

Terms & conditions of contract

For the provision of passenger transport services

Agreed: May 2018

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INTRODUCTION

This document comprises the following sections –

Part 1

**Suffolk County Council Passenger Transport
General Terms and Conditions of Contract**

and

Part 2

**Suffolk County Council Passenger Transport
General Specification for Registered Local Bus Services
and Home to School Bus contracts**
(utilising vehicles of 16 seats or larger)

and

Part 3

**Suffolk County Council Passenger Transport
General Specification for Small Vehicle and
Specialised Transport Contracts**
(utilising vehicles with fewer than 16 seats)

This document sets out the standard requirements for the operation of passenger transport contracts issued by Suffolk County Council Passenger Transport

The Council is committed to providing quality and accessible transport for the people of Suffolk.

We will endeavour to work closely with operators to improve and maintain the quality, reliability and accessibility of services.

We are committed to safeguarding all children, young people and vulnerable adults. We believe that all children, young people and vulnerable adults have an equal right to protection from abuse, regardless of their age, race, religion, ability, gender, background or sexual identity and we consider that the welfare of the child, young person or vulnerable adult is paramount.

Transport Operators will be expected to work with Suffolk County Council by ensuring that safeguarding is at the heart of the operation of all contracted journeys.

Transport operators will be encouraged to support Suffolk County Council policy to achieve carbon neutrality by 2030. Operators may be asked what other policies or actions they are taking to respond to the climate emergency.

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DEFINITIONS AND INTERPRETATIONS

“Automatic Vehicle Location Equipment”	Automatic Vehicle Location Equipment is a system whereby a device is able to locate its position by reference to a system of satellites and report its position along with the journey number of the service to a central point.
“Bulk Flow Contract”	Means a Contract for the provision of seats on a local bus service or train service available to the general public and not otherwise operating under contract to the Council.
“Closed Contract”	Means a Contract for a Service that is not open to the general public and is limited to those persons duly authorised to travel on the Service by the Council by means of a Travel Pass or other form of authority.
“Confidential Information”	Means any information which has been designated as confidential by either Party in writing or that would appear to a reasonable person to be confidential in nature (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either Party, all personal data and sensitive personal data as defined in the Data Protection Legislation.”
“Contract”	Means a Tender, countersigned by the Council to signify acceptance, which shall form a binding agreement with effect from the start date set out in the Invitation to Tender, together with the other Contract Documents and the Timetable and Operating Instructions.
“Contract Documents”	Means the Invitation to Tender, the Tender, Letter of Acceptance, these Conditions of Contract and any schedules attached thereto.
“Contract Period”	Means the term specified in the Invitation to Tender defined by the date of service commencing to the date of the last day of operation.
“Contractor” or “Operator”	Means the person or persons, firm or company, whose Tender has been accepted by the Council and includes the Contractor’s personal representatives, successors and permitted assigns and employees.
“Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach” and “Data Protection Officer”	Take the meanings given in the UK GDPR, subject to any amendment made under the provisions of the DPA 2018.
“Council”	Means Suffolk County Council or any successor authority or organisation to which the contract is novated where this is permitted by the terms under which the contract was let.
“County Fare Scale”	Means the scale of fares set from time to time by the Council based upon route mileage for Services operated under contract to the Council, as updated by the Council from time to time. The County Fare Scale is available on request from the Council.
“Data Loss Event”	Means any event that results, or may result, in unauthorised access to Personal Data held by You under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
“Data Processing Schedule”	Means the schedule which sets out the processing the Party or Parties are authorised to undertake under this Agreement, as set out in Schedule 1.

“Data Protection Impact Assessment”	Means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Legislation”	Means the UK GDPR, the DPA 2018 and any other data protection and privacy laws in force in the UK from time to time, as amended, extended, re-enacted or replaced.
“Data Subject Access Request”	Means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data
“Default”	Means any failure by either party to carry out its obligations under this Contract but a Default shall not include a Serious Default.
“Demand Led Transport”	Means any service operated under contract to Suffolk County Council where booking is a pre-requisite for the passenger. This most usually includes Dial a Ride, DRT, community car services and wheels within wheels. This includes services operating under the “Connecting Communities” classification
“DPA 2018”	Means the Data Protection Act 2018
“DPS”	means Dynamic Purchasing System as described in regulation 34 of the Public Contracts Regulations 2015
“EIR”	Means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.
“Financial Periods”	Means the periods for which Operators must submit invoices in any year, such periods to be notified by the Council to the Operator on an annual basis and also available on the Passenger Transport pages of the Council’s website.
“Fixed Cost Contract”	Means a contract under which payment is made to the Operator as a fixed sum per day for the operation of the Service and the Operator is entitled to retain all revenue from the operation of the Service. A Fixed Cost Contract may also be referred to as a “Minimum Subsidy Contract”.
“Force Majeure Event”	Means an event beyond the reasonable control of either party, including without limitation: <ul style="list-style-type: none"> (a) war, civil war, armed conflict, terrorist attack, civil commotion or riots, threat of or preparation for imposition of war, sanctions, embargo, or breaking off of diplomatic relations; (b) nuclear, chemical or biological contamination of the Works and arising from war, civil war, armed conflict or terrorist attack; (c) acts of God, flood, drought, earthquake or other natural disaster; (d) any law or any action taken by a government, including imposing an export or import restriction, quota or prohibition; (e) Epidemic or Pandemic.
“FOIA”	Means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

“Information”	Has the meaning given under section 84 of the FOIA.
“Invitation to Tender”	Means an invitation to tender issued by the Council for the provision of specific Services, details of which are set out in the Invitation to Tender.
“Letter of Acceptance”	Means a letter from the Council accompanying a countersigned tender document that forms a contract with effect from the start date set out in the Invitation to Tender and summarises the acceptance of the offer and the agreement to enter into contract.
“Local Bus Services”	Means “local services” as defined by Section 2 of the Transport Act 1985, where passengers are carried at separate fares and can make journeys of less than fifteen miles measured in a straight line from boarding to alighting point.
“Pass Holder”	Means a pupil, student or other passenger with a valid Travel Pass or other authority to travel.
“Passenger Assistant”	Means an authorised employee or representative of the Council who shall assist passengers at all times during the journey.
“Protective Measures”	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures.
Punctuality Improvement Partnership (PIP)	Means an agreement made between the authority and the operator for the purposes of improving reliability and punctuality of local bus services
“The Rates”	Means the respective sums of money set out by the Contractor in the Tender or such variation of those sums as may be provided for in these Conditions of Contract.
“Request for Information”	Has the meaning set out in the FOIA or the EIR.
“Real time passenger information”	Means a prediction of the arrival and/or departure time of a bus at a bus stop based on the actual location of the bus in relation to where it would expect to be from the timetable. The resulting information will be presented in a number of ways and via multiple media. Also referred to as RTI or RTPi
“Revenue Guarantee Contract”	Means a Contract under which payment is made to the Operator a fixed amount per day for the operation of the Service and any revenue from the operation of the Service is provided to the Council.
“Route”	Means those parts of any journey set out in the Timetable and Operating Instructions.
“RTI system” or “RTPi system”	Means the combination of the Local Authority sub-system and one or more Bus Operator sub-systems to form a complete system to deliver real time information and bus priority at selected junctions. The terms shall be interchangeable and have the same meaning.
“Service”	Means the service or services to be provided by the Contractor or Operator as set out in the tender documents and as agreed with the Council
“Specification”	Means the specification for the Services forming part of an Invitation to Tender.

“Staff”	Means all persons employed by the Contractor to perform the Services together with the persons employed by any agents or sub-contractors used in the performance of the Services.
“Sub-Contract”	Means any contract or agreement or proposed contract or agreement between the Operator and any third party whereby that third party agrees to provide to the Operator the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof.
“Sub-processor”	Means any third Party appointed to process Personal Data on Your behalf in relation to this Agreement
“Tender”	Means an offer made by a tenderer to provide transport services in response to an Invitation to Tender.
“Timetable” and “Operating Instructions”	Means the Timetable and Operating Instructions referred to in the Tender that comprises the service to be provided by the operator
“Travel Pass”	Means a pass issued by the Council in respect of school related travel which authorises travel on the route indicated on that pass. The pass may be either a School Travel Pass (the colour of which will be notified to the Operator in advance of each school year) or a temporary School Travel Pass.
“UK GDPR”	Means the UK General Data Protection Regulations.
“Vehicle”	Means any vehicle(s) used by the Contractor for the purpose of discharging his obligation under the Contract.
“Vulnerable Passenger”	Means a passenger who may by reason of mental or other disability, age or illness are or may be unable to take care of themselves, or may be unable to protect themselves against significant harm or exploitation and as such is a vulnerable person as described in the Department of Health and Home Office publication “No Secrets”. This definition also applies to the terms “vulnerable child” and “vulnerable adult”
“The 1985 Act”	Means the Transport Act 1985 and any amendments that may be made thereto.
“The 2000 Act”	Means the Transport Act 2000 and any amendments that may be made thereto.

**Part 1 -
Suffolk County Council Passenger Transport
General Terms and Conditions of Contract
(applicable to all contracts)**

Any special conditions set out in the Contract documentation or annexed hereto shall form part of the Conditions of Contract and in cases of conflict the special conditions shall prevail over the conditions set out in this document.

Unless the context demands, any reference in this Contract to;

- the masculine includes a reference to the feminine and vice versa; the
- singular includes a reference to the plural and vice versa;
- a person includes a reference to an individual or a firm, partnership, company, or corporation;
- a 'clause' or an 'appendix' in this contract means a reference to a clause or appendix of the Contract.

The headings of these conditions shall not be deemed to be part thereof and shall not affect the construction or interpretation of the same.

Any reference in this Contract to any enactment, order, regulation or other similar instrument is to be taken to mean a reference to any such enactment, order, regulation or other similar instrument which is in force for the time being. This includes (for as long as they are in force):

- any amendments or modifications to any such enactment, order, regulation or other similar instrument; and
- any re-enactment of any such enactment, order, regulation or other similar instrument.

The Operator shall provide the Service on the terms and conditions hereinafter set out –

1. GENERAL

- 1.1 Any Contract issued under these terms and conditions comes into force on the Commencement Date and will remain in force until the Termination Date unless otherwise determined in accordance with the terms of this Contract.
- 1.2 The Contractor will:
 - 1.2.1 provide the Services in a timely, proper, skilful and workmanlike manner in accordance with the General Specification, the Route Specification, the best technical and commercial practices and the terms of this Contract to the satisfaction of the Authorised Officer.
 - 1.2.2 provide the Services in accordance with any and all codes of practice, performance ratings and quality standards that are set out in this Contract or that are issued to it as part of a variation of the Contract made pursuant to clause 8 (Revisions to Service); and provide the Services in accordance with the Acts and all other statutory provisions which apply to the Services and to Vehicles.
- 1.3 The Council shall be the sole hirer of any Vehicle during any period it is in use carrying out the Contract except in the case of a Bulk Flow Contract
- 1.4 The Contract constitutes the whole agreement and understanding of the parties as to the subject matter hereof and there are no prior to contemporaneous agreements or understandings between the parties with respect thereto.
- 1.5 If any provision of the Contract shall become or be declared by any Court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.
- 1.6 Any change to the details of ownership of the Contractor's business must be notified immediately to the Council in writing detailing the exact nature of the changes.
- 1.7 In the case of strikes, lock-outs or any unavoidable total or partial stoppage of work, the Contract may be suspended by the Council.
- 1.8 You must, throughout the Term but only to the extent of Your obligations in the Agreement:
 - 1.8.1 make arrangements to secure continuous improvement in the way in which the Services are provided, having regard to a combination of economy, efficiency and effectiveness.
 - 1.8.2 permit and ensure that any sub-contractor permits, any regulatory body, in connection with the exercise of his statutory powers and duties, at all reasonable times and upon reasonable notice, access to:
 - (i) any document or data relating to the Services; and
 - (ii) any sub-contractor, agent or employee of You.

2. PREVENTION OF CORRUPTION

- 2.1 The Contractor shall not offer or give, or agree to give, to the Council or any other public body or any person employed by or on behalf of the Council or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Council or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other contract with the Council. The Contractor's attention is drawn to the criminal offences under the Bribery Act 2010.

- 2.2 The Contractor warrants that it has not paid commission or agreed to pay commission to the Council or any other public body or any person employed by or on behalf of the Council or any other public body in connection with the Contract.
- 2.3 Where the Contractor or its Staff or anyone acting on the Contractor's behalf, engages in conduct prohibited by clauses 2.1 or 2.2, or engages in the commission of any offence under the Bribery Act 2010, the Council shall have the right to:
- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period.
- (b) recover in full from the Contractor any other loss sustained by the Council in consequence of any breach of clauses 2.1 or 2.2.
- 2.4 The Contractor will accept –
- 2.4.1 that the Council routinely publishes local spending data in relation to invoices, grant payments, expenses payments and other transactions over £500, including details of contracts and tenders over £500, in accordance with the Government's transparency programme and guidance, the 'Local Government Transparency Code 2015' and the Local Government (Transparency Requirements) (England) Regulations 2014 and is required to publish information on 'Contracts Finder' in accordance with Part 4 of the Public Contracts Regulations 2015 (together the "Transparency Requirements"); and
- 2.4.2 that the Council may therefore publish details (in accordance with the Transparency Requirements) of the Contract with the Supplier and will comply with any reasonable request from the Council in order to assist the Council in complying with its transparency obligations under this clause.
- 2.5 The Contractor undertakes hereby to keep confidential and not to disclose without the Council's written consent any trade or business secrets or similar confidential information supplied by the Council to the Contractor save when ordered to do so by a Court or Tribunal of competent jurisdiction.

3. OPERATORS LICENCE

If any vehicle used to operate the contract is fitted with 8 or fewer passenger seats, the Contractor must ensure that the vehicle and driver are properly licensed with the Contractor's local licensing authority. Where the contract involves operating a journey on which fares can be charged, the Contractor must also hold a Special Public Service Vehicle Operators Licence or other applicable licence or Permit (as defined by the Acts).

If any vehicle used to operate the contract is fitted with more than 8 passenger seats, the Contractor must hold either: -

- a) a Public Service Vehicle Operator's licence (as defined by the Acts);
 - b) a Special Public Service Vehicle Operator's licence (as defined by the Acts);
- or

- c) a Community Bus Permit (as defined by the Acts);

as required for the service to be operated.

In the event that the said licence or permit shall be suspended, revoked or have conditions attached to it which inhibit in any way the operation of the Contract, the employment of the Contractor under the Contract shall be forthwith automatically determined. The Contractor shall allow or pay to the Council the amount of any direct loss and/or damages caused to the Council by that determination. The Contractor shall notify the Council within seven days of any change to his/her PSV Operator's Licence or Permit made by the Traffic Commissioner.

4. INDEMNITY AND INSURANCE

- 4.1 The Contractor shall indemnify and keep indemnified the Council against injury to, or death of, any person, and loss of, or damage to, any property including property belonging to the Council, arising out of directly or indirectly the provision of or failure to provide the Service except and to the extent that it may arise out of the act, default or negligence of the Council its employees or agents not being the Contractor or employed by the Contractor and except as aforesaid against all actions, claims, demands, proceedings, damages, costs charges and expenses whatsoever in respect thereof, or in relation thereto.
- 4.2 Neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
- 4.3 The Contractor shall throughout the Term of the Contract;
 - 4.3.1 effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Operating, arising out of the Contractor's performance of the Contract, including death or personal injury, loss of or damage to property or any other loss, and
 - 4.3.2 hold employer's liability insurance at a level that meets or exceeds the minimum level required by law.
 - 4.3.3 effect and maintain at the Contractor's cost a motor insurance policy to cover the liability of the Contractor in respect of any act or default for which it may become liable and to indemnify the Council under the terms of the contract.
 - 4.3.4 effect and maintain at the Contractor's cost a public liability insurance policy to cover the liability of the Contractor in respect of any act or default for which it may become liable and to indemnify the Council under the terms of the contract. The minimum limit per third party property damage claim under that policy shall be arranged at £5,000,000.00 and;
 - 4.3.5 maintain at the Contractor's cost any other insurance policy necessary to comply with current legislation;
- 4.4 The Contractor shall ensure that the public and products liability policy shall contain an indemnity to principals' clause under which the Council shall be indemnified in respect of claims made against the Council in respect of death or bodily injury or third-party property damage arising out of or in connection with the Services and for which the Contractor is legally liable.
- 4.5 The Contractor shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 4.6 The Contractor must notify the Council as soon as it becomes aware of any proposal for the alteration, alteration, proposal for cancellation, cancellation or proposal for to change of cover to the Contractor's insurance.
- 4.7 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs (including a reasonable amount for administration) of such arrangements from the Contractor.
- 4.8 If the Contractor does not pay such amount under clause 4.6 promptly, then the Council may recover the amount as a debt.

- 4.9 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.
- 4.10 The Contractor shall at the commencement of the Contract Period and thereafter upon request, produce to the Council a copy of the policies affecting the insurances referred to in this clause 4 together with documentary evidence that such insurances are properly maintained.
- 4.11 The Council shall not be held responsible for any damage howsoever caused to the vehicle by the passengers carried therein or from any other cause.

5. SUB-CONTRACTING AND ASSIGNMENT

- 5.1 Except in accordance with clauses 5.2 and 5.3 below the Contractor may not assign sub-contract or in any other way dispose of the provision of the whole or any part of the Services or all or any of its rights or obligations under this Contract to any person without the prior written consent of the Council.
- 5.2 Where, due to what the Council agrees is unexpected circumstances, the Contractor is unable to perform the Contract using its own vehicles and drivers, the Council will consider allowing the operation of all or part of the Contract to be subcontracted to another transport operator for a limited period of time, subject to the following conditions:
- 5.2.1 The reason, duration and arrangements for the Sub-Contract must be agreed in advance with the Council;
- 5.2.2 The transport operator and drivers that are to be used for the Sub-Contract must be approved in advance by the Council;
- 5.2.3 The passengers using the service and the staff at any schools and colleges served by the Contract must be informed by the Contractor about the Sub-Contract before it commences
- 5.2.4 The Contractor will continue to be responsible for ensuring that the Contract is operated in accordance with the Conditions of Contract and that Sub-contractor's staff involved have received sufficient training to ensure that the Contract is performed correctly.
- 5.2.5 In the event that the Contract is not operated correctly or any of the above requirements are not met, the Contractor will:
- a) terminate the Sub-Contract immediately at the Council's request; and,
 - b) the Contractor will resume performance of the Contract using its own vehicles and drivers,
 - c) should the Contractor still be unable to perform the Contract due to conditions persisting as a result of the unexpected circumstances at clause 5.2 the Council will consider allowing the operation of all or part of the Contract to be sub-contracted to an alternative transport operator and the provisions of clause 5.2 will apply
 - d) Where the Contractor has terminated any Sub-Contract under clause 5.2.5 but is unable to perform the Contract or arrange for a Sub-Contract to the satisfaction of the Council the Council may terminate the Contract immediately
- 5.3 In an emergency, the Contractor may arrange for all or part of the Services to be performed by another operator approved by the Council, provided that;

- 5.3.1 the Council is notified before the journey is sub-contracted, in exceptional circumstances where this is not possible, the Council should be notified as soon as the journey has been completed.
 - 5.3.2 every effort is made to rectify the problem necessitating the Sub-Contract, at the earliest opportunity.
 - 5.3.3 The Contractor is to resume performance of the Services at the earliest opportunity
 - 5.3.4 If the Contractor uses a Sub-Contractor who is not approved by the Council, the Council will reserve the right to immediately terminate the Contract.
- 5.4 If the Council consents to any sub-contracting under clause 5.1, 5.2 or if there is an emergency situation necessitating sub-contracting under clause 5.3, such sub-contracting shall not relieve the Contractor of its obligations under this Contract

6. AGENCY

- 6.1 The Contractor and its employees are not and shall not in any circumstances hold themselves as being a servant or agent of the Council.
- 6.2 The Contractor is not and shall in no circumstances hold themselves as being authorised to enter into any contract on behalf of the Council or any other way to bind the Council to the performance, variation, release or discharge of any obligation.
- 6.3 The Operator does not have the power under this Contract to make, vary, discharge or waive any bye-law or regulation of any kind and the Operator must not represent that it has any such power.
- 6.4 Nothing in this Contract is intended to create a partnership (within the meaning of the Partnership Act 1890) or a relationship of employment between the Council and the Operator.

7. DURATION AND EXTENSION OF CONTRACT

- 7.1 In the case of the Contract being operated as a registered local bus service or a demand led transport service, regardless of vehicle size, the Contract Period shall be the period specified in the Tender (provided that this period and any extension shall not exceed 8 years in total or as otherwise permitted by legislation), unless terminated earlier in accordance with clause 10 (Termination)
- 7.2 In the case of the Contract being operated as a Closed Contract for the purpose of home to school transport where a vehicle of 16 seats or greater has been specified, the Contract Period shall be the period specified in the Tender (provided that this period and any extension shall not exceed 8 years in total or as otherwise permitted by legislation), unless terminated earlier in accordance with clause 10 (Termination).
- 7.3 In the case of the Contract where a vehicle of less than 16 seats has been specified, the Contract Period shall be the period specified in the Tender provided that this period and any extension shall not exceed 8 years in total or as otherwise permitted by legislation), unless terminated earlier in accordance with clause 10 (Termination).
- 7.4 Notice periods set out in clauses 7.1, 7.2 and 7.3 shall apply except -
 - a) where a different notice period has been specified in the tender document at the time of tender or
 - b) Where a shorter notice period than that set out is agreed by both parties
- 7.5 The Contract Period may, subject to clauses 7.1 and 7.2, and with the agreement of the Contractor, be extended by the Council:

Any extension of the Contract shall be subject to the following conditions:

- a) the specification of the Service shall be substantially the same as the Specification applying prior to the period of extension;
- b) the period of extension of Contract shall not exceed the period of the original Contract Period without formal approval of the County Council;
- c) subject to the procedures for revisions and variations set out in clause 8, the extension of the Contract shall be at the Rates in force at the time of the extension and on the same terms and conditions.

8. REVISIONS TO SERVICE

- 8.1 If at any time during the Contract Period the number of passengers to be carried varies in any respect, such that in the opinion of the Council it is possible to either carry those passengers in a vehicle smaller than that provided under the Contract or that it is necessary to provide a larger or additional vehicle, then the Council shall serve due notice on the Contractor specifying such amended provisions as the Council deems necessary and, subject to Clause 8.4, the Contractor shall comply with the said notice within the time stated therein, provided that such compliance would not put the Contractor in breach of any conditions attached to their PSV Operators' Licence or Permit.
- 8.2 If at any time during the Contract Period the Council gives notice that it requires a modification to be made to the route followed or to the timetables provided by the Service then the Contractor shall comply with the said notice within the time stated therein.
- 8.3 The cost of any variation or revision made pursuant to clause 8.1 or 8.2 above shall be ascertained by the Council in accordance with the Rates applicable at the time of the variation or revision, provided that
 - a) where the required modification to vehicle capacity utilised, the route mileage or the operational time involved amounts to an increase or decrease of less than 10 (ten) percent from that current immediately prior to the variation or revision, then the Rate in force will not be revised.
 - b) The Council shall be entitled to exercise its right to make a revision or variation only once during the Contract Period.
- 8.4 Within 14 days of receipt of a Council notice requiring the Rates or conditions to be revised in pursuance of clause 8.1 or 8.2 above, the Contractor may, by three months' notice in writing to the Council, terminate the Contract without prejudice to the accrued rights of either party, but shall not be entitled to compensation or damages for such termination.

9. DEFAULT

- 9.1 If the Contractor fails to provide the Service or any part thereof with due diligence or in a proper, skilful, and workmanlike manner, or to the standard specified in the Contract, the Council may:
 - a) Instruct the Contractor to make good the failure and may deduct from the next applicable payment period such amount as is fair and reasonable having regard to that failure. Such sums shall be based upon the mileage that failed to operate as a proportion of the overall mileage operated by Contractor under the Contract; or
 - b) Itself provide or employ and pay other persons to provide the Service or any part thereof and such costs incurred thereby (including a 25% administration

charge) shall be due to the Council from the Contractor and may be deducted from any sum due or to become due to the Contractor

- 9.2 Such arrangements as provided pursuant to 9.1 b) may continue until the later of either:
- a) The Contractor shall have proved to the reasonable satisfaction of the Council that such Service or such part thereof will once more be provided by the Contractor to the Contract standard, or
 - b) The time needed by the Council to terminate such interim arrangements as it may have arranged for provision of the Service or the part thereof as the case may be.
- 9.3 The rights of the Council under this clause 9 shall be without prejudice to its rights under the Contract including but not limited to clause 10 ("Termination").

10. TERMINATION

- 10.1 This Contract shall remain in force for the Contract Period without prejudice to conditions "Operation of the Service" and "Default" of this Contract.

In the case of where the Contract being operated as a registered local bus service under the terms of Part 2 or a demand led transport service under the terms of Part 3, regardless of vehicle size, the Contract may be terminated by either party giving three calendar months' notice to the other party, or less by mutual agreement.

In the case of where the Contract being operated under the terms of Part 2 as a Closed Contract for the purpose of home to school transport where a vehicle of 16 seats or greater has been specified, the Contract may be terminated by either party giving three calendar months' written notice to the other. However, notwithstanding this requirement, no Closed Contract may be terminated other than at the end of a school term or half term.

Where the contract is let under the terms of Part 3 operated with a vehicle with fewer than 16 seats then the notice period shall be reduced to a minimum of one week due to the nature of the work undertaken and the likelihood of unexpected variations or less by mutual agreement. The Council will however endeavour to give as much notice as possible.

Where the Council agrees to a shorter notice period than that required in this clause 10, the Council reserves the right to charge the Contractor any additional cost incurred by the Council that results from the termination, including the additional cost incurred in procuring the provision of the Service from the date of termination to the end of the original required notice period, and an administration fee Any such costs will be set-off against payment(s) due to the Contractor. If this is not possible the Council will raise an invoice for the costs owed by the Contractor.

Where the Contractor terminates a contract within two years of the start date, the Council reserves the right to disqualify any bid from the Contractor for any replacement contract for the same or similar route(s) that the Council tenders within 6 months of the date of termination.

- 10.2 If -
- a) The Contractor commits a breach of any of its obligations under the Contract (each such obligation being a condition of the Contract not a warranty) which in the case of a breach capable of remedy has not been remedied by the Contractor within 14 days of written notice from the Council requiring remedy; or
 - b) suspends payment to or convene or hold a meeting of creditors or commit an act of bankruptcy or (being a Company) shall have a receiver appointed pursuant to the Insolvency Act 1986 or by the Court or any debenture holder or shall have an administrator appointed pursuant to the Insolvency Act 1986 or

shall go into liquidation (other than for the purpose of solvent amalgamation or reconstruction) or make a composition with its creditors or any arrangements for the benefit of such creditors or if distress or execution shall be levied or threatened upon any of its property or any judgement against it shall remain unsatisfied for more than 14 days; or

- c) there shall be a change in control of the Contractor or (where the Contractor is a subsidiary company) in its ultimate holding company; or any of the undertakings and representations set out in the Tender shall prove to be untrue or incorrect,

then in any such circumstances the Council may without prejudice to any of its remedies under the Contract and without prejudice to any rights of action which shall accrue or shall have directly accrued to the Council terminate the whole of the Contract by notice in writing to the Contractor from such date (including the date of service but subject to a maximum of three (3) months from the date of service) as is specified therein.

10.3 If the Contractor's employment is terminated under this clause 10, the Council shall:-

- a) cease to be under any obligation to make further payment until the costs, loss and/or damage resulting from or arising out of the termination of the Contractor's employment shall have been calculated and provided such calculation shows a sum or sums due to the Contractor;
- b) be entitled to repossess any of its materials, equipment, vehicles or other goods loaned or hired to the Contractor and to exercise a lien over any of the materials, equipment, vehicles or other goods belonging to the Contractor and upon the Council's premises at the date of such termination for any sum due hereunder or otherwise from the Contractor to the Council;
- c) be entitled to employ and pay other persons to provide and complete the provision of the Service or any part thereof;
- d) be entitled to deduct from any sum or sums which would otherwise have been due from the Council to the Contractor under this Contract, or any other Contract, or be entitled to recover the same from the Contractor as a debt, any loss or damage to the Council resulting from or arising out of the termination of the Contractor's employment. Such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating the Contractor's employment and in making alternative arrangements for the provision of the Service or any part thereof;
- e) when the total costs, loss and/or damage resulting from or arising out of the termination of the Contractor's employment have been calculated and deducted so far as practicable from any sum or sums which would otherwise have been due to the Contractor, any balance shown as due to the Council shall be recoverable as a debt, or alternatively, the Council shall pay to the Contractor any balance shown as due to the Contractor.

10.4 The rights of the Council under this clause 10 are in addition to and without prejudice to any other rights the Council may have to claim the amount of any loss or damage suffered by the Council an account of the acts or omissions of the Contractor whether pursuant to the guarantee or otherwise.

10.5 At the time of termination, or by notice within 14 days thereof, the Council may require the Contractor to assign to it and if so required the Contractor shall forthwith assign to it, the benefit of any Agreement for the performance of the Service.

10.6 The Council reserve the right where a serious breach of Contract has occurred, to omit the warning stages set out in clause 11 below, "Quality of Service" and to move directly to the final warning stage or to immediate termination of the Contract. Furthermore, the Council reserve the right in cases where there is a persistent failure to comply with

the Contract requirements which would not in isolation warrant termination of the Contract, to make financial deductions from the Contractor's account at a rate to which has been notified to the Contractor at the earlier warning stages.

11. QUALITY OF SERVICE

- 11.1 For the purposes of Sections 24 and 25 of the Public Passengers Vehicles Act 1981 the Contractor authorises the Council's authorised officers to act as an inspector on any vehicle used by the Contractor for the Service. The said officers shall be permitted to board without notice and travel without charge on vehicles provided for the Service on display of a SCC issued surveyors pass. The officers shall travel for the purpose of surveying passenger travel patterns, the reliability or regularity and standard of service provided and where applicable to inspect tickets, passes and permits, fare receipts, waybills or other records or equipment kept by the Contractor's drivers or other staff to ensure compliance with the Contract.
- 11.2 The Contractor shall permit duly authorised and identified officers of the Council access to vehicles at any time during the operation of the Contract (and to travel on those vehicles if necessary), in order to monitor the operation of the Contract and carry out Travel Pass checks. Checks may also be conducted by observation without boarding the vehicle.
- 11.3 Any question arising as to the right of any person to be conveyed by the Contractor by virtue of this Contract shall be referred to the Council whose decision shall be final.
- 11.4 Data relating to the standard of service delivery will be collated over the operational period of the Contract and may be used as a performance indicator when contracts are next tendered. Such data will include all of the subjects covered in this section and other factors covered in other sections relating to vehicles and drivers/assistants. This list is not exhaustive and may over time include other aspects of performance monitoring. Data will comprise of those compliance notices already notified to the operator based upon the observations of Council officers but may also include consideration of Court proceedings and entries by the Traffic Commissioner on Notice and Proceedings pertaining to the Operator.
- 11.5 No liability shall attach to the Contractor in the event of his failure to perform any part of this Contract satisfactorily if it can be demonstrated to the satisfaction of the Council that such failures arose wholly as a result of events over which the Contractor had no control.
- 11.6 The County Council is committed to maintaining high standards of service and has identified the specific areas as detailed at Appendix A within which a failure to comply with the contractual requirements may result in the issue of breach points
- 11.7 Observations of the Service may also be carried out without boarding of the vehicle.
- 11.8 In addition to breach points being recorded against the contract each breach shall attract an administrative charge of £35 to be recovered by way of an invoice to the Operator in the next full financial period following the breach plus 7 days.
- 11.9 In addition to the administrative charge in all cases where there is a breach the Council will also, in the case of a journey not operating (breach code DPSE) deduct a pro rata sum equivalent to and representative of the mileage not operated, based upon the rate per mile when calculated from the total contract mileage and the total contract cost. No such deduction will be levied where the Operator has already advised the Council of a failure to operate and where a declaration of such lost mileage has been or will be made by way of an invoice submission
- 11.10 Each breach of contract will incur breach points which will be accrued in 3 rolling months (e.g. January, February, March, then February, March April etc.) Without prejudice to the Council's other rights under this Contract, when a specific number of

breach points have been accrued within any three financial periods on the same Contract, the following action will be taken:

Any points	Written warning
80 points	Final Warning
100 points	Termination of Contract

The Contractor will be notified, in writing, as points are accrued by means of financial returns. However, the Contractor must ensure their own methods of contract point calculations and not rely on notification by the Council.

11.11 The tables in Appendix A detail the breach points that may be imposed for various breaches of contract according to the type of contract being delivered

11.12 Where a compliance notice under the terms of this schedule has been issued and the operator is of the view that they have either

- a) already declared lost journeys by way of a submission on their invoice or
- b) the circumstances of the breach were such that it was outside of their reasonable control

they may make a written submission to this effect no later than 7 days from the receipt of the notice. Supporting evidence in relation to any such claim must also be submitted

Following due consideration of the appeal the Operator will be informed of the outcome and this decision will be final.

11.13 Should an appeal be lodged under the provisions of this section then no breach points or administrative charge shall be levied until the completion of the appeal process.

11.14 The Operator and their staff will conduct the service in a spirit of goodwill and co-operation with due regard to the quality of the service to the public. At no time should the operator's staff discuss or speculate about future services and contracts in such a way as to misrepresent the Council or to bring the service or the Council into disrepute. If the current contract is terminated or expires and the existing operator does not win the replacement contract, then the existing operator will in no way act to mislead the public about future services and will issue information as required by the Council.

11.15 The Operator shall co-operate with the Authorised Officer and shall comply with all reasonable requests from the Authorised Officer in monitoring and evaluating the quality, value for money and the effectiveness of the Operator's provision of the Service.

11.16 The Operator shall use its reasonable endeavours to resolve all complaints to the satisfaction of the relevant Service User.

11.17 If the Council sends written notice to the Operator advising the Operator of the complaints made by Service Users, the Operator must respond to such notice in writing within 14 days. If the Operator fails to reply within this period a breach as set out in Appendix A and associated administration charge will be applied.

11.18 The Operator shall inform the Council when any complaint by a Service User has not been resolved within 1 month. In the event any such complaint has not been resolved within 1 month the Operator shall inform the Council and it shall be resolved by the Authorised Officer.

11.19 At the Council's request, the Operator must supply the Council with a copy of the Operator's records relating to complaints made in relation to the Services and the Operator's response.

11.20 The Council must be informed of any complaint within 5 working days of any complaint which is received directly by an Operator from a Service User or Member of the Public and the Council should be copied in on the reply/replies sent to a Service User / Member of the Public.

- 11.21 Where in the view of the Council a complaint relates to a Safeguarding matter, failure to inform the Council in compliance with clause 11.20 will be a Serious Default on the part of the Operator.

12. FREEDOM OF INFORMATION AND ENVIROMENTAL INFORMATION

- 12.1 The Operator acknowledges that the Council is subject to the requirements of the FOIA and the EIR and the Operator agrees to assist and cooperate with the Council (at the Operator's expense) to enable the Council to comply with these information disclosure requirements
- 12.2 The Operator must and must procure that its sub-contractors:
- a) transfer any Request for Information to the Council as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - b) provide the Council with a copy of all Information in the Operator/Operator's sub-contractor's possession or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council requesting that Information; and
 - c) provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 12.3 The Council will be responsible for determining at its absolute discretion whether any information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;
 - (b) is to be disclosed in response to a Request for Information, and in no event will the Operator respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 12.4 The Operator acknowledges that the Council may, acting in accordance with the Secretary of State for Constitutional Affairs' (now Ministry of Justice) Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the EIR to disclose Information:
- a) without consulting with the Operator, or
 - b) following consultation with the Operator and having taken the Operator's views into account.
- 12.5 The Operator must ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and must permit the Council to inspect such records as requested from time to time.
- 12.6 The Operator acknowledges that any lists or Schedules provided by the Operator outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with clause 12.4.

13. DATA PROTECTION (GDPR)

- 13.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, We are the Controller and You are the Processor. The only processing that You are authorised to do is listed in the Data Processing Schedule by Us and may not be determined by You.

- 13.2 Each Party, including their sub-contractors and their staff, shall comply with all applicable requirements of the Data Protection Legislation. The provisions in this clause are in addition to, and do not relieve, remove or replace, a Party's obligations under the Data Protection Legislation. You shall give Us all reasonable assistance necessary to enable Us to comply with Our obligations under the Data Protection Legislation and to meet Our duties in the commissioning and delivery of the services. Each Party shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach, of the Data Protection Legislation.
- 13.3 You shall notify Us immediately if You consider that any of Our instructions infringe the Data Protection Legislation
- 13.4 You shall provide all reasonable assistance to Us in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at Our discretion, include:
- 13.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 13.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 13.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 13.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 13.5 You shall, in relation to any Personal Data processed in connection with Your obligations under this Agreement:
- 13.5.1 process that Personal Data only in accordance with the Data Processing Schedule, unless You are required to do otherwise by Law. If it is so required, You shall promptly notify Us before processing the Personal Data unless prohibited by Law;
 - 13.5.2 ensure that You have in place Protective Measures, which have been reviewed and approved by Us as appropriate to protect against a Data Loss Event, having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

We reserve the right to review the Protective Measures at any point and You shall facilitate such review. Where the Protective Measures do not comply with the Data Protection Legislation, You shall implement any remedial changes to the Protective Measures requested by Us at your expense

- 13.5.3 ensure that:
 - (i) the Staff do not process Personal Data except in accordance with this Agreement (and in particular the Data Processing Schedule)
 - (ii) You take all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - a) are aware of and comply with Your duties under this clause;
 - b) are subject to appropriate confidentiality undertakings with You or any Sub-processor;
 - c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal

- Data to any third Party unless directed in writing to do so by Us or as otherwise permitted by this Agreement; and
- d) have undergone adequate training in the use, care, protection and handling of Personal Data; and

13.5.4 not transfer Personal Data outside of the EEA unless Our prior written consent has been obtained and the following conditions are fulfilled:

- i) We or You have provided appropriate safeguards in relation to the transfer (in accordance with UK GDPR Article 46) as determined by Us;
- ii) the Data Subject has enforceable rights and effective legal remedies;
- iii) You comply with Your obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if You are not so bound, use Your best endeavours to assist Us in meeting Our obligations); and
- iv) You comply with any reasonable instructions notified to You in advance by Us with respect to the processing of the Personal Data;

13.5.5 at Our written direction, delete or return Personal Data (and any copies of it) to Us on termination of the Agreement unless You are required by Law to retain the Personal Data.

13.6 Subject to clause 13.7, You shall notify Us immediately if You:

- i) receive a Data Subject Access Request (or purported Data Subject Access Request); and you shall follow our central process for the Personal Data within scope of this Agreement in the Data Processing Schedule;
- ii) receive a request to rectify, block or erase any Personal Data;
- iii) receive any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- iv) receive any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- v) receive a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- vi) become aware of a Data Loss Event.

13.7 Your obligation to notify under clause 13.6 shall include the provision of further information to Us in phases, as details become available.

13.8 Taking into account the nature of the processing, You shall provide Us with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 13.6 (and insofar as possible within the timescales reasonably required by Us) including by promptly providing:

- i) Us with full details and copies of the complaint, communication or request;
- ii) such assistance as is reasonably requested by Us to enable Us to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

- iii) Us, at Our request, with any Personal Data You hold in relation to a Data Subject;
- iv) assistance as requested by Us following any Data Loss Event;
- v) assistance as requested by Us with respect to any request from the Information Commissioner's Office, or any consultation by Us with the Information Commissioner's Office.

13.9 You shall maintain complete and accurate records and information to demonstrate Your compliance with this clause. This requirement does not apply where You employ fewer than 250 staff, unless:

- i) We determine that the processing is not occasional;
- ii) We determine the processing includes special categories of data as referred to in Article 9 (1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
- iii) We determine that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

13.10 You shall allow for audits of Your Data Processing activity by Us or Our designated auditor.

13.11 You shall designate a Data Protection Officer if required by the Data Protection Legislation.

13.12 Before allowing any Sub-processor to process any Personal Data related to this Agreement, You must:

- i) notify Us in writing of the intended Sub-processor and processing;
- ii) obtain Our written consent;
- iii) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 13 such that they apply to the Sub-processor; and
- iv) provide Us with such information regarding the Sub-processor as We may reasonably require.

13.13 You shall remain fully liable for all acts or omissions of any Sub-processor.

13.14 The Parties agree to take account of any ruling or guidance issued by the Information Commissioner's Office. We may, in complying with a statutory obligation or any guidance issued by the Information Commissioner's Office, on not less than 30 Working Days' notice, revise this clause by amending, revising or replacing it with any provisions which are compliant and/or any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

14. HEALTH AND SAFETY AT WORK

14.1 The Contractor shall ensure full compliance in the performance of the Contract with the requirements of all current and relevant legislation regarding Health and Safety at Work, including without limitation The Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and any other Acts, Regulations and Approved Codes of Practice relating to the health and safety of employees and others who may be affected by the Contractor's work activities.

14.2 Where required by law, the Contractor shall ensure that a copy of its statement of health and safety policy, which has been signed and dated by the partner or director with overall responsibility for health and safety in the organisation, is submitted to the Council before the commencement of the first Contract awarded to the Contractor, and thereafter at such times as the Council may require.

- 14.3 For all Contracts, the Contractor shall carry out a risk assessment of the Contract route and any variations to any Contract route, including stops, road layout, traffic calming features, low bridges, overhanging trees and other factors that may affect the safe operation of the types or sizes of Vehicle to be used in the performance of the Contract, and shall report any concerns to the Council prior to commencement of the Contract or not later than one week following any route variation.
- 14.4 For urgent and short-term Contracts, the Contractor should carry out and maintain a risk assessment of the Contract route and any variations to any Contract route as soon as practical but not later than one week after the commencement of the Contract. The Contractor shall report any concerns to the Council within one week of the start of contract or not later than one week following any route variation.
- 14.5 For all Contracts, should any factor arise following the commencement of the Contract that the Contractor considers may affect the safe operation of the Contract, the Contractor shall bring this to the immediate attention of the Council followed by a written report detailing the circumstances. The Council will consider this information and would not expect the Contractor to compromise the health and safety of its passengers or employees.
- 14.6 In the event of concerns arising regarding the safe operation of the Contract, (including allegations made against the driver and/or passenger assistant) the Council, the Contractor and such other bodies as it may be deemed appropriate to involve at the time shall agree and implement promptly such measures as may be deemed necessary by the Council to remedy the situation.
- 14.7 The Contractor shall ensure that its employees are made aware of all hazards identified by any risk assessment and receive sufficient information and training to mitigate the associated risk, including those arising from the needs of the passengers, including boarding or alighting, or from passenger behaviour.

15. CRIME AND DISORDER ACT 1998

When planning a Service to be operated, the Council will have regard to its obligations under section 17 of the Crime and Disorder Act 1998 and the Operator agrees to have in place for the Contract Period appropriate measures and systems to ensure that the risk of crime associated with the performance of the Service is managed and minimised. This may include consideration of such issues as cash handling, lone workers and the manner of operating late night services although this must not be taken as an exhaustive or comprehensive list of the areas to be considered.

16. ENVIRONMENTAL STANDARDS

- 16.1 The Contractor must meet all legislation relating to Environmental Standards as enacted by governing bodies at all operational bases and in the standard of vehicle operated.
- 16.2 The Contractor will review greener travel alternatives, monitoring the impact in the delivery of the service and actively work to meet the [Climate Change Commercial Ask](#)

17. SAFEGUARDING / DISCLOSURE AND BARRING SERVICE CHECKS

- 17.1 Any Contractor must submit to a check of the most extensive available kind being made with the Disclosure and Barring Service in respect of themselves (if an individual) and any of the Contractor's employees or other persons engaged on home-to-school transport contracts or engaged in the transport of vulnerable children and adults.
- 17.2 In respect of clause 17.1 the council will require, unless otherwise agreed, that such checks are undertaken by the Council and that the costs incurred of any such checks will be met by the operator.

- 17.3 Where any person discloses any convictions, or is found to have any convictions following the results of a Disclosure and Barring Service check, that in the opinion of the Council indicates that there is cause for concern regarding his or her suitability to be involved in the provision of the contract then that employee must not be employed on contracts until all such checks have been undertaken and completed to the satisfaction of the Council.
- 17.4 All convictions will be considered within the framework set out in Appendix B. A panel of officers will consider any disclosures of concern and the applicant may be given the opportunity to provide further information / an explanation of specific offences disclosed.
- 17.5 Where an incident occurs, or a report is received involving any member of staff engaged on the contract and that incident is considered by Council to be of concern in respect of the safety and well-being of a passenger or other person, then the authority reserves the right to temporarily suspend that person from employment on that or any other contract pending an investigation of the incident.
- 17.6 The Council having considered any disclosures or having investigated any incident reserve the right to specify that a person is not suitable to drive or to be carried as the conductor or the passenger assistant.
- 17.7 The contractor shall, on demand, produce to the Council or their authorised officers, all relevant documents pertaining to the drivers, conductors and passenger assistants used in pursuance of the Contract.
- 17.8 Contractors and their drivers and passenger assistants may be provided with advice on safeguarding and on steps to be taken in the event of an emergency in the course of a journey. Various emergency contact telephone numbers related to specific passengers may be provided and such information must be carried on the vehicle on every journey.
- 17.9 Contractor's drivers and passenger assistants shall complete the Council's online safeguarding training and any individual training as required.
- 17.10 The Council may ask, and the Contractor will comply, that any member of staff employed in the operation of the Services is removed from involvement with any aspect of Service delivery or management where the Council deem their behaviour to be incompatible with the operation of the Services
- This includes occasions where the relationship between a Service User, their Family/ Carers and Driver has broken down even if the Driver is not at fault. The Council has a duty of care to Service Users including their emotional wellbeing and reserves the right to act in the best interests of the Service User
- 17.11 The Council shall in no circumstances be liable either to the Contractor or to the Contractor's employee in respect of any liability loss or damage occasioned by such removal and the Contractor shall fully indemnify the Council against any such claim made.
- 17.12 The driver, conductor and contractor's passenger assistant shall for all purposes be deemed to be the servants of the Contractor.
- 17.13 If the Contractor fails to monitor its staff and comply with any of the preceding clauses in this section, the Council may terminate the Contract immediately.
- 17.14 Without prejudice to any of the other rights, remedies or provisions available to the Council under this Contract where the Council reasonably believes the actions or omissions of the Contractor amount to a general failure on behalf of the Contractor to discharge its Safeguarding obligations under this Contract OR where the Contractor has been found to have breached its Safeguarding obligations under this Contract OR where a contract between the Contractor or and another Public Body has been terminated due to failure to comply with Safeguarding obligations or another

equivalent reason relating to Safeguarding THEN the Council may take any or all of the following actions:

- a) suspend this Contract under the provisions of clause 9 (Default) and/or;
- b) terminate this Contract without notice; and/or,
- c) terminate all contracts between the Operator and the Council without notice; and/or,
- d) remove the Operator from the Dynamic Purchasing System without notice; and/or,
- e) notify any public body or public organisation of any Safeguarding issues.

17.15 The Council shall in no circumstances be liable to the Operator or to the Operator's employee in respect of any liability loss or damage occasioned by such termination and removal from the Dynamic Purchasing System.

18. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) (TUPE)

- 18.1 Companies or individuals who tender for contracts should be aware that in certain circumstances the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) known as TUPE, may apply.
- 18.2 If the operator of the existing contract believes that this legislation applies they must inform the Council in writing not less than three months before the end of the contract term or at the time of a termination notice being served, or in response to a written notification from the Council in relation to the forthcoming end of the contact.
- 18.3 At that time the Contractor shall provide by letter or e-mail to the Council the workforce information as set out below in connection with any re-tender of the Service (or a tender for Services similar to those set out in this Contract) to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply and the Contractor shall use its best endeavours to obtain the consent of the employees concerned to disclosure of such information to the Council and potential providers
- 18.4 The workforce information required is, in relation to the Contractor's employees used in the provision of the Service, currently as follows:
- a) Work location
 - b) Date employment started with current employer
 - c) Employment status (permanent, fixed- term, zero hours)
 - d) Contract end date, if fixed term
 - e) Contractual weekly hours
 - f) Contractual weekly hours spent on the contract
 - g) Has the employee opted out of the Working Time Regulations (48 hour) working week?
 - h) Current salary/rate of pay £
 - i) Regular bonus payments
 - j) Any agreed pay increase
 - k) Date of next pay raise
 - l) Pay frequency - (weekly/monthly)
 - m) Pay date
 - n) Shift/ weekend/ bank holiday allowances £
 - o) Annual leave entitlement (per year)
 - p) Sickness Pay entitlement
 - q) Notice entitlement
 - r) Entitlement to lease car
 - s) Any other allowances paid (e.g. Overtime Rate etc.)
 - t) Any other benefits in kind
 - u) Is employee in Pension scheme? Y/N
 - v) Type of pension provision
 - w) If defined contribution, current employer contribution rate
 - x) If defined contribution, current employee contribution rate
 - y) Does this individual have redundancy rights which are above the statutory minimum? Y/N
- 18.5 Subject to clause 13 (Data Protection) and in accordance with this clause 18 (TUPE) at the Council's reasonable request, the Operator must provide the Council with such information and

data as the Council may reasonably require in order to enable it to prepare the necessary documentation to appoint another person to provide the Services. The Operator agrees that the information so provided will be used by the Council in tenders and competitions seeking alternative Operators.

- 18.6 Contractors should, prior to submitting their Tender, take their own specific legal advice to ascertain whether TUPE could be held to apply to such undertakings and, if so, how that would impact on their Tender
- 18.7 The Council cannot verify the accuracy of any information supplied to Operators in respect of personnel currently employed by the incumbent Operator, and therefore the Council have no liability in respect of such information. It is for each Operator to ensure that they have sufficient TUPE information to submit a compliant Tender. The Council accept no liability for any costs incurred as a result of TUPE either during the Tender process or post any Contract award made.
- 18.6 Where these regulations apply it will be the responsibility of the successful bidder to comply fully with this legislation

19. CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999)

A person who is not a party to the Contract shall not have any rights under or in connection with it. The provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded

20. LAW AND JURISDICTION

This Contract shall be governed by and shall be construed in accordance with English law; and be subject to the jurisdiction of the Courts of England and Wales, to which both parties shall submit.

21. COMPLIANCE WITH LAW

The Contractor shall provide the Services in complete accordance with this Contract and with all relevant Acts of Parliament or any Statutory Instrument, Regulation or Order made under any Act of Parliament or any regulations or Byelaws of any Local Authority, or any statutory undertaking which has any jurisdiction with regard to the Service, and with any notices served under any such Act, Instrument, Order, Regulation or Byelaw.

22. SEVERABILITY

- 22.1 If one or more of the provisions of this Contract are or become to any extent invalid or unenforceable under any applicable law then the remainder of this Contract shall continue in full force and effect.
- 22.2 If this happens then both parties shall enter into good faith negotiations to amend the provision concerned in such a way that as amended, it is valid and enforceable and to the maximum extent possible, carries out both the parties' original intent.

23. DISPUTE RESOLUTION

- 23.1 If there is a dispute between the parties concerning the interpretation or operation of this Contract then either party may notify the other that it wishes the dispute to be referred to a meeting of the Authorised Officer and the Operator Manager to resolve, negotiating on the basis of good faith.
- 23.2 If after 28 Days (or such longer period as both parties agree) of the date of the notice referred to in clause 10.1 the dispute has not been resolved then either party may notify the other that it wishes the dispute to be referred to a meeting of a senior officer of the Council and a senior officer of the Contractor, to resolve, negotiating on the basis of good faith.

24. WAIVER

If either party fails to exercise or delays in exercising any right or remedy to which it is entitled under the Contract or at law then this shall not constitute a waiver of any such right or remedy whether present or future.

25. CUMULATIVE REMEDIES

Any remedy or right which either party may exercise in relation to a Default committed by the other shall be in addition to, and shall be capable of being exercised without prejudice to, all other rights and remedies available to either party.

26. RECOVERY OF SUMS DUE

If the Contractor owes the Council money under this Contract, then the Council may at its discretion either delay, not process or off set any such sum against any money it subsequently owes to the Contractor under the Contract or any other contract held by them for the provision of transport.

27. NOTICES

- 27.1 Any notice to the Contractor shall be deemed to be sufficiently served if delivered at or sent by post or facsimile transmission to the last known place of abode or business and any notice to the Council shall be deemed to be sufficiently served if delivered or similarly posted or sent by facsimile transmission.
- 27.2 Every notice shall be deemed to have been received by the addressee on the second business day after the date of posting or on successful facsimile transmission, as the case may be. In every case the notice must state clearly the contract or contracts to which the notice refers.

28. FORCE MAJEURE

- 28.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent that such delay or failure is caused by a Force Majeure Event which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable.
- 28.2 Where a Force Majeure Event has taken place the operation of the Contract will be automatically suspended
- 28.3 Where the Operator becomes aware that a Force Majeure Event has taken place it will:
- a) as soon as reasonably practicable after the start of the Force Majeure Event notify the Council of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on the Operator's ability to perform any of its obligations under the Contract; and,
 - b) use reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations under the Contract; and.
 - c) notify the Council of the method by which alternative arrangements can be made for the provision of the Services.
- 28.4 Where a Force Majeure Event prevents the operation of the Contract for more than 30 days, the Council shall have the right, without limiting its other rights or remedies, to terminate the Contract (or any part of it) with immediate effect by giving written notice to the Contractor.
- 28.5 For the avoidance of doubt 'Force Majeure Event' shall not include any labour dispute between the Operator and the Operator's staff or the failure to provide the Services by any of the Operator's Sub-contractors, however the provisions of clause 1.7 may apply.

29. MODERN SLAVERY, CHILD LABOUR AND INHUMANE TREATMENT

The Modern Slavery Helpline refers to the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

29.1 You shall, and procure that each of your sub-contractors shall, comply with the Modern Slavery Act 2015 ("Slavery Act");

29.2 You shall:

- (a) Implement due diligence procedures for your sub-contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
- (b) Respond promptly to all slavery and trafficking due diligence questionnaires issued to You by Us from time to time and ensure that Your responses to all such questionnaires are complete and accurate;
- (c) Maintain a complete set of records to trace the supply chain of all Services provided to Us regarding the Contract; and
- (d) Implement a system of training for Your employees to ensure compliance with the Slavery Act.

29.3 You represent, warrant and undertake throughout the Term that:

- (a) You conduct your business in a manner consistent with all applicable laws, regulations and coded including the Slavery Act and all analogous legislation in place in any part of the world;
- (b) Your responses to all slavery and trafficking due diligence questionnaires issued to You by Us from time to time are complete and accurate; and
- (c) Neither You nor any of your sub-contractors, nor any other persons associated with You:
 - i. Has been convicted of any offence involving slavery and trafficking;

Or

Has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.

29.4 As soon as You become aware of any actual or suspected slavery or trafficking by any Staff, sub-contractors or any other persons associated with the performance of the Agreement You shall:

- (a) Notify Us
- (b) Report it to the Modern Slavery Helpline.

29.5 If You notify Us pursuant to clause 29.4, You shall respond promptly to Our enquiries, co-operate with any investigation, and allow Us to audit any books, records and/or any other relevant documentation in accordance with the Agreement.

29.6 If You are in default under clauses 29.2 or 29.3, We may by notice:

- (a) Require You to remove from performance of the Agreement any sub-contractor, Staff or other persons associated with You whose acts or omissions have caused the Default; or

Immediately terminate the Agreement.

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Part 2
Suffolk County Council Passenger Transport
General Specification for Registered Local Bus Services and
Home to School Bus contracts
(utilising vehicles of 16 seats or larger)

which shall apply in addition to
the provisions of

Part 1 –
Suffolk County Council Passenger Transport
General Terms and Conditions of Contract

1. DEFINITIONS

The terms and expressions used in this General Specification shall have the meanings set out in the General Terms and Conditions for Passenger Transport Services. The headings to these conditions are only given for the sake of textual clarity and are not contractual.

2. VEHICLES

- 2.1 All vehicles provided by the Contractor must comply in all respects with relevant legislation, and any regulations made there under so far as are relevant.
- 2.2 The Contractor shall be responsible for ensuring that the type of vehicle they intend to operate is suitable for the route proposed and can be operated to the timetable schedule prior to the submission of the Tender.
- 2.3 At the time of commencement of the Service the age of the vehicle/vehicles to be used should not exceed ten years in the case of purpose designed buses; small buses based on a van-derived base vehicle shall be not more than 3 years old at the commencement of the Service. The maximum permissible age of vehicles used will increase by one year for each year of the Contract which elapses.
- 2.4 The Council reserve the right to waive the age conditions set out in 2.2 in the case of certain contracts and specifically permit the use of older or non-compliant vehicles.
- 2.5 The type and size of vehicles to be used must be in accord with the vehicle details set out in the Contract Documents. Sufficient carrying capacity to meet the demand on each journey shall be provided, including the provision of duplicates when required to meet Council requirements as specified in the tender documentation.
- 2.6 The Operator shall allow the Council's duly authorised representative to enter the Operator's premises at any reasonable time for the purpose of inspecting the vehicles used in the provision of the Service, the Operators maintenance facilities and the records kept for the said vehicles. The Operator may be required, at their expense, to submit any vehicle observed in service on the Contract for inspection at an appropriate place designated by the Council, should the Council have cause or reason to consider it necessary.
- 2.7 Additionally, the Operator shall co-operate fully with any checks carried out by other agencies that may include DVSA, Police or any combination of the above. The Council reserve the right to inspect the vehicles and/or to require the Contractor to provide and meet the costs of an independent certificate which confirms that a vehicle is fit for the purpose and complies with all legislation appropriate to such vehicles.
- 2.8 If any vehicle being used on, or which is normally used to operate the Service specified in this Contract, is prohibited from use with immediate effect by a duly authorised officer of the Driver and Vehicle Standards Agency (DVSA) (an "immediate prohibition"), then the Contractor shall inform the Council of the details of each such prohibition notice in writing within one working day of the prohibition notice being issued. The Council may then, at its discretion suspend, vary or terminate the Contract.
- 2.9 The Operator shall not use in connection with this or any other contract between the Operator and the Council, any vehicle which is found to have a defect which could affect the safety or wellbeing of passengers.
- 2.10 The Contractor shall notify the Council immediately of any accident in which the passengers being conveyed are involved or of a road traffic or other accident in which any vehicle used in the Contract is involved and shall, where required by the Council, provide a written report. The Contractor shall also notify the Council at the earliest opportunity of any proceedings taken against the driver of the vehicle or the Contractor for any Road Traffic Act offences which occur whilst passengers are being conveyed.

2.11 Unless otherwise stated in the contract specification, all vehicles: –

- a) Must be licensed, maintained, equipped and operated as required by current legislation and must display a valid Public Service Vehicle Operator's licence disc.
- b) Must conform to the specifications detailed in the Contract Specification.
- c) Must be large enough to convey the numbers of passengers normally wishing to use the service. The vehicle must not be allowed to carry more passengers than permitted under current legislation affecting that vehicle.
- d) Must be smart and tidy in appearance internally and externally, to the satisfaction of the Council. Vehicle must be maintained in a clean and tidy internal and external condition so far as is reasonably possible or practicable.
- e) Must have adequate heating and ventilation in the passenger seating area
- f) Must be equipped with power operated passenger doors or must carry a conductor or other member of staff to operate the doors
- g) Must at all times during the journey, display at the front of the vehicle, the correct service number and final destination of the journey being operated, so that both are clearly visible to passengers as the bus approaches, subject to the following conditions:
 - i) where the vehicle is fitted with mechanical or electrical equipment capable of displaying the correct service number or destination this must be used. Where such equipment is unable to do this, the displays must be set at blank.
 - ii) where mechanical/electrical destination equipment is not used, signs or notices must be used to display the service number and destination and must be of a size and format approved by the Council.
 - iii) when operating a journey on which only authorised passengers are to be conveyed, the service number to be displayed should be a contract number specified by the Council. Any destination displayed should indicate that the vehicle is not available to the general public. E.g. "School Service"
- h) Must carry a current timetable and fare table for the service and both must be available for passengers to inspect upon request.
- i) Must display notices clearly inside the vehicle requiring passengers not to smoke in the vehicle
- j) Where vehicles are carrying children to and from school to display the internationally recognised school bus sign at the front and rear of the vehicle. The specific regulations are set out in the Road Vehicles Lighting (Amendment) Regulations 1994 – Statutory Instruments 1994 No. 2280.

Contractors should note that the "school bus" signs should only be used while the vehicle is actively engaged in carrying school passengers, but at no other time.

Furthermore, where permitted by the 1994 Regulations, hazard warning lights should be used when the vehicle is stationary, and passengers are entering or leaving the vehicle.

2.12 The Operator must ensure that before any vehicle is used to operate the contract, a daily safety inspection of the vehicle is carried out by a suitably trained person and any defects rectified that would affect the safety of passengers or the ability of the vehicle to meet the contract specification. The operator must also ensure that it has a defect reporting system in place that ensures that any vehicle defects that occur whilst the contract is being operated are notified and remedied in a timely manner.

- 2.13 The Operator must ensure that, in the event of a vehicle breakdown or similar emergency, arrangements exist to ensure that a replacement vehicle is able to reach any point on the contracted route within one hour of the incident occurring. Where the Operator is unable to do this using his own vehicles or staff, the Council will expect the Operator to demonstrate prior to the commencement of the Contract and at any time during the period of the contract, that an agreement to provide this facility has been made with another Operator that is acceptable to the Authorised Officer.

In the event of a breakdown or similar emergency, or significant delay to the vehicle operating the service, the Operator must:

- a) provide alternative transport at no extra cost to the Council. Failure to do so will result in the Council making its own arrangements, and any costs incurred may be charged to the Operator.
- b) make every effort to inform the schools or colleges whose students are carried on the journeys adversely affected.

- 2.14 Where a passenger becomes seriously distressed or it becomes clear that medical attention is required, Drivers and Passenger Assistants should not provide any medical assistance to the passenger but should in the first instance contact the ambulance service. Where a member of the ambulance service gives instructions regarding care of the passenger, a Driver or Passenger Assistant may then provide medical assistance to the passenger in following those instructions.

3. DRIVERS AND OTHER STAFF

- 3.1 The Contractor shall provide a fully competent, proficient and appropriately licensed driver for each vehicle used for the purpose of the Contract, who, in all ways, complies with any conditions as may be defined by legislation. Where training to a specified level is detailed in the tender documentation relevant staff employed on the contract must meet the standard specified.
- 3.2 The Contractor shall at all times and at its own expense provide and pay the wages of a competent driver or drivers holding the appropriate licences for each type of vehicle operated in accordance with the Road Traffic Acts, Transport Acts, Public Passenger Vehicles Act 1981, and any Regulations made there under.
- 3.3 Any driver or other employee of the Operator travelling on the vehicle must be smart and tidy in appearance and be polite and considerate to passengers, Council Officers, School staff, College employees, Day Centre staff, parents or guardians of pupils travelling on the vehicle and to other road users. The driver shall take all reasonable precautions to ensure the safety and good conduct of the passengers on board the vehicle and shall give any assistance to passengers that may be required.
- 3.4 The Contractor shall ensure that drivers employed by them comply with the Driving Hours Regulations laid down under the Public Passenger Vehicles Act 1981 as amended or re-enacted from time to time.
- 3.5 Drivers must receive full training in the route to be taken by each journey, the stopping points to be used and the fares to be charged.
- 3.6 Drivers must be instructed that if the vehicle they are driving is expected to be stationary for more than 2 minutes at a bus stop in a built-up area or for any period of time at or on school premises the engine must be switched off.
- 3.7 The Operator must ensure that any driver used to operate the Contract is in a fit condition to undertake the journey in a safe and legal manner.
- 3.8 The Operator must not employ as a driver on any journey covered by the Contract, any person who has:
 - a) already worked on a night shift prior to the commencement of the morning journey;
 - b) started work before 0400 hours that day;

c) has undertaken paid employment during the 7 hours immediately prior to starting work.

3.9 The Contractor shall, on demand, produce to the Council or their authorised officers, all relevant documents pertaining to the drivers, conductors and passenger assistants used in pursuance of the Contract.

3.10 Contractors should note that they and their drivers and passenger assistants may be provided with advice and/or instructions by the Council regarding the needs of specific passengers being conveyed. In such cases, Contractors and their staff must act in accordance with the advice/instructions they have been given.

3.11 In addition, no driver or Passenger Assistant shall smoke (including electronic vaping products), drink alcohol or take prohibited drugs on any vehicle whilst fulfilling the obligations of the Contract.

Where the contract is for the provision of home to school transport, staff must not smoke (including electronic vaping products), drink alcohol or take prohibited drugs in the vicinity of school premises whether inside or outside the vehicle used on the contract.

3.12 Where applicable the provisions of clause 17 (Safeguarding) and all sub-clauses shall apply to all staff employed on the Contract.

3.13 The Council shall be entitled to cancel the Contract forthwith if the Contractor fails to comply with the requirements set out in the foregoing conditions concerning drivers and other staff.

3.14 Drivers and passenger assistants must be able to communicate effectively in English with passengers, parents and carers. Drivers and passenger assistants must be able to understand their passengers and their parents and carers and be understood by them. This requirement does not extend, refer or apply to people with speech impediments or regional accents.

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Dependent upon the type of service operated contract operated

either

**Section 4
(Registered Local Bus Services)
and all sub-sections thereunder**

or

**Section 5
(Home to School Services)
and all sub-sections thereunder**

**as set out in the following pages shall apply in addition
to the provisions of other sections within this document.**

4. REGISTERED LOCAL BUS SERVICES

The conditions contained within this section are in addition to and do not replace the General Terms and Conditions for Passenger Transport Services. The conditions contained in this section apply only to services operating registered local bus services.

- 4.1 Where the Service has to be registered in accordance with the 1985 Act, the Contractor is solely responsible for securing the registration or variation of registration as required. Any registration or variation may be completed on behalf of the Contractor by the Council at the charge prevailing at the time and as advised by DVSA. The registration forms must be supplied to the Council within one week of the award of the Contract or by a date specified by the Council at the time of the award of the Contract. In any case registrations shall be submitted in accordance with the time scales laid down by the Traffic Commissioner. The Council may terminate the Contract should the Contractor fail to register or vary as appropriate the registration of the Service.
- 4.2 The Contractor will be liable for payment of all fees due to the Traffic Commissioner in respect of initial registration. In those cases where subsequent variations of registration are required, as a result of any changes made to the specification of Service at the request of the Council as opposed to those requested by the Operator, during the period of duration of the Contract, or in the period between its registration and commencement of the Service, or as otherwise agreed, the Council will accept liability for all fees payable to the Traffic Commissioner.
- 4.3 The Council will only support registrations that fail to meet the time scales laid down by the Traffic Commissioner in exceptional circumstances or where it has not been possible to meet these due to the date of the award of the Contract.
- 4.4 The Bus Open Data Service (BODS) is the central service for publishing high quality information for all local bus services in England. The Bus Services Act 2017 requires operators of local bus services in England to publish data to the Bus Open Data Service. There are three types of data that operators must published in certain data formats: timetables, bus location and fares. The Contractor shall be responsible in providing high quality information to BODS as required.

4.4 English National Concessionary Travel Scheme

The Contractor shall carry holders of valid English National Concessionary Travel Scheme passes for elderly, disabled and blind persons in accordance with the terms of the scheme as shall be determined from time to time by the Council. Additionally, holders of valid National Passes shall be carried at times when the Statutory Minimum Travel Concession applies.

Carriage of such passengers shall entitle the Contractor to claim reimbursement from the Council in accordance with the terms of the scheme which should provide appropriate reimbursement for any Operator participating in the concessionary scheme. Copies of details of the Concessionary Travel Scheme are available on request.

Where a local bus service contract has been awarded on a Revenue Guarantee/Cost basis the Operator shall cooperate with requests from the concessionary travel, or any other relevant scheme to provide information or data relevant for the calculation of reimbursement payments to the Council.

The Operator must submit such data as requested by any agency or consultancy employed by the Council for the purposes of administering such schemes, in the format specified by such parties to enable payments and reimbursements to be made relating to travel schemes.

4.5 Traveline

The Operator shall participate in Traveline.

Where a local bus service contract has been awarded on a Fixed/Minimum Subsidy basis, the Contractor shall be responsible for the payment of costs invoiced by PTI (SE) Ltd or any successor organisation carrying out the same function in connection with the provision of information as part of the national Traveline service. Failure to pay these costs may result in the Council making a deduction from the contract rate, including an administration charge.

Where a local bus service contract has been awarded on a Revenue Guarantee/Cost basis, the payment of costs invoiced by PTI (SE) Ltd in connection with the provision of information as part of the national Traveline service shall be the responsibility of the Council.

4.6 Fares and waybills

- 4.6.1 Unless otherwise agreed in writing by the Council an electronic ticket machine must be used. The machine must be capable of enabling records to be kept of the total number or tickets issued and their total value
- 4.6.2 The cost of acquisition, installation and maintenance of such a machine is the responsibility of the Contractor.
- 4.6.3 Tickets indicating the amount paid and date of issue must be issued to all fare paying passengers using a ticket issuing system of a type approved by the Authorised Officer in writing beforehand.
- 4.6.4 Whilst on duty, uniformed Police Officers may be conveyed free of charge on any journey covered by the contract. Other Police Officers whilst on duty but not in uniform may also on production of their warrant card, be conveyed free of charge.
- 4.6.5 In the case of a Contract awarded on the basis of Fixed Cost the fares charged to passengers must accord with the County Fare Scale and conditions which must not be exceeded. The fare table(s) must be submitted to the Council for fixed contracts for written approval on the award of tenders.
- 4.6.6 In the case of a Contract awarded on the basis of Revenue Guarantee the Council will supply a fare table for the route(s) that must be adhered to.
- 4.6.7 The County Fare Scale will be updated from time to time at the sole discretion of the Council
- 4.6.8 The fare table(s) may be altered or revised only with written permission of the Council subject to giving 5 days' notice in advance
- 4.6.9 Individual fares may be reduced by up to 10% or special promotional fares introduced without express written permission.
- 4.6.10 Passengers may be carried without payment of a fare provided that they possess authority to travel by means of a pre-paid ticket authorised by the Council or unless they are officers of the Council with a bearer pass.

Where the Council issues entitlement to travel for the purpose of home to school travel on registered local bus services, the Operator will carry out checks of Travel Passes on every journey to ensure that the student is entitled to travel

- 4.6.11 One child aged under 5 years may accompany, FREE of charge, each Adult fare-paying passenger.

4.7 Bus Stopping Places, Bus Stations, and Bus Stands

- 4.7.1 Passengers shall be picked up and set down at such places and times as specified in the Contract Documents. Unless otherwise specified the Service will recognise all bus stops along its route as directed by sign and/or shelter or as recognised by custom and practice.
- 4.7.2 Particularly in rural areas where stops may not be formally identified services will be allowed to operate on a hail and ride basis so long as the driver is satisfied that the location at which they stop does not pose a risk to themselves, passengers or other road users or be of such a duration of time as to be construed as obstructing other road users or residents in the pursuance of their day to day business.
- 4.7.3 The Contractor shall be liable for payment of any fees or dues in respect of the use of bus station or any bus terminal facilities used in connection with the contracted service

4.7.4 In addition, the Contractor may also be required to use specified departure bays from bus stations when operating contracted services. These may be varied within the life of a Contract according to demand on facilities. In the event of a designated stand being blocked for whatever reason thus preventing the Service from operating correctly the Service shall operate from the next available stand. The driver must make every effort to advise passengers of this change before departing.

4.8 Days of Operation

4.8.1 Where an operating day as specified in the contract falls on a public holiday, the Contractor shall provide the Service on public holidays and specified adjacent days as follows:

New Year's Day	No Service
Good Friday	Sunday Service
Easter Monday	Sunday Service
May Day	Sunday Service
Spring Bank Holiday	Sunday Service
Summer Bank Holiday	Sunday Service
Christmas Eve	Normal service unless specified to the contrary
Christmas Day	No Service
Boxing Day	No Service
New Year's Eve	Normal service unless specified to the contrary

In the case of services operating on Christmas Eve and New Year's Eve, the Council will consider applications to cancel later journeys taking into account other services not provided by the Council in the immediate area.

Where a reduction in service is agreed a pro-rata reduction in the contract cost will be made based on the number of journeys omitted. Where such a reduction cannot be agreed then all services will operate.

4.8.2 In the event of other days being declared a Public Holiday or Bank Holiday, or where the Council decides a different service is required on certain days to meet special events or holiday requirements, the Service to be operated on that day shall be determined by the Council in line with the anticipated travel requirements of the public on that day, and the Contractor will be advised of the Council's decision in writing no less than 28 days prior to the relevant day.

4.9 Bus Service Operators Grant (BSOG)

4.9.1 The following conditions relating to payments of Bus Service Operators Grant (BSOG) will apply to all contracts according to the following categories –

a) Contracts which have been awarded following a tender process	(i)	The contract price submitted will comprise two elements namely the operational cost of the contract and the BSOG which would have been attributable to the contract. This sum will have been calculated by the bidder.
	(ii)	The Contract Cost and the BSOG amount must be invoiced separately.
b) Contracts which have been awarded where no tender process has been undertaken (<i>De Minimis</i> contracts)	(i)	It will remain the responsibility of the operator to claim any sums due in relation to BSOG direct from the relevant section of the Department for Transport
	(ii)	No claims will be entertained by the authority
	(iii)	All other Terms and Conditions in this document relating to payments remain in force.

c) Claims for AVL / Smart ticketing payment enhancements to BSOG	(i) All claims should be made to the relevant section of the Department for Transport regardless of the contract status (ii) No claims will be entertained by the authority
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4.9.2 In the event of future changes made by government to the BSOG scheme and in particular the withdrawal of any future funding from Department for Transport the authority shall have no liability in respect of payments made under b) and c).

In respect of payments made under a) notice of funding withdrawal will be given as soon as practicable after the announcement and no further payments will be made after a notice period.

In any of these cases all notice to terminate periods will apply to all parties.

4.10 Payments

4.10.1 If requested, the Operator will have to sign up to a self-billing arrangement or where agreed, receipt of invoice via email

4.10.2 The Council will make payments to the Contractor in arrears on a 4 weekly or calendar month basis, or other agreed period, either:

a) by automatic payment, without invoice, by acceptance of an electronically generated Self-Bill Invoice(s), based on the price stated in the Contract award letter or subsequent variation to the Contract, taking into account all deductions that have been notified to the Contractor and provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that Self-Billing invoice has been carried out, or

b) if agreed, following receipt by e-mail of your invoice of the Contractor's Valid Invoice, provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that invoice has been carried out. The Contractor's invoice must quote the Contract Number (stated on the Contract Award letter or purchase order), the daily rate or rates of payment applicable, the number of days on which the Service operated during the period concerned and/or the number of Pupils/ Clients carried (if requested in the contract Specification) and the total amount claimed.

4.10.3 The contractor shall raise any discrepancies between a Self-Billing Invoice received from the Council and invoicing data in its internal records within seven (7) days of receipt of such Self-Bill Invoice;

4.10.4 The self-bill or invoice shall be supported by a record of operation of the Service, including any contracted mileage not operated for whatever reason and such other information as the number of passengers carried, the total fare revenue, the number of concessionary passengers and other information as may be required from time to time.

No payment will be made until the required supporting information is supplied.

4.10.5 Where the Contract has been awarded on the basis of a Minimum Cost (i.e. Revenue Guarantee) Agreement, the following shall be deducted from the sum tendered in respect of every invoice received by the Council:-

a) The total Fare revenue declared by the Operator for the period This shall include not only Fares collected by the driver(s) of the Service, but any off-bus revenue attributable to the Service, e.g. season ticket sales.

b) Payment made by any Local Education Authority for the provision of home-to-school transport for school children or students on the Service

4.10.6 If, in any week, the total of such deductions as specified in condition 4.10.4 exceeds the Rates for the Service then such excess shall be refunded to the Operator by way of a credit to the operator against future payments.

- 4.10.7 The Council reserves the right to make retrospective adjustments to the statement of account for the Contract in the event of inaccuracies being revealed.

An administration charge may also be made under the terms of Appendix A in relation to the failure of the Operator to operate the Service as specified and where breach points may be applied under this schedule.

- 4.10.8 The Contractor shall supply an invoice or self-bill quoting the Contract number(s), the period covered by the claim, the amount claimed and the following supporting information on a 4 weekly basis or calendar month basis, or other agreed period, from the start of the Contract Period using the performance monitoring forms supplied or in an electronic format to be agreed with the Council. No payments will be made until this information is provided. Where invoices for Revenue Guarantee Contracts are raised, the sum(s) due should be calculated net of all relevant income (i.e., passenger fares).

- 4.10.9 The supporting information required at 4.10.3 will be: -

- (a) total passengers;
- (b) total fare revenue;
- (c) mileage operated
- (d) concessionary fare tickets
- (e) mileage not operated and reasons for non-operation; and
- (f) any other information as may be required from time to time.

The Council will retain the right to audit the information supplied and the Contractor will provide reasonable access to premises to authorised Council officers to examine any aspect of the operation and finances of the Service(s) secured by the Council.

- 4.10.10 The Council will make no payment to the Contractor in respect of the Contract other than the Contract Price, as varied (where agreed) from time to time in accordance with the Contract.
- 4.10.11 Any payment due from the Council to the Contractor under the Contract will be made no later than the end of a period of 28 days from the date on which the relevant invoice is regarded as valid and undisputed.

4.11 Recovery of sums due

- 4.11.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other Contract between the Contractor and the Council.
- 4.11.2 In the event of any failure by the Contractor to pay the Council any sum due under the Contract or under any other Contract between the Contractor and the Council, the Contractor shall further pay to the Council Interest at the applicable daily rate. Such interest shall run from day to day and shall accrue before and after any judgement and will be compounded until payment thereof.
- 4.11.3 Any sum shall also be recoverable where that recovery is permitted by any other agreement or contract entered into between the Council and the Contractor. Any notice given in respect of this recovery will comply with the terms of such agreements or contracts
- 4.11.4 In the event of a delay or default by Us in making payment of an undisputed element of the Price, You shall be entitled to interest on such element of the Price in accordance with the Late Payment of Commercial Debts (Interest) Act 1998

4.12 Endeavour Card

- 4.12.1 The authority reserves the right to specify on the tender documents that compliant Electronic Ticket Machines, to an ITSO standard must be used on the contract and that the Endeavour Card (or successor card) must be accepted.
- 4.12.2 This acceptance of the card will include any discount scheme in force at the time of the award for defined age groups.
- 4.12.3 Where specified and if developed the scheme will also permit the use of Endeavour Cards (or

any successor card) without the discount element, i.e. solely as a means of cashless payment and may also include the requirement to issue carnet (10 journey) products by way of the smart card platform.

- 4.12.4 Failure to adhere to the terms of the Endeavour Card (or successor card) will be deemed a material breach of the specification for local bus service contracts.

4.13 Real Time Passenger Information

- 4.13.1 The authority reserves the right to specify that the Contract must use vehicles fitted with Automatic Vehicle Location equipment or other associated equipment during the Contract Period in order to drive the Council's real time passenger information system.

This requirement will be specified in the tender documents and will form part of any subsequent contract.

- 4.13.2 Data must be provided to the standards set out in Schedule F of the "Endeavour Card /Real Time Passenger Information Scheme Agreement" document in place at the time of award

- 4.13.3 The Contractor shall, as set out in that agreement provide operational data necessary to configure the Real Time Passenger Information system. This will include, but may not be restricted to, running board information, driver duty information, journey numbers, service numbers and departure times.

- 4.13.4 Any changes to information provided under the terms of sub clause 4.44 will be required to be notified to the Council. (e.g. change of driver duty numbers)

4.14 Punctuality

- 4.14.1 Contractors will be required to participate in any Bus Punctuality Improvement Partnership (PIP) active in Suffolk at that time with a view to improving the punctuality and reliability of the contracted service. Any such PIP will be subject of a separate partnership agreement outlining the obligations on both parties.

- 4.14.2 Alternatively, Contractors will be required to provide evidence that procedures used by the company are robust to ensure punctuality of services as outlined in the Traffic Commissioner's guidelines. Contractors should be able to demonstrate that the system(s) they have in place in relation to punctuality are being employed and are working effectively, On request; the contractor will make available to the Traffic Commissioner or the Driver & Vehicle Standards Agency (DVSA) punctuality performance data on their services.

- 4.14.3 Where the contractor is a participant of the PIP then failure to adhere to the terms of that agreement will be deemed a material breach of the local bus service contracts.

4.15 Publicity

- 4.15.1 The Contractor may be required to indicate in a prescribed manner on each vehicle used in providing the Service a notice that it is sponsored by the Council and that certain concessionary or period tickets issued by the Council are valid thereon.

- 4.15.2 The Council may also require the application of publicity, relating to public transport or other council activity, provided at the Council's expense, to be prominently displayed on the vehicle used for the Contract.

- 4.15.3 A timetable and fare table for the Service and any other such publicity or promotional fares and tickets as required by the Council, must be carried on the vehicle and shall be available for inspection by any passenger or authorised officer of the Council.

- 4.15.4 Where any journey or journeys are undertaken in accordance with the Contract to enhance or supplement a non-supported Service registered by the Contractor, the Contractor shall ensure:

- a) that the details of the journeys so provided are included in any timetable on public display or otherwise made available to the public; and

- b) that the journey is run as part of that overall service and carries the common route number of that service or such other number as may be specified in the Contract Documents.

4.15.5 The Contractor shall be responsible for advertising the Service and providing information for passengers in an adequate manner in accordance with the requirements of the Council notwithstanding that the Council may at its discretion and from time to time promote the availability of public passenger transport services or require the Contractor to undertake reasonable further publicity.

- 4.1 The Council may also require two (2) notice holders to be fitted internally to vehicles for display of any Council notices we may require from time to time where they relate to Public transport or other Council business.

4.16 Lost Property

The Contractor shall make appropriate arrangements to deal with lost property in accordance with the Public Service Vehicle (Lost Property) Regulations 1978 as made and amended.

5. HOME TO SCHOOL BUS SERVICES

The conditions contained within this section are in addition to and do not replace the general conditions as stated in the main terms and conditions. The conditions contained in this section apply only to services operating registered local bus services.

Without prejudice to the generality of the provisions of this Condition the Contractor shall not at any time use any vehicle for the purpose of the Contract which is not either licensed as a Public Service Vehicle or Licensed under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

5.1 General service requirements

- 5.1.1 The Contractor must convey all passengers on the days required between the places and according to the route and times shown in the Timetable and Operating Instructions.

The vehicle operating the contracted journey must arrive at the school or college not later than five minutes before the opening time, and must be ready for the return journey immediately after the school or college has closed unless specifically prevented from doing so by the timetable contained in the Route Specification. Any variation from this condition shall only be with the prior approval of the Authorised Officer.

- 5.1.2 No passengers can be set down at any point other than the school or college they attend or the point they would normally alight to return home unless previously agreed by the County Council.

- 5.1.3 The Operator must ensure that details of the School Term, Holiday and Staff Training dates for each of the Schools/Colleges served by the contract are obtained at the start of each academic term. In the event of the contract operating on an occasion when all of the schools or colleges served are closed, the Council must be informed.

Payment for operation on these occasions will only be considered where it can be shown that the School or College failed to publicise the closure with less than 5 working days' notice.

- 5.1.4 On each journey, before allowing passengers to board the vehicle, the operator must ensure that any items that could harm or corrupt the passengers, or which are inappropriate for children, are removed from the passenger area of the vehicle.

- 5.1.5 All passengers being conveyed on the vehicle must be seated.

The Public Service Vehicle (Carrying Capacity) Regulations 1984 as amended by Statutory Instruments 1996 No. 167 does not permit passengers to be carried on PSVs on other than a one to one seat basis.

It is the Council's policy generally to allocate passengers to all vehicles only in accordance with the nominal seating capacity of the vehicle under Contract where that vehicle has been hired as a whole by the Council solely for the conveyance of passengers within its discretion.

It remains the Contractor's responsibility to ensure that vehicles used in the Contract are not overloaded and any instances must be brought to the attention of the Council immediately.

Vehicle doors (other than emergency doors solely for that purpose) must only be operated by the driver. Passengers should not be permitted to leave seats before vehicles have come to rest and disembarkation and embarkation should be carried out in an orderly and controlled manner under the direct supervision of the driver.

5.1.6 The interior of all vehicles, including luggage storage areas must be checked thoroughly in the morning and afternoon after each journey leg to ensure that no property or persons remain on the vehicle. These checks should take place at the school premises in the morning and at the latest before the vehicle is parked at the end of a shift or at a break in the shift.

5.1.7 Drivers must co-operate fully with Council staff during any multi agency vehicle checks carried out at school or day care centres. This may include taking vehicles to a secondary site for inspection by qualified persons.

Failure to do so will be considered a breach of contract and breach points will be applied as per code DPSW (Appendix A)

5.2 Acceptance of school bus passes

5.2.1 The Contractor must ensure that only those holding a Travel Pass or other authority valid for travel on the route are conveyed in compliance with the Contract. On other than a registered local bus service, no persons other than passengers, the driver, the Conductor (if any) and the passenger assistant (if any) shall be carried.

5.2.2 On other than a registered local bus service, the Contractor must ensure that Travel Pass checks are carried out on a daily basis. No passenger can be refused travel on the journey authorised by that person's Travel Pass

5.2.3 Only those with authority to travel should be allowed to do so under the County Council's arrangements. HOWEVER, a pupil or student without a pass should be warned on the first morning that a pass or other official authority to travel must be produced on the following day; and if that is not the case travel will be refused.

Students who state that their pass is lost or stolen should be advised to report this to the school and request the issue of a temporary pass.

5.2.4 Travel should be refused only if the pupil/student is unable to produce a pass on the following day

5.2.5 Contractors who require clarification or advice about these arrangements set out within this clause should contact the Passenger Transport Unit. Passenger information for each route can be provided to assist Contractors in the verification of entitlement to travel

5.2.6 In the event of fraudulent use of Travel Passes the Contractor shall retain the pass and inform the school and/or the Council as soon as possible.

5.2.7 The authority reserves the right to specify that the Contract must make use of electronic means, to be determined of checking and accepting passes issued to passengers.

This requirement will be specified in the tender documents and will form part of any subsequent contract.

5.3 Behaviour issues

5.3.1 The Operator must still convey to the school safely any children involved in incidents of ill-discipline or vandalism to property of the Operator.

- 5.3.2 The incident must be reported immediately to the Council, the Head Teacher or other person in charge at the school. If such an incident occurs on the homeward journey, then the children must be conveyed to their home destination. The Council must then be informed as soon as practicable.
- 5.3.3 In very serious situations the Operator may request assistance from the Police.
- 5.3.4 Under no circumstances whatever should a passenger be removed from the vehicle during the course of a journey.

5.4 Actions arising from school pass / behaviour issues

- 5.4.1 Where problems are experienced by the Operator with either school passes or behaviour issues, the Operator shall not alter the travel arrangements of a pupil or student without the express knowledge and approval of the Passenger Transport section at the Council.
- 5.4.2 In the case of behaviour problems where it can be established that the Operator and the school have exhausted all of their procedures and the problem persists, the Passenger Transport section will assist in dealing with the issue by way of a warning letter to the parent/guardian of the child.
- 5.4.3 Operators should be aware that the Council has legal obligations to provide transport for certain categories of children and the withdrawal of transport may only be considered after legal advice has been sought. Operators should therefore be aware that a total ban is a last resort and the decision of the Council is final and binding.

5.5 Accident or vehicle breakdown

- 5.5.1 In the event of a vehicle breakdown or accident, the driver must, providing it is safe to do so, instruct the children to remain in the vehicle while a message requesting the provision of a replacement vehicle is passed to his base.
- 5.5.2 If it is unsafe for the children to remain in the vehicle, then the driver shall ensure that the children are kept together in one group in a safe place off the road. An adult or senior pupil should be left in charge while help is summoned. If the driver is unable to contact his base, then he must notify either the Council's Passenger Transport Unit, or failing this contact the school.
- 5.5.3 In the event of a vehicle breakdown or accident, the children must be discouraged from making their own way on foot to their destination unless the distance is very short, and the driver is able to take the children safely themselves so long as this does not mean leaving other children unattended. This should not be attempted where it is dark, or the visibility is poor.
- 5.5.4 The Operator must ensure that any accident, vehicle breakdown is reported Council's Passenger Transport Unit. The report must be made on the day that the incident occurs,

5.6 Payments

- 5.6.1 If requested, the Operator will have to sign up to a self-billing arrangement or where agreed, receipt of invoice via email.
- 5.6.2 The Council will make payments to the Contractor in arrears on a 4 weekly or calendar month basis, or other agreed period, either:
 - a) by automatic payment, without invoice, by acceptance of an electronically generated Self-Bill Invoice(s), based on the price stated in the Contract award letter or subsequent variation to the Contract, taking into account all deductions that have been notified to the Contractor and provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that Self-Billing invoice has been carried out, or
 - b) if agreed, following receipt by e-mail of your invoice of the Contractor's Valid Invoice, provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that invoice has been carried out. The Contractor's invoice must quote the Contract Number (stated on the Contract Award letter or purchase order), the daily rate or rates of payment applicable, the number of days on which the Service

operated during the period concerned and/or the number of Pupils/ Clients carried (if requested in the contract Specification) and the total amount claimed.

- 5.6.3 The contractor shall raise any discrepancies between a Self-Billing Invoice received from the Council and invoicing data in its internal records within seven (7) days of receipt of such Self-Bill Invoice.
- 5.6.4 The Contractor shall supply an invoice or self-bill quoting the Contract number(s), the period covered by the claim, the amount claimed and the following supporting information on a 4 weekly basis or calendar month basis, or other agreed period, from the start of the Contract Period.
- 5.6.5 The Council will make no payment to the Contractor in respect of the Contract other than the Contract Price, as varied (as agreed) from time to time in accordance with the Contract.

Invoices for any other sum will be rejected unless written evidence can be submitted by the Operator showing that the revised sum has been agreed.

The Council will not be liable for any losses sustained by the Operator or his employees arising from delays to incorrect invoices or the inability to submit supporting evidence of such changes.

- 5.6.6 Any payment due from the Council to the Contractor under the Contract will be made no later than the end of a period of 28 days from the date on which the relevant invoice is regarded as valid and undisputed.
- 5.6.7 Taking the safety of their staff, the passengers and other road users in account, the Contractor shall make every reasonable effort to run the Service in adverse conditions of snow, ice, flood or any other extraordinary circumstances. When the Contractor is unable to provide the Service for reasons beyond their control, the Council will pay only 50% of the appropriate Rate provided that details accompany the invoice for the relevant period.

Where schools have publicised the fact that they will be closed due to extraordinary circumstances and the Council has published the fact via the online school closure web page no later than 5pm on the day preceding the closure, then no payment will be made.

It is the responsibility of the Operator to check the schools closure list. Operators should check this list daily as closures may be due to unexpected incidents such as the failure of school heating etc.

- 5.6.8 Payment for any Bulk Flow Contract will be based on a price per pupil per day. Any tendering of a bulk flow must be based on a price per pupil. The Council will make payment for the Bulk Flow Contract based on the number of students allocated to the contract on an annual basis, reviewed termly.

5.7 Recovery of sums due

- 5.7.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other Contract between the Contractor and the Council.
- 5.7.2 In the event of any failure by the Contractor to pay the Council any sum due under the Contract or under any other Contract between the Contractor and the Council, the Contractor shall further pay to the Council Interest at the applicable daily rate. Such interest shall run from day to day and shall accrue before and after any judgement and will be compounded until payment thereof.
- 5.7.3 Any sum shall also be recoverable where that recovery is permitted by any other agreement or contract entered into between the Council and the Contractor. Any notice given in respect of this recovery will comply with the terms of such agreements or contracts
- 5.7.4 In the event of a delay or default by Us in making payment of an undisputed element of the Price, You shall be entitled to interest on such element of the Price in accordance with the Late Payment of Commercial Debts (Interest) Act 1998

5.8 Lost Property

- 5.8.1 The Operator must ensure that any items of property left by passengers on a vehicle operating the contract are stored safely and must make reasonable endeavours to ensure that they are returned to their rightful owner as quickly as possible. If possible, the passenger should be permitted to collect the item from their school or college or from the driver operating the contract on the next working day.
- 5.8.2 No charge should be made for the storage or return of such items, other than to cover any costs incurred as a result of a need to return the items by post or commercial courier service where this is requested by the parent.

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Part 3 -
Suffolk County Council Passenger Transport
General Specification for Small Vehicle and
Specialised Transport Contracts
(utilising vehicles with fewer than 16 seats)

which shall apply in addition to
the provisions of

Part 1 -
Suffolk County Council Passenger Transport
General Terms and Conditions of Contract

1. DEFINITIONS

The terms and expressions used in this General Specification shall have the meanings set out in the General Terms and Conditions for Passenger Transport Services. The headings to these conditions are only given for the sake of textual clarity and are not contractual.

The conditions contained within this section are in addition to and do not replace the General Terms and Conditions for Passenger Transport Services. The conditions contained in this section apply only to services operating using vehicle with less than 16 seats

When requested by the Council the Operator will be required to meet the student and parent / carers in advance of the commencement of the Contract.

2. GENERAL CONDITIONS

- 2.1 Contracts identified by the Council for clients with specialised transport requirements, usually identified by the prefix MS, Q or A (and certain other Contracts which may be specified by the Council), may not be operated as registered local bus services.
- 2.2 Additionally, such routes may not normally be operated with a vehicle or vehicles larger in size than that set out in the Contract and shall meet the specific requirements set out in the Contract documentation.
- 2.3 Contracts identified as demand responsive services, open to the general public may be registered as flexible local bus services as permitted by the legislation for the licenced status held by the Contractor.
- 2.4 The Council reserves the right on Contracts where small numbers of passengers (up to 6) are concerned to suspend the Contract, without payment, in the event of unforeseen temporary changes in requirements. As much notice as possible will be given to the Contractor in those circumstances.
- 2.5 The Contractor must convey all passengers on the days required between the places and according to the route and times shown in the Timetable and Operating Instructions.

Where operating to a school or college, the vehicle operating the contracted journey must arrive at the school or college not later than five minutes before the opening time, and must be ready for the return journey immediately after the school or college has closed unless specifically prevented from doing so by the timetable contained in the Route Specification. Any variation from this condition shall only be with the prior approval of the Authorised Officer.

- 2.6 No passengers can be set down at any point other than the school, college, day centre or any other establishment they attend or the point they would normally alight to return home unless previously agreed by the County Council.
- 2.7 The Operator must ensure that details of the School Term, Holiday and Staff Training dates for each of the Schools/Colleges served, or the opening days of any establishment for adult passengers served by the contract are obtained at the start of each academic term.

Payment for operation on these occasions will only be considered where it can be shown that the School, College or adult centre failed to publicise the closure with less than 5 working days' notice.

- 2.8 On each journey, before allowing passengers to board the vehicle, the operator must ensure that any items that could harm or corrupt the passengers, or which are inappropriate for children or vulnerable adults, are removed from the passenger area of the vehicle.
- 2.9 The interior of all vehicles, including luggage storage areas must be checked thoroughly in the morning and afternoon after each journey leg to ensure that no property or persons remain on

the vehicle. These checks should take place at the destination premises in the morning and at the latest before the vehicle is parked at the end of a shift or at a break in the shift.

- 2.10 The Operator must ensure that passengers boarding or alighting from the vehicle are under the supervision of the driver, and/or Passenger Assistant. Stopping places, unless specified specifically, must be selected so that the safety of passengers boarding, alighting and on board the vehicle and other road passengers is protected. Any doubt over any stopping position must be referred to the Authorised Officer.
- 2.11 The Operator must ensure that, unless specified otherwise in the route specification, only authorised passengers and Passenger Assistants are conveyed. In exceptional circumstances parents or guardians of Special Needs children may travel on the vehicle, provided that agreement to this has been supplied to the Operator from the Authorised Officer.

3. VEHICLES

- 3.1 Unless otherwise stated on the Route Specification, all vehicles: -
 - a) must be licensed, maintained, equipped and operated as required by current legislation and must display a valid Public Service Vehicle Operator's licence disc, Section 19 Permit, Section 22 Permit or Hackney Carriage and Private Hire licence.
 - b) must conform to the specifications detailed in the Route Specification;
 - c) must not be allowed to carry more passengers than permitted under current legislation affecting that vehicle;
 - d) must have adequate heating and ventilation and must be in a clean and tidy internal and external condition so far as is reasonably possible or practicable. All vehicles used to operate the Contract must be cleaned inside and out at least once per day and the surfaces and seats inside the vehicle must be thoroughly cleaned at least once every 7 days;
 - e) must display notices clearly inside the vehicle requesting passengers not to smoke in the vehicle;
 - f) must display notices clearly inside the vehicle requesting passengers to wear seatbelts, where the vehicle has more than 8 passenger seats.
 - g) must display notices clearly inside the vehicle on the correct use of wheelchairs and passenger restraint systems.
- 3.2 Seats must not be fitted in such a manner that a seated passenger is facing either the offside or the nearside of the vehicle.
- 3.3 The Operator shall ensure that no greater number of passengers is conveyed on the vehicle than that permitted by the Acts or any other statutory provision or regulation currently in force or that in the specification.
- 3.4 To meet the needs of passenger's, vehicles used may require specialist seating and access facilities (including wheelchair access) and/or specific types of passenger restraints. These and other specific needs will be shown in the initial Tender and/or in the Timetable and Operating Instructions.
- 3.5 The Council may supply the Contractor with specialist seating and/or restraints and may in certain circumstances meet the cost of fitting that equipment to the Contractor's vehicle. Such equipment supplied by the council remains the property of the council and must be returned upon request or as soon as possible after the end of the contract.
- 3.6 Contractors should note that the requirements and information concerning seat-belts and/or specialist seating set out in this appendix apply to all specialist seating and/or restraints. Such equipment must be fitted to the same standard as that required for other seat-belts. Where passengers are conveyed in a wheelchair the Contractor must ensure that the wheelchair and

passenger are secured in an appropriate way which meets current advice, guidance and legislative requirements

- 3.7 It is a condition of all contracts that operators will be familiar and adopt working practices consistent with current best practice with respect to the safe carriage of passengers and, in particular, passengers who require specialist equipment. Furthermore, it is a condition of all contracts that driving staff are fully conversant with and properly trained in the use of, any goods or equipment available on their vehicle(s).
- 3.8 The Operator must ensure that any vehicle used to operate the Contract is not fitted with:
- a) bull bars or equivalent bars;
 - b) any other external protection system made of metal and fitted to the bumper or other part of the vehicle front or side and intended (or purporting) to protect either the driver or passengers or external surfaces from damage or injury in the event of a collision.

4. DRIVERS AND OTHER STAFF

- 4.1 The Contractor shall provide a fully competent, proficient and appropriately licensed driver for each vehicle used for the purpose of the Contract, who, in all ways, complies with any conditions as may be defined by legislation. Where training to a specified level is detailed in the tender documentation relevant staff employed on the contract must meet the standard specified.
- 4.2 The Contractor shall at all times and at its own expense provide and pay the wages of a competent driver or drivers holding the appropriate licences for each type of vehicle operated.
- 4.3 Any driver or other employee of the Operator travelling on the vehicle must be smart and tidy in appearance and be polite and considerate to passengers, Council Officers, School staff, College employees, Day Centre staff, parents or guardians of pupils travelling on the vehicle and to other road users. The driver shall take all reasonable precautions to ensure the safety and good conduct of the passengers on board the vehicle and shall give any assistance to passengers that may be required.
- 4.4 Drivers must receive full training in the route to be taken by each journey, the stopping points to be used and the fares to be charged.
- 4.5 Drivers must be instructed that if the vehicle they are driving is expected to be stationary for any period of time at or on school premises the engine must be switched off.
- 4.6 The Operator must ensure that any driver used to operate the Contract is in a fit condition to undertake the journey in a safe and legal manner.
- 4.7 The Operator must not employ as a driver on any journey covered by the Contract, any person who has:
- a) already worked on a night shift prior to the commencement of the morning journey;
 - b) started work before 0400 hours that day;
 - c) has undertaken paid employment during the 7 hours immediately prior to starting work.
- 4.8 The contractor shall, on demand, produce to the Council or their authorised officers, all relevant documents pertaining to the drivers and passenger assistants used in pursuance of the Contract.
- 4.9 Contractors should note that they and their drivers and passenger assistants may be provided with advice and/or instructions by the Council regarding the needs of specific passengers being conveyed. In such cases, Contractors and their staff must act in accordance with the advice/instructions they have been given.
- 4.10 In addition, no driver or Passenger Assistant shall smoke (including electronic vaping products), drink alcohol or take prohibited drugs on any vehicle whilst fulfilling the obligations of the Contract.

Where the contract is for the provision of home to school transport, staff must not smoke (including electronic vaping products), drink alcohol or take prohibited drugs in the vicinity of school premises whether inside or outside the vehicle used on the contract.

- 4.11 Where applicable the provisions of section 17 (Safeguarding) and all sub-sections shall apply to all staff employed on the Contract.
- 4.12 The Council shall be entitled to cancel the Contract forthwith if the Contractor fails to comply with the requirements set out in the foregoing conditions concerning drivers and other staff.
- 4.13 Drivers operating Private Hire, Hackney Carriage Vehicles, Section 19, or PSV vehicles must wear the identification issued to them by the Council at all times during Service provision.
- 4.14 The Council requires continuity of Drivers and Passenger Assistants, as this is considered preferable for the needs of the passengers. Many passengers have specific requirements, which can mean they find it difficult to cope with a change of personnel. For these reasons, the council cannot accept a situation where Drivers and Passenger Assistants are rotated around contracts at frequent intervals and the service user does not know whom to expect. No more than two different Passenger Assistants at most are used on any Contract

The Contractor will be expected to carry out a practice run to provide a meet and greet to the parents/carers and pupils at no additional cost the Council. This should be undertaken with the relevant driver and passenger assistant(s) prior to the commencement of the Contract. This meet and greet will need to be carried out at a mutually agreed time between the Contractor, the Passenger Assistant(s) and the family. The Council expects the Contractor to ensure operational staff have full knowledge of all specific pick up points on the route prior to the commencement of the Contract to ensure smooth and effective operation from the first day.

- 4.15
 - a) Passenger Assistants must be capable and competent to work with children/adults with complex mental and/or physical disabilities. They must be able to communicate effectively, empathise with the passengers and be able to treat them with dignity and respect even when dealing with difficult behavioural issues.
 - b) Drivers and Passenger Assistant must be able to communicate effectively in English with passengers, parents and carers. Drivers and Passenger Assistants must be able to understand their passengers and their parents and carers and be understood by them. This requirement does not extend, refer or apply to people with speech impediments or regional accents.
- 4.16 The Contractor must have in place at all times: -
 - a) a system to ensure that any Passenger Assistant used to operate the Contract reports for work in adequate time for the Contract to operate correctly;
 - b) adequate contingency arrangements to ensure that the Contract is operated correctly in the event of a passenger assistant failing to report for work.
- 4.17 The Contractor must ensure that any Passenger Assistant used on the Contract is in a fit condition to undertake the journey in a safe manner.
- 4.18 In the event of the Contract being operated by a person who is not included on the Council's database of approved Passenger Assistant, this will be dealt with under clause 17.13 in Part 1 of this document. This may result in immediate termination of the Contract.
- 4.19 Passenger Assistants must wear identification badges issue to them at all times during Service provision

5. OPERATION OF THE SERVICE

- 5.1 Vehicle, passenger assistant and route/timing requirements may change from time to time within the period of the Contract, possibly at short notice, consequent upon changes in the needs of

those to be conveyed.

- 5.2 Some passengers may require assistance depending on the severity of their learning and/or physical disability or age-related frailty. In specific circumstances passengers may require assistance to and from the vehicle or their home. Where specified, the passenger should be returned to their home and not left at the roadside or the driver may be required to call at the house. In such cases the passenger's home is defined as either their front door or the inner door of any multi occupancy dwelling.
- 5.3 Routes will be planned to minimise the amount of time passengers will spend in a vehicle and to minimise the possibility of undue delay.
- 5.4 Where a driver arrives at a Pick-Up Point and the passenger is not in attendance, the following procedure shall be adopted:
 - a) If the passenger is a School or College student the driver shall wait at least 5 minutes after the agreed departure time and then inform the Operator. If the passenger concerned has Special Needs the Operator must inform the Authorised Officer immediately. The driver must also inform a member of staff on arrival at the School or College;
 - b) If the passenger is attending a Day Centre, the driver should wait at least 5 minutes after the agreed departure time and then proceed with the remainder of the journey. On arrival at the Day Centre the driver must advise the Day Centre Manager that the passenger was not present at the Pick-Up Point;
 - c) Where a driver arrives at a Pick-Up Point and the passenger is not ready to board the vehicle, the driver should wait at least 5 minutes after the agreed departure time and then inform the Operator, who in turn should inform the Authorised Officer. The driver should then proceed with the remainder of the journey and on arrival at the destination inform the Headteacher, Principal, Day Centre Manager or their representative of the reason why the passenger was not picked up.

In all cases the Council must also be informed of the nature of the incident and the action taken.

- 5.5 Where there is no one to receive a Vulnerable Passenger (child or adult) at the home address the Operator must immediately contact the Authorised Officer for advice. In normal circumstances the driver will be advised to complete the remainder of the route and then return to the address.

If there is still no one to receive the passenger a note should be passed through the door explaining that the passenger has been taken to the nearest Social Services office, or the nearest Police Station and a contact number where they can be collected should also be indicated.

Under no circumstances should a Vulnerable Passenger be left unattended or handed over to any other person such as a neighbour.

- 5.6 The driver must ensure that passengers are returned to their home and not left at the roadside. This may require a call to the house and should be interpreted as providing transport from door to door.

In the case of the passenger's abode this should be either their front door or the inner door of any multi occupancy building.

- 5.7 Changes to the operating details contract can only be made with the authorisation of an officer of the Council. This includes, not exhaustively changes (temporary or otherwise) to drop off points, changes to days or times of operation, carriage of persons other than those authorised by the Council.

6. ACCIDENT OR VEHICLE BREAKDOWN

- 6.1 In the event of a vehicle breakdown or accident, the driver must, as the passengers on this type of contract are vulnerable children and adults, providing it is safe to do so, instruct the passengers to remain in the vehicle while a message requesting the provision of a replacement vehicle is passed to his base.
- 6.2 If it is unsafe for the passengers to remain in the vehicle, then the driver shall ensure that the passengers are kept together in one group in a safe place off the road. An adult or other responsible person should be left in charge while help is summoned. If the driver is unable to contact his base, then he must notify either the Council's Passenger Transport Unit or failing this contact either the destination or the parent/carer.
- 6.3 In the event of a vehicle breakdown or accident, under no circumstances should passengers be allowed to make their own way to their destination.
- 6.4 Where a passenger becomes seriously distressed or it becomes clear that medical attention is required, Drivers and Passenger Assistants should not provide any medical assistance to the passenger but should in the first instance contact the ambulance service. Where a member of the ambulance service gives instructions regarding care of the passenger, a Driver or Passenger Assistant may then provide medical assistance to the passenger in following those instructions.
- 6.5 The Operator must ensure that any accident or vehicle breakdown is reported Council's Passenger Transport Unit. The report must be made on the day that the incident occurs,

7. QUALITY OF SERVICE

In addition to the provisions within clause 11 (Quality of Service) and sub-clauses within clause 11, the following additional requirements will apply.

- 7.1 Drivers must co-operate fully with Council staff during any multi-agency vehicle checks carried out at school or day care centres. This may include taking vehicles to a secondary site for inspection by qualified persons.

Failure to do so will be considered a breach of contract and breach points will be applied as per code DPSW (Appendix A)

Wheelchair accessible vehicles

- 7.2 The Operator must ensure that they and all drivers who operate wheelchair accessible vehicles have read and understood the following documentation, which is available via the internet prior to operating such a Contract. Failure to comply with the guidance outlined in these documents will be deemed as a breach of these Contract conditions.

Guidance on the Safe Transportation of Wheelchairs – MDA DB2001 (03) JUNE 2001 (Medical Devices Agency)

Guidance on the Safe Use of Wheelchairs and Vehicle-mounted Passenger Lifts – MDA DB2003 (03) MARCH 2003 (Medical Devices Agency)

PMG Best Practice Guidelines – Transportation of People Seated in Wheelchairs - 2019

- 7.3 All drivers operating wheelchair accessible vehicles must be trained by their employer in the safe operation of all equipment including the appropriate Wheelchair Tie-down and Occupant Restraint System (WTORS) and tail lift or ramp.
- 7.4 When Wheelchair Tie-down and Occupant Restraint System (WTORS) are not in use they must be stowed in such a manner that they do not cause a risk to passengers.

8. DEMAND LED SERVICES (e.g. Connecting Communities)

The following conditions apply specifically to contracts issued to operators of services that are open to the general public on the basis of pre-booking with the operator.

Registration of Services

- 8.1 Where the Service has to be registered in accordance with the 1985 Act, the Contractor is solely responsible for securing the registration or variation of registration as required. Any registration or variation may be completed on behalf of the Contractor by the Council at the charge prevailing at the time and as advised by DVSA. The registration forms must be supplied to the Council within one week of the award of the Contract or by a date specified by the Council at the time of the award of the Contract. In any case registrations shall be submitted in accordance with the time scales laid down by the Traffic Commissioner. The Council may terminate the Contract should the Contractor fail to register or vary as appropriate the registration of the Service.
- 8.2 The Contractor will be liable for payment of all fees due to the Traffic Commissioner in respect of initial registration. In those cases where subsequent variations of registration are required, as a result of any changes made to the specification of Service at the request of the Council as opposed to those requested by the Operator, during the period of duration of the Contract, or in the period between its registration and commencement of the Service, or as otherwise agreed, the Council will accept liability for all fees payable to the Traffic Commissioner.
- 8.3 The Council will only support registrations that fail to meet the time scales laid down by the Traffic Commissioner in exceptional circumstances or where it has not been possible to meet these due to the date of the award of the Contract.
- 8.4 When operated as a registered service then the provisions of Part 2, Section 4 (relating to registered local bus services) of this document, including those relating to payments shall be enforceable where they apply to the service delivered

9. PAYMENTS

- 9.1 If requested, the Operator will have to sign up to a self-billing arrangement or where agreed, receipt of invoice via email.
- 9.2 The Council will make payments to the Contractor in arrears on a 4 weekly or calendar month basis, or other agreed period, either:
 - a) by automatic payment, without invoice, by acceptance of an electronically generated Self-Bill Invoice(s), based on the price stated in the Contract award letter or subsequent variation to the Contract, taking into account all deductions that have been notified to the Contractor and provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that Self-Billing invoice has been carried out, or
 - b) if agreed, following receipt by e-mail of your invoice of the Contractor's Valid Invoice, provided that the Council is satisfied on the certificate of its authorised officers, that the Service charged for by the Contractor in that invoice has been carried out. The Contractor's invoice must quote the Contract Number (stated on the Contract Award letter or purchase order), the daily rate or rates of payment applicable, the number of days on which the Service operated during the period concerned and/or the number of Pupils/ Clients carried (if requested in the contract Specification) and the total amount claimed.
- 9.3 The contractor shall raise any discrepancies between a Self-Billing Invoice received from the Council and invoicing data in its internal records within seven (7) days of receipt of such Self-Bill Invoice;
- 9.4 The Contractor shall supply an invoice or self-bill quoting the Contract number(s), the period covered by the claim, the amount claimed and the following supporting information on a 4 weekly basis or calendar month basis, or other agreed period, from the start of the Contract Period.

- 9.5 The Council will make no payment to the Contractor in respect of the Contract other than the Contract Price, as varied (as agreed) from time to time in accordance with the Contract.

Invoices for any other sum will be rejected unless written evidence can be submitted by the Operator showing that the revised sum has been agreed.

The Council will not be liable for any losses sustained by the Operator or his employees arising from delays to incorrect invoices or the inability to submit supporting evidence of such changes.

- 9.6 Any payment due from the Council to the Contractor under the Contract will be made no later than the end of a period of 28 days from the date on which the relevant invoice is regarded as valid and undisputed.

- 9.6 Taking the safety of their staff, the passengers and other road users in account, the Contractor shall make every reasonable effort to run the Service in adverse conditions of snow, ice, flood or any other extraordinary circumstances. When the Contractor is unable to provide the Service for reasons beyond their control, the Council will pay only 50% of the appropriate Rate provided that details accompany the invoice for the relevant period.

Where schools have publicised the fact that they will be closed due to extraordinary circumstances and the Council has published the fact via the online school closure web page no later than 5pm on the day preceding the closure, then no payment will be made.

It is the responsibility of the Operator to check the schools closure list. Operators should check this list on a daily basis as closures may be due to unexpected incidents such as the failure of school heating etc.

- 9.7 Payments for demand led services will be made in accordance with clause 4 of Part 2 of this document

10. RECOVERY OF SUMS DUE

- 10.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other Contract between the Contractor and the Council.
- 10.2 In the event of any failure by the Contractor to pay the Council any sum due under the Contract or under any other Contract between the Contractor and the Council, the Contractor shall further pay to the Council Interest at the applicable daily rate. Such interest shall run from day to day and shall accrue before and after any judgement and will be compounded until payment thereof.
- 10.3 Any sum shall also be recoverable where that recovery is permitted by any other agreement or contract entered into between the Council and the Contractor. Any notice given in respect of this recovery will comply with the terms of such agreements or contracts
- 10.4 In the event of a delay or default by Us in making payment of an undisputed element of the Price, You shall be entitled to interest on such element of the Price in accordance with the Late Payment of Commercial Debts (Interest) Act 1998

Appendix A
TABLE OF BREACH CODES

(see QUALITY OF SERVICE, PART ONE, CLAUSE 11 and ALL SUB-CLAUSES)

Breach Code	Description of breach	Breach points
DPSA	Operating contravening existing legislation e.g. no insurance or tax, driver smoking, drinking or driving under the influence of alcohol, use of prohibited drugs, use of mobile phone whilst driving etc.	100
DPSB	Vehicle of inferior specification to that contained in contract documents including age, seating capacity, wheelchair accessibility, equipment fitted	50
DPSC	Failure to register service as specified in contract documents or variation of service without prior approval	50
DPSD	Failure to operate to correct route	30
DPSE	Failure to operate complete journeys (per journey)	30
DPSF	Operation of a journey 3 or more minutes early	30
DPSG	Operation of a journey 10 or more minutes late	30
DPSH	Failure to pick up passengers	30
DPSI	Carriage of unauthorised passengers	30
DPSJ	Failure to make connections to other services as specified in the contract (without adequate reason)	30
DPSK	Failure to notify lost mileage or other non-operation (per journey)	30
DPSL	No destination and/or route number displayed / incorrect destination and/or route number displayed	20
DPSM	Failure to display school bus sign where required	50
DPSN	Failure to notify authority of change in circumstances which are made known to the contractor (e.g. passenger no longer travelling/passenger in hospital/passenger deceased)	50
DPSO	Charging of incorrect fares (per instance)	10
DPSP	Failure to issue a fare paying passenger with a ticket showing correct fare issued or date issued.	10
DPSQ	Failure to notify fares change to Council	10
DPSR	Failure to carry out checks on student passes	20
DPSS	Failure to respond to customer complaint within time set out in 11.18	20
DPST	No automatic vehicle location equipment or other contractually specified equipment installed	15
DPSU	Failure (without reason) to minimise mileage by connecting with existing transport services. (Demand Led Transport only)	20
DPSV	Failure to keep vehicle in adequate condition of cleanliness without good cause (per journey)	5
DPSW	Failure to attend vehicle inspection when instructed by Council staff or other agencies at on site vehicle checks.	30
DPSX	Failure to adhere to any of the following Safeguarding requirements: <ul style="list-style-type: none"> • Use of a driver or passenger assistant not registered with Passenger Transport. • Not renewing a DBS certificate every three years (unless continually subscribing to the DBS update service) • Failure to successfully complete any required safeguarding training 	100
DPSY	Failure to gain prior consent of the Council to sub-contract to an alternative Contractor to provide the service as per section 5	100
DPSZ	Failure to provide TUPE information if requested.	30

Appendix B
GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR NEW AND CONTINUING
DRIVER AND PASSENGER ASSISTANT APPLICANTS

1. GENERAL POLICY

- 1.1 A Police Caution is considered and administered when a person comes to the notice of the Police for the first time. A formal caution is only offered if there is sufficient evidence that would lead to a prosecution and the offender also admits their guilt. A formal Police Caution will therefore be viewed as a conviction.
- 1.2 In the case of a Police Caution the period free of conviction will be the same as for any other conviction and will run from the date the caution was administered.
- 1.3 Each case will be decided on its own merits. Although an applicant may have convictions, which would fall under the guidelines of the policy, the Council will always consider the full facts of the case and any mitigating or other circumstances, before making a decision.
- 1.4 An applicant with previous conviction(s) need not be permanently banned from driving on Council contracts, but depending on the offences involved, they will be expected to have remained free of conviction for the periods indicated in these guidelines before an application is considered.
- 1.5 The term free of conviction will be calculated to run from the date of conviction for each offence recorded. The Council will however retain the discretion to refuse a request to drive even after such a period has elapsed.
- 1.6 If the offence is isolated, there are mitigating circumstances and/or the period free of conviction has not been satisfied, some discretion may be appropriate, but the overriding consideration should be the safety and protection of the public.
- 1.7 In cases where applicants have been disqualified from driving, the period free of conviction will run from the date of the restoration of the driving licence or if required to take a driving test, from the date of passing the test.
- 1.8 Sections of this appendix relating to DBS afford an illustration of the likely response of the Council where convictions or police cautions are revealed.

2. TRAFFIC OFFENCES

Minor Traffic Offences (as listed in Annex 1) –

If an applicant has received a conviction for a minor traffic offence, 6 months free of conviction should have elapsed before an application will be considered.

If an applicant has more than one conviction, in the last three years, 12 months free of conviction should have elapsed since the most recent conviction, before an application will be considered

Major Traffic Offences (as listed in Annex 2) –

Drivers are responsible for the safety of members of the public who travel in their vehicles and a serious view will always be taken of a conviction for a major traffic offence.

If an applicant has a conviction for a major traffic offence, without disqualification, 12 months free of conviction should have elapsed before an application will be considered.

If an applicant has more than one conviction, in the last three years, 2 years free of conviction should have elapsed since the most recent conviction, before an application will be considered.

Hybrid Traffic Offences (as listed in Annex 3) -

Offences of this type will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as a minor traffic offence if the court awarded 3 or less penalty points for the offence.

Disqualification -

Where an applicant has been disqualified from driving for a major traffic offence, 3 years free of conviction should have elapsed before an application will be considered.

If an applicant has previously accrued sufficient penalty points to require a period of disqualification (totting up), a period of 12 months free of conviction should have elapsed before an application will be considered.

In 'totting up' cases where disqualification is considered by the court but because of 'exceptional circumstances' they decide not to disqualify a driver, 12 months from the date the court made its finding should have elapsed before an application will be considered.

3. DRUNKENNESS AND RELATED OFFENCES

With a Motor Vehicle –

A very serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink or drugs or failing to provide a specimen for analysis.

If an applicant has been disqualified from driving as a result of a conviction for this type of offence, then before an application is considered, 3 years free of conviction should have elapsed.

If an applicant has more than one conviction for this type of offence then serious doubts should be raised as to their suitability to drive a vehicle carrying passengers. Although each case will always be considered on its own merits, the council will always retain the discretion to refuse an application, with the overriding consideration being the safety of the public.

If there is any suggestion that an applicant is or was an alcoholic then grave doubts should arise as to their suitability to drive a bus. The Council may request a special medical examination to be arranged at the expense of the applicant, and depending on the medical evidence and advice given, at least 6 years should have elapsed after any treatment has been completed before an application is considered.

Although each case will be considered on its own merits, the Council will retain the discretion to refuse a request to drive on contracts for the council, with the overriding consideration being the safety and protection of the public.

Not in a motor vehicle -

An isolated conviction for a drink related offence should not necessarily debar an applicant from obtaining driving on a council contract.

If an applicant has more than one conviction for this type of offence, at least 3 years free of conviction should have elapsed since the most recent conviction before an application is considered.

A number of convictions for offences of this type may indicate a medical problem and grave doubts should arise as to the suitability of the applicant to drive on council contracts. The Council may request a special medical examination to be arranged at the expense of the applicant and depending on the medical evidence and advice given, at least 6 years should have elapsed after any treatment has been completed before an application is considered.

Although each case will be considered on its own merits, the Council will retain the discretion to refuse an application, with the overriding consideration being the safety and protection of the public.

4. DRUGS

A serious view will always be taken of a conviction for any offence involving drugs. Drivers and Passenger Assistants are responsible for the safety of members of the public who are traveling in their vehicles.

An applicant with a conviction for a drug related offence involving a Class A, B or C drug will be required to show a period free of conviction as follows:

1. Class A drug the period will be 5 years
2. Class B drug the period will be 4 years
3. Class C drug the period will be 3 years

If an applicant has more than one conviction for a drug related offence, then depending on the type of drug involved, the period free of conviction which should have elapsed since the most recent conviction will be either double or a combination (if the class of drug is different) from the periods shown above.

If there is any suggestion that an applicant is or was a drug addict, then grave doubts should arise as to their suitability to work on council contracts. The Council may request a special medical examination to be arranged at the expense of the applicant and depending on the medical evidence and advice given at least 6 years should have elapsed after any treatment has been completed before an application is considered.

Although each case will be considered on its own merits, the Council will retain the discretion to refuse an application, with the overriding consideration being the safety and protection of the public.

5. INDECENCY / SEXUAL OFFENCES

Drivers often carry unaccompanied passengers and Passenger Assistants may come into close contact with passengers so a serious view will always be taken of a conviction for an indecency/sexual offence.

When considering the seriousness of any indecency/sexual offence, the overriding consideration will always be the safety and protection of the public.

As such, an applicant with a conviction for any sexual offence will raise very grave doubts of their suitability to drive on council contracts and so will generally be refused.

6. DISHONESTY

Drivers and Passenger Assistants are expected to be trustworthy persons.

An applicant with a conviction for an offence such as theft, bilking (making off without payment), handling stolen goods or deception, should be required to show a period of at least 3 years free of conviction before an application is considered. If an applicant has more than one conviction for this type of offence, then at least 5 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

An applicant with a conviction for a more serious offence such as Burglary, Fraud or Forgery should be required to show a period of at least 5 years free of conviction before an application is considered. If an applicant has more than one conviction for this type of offence, then at least 7 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

7. CRIMINAL DAMAGE

A minor offence of criminal damage should not necessarily debar an applicant from driving on council contracts.

If an applicant has more than one conviction for this type of offence, at least 3 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

Offences such as arson are considered much more serious and applicants will generally be refused.

8. OFFENCES AGAINST THE PERSON (ASSAULT) / VIOLENCE

As drivers and Passenger Assistants maintain a close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature, with the overriding consideration being the safety and protection of the public.

An applicant with a conviction for a minor offence of assault such as common assault, battery, or obstruction should be required to show a period of at least 3 years free of conviction before an application is considered. If an applicant has more than one conviction for this type of offence, then at least 5 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

An applicant with a conviction for a more serious offence of assault such as ABH, Assault on Police, Affray, Resisting Arrest, Possessing an Offensive Weapon, Racially-aggravated criminal damage or Racially-aggravated offence, should be required to show a period of at least 5 years free of conviction before an application is considered. If an applicant has more than one conviction for this type of offence, then at least 7 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

An applicant with a conviction for the most serious offences of assault such as GBH, Malicious Wounding or Robbery, should be required to show a period of at least 8 years free of conviction before an application is considered. If an applicant has more than one conviction for this type of offence, then at least 10 years free of conviction should have elapsed since the most recent conviction before an application will be considered.

An applicant with a conviction for an offence of Murder, Manslaughter or Manslaughter or Culpable Homicide While Driving, should raise grave doubts as to the applicants suitability to drive on council contracts. The Council will normally refuse an application, the overriding consideration being the safety of the public.

9. OTHER OFFENCES

Where a Binding Order, Community Service Order or a Restraining Order have been imposed by the Court, then no application should be considered, whilst that order is still current. A period of at least 2 years should have elapsed, after the expiry of the order, before an application is considered and even then, the overall consideration will be the protection of the public.

10. PENDING OFFENCES

Any applicant is further required to disclose details of any charges pending against them. If there is a pending charge, the application will not be considered until the result of the case is known. The application will then be considered in line with the guidelines relating to the relevance of convictions.

Annex 1 – Minor Traffic Offences

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'Stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counseling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

Annex 2 – Major Traffic Offences

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of court
BA20	Attempting to drive while disqualified by order of court
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

Aiding, abetting, counseling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

Annex 3 – Hybrid Traffic Offences

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence

Aiding, abetting, counseling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10)

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SCHEDULE 1
SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS

DATA PROCESSING SCHEDULE 1

The General Data Protection Regulation - Data Processing Schedule

1. The Contractor shall comply with any further written instructions from the Customer with respect to the processing of personal data.
2. The Customer's instructions shall be incorporated into this Schedule.
3. Note any sub-processor(s) used by the Contractor must comply with the Customer's instructions incorporated into this Schedule.

	Party(ies) to the contract	
	Name Compliance responsibility ICO Reg No Expiry date	Suffolk County Council Controller Z5113825 13 December 2021
	Name Compliance responsibility	Contractor (Operator of the transport service) Data Processor
1.	Duration of processing	Processing periods relating to the two categories will be a) For the duration of the procurement process only b) For the duration of the contract that is in place to provide transport for the person
2. (a)	Description of processing (note: the list is not definitive and should include The data processing activities identified in the DPIA)	<p>a) Disclosure The process will involve the disclosure of sufficient data as to allow the tender process to be carried out through a secure procurement portal, which requires supplier registration and log in.</p> <p>This data will initially be sufficient detail to permit an organisation to submit a price in an open procurement process and may include sufficient detail to identify the location of the home address of the person at postcode level only and destination.</p> <p>A high-level outline of the specific requirements of the individual will also be supplied insofar as it relates to the ability of the person to travel and for the bidder to arrive at a cost.</p> <p>If a contract is awarded then sufficient detail including the name, address, age and contact telephone number for a responsible adult will be disclosed to the operator. Details of any disability insofar as it is relevant to the needs of the person relating to transport will also be disclosed.</p> <p>b) Collection Once a tender has been awarded, the successful operator may collect information on relevant to the contract and delivery of the service.</p> <p>c) Recording Operators will record information relevant to the contract and delivery of the service.</p> <p>d) Organising Operators will organise the delivery of the service i.e. provide the vehicle and the driver and/or PA</p> <p>e) Amending Operators will amend the information relevant to the contract and delivery of the service based on SCC instruction.</p>

		<p>f) Erasing At the end of the contract, the operator must destroy all personal and/or sensitive data regarding the provision of the transport service i.e. all copies of messages (emails/paper notes) and entries of telephone numbers on mobile devices should be deleted.</p> <p>Contract documentation may be retained beyond the end of the transport provision only insofar as is permitted by document retention guidelines for this class of document.</p> <p>g) Storing Operators will store information relevant to the contract and delivery of the service in a safe and secure location if paper copies. If electronic, access must be protected to relevant members of staff with a login.</p> <p>h) Retrieval Operators may retrieve information from the relevant electronic system used to store contract information.</p> <p>i) Consultation Operators may contact parent/carers and establishments (where transport is going to i.e. schools) in a professional manner (i.e. not via social media accounts), solely in regard to the provision of the transport relevant to the contract.</p> <p>j) Data destruction Data held on passengers must be destroyed at the end of or termination of a contract.</p>
(b)	The processes for managing each data processing activity must be agreed with each party to the contract and recorded in this section	<p>If a contract is awarded then sufficient detail including the name, address, age and contact telephone number for a responsible adult will be disclosed to the contract holder. Details of any Special Educational Needs and/or Disability (SEND) insofar as it is relevant to the needs of the person relating to transport, will also be disclosed</p> <p>Further details upon award of contract will most usually be transmitted electronically using corporately approved secure systems.</p>
4	Processing purpose(s) (e.g. provision of services)	The purpose of the processing in each case is to discharge a statutory duty (or previously agreed discretionary offer) to provide transport for the person from their home address to a place of education or other activity.
5	Types of personal data (e.g. Name, address, health, biometrics)	The personal data will most usually include the name, address and approximate age of the person to have transport and may additionally include contact details for parent/carer or other responsible adult for use in exceptional circumstances when contact is required between the parties. Specific transport requirements e.g. wheelchair accessible vehicle required
6	Categories of individuals (e.g. Employees, customers, patients, students, members of the public)	<p>a) Operators</p> <p>b) Bus drivers</p> <p>c) Passenger assistants</p> <p>d) Students using home to school transport</p> <p>e) Adults receiving transport to day services</p> <p>f) Parents/carers responsible in categories d&e above</p>
7(a)	Technical and organisational measures (note: the list is not definitive and should include the measures identified in the DPIA)	<p>a) Secure transfers of information via DPS, Adam system and email encryption and any subsequent systems.</p> <p>b) Registration and verification with secure login required for DPS and Adam system. Emails sent encrypted.</p>

		<ul style="list-style-type: none"> c) Operators to undertake Data protection training for their staff and provide this information d) Operators are to advise how they are keeping their data secure e) Operators to advise who the Data Protection Officer is (contact details) f) Operators to provide Data breach/security incident management procedures
(b)	The measures must be agreed with each party to the contract and recorded in this section	<ul style="list-style-type: none"> a) SCC will provide training with onboarding operators to the DPS and Adam system b) Operators to provide encrypted emails if the contents contain any personal data on health, care and finances of customers, employee data , and any other information where loss of confidentiality would significantly impact safety and reputation. c) Operators to undertake Data protection training for their staff and provide this information d) Operators are to advise how they are keeping their data secure e) Operators to advise who the Data Protection Officer is (contact details) f) Operators to provide Data breach/security incident management procedures
8(a)	Individuals' rights (e.g. Subject access requests, rectification, blocking and erasure of personal data)	Which party is responsible for managing individuals' rights? SCC
(b)	The procedure(s) for managing individuals' rights must be agreed between the parties and recorded in this section	<p>The operator must fully assist with any complaint or request for data including full details of the complaint or request [within 14 days]</p> <p>Complying with a data access request within the timescales in the Data Protection Legislation</p> <p>Providing Personal Data it holds about a Data Subject (within the timescales required)</p> <p>Provide any information requested by the Data Subject</p>
9 (a)	End of contract data management (e.g. Deletion or return of data to SCC)	The operator will be responsible for destroying both physical and electronic data held by the operators at the end of or termination of a contract.
(b)	The procedure(s) for end of contract data management must be agreed between the parties and recorded in this section	<p>Data held on passengers must be destroyed at the end of or termination of a contract.</p> <p>Contract documentation may be retained beyond the end of the contract period for purposes of financial/business monitoring.</p>
10	Are there any other data processing activities (e.g. Information sharing with a third party) between the parties which are not included in the above sections?	Following our approval for the Operator to sub-contract a route, personal data maybe processed by a SCC approved supplier sub-contractor of the Operator, but that under the contract the Operator is required to comply with SCC's standard obligations in respect of the processing of Personal Data, including by any sub-contractors. Data must be transferred via secure emails and destroyed after the subcontract ceases.

SCHEDULE 2 - DOCUMENT CONTROL - Changes from previous version of this document

This section details changes made from previous versions of the Terms and Conditions of Contract. Only changes that do not materially affect the delivery of contracts have been recorded in this section.

Changes to punctuation, spelling or layout have not been recorded except where they may be interpreted as changing the spirit and meaning of the contract.

Section	Changes made
Introduction	Changes made to advice for Drivers and Passenger Assistants when dealing with a passenger requiring medical assistance and update to Termination clause
Definitions and Interpretations	<u>Definitions added:-</u> No new definitions <u>Definitions amended:-</u> No definition amendments
Part 1	
10.1	Termination clause updated
Part 2	
2.14	Clause added with reference to a passenger requiring medical assistance
Part 3	
6.4	Clause updated with reference to a passenger requiring medical assistance