

CONDITIONS OF CONTRACT FOR BUS SERVICES

Effective from 01 November 2021

INTRODUCTION

These are the West Yorkshire Combined Authority (Combined Authority) standard conditions of contract for bus services.

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CONDITIONS OF CONTRACT

1. DEFINITIONS

- 1.1 In these Conditions except where the context otherwise requires the following expressions shall have the meanings given below :-

“Accounting Period” means in most instances a calendar month for which payment of the Period Contract Payment is due.

“Authorised Officer” Means the Combined Authority’s representative (or representatives) as nominated from time to time by the Combined Authority and initially notified in the Letter of Award.

“Bribery Act” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation

“Change” means a change to the Services made in accordance with Clause 15.

“Commencement Date” means the date the Services are to commence as notified in the Letter of Award.

“Concessionary Fares Scheme” means the Scheme for the provision of concessionary fares to certain categories of the travelling public as amended from time to time.

“Contract” means these Conditions of Contract together with the Letter of Award, the Specification, the Invitation to Tender, the Service Quality Statement and any other documentation expressly incorporated into the Contract by the Letter of Award and any subsequent changes made by agreement.

“Contractor” means the bus operator (being either an individual person, an unincorporated association or a limited company) to whom the Contract is awarded and where appropriate will include any employee, agent or sub-contractor of the Contractor.

“Contract Manager” means the person nominated from time to time by the Contractor to manage the Contract.

“Contract Period”	means the period specified in the Letter of Award.
“Contract Price”	means the amount specified in the Schedule accompanying the Letter of Award being the total value of payments to be made under the Contract. Any initial capital paid to the Contractor will be covered by a supplemental agreement (e.g. any grant payable towards the purchase cost of vehicles).
“Designated Service Change Date”	means a date agreed between bus operators and the Combined Authority from time to time as a date on which Service revisions should take place.
“Combined Authority” or “Metro”	means West Yorkshire Combined Authority
“Index”	means the “All Items” General Index of Retail Prices published by the Office for National Statistics. Contracts awarded from April 2018 will not attract Retail Price Index.
“Invitation to Tender”	means the documents issued by the Combined Authority inviting the Contractor to submit a tender.

“ITSO”	means the Government backed, non-profit organisation which defines and develops the uk-wide technical specification for smart ticketing
“Letter of Award”	means the letter sent by the Combined Authority awarding the Contract to the Contractor.
“Lost Mileage Deductions”	means deductions to be made from any Period Contract Payment for a Service (or part thereof) which has not operated or is deemed not to have operated (in whole or part) in accordance with clause 12.4.
“Minimum Cost Contract”	means a contract where the Combined Authority takes the revenue risk and no Passenger Revenue is retained by the Contractor as indicated in the Letter of Award.
“Minimum Subsidy Contract”	means a contract where the Contractor takes the revenue risk and retains the passenger revenue.
“Passenger Revenue”	means the fares collected on the Services operated in the performance of the Contract

including any on bus sales of prepaid tickets (except to the extent that there is agreement between the Contractor and the Combined Authority to the contrary or that the sale relates to the sale of a multi-operator ticket and the Contractor is obliged to pass on that revenue to the body administering the sale proceeds of multi-operator tickets).

“Performance Return”

means the monthly statement which the Contractor is required to submit noting any instances of non-operation and such other information as may reasonably be required by the Authorised Officer. In the case of Minimum Cost Contracts the statement must also set out the number of passengers carried and the fares collected (Passenger Revenue)

“Performance Deductions”

means deductions to be made from the Period Contract Payment in accordance with clause 9.

‘Performance Statement’

Means the monthly statement issued by the Combined Authority to the contractor detailing quality points awarded and financial

deductions to be made from the next period payment.

“Period Contract Payment”

means the amount due to the Contractor (before any deductions or adjustments are made) for any Accounting Period.

“Prohibited Act”:

the following constitute Prohibited Acts:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Combined Authority a financial or other advantage to:

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for

improper performance of a relevant function or activity in connection with this Contract;

(c) committing any offence:

(i) under the Bribery Act

(ii) under the Prevention of Corruption Acts 1889 to 1916;

(iii) under legislation creating offences concerning fraudulent acts;

(iv) at common law concerning fraudulent acts relating to this Contract or any other contract with the Combined Authority; or

(v) defrauding, attempting to defraud or conspiring to defraud the Combined Authority;

(d) giving any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972;

(e) directly or indirectly canvassing any member or officer of the Combined Authority or obtaining or attempting to obtain information concerning any other tender or contract;

“Real Time Information System” means the ‘yournextbus’ system operated in South and West Yorkshire for the provision of information by real time.

“Service” and “Services” means the public transport service(s) which the Contractor is required to provide in accordance with the Contract.

“Service Quality Statement” means the document submitted by the Contractor supporting the Contractors tender for the Contract describing amongst other matters the Contractors proposed method of operation including details of the vehicles to be used on the Contract and other quality related issues..

“Specification” means the Specification incorporated into the Contract in accordance with the Letter of Award.

“Ticketing Equipment” means any equipment and/or software either the Contractor or the Combined Authority use to issue tickets, record Passenger Revenue, record the use of passes and all forms of prepaid travel, provide real time information and/or any other information.

“Vehicles” means the vehicles used to provide the Services.

“West Yorkshire Prepaid Ticket Scheme” means the scheme administered by the West Yorkshire Ticketing Company Ltd.

“Working Days” means Monday to Friday inclusive except any Bank Holidays.

“Yorcard” means the electronic ticketing platform established by the Combined Authority and South Yorkshire Passenger Transport Executive.

- 1.2 All references in the Contract documents to ‘West Yorkshire Passenger Transport Executive’ or ‘Metro’ or ‘WYMetro’ shall now mean and be read as ‘West Yorkshire Combined Authority’.

- 1.3 A reference to any Act of Parliament or to any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same.
- 1.4 Words importing the masculine gender include the feminine gender. Words in the singular include the plural and vice-versa and words importing individuals shall be treated as importing corporations, companies and vice-versa.
- 1.5 Headings are for ease of reference only and shall not affect construction or interpretation of the Contract.

2. CONTRACTOR'S OBLIGATIONS

- 2.1 The Contractor will at all times during the Contract Period provide the Services to the standard required by the Contract.
- 2.2. The Contractor will warrant that it has obtained and will retain all licences, approvals, registrations, permits, insurances and any other matters legally required for the provision of the Services.
- 2.3 The Contractor will at all times exercise all skill, care and diligence and ensure the welfare of passengers in providing the Services. Drivers will be expected to comply with the Combined Authority's 'Disability Discrimination Guidance to Bus Drivers' note as attached to the Information to Tenderers documentation supplied with the tenders.
- 2.4 The Contractor will at all times participate in the West Yorkshire Concessionary Fares Scheme and schemes administered by other local transport authorities through which the service operates. Qualifying passengers should be carried at the concessionary fare applicable at the time of travel. No claim for reimbursement under the Concessionary Fares Scheme shall be made for a Contract awarded on a Minimum Cost Contract basis.

- 2.5 The Contractor must provide passenger and revenue information to the Combined Authority in an electronic format capable of being imported into the Combined Authority's electronic data analysis system, or alternatively allow the Combined Authority access to web-based back office data taken directly from Electronic Ticket Machines ("ETM's"). This provision to apply within six months from the start of the contract. Data should be derived from the ETM's and show individual passengers' origin, revenue taken and ticket type by journey at fare stage level. Raw module data is acceptable. Data to be supplied by 21st day of the month following the month to which the data refers, unless otherwise agreed by the authorised officer. Data supply to be in accordance with the standard agreement from time to time in use.
- 2.6 Where the Combined Authority stipulates the fares to be charged by the Contractor (minimum cost contract) then until such time as the Combined Authority notifies the Contractor of a variation the Contractor shall apply the fares so notified to it.
- 2.7 Where the fares to be charged by the Contractor for operating the Services are not stipulated by the Combined Authority (minimum subsidy contract) then the fares charged will not be higher than the maximum fare charged and not be lower than the lowest fare charged by bus operators operating on the route or part thereof, or if there is no such comparable fare it will be in line with the prevailing fare scale in the area. The Contractor will provide the Authorised Officer with a faretable for the Services no later than two weeks prior to the start of the contract and will make this available on request to passengers. No change to fares will be made without written or e-mail notification to the Authorised Officer, attaching copies of the proposed faretables which are to be introduced. This to be supplied no later than 14 days prior to implementation. The Contractor will use reasonable endeavours to ensure that all passengers are charged the correct fare for the journey

- 2.8 The Contractor shall at all times while providing the Services accept valid tickets that have been issued in advance on behalf of the West Yorkshire Ticketing Company (WYTICCO) and may refuse travel to passengers who do not pay a fare or have a valid pass or permit. When deciding whether to refuse travel the Contractor should have regard to any national or local guidance issued in respect of refusing travel to specific groups of passengers e.g. children or the elderly. Nothing in this clause 2.8 confers any obligation on the Contractor to carry the passenger where to do so would mean that the vehicle capacity was exceeded nor will any prepaid or other ticket issued by the Combined Authority confer any priority in respect of travel rights.
- 2.9 Without prejudice to the Combined Authority's rights under Clause 9 (Default of the Contractor) the Contractor shall forthwith notify the Combined Authority if it becomes aware that it will be unable to operate a Service or journeys forming part thereof. Such notification must be made by telephone to the Authorised Officer within 30 mins of a cancellation or when reasonably practical and in accordance with procedures outlined in any agreement with the Contractor relating to real time information .
- 2.10 Under no circumstances will the Contractor make any variation or change to the Services without the express written approval of the Authorised Officer where circumstances beyond the control of the Contractor prevent the specified route or timetable from being followed the Contractor shall adopt an alternative which is as close as practically possible to the specified route and timetable and shall notify passengers accordingly. Any such alterations lasting for more than one day must be agreed with the Authorised Officer as soon as possible thereafter.
- 2.11 The Contractor shall advise the Authorised Officer of any problems experienced in complying with the specified route and timetable. In the event of the Contractor reporting such problems to the Combined Authority it will co-operate with the Contractor to agree any changes

required and shall agree to their implementation as soon as possible. Consent for any such change will not be unreasonably withheld.

- 2.12 If a passenger tenders legal currency in an amount that covers the fare then provided such amount tendered does not exceed £20.00 the Contractor will not refuse to carry that passenger due to the fact that the passenger does not tender the correct change for the fare or due to the fact that the Contractor has insufficient change on the vehicle at the time of boarding. This clause shall not oblige the Contractor to accept a denomination of currency if the Contractors policy is not to accept such currency due to the risk of fraud provided that such a policy is notified to passengers by signage mounted on or within the vehicle.
- 2.13 Passengers shall be prohibited from smoking on all Services and appropriate signage shall be displayed. The Contractor shall take all reasonable steps to enforce such prohibition.
- 2.14 The Contractor shall use electronic Ticketing Equipment on all Services. Subject to clause 2.16 all passengers who pay a fare must be issued with a ticket to the appropriate value and showing the appropriate passenger category. A record must be kept of all passengers who for whatever reason travel without payment of a fare. Electronic Ticketing Equipment to be capable of reading QR codes and receiving payment via contactless card.
- 2.15 Except for circumstances beyond the Contractors reasonable control the Contractor will at all times use the designated stands (as notified by the Combined Authority or owner) within bus stations and interchanges, subject to any changes which may be notified from time to time and also designated bus stops along the route of the Service. The Contractor will be responsible for the payment of all charges to use a bus station. The Contractor to adhere to all guidelines as stated in the Combined Authority's 'Operator Conditions of Use' document.

2.16 At all times the Contractor shall participate in the West Yorkshire Prepaid Ticket Scheme.

2.17 The Contractor shall at all times operate the level of service specified for the appropriate day of the week with the following exceptions (only):

- No service is required to operate on 1st January, 25th December or 26th December unless agreed otherwise between the parties.
- The specified Saturday service will be provided on any Mon-Fri not designated a bank holiday between 27 December and 31 December inclusive unless otherwise stated in the timetable specification. The contractor may, however, choose to operate a Mon-Fri service at no variation to the contract price.
- The specified Saturday service will be provided on Good Friday however the contractor may choose to operate a weekday service at no variation to the contract price
- The specified Sunday service will be provided on Easter Monday, May Day Bank Holiday Monday, Spring Bank Holiday Monday and August Bank Holiday Monday.
- The specified Sunday service will also be provided on any day which is designated as a Bank Holiday in lieu of 1st January, 25th December or 26th December when these days do not fall on a weekday.
- The specified Sunday service will be provided on any additional designated Bank Holidays unless agreed otherwise between the parties.
- Unless agreed otherwise between the parties on 24th December and 31st December any journey which is specified to finish after 2000 hours is not required to operate.

- 2.18 Where the combined value of bus service contracts issued by the Combined Authority to the Contractor exceeds (or is likely to exceed) £500,000 per annum, the Contractor will submit an enhanced Service Quality Statement with their tender.

3. VEHICLES

- 3.1 In providing the Services the Contractor shall only operate Vehicles that meet or exceed the qualitative assurances given in the Service Quality Statement and comply with the Specification.
- 3.2 Without prejudice to 3.1 above any Vehicle used in providing the Services will meet all the requirements of all relevant Acts of Parliament, Statutory Instruments, Orders or Regulations from time to time in force.
- 3.3 The Contractor will keep all Vehicles and associated equipment used to provide the Services in good and serviceable repair and in such condition both mechanically and in external appearance as is commensurate with the proper performance by the Contractor of his obligations under the Contract.
- 3.4 All vehicles used for the provision of the Services shall, within six months of the start of the contract, be equipped with GPS real time equipment and supply vehicle tracking information to the Real Time Information System in accordance with any agreement relating to such equipment. Any ticketing equipment used shall, within six months from the start of the contract, be fitted with an Electronic Ticket Machines ITSO smartcard reader and supply smartcard transaction data to an ITSO back office or the Yorcard back office in accordance with any agreement relating to the supply of data to the Combined Authority. Electronic Ticketing Equipment to be capable of reading QR codes and receiving payment via contactless card.

- 3.5 All Vehicles used for the provision of the Services shall on a daily basis be cleaned internally and excess litter shall be regularly removed as required. Externally they shall be cleaned at least weekly and more regularly (including daily) when required.
- 3.6 All Vehicles will be equipped with heaters which must be used when necessary to maintain passenger comfort.
- 3.7 The Contractor will at all reasonable times with appropriate notice and subject to the Contractor's obligations to the Traffic Commissioner to operate its services, permit the Authorised Officer access to any Vehicle or equipment used to provide the Services. The Authorised Officer (acting reasonably) shall be entitled to serve upon the Contractor a notice in writing requiring the Contractor to put any Vehicle into such condition (including cleanliness) as is reasonably required for the proper performance of the Services. The Contractor shall forthwith upon receipt of such notice cause all necessary works to be carried out in order to comply with such notice.
- 3.8 Without prejudice to the generality of clause 3.6 the Combined Authority shall have the right to inspect and audit (or to procure the inspection and audit of) the Contractor's systems of maintenance and repair.
- 3.9 The Contractor shall ensure that it has an adequate number of Vehicles available as non-availability of a Vehicle will not be deemed an acceptable reason for failure to provide the Services save for exceptional circumstances.
- 3.10 The Contractor must operate vehicles which provide the specified seating capacity, and shall notify the Authorised Officer if this capacity is regularly found to be inadequate for any journey within the Contract, giving full details of the problem. Smaller capacity vehicles may be used on certain journeys with the permission of the Authorised Officer,

provided that they offer sufficient seating capacity for all passengers who may reasonably be expected to travel.

- 3.11 Without prior agreement from the Authorised Officer the Contractor will not use any open-top, vintage or similar vehicle in the performance of the Services.
- 3.12 The Contractor shall display on its vehicles used under the contract any notices as reasonably required by the Combined Authority, including if required an indication that a specific journey is operated under contract to the Combined Authority.
- 3.13 Upon request from the Combined Authority the Contractor shall ensure that the Combined Authority's monitoring staff are carried on any Vehicle operating a Service and allowed to conduct relevant surveys on such Vehicles. At all times such staff shall comply with all regulations covering the conveyance of passengers (including any maximum to be carried) and shall at all times comply with the reasonable instructions of the driver in relation to the operation of the vehicle or the service.

4. LICENCES, REGISTRATIONS, ETC.

- 4.1 If at any time any insurance, licence, approval, registration or other permission required to provide the Services is revoked, removed, restricted, suspended or amended or if the Contractor or any sub-contractor shall have any action taken, or be called to public inquiry, by any competent agency or body including without prejudice to the generality the Police, the Traffic Commissioner, the Health and Safety Executive and VOSA, then the Contractor shall forthwith notify the Authorised Officer in writing.
- 4.2 If as a consequence of any matter referred to in 4.1 above the Contractor may no longer lawfully operate the Services or any part thereof then the Authorised Officer must be notified forthwith and the Services or the

relevant parts thereof (as appropriate) shall be suspended forthwith and the Traffic Commissioner notified accordingly. Without prejudice to the Combined Authority's rights under clauses 16 and 17 (Termination/Recovery of Sums Due) if the Contractor's licence, approval, registration or permission is restored the Combined Authority may by written notice require the Services to be recommenced immediately. The Combined Authority may at any time while the Services or any part thereof are suspended terminate the Contract or part thereof in accordance with clause 16 (Termination).

4.3 The Contractor shall copy to the Combined Authority all relevant correspondence with/from the Traffic Commissioner or any other competent agency or body relating to any licence, approval, registration or permission lawfully required to operate the Services being removed, revoked, restricted, suspended or amended and keep the Authorised Officer fully and promptly informed.

4.4 The Combined Authority may terminate the Contract or part thereof in accordance with clause 16 (Termination) if arising from evidence accepted by a court of law or public inquiry the safety of passengers using the Services has been placed at risk.

5. APPLICATION OF APPENDICES

5.1 The contractor must observe the standards of service delivery set out in Appendix 1.

5.2 In respect of extensions to the contract period the provisions of Appendix 3 shall apply where the Letter of Award specifies that they shall apply.

6. CONTRACTOR'S EMPLOYEES

- 6.1 The Contractor shall appoint a Contract Manager to act on his behalf for all purposes connected with the Contract and shall promptly notify the Authorised Officer of such appointment and any change thereto. Any notice, information, instruction, request, or other communication given or made to the Contract Manager by the Combined Authority shall be deemed to have been given or made to the Contractor. The service of any such notice shall comply with the provisions of clause 20 (Service of Notices).
- 6.2 The Contract Manager or persons nominated as their substitute shall be available for consultation by the Combined Authority at all times that the service operates. The contractor shall furnish the Combined Authority with details of how to contact the Contract Manager.
- 6.3 The Contractor shall at all times during the Contract Period employ sufficient, qualified and adequately trained drivers and other employees to ensure the proper performance of the Contract.
- 6.4 No employee of the Contractor will in connection with the Services solicit any gift or gratuity from a passenger.
- 6.5 The Combined Authority reserves the right to require removal of any employee used by the Contractor in performance of the Services, who in the reasonable opinion of the Authorised Officer:-
- (i) is not performing in compliance with the Contract
 - (ii) is guilty of serious or repeated misconduct and/or negligence
 - (iii) is acting in a manner detrimental to the Combined Authority's interests
 - (iv) is not fit to perform the Services

(v) is a risk to passengers or other road users

6.6 The right contained in 6.5 above shall not be exercised arbitrarily, vexatiously or capriciously by the Authorised Officer

6.7 The Contractor will replace any employee removed in accordance with 6.5 above with a properly qualified and trained replacement in such time as is reasonable in the circumstances to the Authorised Officer at no cost to the Combined Authority.

7. STATUTORY COMPLIANCE

7.1 The Contractor shall carry out all of its obligations so as to comply with all relevant laws (whether such are mandatory or permissible) and with the requirements of the common law, all acts of Parliament, statutory instruments, regulations and orders from time to time in force.

8. DISPUTE RESOLUTION

8.1 Where any dispute arises between the parties in connection with the Contract which cannot be resolved by the Authorised Officer and the Contract Manager (who shall co-operate in good faith to resolve the dispute), either party may by written notice request that a Director (or his senior nominee) of each party meet in good faith to attempt to resolve the dispute without recourse to legal proceedings. Where such a request is made the meeting must take place within 10 working days of the date the written request is made.

8.2 If the dispute is not resolved as a result of such meeting, either party may (at such meeting or within 5 Working Days of its conclusion) propose to the other in writing that structured negotiations be entered

into with the assistance of a neutral adviser or mediator (“Neutral Adviser”).

- 8.3 If the parties are unable to agree on a Neutral Adviser or if that person is unable or unwilling to act, either party may apply to the President of the Law Society to appoint a Neutral Adviser within 5 Working Days from the date of the proposal to appoint a Neutral Adviser or within 5 Working Days of notice to either party that he or she is unable or unwilling to act.
- 8.4 The parties shall as soon as possible meet with the Neutral Adviser in order to agree a programme for the exchanging of any relevant information and the structure to be adopted for the negotiations.
- 8.5 The Neutral Adviser shall produce recommendations based upon a review of information provided by the parties.
- 8.6 If the parties accept the Neutral Adviser’s recommendations or otherwise reach agreement on the resolution of the dispute, such agreement shall be recorded in writing and, once signed by their representatives, shall be binding on the parties. The parties shall bear their own costs in connection with this clause 8 but the costs of the Neutral Adviser shall be borne as the Neutral Adviser directs.
- 8.7 Unless concluded by the written binding agreement referred to in clause 8.6, all negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings .
- 8.8 If the parties fail to reach agreement within 10 Working Days of the Neutral Adviser’s recommendations then any dispute between them may be referred to the courts unless within such period or a further period of 5 Working Days the parties agree to refer the matter to arbitration to an arbitrator whose method of appointment is agreed between them.

- 8.9 Nothing in clause 8 shall operate so as to require any party to follow the dispute resolution procedure where in its reasonable opinion it considers that any legal rights that it may have would be prejudiced by delay including the possible loss of availability of interim relief.

9. DEFAULT OF THE CONTRACTOR

- 9.1 The Combined Authority will monitor the performance of the Contractor under the Contract.
- 9.2 Where the Contractor is a participant in the Real Time Information System, data from that system will be used to monitor the operation of the service in accordance with any other agreement between the parties in so far as it relates to such information.
- 9.3 The Contractor shall within the Performance Return supply to the Authorised Officer a list of specified journeys which during the previous calendar month have not been operated or have operated more than 20 minutes late at a registered timing point and shall give reasons therefore.
- 9.4 The Combined Authority may make Lost Mileage Deductions from the contract price in respect of any journeys which have not been operated or have been operated over 20 minutes late at a registered timing point. Due allowance will be made by the Combined Authority for extreme adverse weather or traffic conditions.
- 9.5 Reductions in the contract price shall be calculated by dividing the current value of the contract price by the contracted mileage to be run over the period of the contract ("the cost per mile") in question provided that if the Contractor fails to operate more than 99.5 per cent of the total mileage specified by the Combined Authority during that period ("the excess lost mileage") the reduction to be made in the contract price shall be twice the cost per mile in respect of the excess lost mileage.

- 9.6 Each declared lost mileage deduction will have 10% of the value of the deduction added to reflect the Combined Authority's administrative costs. Lost mileage observed by the Combined Authority and not declared by the Contractor in the Performance Return will incur a pro-rata mileage deduction and an additional administration charge of 50% of the total value of the Contractor's deductions for the period.
- 9.7 The Combined Authority shall monitor the performance of the Contractor and will issue the Contractor a Performance Statement detailing the quality points issued in accordance with Appendix 1 together with the value of Performance Deductions to be made from the period payment following issue of the Performance Statement. Where the value of Performance Deductions does not exceed £50, financial adjustment will not be made and the quality points will carry forward to the next period. The £50 threshold will be reviewed bi-annually (at 31 March and 30 September).
- 9.8 Notwithstanding the provisions of Appendix 1 the Combined Authority will monitor the performance of the Contractor in meeting the requirements of the Service Quality Statement and may issue quality points for non-compliance with the provisions of the Statement and/or the supply of returns as required. Such quality points to be included in the Performance Statement.
- 9.9 The contractor may, within two weeks of receipt of the Performance Statement, request a review of the circumstances of the award of quality points. The Combined Authority will take appropriate mitigating circumstances into consideration when reviewing the Performance Statement.
- 9.10 The value of Performance Deductions in respect of each Quality Point shall be £17.67 as at 1 Jan 2018. This will be reviewed bi annually (at 31 March and 30 September).

- 9.11 If, in the reasonable opinion of the Combined Authority, the performance of the Contractor in relation to the Contract is unsatisfactory, the Combined Authority will notify the Contractor in writing (Notification of Breach) indicating the area or areas of concern and will require a plan of corrective action (Improvement Statement) to be submitted to the Combined Authority by the Contractor within a time period specified by the Combined Authority proportionate to the scale and frequency of the breach(s).
- 9.12 The Combined Authority may issue one or more than one Notification of Breach relating to one or a series of related performance issues. Notifications may run concurrently.
- 9.13 If the Contractor's Improvement Statement is unsatisfactory in the opinion of the Combined Authority, the Combined Authority will specify the Improvement Statement.
- 9.14 Performance in relation to the Improvement Statement will be reviewed at the Combined Authority's discretion and a formal Review Meeting may be held within a time period specified by the Combined Authority from the date of the agreed Improvement Statement. The Review Meeting may address more than one Improvement Statement.
- 9.15 If following a Review Meeting, if held, or during any other review the Contractor satisfies the Combined Authority that the areas of concern have been remedied then the Combined Authority will discharge the Improvement Statement
- 9.16 If following a Review Meeting if held or during any other review the Contractor fails to satisfy the Combined Authority that the areas of concern have been remedied then the Contractor will be in default and the Combined Authority will:

- a) Specify a further period for the attainment of the targets set out in the Improvement Statement and/or;
- b) Specify a revised Improvement Statement and/or;
- c) Issue a formal warning which may be accompanied by a penalty commensurate with the number, gravity and or frequency of the breach(s) as set out in the Specification
- d) Without terminating the Contract itself, provide or procure the provision of part of the Specification until such time as the Contractor is able to demonstrate to the reasonable satisfaction of the Combined Authority that the Contractor will be able to perform such part of the Specification in accordance with the Contract and/or;
- e) Without terminating the Contract itself, terminate that part of the Contract in respect of the Specifications in default only and thereafter itself provide or procure this part of the Specification and/or;
- f) Terminate the whole Contract in accordance with Clause 16 (Termination)

9.17 The Combined Authority may charge the cost of any part of the Services provided by it or by a third party under this clause 9 to the Contractor in accordance with Clause 10 (Substituted Performance).

9.18 The remedies of the Combined Authority under this clause may be applied in respect of any one or more default by the Contractor.

10. SUBSTITUTED PERFORMANCE

10.1 In accordance with Clause 9.11(b) if without good reason in the opinion of the Authorised Officer the Contractor for whatever reason regularly fails to perform the Services in whole or in part strictly in accordance with the terms of the Contract, or in performing the Services there is an unacceptable level of deficient Service, then without prejudice to any other remedy available to the Combined Authority the Authorised Officer may make alternative arrangements to provide and perform such of the

Services which the Contractor fails to perform or performs deficiently. The costs (together with a sum equal to 10% of the costs of remedying the breach of contract towards the Combined Authority's administrative costs and overheads) shall be payable by the Contractor to the Combined Authority on demand as a debt.

11. DATA PROVISION/AUDIT

- 11.1 The Contractor shall, by the 21st day of the month following the month to which the data refers, submit to the Combined Authority the Performance Return duly completed and certified by the Contractor.
- 11.2 The Performance Return shall be submitted to an agreed format and shall (unless agreed otherwise) be sent electronically to the Combined Authority to the e-mail address notified from time to time to the Contractor.
- 11.3 In addition to the Performance Return the Combined Authority may require that the Contractor provide and make available to the Combined Authority within two weeks of the request any passenger, revenue, timekeeping, or ticket data extracted from the Ticketing Equipment in an agreed format. All data supporting the information provided in the Performance Return must be retained by the Contractor for a period of 12 months from the date of submission of the relevant return.
- 11.4 The Combined Authority may use any data provided by the Contractor for any purpose connected with the provision of the Services, including, without prejudice to the generality of this clause, to audit the Performance Return.
- 11.5 The Contractor shall provide, on request to the authorised officer, details of all complaints received by the Contractor in respect of the Services. .Where a response is required by the Combined Authority the complaint should be forwarded within one week. Where the contractor is merely

providing a copy of the complaint together with their reply, this should be forwarded within four weeks of receipt.

11.6 The Combined Authority its employees, agents and contractors shall have a right of access at reasonable times and upon reasonable notice to the Contractors premises and vehicles for the purpose of:-

- (i) auditing Contract compliance
- (ii) auditing all records and information provided under clause 11.3 and any other documents relevant to the Contract

12. PAYMENT

12.1 No payment will be made to the Contractor until the Commencement Date and any costs incurred by the Contractor prior to the Commencement Date shall be deemed to have been included in the Contract Price.

12.2 Provided the Contractor shall have performed the Services in accordance with the Contract the Combined Authority shall pay the Contractor the Period Contract Payments in accordance with this clause 12.

12.3 The Period Contract Payment for any Accounting Period shall be equal to the sum of the Contract Price divided by the number of days of operation in the Contract Period multiplied by the number of days in the Accounting Period.

12.4 The total of all the Performance Deductions and the Lost Mileage Deductions incurred for each Accounting Period shall be made from the next or any subsequent Period Contract Payment. In the case of the Performance Deductions and Lost Mileage Deductions to be made in respect of the last Accounting Period of the Contract these shall, at the discretion of the Combined Authority be paid by the Contractor to the Combined Authority or set off against other amounts owed by the

Combined Authority to the Contractor under any other contract with the Contractor.

- 12.5 Not later than the 21st day of the month following the month to which the data refers, the Contractor shall submit to the Combined Authority the Performance Return and passenger information for that period. Payment by the Combined Authority of the Period Contract Payment for the corresponding period shall be conditional upon receipt of the Performance Return and the provision of passenger information within the specified time period.
- 12.6 If the Performance Return is not submitted and/or the passenger information is not received in accordance with clause 12.5 above the relevant Period Contract Payment shall be withheld until the next payment date after the submission is received (provided it is received within the timescales stipulated in clause 12.5). No interest shall be payable by the Combined Authority in such circumstances. If the Combined Authority has been unable to process a properly received Performance Return (due to no fault of the contractor) it shall pay the Period Contract Payment to the Contractor and it reserves the right to deduct any amounts that would have been properly deducted had the return been processed from the next or any subsequent payment.
- 12.7 Subject to Clause 12.6 above for each Accounting Period the payment of the Period Contract Payment (less Passenger Revenue for a Minimum Cost Contract and less any other deductions) shall be made within 20 Working Days of the last day of that Accounting Period into the nominated bank account of the Contractor. Where the letter of Award so stipulates, it will be a condition of payment that the Contractor has issued a properly constituted VAT invoice for the monies due.

13. INDEXATION

- 13.1 From 1 April 2018 contracts will not be subject to adjustment in line with inflation unless otherwise stated in the letter of award.
- 13.2 Contracts already awarded prior to 1 April 2018 will still be subject to adjustment in line with inflation unless stated otherwise in the letter of award. Such adjustments shall be calculated at the 30 September and 31 March each year using the most recent available Index or such other method of adjustment as shall be mutually agreed in writing between the parties.
- 13.3 Contracts for less than twelve months duration shall not be subject to adjustment in line with inflation.

14. INDEMNITY AND INSURANCE

- 14.1 The Contractor shall be responsible for and shall release and indemnify the Combined Authority, its employees, agents and contractors from and against all liability for death or personal injury, loss of or damage to property (including property belonging to the Combined Authority for which the Contractor is responsible) and any other loss, damage, cost and/or expense which may arise out of or in the course of or by reason of the performance or non-performance of the Contract by the Contractor, its employees or agents whether such injury, loss, damage, cost and/or expense be caused by negligence or otherwise provided always that the Contractor shall not be liable to indemnify the Combined Authority for any injury, loss, damage, cost and/or expense to the extent that the negligence of the Combined Authority its employees, agents or contractors is shown to have contributed to the said injury, loss, damage, cost and/or expense.
- 14.2 If the Combined Authority receive any notice, demand, letter or other documents concerning any claim from which it appears that the Combined Authority is or may become entitled to an indemnity under clause 14.1, then the Combined Authority shall notify the Contractor as

soon as reasonably practicable and shall supply a copy of the relevant documents to the Contractor and the following provisions shall apply:

14.2.1 where and so long as it appears that the Combined Authority is or may become entitled to an indemnity from the Contractor in respect of the claim, the Contractor shall be entitled to resist the claim in the name of the Combined Authority and shall have the conduct of any defence of the claim and of any incidental appeals or negotiations and the Combined Authority shall give the Contractor at the Contractor's expenses all reasonable co-operation, access and assistance for the purpose of dealing with the claim;

14.2.2 the Contractor shall keep the Combined Authority fully informed in relation to the claim and shall consult the Combined Authority as to the conduct of any defence to the claim to the extent that it is reasonable to do so;

14.2.3 the Combined Authority shall be free to pay or settle any claim on such terms as they may in its absolute discretion think fit and without prejudice to its rights and remedies under this Contract in the following circumstances (but otherwise not without the prior consent of the Contractor, such consent not to be unreasonably withheld or delayed):

- (i) if within 21 days after the said notice from the Combined Authority under this clause 14.2 the Contractor fails to notify the Combined Authority in writing of its intention to assume the conduct of the claim; or
- (ii) if the Contractor fails to comply in any material respect with the provisions of clause 14.2.2

14.3 Without prejudice to its liability to indemnify the Combined Authority under this clause 14 the Contractor shall, at its own expense, arrange and maintain throughout the Contract Period the following insurances (“the Insurances”):

14.3.1 public liability in the sum of not less than £5,000,000 (five million pounds) per incident;

14.3.2 employers’ liability as may be required from time to time under the provisions of the Employers Liability (Compulsory Insurance) Act 1969; and

14.3.3 motor vehicles liability (as required under the Road Traffic Act 1988 or any subsequent legislation or statutory requirements) and in the sum appropriate to reflect their use as Public Service Vehicles carrying up to the maximum authorised capacity of the Vehicle or such other insurance/deposit scheme which satisfies the Contractors legal responsibility with an insurer (or insurers) authorised to underwrite such risks in the United Kingdom.

14.4 The Contractor shall ensure that the Insurances cover the Contractors legal liability (including liability assumed under the Contract) which may arise out of or in the course of or by reason of the performance or non-performance of the Contract.

14.5 At any time during the Contract Period the Contractor shall on request from the Authorised Officer provide proof to the reasonable satisfaction of the Authorised Officer that the Insurances have been effected and are in force.

15. CHANGE PROCEDURE

- 15.1 The Combined Authority and the Contractor acknowledge and agree that from time to time during the Contract Period the Combined Authority may require the Services provided under the Contract to be changed.
- 15.2 The Authorised Officer will discuss with the Contractor any Change proposed. If the parties agree the changes and any financial implications of such Change then the Change shall be documented as detailed in 15.6 below.
- 15.3 Where the Combined Authority and the Contractor are unable to agree the proposed change in accordance with 15.2 above the Authorised Officer shall, if the Combined Authority wish to proceed with a Change, issue a change control notice ("CCN") to the Contractor in the form set out in Appendix 2.
- 15.4 The Contractor shall give proper consideration to the CCN and if agreed shall sign the same. If the Contractor does not accept the CCN it shall within 5 Working Days of its receipt respond in writing to the Combined Authority to that effect setting out the reasons.
- 15.5 If the CCN is not agreed then the parties shall use all reasonable endeavours to meet within 5 Working Days of receipt of the Contractors response under clause 15.4 to discuss the proposed change and the reasons for non-acceptance. If agreement is not reached at the meeting then the Combined Authority may at its sole discretion at any time thereafter refer the matter for consideration in accordance with the provisions of clause 8. The decision of the Neutral Adviser shall be binding upon the parties except that the Combined Authority does not have to proceed with the Change in any event.
- 15.6 When any change is proceeded with the Contractor and the Combined Authority shall agree the date from which the Change will become effective subject to the requirements of registration. The agreement shall be recorded in a letter issued by the Combined Authority and

signed by the Authorised Officer and countersigned by the Contract Manager.

16. TERMINATION

16.1 If the Contractor shall have offered or given or agreed to give any person any gift, or consideration of any kind as an inducement or reward for doing, or forbearing to do, or having done or forborne to do any action in relation to the obtaining of the Contract or any other Contract with the Combined Authority or for showing or forbearing to show favour, or disfavour, to any person in relation to the Contract, or any other Contract with the Combined Authority, or if the like acts shall have been done by any person employed by the Contractor, or acting on the Contractor's behalf (whether with or without knowledge of the Contractor) or if in relation to the Contract or any other Contract with the Combined Authority, the Contractor or any person employed by the Contractor, or acting on the Contractor's behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward to any officer of the Combined Authority, the receipt of which is an offence under Section 177 (2) of the Local Government Act, the Combined Authority shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination.

16.2 If the Contractor:

- (i) commits a breach of any of its obligations under the Contract and in the case of such a breach which is capable of remedy fails to remedy the same within 28 days of notification of the breach by the Combined Authority (and in which the Combined Authority expresses its intention to exercise its rights under this sub-clause);

- (ii) becomes bankrupt or makes a composition or arrangement with its creditors, or has a proposal in respect of its company for voluntary arrangement for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;
- (iii) has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrative receiver;
- (iv) has a winding up order made, or (except for the purpose of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
- (v) has a provisional liquidator receiver or manager of its business or undertaking duly appointed;
- (vi) has an administrative receiver, as defined in the Insolvency Act 1986 appointed;
- (vii) has possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the floating charge;
- (viii) is in circumstances which entitle the Court or a creditor to appoint, or have appointed a receiver, a manager or administrative receiver, or which entitle the Court to make a winding-up order.

then in any such circumstances the Combined Authority may, without prejudice to any other accrued rights or remedies under the Contract terminate the Contract by notice in writing having immediate effect.

16.3 Subject to Clause 16.4 the Combined Authority may give notice to terminate the Contract by not less than 10 weeks written notice expiring

on a Designated Service Change Date (8 weeks in the case of contracts designated as schools services) in any of the following circumstances:-

- (i) the Combined Authority's funding sources make insufficient finance available to the Combined Authority for revenue support of the Services (or part thereof);
- (ii) a commercial service is registered, which in the opinion of the Authorised Officer removes the need for the Services to be provided;
- (iii) the provision of the Services (or part thereof) is or will no longer be required.

16.4 Without prejudice to the Combined Authority's rights under clause 16.3 prior to terminating the Contract in accordance with 16.3 the Combined Authority shall consult with the Contractor to seek its views about the proposed termination.

16.5 If the Contract is terminated as provided in Clause 16.1 or 16.2 and is not reinstated, the Combined Authority shall:-

- (i) cease to be under any obligation to make further payment until any costs, loss and/or damage resulting from or arising out of the termination of the Contract have been calculated and, provided such calculation shows a sum or sums due to the Contractor;
- (ii) be entitled to provide itself or procure and pay other persons to provide and complete the provision of the Services or any part thereof;
- (iii) be entitled to deduct from any sum or sums which would but for Clause 16.5 (i) have been due from the Combined Authority to the Contractor under the Contract or any other Contract or be

entitled to recover the same from the Contractor as a debt any loss or damage to the Combined Authority resulting from or arising out of the termination of the Contract. Such loss or damage shall include the reasonable cost to the Combined Authority of the time spent by its officers in terminating the Contract and in making alternative arrangements for the provision of the Services or any part thereof;

- (iv) when the total cost, loss and/or damage resulting from or arising out of the termination of the Contract has been calculated and deducted so far as practicable from any sum or sums which would but for clause 16.5 (i) have been due to the Contractor, any balance shown as due to the Combined Authority shall be recoverable as a debt, or alternatively the Combined Authority subject to clause 17 (Recovery of Sums Due) shall pay to the Contractor any balance shown as due to the Contractor.

16.6 The rights of the Combined Authority under this clause 16 are in addition to and without prejudice to any other rights the Combined Authority may have.

16.7 If the Contract is terminated under clause 16.3 the Contractor shall be entitled to receive from the Combined Authority any sum or sums due in respect of providing the Services up to the time of termination of the Contract.

16.8 The Contractor may give notice to terminate a Contract by not less than 20 weeks written notice expiring on a Designated Service Change Date.

16.9 If the option to extend in Appendix 3 is exercised by the Combined Authority then for the purpose of clause 16.8 above the period of notice required to terminate shall be reduced to 12 weeks and the reduction in passengers carried shall be reduced to 10% for three consecutive Accounting Periods.

17. RECOVERY OF SUMS DUE TO THE COMBINED AUTHORITY

- 17.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Combined Authority the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract or any other contract with the Combined Authority except to the extent that such sum is the subject of legal dispute.

18. ALIENATION

- 18.1 The Contract is personal to the Contractor who shall not without the prior express written consent of the Combined Authority (such consent not to be unreasonably withheld or delayed) assign, novate or otherwise dispose in whole or in part of its rights hereunder nor assign sub-contract or otherwise delegate in whole or in part any of its obligations hereunder (except in cases of temporary emergency where the Combined Authority shall be informed as soon as is practical in the circumstances). Approval by the Combined Authority of any sub-contract shall not relieve the Contractor of any of its obligations hereunder.

19. RE-TENDER, HANDOVER AND THE APPLICATION OF TUPE

- 19.1 The Contractor agrees to comply with the requirements of Appendix 4 where, in the opinion of the Combined Authority, the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) are likely to apply on the expiry, termination or partial termination of this Contract.
- 19.2 The Contractor shall co-operate fully with the Combined Authority during the handover arising from the expiry or earlier termination of this Contract. This co-operation, during the setting up of operations period of the new contractor, shall extend to allowing full access to, and

providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

- 19.3 Within 10 working days of being so requested by the Combined Authority, the Contractor shall transfer to the Combined Authority, or any other person or body designated by the Combined Authority, free of charge, all computerised filing, recording documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogue disk format, to operate on a proprietary software package identical to that used by the Combined Authority.

20. SERVICE OF NOTICES

- 20.1 Any demand notice or other communication required to be given hereunder shall be sufficiently served if served on the Contractor's Company Secretary or if unincorporated on the proprietor or any partner and in respect of the Combined Authority if served on the Authorised Officer by first class post.
- 20.2 Any document which may be served on the Contractor by the Combined Authority shall be sent to the registered office or last known address of the Contractor.
- 20.3 Any document which may be served by the Contractor on the Combined Authority or the Authorised Officer shall be sent to the Authorised Officer at West Yorkshire Combined Combined Authority, Wellington House, 40-50 Wellington Street, Leeds, LS1 2DE.
- 20.4 Any notice shall be deemed to have been received by the addressee on the second Working Day after the date of posting.

21. GENERAL

Law and Jurisdiction

21.1 The Contract shall be governed by and construed in accordance with English Law.

Contracts (Rights of Third Parties) Act 1999

21.2 A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999

Prevention of Bribery and Corruption

21.3 The Contractor:

- (a) shall not, and shall procure that any member of its staff or sub-contractor shall not, in connection with this Contract commit a Prohibited Act;
- (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Combined Authority, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Combined Authority before execution of this Contract.

21.4 The Contractor shall have an anti-bribery policy (which shall be disclosed to the Combined Authority) to prevent any member of its staff or sub-contractor from committing a Prohibited Act and shall enforce it where appropriate.

21.5 If any breach of clause 21.3 is suspected or known, the Contractor must notify the Combined Authority immediately.

21.6 The Combined Authority may terminate this Contract by written notice with immediate effect and recover from the Contractor the amount of any loss resulting from such termination if the Contractor or any of its employees or sub-contractors (in all cases whether or not acting with the Contractor's knowledge) breaches clause 21.3.

Equality

21.7 The Contractor shall not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment against any person on grounds of age, disability, gender reassignment, marriage or civil partnership, race, religion or belief, sex and sexual orientation.

21.8 The Contractor shall take all reasonable steps to secure the observance of clause 21.7 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the provision of the Services. Where any employee or sub-contractor employed by the Contractor is required to carry out any activity on or alongside the Combined Authority's employees on any other premises the Contractor shall ensure that each such employee and sub-contractor complies with the Combined Authority's employment policies and codes of practice relating to equal opportunities or any other policies that the Combined Authority may notify to the Contractor from time to time.

21.9 The Contractor shall indemnify and keep indemnified the Combined Authority against all claims, costs awards and fees arising from or relating to any claims brought under the Equality Act 2010 or any other equality legislation or regulations by any employee of the Contractor against the Combined Authority.

Protection of Personal Data and Freedom of Information

21.10 The Contractor's attention is hereby drawn to the Data Protection Act 1998 and any associated legislation that arises in connection with this Contract.

21.11 Both parties warrant that they will duly observe all their obligations under the Data Protection Act 1998 which arise in connection with this Contract.

21.12 Where the Contractor or any sub-contractor as part of the Services under this Contract processes personal data on behalf of the Combined Authority it shall:

- (a) act only on instructions from the Combined Authority, as data controller, in processing the personal data; and
- (b) take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

21.13 The Combined Authority may from time to time serve on the Contractor an information notice requiring the Contractor within such time and in such form as is specified in the information notice, to furnish to the Combined Authority such information as the Combined Authority may reasonably require relating to:

- (a) compliance by the Contractor or by its sub-contractors with the Contractor's obligations under this Contract in connection with the processing of personal data; and
- (b) the rights of data subjects, including but not limited to subject

access rights.

21.14 The Contractor shall assist the Combined Authority at no additional charge in meeting any reasonable requests for information which are made to it in connection with the Freedom of Information Act 2000 or any other similar guidelines, codes of practice, or legislation which arise in connection with this Contract.



**SERVICE DELIVERY STANDARDS
BUS/SCHOOLS/SEN/ACCESSBUS
JANUARY 2017**

CATEGORY	SERVICE DELIVERY STANDARD	PERFORMANCE STANDARD	MONITORING METHOD	POINTS/PENALTY FOR NON COMPLIANCE	APPLICABLE TO
Contract Compliance	Reliability	Trips must be operated (trips observed more than 20 mins late deemed not to operate)	Submission by operator monthly return Quality Compliance Officer Customer Complaint	Lost mileage deduction plus 10% admin fee Lost mileage deduction plus 50% admin fee for non declared lost mileage	Bus School/Gross Cost My Bus
		Driver must call at all addresses on schedule unless authorised not to do so	Quality Compliance Officer Customer complaint Vehicle positioning	3 points Cost of alternative transport to be deducted from service payment	Accessbus

Contract Compliance	Timekeeping	Operates on time	Quality Compliance Officer Customer Complaint	4 points between 5 & 20 mins late 8 points 1 minute early 6 points journeys in excess of 20 mins late plus record as lost mileage	Bus Schools/Gross Cost My Bus
				4 points between 5 & 20 mins late arriving at or departing from the destination 4 points 1 minute early unless all booked passengers are present and authorised by AccessBus Team	Accessbus
				6 points journeys in excess of 30 mins late plus record as lost mileage	Schools/Gross Cost My Bus
		Operates in accordance with times in schedule		1 point	SEN
Contract Compliance	Follow specified route	Follow route unless impassable or alternative agreed	Quality Compliance Officer Customer Complaint	4 points	Bus Schools/Gross Cost My Bus
		Changes must not be made without prior consent		4 points	SEN
Contract Compliance	Observe advertised bus stop	Bus must stop to pick up or set down at advertised bus stops or in hail and ride areas	Quality Compliance Officer Customer Complaint	4 points failure to stop 2 points incorrect bus stop or bus station stand 2 points boarding & alighting in an inappropriate place	Bus School/Gross Cost My Bus

Contract Compliance	Passenger Information	Relevant pass notices displayed	Quality Compliance Officer	2 points	Bus School/Gross Cost My Bus Accessbus
Contract Compliance	Correct Fares	Passenger must travel at fares agreed or present valid pass	Quality Compliance Officer Data from ticketer/other ETM system	4 points (failure to issue ticket charge or record/scanned passenger)	Bus School/Gross Cost My Bus Accessbus
Contract Compliance	Operator must observe the requirements of the contract	Operator must supply documents and returns within the contract (lost mileage, gross cost farebox, passenger figures)	Receipt of documentation	1 point failure by 21 st of the month 4 points failure by the end of the month	Bus Schools/Gross Cost My Bus
		Supply returns for operated mileage, Vehicle off road		1 point failure by 21 st of the month 4 points failure by the end of the month	Accessbus
Contract Compliance	Contract Manager of representative must be available during the time the service is in operation	Be able to contact the operator by telephone Operator not contactable for over 30 minutes	Telephone enquiry	2 points	Bus School/Gross Cost My Bus Accessbus SEN
Contract Compliance	Provide prompt, informative and courteous replies to customer enquiries/complaints	Investigate and respond to all written or email correspondence within 10 working days	Receipt of documentation Customer complaint	2 points failure to reply within timescales 2 points inappropriate reply	Bus School/Gross Cost My Bus Accessbus SEN

Contract Compliance	Reporting accidents/incidents	Operator must report any accidents/incidents immediately becoming aware	Telephone/written enquiry Customer complaint	3 points not reporting	Bus School/Gross Cost My Bus Accessbus SEN
Contract Compliance	Request for information	To supply requested info/statements within 3 working days of request	Admin procedure	2 points	Bus School/Gross Cost My Bus Accessbus SEN
Contract Compliance	Compliance with schedule	Passengers in the vehicle are as specified in the contract	Quality Compliance Officer Customer complaint	3 points	My Bus (Primary) Accessbus SEN
Contract Compliance	Approved List	Operator supplies driver details, copies of licenses, insurance documents, MOT (Accessbus only) CPC card, DBS prior to driver being assigned to a contract	Admin procedure	1 point	My Bus Gross Cost Accessbus SEN
Contract Compliance	Driver Details	Details of designated/relief drivers notified within 48 hours of start of contract or whenever changes occur	Admin procedure	1 point	SEN

Contract Compliance	Number of drivers	Should not exceed 3 on each contract for the duration of the contract	Quality Compliance Officer Admin procedure	1 points	SEN
Contract Compliance	Drivers	Driver must be designated or relief driver	Quality Compliance Officer Customer complaint	1 point	SEN
Contract Compliance	Documents	Drivers must produce current insurance document – paper or electronic	Quality Compliance Officer	2 points	SEN
Contract Compliance	Driver Training	Drivers must receive training specified by WYCA	Admin procedure	1 point	My Bus Accessbus SEN
Contract Compliance	Cleanliness of vehicle	Exterior must be clean	Quality Compliance Officer Customer complaint	No points advisory note to be sent to operator	Bus Schools/Gross cost
		Interior clean and free from unpleasant smells		No points advisory note to be sent to operator	My Bus Accessbus SEN
		Well maintained free excessive bodywork damage		3 points	My Bus Accessbus
		Gangways should be clear and interior have clear floor space		3 points	My Bus Accessbus SEN

Contract Compliance	Invoice	Accurate invoice to be received within 7 days of end of each month	Admin procedures	1 point	SEN
Contract Compliance	Contract price changes	Contract price change notified within 48 hours of change occurring	Admin procedures	1 point	SEN
Contract Compliance	Sub-contracting without prior consent	Must not sub-contract without consent Must not sub-contract to an operator who is NOT on the approved list Sub-contracting to approved operator but NOT notified within 1 hour	Quality Compliance Officer Customer complaint	3 points	Schools/Gross Cost My Bus Accessbus SEN
Legal	Driver correctly licensed	Driver wearing/carrying correct badge/license/CPC card Clear current Disclosure and Barring Certificate	Quality Compliance Officer Admin procedure	2 points	Gross Cost My Bus Accessbus SEN
		Wear uniform		2 points	Accessbus
Legal	Observe all road traffic regulations and legal requirements	Drivers conduct to be professional	Quality Compliance Officer	4 points driver observed to contravene 4 points operator observed to contravene	Bus School/Gross Cost My Bus

		Operator to ensure vehicle meets road traffic and legal requirements	Customer complaint	4 points smoking including E cigarettes (including at layover points and within school grounds) 4 points driver observed to use mobile phone	Accessbus SEN
Leval	Route number & destination	Must be shown	Quality Compliance Officer	2 points	Bus School/Gross Cost My Bus
		Vehicle is displaying correct identification		2 points	SEN
Safety	Vehicle check	To be completed beginning and end of route using the 'check sign'	Quality Compliance Officer	2 points	My Bus
Safety	Registers	Where applicable registers must be used and completed	Quality Compliance Officer Admin procedure	2 points	My Bus
Safety	Headcount check	Drivers on primary route to do headcount at the beginning of each PM journey	Quality Compliance Officer	2 points	My Bus Primary
Safety	Seatbelts	Seatbelts must be working Drivers request seatbelts to be worn	Quality Compliance Officer	4 points	My Bus Accessbus SEN
Safety	Passenger Safety	Driver must comply with any special instructions on schedule	Quality Compliance Officer Customer complaint	3 points	Accessbus SEN

Safety	Handover of children	Driver complies with child handover arrangements	Quality Compliance Officer Customer complaint	4 points	My Bus Primary SEN
Safety	Vehicle meets requirements with regard to capacity, accessibility & passenger facilities	Seating capacity equal to or exceed the minimum specified in the contract Any alternative (spare) vehicle must meet minimum wheelchair and seating capacity	Quality Compliance Officer Customer complaint	4 points – vehicle with less than minimum specified 2 points – bus not in Metro livery if this is a requirement of the contract	Bus Schools/Gross Cost My Bus Accessbus SEN
Safety	Safety items on board and correct use of	Fire Extinguisher Glass Hammers Emergency Door Reverse alarm if applicable Ramp/tail lift Defect card procedure Wheelchair strapping	Quality Compliance Officer Customer complaint	3 points 3 points No points advisory note to be sent No points advisory note to be sent 3 points 3 points	Schools/Gross Cost My Bus Accessbus SEN
		Hands free kit		3 points	My Bus Accessbus SEN
		First Aid Kit		3 points	
		CCTV in working order		3 points	My Bus
Safety	Assistance to passengers	Driver offer assistance to passengers when boarding/alighting Where necessary assist with seatbelts	Quality Compliance Officer Customer complaint	3 points	Accessbus

		Carry reasonable amount of shopping to door			
Separate document	Drivers to observe Bus Station Conditions of Use		Quality Compliance Officer	See separate document Bus Station Operator Conditions of Use	

PART B GUIDELINES FOR ISSUE OF WARNING NOTICES

1. Warning Notices are to be issued to the Contractor when in the opinion of the Authorised Officer performance in one or more particular default categories has reached unacceptable levels or the Services are consistently or regularly being provided to an unacceptable standard.
2. Except for serious breaches Warning Notices should only be issued after previous written requests highlighting the areas of default or failure have not resulted in improvement and after the Contractor has been given an opportunity to explain the reason for default or failure.
3. There is no fixed minimum amount of Performance Deductions Awarded that trigger the issue of a Warning Notice, but the level of Performance Deductions awarded will inform any decision to issue a Warning Notice.

APPENDIX 2
“CCN”
Change Control Notice

Contract Ref No: _____

Name of Contractor _____

Details of Change required: _____

Reasons for Change: _____

Impact of Change: _____

Implementation Date required: _____

Financial Implications: _____

Originator: _____

Response: Accept/Reject

Reason for Rejection: _____

Signed _____

Date Issued _____

Signed _____

Name _____

Date _____

APPENDIX 3

OPTION TO EXTEND THE CONTRACT PERIOD

1. Where it is so stipulated in the Letter of Award the provisions of this Appendix 3 shall apply.
2. The Combined Authority may at any time prior to the date six months before the expiry of the Contract Period extend the Contract Period by a period of up to two years by giving the Contractor written notice of such extension specifying the period of the extension.
3. If notice is given in accordance with 2 above the Contract Period shall be read and construed as the Contract Period as extended. The provisions of the Contract shall apply equally to the extended period.

APPENDIX 4

TUPE PROVISIONS

1. DEFINITIONS

In this Appendix the following definitions shall apply:

"Data Protection Legislation" means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Privacy and Electronic Communications Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all other applicable law, regulations and codes of conduct in any relevant jurisdiction relating to the processing of personal data and privacy including the guidance and codes of practice issued by the UK Information Commissioner;

"Employee Claim" means any action, cost, claim, demand, expense or other liability in respect of which the Indemnifying Party may become liable to indemnify the Indemnified Party in accordance with this Appendix;

"Losses" means all damages, loss, costs, awards, and expenses (including all legal fees reasonably incurred by either party);

"Replacement Services" means any services which are substantially similar to the Services and which the Combined Authority procures in substitution for the Services following the expiry, termination or partial termination of this Contract, and those services are provided by a Replacement Contractor;

"Replacement Contractor" means any Third Party Contractor of Replacement Services appointed by the Combined Authority;

"Service Commencement Date" means the date the Services are to commence as notified in the Letter of Award;

"Contractor Personnel" mean all employees, staff, other workers, agents and consultants of the Contractor and/or of any sub-contractor who are engaged in the provision of the Services from time to time including the Employees;

"Service Transfer Date" means the date on which the Services (or any part of the Services) for whatever reason transfer from the Contractor to a Replacement Contractor;

"Services" means the public transport service(s) which the Contractor is required to provide in accordance with the Contract;

"Term" means the term of this Contract commencing on the Service Commencement Date;

"Third Party" means any person or entity which is not a party to this Contract;

"Transferring Employees" means those employees whose contracts of employment will be transferred to a Replacement Contractor pursuant to the TUPE Regulations on expiry or termination of this Contract;

"TUPE Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);

2. APPLICATION OF TUPE

- 2.1 This Contract envisages that subsequent to the commencement of this Contract the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this Contract, or part, or otherwise) resulting in a transfer of the Services in whole or in part to a Replacement Contractor ("**Service Transfer**"). The parties acknowledge that the TUPE Regulations may apply to a Service Transfer and that, in such event, the Replacement Contractor would inherit liabilities in respect of the Transferring Employees.
- 2.2 The parties will each provide one another on request with such information as may be reasonably necessary to enable the other to comply with its obligations to inform and where necessary, consult with the Transferring Employees and any other employees affected by this Contract and/or their appropriate representatives pursuant to the TUPE Regulations.
- 2.3 All liabilities in relation to salaries, wages and other emoluments, holiday entitlement and all contributions for which the Contractor is liable as an employer in respect of any of the Transferring Employees under any contractual or statutory obligation shall be the responsibility of the Contractor in respect of the period prior to and on the Service Transfer Date and any accrued but untaken holiday shall be apportioned on a pro-rated basis.

3. CONTRACTOR'S OBLIGATIONS ON EXIT

- 3.1 The Contractor agrees that, subject to compliance with the Data Protection Legislation, within 20 working days of the earliest of:
- (a) receipt of a notification of a Service Transfer or intended Service Transfer from the Combined Authority; or

(b) receipt of the giving of notice of early termination of this Contract or any part of it; or

(c) the date which is six months before the expiry of the Term,

and, in any event, on receipt of a written request from the Combined Authority at any time, it shall provide to the Combined Authority or, at the Combined Authority's direction, to a Replacement Contractor:

(d) a full list of details of the Contractor Personnel including age and length of service;

(e) all material terms and conditions relating to the employment or engagement of the Contractor Personnel, including without limitation as to any bonus, commission, pensions, retirement, share options, incentive payments, insurance benefit and any enhanced redundancy payments (discretionary or contractual);

(f) all non-contractual benefits of the Contractor Personnel;

(g) written job descriptions of all the Contractor Personnel;

(h) details of any disciplinary procedure taken against or grievance procedure taken by any of the Contractor Personnel within the previous two years;

(i) details of any court or tribunal case, claim or action brought by any of the Contractor Personnel against the Contractor within the previous two years or that the Contractor has reasonable grounds to believe that any of the Contractor Personnel may bring;

(j) details of any collective Contract which may transfer to a Replacement Contractor under the TUPE Regulations;

- (k) a separate list of any individuals and their job titles who were engaged in the provision of Services in any material way in the preceding twelve months, with an explanation of why the Contractor does not consider that they are or will be Transferring Employees,

such information together being "**Staffing Information**".

- 3.2 The Combined Authority may supply a copy of the Staffing Information to any person who has been invited to tender for the provision of all or any part of the Services (or similar services), and to any Replacement Contractor, subject to compliance with the Data Protection Legislation.
- 3.3 The Contractor is under an on-going obligation to notify the Combined Authority of any changes to the Staffing Information up to and including the Service Transfer Date.
- 3.4 The Contractor warrants to the Combined Authority and/or any Replacement Contractor that to the best of its knowledge and belief all Staffing Information shall be complete and accurate in all respects and shall be kept complete and accurate.
- 3.5 Upon reasonable request by the Combined Authority the Contractor shall provide the Combined Authority or at the request of the Combined Authority, the Replacement Contractor, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as the Combined Authority reasonably requests.
- 3.6 The Contractor shall not, save in the ordinary course of business or as required by law, at any time after the Combined Authority has notified it of its intended termination of the Contractor's provision of some or all of the Services or in the six months prior to the Service Transfer Date, do any of the following without the prior written consent of the Combined Authority:

- (a) vary, increase, or purport or promise to vary or increase, the terms and conditions of employment or the benefits (whether contractual or discretionary) of any of the Contractor Personnel; or
- (b) give notice to terminate or terminate the employment of any the Contractor Personnel; or
- (c) recruit or assign to the Services any new Contractor Personnel or increase the time spent by any Contractor Personnel on the Services; or
- (d) redeploy or assign away from the Services any Contractor Personnel; or
- (e) amend any existing compulsory or voluntary collective Contract.

3.7 The Contractor must notify the Combined Authority immediately if any Contractor Personnel give notice to terminate their employment.

3.8 At least 14 days before the expected Service Transfer Date, the Contractor shall, subject to compliance with Data Protection Legislation, provide to the Combined Authority or any Replacement Contractor, in respect of each Transferring Employee, their:

- (a) pay slip data for the most recent month;
- (b) cumulative pay for tax and pension purposes;
- (c) cumulative tax paid;
- (d) tax code;

- (e) voluntary deductions from pay; and
- (f) bank or building society account details for payroll purposes.

4. CONTRACTOR'S INDEMNITIES

4.1 The Contractor shall indemnify the Combined Authority and any Replacement Contractor against all Losses in respect of any of the Transferring Employees arising from or as a result of:

- (a) the termination of the employment of any Transferring Employees before or on the Service Transfer Date;
- (b) any act or omission by the Contractor before or on the Service Transfer Date; and
- (c) any emoluments and outgoings due to the Transferring Employees (including without limitation all wages, bonuses, commissions, PAYE, National Insurance contributions, pension contributions and otherwise) accrued and payable before and up to the Service Transfer Date; and
- (d) any breach of regulations 13 or 14 of the Regulations, save to the extent that such Losses arise as a result of a breach by the Combined Authority and/or Replacement Contractor of its or their obligations under Regulation 13(4) of the TUPE Regulations.

4.2 The Contractor shall indemnify the Combined Authority and any Replacement Contractor all Losses arising from any act or omission of the Contractor in relation to any other of its employees who are not Transferring Employees during any period whether before, on or after the Service Transfer Date

5. CLAIMS HANDLING

Where any Employee Claim is made against a party to this Contract in respect of which one party ("**Indemnifying Party**") is liable to indemnify the other ("**Indemnified Party**"), the Indemnified Party shall:

- 5.1 take such steps and provide at the Indemnified Party's expense such reasonable assistance as the Indemnifying Party may reasonably require in relation to such Employee Claim;
- 5.2 preserve and not waive legal professional privilege or other privilege attaching to any of the records, documents or other information in relation to such Employee Claim without the prior consent of the Indemnifying Party;
- 5.3 not make any admission of liability without the prior consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed; and
- 5.4 not enter into any binding Contract or arrangement to settle such Employee Claim without the prior consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed.