or such person as may be exercising the powers of the Minister so appointed. |
| Morning Route | 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 PTA. |
| Narrative | The written description of the Approved Route, as approved by the PTA. |
| Order | A requirement to carry out an action in relation to the Service made by the PTA, the TLAO or a person authorised by the PTA. |
| Pick-up Location | In respect of an Approved Student: <ul style="list-style-type: none"> (a) the pick-up location specified in the Student Details for that Student; or (b) an alternative pick-up location of which the Contractor has been notified by the parent or carer of the Student which is, at the time the notice is given, a pick-up location or drop-off location for at least one other Approved Student. |
| Profit Margin (PM) | The percentage rate nominated by the Contractor in its Tender and accepted by the PTA as the profit margin to be paid to the Contractor for providing the Service. The profit margin is applied to the fixed and variable costs, and any route variation adjustment or ad hoc amounts. |
| Public Transport Authority (PTA) | The Public Transport Authority of Western Australia. |
| Recipient Created Tax Invoice (RCTI) | Has the same meaning as in the GST Act. |
| Records | The records the Contractor is obliged to create and maintain as set out in Schedule 3 (Records). |
| Request for Tender (RFT) | The Request for Tender issued in respect of this Contract. |
| Route Map | The map showing the route for the Service and the Approved Schools, as approved by the PTA. The Route Map is contained in Schedule 11 (Narrative and Route Map). |
| Route Variation Adjustment | A Route Variation Adjustment is applied when the Approved Daily Kilometres are more, or less, than the Tendered Daily Kilometres. The Route Variation Adjustment amount is calculated by subtracting the Tendered Daily Kilometres (TDK) from the Approved Daily Kilometres (ADK) and multiplying the result by the Route Variation Rate (RVR). |
| Route Variation Rate (RVR) | The rate used to calculate the Route Variation Adjustment amount in the event that the Approved Route is varied by the PTA and there is a consequential change in the distance required to be travelled in order to provide the Service. The RVR is calculated by dividing the indexed Daily Variable Costs (DVC) by the Tendered Daily Kilometres (TDK). |

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| Safety Management Plan | The safety management plan prepared by the Contractor in accordance with clause 10. |
| Schedule | A schedule to these General Conditions. |
| School Bus | The vehicle approved by the PTA for use in transporting Students on the Service as set out in Schedule 7 (Particulars of Items). |
| School Day | Any day on which an Approved School is open and requires the attendance of Students. |
| School Term | The school term as specified by DET. |
| School Year | The school year as specified by DET. |
| Service | The school bus service described in Schedule 6 (Scope of Service) to be performed by the Contractor under the terms of this Contract or, where the context requires, a part of the Service, including any and all incidental and ancillary services. |
| Service Charge | The total amount to be paid to the Contractor by the PTA under the Contract. |
| Service Life | The service life, whether measured in kilometres travelled, years or otherwise, which the PTA from time to time specifies for the vehicle used as the School Bus. |
| State | The State of Western Australia. |
| Student Details | The following information about a Student: <ul style="list-style-type: none"> (a) Name; (b) Date of birth; (c) Gender; (d) Residential and postal addresses; (e) Telephone, fax, email and other telecommunications numbers or addresses; (f) Name(s) of parent(s) or carer(s); (g) Medical or behavioural conditions; (h) Pick-up and Drop-off locations; (i) School or education support facility attended; (j) Days and times when travelling on the School Bus; (k) Such other information as the PTA may require to be recorded in respect of a Student. |
| Tax | A tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding, stamp duty or transaction duty, other than GST, that is or may be at any time assessed, levied, imposed or collected by a Government agency, including 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. |
| Tendered Daily Kilometres (TDK) | The total distance tendered as the distance to be travelled by the School Bus each School Day (ie for both the Morning Route and Afternoon Route) in order to: <ul style="list-style-type: none"> ▪ provide the Service over the Approved Route (ie the Approved Route Distance); and ▪ travel to and from the Approved Route (ie the Unloaded Kilometres). The TDK is used to calculate the Route Variation Rate (RVR) and the Variable Costs Daily Rate. The TDK is expressed in kilometres per day. |
| Termination Date | The date on which this Contract expires as set out in Schedule 7 |

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| | (Particulars of Items). |
| Terminus | The point at which the first student on the Approved Route is scheduled to be picked up from, and from which the Approved Route Distance is calculated. |
| Timetable | The most recent timetable prepared by the Contractor setting out the pick-up and drop-off times for all Students travelling on the Service, and the arrival and departure times at each Approved School, as approved by the PTA. |
| Transport Liaison & Administration Officer (TLAO) | The Transport Liaison & Administration Officer (TLAO) appointed by the PTA for the purpose of administering this Contract (whether or not the position which that person occupies is referred to as a TLAO). |
| Unloaded Kilometres | <p>The distance nominated by the Tenderer, and agreed with the PTA, as the distance that would have to be travelled by the School Bus:</p> <ul style="list-style-type: none"> ▪ from the Bus Storage Location to the first Pick-up Location (ie the Terminus) on the Approved Route; and ▪ from the last Drop-off Location on the Approved Route to the Bus Storage Location, <p>for both the Morning Route and the Afternoon Route.</p> <p>Distance changes resulting from an approved route variation which affects the unloaded section of a bus route will be determined using road centre line data or such other data or methodologies as may be appropriate and approved by the PTA.</p> <p>The Unloaded Kilometres distance is expressed in kilometres.</p> |
| Variable Costs Daily Rate | An amount determined as owed to the Contractor for each day the Service is provided in a year, based on the tendered Daily Variable Costs (DVC). |

1.2 Interpretation

In this Contract, unless the context otherwise requires:

- (a) headings and graphic formatting are for convenience only and are not intended to affect interpretation;
- (b) a reference to any thing, if appropriate to the context, may include a part of that thing;
- (c) a reference to any thing in the singular, if appropriate to the context, may refer to the plural, and vice versa;
- (d) nouns of non-specific gender such as Contractor, Coordinator and Transport Liaison and Administration Officer may, if appropriate to the context, have a masculine, feminine or neutral sense;
- (e) references to clauses, parties and schedules are references to clauses, parties and schedules of this Contract;
- (f) a reference to any clause includes its sub-clauses;
- (g) a reference to any statute, regulation, proclamation, order or by-law includes all statutes, regulations, proclamations, orders or by-laws varying, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, orders and by-laws issued under that statute;
- (h) a reference to any document includes any permitted amendment or supplement to, or permitted replacement or novation of, that document;
- (i) where an office, association, body or authority (constituted under statute or otherwise) ceases to exist and is reconstituted, or is renamed, or replaced or its powers or functions are transferred to any other office, association, body, or authority, a reference to that office, association, body or authority means the office, association, body or authority (as the case may be) established or constituted in its place or assuming its powers or functions;
- (j) references in this Contract to any party are references to that party and, if appropriate to the context, its successors and permitted assignees; and

- (k) where the consent or approval of any party is required for any act, matter or thing to be achieved, the requirement, in the absence of any express stipulation to the contrary, means the prior written consent or approval (as the case may be), which will not be unreasonably withheld and may be given subject to conditions which, where the consent or approval is given subject to conditions, must be reasonable.

1.3 Order of precedence

Where applicable, the order of precedence of interpretation of this Contract will be:

- (a) The Formal Instrument of Agreement;
- (b) Schedule 9 (Special Conditions of Contract);
- (c) Schedule 5 (Particulars of Required Insurances);
- (d) General Conditions;
- (e) Schedule 7 (Particulars of Items);
- (f) Other Schedules.

1.4 Compliance

The Contractor and any persons employed or contracted by the Contractor to assist in providing the Service must at all times and in all situations relating to the provision of the Service comply with, and ensure that all Drivers and Bus Aides comply with, all Acts and Legislative Requirements, including, without limiting the generality of this clause 1.4, the following:

- (a) *Road Traffic Act 1974 (WA)*;
- (b) *Motor Vehicle (Third Party Insurance) Act 1943 (WA)*;
- (c) *Occupational Safety and Health Act 1984 (WA)*;
- (d) *Workers Compensation and Rehabilitation Act 1981 (WA)*;
- (e) *Working with Children (Criminal Record Checking) Act 2004 (WA)*;
- (f) all regulations, by-laws and orders made under the above Acts or any other Act relevant to the provision of the Service; and
- (g) the lawful requirements of any public, local or other authority.

2 CONTRACTOR TO PROVIDE SERVICE

In consideration of the PTA paying the Service Charge and such other amounts as may be due to the Contractor under this Contract, the Contractor agrees to provide the Service for the Contract Term in accordance with the terms of this Contract and using the School Bus described in Schedule 7 (Particulars of Items).

3 ASSIGNMENT AND SUB-CONTRACTING

3.1 Contractor may not sub-contract Service

The Contractor may not sub-contract the whole of the Service.

3.2 Contractor may not sub-contract part of Service without consent

The Contractor may sub-contract a part of the Service, but only with the prior written consent of the PTA and only if no additional costs are incurred by the PTA.

3.3 Contractor may not assign Contract without consent

The Contractor may not assign this Contract or assign, mortgage, charge or encumber any of the monies payable under this Contract or any other benefit arising under the Contract without the prior written consent of the PTA, and for the purposes of this clause 3.3, where:

- (a) the Contractor is a corporation, any change in the beneficial shareholding of the issued shares of the Contractor; or
- (b) 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 written consent of the PTA.

3.4 Contractor may not assign rights without consent

The Contractor may not assign or transfer any of the Contractor's rights under this Contract or change the School Bus used for the purposes of this Contract without the prior written consent of the PTA.

3.5 PTA may charge administrative fee

If the PTA consents to any dealing with the Contract under this clause 3, it may charge the Contractor a reasonable fee in respect of any consequential or related administrative costs.

4 THE SERVICE**4.1 PTA to provide details of Service**

Prior to the commencement of the Service, the PTA will confirm with the Contractor details concerning the Approved Route, Approved Schools, Approved Students, Student Details, Pick-up and Drop-off Locations, and other information relating to the Service.

4.2 Description of Service

Unless otherwise allowed under this Contract, the Contractor must ensure that on each School Day during the Contract Term, a Driver (meaning, for the avoidance of doubt, an Approved Driver):

- (a) Prior to the commencement of school on each School Day:
 - (i) drives the School Bus over the Morning Route;
 - (ii) picks up all Approved Students waiting at their respective Pick-up Locations;
 - (iii) stops at each Approved School on the Morning Route to drop off the relevant Students not less than 10 minutes before the time that classes at each Approved School are scheduled to begin, or at such other time as is approved by the PTA;
 - (iv) drops off all other Students (if any) at their respective Drop-Off Locations; and
 - (v) checks the School Bus to ensure that all Students have disembarked;
- (b) At the end of school on each School Day:
 - (i) drives the School Bus over the Afternoon Route;
 - (ii) reports to the first Approved School on the Afternoon Route at the time school is scheduled to finish, picks up the relevant Students and departs from the Approved School within 10 minutes;
 - (iii) picks up the other Students (if any) waiting at their respective Pick-up Locations, in a timely manner; and
 - (iv) drops off all Students at their respective Drop-off Locations; and
 - (v) checks the School Bus to ensure that all Students have disembarked.

4.3 Service standards

Unless otherwise allowed under this Contract, the Contractor must provide the Service and fulfil the Contractor's Obligations:

- (a) safely, so as to ensure:
 - (i) the safe carriage, protection and security of Students, the Contractor's employees and others using or travelling on the Service; and
 - (ii) the safety of the general public;
- (b) in compliance, in all respects, with the provisions of this Contract; and
- (c) entirely at the Contractor's own risk.

4.4 Timetable and Narrative

No later than 28 days after the commencement of the Service, and after any change to the Service which affects the pick-up or drop-off times for Students, the Contractor must complete and submit to the PTA a Timetable and Narrative setting out the estimated times on each School Day that each Student will be picked up and dropped off, the Pick-up and Drop-off Locations for the Students and the arrival and departure times at the Approved Schools.

4.5 Driver to comply with Timetable

The Contractor must, in undertaking the activities referred to in clause 4.2, ensure that the Driver complies with the Timetable.

4.6 Driver to travel only where required

The Contractor must ensure that:

- (a) 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

- (b) 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 4.3 or clause 4.13.

4.7 Limited right to refuse to transport Students

Subject to clause 4.8, neither the Contractor nor a Driver may, without the prior consent of the PTA, refuse to carry an Approved Student on the School Bus.

4.8 Refusal to transport Student on safety grounds

If the Contractor or a 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/herself or any other person on the School Bus, the Contractor or Driver may:

- (a) 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
- (b) convey the Student to either the school attended by that Student or the Student's home, depending on what may be the most appropriate in the circumstances and taking into account the safety of the Student and other passengers,

and thereafter refuse to carry that Student on the School Bus unless otherwise directed in writing to do so by the PTA, and the PTA agrees that it will not direct the Contractor to transport a Student who has been the subject of action pursuant to this clause 4.8 unless and until the PTA is satisfied that appropriate behavioural management action has been taken with respect to the Student.

4.9 Contractor to notify PTA if action taken

The Contractor must immediately notify the PTA of any action taken by the Contractor or a Driver under clause 4.8 and the reasons for such action.

4.10 Approved passengers

The Contractor must ensure that, subject to clause 4.11, only the following classes of passenger are carried on the School Bus whilst it is being used to provide the Service:

- (a) Contractor, Drivers, Bus Aides;
- (b) Students;
- (c) Coordinator;
- (d) Employees or representatives of the PTA; and
- (e) Teachers or other staff from Approved Schools.

4.11 Other passengers

The Contractor may permit a person who does not come within one of the classes listed in clause 4.10 to travel on the School Bus whilst it is being used to provide the Service (including a person who is training to be a Driver or a Bus Aide and anyone wishing to observe the Contractor's operations for the purpose of acquiring the Contractor's business) if that person has:

- (a) a current Working with Children assessment notice or such other accreditation as may be required by law or by the PTA; and
- (b) been approved in writing by the PTA.

4.12 Failure to comply not necessarily breach of Contract

If the Contractor fails to comply strictly with the requirements of this clause 4, the PTA will not necessarily treat that failure as a breach of this Contract if the PTA is satisfied that:

- (a) the failure to comply was due to an act, circumstance or thing beyond the reasonable control of the Contractor and the Contractor used their best endeavours to comply with the requirements of this clause 4; or
- (b) it was otherwise reasonable in the circumstances for the Contractor to fail to comply.

4.13 Contractor not obliged if breach of Act would result

If this Contract appears to oblige the Contractor to take or not take some action, and the Contractor's compliance with such an obligation would result in the Contractor or an employee of the Contractor breaching an Act or a Legislative Requirement:

- (a) the Contractor is not obliged to take or not take the action – but only to the extent that such a breach would arise; and

- (b) the Contractor must advise the PTA as soon as reasonably practicable of the circumstances that gave rise to the need to make a decision to take or not take action.

5 VARIATIONS TO SERVICE AND CONTRACT

5.1 Variation to Service

The PTA may vary the Approved Route, Approved Schools, Approved Students, Student Details, Pick-up and Drop-off Locations, and other details relating to the Service:

- (a) by giving the Contractor notice in writing of the variation, with the variation to take effect no earlier than 5 Business Days from the date of the notice being given; or
- (b) in any case of Emergency or urgency, with immediate effect by telephoning the Contractor, such notice to be confirmed in writing within 5 Business Days; or
- (c) in any case affecting the transport of students to education support facilities, with immediate effect by telephoning the Contractor; and
- (d) the PTA will advise the Coordinator of any variation made under this clause 5.1.

5.2 Contractor to notify PTA and Coordinator of necessary variation

If the Contractor becomes aware, other than by way of notice from the PTA, that:

- (a) an Approved Student will no longer be travelling on the School Bus; or
- (b) the Approved Route is no longer appropriate in terms of the provision of the Service,

the Contractor must, as soon as reasonably practicable, notify the PTA and the Coordinator, providing details of the relevant circumstance and of any variation to the Approved Route which the Contractor considers is necessary – and the PTA may, but need not, make or confirm a variation in respect of a Contractor's notice given under this clause 5.2, but must act reasonably in considering whether to do so.

5.3 Variations to pick-up and drop-off times

If a variation under clause 5.1 or clause 5.2 affects the pick-up or drop-off times of any Student, the Contractor must:

- (a) promptly advise the parents or carers of each Student affected by the variation to the pick-up or drop-off times; and
- (b) no later than 28 days after the variation, submit a revised version of the Narrative and Timetable to the PTA.

5.4 Approved Distance Variation

If the PTA varies the Approved Route and there is a consequential Approved Distance Variation, a Route Variation Adjustment will be applied using the Route Variation Rate determined in accordance with the formula set out in Schedule 8 (Service Charge - Rates and Prices).

5.5 Variation to Daily Rate

The PTA will apply any change in the Variable Costs Daily Rate arising as a result of an Approved Distance Variation within 2 pay periods from the date the variation to the Service is approved.

5.6 Variation to Contract

The PTA may vary the conditions of this Contract or any part of it by giving reasonable notice in writing to the Contractor, provided that any alteration to any rate tendered by the Contractor and/or any additional expense incurred by the Contractor as a result of any contractual variation are agreed to by the PTA and the Contractor.

5.7 Variation relating to safety

If a variation to the conditions of the Contract or a part of the Contract pertains to safety, the PTA may give notice with immediate effect by telephoning the Contractor, such notice to be confirmed in writing within 5 Business Days.

5.8 Contract continues despite variation

A variation to the Service will not nullify or necessarily terminate this Contract and no variation may be made by the Contractor without the approval of the PTA.

6 FARES

6.1 Fare Paying Students

Subject to clause 6.2, the PTA may from time to time notify the Contractor that certain Students are required to pay a fare in order to travel on the School Bus (Fare Paying Students).

6.2 Limits on who may be required to pay fares

The PTA may:

- (a) only give a notice under clause 6.1 in respect of a Student whose Pick-up Location is in an area which the PTA has determined is a public transport area; but
- (b) not give a notice under clause 6.1 if the Service is one which exclusively transports Students to education support facilities.

6.3 Fare collection equipment

The PTA will provide the Contractor with any equipment necessary for the collection and ticketing of fares, and will cover the cost of installation and removal of any such equipment.

6.4 Fares

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 PTA from time to time and been issued a valid ticket.

6.5 Driver to collect from Fare Paying Students only

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

6.6 Fares held on trust

All fares collected by the Driver must be held by the Contractor on trust for the PTA until paid, or accounted for, to the PTA in such manner and at such times as may be specified in writing by the PTA from time to time.

6.7 Payment for collection of fares

If the PTA notifies the Contractor that fares must be collected from Fare Paying Students and fares are collected from Fare Paying Students, the Contractor will be paid an amount in accordance with the formula set out in Schedule 8 (Service Charge - Rates and Prices).

7 THE SCHOOL BUS

7.1 Service to be provided using specified School Bus

Other than as allowed under this clause 7, the Contractor must provide the Service using the School Bus specified in Schedule 7 (Particulars of Items).

7.2 Contractor to provide School Bus

The Contractor must provide the School Bus, and if the Contractor wishes to grant a charge or other security over the School Bus during any part of the Contract Term, the Contractor must ensure the party intending to take the charge or security executes a consent to an option granting the PTA a right to purchase the School Bus, and such consent must be substantially in the form set out in Schedule 4 (Option to purchase School Bus).

7.3 Service Life of School Bus

Unless the PTA agrees otherwise, and subject to this clause 7, the Contractor must use the School Bus to provide the Service for the Service Life specified by the PTA.

7.4 Vehicle maintenance

The Contractor must ensure that:

- (a) the School Bus is safe, roadworthy and clean, and maintained in that condition to the satisfaction of the PTA; and
- (b) the Driver carries out the maintenance schedule set out in Schedule 2 (Operation of School Bus).

7.5 Vehicle inspection

The School Bus will be subject to random inspections by persons authorised by the PTA, and the Contractor must ensure that any person authorised by the PTA to carry out such inspections is given reasonable and unrestricted access to the School Bus.

7.6 Time and notice of inspection

An inspection of the School Bus under item 7.5 may be undertaken:

- (a) on any School Day between 7.00 am and 6.00 pm;
- (b) at any time the School Bus is being used to provide the Service; or

- (c) between 7.00 am and 6.00 pm on any day other than a School Day, provided that the PTA has given the Contractor prior notice of at least 24 hours of the intention to conduct an inspection, or such shorter period as the Contractor agrees.

7.7 Alternative Vehicle

The Contractor will be deemed to have complied with clause 7.1 if the Contractor uses a vehicle other than the School Bus (Alternative Vehicle) to provide the Service in accordance with clause 7.9 or clause 7.10, but only for so long as the PTA consents to the Contractor using any such Alternative Vehicle.

7.8 Vehicle compliance with required specification

The Contractor must, when using the School Bus, ensure the requirements of Schedule 1 (Specification of School Bus) are met, and, if using an Alternative Vehicle to provide the Service, must ensure it complies with so much of the requirements of that Schedule as is reasonably practicable.

7.9 Use of Alternative Vehicle

If the Specified School Bus does not comply with any provision of this Contract or any requirement of the PTA, is unserviceable or if for any other reason the Contractor is unable to use the Specified School Bus to provide the Service, the Contractor must, at the Contractor's sole cost and expense and with the prior consent of the PTA, use an Alternative Vehicle to provide the Service or make other arrangements for the performance of the Contractor's Obligations.

7.10 Use of Alternative Vehicle in Emergency

In an Emergency, the Contractor may, without the PTA's prior consent, use an Alternative Vehicle to provide the Service, provided that the Contractor informs the PTA or the Coordinator that an Alternative Vehicle is being or has been used to provide the Service as soon as possible after the Alternative Vehicle is first used to provide the Service, and in any event within 24 hours of the Emergency occurring.

7.11 PTA may order cessation of use of vehicle

If the PTA notifies the Contractor that the School Bus or an Alternative Vehicle may not be used to provide the Service, the Contractor must immediately cease using the vehicle to provide the Service.

7.12 Additional equipment in School Bus

The PTA 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 PTA deems necessary, and if the PTA does issue such a notice:

- (a) the Contractor must promptly comply with the notice and allow the PTA to install and maintain in the School Bus such additional equipment for or in connection with the Service as the PTA deems necessary;
- (b) the PTA will comply with all applicable Legislative Requirements when installing any equipment pursuant to this clause 7.12;
- (c) the PTA will pay, or reimburse the Contractor for, the reasonable costs incurred by the Contractor in complying with a notice issued under this clause 7.12;
- (d) unless the PTA notifies the Contractor otherwise in writing, all equipment installed in the School Bus pursuant to this clause 7.12 is and will remain the property of the PTA; and
- (e) when requested by the PTA, the Contractor must allow the PTA to remove from the School Bus the equipment installed pursuant to this clause 7.12, and the PTA must make good any resulting damage to the School Bus.

7.13 Decommissioning of School Bus

Subsequent to the expiry or termination of this Contract, the PTA may, by giving notice in writing, require the Contractor to decommission any vehicle used as a School Bus, and the Contractor must, within 3 months of receiving the notice, decommission the vehicle to the PTA's satisfaction, where decommissioning may include the re-painting of the School Bus or parts of it or the removal of colouring, symbols, marks or insignia associated with the PTA or contract school bus services.

7.14 Extent and cost of decommissioning

If the PTA directs a Contractor to decommission a School Bus under clause 7.13, the PTA will provide the Contractor with detailed written instructions as to what is required to decommission the vehicle, and will determine by negotiation with the Contractor an appropriate contribution to the costs of decommissioning.

8 DRIVERS AND BUS AIDES

8.1 Supply of Drivers

Unless otherwise agreed by the PTA, the Contractor must:

- (a) employ, supervise 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 PTA advised of the names of all Drivers; and
- (c) ensure all Drivers comply with the provisions of Schedule 2 (Operation of School Bus).

8.2 Supply of Bus Aides

If the PTA directs the Contractor to employ a Bus Aide, the Contractor must engage a suitable person to carry out the duties of Bus Aide on the School Bus, and:

- (a) employ, supervise and be solely responsible for, so far as permitted by law, all Bus Aides necessary for the Contractor to fully and properly perform the Service;
- (b) keep the PTA advised of the names of all Bus Aides; and
- (c) ensure that all employees of the Contractor comply with the provisions of Schedule 2 (Operation of School Bus).

8.3 Need for Bus Aide

If the Contractor has engaged a person to carry out the duties of a Bus Aide on the School Bus and there is at any time no longer a need for the person to carry out those duties, the Contractor:

- (a) may cease using the Bus Aide with the prior approval of the PTA; or
- (b) must cease using the Bus Aide if the PTA so directs.

8.4 Renegotiation of tendered rates

If a Bus Aide is engaged or ceases to be engaged after the commencement of this Contract, the Contractor and the PTA will renegotiate the rates used to determine the Service Charge, and in doing so will take into account the requirements set out in clause 9.

8.5 Removal of Driver or Bus Aide

The PTA may, at any time or times, by giving notice to the Contractor require the Contractor to remove any Driver or Bus Aide from performing any part of the Service if:

- (a) the PTA reasonably believes that the continued performance by the Driver or the Bus Aide constitutes a risk to the safety or well-being of the Students or employees of the Contractor or any other person; and
- (b) at the same time as or prior to notifying the Contractor, the PTA:
 - (i) provides written reasons why it wishes the Driver or the Bus Aide to be removed; or
 - (ii) 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 the Driver or Bus Aide, or a Student or an employee of the Contractor.

8.6 Contractor must comply with PTA notice to remove Driver or Bus Aide

If the PTA gives notice that it requires the Contractor to remove a person as a Driver or a Bus Aide, the Contractor must not, from the time the Contractor receives or is deemed to have received the PTA's notice, without the PTA's prior written consent:

- (a) if the Driver or Bus Aide is the Contractor, perform the Service, or any service similar to the Service which the Contractor provides to the PTA; or
- (b) if the Driver or Bus Aide 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 PTA.

8.7 Claim by Driver or Bus Aide

Subject to clause 0, if a Driver or a Bus Aide makes or brings a claim against the Contractor in respect of the Contractor's compliance with a notice given by the PTA under clause 0, the PTA will indemnify the Contractor for any amount:

- (a) the Contractor agrees to pay to the Driver or Bus Aide in order to settle the claim; or

- (b) a court requires the Contractor to pay by way of compensation in favour of the Driver or Bus Aide in respect of that claim.

8.8 Limited indemnity

The indemnity in clause 0 will not apply unless the Contractor:

- (a) notifies the PTA as soon as the Contractor receives notice of the claim;
- (b) provides the PTA with all such documents, information and assistance as the PTA reasonably requests in connection with the claim;
- (c) uses reasonable endeavours in good faith to defend the claim; and
- (d) does not offer or agree to settle or compromise the claim without the prior consent of the PTA.

9 MINIMUM STANDARDS AND CONDITIONS OF EMPLOYMENT

9.1 Remuneration and terms of employment

To the extent the Contractor's employees are engaged in the performance of the Service, the remuneration and terms of employment of each employee for the Contract Term must be consistent with the remuneration and terms of employment that reflect any industry standard expressed in any award, agreement or code of practice that may apply to the relevant industry.

9.2 Remuneration and terms of employment of sub-contractors

Subject to clause 3, if the Contractor enters into any sub-contract in relation to the performance of any part of the Service, the Contractor must ensure that it is a term of the sub-contract that the remuneration and terms of employment of any employee employed by the sub-contractor for the performance of the sub-contract are, for the duration of the sub-contract, the remuneration and terms of employment that reflect any industry standard expressed in any award, agreement or code of practice that may apply to the relevant industry.

10 EMERGENCY PLANNING, SAFETY AND ACCIDENTS

10.1 Safety Management Plan and emergency plan

Prior to the commencement of the Service, the Contractor must have:

- (a) a written Safety Management Plan relevant to the Service; and
- (b) a written emergency plan describing procedures to be followed in the event of an emergency, and which contains the following information:
 - (i) descriptions and locations of alternative vehicles for the School Bus, and contact details for organising the delivery or pick up of those alternative vehicles;
 - (ii) and contact details of substitute Drivers and Bus Aides;
 - (iii) description of contingency plans for the provision of the Service;
 - (iv) contact details for local emergency services;
 - (v) business and after hours contact details for the Approved Schools and the Coordinator;
 - (vi) a description of the responsibilities of Drivers, and, where relevant, Bus Aides, which must include a statement that, in the event of an emergency, Drivers and Bus Aides are responsible for the safety of passengers and must, if necessary, render first aid, call emergency services and take such other steps as are reasonable to ensure the safety of passengers; and
 - (vii) procedures to be followed in the event of an emergency, including, but not limited to, procedures for dealing with fires on the School Bus, traffic accidents involving the School Bus and medical emergencies involving passengers,

and must, during the Contract Term, maintain and, where appropriate, update the Safety Management Plan and emergency plan.

10.2 Contractor must provide copy of plans on request

The Contractor must provide the PTA with a copy of the Safety Management Plan and emergency plan required under clause 10.1 on request.

10.3 Contractor must ensure compliance

The Contractor must:

- (a) at all times comply with, and ensure that each Driver and Bus Aide complies with, the

requirements of the Safety Management Plan referred to in clause 10.1; and

- (b) upon the occurrence of an accident or an emergency, comply with, and ensure that any Driver or Bus Aide involved in, or affected by, an accident or emergency complies with, the relevant procedures described in the emergency plan and any directions issued by the PTA or the Coordinator.

10.4 Accident and incident reports

The Contractor must prepare a report in respect of each accident and incident as soon as reasonably practicable after the relevant accident or incident and must keep a copy of that report and submit a copy to the PTA.

10.5 Advice of emergency

If either the Contractor or the PTA, or an employee of either party, becomes aware of the existence of an emergency, or realises that there is the possibility of an emergency arising, it/they must immediately advise the other party of the existence and nature of the emergency.

10.6 PTA may order action

The PTA may at any time notify the Contractor that the Contractor must undertake certain action in relation to any matter concerning or impacting on safety in connection with the provision of the Service, and if the notice specifies that the matter is one relating to safety then the Contractor must promptly comply and undertake the specified action.

11 RECORDS

11.1 Records

The Contractor must create, maintain and, where required, provide the Records referred to in Schedule 3 (Records) or otherwise specified in this Contract.

11.2 Provision of Records to PTA

Without limiting any other obligation of the Contractor under this Contract to make Records available, the Contractor must, upon being given 5 Business Days' notice by the PTA, make available for audit or inspection by any person nominated by the PTA:

- (a) all Records; and
- (b) any other records which the Contractor from time to time holds or maintains in connection with the provision of the Service.

12 CONFIDENTIALITY

The Contractor must ensure that any and all Confidential Information is kept confidential and is not used or disclosed by the Contractor or any person under the Contractor's control for any purpose other than the performance of this Contract, the provision of the Service or in compliance with applicable laws.

13 EQUIPMENT AND TRAINING

13.1 Office equipment

The Contractor must acquire and maintain, or obtain access to, such office equipment and ancillary items as are necessary for administration and communication purposes relating to the Service, including those items specified in Schedule 6 (Scope of Service).

13.2 Additional office equipment

The PTA may by notice in writing require the Contractor to acquire and maintain, or obtain access to, office equipment different from or additional to the items specified in Schedule 6 (Scope of Service) and, if the PTA requires the Contractor to acquire additional office equipment in accordance with this clause 13.2, the PTA will determine by negotiation with the Contractor an appropriate contribution to the costs incurred by the Contractor in complying with the PTA's requirements.

13.3 Training

The PTA may from time to time notify the Contractor that it requires the Contractor, a Driver or a Bus Aide to undergo training relevant to the Service and additional to any training the Contractor is obliged to provide under this Contract, and if the PTA issues a notice under this clause 13.3:

- (a) the Contractor, Drivers and/or Bus Aides described in the PTA's notice must attend all training referred to in the notice, but no Contractor, Driver or Bus Aide will be required to attend training on a day which is not a School Day, unless they agree to do so; and
- (b) the PTA will use reasonable endeavours to provide the Contractor with as much notice as possible of any requirement for training which is to be the subject of a notice under this clause 13.3 and will provide at least 28 days notice of any requirement for training, unless the subject of the training relates to safety in which case the notice may be 7 days.

13.4 Costs of training

If the PTA issues a notice under clause 13.3 requiring the Contractor, a Driver or a Bus Aide to attend training, it will:

- (a) pay the Contractor an amount equal to the number of persons required by the PTA to attend the training multiplied by the number of hours those persons actually attended the required training (or a minimum of 4 hours, whichever is the greater) multiplied by the dollar per hour rate specified in the *Clerks (Accountants' Employees) Award (WA)* for a casual adult worker Senior Clerk; and
- (b) pay the reasonable costs incurred by the Contractor, Driver and/or Bus Aide in attending the required training, including expenses relating to travel and accommodation directly incurred by them as a result of their attending the training; and
- (c) pay the Contractor an additional amount for profit based on the amounts and costs described in clause 13.4(a) and clause 13.4(b) and the Profit Margin; but
- (d) the payment of any amount pursuant to this clause 13.4 is subject to the PTA's acceptance of the claimed costs as reasonable and directly related to the required training and the Contractor providing appropriate written evidence of the costs incurred.

13.5 No Obligation to provide training

Other than training which is the subject of a notice given under clause 13.3, the PTA is not obliged:

- (a) to require the Contractor, a Driver or a Bus Aide to attend training;
- (b) to provide training for the Contractor, a Driver or a Bus Aide; or
- (c) to pay for training undertaken by the Contractor, a Driver or a Bus Aide.

14 CHARTER WORK

14.1 Charter Work

Subject to the Contractor providing the Service in accordance with clause 4 to the satisfaction of the PTA, the Contractor may use the School Bus for Charter Work.

14.2 PTA may order cessation of Charter Work

The PTA may, if it considers that safety or the satisfactory provision of the Service is being, or is likely to be, jeopardised by the use of the School Bus for Charter Work, give the Contractor notice in writing requiring the Contractor not to use the School Bus for Charter Work, and the Contractor must cease using the School Bus for Charter Work within 5 Business Days of the date of such a notice being given and thereafter not use the School Bus for Charter Work without the written approval of the PTA.

15 PAYMENT FOR THE SERVICE

15.1 Service Charge

In consideration of the Contractor's performance of its obligations under this Contract, the PTA will pay to the Contractor the Service Charge and such other amounts as may be due to the Contractor under this Contract in accordance with this Contract and the formulae set out in Schedule 8 (Service Charge - Rates and Prices).

15.2 Payment subject to Contractor providing evidence

Where, under the terms of this Contract, the PTA is obliged to pay or reimburse the Contractor for any costs or expenses incurred by the Contractor, the PTA is not so obliged to pay or reimburse the Contractor for any amount unless and until the Contractor has provided the PTA with such written evidence (eg quotation, invoice, receipt, distance recordings) as the PTA reasonably requires in order to verify the amount claimed by the Contractor.

15.3 Overpayment

If the PTA for any reason overpays the Contractor, the PTA may, by giving not less than 7 days

notice, recoup the overpayment by deducting equal amounts from the 3 payments next due after the PTA becomes aware of the overpayment. The parties may agree to the overpayment being recovered over some other period and this clause 15.3 does not preclude the PTA from demanding and recovering the overpayment in any other manner if it cannot be recovered in full by deduction as provided for in this clause 15.3.

15.4 Deduction of monies due

The PTA may deduct from monies due to the Contractor under this clause 15 any monies due from the Contractor to the PTA under this Contract or on any other account.

15.5 Contractor must record Service-related information

The Contractor must, for each School Day on which the Service is performed, record such information as the PTA specifies for the purposes of this clause 15 in connection with:

- (a) the Approved Route or the number of kilometres driven by the School Bus in performing, or in connection with performing, the Service;
- (b) if there is a Bus Aide, the extent to which the Bus Aide travels on the School Bus in terms of distance and time; and
- (c) any other matter reasonably specified by the PTA.

15.6 Service distance

Not later than 5 Business Days after the end of each School Term, the Contractor may prepare and submit to the PTA a statement, in a form specified by the PTA, of the distance actually travelled by the School Bus during the School Term in providing the Service.

15.7 Distance Adjustment Amount

If the Contractor lodges a statement pursuant to clause 15.6, the PTA will, on the basis of the Contractor's statement and such other information as it may acquire, calculate a Distance Adjustment Amount for the School Term as follows:

- (a) If the total distance travelled by the School Bus in providing the Service is more than 5 per cent greater than the total of distances used by the PTA to calculate the Service Charge for the School Term, the PTA will calculate and pay a Distance Adjustment Amount to the Contractor in accordance with the method set out in Schedule 8 (Service Charge - Rates and Prices) within 3 pay periods from the date the Contractor lodges its statement pursuant to clause 15.6;
- (b) If the total distance travelled by the School Bus in providing the Service is less than 95 per cent of the total of distances used by the PTA to calculate the Service Charge for the School Term, the PTA will calculate a Distance Adjustment Amount in accordance with the method set out in Schedule 8 (Service Charge - Rates and Prices) and deduct that Distance Adjustment Amount from subsequent Service Charge payments to the Contractor in such amounts and over such period of time as the PTA determines is reasonable in the circumstances.

15.8 Payment of Distance Adjustment Amount

If the PTA cannot comply with clause 15.7 because there are no further payments of the Service Charge due to be made under the Contract, the PTA must notify the Contractor of the Distance Adjustment Amount as soon as reasonably practicable after the amount is determined, and:

- (a) where clause 15.7(a) applies, the PTA must pay the relevant Distance Adjustment Amount to the Contractor within 6 weeks of the PTA determining the amount; or
- (b) where clause 15.7(b) applies, the Contractor must pay the relevant Distance Adjustment Amount to the PTA not later than the time at which the PTA notifies the Contractor that it is owed, and the PTA agrees that it will act reasonably in determining the time or times at or by which the amount owing must be paid.

15.9 Accuracy and completeness of Contractor's statements

If the Contractor lodges a statement for a School Term pursuant to clause 15.6, the Contractor will be taken to warrant to the PTA that the contents of that statement are accurate and complete.

15.10 Contractor's warranty

If the Contractor does not lodge a statement for a School Term in accordance with clause 15.6 the Contractor will be taken to warrant to the PTA that the Contractor was not underpaid or overpaid during the School Term, and the PTA will not be obliged to make any payment to the Contractor pursuant to clause 15.6 for that School Term.

15.11 Untruthful warranty

The PTA acknowledges and agrees that the only consequences of a warranty made under clause 15.9 or clause 15.10 being untrue when made or taken to be made by the Contractor are as provided for in clause 15.12.

15.12 Consequences of untruthful warranty

If the PTA at any time reasonably determines that a warranty made by the Contractor pursuant to clause 15.9 or clause 15.10 was untrue when made or taken to be made and the Contractor knew that the warranty was untrue, the PTA may calculate or recalculate the relevant adjustment amount for that School Term using any information the PTA has and notify the Contractor of the amount of any overpayment, and the Contractor must repay that amount to the PTA within such time as the PTA specifies, and a Default will be deemed to have occurred.

16 GST AND INVOICES

16.1 Supply exclusive of GST

Unless expressly included, the consideration for the supply of any good or service under this Contract (Supply) does not include GST.

16.2 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.

16.3 Contractor's registration for GST

The Contractor acknowledges that, if the Contractor is required to be registered for GST under the GST Law, it is so registered and will advise the PTA if it ceases to be registered.

16.4 PTA's registration for GST

The PTA acknowledges that it is registered for GST under the GST Law and will advise the Contractor if it ceases to be so registered.

16.5 Recipient Created Tax Invoices

With the Contractor's agreement, the PTA will, subject to the requirements of the Australian Tax Office (ATO), produce Recipient Created Tax Invoices (RCTIs) on behalf of the Contractor.

16.6 Payment on Recipient Created Tax Invoices

If the Contractor elects to have the PTA produce RCTIs on the Contractor's behalf, the PTA will pay the amount due under this Contract fortnightly in arrears into a bank or financial institution account nominated by the Contractor.

16.7 Payment on Contractor's invoice

If the Contractor is not eligible for, or cannot be paid by way of, RCTIs, the Contractor must, no more frequently than once per 4 weeks, provide the PTA with appropriate tax invoices for the amounts due to the Contractor under this Contract, and the PTA will, subject to verification of the amounts due, pay upon receipt of such invoices as soon as reasonably practicable.

17 TRUSTEE CONTRACTOR

17.1 Trustee Contractor

If the Contractor enters this Contract as trustee of a trust, whether or not the PTA is aware of that fact, the Contractor acknowledges that it does so both for itself and as trustee of the trust, and each reference in this Contract to the Contractor has effect as a reference to the Contractor in each capacity.

17.2 Trustee Contractor's warranties

If the Contractor enters this Contract as trustee of a trust, the Contractor warrants to the PTA that:

- (a) the Contractor is the only trustee of the trust or, if the Contractor is not the only trustee, the Contractor has provided the details for each and every party who is a trustee of the trust;
- (b) no action has been taken or proposed to remove the Contractor as trustee of the trust;
- (c) any trust deed or other document relating to the trust produced to the PTA discloses all the terms of the trust;
- (d) the Contractor has power under the trust deed to enter into the Contract and the Contractor has entered into the Contract for the benefit of the beneficiaries of the trust;

- (e) the Contractor has a right to be fully indemnified from the assets of the trust in respect of obligations incurred under the Contract;
- (f) the assets of the trust are sufficient to satisfy the Contractor's right of indemnity and all other obligations in respect of which the Contractor has a right to be indemnified out of those assets;
- (g) the Contractor is not in default under the trust deed;
- (h) no action has been taken or is proposed to be taken to terminate the trust;
- (i) the Contractor has complied with the Contractor's obligations in connection with the trust; and
- (j) the PTA's rights under the Contract rank in priority to the interests of the beneficiaries of the trust.

17.3 Trustee Contractor's right to indemnity

If the Contractor enters this Contract as trustee of a trust, the Contractor must:

- (a) at the PTA's request, exercise the Contractor's right to indemnity from the assets of the trust and from the beneficiaries of the trust in respect of obligations incurred by the Contractor under the Contract; and
- (b) comply with the Contractor's obligations as trustee of the trust.

17.4 Trustee Contractor and the trust

If the Contractor enters this Contract as trustee of a trust, the Contractor must not, without the consent of the PTA, do anything which:

- (a) effects the retirement, removal or replacement of the Contractor as trustee of the trust;
- (b) could restrict the Contractor's right of indemnity from the assets of the trust in respect of obligations incurred by the Contractor under the Contract;
- (c) could restrict the ability of the Contractor to comply with the Contractor's obligation under the Contract; or
- (d) effects a variation of the trust deed, the termination of the trust or the resettlement of the trust.

17.5 Contractor to keep PTA informed

The Contractor must, for the duration of the Contract, keep the PTA informed of any and all relevant changes to their business, including, but not limited to, changes in the legal status of the business; their GST, Australian Business Number (ABN), and Australian Company Number (ACN) status, registration and details; and the names and details of all persons and/or legal entities involved in the Contract.

18 BUY LOCAL COMMITMENTS

18.1 Contractor warrants to meet commitments

The Contractor warrants that it will meet in full any and all commitments given in Schedule 10 (Schedule of Buy Local Commitments).

18.2 Contractor may be required to produce information

At any time during the Contract Term, the Contractor may be required to provide the PTA with information confirming the Contractor's compliance with the commitments given in Schedule 10 (Schedule of Buy Local Commitments).

18.3 Contractor may be required to explain

If the information provided by the Contractor under clause 18.2 indicates that full compliance with the Buy Local Policy commitments may not be achieved, the Contractor must submit to the PTA details of how it proposes to achieve full compliance with its obligations.

18.4 Failure by the Contractor to achieve full compliance

Failure by the Contractor to achieve full compliance may, at the discretion of the PTA, render the Contractor liable to the PTA for damages up to the value of, as applicable:

- (a) any commitments made in relation to Western Australian local content but not met;
- (b) any price preference granted by the PTA in its evaluation of the Tender in relation to commitments made in relation to regional business and regional content but not met; and/or
- (c) the price impost which would have been imposed in evaluating the Tender in relation to imported goods used above the limit committed.

19 FUEL TAX CREDIT SYSTEM

19.1 Fuel tax credit system

The Contractor acknowledges that the PTA has brought to the Contractor's attention the potential relevance of the Commonwealth Government's Fuel Tax Credit System (FTCS) and the *Fuel Tax Act 2006* (Cth) to the Contractor's business, and that the PTA will take the FTCS into account in calculating the amounts to be paid to the Contractor under this Contract, including, where appropriate, the reduction of the amount to be paid to the Contractor in accordance with the Fuel Tax Credit System (FTCS) and the *Fuel Tax Act 2006* (Cth).

19.2 Contractor's responsibility

It is the responsibility of the Contractor to consider their eligibility for and entitlements under the FTCS and the *Fuel Tax Act 2006* (Cth), and to take any steps to register with, or apply to, the Australian Tax Office.

20 INDEMNITIES AND EXCLUSIONS

20.1 Contractor to indemnify the PTA

Except to the extent caused or contributed to by:

- (a) the negligence of the PTA or its employees;
- (b) any defect in the design, manufacture, condition or installation of any equipment installed in the School Bus by the PTA in accordance with Schedule 1 (Specification of School Bus); 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 PTA indemnified from and against all and every claim (being a claim, demand or cause of action) for loss, damage, cost, expense or liability arising from any of the following:

- (i) any injury to, or the death of, any person, other than a person who suffers injury or death whilst exercising the rights of the PTA under clause 7.5;
- (ii) any damage to, or destruction or loss of the property of any person;
- (iii) any default under this Contract;
- (iv) any default of a Driver or a Bus Aide;
- (v) an event or circumstance arising from the Contractor's providing the Service, including Claims by any person against the PTA in respect of personal loss, damage, injury, or death and loss of or damage to any property;
- (vi) any dangerous circumstance created or contributed to, directly or indirectly, by the Contractor, a Driver or Bus Aide;
- (vii) the use of, or failure of, any defective School Bus;
- (viii) the engagement of any unsuitable Driver or Bus Aide;
- (ix) the unauthorised or unlawful use by any Driver or Bus Aide of any Confidential Information;
- (x) any breach of any of the Contractor's representations and warranties contained in this Contract.

20.2 Rights not lessened by Contractor's indemnity

This clause 20 does not lessen or otherwise affect the Contractor's or the PTA's other rights and obligations under this Contract or at law.

20.3 Indemnities survive termination of Contract

The indemnities in this clause 20 survive the expiry or termination of this Contract.

21 INSURANCES

21.1 Contractor must obtain, maintain and comply with Insurances

The Contractor must obtain, maintain and comply with the Insurances set out in Schedule 5 (Particulars of Required Insurances).

21.2 Contractor may obtain and maintain additional Insurances

Requirements in respect of the Insurances do not limit the Contractor's other liabilities under this Contract or prohibit the Contractor from insuring for sums or risks greater than those set out in Schedule 5 (Particulars of Required Insurances).

21.3 PTA insurance

The PTA makes no representation or warranty that any insurance obtained by the PTA to cover the Contractor or any other person or any of the Insurances will be adequate to cover all or any aspects of the risks associated with this Contract.

21.4 Contractor must report potential claims

The Contractor must inform the PTA of any event which does or could potentially give rise to a claim under the Insurances, in accordance with the following:

- (a) an event which, but for the intervention of some fortuitous occurrence, would have given rise to a claim is to be treated as if it were an event which could potentially give rise to a claim;
- (b) the Contractor must give immediate verbal notice to the PTA Transport Liaison and Administration Officer (TLAO), and follow up that notice with a detailed written notice to the PTA, to be given within 2 days of the occurrence of the event;
- (c) the Contractor must comply with all applicable requirements of the relevant Insurance policy in respect of the event and any claim;
- (d) the Contractor must provide the PTA with further reports in relation to the claim without delay and do such other things as may be reasonably required by the PTA from time to time.

22 CONTRACTOR TO ADVISE THE PTA OF ANY BREACH OF LAW

The Contractor must advise the PTA immediately if, during the Contract Term:

- (a) a Driver ceases to hold a valid driving licence or a required class of driving licence or a required endorsement on their licence;
- (b) the Contractor, a Driver or a Bus Aide ceases to hold any licence or certification required in respect of the Service or required under this Contract, the *Transport Co-ordination Act 1966 (WA)* or the *Road Traffic Act 1974 (WA)*;
- (c) the Contractor, a Driver, a Bus Aide or any other employee or associate of the Contractor involved in the provision of the Service is convicted of or charged with any criminal or major traffic offence; or
- (d) the Contractor, a Driver, a Bus Aide or any other employee or associate of the Contractor involved in the provision of the Service receives a 'Negative Notice' or an 'Interim Negative Notice' when applying for a Working with Children Check pursuant to the *Working with Children (Criminal Record Checking) Act 2004 (WA)*.

23 AUDITS AND PERFORMANCE REVIEWS

23.1 PTA may audit

The PTA may conduct or arrange for audits during the Contract Term with a view to ensuring that all contractual obligations and Service-related requirements are being complied with, including, without limitation, any which relate to the following:

- (a) Buy Local Commitments made by the Contractor;
- (b) Minimum Standards and Conditions of Employment referred to in clause 9;
- (c) Requirements outlined in Schedule 1 (Specification of School Bus);
- (d) Vehicle maintenance;
- (e) Conduct and standards of the Contractor and persons employed by the Contractor to assist in providing the Service;
- (f) Management of health and safety issues;
- (g) Currency of the insurances outlined in Schedule 5 (Particulars of Required Insurances).

23.2 PTA may determine timing and extent of audit

Audits may be conducted regularly or on an ad hoc basis, as determined by the PTA, and may include auditing of the Service performed by the Contractor or any aspect of the Service performed by an employee, subcontractor, supplier, consultant or agent of the Contractor.

23.3 PTA may require interview of Driver or Bus Aide

The PTA may, by giving the Contractor no less than 1 Business Day's notice, require the Contractor to make available for interview by the PTA or an authorised representative of the PTA, any Driver or Bus Aide.

23.4 Contractor must make Driver or Bus Aide available for interview

If the PTA gives the Contractor notice under clause 23.3, the Contractor must, within the period of time specified in the notice, make the nominated Driver or Bus Aide available for interview by the PTA or an authorised representative of the PTA and must take all reasonable steps to ensure that all Drivers and Bus Aides cooperate with and provide to the PTA all information that the PTA may require.

23.5 Contractor may be present at Interview

The Contractor has the right to be present, or to have a representative present, at any meeting or interview between the PTA and a Driver or Bus Aide in relation to this Contract.

23.6 Authorised observers

Any person authorised in writing by the PTA to act as an 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 and the conduct of Drivers and Bus Aides.

23.7 Natural justice

If the PTA exercises its rights under clause 23.6 and the authorised observer provides the PTA with a written report or notes in respect of his/her observation, the PTA will not take any action on the basis of the report or notes unless it relates to a matter of safety or the PTA has:

- (a) provided a copy of the report or notes to the Contractor; and
- (b) the Contractor has been allowed a reasonable opportunity to respond to the report or notes.

24 FAILURE TO PERFORM

If the Contractor fails or neglects to observe or comply with any condition of this Contract or fails to perform any of the Contractor's Obligations and does not provide the PTA with a satisfactory explanation for such failure or neglect then the PTA may at its option:

- (a) retain any moneys due to the Contractor, until the Contractor observes, performs or complies with the condition; or
- (b) terminate this Contract by giving notice in writing to the Contractor in accordance with clause 25.

25 DEFAULT AND TERMINATION

25.1 Termination by Contractor

If the Contractor wishes to terminate this Contract, the Contractor must give the PTA 6 calendar months notice in writing, or such shorter period as the parties may agree.

25.2 Termination by PTA without cause

If the PTA wishes to terminate this Contract, it must give to the Contractor 6 calendar months notice in writing, or such shorter period as the parties may agree.

25.3 Termination by PTA on conviction of Contractor

If the Contractor is convicted of any criminal offence or fails to comply with the requirements of clause 22, the PTA may terminate this Contract immediately by giving notice in writing to the Contractor.

25.4 Default

It is a Default if any of the following occurs:

- (a) the Contractor makes any material representation or gives any warranty to the PTA or an authorised representative of the PTA in relation to this Contract which is false or misleading when made or taken to be made;
- (b) the Contractor fails to maintain the School Bus, or fails to carry out any repairs to the

School Bus, when reasonably directed to do so by the PTA or an authorised representative of the PTA;

- (c) the Contractor provides Records, documents or other information to the PTA that are false, inaccurate or misleading in a material way;
- (d) any Legislative Requirement or Government Authorisation required by the Contractor to provide the Service ceases to be effective;
- (e) an Insolvency Event occurs in respect of the Contractor; or
- (f) the Contractor commits a breach of contract or default (whether by act or omission) not contemplated in this definition which has, in the opinion of the PTA, the potential to undermine the safety of the Service.

25.5 Termination by PTA on Default

In addition to the right set out in clause 25.3, the PTA may terminate this Contract by serving on the Contractor a notice to that effect if:

- (a) a Default has occurred and the PTA reasonably determines that there is an immediate risk to the safety or well-being of a Student or any other person;
- (b) a Default other than of the kind referred to in clause 25.5(a) has occurred and the Contractor has received a written notice from the PTA describing the Default and requesting that it be remedied but which has not been remedied by the Contractor to the reasonable satisfaction of the PTA within the time specified in the PTA's notice (which will not be less than 7 Business Days);
- (c) the Contractor has been issued with more than 2 notices of Default in accordance with clause 25.5(b), whether or not the Defaults which were the subject of those notices were subsequently remedied by the Contractor; or
- (d) the Contractor, for any reason, withdraws or refuses to provide the Service in circumstances where this Contract requires them to be provided.

25.6 Effect of notice of termination

If the PTA issues a notice in accordance with clause 25.5 this Contract will be terminated at and from the time specified in the PTA's notice without prejudice to any rights acquired by either party under this Contract prior to the termination.

26 OPTION TO PURCHASE BUS

26.1 Limited application of this clause

This clause 26 only applies where the Contractor is the owner of the School Bus.

26.2 Definitions

For the purposes of this clause 26:

'School Bus' means the vehicle that is, at the date of exercise of the Option, owned and used by the Contractor to provide the Service under this Contract.

'Option' means the option granted by the Contractor to the PTA in clause 26.3.

'Option Notice' means a notice substantially in the form set out in Schedule 4 (Option to purchase School Bus).

'Option Trigger Event' means:

- (a) an Insolvency Event occurs in respect of the Contractor; or
- (b) the Contract is terminated by the PTA or the Contractor before the expiry of the term of that Contract.

'Purchase Price' means the market value of the School Bus, as determined by the Valuer.

'Valuer' means the Office of the Valuer General of Western Australia or a person nominated by the Valuer General.

26.3 Option to purchase School Bus

The Contractor grants to the PTA:

- (a) an option to purchase the School Bus, which may be exercised by the PTA if an Insolvency Event occurs in respect of the Contractor; and, separately and distinctly,
- (b) an option to purchase the School Bus used to provide the Service under this Contract, where the Contract is terminated by the PTA or the Contractor before the expiry of the Contract Term.

26.4 Exercise of Option by PTA

The PTA may exercise the Option by giving an Option Notice to the Contractor at any time after an Option Trigger Event occurs.

26.5 Effect of exercise of Option

If the PTA exercises the Option in accordance with clause 26.3:

- (a) the Contractor is bound to sell to the PTA or the PTA's nominee, and the PTA or its nominee is bound to purchase the School Bus from the Contractor for the Purchase Price; and
- (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 29 in this Contract; and
 - (ii) one month after the date the Valuer has determined the Purchase Price.

26.6 Valuer to determine Purchase Price

The Purchase Price is to be determined by the Valuer.

26.7 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 PTA buys the School Bus on terms and conditions as are usual in a sale of vehicles of the type required by the PTA 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.

26.8 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.

26.9 Contractor's obligations in relation to Option

Until the Option is exercised by the PTA, 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 1 (Specification of School Bus).

26.10 Contractor not to deal with School Bus

Until the Option is exercised, 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 time of completion of the sale of the School Bus to the PTA or its nominee pursuant to the exercise of the Option;
- (b) unless the Contractor complies with clause 26.11, create any encumbrance over the School Bus that cannot be discharged in full at the time of completion of the sale of the School Bus to the PTA or its nominee; or
- (c) grant an option over the School Bus which is inconsistent with the Option.

26.11 Contractor to obtain consent of mortgagee/chargee

On or before the commencement date and at any time during the Contract Term when the contractor changes financiers, the Contractor must, at its own cost, obtain the consent of any party (if any) which has taken or intends taking a charge or other security over the School Bus, and the consent must be substantially in the form set out in Schedule 4 (Option to purchase School Bus).

26.12 PTA's right to access to and use of depots

If the PTA exercises the Option granted to it under clause 26.3, the Contractor agrees to provide to the PTA 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.

26.13 PTA's right binds subsequent owners

The right to access and use set out in clause 26.12 binds any subsequent owners of the depots, storage locations or facilities, or any new controllers of the trustee companies (if any) that own the depots, storage locations or facilities.

26.14 Valuer may determine fair commercial charges

The Valuer may determine what 'fair commercial charges' are for the purposes of clause 26.12 if the PTA and the Contractor cannot agree on the charges.

26.15 Valuer's costs

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

27 DISPUTE RESOLUTION

27.1 Parties must use reasonable endeavours to settle disputes

If any dispute arises between the PTA or an authorised representative of the PTA and the Contractor as to any matter arising out of this Contract, the Contractor and the PTA must, in good faith and by discussion and negotiation, endeavour to settle the dispute reasonably within 14 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.

27.2 Independent mediation

If the dispute is not resolved within the period in clause 27.1, the parties must endeavour to settle the dispute by independent mediation.

27.3 Appointment of independent mediator

If a mediator is not jointly appointed within 7 days of the end of the period in clause 27.1, 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.

27.4 Commencement of proceedings

If the dispute is not resolved within 21 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.

27.5 Obligations to be performed

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

27.6 Clause survives termination of Contract

This clause 27 survives termination of this Contract.

28 GENERAL

28.1 Contractor's representations and warranties

The Contractor represents and warrants that:

- (a) the Contractor has the necessary resources, experience, expertise and capacity to provide the Service;
- (b) the Contractor has full power and authority to enter into this Contract and to perform the Contractor's Obligations;
- (c) the Contractor has taken or will take all necessary action to authorise the execution, delivery and performance of this Contract in accordance with its provisions;
- (d) this Contract sets out 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;
- (e) except as expressly disclosed in writing to the PTA, the Contractor is not entering this Contract as the trustee of any trust or for and on behalf of any other person; and
- (f) the execution, delivery and performance by the Contractor of this Contract do not and will not violate any encumbrance or document that is binding on the Contractor or any of the Contractor's assets.

28.2 PTA reliant on Contractor's representations and warranties

The Contractor acknowledges that the PTA has entered into this Contract on the basis of each of the Contractor's representations and warranties contained in this Contract.

28.3 PTA gives no warranties

Except for the express warranties and representations set out in this Contract and any provisions or warranties imposed by any Act that are mandatory and cannot be excluded, the PTA gives no warranties regarding this Contract, or anything in connection with it or contemplated by it, and the

PTA will not be liable, and the Contractor will have no claim against the PTA, in respect of any information obtained by the Contractor in respect of the Service.

28.4 Service to be provided according to best practice

The Contractor must provide the Service for the term of this Contract in a conscientious and expeditious manner, in accordance with this Contract, the best practices of any related trades, and to the satisfaction of the PTA.

28.5 Contractor to provide materials, etc

Except where otherwise stated in Schedule 7 (Particulars of Items), the Contractor must provide all materials, labour, plant, equipment, tools, fuels, oils, accommodation, meals and everything, whether of a temporary or a permanent nature, required and suitable for the provision of the Service.

28.6 Contractor's Obligations

An obligation contained in this Contract is an obligation of the Contractor unless expressed to be an obligation of the PTA.

28.7 Contractor responsible for the performance of its obligations

The Contractor remains fully responsible for the performance of its obligations irrespective of any approval, inspection or acceptance by or on behalf of the PTA.

28.8 Tax savings

The Contractor acknowledges that it is not the intention of this Contract that the Contractor should receive any windfall benefit as a result of any variation or elimination of taxes, duties or statutory charges in respect of its input costs occurring subsequent to this Contract being entered into, and the Contractor agrees, to the extent allowed by law, to pass on to the PTA any reduction in costs which the Contractor achieves or is entitled to as a result of any variation or elimination of taxes, duties or statutory charges.

28.9 Legal Costs

Each party agrees to pay its own legal costs in respect of the preparation, negotiation and execution of this Contract, and the Contractor agrees to pay all costs and expenses incurred by the PTA (on a solicitor-client basis) to enforce this Contract where the Contractor is in default.

28.10 Relationship of parties

Nothing in this Contract constitutes the relationship of partnership or employer and employee between the parties.

28.11 Contract subject to freedom of information legislation

The Contractor and the PTA acknowledge that this Contract and any information compiled under or held in relation to this Contract or the provision of the Service are subject to the *Freedom of Information Act 1992 (WA)*.

28.12 Restricted sharing of Contractor's details

The Contractor acknowledges that, in order to facilitate the provision of the Service, the PTA may need to share personal information about the Contractor with third parties such as schools, bus manufacturers and bus body builders, and the Contractor agrees, to the extent allowed by law, to the sharing of such information.

28.13 Contract governed by laws of Western Australia

This Contract is governed by the laws of the State of Western Australia and, with respect to any proceeding, claim, action or demand under or arising out of the Contract, the parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction in that State.

28.14 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.

28.15 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.

29 NOTICES

29.1 Service of notices

Other than as expressly permitted under this Contract, all communication, including but not limited to any notice, report, requisition, demand, consent or approval given by or to a party under this Contract must be in writing and delivered by hand, post or fax in accordance with the following:

(a) If to the PTA, for the attention of the relevant TLAO:

By hand: Public Transport Authority
School Bus Services
Public Transport Centre
West Parade
Perth

By post: Public Transport Authority
School Bus Services
PO Box 8125
Perth Business Centre
Perth WA 6849

By fax: (08) 9326 2781

(b) If to the Contractor, to the Contractor's nominated address or fax number as set out in Schedule 7 (Particulars of Items);

(c) If to either party, to such other address in Western Australia as that party has notified the other party to be its address for the purpose of this clause 29.

29.2 Receipt of notices

Any communication will be deemed duly given by the sender and received by or served on the addressee:

(a) if by hand to the relevant address specified in clause 29.1, upon delivery;

(b) if by post, 3 Business Days from the date of posting;

(c) if by fax, on the day and at the time that the sender's fax machine confirms full transmission to the fax number of the addressee; except where the fax is sent after 5.00 pm on a Business Day or on a day other than a Business Day, in which case the fax is deemed to be duly served on the addressee on the next Business Day after the sender's fax machine confirms full transmission; or

(d) if by email, on the date of transmission where a return receipt is issued to the sender's information system which indicates that the email was received by the recipient.

**SCHEDULES TO THE GENERAL CONDITIONS OF CONTRACT
CONTRACT TO PROVIDE SCHOOL BUS SERVICE**

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SCHEDULE 1

SPECIFICATION OF SCHOOL BUS

1 GENERAL

1.1 School Bus must be fit for use and licensable

Every vehicle used as a contract school bus (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) 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.

1.2 Seatbelts mandatory on New School Buses

All new School Buses must be fitted with ADR 68-compliant passenger seats with retractable lap-sash seatbelts of a type approved by the PTA.

As of 1 March 2007 all drivers seats on new school buses must be ADR 68 compliant drivers seats, fitted with lap-sash seat belts of a type approved by the PTA.

1.3 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 PTA (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 PTA.

1.4 Items may not be fitted to or removed from School Bus without PTA 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 PTA to have the item fitted or removed and the fitment or removal has been approved by a PTA Inspector.

1.5 PTA may amend Specification

The PTA reserves the right to amend this specification, and will give Contractors not less than 12 month's 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 PTA may amend the specification and verbally advise Contractors of the amendment.

2 STANDARD SPECIFICATION OF SCHOOL BUS

2.1 Compliance with Acts, Standards and ADRs

2.1.1 The School Bus and all equipment used on it must comply with all applicable Acts, Standards and ADRs.

2.1.2 If there is any inconsistency between this specification and any applicable Act, Standard or ADR then the Act, Standard or ADR will prevail.

2.2 Engine

The School Bus must be diesel powered.

2.3 Brakes

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

2.4 Engine Compartment

2.4.1 The engine compartment must be insulated to minimise the transfer of noise and heat.

2.4.2 Adequate removable covers must be provided to allow access for maintenance.

2.5 Wheels and Tyres

2.5.1 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.

2.5.2 All tyres must be original tread and of equal ply rating and construction.

- 2.5.3 If the original tread on a tyre has been re-grooved, the tyre will be regarded as having original tread where those tyres are fitted to the rear axle, but not otherwise.
- 2.5.4 The School Bus must be equipped with a spare wheel fitted with a tyre having the same ply rating and original tread of a pattern matching with the tyres fitted to the front wheels.
- 2.5.5 If the School Bus has seating capacity for more than 15 adult passengers, it must be fitted with dual rear wheels. In certain circumstances, upon prior application to the PTA, consideration will be given to the fitting of single rear wheels where dual wheels would otherwise be required.

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

- 2.7.1 Other than as provided in this item, no symbols or markings may be placed on the outside of the School Bus.
- 2.7.2 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, and located in a position designated by a PTA Inspector.
- 2.7.3 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.
- 2.7.4 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 lettering provided the lettering is no more than 50 mm high.
- 2.7.5 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.
- 2.7.6 Disability access signs are permitted where required.
- 2.7.7 Internal steps must have 'Caution Steps' sign in lettering not less than 50mm in size and must be clearly visible at all times.

2.8 Construction

- 2.8.1 Body construction, modification or structural repairs to the School Bus may only be carried out by a licensed motor body builder.
- 2.8.2 The Contractor must notify the PTA of the name of the body builder, so that inspection of the body whilst work progresses may be carried out by a PTA Inspector'.
- 2.8.3 No step may be fitted at the rear of the School Bus other than foot holds used with emergency exits, as specified in ADR 42/02.

2.9 Passenger Service Doors

- 2.9.1 The School Bus may not have external forward opening doors.
- 2.9.2 If the School Bus has seating capacity for more than 24 adult passengers, each entry door must have a door-sensitive safety edge.
- 2.9.3 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.
- 2.9.4 The release control must be located as close to the door as possible and be clearly labelled.
- 2.9.5 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.
- 2.9.6 A service door of the hinged, jack-knife or sliding type must be fitted on the left-hand side of the School Bus for the entry and exit of passengers.
- 2.9.7 Internal lever type service door handles must be adjusted in order that they turn upwards to open.

2.9.8 External door handles must be recessed to be flush with body panels.

2.10 Emergency Exits

2.10.1 Where the School Bus is constructed without a side emergency exit, a full width rear emergency window must be positioned across the rear of the School Bus.

2.10.2 The emergency window must have a minimum escape area of 0.7 square metres and have no dimension less than 500 mm (folding forward rear seat squabs to gain these dimensions are not acceptable).

2.10.3 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.

2.10.4 The School Bus must have an external 'door release' mechanism for use in emergencies.

2.11 Fire Extinguisher

2.11.1 The School Bus must contain at least one efficient and operational fire extinguisher of a type approved by the PTA 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.

2.11.2 Fire extinguishers must be inspected in accordance with Australian Standards (AS 1851 – 2005) and passed and date stamped by an organisation competent and authorised to provide appropriate certification.

2.12 First Aid Kits

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

2.13 Guard Rails

All guardrails must be enclosed and suitably padded (as specified in the ADRs) with a minimum height of 400 mm above the seats.

2.14 Electrical

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

2.14.2 The dimensions and power of lights fitted to the School Bus must be in accordance with the ADRs.

2.15 Linings

The School Bus must have a metal roof which is insulated or lined with a suitable material (as specified in the ADRs).

2.16 Luggage Racks

2.16.1 If the School Bus has seating capacity for more than 24 adult passengers (excluding wheelchair buses) it must be fitted with luggage racks.

2.16.2 Where fitted, luggage racks must:

- (a) extend as far as practicable along both sides of the School Bus from the front seat to the rear of the body;
- (b) have a minimum width of 450 mm with an aperture at least 200 mm wide;
- (c) 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.
- (d) Not have mesh racks.

2.17 External Roof Racks

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

2.18 Under-floor Storage Bins

If the School Bus has seating capacity for more than 24 adult passengers (excluding wheelchair buses), it must be fitted with under-floor storage bins located on the near-side of the School Bus and have no more than 2 access doors to the storage bins (unless otherwise approved by the

PTA or if installing the storage bins would, for reasons relating to Gross Vehicle Mass, reduce the School Buses seating capacity).

2.19 Driver's View

- 2.19.1 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.
- 2.19.2 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.
- 2.19.3 The mirrors described in item 2.19.2 are additional to the mandatory driving mirrors.
- 2.19.4 If the School Bus has seating capacity for more than 24 adult passengers, it must have two sun-visors fitted to the front windows for the driver's benefit.

2.20 Passenger Seats and Seatbelts

- 2.20.1 All passenger seats must face the direction of travel and be least 300 mm wide.
- 2.20.2 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.
- 2.20.3 Where the top of a seat cushion is less than 150 mm below the windowsill a padded bar must be fitted across the window 300 mm above the window sill for added passenger protection.
- 2.20.4 If the School Bus is not fitted with seatbelts for use by passengers, the seating cushion area and the backrest seating surface must be flat across the entire width of the seat.
- 2.20.5 If the School Bus is fitted with seatbelts for use by passengers, the seatbelts must be of a lap-sash type with retractor approved by the PTA and fitted in accordance with all relevant ADRs, including, but not limited to:
 - (a) ADR 59/00 (Omnibus Rollover Strength);
 - (b) ADR 66/00 (Seat Strength, Seat Anchorage Strength and Padding in Omnibuses); and
 - (c) ADR 68/00 (Occupant Protection in Buses).
- 2.20.6 If the School Bus has seating capacity for more than 24 adult passengers and is fitted with seatbelts for use by passengers, all seats must have hand grips on the side facing the aisle.
- 2.20.7 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:
 - (a) if fitted to a School Bus with seating capacity for more than 24 adult passengers, must be illuminated; and
 - (b) if fitted to a School Bus with seating capacity of up to 24 adult passengers, must be illuminated or made of a reflective material.

2.21 Windows

- 2.21.1 If the School Bus is not air-conditioned, at least half of the windows adjacent to passengers' seats must be fitted with latches and grips for the purpose of opening and closing.
- 2.21.2 Any opening passenger window of a height greater than 230 mm must be restricted to a maximum opening of 125 mm.
- 2.21.3 The School Bus must not be fitted with hopper-type windows.

2.22 Regulation Card

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

2.23 Tool Box

- 2.23.1 A compartment or toolbox of adequate size must be used to constrain wheel changing equipment, tools and safety triangles.
- 2.23.2 The toolbox must be housed securely to prevent possible injury to passengers in the event of an accident.

2.24 Communications Equipment

- 2.24.1 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 PTA, which must be switched on whenever students are being transported.
- 2.24.2 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.

3 ADDITIONAL SPECIFICATION FOR SCHOOL BUS EQUIPPED WITH WHEELCHAIR AND/OR PASSENGER RESTRAINT SYSTEMS

3.1 Seating

- 3.1.1 Construction or alteration of a School Bus to carry wheelchairs and/or occupant restraint systems must provide the maximum normal seating compatible with the number of wheelchair and restraint positions required.
- 3.1.2 All unprotected seating positions must have a guard rail or safety panel mounted at no greater than 450 mm in front of the face of the seat cushion.
- 3.1.3 Seats and restrained wheelchairs must be facing in the direction of travel.

3.2 Restraints

- 3.2.1 Restraints for the support of persons with disabilities must be attached directly to the seat frame with reinforcement of the seat mountings and structure as deemed necessary by the PTA.
- 3.2.2 Wheelchair restraint systems must allow suitably adapted conventional seating to be utilised when required.
- 3.2.3 Wheelchair restraint connection points must be secured to suitably reinforced structural members of the vehicle body frame as per manufacturer's instructions and specifications.
- 3.2.4 Provision must be made for the convenient and safe stowage of all detachable restraint accessories.

3.3 Wheelchair Lift

- 3.3.1 All work must be carried out in accordance with:
 - (a) AS 2942: Wheelchair Occupant Restraint Assemblies for Motor Vehicles, and appended recommendations and guidelines;
 - (b) This Specification of School Bus;
 - (c) *Road Traffic (Vehicle Standards) Regulations 2002 (WA)*; and
 - (d) *Road Traffic (Vehicle Standards) Rules 2002 (WA)*.
- 3.3.2 Construction and alteration of the wheelchair lift will be inspected by the PTA as such works proceed and must be approved by the PTA before the School Bus is placed into service.
- 3.3.3 The wheelchair lift must be of a type and model which complies with this specification and is approved by the PTA.

3.4 Installation of Wheelchair Lift

- 3.4.1 The installation of the wheelchair lift must only proceed after both the lift and the School Bus have been approved by the PTA.
- 3.4.2 An installation must only be carried out by a person authorised by the lift manufacturer or an agent thereof, and must be carried out in a suitably equipped workshop in accordance with the manufacturer's installation instructions.
- 3.4.3 Prior to commencement of an installation the PTA must be informed in order that progress and standards of workmanship may be monitored.
- 3.4.4 All components of the lift and its accessories and power unit must be protected from stones, water, dust, mud and other contaminants.
- 3.4.5 The opening for the lift must be sealed and closed by a weatherproof hinged, metal framed door.
- 3.4.6 The door handles must turn upwards to open.
- 3.4.7 External door handles must be recessed to be approximately flush with the body panels.

- 3.4.8 The door and adjacent bodywork must have clips attached to hold the door in the open position to prevent slamming in windy conditions.
- 3.4.9 An audible warning device must be fitted so as to sound when the wheelchair access door is in the open position without the vehicle parking brake being applied.
- 3.4.10 The lift must be fitted on the left hand side of the School Bus, separate to the passenger entry door.
- 3.4.11 Special approval must be obtained to fit a lift to the rear of a School Bus.

3.5 Capacity and Mass of Wheelchair Lift

- 3.5.1 The static capacity of the lift must be not less than 500 kg.
- 3.5.2 The rated continuous load capacity must be not less than 180 kg.
- 3.5.3 The total mass of the lift, with all options, must not be greater than 400 kg.

3.6 Platform for Wheelchair Lift

- 3.6.1 The minimum width of the platform must be 750 mm.
- 3.6.2 The distance between the wheelchair roll stop and the edge closest to the School Bus must be not less than 1150 mm.
- 3.6.3 Any hand rail attached to the platform must be at least 800 mm above the platform and must have a nominal outside diameter of 38 mm and must not intrude into the platform minimum chair space of 750 mm x 1150 mm.
- 3.6.4 When the platform is at School Bus floor height, the maximum slope from the horizontal must not exceed 20 mm in 300 mm measured in any direction whilst the School Bus is parked on a level surface.
- 3.6.5 The head room above the School Bus floor or lift bridge plate measured to the door header or horizontal lift member must be not less than 1400 mm.
- 3.6.6 The platform and ramps or bridge plate must at no point in the lift travel expose an opening through which a 19 mm diameter steel ball can pass.
- 3.6.7 The platform must have an automatically functioning roll prevention device at the wheelchair exit/entry point to prevent the chair and/or the occupant falling from the platform.
- 3.6.8 The automatically functioning roll prevention device must operate at any time the platform is 50 mm or more above the ground. The device must have the same effect on an outward moving wheelchair as would a 75 mm high chock placed transversely in the path of the wheels.
- 3.6.9 The motion of the lift platform must not subject the wheelchair occupant to lateral or vertical movement which could potentially be frightening, uncomfortable or dangerous.
- 3.6.10 The platform must be fabricated from a slip resistant material to give adequate tyre adhesion in wet conditions.
- 3.6.11 Bridge plates, ramps or steps over which a wheelchair will roll must not preclude ease of access and must not have a vertical height greater than 16 mm above the surface upon which the platform rests in the loading position.

3.7 Finish of Wheelchair Lift

- 3.7.1 Protective covering, housing and padding materials must have fire retardant properties.
- 3.7.2 All components of the lift system must be free of sharp or jagged edges and protrusions, to minimise possibility of injury to lift operators and School Bus passengers.
- 3.7.3 All welds must be cleaned free of slag and non-ferrous materials and cleaned free of mill scale, rust, grease and dirt, by means of scraping and wire brushing, not more than 24 hours prior to painting with at least one rust inhibitive primer coat.
- 3.7.4 Two or more colour coats of abrasion and corrosion resistant flat finish paint must be applied in accordance with the paint manufacturer's recommendations.
- 3.7.5 The coating must be selected to minimise solar radiation absorptiveness of the lift metal work.

3.8 Operation of Wheelchair Lift

- 3.8.1 The lift operation must ensure that no movement of the wheelchair on the platform is required during raising or lowering modes.

- 3.8.2 The operating system must have provision for manual operation in the event of failure of the primary functions. Written instructions for the action required to manually operate the lift in the event of such failure must be located on the School Bus.
- 3.8.3 A comprehensive operating manual must be obtained from the lift manufacturer and located on the School Bus, and must include:
 - (a) general operating instructions;
 - (b) preferred entry/exit techniques;
 - (c) operating instructions for all controls, resultant platform movements and required user actions;
 - (d) actions a user should not take; and
 - (e) warning of unusual noise, motion or other fright causing factors and potential hazards.
- 3.8.4 A specification sheet must be supplied to the PTA showing all details of equipment incorporated in the unit's control, electrical and hydraulic systems including part numbers and sources of supply for spare parts.
- 3.8.5 Schematic diagrams must be supplied to the PTA showing the hydraulic and electrical circuits.
- 3.8.6 Mechanical components subject to periodic replacement must be listed with the respective part numbers and supplied to the PTA.
- 3.8.7 Graphical drawings and photographs must be supplemented, where required by the PTA, for clarification.

3.9 Bus Body Construction and Alteration

- 3.9.1 The structure of the bus body must not be weakened by the fitment of the wheelchair lift.
- 3.9.2 The vehicle floor must be free of obstructions, effectively sealed and covered with vinyl or durable alternative material lain over marine plywood of 17 mm minimum thickness and be finished to a neat appearance.
- 3.9.3 Sharp edges, protrusions or fittings must be covered or otherwise protected to prevent injury.
- 3.9.4 The engine exhaust outlet must terminate outside the body panels or bumper and must be not closer than 600 mm to any wheelchair lift or passenger entry door.
- 3.9.5 Provision must be made for an emergency exit to the standard required by the PTA.
- 3.9.6 Additional ventilation must be provided where the PTA considers existing provision to be inadequate for the comfort of passengers.
- 3.9.7 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.
- 3.9.8 The batteries must be identical and interchangeable with those supplied by the vehicle chassis manufacturer.
- 3.9.9 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.

3.10 Notices

- 3.10.1 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 event of failure of the primary operations.
- 3.10.2 The notice must be protected by a durable perspex covering.

3.11 Restraint Tracking

- 3.11.1 Heavy duty floor-mounted tracking, of a type approved by the PTA, 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
- 3.11.2 No tracking is to be fitted without prior approval from the PTA as to the exact type of tracking required.
- 3.11.3 The tracking must be compatible with the types of wheelchairs and restraint systems specified by the PTA for use on the vehicle.
- 3.11.4 The tracking is to be recessed with a maximum of 3.5 mm projection above the floor surface. Edges are to be chamfered down to a maximum projection of 1 mm.

- 3.11.5 Anchor points to be clearly marked on the tracking surface so as to allow wheelchair clear space requirements as specified in AS 2942.
- 3.11.6 The tracking to be clearly marked to allow correct seat spacing, as specified in the ADR, when normal seats are fitted.
- 3.11.7 A suitable removable guardrail is to be supplied by the vehicle body builder for placement when only one restrained wheelchair is being transported.

3.12 Docking Systems

- 3.12.1 Wheelchair docking systems may be fitted to a School Bus subject to prior approval from the PTA as to the precise type and number of docking units required.
 - 3.12.2 Docking units are to be fitted in accordance with the manufacturer's instructions and so as to allow clear space requirements as specified in AS 2942.
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SCHEDULE 2

OPERATION OF SCHOOL BUS

1 CONTRACTORS

1.1 Control of Drivers and Bus Aides

Unless otherwise agreed to in writing by the PTA, the Contractor must ensure that each person employed as a Driver or Bus Aide:

- (a) complies with all Legislative Requirements which relate to the provision of the Service or the Contractor's Obligations or which affect or apply to anything the Driver or Bus Aide is required to do under this Contract;
- (b) holds all appropriate qualifications, permits and licences relevant to the provision of the Service or the Contractor's Obligations or which affect or apply to anything the Driver or Bus Aide is required to do under this Contract;
- (c) is aware of their responsibilities, if any, under the *Working with Children (Criminal Record Checking) Act 2004 (WA)* and has, if required, applied for assessment in accordance with that Act's consequential regulations and the procedures of the Government agency administering the Act;
- (d) holds, and maintains the currency of, all certificates or other qualifications required by law or the PTA, including any notice or document required under the *Working with Children (Criminal Record Checking) Act 2004 (WA)*;
- (e) has not been convicted of a criminal or other offence (other than an offence for which a traffic infringement notice is issued under the *Road Traffic Act 1974 (WA)*) and has obtained a National Police Certificate, or other document satisfactory to the PTA which evidences that fact;
- (f) is capable of doing the things which are required of a Driver or Bus Aide, as the case may be, under this Contract;
- (g) produces and maintains the Records that relate to those aspects of the Service that are performed by the Driver or Bus Aide; and
- (h) whilst engaged in the provision of the Service, complies with the requirements of Drivers and Bus Aides, as the case may be, set out in the Contract and this Schedule.

1.2 Obligation to report to the PTA

The Contractor must inform the PTA immediately after becoming aware that any Driver or Bus Aide or other person involved in the provision of the Service:

- (a) has ceased to hold any Government Authorisation relevant to their role in the provision of the Service, or which is required for the operation of the School Bus, or any qualification, permit or licence required by law or the PTA; or
- (b) has been charged with or convicted of committing any offence (other than an offence for which a traffic infringement notice is issued under the *Road Traffic Act 1974 (WA)*) relevant to their role in the provision of the Service; or
- (c) has been charged with or convicted of committing any offence involving sexual abuse or violence, or which is an offence listed in the schedules to the *Working with Children (Criminal Record Checking) Act 2004 (WA)*,

and must promptly provide the PTA with any and all information concerning the matter of which the Contractor becomes aware.

2 DRIVERS

2.1 Requirements

Every Driver of a School Bus must:

- (a) have appropriate classes of driver's licence for the vehicle(s) they are required to drive;
- (b) have a current 'Hire & Reward' endorsement (or equivalent) on his/her driving licence;
- (c) comply with all provisions of all Acts relating to working with children, licensing, traffic and the use of vehicles; and
- (d) have completed a basic first aid course to the satisfaction of the PTA.

2.2 Conduct and standards

2.2.1 Drivers must:

- (a) abide by all road traffic laws;
- (b) regulate the speed of the School Bus to ensure the safety and comfort of passengers;
- (c) ensure that any escape doors on the School Bus remain unlocked whilst passengers are on board;
- (d) supervise student behaviour on the School Bus;
- (e) ensure that passengers are seated whilst the School Bus is in motion;
- (f) if the School Bus is fitted with seatbelts, remind all passengers that they must securely fasten their seatbelts and keep them fastened for the duration of the journey;
- (g) warn disembarking passengers of road and traffic dangers;
- (h) stop the School Bus before traversing any railway crossing that does not have flashing lights and at any road intersecting with a main road;
- (i) at the end of each morning and afternoon run, inspect the School Bus to ensure that all passengers have disembarked;
- (j) comply with the provisions of the Contractor's Safety Management Plan in so far as it is applicable to Drivers;
- (k) 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 such other requirements as the PTA may from time to time require; and
- (l) maintain a neat, clean personal appearance and wear appropriate clothing.

2.2.2 Drivers must not:

- (a) allow any doors to remain open whilst the School Bus is in motion;
- (b) allow passengers to ride in a position which obstructs the Driver's view;
- (c) allow passengers to ride on the steps or entry area of the School Bus;
- (d) leave the School Bus with Students on board whilst its engine is running, unless a Bus Aide is on board and the Driver is assisting a Student on or off the School Bus;
- (e) permit the School Bus to proceed with the gears disengaged for a greater distance than is reasonable having regard to all of the circumstances;
- (f) open the doors of the School Bus to allow passengers to disembark if there is possible danger to those passengers from approaching vehicles or other road hazards;
- (g) consume alcoholic beverages within 8 hours prior to, or during, the time at which the Driver provides the Service;
- (h) use or be under the influence of any drugs, including alcoholic beverages and prescribed medications, except where the Driver is required to take medication and where the Contractor has advised the PTA of that fact and has provided the PTA with a medical certificate which demonstrates that the medication will not in any way impair the Driver's ability to perform the Service;
- (i) smoke whilst providing the Service;
- (j) use any profane or obscene language in the presence or hearing of any Student;
- (k) 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; or
- (l) permit luggage or other objects to be placed in the aisle of the School Bus or in front of any doors or emergency exits.

2.3 Maintenance schedule

Drivers must complete the following maintenance schedule weekly or more frequently if appropriate:

- (a) Visually check lights – particularly turn, stop and warning lights;
- (b) Visually check tyres;
- (c) Check coolant level – top up if necessary;

- (d) Fuel – top up if necessary;
- (e) Check operation of brakes, including parking brake;
- (f) Check operation of clutch, where applicable;
- (g) Check tyre pressures;
- (h) Check and clean interior and exterior of vehicle;
- (i) If the School Bus is fitted with seatbelts, inspect the belts, fittings and attachment points;
- (j) Check all hoses;
- (k) Check for oil, fuel and coolant leaks;
- (l) Check for cleanliness of radiator exterior air passages;
- (m) Check brake and clutch fluid levels;
- (n) Check battery mountings, electrolyte level and terminals;
- (o) Check wheel studs for tightness;
- (p) Visually check all components are securely attached, including spare wheel(s);
- (q) Check air cleaner if operating in dusty or wet conditions;
- (r) Check any accident damage – complete necessary insurance claim forms;
- (s) Drain air tanks on vehicles, where applicable.

3 BUS AIDES

3.1 Requirements

Every Bus Aide employed to assist with the provision of a Service must:

- (a) have a senior first aid certificate (or equivalent); and
- (b) comply with all provisions of all Acts relating to working with children.

3.2 Conduct and standards

3.2.1 Bus Aides must:

- (a) supervise student behaviour on the School Bus to ensure safe and secure travel;
- (b) if there are wheelchair bound students or students with mobility restrictions travelling on the School Bus, assist those students on and off the School Bus;
- (c) if there are students travelling on the School Bus who require wheelchair or student restraints, ensure that they are appropriately secured;
- (d) if the School Bus is fitted with seatbelts, ensure that those students for whom the Bus Aide is responsible and who are occupying seats fitted with seatbelts have their seatbelts securely fastened and that the seatbelts are appropriately fastened for the duration of the journey;
- (e) 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;
- (f) demonstrate a positive, caring and supportive attitude to Students at all times, including where appropriate engaging Students in conversation during the trip;
- (g) maintain a neat, clean personal appearance and wear appropriate clothing;
- (h) work cooperatively with the Driver to ensure the safe passage of Students for the duration of the journey; and
- (i) comply with the provisions of the Contractor's Safety Management Plan in so far as it is applicable to Bus Aides.

3.2.2 Bus Aides must not:

- (a) use or be under the influence of any drugs, including alcoholic beverages and prescribed medications, except where the Bus Aide is required to take medication and where the Contractor has advised the PTA of that fact and has provided the PTA with a medical certificate which demonstrates that the medication will not in any way impair the Bus Aide's ability to perform the Service;
- (b) consume alcoholic beverages within 8 hours prior to, or during, the time at which the Bus Aide performs the Bus Aide Duties;
- (c) use any profane or obscene language in the presence or hearing of any Student; or
- (d) smoke whilst providing the Service.

SCHEDULE 3

RECORDS

1 CONTRACTOR TO CREATE AND MAINTAIN RECORDS

1.1 Contractor to keep Records

The Contractor must create and maintain the following written records (Records), where 'written' may include a form of Record created and stored in an electronic format, so long as the Contractor is able to produce hardcopy written versions of Records when and as required under this Contract and/or when and as requested by the PTA:

- (a) Narrative and Timetable for the Service;
- (b) Safety Management Plan and emergency plan;
- (c) Accident and incident reports;
- (d) Student incident reports;
- (e) Contact log;
- (f) details of any and all fares collected pursuant to clause 6;
- (g) details of the nature of any and all repairs, service and/or maintenance work carried out on the School Bus and the dates when such work was carried out;
- (h) details of the distances travelled by the School Bus in providing the Service;
- (i) documentary evidence of all qualifications, licences, certifications and notices required to be held by Drivers under this Contract, this Schedule or by law;
- (j) documentary evidence of all qualifications, licences, certifications and notices required to be held by Bus Aides under this Contract, this Schedule or by law;
- (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 providing the Service or complying with the Contractor's Obligations which are not referred to elsewhere in this item; and
- (m) any other records the PTA reasonably requires the Contractor to keep from time to time.

1.2 Retention of Records

The Contractor must retain the Records for not less than 7 years from the date of each Record's creation.

1.3 Provision of Records to the PTA

The Contractor must provide the PTA with a copy of the Record referred to in the following table by the corresponding time.

| Record | When to be provided to the PTA |
|---|---|
| Narrative and Timetable | Not later than 28 days after the commencement of the Service and/or after any change to the Service which affects the pick-up or drop-off times for Students. |
| Safety Management Plan and emergency plan | Not later than 14 Business Days after the PTA requests a copy. |
| Accident and incident reports | As soon as reasonably practicable after the occurrence of the Accident or incident that is the subject of the report. |
| Student Incident Report | As soon as reasonably practicable after the occurrence of the incident that is the subject of the report. |
| Contact Log | Not later than 5 Business Days after the PTA requests a copy. |
| School Bus maintenance records | Not later than 5 Business Days after the PTA |

| | |
|--|---|
| | requests a copy. |
| Documentary evidence of Drivers' qualifications, licences and certifications | Not later than 5 Business Days after the PTA requests a copy. |
| Documentary evidence of Bus Aides' qualifications, licences and certifications | Not later than 5 Business Days after the PTA requests a copy. |
| Other Records | Not later than 5 Business Days after the PTA requests a copy. |

1.4 Student attendance register

If the School Bus is used exclusively or primarily for the transport of Students to education support facilities, the Contractor must:

- (a) on each School Day on which the Service is provided, record the names of the Students who travelled on the School Bus that day; and
- (b) prepare a report, in a form prescribed by the PTA, which sets out the names of the Students who travelled on the School Bus each School Day during:
 - (i) each period of 4 weeks during each School Term; or
 - (ii) if the period from the end of a 4-week period referred to in item 1.4(b)(i) until the end of a School Term is less than 4 weeks, that shorter period,

and submit the report to the PTA not less than 5 Business Days after the end of the relevant period.

SCHEDULE 4

OPTION TO PURCHASE SCHOOL BUS

OPTION NOTICE

To: (Contractor)

The **Public Transport Authority of Western Australia** (ABN 61 850 109 576) (PTA) exercises the option granted to it by the Contractor under clause 26 of the contract to provide a school bus service dated *(Insert date)* (Contract) to purchase the following bus used to provide the service under the Contract for the Purchase Price determined by the party appointed as Valuer pursuant to the Contract:

(Insert detailed description of the bus to be purchased and the contract and service on which it is used)

Date:

The **COMMON SEAL** of the
**PUBLIC TRANSPORT AUTHORITY OF
WESTERN AUSTRALIA** is affixed in the
presence of:

Chief Executive Officer

Or *(depending on the value of the bus to be purchased):*

Signed for and on behalf of the **Public
Transport Authority of Western
Australia** by an officer of that Authority
authorised pursuant to section 51(5) of the
Public Transport Authority Act 2003 (WA)
for that purpose.

Authorised Signatory *(Signature)*

Name *(Please print)*

Position/Title

Witnessed in the presence of:

Witness *(Signature)*

Name *(Please print)*

Occupation

Address

MORTGAGEE/CHARGEЕ CONSENT

(Insert name of Mortgagee/Chargee), being the Mortgagee/Chargee under a mortgage/charge *(Insert, if known, the number or other unique identifier of the mortgage/charge)* registered as an encumbrance *(Insert, if known, any relevant descriptive details)*, consents to the Option to purchase the vehicle (Bus) granted by *(Insert Name of Contractor)* (Contractor) to the Public Transport Authority of Western Australia (PTA) pursuant to the contract to provide a school bus service dated *(Insert date)* (Contract) on the following terms:

- 1 The Mortgagee/Chargee agrees that it will not, in exercising its rights under the Mortgage/Charge, sell, transfer or deal with the Bus without first giving the PTA 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 'Mortgagee/Chargee') (Mortgagee's Offer).
- 2 The PTA acknowledges and agrees that it may only accept the Mortgagee's Offer by giving to the Mortgagee/Chargee the documents required to effect completion of the purchase within one month after receiving the Mortgagee's Offer, or such extended period as may be agreed between the PTA and the Mortgagee/Chargee.
- 3 If the PTA does not accept the Mortgagee's Offer in accordance with clause 2 above, then the Mortgagee/Chargee may sell, transfer or deal with the Bus.

Date:

EXECUTED for and on behalf of

(Name of Mortgagee/Chargee)

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

Note that the above execution block may need to be amended to suit the requirements of the Mortgagee/Chargee, which the Mortgagee/Chargee may elect to do in accordance with its own procedures. The important point is that this document must be signed by a person authorised to sign on behalf of the Mortgagee/Chargee in terms of the granting of the consent.

A new Mortgagee/Chargee Consent form must be completed and immediately lodged with the PTA every time the Contractor changes Mortgagee/Chargee during the term of the contract.

SCHEDULE 5

PARTICULARS OF REQUIRED INSURANCES

Any departure from the requirements listed in this Schedule must be included in the Statement of Compliance/Departure lodged by Tenderers as part of their Tender.

1 WORKERS COMPENSATION INSURANCE

1.1 Contractor obliged to maintain policy

The Contractor must maintain or effect and maintain a Workers Compensation and Rehabilitation policy as required by *Worker Compensation and Rehabilitation Act 1981 (WA)*.

1.2 Terms of the policy

The policy referred to in item 1.1 must, in relation to employer's liability at common law, have a limit of cover in respect of any one occurrence at least equal to **\$50,000,000**.

1.3 Period of cover

The Contractor must, from the time it commences the Service, maintain continuous cover under the policy referred to in item 1.1 until the expiration of this Contract.

2 MOTOR VEHICLE INSURANCE

2.1 Contractor obliged to maintain policy

The Contractor must maintain or effect and maintain comprehensive motor vehicle insurance for the School Bus for at least the written-down value or, if no written-down value is accorded to it, then its current market value.

2.2 Registration under Motor Vehicle (Third Party Insurance) Act

Every vehicle used as a School Bus must be registered under the *Motor Vehicle (Third Party Insurance) Act 1943 (WA)* as a class of vehicle appropriate to the Service provided under this Contract.

2.3 Period of cover

The Contractor must, from the time it commences the Service, maintain continuous insurance cover in relation to motor vehicles in the terms referred to in item 2.1 until the expiration of this Contract.

2.4 Amount of cover

The motor vehicle policy must have a limit of liability of **\$20,000,000** for any one claim.

3 OTHER RIGHTS AND OBLIGATIONS

3.1 Evidence of policies

The Contractor must on request, in respect of each policy of insurance it is required to effect or maintain, give the PTA:

- (a) proof to the PTA's reasonable satisfaction of the currency and coverage of each policy of insurance before commencing the Service;
- (b) certified copies of all cover notes, policies, certificates of currency, renewal certificates and endorsement slips, within a reasonable time after the Contractor receives them; and
- (c) other evidence of the insurances that the PTA reasonably requires.

3.2 Premiums

Without limitation to other obligations set out in this Contract, the Contractor must punctually pay all premiums in respect of all insurance policies the Contractor is required to effect and maintain.

3.3 Notice of cancellation etc

The Contractor must notify PTA in writing whenever the insurer gives the Contractor a notice of cancellation or any other notice in respect of any policy required under this Contract to be

maintained or effected and maintained by the Contractor.

3.4 No waiver by PTA

The PTA is not to be taken to have waived any rights or any breaches by the Contractor merely because it has not exercised or sought to enforce any of its rights under this Contract.

3.5 Contractor comprising two or more persons

Where the Contractor comprises 2 or more persons:

- (a) insurances effected pursuant to the Contractor's Obligations under this Contract (with the exception of insurances effected pursuant to items 1 and 2) must be effected jointly by those persons, unless the PTA otherwise agrees in writing; and
- (b) each such insurance must name each person comprising the Contractor as an insured.

3.6 Territorial limit and jurisdiction

All insurances policies required under this Contract must, as a minimum, provide cover under Australian territorial limit and be governed by the laws of the State of Western Australia.

SCHEDULE 6**SCOPE OF SERVICE**

Details of the Scope of Service will be inserted in this Schedule from the successful Tenderer's Tender and/or following negotiation between the successful Tenderer and the PTA.

| | |
|----------------------------------|--|
| Service Name | |
| Approved Schools | |
| Approved Route | |
| Approved Route Distance | |
| Unloaded Distance | |
| Tendered Daily Kilometres | |
| Terminus | |
| Contract Term | |
| Service Delivery | |
| School Bus Requirements | |
| Office Equipment | |

SCHEDULE 7**PARTICULARS OF ITEMS**

Relevant information will be included in this Schedule at the time the Contract is awarded.

| | |
|---|---|
| Location where the Service is to be provided | |
| Commencement Date | |
| Termination Date | |
| Name of Contractor | |
| Contractor's Trading Name | |
| Contractor's ACN (if corporation) | |
| Contractor's ABN | |
| Contractor registered for GST? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Contractor's Address for Service of Notices | |
| School Bus | <p><i>Where this information is not available at the time of awarding the Contract it will be obtained by the PTA's Vehicle Inspection Officer at the initial vehicle compliance inspection prior to the Commencement Date of the service, and PTA will issue to the Contractor an amended Schedule 7 incorporating information of the type mentioned below;</i></p> <p>Make and model: Year of manufacture: Registration number: Vehicle Identification Number (VIN): Adult Seating Capacity: Primary Conversion Seating Capacity: Current Odometer reading:</p> <p><i>"The amended schedule 7 is deemed to be a variation to the Contract without requiring the PTA or the Contractor to sign the same.</i></p> |
| School Bus Storage Location | |

SCHEDULE 8

SERVICE CHARGE – RATES AND PRICES

The costs, rates, distances and other information set out in the Tender lodged by the successful Tenderer and relevant to the calculation of the amounts payable to the Contractor will be transferred to this Schedule.

TENDERED RATES AND VALUES

| Component | Value Type | Tendered Value |
|---|--------------------------------|----------------|
| F1 Labour – Fixed Component | Dollars / Year (GST-inclusive) | AU\$ |
| As outlined in item 3.12 of the Request for Tender document, the PTA has separated the tendered Labour – Fixed Component value into (GST inclusive) dollar values for each of the following elements: | | |
| | Labour Cost | AU\$ |
| | Superannuation | AU\$ |
| | Workers Compensation | AU\$ |
| <p>Review/Indexation of the tendered value</p> <p>Reference Mechanisms/Indices:</p> <p><i>ABS Labour Price Index – Intermediate Production & Transport Workers (All Sectors) – 6345.0</i></p> <p><i>Superannuation Guarantee (Administration) Act 1992</i></p> <p><i>Employee Indemnity Policies (Premium Rates) Act 1990 ANZIC rate no. 61220</i></p> <p><i>Pay-roll Tax Assessment Act 2002</i></p> <p><i>Taxation Administration Act 2003</i></p> <p>The value will be reviewed against the <i>ABS Labour Price Index</i> annually, with effect from 1 January each year.</p> <p>Adjustments will be based on the movement between the most recent December index value and the December index value 12 months preceding.</p> <p>Where a contract is awarded between review periods, the first review will be based on the movement between the index value for the applicable quarter prior to the date the contract was awarded and the December index value relevant to the indexation period.</p> <p>The PTA will calculate an amended value in respect of the fixed labour component to reflect the Contractor’s contractual and statutory obligations in respect of superannuation and workers compensation, with effect from the date the Contractor becomes liable to pay at the changed values or rates.</p> <p>The recalculated values will be subject to ongoing amendment in line with changes arising from review/indexation of the tendered value and changes to relevant recommended and statutory values and rates.</p> <p>Where the Contractor is registered with the PTA as being liable for pay-roll tax they will be entitled to lodge a claim annually, or at such other frequency as the PTA may agree to, for the reimbursement of Service-related pay-roll tax. Any and all claims lodged by the Contractor in respect of pay-roll tax must be supported by documented commercial and financial details to substantiate the amount being claimed. Claims cannot be made for pay-roll tax which is not due.</p> | | |

| Component | Value Type | Tendered Value |
|--|--------------------------------|----------------|
| F2 Administration | Dollars / Year (GST-inclusive) | AU\$ |
| <p>Review/Indexation of the tendered value</p> <p>Reference Mechanisms/Indices:</p> <p>ABS Consumer Price Index – All Groups (Perth) – 6401.0</p> <p>The value will be reviewed annually against the ABS Consumer Price Index, with effect from 1 January each year.</p> <p>Adjustments will be based on the movement between the most recent December index value and the December index value 12 months preceding.</p> <p>Where a contract is awarded between review periods, the first review will be based on the movement between the index value for the applicable quarter prior to the date the contract was awarded and the December index value relevant to the indexation period.</p> | | |

| Component | Value Type | Tendered Value |
|--|--------------------------------|-------------------|
| F3 Vehicle Leasing/Financing | Dollars / Year (GST-inclusive) | AU\$ |
| | Nominated End Date |/...../..... |
| <p>Review/Indexation of the tendered value</p> <p>If the Contractor submits a value for this component, it is presumed that any interest rate that applies to the lease or purchase of the School Bus is a fixed rate, and that the annual cost tendered for this component is based on the total cost of leasing or purchasing the School Bus (inclusive of any refinancing for residual or balloon payments) spread over the period of the lease or loan.</p> <p>Following that presumption, there will be no review or indexation of any value tendered in respect of the annual fixed cost of vehicle leasing/financing and, where the nominated end date for this component is earlier than the end date for the Contract Term, this component will cease to be included in the Service Charge calculations on expiry of the nominated end date for the component.</p> | | |

| Component | Value Type | Tendered Value |
|--|-------------------------------|----------------|
| V1 Labour – Variable Component | | |
| (a) Driver | Dollars / Day (GST-inclusive) | AU\$ |
| (b) Bus Aide (if relevant) | Dollars / Day (GST-inclusive) | AU\$ |
| (c) Other (if relevant) | Dollars / Day (GST-inclusive) | AU\$ |
| (d) Total = (a) + (b) + (c) | Dollars / Day (GST-inclusive) | AU\$ |
| <p>As outlined in item 3.12 of the Request for Tender document, the PTA has separated the tendered Labour – Fixed Component value into (GST inclusive) dollar values for each of the following elements:</p> | | |
| | Driver | AU\$ |
| | Driver Superannuation | AU\$ |
| | Driver Workers Compensation | AU\$ |
| | Bus Aide | AU\$ |
| | Bus Aide Superannuation | AU\$ |

| | | |
|---|-------------------------------|------------|
| | Bus Aide Workers Compensation | AU\$ |
| | Other | AU\$ |
| | Other Superannuation | AU\$ |
| | Other Workers Compensation | AU\$ |
| <p>Review/Indexation of the tendered value</p> <p>Reference Mechanisms and Indices:</p> <p><i>ABS Labour Price Index – Intermediate Production & Transport Workers (All Sectors) – 6345.0</i></p> <p><i>Superannuation Guarantee (Administration) Act 1992</i></p> <p><i>Employee Indemnity Policies (Premium Rates) Act 1990 ANZIC rate no. 61220</i></p> <p><i>Pay-roll Tax Assessment Act 2002</i></p> <p><i>Taxation Administration Act 2003</i></p> <p>The values will be reviewed against the <i>ABS Labour Price Index</i> annually, with effect from 1 January each year.</p> <p>Adjustments will be based on the movement between the most recent December index value and the December index value 12 months preceding.</p> <p>Where a contract is awarded between review periods, the first review will be based on the movement between the index value for the applicable quarter prior to the date the contract was awarded and the December index value relevant to the indexation period.</p> <p>The PTA will calculate an amended value in respect of the fixed labour component to reflect the Contractor's contractual and statutory obligations in respect of superannuation and workers compensation, with effect from the date the Contractor becomes liable to pay at the changed values or rates.</p> <p>The recalculated values will be subject to ongoing amendment in line with changes arising from review/indexation of the tendered values and changes to relevant recommended and statutory values and rates.</p> <p>Where the Contractor is registered with the PTA as being liable for pay-roll tax they will be entitled to lodge a claim annually, or at such other frequency as the PTA may agree to, for the reimbursement of Service-related pay-roll tax. Any and all claims lodged by the Contractor in respect of pay-roll tax must be supported by documented commercial and financial details to substantiate the amount being claimed. Claims cannot be made for pay-roll tax which is not due.</p> | | |

| DAILY VARIABLE COSTS | | |
|--|---------------|----------------|
| Component | Value Type | Tendered Value |
| V2 Fuel | | |
| <i>Item (a) must be completed</i> | | |
| (a) Daily Fuel Consumption | Litres / Day | L/Day |
| <i>If Fuel Tax Credit is not applicable, only items (b) and (c) will apply</i> | | |
| (b) Fuel Price (GST-inclusive) = local fuel price for diesel | Cents / Litre | ¢/L |
| (c) Daily Fuel Cost (GST-inclusive) = (a) x (b) | Dollars / Day | AU\$ |

| DAILY VARIABLE COSTS | | |
|---|---------------|------------|
| <i>If Fuel Tax Credit is applicable, only items (d) to (j) will apply</i> | | |
| (d) Fuel Price (GST-inclusive) = local fuel price for diesel | Cents / Litre | ¢/L |
| (e) Fuel Price (GST-exclusive) = [(d) ÷ 11] x 10 | Cents / Litre | ¢/L |
| (f) Fuel Tax Credit | Cents / Litre | ¢/L |
| (g) Net Fuel Price (GST-exclusive) = (e) – (f) | Cents / Litre | ¢/L |
| (h) GST on Net Fuel Price = (g) x 10% | Cents / Litre | ¢/L |
| (i) Net Fuel Price (GST-inclusive) = (g) + (h) | Cents / Litre | ¢/L |
| (j) Daily Fuel Cost (GST-inclusive) = (a) x (i) | Dollars / Day | AU\$ |

Review/Indexation of the tendered value
Reference Mechanisms and Indices:
FuelWatch – Department of Consumer & Employment Protection (WA)
Fuel Tax Act 2006 (Cth)
Fuel Tax (Consequential and Transitional Provisions) Act 2006 (Cth)

The Fuel Price per Litre (item (b) or (d) in the list set out above under V2) will be indexed at the start of each School Term according to the percentage variation between the metropolitan average *FuelWatch* price for diesel fuel for:

- the 3-month period prior to the start of the relevant School Term; and
- the 3-month period ending 3 months prior to the start of the relevant School Term.

If during the term of the contract the eligibility criteria or rebate value for the Fuel Tax Credit System was to vary the PTA would apply the change to the calculation above to establish a new Daily Fuel Cost with effect from the date of change.

| Component | Value Type | Tendered Value |
|-------------------------------------|-------------------------------|----------------|
| V3 Repairs & Maintenance | Dollars / Day (GST-inclusive) | AU\$ |

Review/Indexation of the tendered value
Reference Mechanisms/ Indices:
ABS Consumer Price Index – Transportation Group (Perth) – 6401.0

Reviewed annually against the *ABS Consumer Price Index*, with effect from 1 January each year.
 Adjustments will be based on the movement between the most recent December index value and the December index value 12 months preceding.

Where a contract is awarded between review periods, the first review will be based on the movement between the index value for the applicable quarter prior to the date the contract was awarded and the December index value relevant to the indexation period.

| PROFIT MARGIN | | |
|---|-----------------|----------------|
| Component | Value Type | Tendered Value |
| Profit Margin | Percentage Rate | % |
| <p>Review/Indexation of the tendered value There is no indexation or review of the profit margin tendered by the Contractor. The percentage rate is fixed for the term of the Contract.</p> | | |

| PAY-ROLL TAX | |
|--|--|
| Did the Contractor indicate in the Tender that the Contractor was, or anticipated being, liable for pay-roll tax at the time of commencement of the Service? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Has the Contractor confirmed that the Contractor is, or will be, liable for pay-roll tax at the time of commencement of the Service? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Has the Contractor provided the PTA with documentary evidence substantiating the Contractor's liability for pay-roll tax at the time of commencement of the Service? | Yes <input type="checkbox"/> No <input type="checkbox"/> |

CALCULATION AND PAYMENT OF THE SERVICE CHARGE

General

The Service Charge is the total amount due to be paid to the Contractor by the PTA under the Contract, and is comprised of:

- an element in respect of fixed costs;
- an element in respect of variable costs;
- an adjustment to account for approved route variations;
- an amount in respect of profit; and
- such other amounts as may be payable to the Contractor under the Contract.

The Service Charge will be calculated according to the rates and values lodged in the Contractor's Tender, with those rates and values being adjusted to account for superannuation and workers compensation insurance and in line with the relevant review/indexation mechanisms set out in the Contract.

If a review/indexation cycle occurs between the awarding of the Contract and the commencement of the Service then the rates and values tendered by the Contractor will be adjusted in line with the specified review/indexation mechanism.

Payment Calendar

The Service Charge will be paid to the Contractor by way of periodic payments and in accordance with a payment calendar. The payment calendar is established at the start of each year by the PTA, based on the School Year, and designed to provide fortnightly payments, where practical, for each School Term.

Each fortnightly payment is based on the daily rates applicable for each School Day within that fortnight. The method for determining the daily rates for fixed and variable costs is described below.

Approved ad hoc financial adjustments, once applied, will be included in the next scheduled payment cycle.

Notes:

- 1 **The Contractor will not be eligible for any Service Charge payments until the commencement of the Service.**
- 2 **The PTA will not be liable to make any payments in respect of expenses incurred by the Contractor prior to the date of commencement of the Service.**
- 3 **The monetary values lodged by the Contractor in its Tender must be GST-inclusive (unless otherwise specified), and the consideration paid to the Contractor will include GST in respect of eligible items. For the purposes of the examples included below, all figures have been treated as being GST-inclusive.**
- 4 **In the examples included below:**
 - **The amounts and values used are for example purposes only and are not intended to represent the actual costs of providing a Service;**
 - **The amounts used as the Annual Fixed Costs (AFC) and the Daily Variable Costs (DVC) would have been calculated according to the rates and values lodged in the Contractor's Tender, taking into account superannuation and workers compensation insurance and in line with the relevant review/indexation mechanisms.**

Daily Service Charge

There are four primary components used to calculate the daily Service Charge owed to the Contractor:

- (a) Fixed Costs Daily Rate;
- (b) Variable Costs Daily Rate;
- (c) Route Variation Adjustment;
- (d) Profit.

The periodic Service Charge will be calculated using the daily rates, route variation adjustment and the tendered Profit Margin, and will be paid fortnightly in arrears in accordance with scheduled periodic payments shown in the payment calendar prepared by the PTA.

(a) FIXED COSTS DAILY RATE

The Fixed Costs Daily Rate will be determined by dividing the Annual Fixed Costs (AFC) by the number of School Days shown in the payment calendar for each School Year.

The amount paid in respect of fixed costs is independent of the distance travelled in providing the Service; however, the amount due may change over the course of the Contract as a result of the review/indexation of the fixed costs components. This, along with any variation in the number of School Days in different School Years, may result in the Fixed Costs Daily Rate changing from year to year. Regardless of any variation in the number of School Days in School Years, the full amount owed to the Contractor in respect of annual fixed costs in any year will be paid over the course of that year.

Formula:

$$\text{Fixed Costs Daily Rate} = [\text{AFC} \div \text{Number of School Days}]$$

Example 1:

| | |
|----------------------------|-------------------------|
| Annual Fixed Costs (AFC) = | {for example} \$80,000 |
| Number of School Days = | {for example} 190 |
| Fixed Costs Daily Rate = | [AFC ÷ School Days] |
| = | \$80,000 ÷ 190 |
| = | \$421.05 per School Day |

Note:

If the Contractor commences providing the Service at a time other than the start of a School Year, the amount of the Fixed Costs Daily Rate will not change.

(b) VARIABLE COSTS DAILY RATE

The amount due in respect of variable costs will be based on the Daily Variable Costs (DVC) tendered by the Contractor.

The Variable Costs Daily Rate amount may change over the course of the Contract as a result of the indexation or review of the components used to determine the variable cost element.

Example 2:

$$\text{Daily Variable Cost (DVC)} = \{\text{for example}\} \$164.50 \text{ per School Day}$$

(c) ROUTE VARIATION ADJUSTMENT

The amount due in respect of variable costs may change over the course of the Contract as a result of variations to the Approved Route Distance. Such changes will be reflected in a route variation adjustment based on the Daily Variable Costs (DVC) tendered by the Contractor and the agreed Tendered Daily Kilometres (TDK).

A Route Variation Rate (RVR) is required to calculate the value of a route variation adjustment. The RVR is determined by dividing the Daily Variable Costs (DVC) by the Tendered Daily Kilometres (TDK) to establish a rate expressed in cents per kilometre.

Formula:

$$\text{Route Variation Rate (RVR)} = [\text{DVC} \div \text{TDK}]$$

Example 3:

$$\text{Daily Variable Costs (DVC)} = \$164.50 \text{ per day}$$

$$\begin{aligned}
 \text{Tendered Daily Kilometres (TDK)} &= 120 \text{ kms} \\
 \text{Route Variation Rate (RVR)} &= [\text{DVC} \div \text{TDK}] \\
 &= [164.50 \div 120] \\
 &= \$1.37 \text{ per km}
 \end{aligned}$$

A route variation adjustment amount is calculated by subtracting the Tendered Daily Kilometres (TDK) from the Approved Daily Kilometres (ADK) and multiplying the result by the Route Variation Rate (RVR).

Note:

At the commencement of the Service, the Approved Daily Kilometres (ADK) will be the same as the Tendered Daily Kilometres (TDK).

If the Approved Route were varied so that Approved Daily Kilometres (ADK) was reduced from 120 kms to 112 kms, the calculation of the route variation adjustment would be:

Formula:

$$\text{Route Variation Adjustment} = [\text{ADK} - \text{TDK}] \times \text{RVR}$$

Example 4:

$$\begin{aligned}
 \text{Approved Daily Kilometres (ADK)} &= 112 \text{ kms} \\
 \text{Tendered Daily Kilometres (TDK)} &= 120 \text{ kms} \\
 \text{Route Variation Rate (RVR)} &= \$1.37 \text{ per km} \\
 \text{Route Variation Adjustment} &= [\text{ADK} - \text{TDK}] \times \text{RVR} \\
 &= [112 - 120] \times 1.37 \\
 &= [-8 \times 1.37] \\
 &= -\$10.96 \text{ per School Day}
 \end{aligned}$$

(d) PROFIT

The amount due to the Contractor in respect of profit will be calculated using the Profit Margin (PM) tendered by the Contractor, the Fixed Costs Daily Rate, the Variable Costs Daily Rate and, if applicable, the Route Variation Adjustment.

Formula:

$$\text{Profit} = [\text{Fixed Cost Daily Rate} + \text{Variable Cost Daily Rate} + \text{Route Variation Adjustment} + \text{ad hoc adjustment (if applicable)}] \times \text{Profit Margin (PM)}$$

Periodic Payment Amount

At the end of a scheduled pay period the value of the Service Charge to be paid to the Contractor will be determined by summing the fixed and variable daily rates, any route variation adjustments and ad hoc amounts for each School Day within that pay period, and applying the Profit Margin.

Using the Fixed Costs Daily Rate, the Variable Costs Daily Rate and Route Variation Adjustment set out in examples 1, 2 and 4 above, and assuming a payment cycle covering 10 School days, the periodic Service Charge would be calculated as follows:

Example 5:

Where the Approved Daily Kilometres are the same as the Tendered Daily Kilometres (ie where there has not been a change in the Approved Route Distance):

$$\begin{aligned}
 \text{Fixed Cost element} &= \$421.05 \times 10 \text{ School Days} = \$4,210.50 \\
 \text{Variable Cost element} &= \$164.50 \times 10 \text{ School Days} = \$1,645.00
 \end{aligned}$$

| | | | | |
|----------------------------|---|-------------------------|---|---------------|
| Route Variation Adjustment | = | \$0.00 x 10 School Days | = | <u>\$0.00</u> |
| | | Sub-Total | = | \$5,855.50 |
| Profit {for example, 8%} | = | \$5,855.50 x 0.8 | = | \$468.44 |
| Service Charge | = | Sub-Total + Profit | = | \$6,323.94 |

Example 6:

Where the Approved Daily Kilometres (ADK) are different to the Tendered Daily Kilometres (TDK) over the entire of the pay cycle, and using the Route Variation Adjustment amount calculated in example 4 above:

| | | | | |
|----------------------------|---|---------------------------|---|------------------|
| Fixed Cost element | = | \$421.05 x 10 School Days | = | \$4,210.50 |
| Variable Cost element | = | \$164.50 x 10 School Days | = | \$1,645.00 |
| Route Variation Adjustment | = | -\$10.96 x 10 School Days | = | <u>-\$109.60</u> |
| | | Sub-Total | = | \$5,745.90 |
| Profit {for example, 8%} | = | \$5,745.90 x 0.8 | = | \$459.67 |
| Service Charge | = | Sub-Total + Profit | = | \$6,205.57 |

Distance Adjustment Amount

If the Contractor lodges a statement at the end of a School Term pursuant to clause 15.6 substantiating that the distance actually travelled by the School Bus over the course of the School Term in providing the Service differed by more than 5% from the total of the Approved Route Distances used by the PTA for the School Term, the PTA will calculate a Distance Adjustment Amount (DAA) based on the difference between the actual distance travelled by the School Bus and the total of the Approved Daily Kilometres over the School Term (Distance Difference = DD), the Route Variation Rate (RVR) and the Profit Margin (PM).

Formula:

$$\text{Distance Adjustment Amount (DAA)} = \text{DD} \times \text{RVR} \times \text{PM}$$

Example 7:

| | | |
|--|---|---|
| Daily Variable Cost (DVC) | = | \$164.50 |
| Tendered Daily Kilometres (TDK) | = | 120 kms |
| Profit Margin | = | (for example) 8% |
| Approved Daily Kilometres (ADK) | = | 105 kms |
| Route Variation Rate (RVR) | = | $\text{DVC} \div \text{TDK} = \1.37 per km |
| Number of School Days in School Term | = | 47 days |
| Distance forecast as travelled | = | $\text{ADK} \times \text{School Days} = 4935 \text{ kms}$ |
| Distance actually travelled in providing the Service | = | 5430 kms |
| Distance Difference (DD) | = | $5430 - 4935 = +495 \text{ kms}$ |
| Percentage Distance Difference | = | $(5430 - 4935) \times 100 \div 4935 = 10.03\%$ |
| Distance Adjustment Amount (DAA) | = | $\text{DD} \times \text{RVR} \times \text{PM} = 495 \times 1.37 \times 1.08 = \732.40 |

In the above example, because the actual distance travelled by the School Bus in providing the Service over the School Term was more than 5% greater than the total of distances used by the PTA to calculate the total amount payable in respect of variable costs for the School Term, the PTA would pay the Contractor a Distance Adjustment Amount for the School Term of \$732.40.

Fare Collection Administration Fee

The Fare Collection Administration Fee is intended to reimburse contractors who are obliged to collect fares from Fare Paying Students for the costs incurred in collecting, processing and administering tickets and fares.

If the Contractor is obliged to collect fares from Fare Paying Students pursuant to clause 6 the PTA will calculate and pay the Contractor a Fare Collection Administration Fee as follows:

For each day on which fares are required to be collected from Fare Paying Students the Contractor will be entitled to a base payment equal to 0.65 multiplied by the dollar per hour rate set down in the *Clerks (Accountants' Employees) Award (WA)* for a casual adult worker Senior Clerk multiplied by the tendered Profit Margin decimalized (ie $(PM+100) \div 100$).

The dollar per hour rate set down in the Award will be reviewed annually with effect from 1 January each year, and the base payment value will be adjusted to account for the Contractor's liability to pay superannuation and workers compensation insurance.

Subject to the Contractor passing all collected fares to the PTA and providing the PTA with periodic reconciliations of all collected fares, payments in respect of the Fare Collection Administration Fee will be made fortnightly in arrears as part of the periodic Service Charge payments.

SCHEDULE 9**SPECIAL CONDITIONS OF CONTRACT**

*Any special conditions relating to the Service or the Contract will be inserted in this Schedule.
The PTA will discuss any special conditions with the successful Tenderer prior to execution of
the Contract.*

SCHEDULE 10**BUY LOCAL COMMITMENTS**

Any Buy Local commitments set out in the Tender lodged by the successful Tenderer will be transferred to this Schedule, including the following:

- Western Australian Local Content Details;***
- Western Australian Regional Business and Regional Content Details; and***
- Imported Content Details***

SCHEDULE 11

NARRATIVE AND ROUTE MAP

An updated Narrative and Route Map incorporating the agreed unloaded kilometres travelled by the School Bus in providing the Service will be included in this Schedule at the time the Contract is awarded. These details will be confirmed prior to the commencement of the Service.

| | | | |
|------------------------------------|--|---------------------|--|
| CONTRACT No | | SERVICE NAME | |
| SCHOOL BUS STORAGE LOCATION | | COMMENTS | |
| | | | |

| TIME | NUMBER OF STUDENTS | PICK-UP/ DROP-OFF | NARRATIVE |
|-----------|--------------------|----------------------|-----------|
| AM | | | |
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| PM | | | |
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