



CONTRACT

between

ABERDEEN CITY COUNCIL

and

Operator

Lower Deeside Busie Service 93

13th July 2010

**ABERDEEN CITY COUNCIL
TOWN HOUSE
BROAD STREET
ABERDEEN
AB10 1AQ**

1 INTRODUCTION

1.1 THE PURCHASER

Aberdeen City Council, a local authority constituted by the Local Government Etc (Scotland) Act 1994 and having its principal offices at Town House, Broad Street, Aberdeen AB10 1FT (hereinafter referred to as "the Council"); and

1.2 THE PROVIDER

Operator a company registered in Aberdeen whose registered office is at **address** (hereinafter referred to as the "Service Provider"). For the avoidance of doubt, the Service Provider hereby warrants that the Services to be provided in terms of the Contract fall within the powers of the Service Provider as set out in the Service Provider's Memorandum and Articles of Association.

(each a "party" and together "the parties").

1.3. DURATION

1.3.1 The terms and conditions of this Contract shall commence on 00.00 hours on 13th July 2010 and shall subsist thereafter for up to a period of one year up to midnight 31st March 2011, unless otherwise terminated in accordance with Clause 27 – TERMINATION.

1.3.2 The expiry or termination of this Contract shall not affect the validity of any other contract or agreement between the Council and the Service Provider.

1.4 REGISTRATION

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1.5 ACTINGS

The parties to this Contract, by their execution hereof, undertake to act reasonably and have regard to the best interests of Service Users at all times during the performance of this Contract.

2 DEFINITIONS

2.1 In this Contract:

Advocacy and Representation shall mean advocacy and representation services provided by any individual to a Service

User/Service User Representative upon instruction from the Council or the Service Provider in connection with this Contract.

Appropriate Restraint means any necessary restraint identified in the Individual Service Specification including but not exclusive to wheelchair clamps or belts and/or such other restraint considered necessary to be provided by the Service Provider to ensure the safety of the Service User whilst utilising the Services.

Child means any individual below the age of 16 years of age.

Coach means a Vehicle capable of exceeding 60 miles per hour with a gross weight exceeding 7.5 tonnes and adapted to carry 17 or more passengers.

Contract(s) Officer(s) means individuals employed by the Council in this capacity and charged with the monitoring of the Contract amongst other things.

Commissioning Officer means the allocated officer employed by the Council responsible for referring and liaising with the Service Provider in respect of the Services.

Community Bus means a Minibus as defined herein used by a body concerned for the social and welfare needs of one or more communities and operated under a permit issued in connection with Section 19 or 22 of the Transport Act 1985.

Community Bus Permit means a permit in relation to the use of a public service vehicle which provides a community bus service and carries passengers for hire or reward which assists the provision of the community bus service by providing financial support to it.

Competent Authority means any court or any local, national or supranational legislative body of competent jurisdiction.

Contract Price means the respective sums of money set out by the Service Provider in its Response to the Invitation to Tender including any such variation of these sums as may be provided for in this Agreement and as set out in the Schedule at Part 3 – Remuneration.

Council's Approved Rate means the maximum price which the Council will pay in return for the provision of the Services. For the avoidance of doubt, the Council's Approved Rate means that rate approved by the Local Authority within which boundaries the Services operate.

Core Services means the Services ordinarily provided on a daily basis in accordance with the conditions of this Contract and the Service Specification.

Emergency Situation means extreme weather conditions; unexpected medical conditions which may affect the Service Provider's employee engaged in either the driving of any vehicle or engaged as an escort within such vehicle; an explosion; a gas leak; a car crash and such other like situations which are totally outwith the control of the Council and/or the Service Provider.

Identification Photocard means the photocard to be issued by the Council for the purposes of identification of the Service Provider's employees, agents or Sub-Contractors engaged in the undertaking of the Services.

Individual Service Specification means that document agreed between the Council and the Service Provider detailing the timetable of Services to be provided, any associated costs to the Council and the Service User (where applicable), and any other relevant information relating to the transportation of the individual Service User.

Invitation to Tender means the invitation to tender which was submitted to bidders in connection with the procurement of the children's and young persons transport services.

Local Bus Service is a service, using one or more Public Service Vehicles, for the carriage of passengers by road using separate fares and the prescribed particulars registered with the Traffic Commissioner.

Minibus means a Vehicle constructed or adapted to carry between 9 and 16 passengers excluding any driver.

Non-Core Services means those Services which are, additional to the Core Services, provided in accordance with conditions of this Contract and the Service Specification.

Officer(s) of the Council means any officer of the Council who is authorised to arrange the Services.

PTU means the Public Transport Unit which is a service operated by the Council and which can be contacted by telephone on 01224 523765.

Public Service Vehicle means a motor vehicle other than a tramcar, which either is (a) adapted to carry 9 or more passengers and is used to carry passengers for hire or reward or (b) is adapted to carry 8 or fewer passengers and (i) is used to carry passengers for hire or reward at separate fares and (ii) is used in the course of a business of carrying passengers.

Private Hire Car means a hire car other than a Taxi within the meaning of Section 23(1) of the Civic Government (Scotland) Act 1982.

Response means the response from bidders to the Invitation to Tender.

Review Meeting means any meeting arranged between the parties at the instigation of the Council or at the instigation of the Service Provider for the purposes of reviewing a Service User's Individual Service Specification with respect to the utilisation or termination of the Services.

Risk Assessment means the process of identifying individual and environmental hazards to the safety and welfare of the Service Users estimating their seriousness and likelihood, and identifying and recording reasonable measures to minimise unnecessary hazards.

Schedule means the schedule in three (3) parts annexed and executed as relative to this Contract.

Schedule of Period means any period of time incorporated within invoices submitted to the Council by the Service Provider which is equivocal to thirteen four week periods per annum.

Service/Services means the services to be provided in accordance with the terms and conditions of this Contract and more specifically set out in Part 1 of the Schedule – Service Specification. The Services shall include any Services set out in an Individual Service Specification developed, agreed and thereafter documented between the Council and the Service Provider.

Service Provider Escort means a nominated member of staff appointed by the Service Provider to provide escort duties. This escort will be responsible for the care of Service Users whilst within the Vehicle.

Service Specification means the detail of the Services to be provided by the Service Provider in accordance with the terms of this Contract, as set out in Part 1 of the Schedule – Service Specification.

Service User means any person who may use the service as detailed in the Service Specification.

Sub-Contractor means the utilisation by the Service Provider of any contractor and that contractor's Vehicle for the purposes of undertaking the Services such contractor being the sole responsibility of the Service provider under this Contract.

Taxi means a vehicle as defined by Section 23(1) of the Civic Government (Scotland) Act 1982 as a "hire car" which is engaged by arrangements made in a public place between the person to be conveyed in it (or a person acting on his/her behalf) and its driver for a

journey beginning at that particular time. A “ hire car “ being a motor vehicle other than a Public Service Vehicle which is, with a view to profit, available for hire by the public for personal conveyance.

Timepiece means a watch/clock which is regularly checked against the national speaking clock for accuracy purposes.

Timetable means a written schedule agreed between the Council and the Service Provider designating the times at which the Council requires a Service User to be picked up by the Service Provider from a designated pick up point and thereafter detailing the anticipated drop off time at the designated drop off point.

Termination Event means an event as set out within the terms and conditions of this Contract which may lead to the termination of the Contract.

Traffic Commissioner shall have the meaning prescribed in section 4 of the Transport Act 1985.

Transport/Transportation means the physical movement of Service Users by utilising the Service Provider’s Vehicle.

Vehicle/Vehicles means car, mini bus, bus taxi, public service vehicle, coach, private hire vehicle or taxi or any other vehicle used by the Service Provider in the performance of this Contract.

Working Day(s) means Monday to Sunday inclusive.

- 2.2** References to any statutory provisions in this Contract shall be construed as references to those provisions as respectively amended or re-enacted either before or after the date of this Contract and from time to time.
- 2.3** In this Contract, words importing the singular number only shall, where relevant, include the plural number and vice versa unless the Contract otherwise requires.
- 2.4** Reference to any person in this Contract shall include all types of legal personality including individuals, partnerships and companies except where the context otherwise requires.
- 2.5** This Contract and the Schedule pertaining as relative hereto and any referrals of Service Users made by the Council under the terms of the Service Specification and/or any Individual Service Specification shall constitute the entire agreement between the parties in respect of the Services, and shall supersede all prior oral or written agreements, understandings or undertakings between the parties in respect of the Services and Service Users.

2.6 Failure by either party to exercise and enforce any rights conferred by this Contract shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement of such rights at any subsequent time.

2.7 Headings within this Contract are for reference purposes only and shall not be deemed to be part of the Contract or otherwise be used to interpret Clauses to which they relate.

3 SERVICES TO BE PROVIDED

3.1 The Lower Deeside area from Peterculter to Bieldside is an affluent area based upon a very steep section of roads with many elderly and isolated people who rely upon bus services as their only way to travel.

3.2 The Garthdee area contains Robert Gordons University, ASDA, Sainsburys, Boots, Currys and a B&Q store. It is a large residential area also built over numerous hills.

3.3 The bus service is intended to link these two areas to the City Centre, providing a vital link to these two communities.

4.0 TEMPORARY ABSENCE

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5 RESPONSIBILITY OF THE COUNCIL

5.1 The Council is responsible for: -

5.1.1 This section is intentionally blank.

5.1.2 This section is intentionally blank.

5.1.2 Ensuring that an appropriate level of consultation takes place with the Service Provider prior to the introduction of administrative or financial changes likely to affect the Services.

5.1.3 Ensuring that this Contract is monitored in accordance with Clause 11 - Monitoring Procedures of this Contract.

5.1.4 Ensuring that the Services are reviewed six months prior to expiry of this Contract.

5.1.5 Making payment to the Service Provider in accordance with the terms and conditions of this Contract.

6 INDIVIDUAL SERVICE SPECIFICATIONS

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6.2 This section is intentionally blank.

6.3 This section is intentionally blank.

6.4 This section is intentionally blank.

6.5 This section is intentionally blank.

7 ADVOCACY AND REPRESENTATION

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8 STAFFING

8.1 The Service Provider must comply with the terms of this Contract, and must ensure that sufficient, competent and capable staff are on duty at any given time. Service Providers must obtain and verify evidence of an employee's, agent or Sub-Contractor's driving licence and qualifications prior to same being assigned to the provision of the Services.

8.2 The Service Provider must also ensure that all employees, agents or Sub-Contractors have access to induction, supervision and training to the reasonable satisfaction of the Council. A copy of records pertaining to recruitment and selection, induction, supervision and training shall be supplied on request to the Council. Management systems must encompass all aspects of equal opportunities and anti discriminatory legislation.

8.3 The Service Provider will seek the consent of its employees, agents or Sub-Contractors should the Council deem it necessary to look at individual personnel records.

8.4 Recognising that the provision of the Services under this Contract will bring the Service Provider and its employees, agents and/or Sub-Contractors routinely into contact with Children and Young Persons, the Service Provider accepts that: -

8.4.1 New or existing employees, agents or Sub-Contractors shall not be employed in respect of the Services, without the written consent of the Council, if they: -

- (i) Have any previous convictions under the Rehabilitation of Offenders Act 1974, as amended.
- (ii) Have spent or unspent convictions involving fraud, theft, sexual assault, physical assault or any other offences rendering the employee unsuitable for the provision of the Services.

- (iii) Suffer from a physical or mental condition, which will present a hazard to the safety of any Service User, themselves, or other employees or Sub-Contractors.
- (iv) Appear on any register of sexual offenders, which may be in force at the time of entering into this Contract or during its currency.

8.4.2 The Service Provider is required to register with Disclosure Scotland and to ensure that all employees, agents or its Sub-Contractors engaged in the provision of the Services under this Contract obtain satisfactory enhanced disclosure prior to the commencement of their employment on same. The Service Provider must provide evidence that this check has been carried out and obtain the relevant approval/Identification Photocard from the Council.

8.4.3 The Service Provider shall ensure at all times that it shall not engage the use of unpaid workers, students or volunteers in the provision of the Services.

8.4.4 The Council shall be entitled but not unreasonably or vexatiously to make enquiries with the police (or with any other appropriate agency) about any of the Service Provider's employees, agents or Sub-Contractors engaged or proposed to be engaged in the provision of the Services.

8.4.5 The Council shall be entitled, but not unreasonably or vexatiously, to require the Service Provider, by notice in writing, to remove from the provision of Services, any of the Service Provider's employees, agents or Sub-Contractors who shall fail to comply with the disclosure criteria at 8.4.2 above or who do not have a current driving licence. The Service Provider shall forthwith remove such employee, agent or Sub-Contractor from the provision of Services and shall immediately provide a replacement who meets the necessary criteria under this Clause 8.

8.4.6 The Council shall in no circumstances be liable either to the Service Provider or any of its employees, agents or Sub-Contractors, for the removal of an employee, agent or Sub-Contractor under condition 8.4.5 above and the Service Provider shall be fully responsible for and shall save, defend, indemnify and hold harmless the Council against any and all such claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of same.

8.4.7 The Council at its sole discretion may require a statement from each employee, agent or Sub-Contractor assigned to the provision of the Services by the Service Provider under the Contract, certifying that none of the circumstances narrated in Sub-Clause 8.4.1 above is applicable.

- 8.5** The Council reserves the right to require the removal from the performance of the Contract any individual used by the Service Provider who, in the opinion of the Council: -
- 8.5.1** is not medically fit to perform the Services required under this Contract or provides a risk to the health of those with whom that person may come into contact during the provision of the Services in accordance with this Contract;
- 8.5.2** has committed driving offences which are related to not showing due care and diligence to passengers or other people;
- 8.5.3** is by the nature of their response to the requirements of sub-clause 8.4.1 hereof, deemed to be an inappropriate person to be engaged in the provision of the Services;
- 8.5.4** has provided false or misleading information in sub-clause 8.4 hereof, or whose circumstances have changed such that they would now, in terms of paragraph 8.5.3 hereof, be deemed to be an inappropriate person to be engaged in the provision of the Services.
- 8.6** Any individual removed as a consequence of this Clause 8 shall be replaced by the Service Provider with an individual who satisfies the Clause 8 requirements, immediately and without delay or where failing, in such other time as is acceptable to the Council and at no extra cost to the Council.
- 8.7** Save as aforesaid, the Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and agents and shall be entirely responsible for the conditions for services of any of its Sub-Contractors.

9 OPERATIONAL REQUIREMENT

- 9.1** The Service Provider will provide Services, which conform to the Service Specification, on all days required and in accordance with prescribed Vehicle capacity, pick-up points, timetable and route and any other conditions laid down within this Contract. No variation to the Services will be made without the prior written approval of the Council excepting in circumstances of temporary route closure or adverse weather conditions.
- 9.2** The Service Provider will operate this service in accordance with the terms and conditions of this contract and Part 1 of the Schedule, this includes the prescribed route, vehicle capacity, vehicle, bus stops, timetable, faretable and any other conditions laid down in Part 1. The services provided shall be responsive to requests made by Officers of the Council.

- 9.3** The Service Provider will be responsible for registering the service with the Traffic Commissioner. All subsequent variations, including cancellations are the Service Providers responsibility. The Service Provider is responsible for all costs associated with registering the service with the Traffic Commissioner.
- 9.4** The Service Provider will ensure that the vehicles provided meet the specification set out in Part 1. Where vehicles with branding or advertising are required, the Service Provider shall ensure that these vehicles are solely made available, during the times of operation, for the Service.
- 9.5** On-street publicity must be made available at all recognised stops along the route, on leaflets no smaller than A6.
- 9.6** On-street publicity must detail the route, bus stop location, SMS Traveline Code, fares/stages/ticket types and arrival times for that specific stop or stage as appropriate.
- 9.7** The Service Providers duty shall be to perform this Service without failure and to this end the Service Provider shall be obliged to cover all foreseeable staff or vehicle deficiencies. The provisions of the Service Specification and these Terms and Conditions shall be observed at all times. In the case of failure, the Council shall seek Liquidated Damages as detailed in 9.71.
- Each invoice submitted shall be accompanied with patronage information. This information should be made available in electronic format and should meet the requirements set out in the service specification.

The Council may, from time to time, require more detailed information that the Service Provider shall make available within 28 days.

- 9.8** This section is intentionally blank.
- 9.9** This section is intentionally blank.
- 9.10** This section is intentionally blank.
- 9.11** This section is intentionally blank.
- 9.12** Where for reason of road works or a road traffic accident the Service Provider is obliged to alter its route, dependant upon the destination of the Vehicle then the Council must be notified if 15 or more minutes of a delay is anticipated. No claim shall be made upon the Council for any change in the Contract Price in respect of any such changes of route. Service Providers should plan accordingly where prior notice of roadworks or a traffic accident has been given.

- 9.13** This section is intentionally blank.
- 9.14** The Service Provider shall make every reasonable effort to provide the Services in adverse conditions of snow, ice, flood or other extraordinary circumstances. Where applicable, the Service Provider shall contact the Council to discuss conditions, but the Service Provider's decision will be final. The Service Provider shall make its decision bearing in mind that Service User safety is paramount. It may be possible to use an alternative route to convey some of the Service Users, but under such circumstances, the Council must be informed.
- 9.15** This section is intentionally blank.
- 9.16** This section is intentionally blank.
- 9.17** The Service Provider will receive full payment for all journeys which were attempted but prevented from completion by adverse conditions. Journeys not attempted will be paid at a rate of 80 per cent of the daily rate for the first day, then 50 per cent of the daily rate for every day thereafter up to and including the fifth day whereafter payment will cease until the adverse weather conditions cease.
- 9.18** To assist in the maintenance of punctual operation, the Service Provider shall ensure that every employee, agent or Sub-Contractor undertaking the provision of the Services has available a reliable Timepiece which has been checked, and if necessary adjusted to comply with a national broadcast time signal, before he/she commences duties with respect to the Services. The Council undertakes that any of its officers undertaking monitoring duties will also adhere to this requirement.
- 9.19** The Service Provider shall display on its Vehicle(s), to the Council's satisfaction and in such a manner as will easily be seen by road users and Service Users, a sign indicating the route and destination of the Vehicle. The Service Provider will also display, as required by the Council, any other sign indicating the availability of the Services.
- 9.20** Any Vehicle utilised for the purposes of undertaking the Services must not carry any form of political advertising. The Council additionally reserves the right to veto any advertising which is deemed by the Council to be inappropriate for the Transportation of Service Users.
- 9.21** Where instructed, the Service Provider will use bus station facilities, parking areas and bus stops in the provision of the Services. Any fees or payments required will be the responsibility of the Service Provider.
- 9.22** All Vehicles and all employees, agents and Sub-Contractors of the Service Provider undertaking the provision of the Services under this

Contract shall comply in all respects with the provisions of the Road Traffic Acts, the Public Passenger Vehicles Act 1981, the Civic Government (Scotland) Act 1982, the Transport Act 1985, the Transport (Scotland) Act 2001 and with all regulations made under these Acts or subordinate legislation relating to the licensing, operation, construction, fitness, equipment and safety of Vehicles and the conduct of operational staff. Taxi and Private Hire Vehicles where utilised in accordance with the terms and conditions of this Contract shall also comply with all licence conditions imposed by their respective Licensing Authority.

- 9.23** Where Vehicles adapted to carry 8 or fewer passengers are utilised for the purposes of providing the Services, it shall be a material condition of this Contract that, throughout the period of the Contract, the Council shall be the exclusive hirer of such Vehicle(s) unless same are licensed in accordance with Sections 19-22 of the Civic Government (Scotland) Act 1982.
- 9.24** Where Vehicles adapted to carry more than 8 passengers are utilised for the purposes of providing the Services to the Service User, the Service Provider shall at all times hold a current United Kingdom Public Service Vehicle Operator's Licence (Licence), a Community Bus Permit (Permit), a Minibus Permit (Permit) or the European equivalent. The Service Provider shall immediately notify the Council of any change to the Service Provider's Licence or Permit and revocation, suspension or withdrawal of the Service Provider's Licence or Permit shall result in immediate termination of the Contract.
- 9.25** An authorised officer or agent of the Council may at any reasonable time and at the Council's discretion, inspect all relevant licences relating to the Vehicles and employees, agents or Sub-Contractors of the Service Provider engaged in the provision of the Services.
- 9.26** The Service Provider, when requested to do so by the Council, and at the Service Provider's own cost, will submit its Vehicles for examination by an authorised Officer of the Council either at a nominated site, at its own Premises or at a place nominated by the Officer of the Council. The Service Provider shall keep full and proper Vehicle maintenance records available for inspection by the Officer of the Council at any reasonable time and the Premises shall also be made available for inspection by the Officer of the Council at any reasonable time to ensure that the requirements of the Contract are met. Officers of the Council shall be permitted to take copies of relevant books, documents and accounts at any reasonable time and the Service Provider shall give such explanations of records as may be required.
- 9.27** The Council may instruct the Service Provider not to use, in the performance of this Contract or any other Council contract, any

Vehicle which is found to have any defect which could affect the safety of Service Users or any others. In such circumstances, the Service Provider shall provide at its own expense an alternative suitable Vehicle that fully complies with the Services Specification. Failure to do so will result in liquidated damages being applied.

- 9.28** The Service Provider shall notify the Council of all Vehicle prohibition or defect notices issued by the Vehicle Inspectorate or Traffic Commissioner against Vehicles utilised on the Contract. If the Traffic Commissioner calls a Public Inquiry regarding the Service Provider's Licence, the Service Provider shall inform the Council immediately on receipt of official notification and the Service Provider shall supply to the Council such copies of any relevant documents relating to the Public Inquiry as may reasonably be required by the Council. In the case of Licensed Taxi or Private Hire Vehicles, the Service Provider shall notify the Council immediately if the Licensing Authority which issued the licence varies, suspends or refuses to renew that licence or in cases of Vehicle substitution by the Service Provider. MOT failures need not be disclosed to the Council, provided that such defects as caused the MOT failure are rectified as soon as is reasonably practicable. The Council reserves the right to terminate the Contract without prior notice, compensation or liability to the Service Provider on the basis of the Service Provider's failure to furnish specific information in terms of this Clause (vii). Failure to provide such information as required in terms of this Clause (vii) will result in immediate contract termination.
- 9.29** During the hours in which the Contract is in operation, the Council shall be the sole hirer of any Vehicle(s) utilised for the purposes of the Services during such times as the Contract is in operation, unless otherwise authorised in writing by the Council.
- 9.30** The Vehicle(s) to be utilised in the provision of the Services will accord with the Individual Service Specification as regards any particular features - e.g. required capacity or wheelchair transportation. Any lift integral to the Vehicle must comply with British Standard 6109, Part 2 and be installed in compliance with the manufacturer's instructions. An alternative means of operating the lift (eg ramps or manual operation) must be available in the event of power failure. The Service Provider shall ensure that any special child seats or booster seats/cushions supplied by the Council shall be fitted to any Vehicle used in the performance of this Contract and any such installations shall be to a standard designated and approved by the Council. The Service Provider will be responsible for the safekeeping and for the correct fitting to existing seats. Any Tracking shall be of a proprietary make and installed in compliance with the manufacturer's instructions. Inertia belts must be fitted by mountings to the Vehicle. The Service Provider shall carry out daily inspections of all equipment, including but not exclusive to, seat belts and Service User lifts, to ensure that such equipment is fit for purpose. All special

seats and cushions must be cleaned and tested at the beginning of every week. Appropriate Restraint systems carried on the Vehicle must be stowed safely when not in use, without obstructing gangways or exits.

- 9.31** Any Vehicle (including non-PSVs) provided for the carriage of Service Users who require to use wheelchairs must be operated in accordance with the Department of Transport Code of Practice “VSE 87/1 The Carriage of Wheelchairs on Buses” except where a written application for specific dispensations from the Code has been made to and approved by the Council (such dispensations will only be considered for non-PSVs). Compliance with ISO 10542 is recommended. The Service Provider must ensure that its employees, its agents or its Sub-Contractors engaged in the provision of the Services receive adequate training in Appropriate Restraint systems to ensure that all wheelchairs are effectively secured in accordance with the manufacturer’s requirements, all appropriate legislative requirements and with due regard to the safety, comfort and well-being of Service Users. Under no circumstances shall clamps be used to secure electric wheelchairs.
- 9.32** It is a requirement that Minibuses and Coaches be equipped with seat belts or other approved form of Appropriate Restraints for the age and weight of the Service User. Three point lap and diagonal belts are preferred, but lap belt only will be accepted in Vehicles where there are technical difficulties in fitting three point belts. The Service Provider is responsible for fitting Appropriate Restraints which conform to the Road Vehicles (Construction and Use) Regulations 1986, the Road Vehicles (Construction and Use) (Amendment No 2) Regulations 1996 and all subordinate legislation
- 9.33** In the event that a Taxi or Private Hire Car is utilised for the provision of the Services, seat belts (where provided) must be used for all appropriate to their age and size.
- 9.34** This section is intentionally blank.
- 9.35** This section is intentionally blank.
- 9.36** This section is intentionally blank.
- 9.37** The Service Provider will ensure that all Vehicles other than cars must have an automatic audible reverse warning device fitted which will work automatically when reverse gear is engaged. The Service Provider’s employees, agents or Sub-Contractors engaged in the reversing of Vehicles should only do so after Service Users waiting to board have been picked up or before alighting Service Users have been set down. The assistance of a responsible adult should be obtained where possible in such circumstances.

- 9.38** All Vehicles shall be adequately clean, internally and externally, at all times. Vehicles shall be swept daily and washed regularly with all interior surfaces receiving a heavy clean every 4 weeks. All Vehicles will have exterior paintwork, interior seats and fittings in good condition such as to promote confidence in Service Users and will be maintained to a satisfactory level to ensure no ingress of water or exhaust fumes.
- 9.39** This section is intentionally blank.
- 9.40** Every Vehicle designed to carry more than 8 passengers shall be fitted with a large oblong mirror, of at least 20cm x 14cm dimension. The mirror shall be situated on the Vehicle nearside to enable the Service Provider's employee, agent or Sub-Contractor whilst driving to have an un-obscured and adequate view of the exit door and same shall pay particular attention to Service User movements near the exit door when arriving at or departing from pick-up points.
- 9.41** This section is intentionally blank.
- 9.42** The Service Provider shall ensure sufficient capacity and safe storage for belongings such as bags, luggage, cases, books and kit without compromising safety by blocking gangways or doors or emergency exits.
- 9.43** Smoking shall be prohibited within the Vehicle at all times.
- 9.44** A temperature of at least 15°C shall be maintained in all Service User seats excepting:-
- a) during the first 10 minutes of any journey;
 - b) where the temperature of the outside air is below 0°C in which case the temperature in the passenger compartment must be at least 15° higher than the outside air temperature;
 - c) where the temperature is reduced by a Service User's use of a ventilation aperture;
 - d) on any seat within 700mm of any door.
- 9.45** At any stopping place in a residential area, where the Vehicle will stop for more than one minute, the Vehicle's engine shall be switched off until the Vehicle is ready to depart.
- 9.46** Service Providers must submit copies of up to date MOT certificates within 20 days prior to the commencement of this Contract together with a Hackney licence number where appropriate. Where MOT or Hackney licences are renewed, Service Provider's must provide details within 14 days of the renewal date. Failure to do so shall be regarded as a material breach of contract.

- 9.47** The Service Provider is responsible for ensuring that its employees, agents, Sub-Contractors and any Service Provider Escort are familiar with the provisions of the terms and conditions of this Contract and with any instructions issued by the Council from time to time.
- 9.48** This section is intentionally blank.
- 9.49** This section is intentionally blank.
- 9.50** The onus is on the Service Provider to ensure its employees, agents or its Sub-Contractors undertaking the Services on behalf of the Service Provider have met the Council's standards with respect to staffing arrangements as set out in Clause 8 of the Contract. However, should the Service Provider become aware of any offence subsequently committed by any of its employees, agents or its Sub-Contractors who are utilised in the provisions of the Services, the Service Provider shall immediately inform the Council and the employee, agent or Sub-Contractor shall not be engaged in the provision of the Services until or unless authorisation is given in writing by the Council. The Council reserves the right, without reasons being given, to refuse any specific person who has not met Council requirements as stipulated in Clause 8, to be employed on this Contract.
- 9.51** This section is left intentionally blank.
- 9.52** The Service Provider shall ensure that all of its employees, agents and Sub-Contractors engaged in the provision of the Services hold the appropriate class of driving licence for the Vehicle being used.
- 9.53** The Service Provider's employees, agents and Sub-Contractors must be smartly and appropriately dressed and must behave in a courteous, safe and professional manner at all times towards Service Users and/or any employees or agents of the Council. The Service Provider's employees, agents or Sub-Contractors are not and shall not hold themselves as being, nor shall they be held out by the Service Provider as being, employees, agents, Sub-Contractors of the Council for any purpose whatsoever.
- 9.54** The Service Provider's employees, agents, Sub-Contractors must be made aware by the Service Provider of any Special Needs Requirements that Service Users may have. The Service Provider's employees, agents and Sub-Contractors must be mindful at all times, that the highest standards of care and consideration with regard to the Service Users will be required when undertaking the Services. Where the Service Provider's employees, agents, Sub-Contractors or Driver's Escort fails to be considerate, polite and mindful of any Special Need Requirement, this will be regarded as a material breach of Contract and will result in termination.

- 9.55** The Service Provider shall have a written policy that no Service Provider employee, agent, Sub-Contractor or Service Provider Escort shall be under the influence of mind altering drugs or alcohol during work hours, and the Service Provider shall be responsible for ensuring strict compliance with this policy.
- 9.56** The Service Provider shall ensure that all Service Provider employees, agents, Sub-Contractors or Service Provider Escorts are medically and physically fit to fulfil their duties under this Contract, and that no such individual poses a risk to the health of those with whom they may come into contact whilst undertaking the Services under this Contract.
- 9.57** Service Provider's employees, agents and Sub-Contractors engaged in the provision of the Services are expected to be familiar with their route and pick-up points and should carry instructions to aid them in this task. They should exhibit a considerate driving style, be sensitive to the needs of Service Users and be familiar with their legal and contractual duties.
- 9.58** Service Provider's are encouraged to develop staff training schemes covering issues such as Service User care, disability awareness, basic child protection awareness and effective incident reporting, but the Council reserves the right to also require the attendance of Service Provider's employees, agents, Sub-Contractors and Service Provider Escorts for one day per year, at a time specified by the Council, at no cost to the Council at any training event which the Council may convene.
- 9.59** The Vehicle doors (except emergency doors used solely for that purpose) will only be operated by the Service Provider's employee, agent, Sub-Contractor or Service Provider Escort. Childlocks must be activated if fitted and the Service Provider employee, agent, Sub-Contractor is responsible for ensuring that all Service Users make use of fitted seat belts or other Appropriate Restraints. Where a Service User takes off a seat belt or other Appropriate Restraint whilst the Vehicle is being operated, then the Service Provider's employee must stop the Vehicle in a safe and convenient place and immediately contact the PTU to inform it of the situation. Any Service User who refuses to make use of such Appropriate Restraints shall be refused access to utilise the Services, and shall be returned to the appropriate point of contact by the Service Provider. The Service User's Representative shall be contacted thereafter to immediately collect the Service User.
- 9.60** This section is intentionally blank.
- 9.61** This section is intentionally blank.

- 9.62** This section is intentionally blank.
- 9.63** Problems of challenging behaviour are best dealt with in a calm, non-confrontational way and the Service Provider's employees, agent, Sub-Contractor or Service Provider Escort shall be made aware, by the Council, of any specific instructions regarding the management of individual Service Users. Any instance of disorderly or unruly conduct or of failure by Service Users to accept instructions relating to safe operation shall be reported by the Service Provider to the Council at the earliest opportunity. In extreme cases, the Service Provider's employee, agent, Sub-Contractor may otherwise involve the Police. Details of any serious incident must be reported to the Council no later than the next working day.
- 9.64** This section is intentionally blank.
- 9.65** The Service Provider's duty shall be to perform these Services without failure. The Service Provider shall be obliged to cover all foreseeable absences of employees or shortage of Vehicles due to Vehicle deficiencies by Sub-Contracting but such Sub-Contracting must be undertaken strictly in accordance with Clause 19 and with particular regard to Clause 19 of this Contract. The provisions of the Service Specification and the terms and conditions of this Contract shall be observed at all times.
- 9.66** In the case of failure to provide the Services, the Council shall seek liquidated damages as detailed below except where the Service Provider can demonstrate that the failure or irregular operation arose as a result of the action of a third party over whom the Service Provider has no control.
- 9.67** Where the Council is to seek liquidated damages the Council undertakes to serve written notice upon the Service Provider and such notice will be communicated not later than 21 Working Days after the occurrence. This will give the Service Provider an opportunity within 14 Working Days after receipt of the notice seeking liquidated damages to put forward in writing any mitigating circumstances that the Service Provider wishes the Council to consider. In all cases, deductions will not be made from the invoice period covering the occurrence, but from the subsequent one.
- 9.68** The Council will maintain records of Service Provider performance. Persistent breaches of service standards will lead to Contract termination.
- 9.69** In any case where the Service Provider considers an unrealistic timetable to be the cause of unreliable operation, the Service Provider should write to the Council either submitting a solution to the difficulties or to seek a meeting to discuss the matter. The Council will, at its sole discretion, consider the case for waiving its entitlement

to liquidated damages whilst such circumstances are under investigation.

9.70 Non-compliant operation will lead to liquidated damages being sought as follows:

LIQUIDATED DAMAGES

- | | | |
|--------|---|--|
| a(i) | Arrival or departure at timing point or other destination as specified 6 or more minutes after scheduled arrival or departure time | 5% of the appropriate daily contract rate |
| a(ii) | Arrival or departure at timing point or other destination as specified 15 or more minutes after scheduled arrival or departure time | 10% of the appropriate daily contract rate |
| a(iii) | Arrival or departure at timing point or other destination as specified 30 or more minutes after scheduled arrival or departure time | 15% of the appropriate daily contract rate |
| a(iv) | Failure to operate a journey | Non-payment and cost of additional journey or private vehicle hire recovered from operator. This includes additional claims from passengers who made alternative arrangements. |
| (b) | This section is intentionally blank. | |
| (c) | This section is intentionally blank. | |
| | This section is intentionally blank. | |
| (d) | This section is intentionally blank. | |
| (e) | Failure to meet with the requirements in (Clause 9.57) . | 15% of the appropriate daily contract rate |
| (f) | Failure to observe the correct route and/or stopping places or to transport passengers to/from designated address(es) unless for reasons beyond | 25% of the appropriate daily contract rate |

the Operator's control.

NOTE: *In the case of (f) no changes should be made to any journey as outlined in the specification without previous consultation of the Public Transport Unit, excepting in the case of a medical emergency or adverse weather conditions.*

- | | | |
|-----|--|--|
| (g) | Failure to provide vehicle(s) of sufficient capacity as determined by the Service Specification except with the prior approval of the Director. | 10% of the appropriate daily contract rate |
| (h) | Operation or attempted operation without securing any wheelchair in the required manner. | 25% of the appropriate daily contract rate |
| (i) | This section is intentionally blank. | |
| (j) | This section is intentionally blank. | |
| (k) | Use of Drivers or Service Provider Escorts without the appropriate licence or without an Enhanced Disclosure Check by Disclosure Scotland and approval by Aberdeen City Council. | 25% of the appropriate daily contract rate |
| (l) | This section is intentionally blank. | |

NOTE: *With reference to (k), illegal operation will result in heavier sanctions*

- | | | |
|-----|---|---|
| (m) | This section is intentionally blank. | |
| (n) | Failure to display appropriate information on the destination blind of the vehicle(s) | 5% of the appropriate daily contract rate |
| (o) | Failure to provide fully stocked First Aid Kit and/or fully serviced fire extinguisher as prescribed. First Aid should conform to (First aid at work. The Health and Safety (First-Aid) Regulations 1981 L74) | 5% of the appropriate daily contract rate |
| (p) | Failure to secure luggage/unused wheelchairs and ensure that gangway is clear of obstacles on departure. | 5% of the appropriate daily contract rate |

(q)	Failure to report an accident to the Council within the prescribed time limits and meet with the requirements in (Clause 21.12) .	25% of the appropriate daily contract rate
(r)	This section is intentionally blank.	
(s)	Sub-contracting other than as permitted by the Terms and Conditions of Contract.	5% of the appropriate daily contract rate
(t)	Failure to meet the council's requirements for the provision of personnel to respond to queries.	15% of the appropriate daily contract rate
(u)	Failure to conform to the Terms and Conditions of Contract with regard to staff smoking.	5% of the appropriate daily contract rate
(v)	Failure to conform to the Terms and Conditions of Contract with regard to vehicle cleanliness.	5% of the appropriate daily contract rate
(w)	Failure to conform to the Terms and Conditions of Contract with regard to vehicle temperature.	5% of the appropriate daily contract rate
(x)	Failure for Service Provider Staff to undertake work in a non-confrontational, polite, respectful and responsible manner.	5% of the appropriate daily contract rate
(y)	Use of an incorrectly licensed vehicle or a vehicle found to be unsafe.	15% of the appropriate daily contract rate plus a report to the appropriate Authorities which could lead to termination of contract
(z)	Failure to return Driver Identification Photocard issued by the Council when driver either leaves employment or changes operator. Lost badges may also incur this fixed cost if not reported at the time.	Fixed Cost £50 per occasion

10 QUALITY CONTROL

- 10.1** The Service Provider must be able to demonstrate that it has in place management processes which enable self-monitoring and quality control of its performance of the Services and this Contract. These systems should involve Service Users and/or Service User Representatives, where appropriate. The Council will require to be satisfied that these systems are in place and are adequate and appropriate. The Service Provider must ensure that it has appropriate back up systems in place to preserve records in the event of a catastrophic incident occurring at its Premises or any other business address. The Council will require to be satisfied that such a back up facility is in place and that it is adequate and appropriate.
- 10.2** The Service Provider must submit copies of all published inspection reports to the Council within five days of receipt of same.

11 MONITORING PROCEDURES

- 11.1** Compliance with the Service Specification as set out within this Contract will be subject to monitoring by the Council.
- 11.2** The means by which the Services shall be monitored and evaluated may include: -
- 11.2.1** The submission of returns and progress reports from the Service Provider every twenty eight (28) days;
 - 11.2.2** Inspection of the Premises by the Council's Contract Officer and/or other appropriate personnel;
 - 11.2.3** feedback from Service Users, and/Service User Representatives on the Services being received;
 - 11.2.4** feedback from staff within the Council and, where appropriate, from other relevant bodies;
 - 11.2.5** consideration of the outcome of complaints raised under the Complaints Procedure as outlined in Clause 22 – Complaints;
- 11.3** A monitoring and evaluation system specifying key targets and outcomes and statistical returns will be developed and mutually agreed by the Service Provider and the Council. In the event of the Service Provider and the Council failing to agree a monitoring and evaluation system, then the Council shall be entitled to terminate the Contract in accordance with Clause 27 – Termination.
- 11.4** Monitoring of the Contract will be the responsibility of the officer designated to manage the contract on behalf of the Council. This will be a Contract Officer unless otherwise notified.

- 11.5** A Contract Officer or such other officer of the Council, upon providing evidence of identity will visit the Service Provider and/or the Premises at intervals during the lifetime of the Contract to monitor the Contract. At the discretion of the Council, the Contract Officer will visit the Service Provider and/or the Premises more often should concerns exist regarding compliance with the Contract terms and conditions. In usual circumstances, visits will be arranged in advance but the Council reserves the right to visit without notice at any reasonable time.
- 11.6** A Contract Officer or such other officer of the Council may, on providing evidence of identity, at any time travel free of charge in any Vehicle utilised by the Service Provider for the purposes of undertaking the Services to check that the Services are operating in accordance with the terms and conditions of this Contract and to carry out Service User surveys and route timing checks.
- 11.7** The Service Provider shall further instruct its employees, agents or any of its Sub-Contractors to permit free travel by the Contract Officer or such other Officers of the Council on providing evidence of identity when: -
- The Vehicle is not in use for the Service Specification but is running to or from a point where it was last or where it will be next used in the operation of the Services;
- 11.8** In the event that the Service Provider or the Council wishes to fit a Closed Circuit Television System (CCTV) to a Vehicle utilised for the provision of the Services, the parties shall agree a Protocol for the utilisation of the CCTV and such Protocol shall be devised in accordance with the Council's CCTV Policy and subject to any guidance/Code of Practice issued by the UK Information Commissioner.
- 11.9** The Service Provider will be notified in writing if the Council has any concerns about its performance of the Services or adherence to the terms of this Contract, and the Service Provider shall be given the opportunity to reply within a time scale specified by the Council. The Council reserves the right to take urgent action to protect the welfare of Service Users if it appears to the Council that such action is necessary.

12 FINANCIAL ARRANGEMENTS

- 12.1** In exchange for the provision of the Services the Council shall pay or cause to be paid the Service Provider in accordance with the financial arrangement specified and contained in this Contract in Part 3 of the Schedule - Remuneration.
- 12.2** Correctly prepared and adequately supported invoices shall be submitted to the Council within 28 days of becoming due and must

identify and apply VAT at the appropriate rate, where applicable. Payment of invoices shall be made within 28 days of receipt of same by the Council. In the event that the Council fails to make payment within 30 days of receipt of a correctly prepared and adequately supported invoice, interest at the rate of 2% above the base rate of the Clydesdale Bank plc may accrue from the date upon which payment under the said invoice became due, up to and including the date upon which payment is made in full.

- 12.3** Notwithstanding the foregoing, the Council shall be entitled to withhold payment in the event of any query or dispute arising in respect of a particular invoice. In such circumstances the 28-day period for payment shall not commence until the day after such query or dispute has been resolved.
- 12.4** In the event that the Service Provider is liable to make payment of any sum of money to the Council (whether arising from this Contract or otherwise), then the Council shall be entitled to deduct an equivalent amount from any sum then due or which at any time thereafter may become due to the Service Provider under this Contract or any other contract.
- 12.5** The Service Provider will consent to the Council obtaining from the Service Provider's bankers or accountants a financial reference in respect of the Service Provider at such times as the Council may reasonably require. The Service Provider or Service Provider's accountant shall also submit to the Council an annual statement of accounts including profit and loss accounts and balance sheets. Alternatively, the Council may accept a copy of the Service Providers most recent audited accounts. The Council will treat this information in the strictest confidence and such information shall be utilised by the Council only for the purpose for which it was requested.
- 12.6** The Service Provider will collect directly from Service Users any costs which are in addition to the Council's contribution and keep accurate records of such payment which will be made available to the Council on request. For the avoidance of doubt, the Council shall not be liable to the Service Provider for the cost of any Services provided to the Service User which are in addition to the Council's Approved Rate. The Service Provider shall not be entitled to terminate this Contract or any Individual Service Specification as a result of the Service User's non payment of any sum due in respect of the Services not covered by the Council's agreed contribution.
- 12.7** The Service Provider must advise Service Users and/or the Service User's Representative of the need to obtain adequate advice on insurance cover for all items owned by the Service User and not covered by the Service Provider's insurance.
- 12.8** This section is intentionally blank.

13. CONFIDENTIALITY AND DATA PROTECTION

- 13.1** The Service Provider will have a policy in relation to confidentiality of information which shall be agreed with the Council. The Service Provider shall ensure that its staff is made aware of the policy and how it affects them both as individuals and as part of the Service Provider's organisation. The policy shall be written so that it is easily understood by the Service Provider's staff, Service Users, and/or Service User Representatives.
- 13.2** The Service Provider will treat as confidential all information gained in respect of Service Users and will only disclose confidential information in exceptional circumstances and only with the consent of the Service User and/or the Service User's Representative. The Service Provider will be required to treat all information pertaining to Service Users detailed under this Contract as confidential and meet the applicable criteria laid down by the Data Protection Act 1998 (DPA 1998).
- 13.3** The Service Provider shall be responsible for and shall save, defend, indemnify and hold harmless the Council against all and any claims made by Service Users or any third party in respect of any breach of confidentiality by the Service Provider or by any person for whom the Service Provider is responsible at law.
- 13.4** The Service Provider shall at all times comply with the provisions and obligations imposed by the DPA 1998 and the data protection principles contained therein in the processing of personal data as defined within the DPA 1998. If the Service Provider is required to process personal data on behalf of the Council, then the Service Provider shall comply with the DPA 1998 and the Council's Data Protection Policy and in accordance with any further instructions of the Council as Data Controller, and shall generally do nothing to compromise the Council's compliance with its obligations as Data Controller.
- 13.5** The obligations of confidentiality contained in this Clause shall survive the termination of this Contract.

14 FREEDOM OF INFORMATION

- 14.1** The Service Provider shall assist the Council, at no additional charge, in meeting any reasonable requests for information in relation to this Contract or the Services to be provided hereunder, which are made to the Council in connection with the Freedom of Information (Scotland) Act 2002 (FOISA 2002) or any statutory modification or re-enactment thereof or any related guidelines or codes of practice. The Council may, from time to time, serve on the Service Provider an information notice requiring the Service provider within such time and in such form as specified in the information notice, to furnish to the Council

such information as the Council may reasonably require relating to such requests for information under FOISA 2002. The Service Provider acknowledges that in responding to such requests for information, the Council shall be entitled to provide information relating to this Contract or the Services to be provided hereunder.

15 HEALTH AND SAFETY

- 15.1** In delivery of the Services, the Service Provider will comply with the requirements and standards of the Health and Safety at Work etc Act 1974 and its associated statutory provisions, in particular, the Management of Health and Safety at Work Regulations 1999 and the Manual Handling Operations Regulations 1992 and any other appropriate legislation.
- 15.2** The Service Provider will submit documentary evidence of compliance with current health and safety and fire legislation. This may include policy, arrangement and procedure documents, certificates, Risk Assessments, inspection and maintenance records, accident reports or training records necessary under legislation. Any subsequent significant changes to these policies, arrangements or procedures should be notified to the Council.
- 15.3** The Service Provider will notify the Council immediately of any significant occurrence which has affected or may impact upon the health and safety of Service Users and such an occurrence must be reported immediately to the Commissioning Officer.
- 15.4** The Council reserves the right to carry out periodic monitoring of health and safety issues, or investigate any incident reported under this clause or brought to its attention by any other means to ensure the continuity of satisfactory standards of health and safety matters during provision of the Services. The Service Provider will make available to the Council any documentary or other evidence that may be necessary for monitoring or investigating health and safety standards.
- 15.5** The Service Provider will conform to legislation governing the taxation and road worthiness of Vehicles and shall maintain a code of practice for the operation of any Vehicles used in connection with this Contract, which is acceptable to the Council. The Service Provider will give careful consideration and planning to journeys which will include arrangements to ensure the safety and supervision of the Service Users and the interests and security of others.
- 15.6** The Service Provider will carry out routine checks on a four monthly basis throughout the duration of this Contract on all Vehicles utilised in the provision of the Services to ensure road worthiness and passenger safety and comfort. The first routine check shall commence four months following the date of commencement of this Contract.

16 LEGISLATION AND REGULATIONS

- 16.1** The Service Provider must at all times, comply with all applicable legislation, regulations, standards and codes of practice issued by a Competent Authority and in force from time to time throughout the duration of the Contract, including guidance or advice issued by the Scottish Executive.
- 16.2** The Service Provider shall maintain a code of practice for the operation of all motorised Vehicles. The Code of Practice must be acceptable to the Council.
- 16.3** The terms and conditions of this Contract do not limit the Service Provider's liability under common law.
- 16.4** Without prejudice to the terms and conditions herein, the Service Provider shall at all times ensure that all Vehicles and shall ensure that its employees, agents or its Sub-Contractors engaged in the provision of the Services, shall comply with the requirements of any act of Parliament, any general, local, or statutory rules or orders affecting the whole or part of the subject matter of the Contract or any Services to be provided in relation thereto. In the event of any changes being introduced to the statutory requirements relevant to the Contract during the currency hereof, the Service Provider shall take all steps necessary to ensure compliance therewith as soon as reasonable practicable.
- 16.5** The Service Provider shall ensure compliance with all employment legislation and, where applicable, any regulations relating to driver's hours of work. The Council reserves the right to inspect the Service Provider's records of hours worked by individuals employed on the Services to ensure compliance with any regulations or legislation.
- 16.6** Where a Specification or Code of Practice issued by the British Standards Institution or a government department is current and applicable on the date of or during the Contract, then the Service Provider shall as a minimum, operate the Services in accordance with that Specification or Code of Practice.
- 16.7** If required to do so, the Service Provider shall use reasonable endeavours to co-operate with the Council (including but not limited to the provision of documentation and statements from its employees, its agents or its Sub-Contractors) in connection with any third party legal proceedings, Ombudsman enquiries, inquiry, arbitration or court proceedings in which the Council may become involved, or any relevant disciplinary hearing internal to the Council, arising out of or in connection with the provision of these Services. The Service Provider shall give evidence in such inquiries, arbitrations, proceedings or hearings.

17 RECORDS AND INFORMATION

- 17.1** The Service Provider will ensure that the information, records and documentation necessary for the Council to effectively monitor the performance of the Contract are accurately maintained at all times and that their validity is checked at regular intervals.
- 17.2** Full written records must be kept of all complaints received in connection with the Services, whether orally or in writing and **from any source** and shall detail the action taken by the Service Provider in respect of each such complaint.
- 17.3** Adequate provision must be made and demonstrated to the Council for the secure storage of confidential files.

18 BEST VALUE AND QUALITY ASSURANCE

- 18.1** The Service Provider and the Council agree to work together in partnership in order to promote best value for the Council and Service Users from the Services, by using reasonable endeavours to secure a continuous improvement in the Service throughout the period this Contract is in force, through a combination of good practice, economy, efficiency and effectiveness.
- 18.2** Without prejudice to the general application of Clause 18.1 above, the Council and the Service Provider shall formally meet, if so required by the Council, in order to:
- a) assess the Service Provider's performance in respect of the Services and this Contract;
 - b) agree ways to promote the smooth and efficient running of the Services and this Contract;
 - c) agree the measures to be adopted by each of the parties in order to secure a continuous improvement in the Services.
- 18.3** The Service Provider shall be responsible (at its own expense) for preparing and circulating a detailed report for any best value meeting which is convened pursuant to Clause 18.2 in order to:
- a) summarise the matters which were adopted by the Service Provider since the preceding best value meeting in order to improve the Services;
 - b) assess the success of the measures referred to in Clause 18.3(a) above;
 - c) set out the Service Provider's proposals to the Council for the continuous improvement of the Service, to be achieved within a

time to be stipulated by the Council, acting reasonably;

- d) address any particular issues about the Service which have been notified to the Service Provider by the Council;

18.4 In addition to the meeting referred to in Clause 18.2 above, the Service Provider shall attend additional ad hoc meetings as shall be required by the Council from time to time, to deal with new developments, in relation to the Service. The Council shall give the Service Provider at least ten (10) Working Days notice of the date on which each meeting is to take place and also the relevant time and venue (except in cases involving crisis or emergency, in which case such notice may be reduced to one Working Day).

18.5 The Service Provider shall ensure (at its own expense), that appropriate employees, agents or Sub-Contractors attend all meetings required by the Council pursuant to this Clause 18 and that where such individuals are unavailable, then a suitable replacement of equivalent status, who has been briefed about the issues in question, attends the meeting on their behalf.

18.6 The Service Provider shall develop a comprehensive quality assurance policy to ensure that the Service is operated to a high standard and to the Council's reasonable satisfaction throughout the duration of the Contract by promoting:

- (a) best value;
- (b) quality assurance through a policy that:
 - (i) is consistent with the requirements of this Contract; and
 - (ii) which incorporates a requirement for an annual review of all the Service Provider's management/working practices in relation to the Services, to enable such practices to be modified (as necessary) in order to improve and maintain the delivery of the Service Specification as set out in Part 1 of the Schedule.
- (c) modification of its working practices (upon request in writing from the Council from time to time) in order to improve the Services or rectify any weaknesses or fault in its working practices which are identified by the Council;
- (d) diligence in implementing its quality assurance policy throughout the duration of the Contract.

19 ASSIGNATION AND SUB-CONTRACTING

- 19.1** The Service Provider shall be entitled to Sub-Contract its responsibilities under this Contract, in whole or in part, **with the prior written consent of the Council**. The Service Provider shall be wholly responsible for the acts and omissions of its Sub-Contractors. Any Sub-Contracting of the Services or any part thereof under this Clause 19.1, shall not relieve the Services Provider of any of its responsibilities or liabilities under this Contract or its liability for any breach of the Contract.
- 19.2** Before the Service Provider enters into any Sub-Contract, the Council shall be given an adequate opportunity to review the form of the Sub-Contract, the choice of the Sub-Contractor, the part of the Services to be incorporated in the Sub-Contract and any other relevant details requested by the Council. The Service Provider shall ensure that any Sub-Contract between the Service Provider and its Sub-Contractor adequately reflects the requirements set out in this Contract to the Council's satisfaction.
- 19.3** The Service Provider shall not sell or enter into an agreement to sell or otherwise dispose of its business insofar as it relates to the delivery of the Services or performance of this Contract, without giving the Council no less than twenty six weeks written notice.
- 19.4** In the event of the Service Provider selling or entering into an agreement to sell or otherwise dispose of its business insofar as it relates to the delivery of the Services or performance of this Contract, the Council may consent to an assignation of this Contract in favour of the transferee. The Council's consent shall be subject to the following:-
- (a) the Council being satisfied as to the suitability of the transferee or intended transferee, and
 - (b) the transferee applying for and being granted
 - (i) a Certificate of Registration from the Commission.

Any assignation shall require to be evidenced by a Minute of Agreement. Notwithstanding the above, and for the avoidance of doubt, any assignation granted by the Council in terms of this Clause has no relationship to and is no guarantee whatsoever that any Certificate of Registration will be issued by the Commission.

20 NOTICES

- 20.1** When any notice is required to be given to any party in terms of this Contract, it shall be sent by way of FIRST CLASS (Recorded Delivery) post as follows: -

i) **In relation to the Council:**

Chris Cormack
Planning Officer
Public Transport Unit
St Nicholas House
Broad Street
Aberdeen
AB10 1BY

Telephone 01224 523762
Fax 01224 523762
Email ccormack@aberdeencity.gov.uk

ii) **In relation to the Service Provider: -**

Andrew Jarvis
Managing Director
Stagecoach Bluebird
Aberdeen Bus Station
Guild Street
Aberdeen
AB11 6NA

Telephone 01224 591381
Fax 01224 584202
Email Andrew.jarvis@stagecoachbus.com

21 LIABILITY, INSURANCE, INDEMNITY AND ACCIDENTS

- 21.1** The Service Provider shall be responsible for ensuring that appropriate and adequate insurance is maintained throughout the duration of this Contract for employers' liability, public liability, building and contents, and will on the reasonable request of the Council, provide evidence that such cover has been effected and all due premium payments have been paid. The level of cover held by the Service Provider in respect of public liability insurance shall be no less than FIVE MILLION POUNDS (£5,000,000.00) STERLING. The insurance in respect of claims for personal injury, on the death of any person under a contract of service with the Service Provider and arising out of or in the course of such person's employment shall also comply with the Employer's Liability (Compulsory Insurance) Act 1969. For the avoidance of doubt the Service Provider will forward copies of all insurance policies to the Council prior to the commencement of this Contract and in accordance with Clause 21, and copies of any insurance renewal papers as they occur or as reasonably requested by the Council in accordance with Clause 21.

- 21.2** The Service Provider shall maintain commercial third party motor insurance providing cover in respect of death and/or personal injury to the Service User or other authorised individual or damage to the property of any Service User or other authorised individual or any other person affected by the operation of this Contract with respect to boarding, alighting or travelling on or in any Vehicle or otherwise utilising the Services.
- 21.3** All insurance policies shall indemnify the Council against all actions, claims, losses, damages, costs (including legal costs) expenses and liabilities arising from the operation of the Contract and shall have the interest of the Council endorsed thereon.
- 21.4** The Council shall be entitled to inspect the above policies and proof of payment no later than 14 Working Days prior to the commencement of this Contract. If such policies are not provided the Council has the right to terminate the Contract forthwith.
- 21.5** Renewal dates will be recorded and it is a condition of Contract that evidence of annual renewal shall be submitted timeously, and in any event, within 7 Working Days of the date of renewal to the Council. The Service Provider shall give immediate written notice to the Council if any policy is amended or cancelled by the insurers or for any reason becomes inoperative. The Council reserves the right to suspend or terminate the Contract forthwith if there is no evidence of current insurance.
- 21.6** The Service Provider shall be responsible for and shall save, indemnify, defend and hold harmless the Council from and against all actions, claims, losses, costs (including legal costs) expenses and liabilities whether on account of personal injury (including injury resulting in death) or on account of loss or damage to property or otherwise which arise as a result of any act or omission on the part of the Service Provider, its employees, its agents or its Sub-Contractors.
- 21.7** The Service Provider shall be responsible for and shall save, indemnify, defend and hold harmless the Council in respect of any or all liability including but not limited to any loss, cost, expense, penalty, injury, or damage, be it direct or consequential, arising from or incurred by reason of any claim, demand or action made or raised in relation to care/support and/or Transportation of a Service User and the provision of the management and operation of the Services under the terms and conditions of this Contract, including but not limited to claims or actions made or raised by or on behalf of a Service User, Service User Representative, or employees, agents or Sub-Contractors of the Service Provider, or employees or agents of the Council or by any third party.
- 21.8** For the avoidance of doubt nothing in the Contract shall render the Service Provider liable for any matter which occurs as a direct result of

gross negligence on the part of the Council, its employees or its agents.

- 21.9** All accidents whether serious or minor must be reported immediately to the Police by the Service Provider. In case of any accident involving death, serious injury or serious damage to Vehicles or damage or loss to property during the provision of the Services, the Service Provider must inform the Council immediately by fax or telephone and a full written report must be submitted by the Service Provider to the Council within 24 hours.
- 21.10** In the event of an accident, the Service Provider's employee, agent or Sub-Contractor must check if any Service Users, or other authorised persons are injured before continuing the journey. If there is any doubt, the Vehicle must wait for any injured persons to receive medical assistance before continuing. If the Service Provider's employee, agent or Sub-Contractor who is tasked with the driving of the Vehicle is suffering any effects due to the accident, he/she must not continue the journey and arrangements must be made to replace him/her.
- 21.11** In the event of an accident, the Services Provider's employee must remain with the Service Users in a place of safety unless unable to do so due to injury to either himself/herself or a Service User, or to comply with instructions of the Police.
- 21.12** This section is intentionally blank.
- 21.13** This section is intentionally blank.
- 21.14** In the event of a breakdown, the Service Provider's employee must remain with the Service Users in the Vehicle unless circumstances require evacuation of the Vehicle in which case, either the Service Provider's employee or Driver's Escort must accompany the Services Users to a place of safety. In this event, the PTU must be informed immediately.
- 21.15** No liability will lie against the Council for any loss, damage or injury incurred as a result of the Service Provider's performance of the Services under the Contract, by way of the means detailed in any documentation submitted by or to the Council as required or otherwise authorised by the Contract. Where "consent" or "approval" is referred to within this Contract, it is taken to be prior written consent and no claim shall lie against the Council in respect of any delay in processing or refusing to grant such consent. Further no claims shall be made against the Council in respect of any actions taken by the Service Provider following upon the grant of such consent or approval.

22 COMPLAINTS

- 22.1** Service Users have the right to be consulted and to comment and/or complain about the Services received.
- 22.2** The Service Provider shall maintain a complaints and suggestions procedure acceptable to the Council, which establishes the responsibilities for reporting complaints and outcomes to the Council. The Service Provider must make information on its arrangements for the handling of complaints available to actual and prospective Service Users prior to the Services commencing. The Service Provider's procedure must be displayed in a public area and within each Vehicle and must be available in various mediums in line with disability discrimination legislation. Service Users must be informed of the right to complain directly to the Council, in respect of the Services. The Council's complaint's leaflets must be made available to Service Users on request. The provisions of this Clause shall operate in addition to any other complaints procedure available to the Service User.
- 22.3** A copy of the Service Provider's complaints procedures and any amendments made after the date of this Contract shall be furnished to the Council within seven Working Days of the date of commencement of this Contract or within seven Working Days of making any amendment thereto.
- 22.4** The Service Provider must ensure that Service Users and Service User Representatives know how to make a complaint and are assisted with the completion of the documents (if required) which are in use. The Council will in the course of carrying out its duties, examine the complaints procedures operated by the Service Provider, the actual complaints received and the outcome.
- 22.5** Every complaint received by the Service Provider shall be monitored and logged and must be copied to the Council.
- 22.6** Any complaints received by the Service Provider from a Service User or a third party in relation to an incident which may be deemed to be abusive in terms of the North East of Scotland Child Protection Committee Child Protection Guidelines (NESCPC Guidelines) must be intimated to the Council within twenty-four hours of receipt of the complaint. Thereafter the Service Provider shall carry out an investigation and the Council may carry out any investigation it deems necessary. Where appropriate, the Council shall consult with the Service Provider prior to determining the scope of its investigation.
- 22.7** In the event of any uncertainty as to the scope of the NESCPC Guidelines, the Service Provider must contact the Council for advice. Any complaint deemed by the Service Provider, acting prudently, to be of a serious nature and falling outwith the scope of the Guidelines must be notified to the Council within twenty-four hours.

23 WAIVER

- 23.1** None of the terms and conditions of this Contract shall be considered to be waived by either the Council or the Service Provider unless a waiver is given in writing by one party to the other. No failure on the part of either party to enforce any of the terms and conditions of this Contract shall constitute a waiver of such terms.

24 DEATH OR DISCHARGE OF A SERVICE USER

- 24.1** If the Service User or the Service User Representative discharges the Service User from the Services without notice or if the Service User dies, then that Service User's placement with the Service Provider will be deemed to be terminated. In such circumstances the Service Provider shall: -

- (a) Inform the Council in writing of the discharge of the Service User or the death of the Service User as the case may be within one Working Day.

25 VARIATIONS TO THE TERMS OF THIS CONTRACT

- 25.1** This Contract, including the Schedule and any documents incorporated by reference, constitutes the entire agreement between the Council and the Service Provider. No variation to the terms and conditions of this Contract will be valid unless in writing and signed by authorised signatories of both the Council and the Service Provider on or after the date of commencement of this Contract.

- 25.2** This section is intentionally blank.

26 RESOLUTION OF DISPUTES

- 26.1** Both parties shall use their best endeavours to resolve any dispute between them with respect to this Contract and to reach an amicable and workable resolution of the matter in dispute as soon as it is practicable to do so.

- 26.2** Other than in the event of a material breach (that is, a breach so fundamental as to strike at the very essence of this Contract), if any dispute is unable to be resolved between the parties in terms of clause 26.1 above the following procedures shall be followed: -

- (a) The party who is of the opinion that the other party is not performing his/her obligations under the terms of the Contract shall send to the other party a letter outlining the matter in dispute.
- (b) If there is no response to the said letter within ten (10) Working Days or, if in the opinion of the party sending the letter, the response of the recipient is inadequate, then the said party shall

have the option to convene a meeting on three Working Days notice in writing in order to discuss the matter in dispute and the possible solutions.

- (c) Any dispute which is unable to be resolved between the parties in terms of either Clauses 26.1 or 26.2 (a) or (b), will be determined by an Expert to be agreed between the parties. Failing agreement, either party may apply to the Sheriff Principal of Grampian, Highland and Islands for the appointment of such an Expert. Notwithstanding the method of appointment of the Expert, it shall be an express condition of appointment that any decision shall be issued within fourteen days of receipt by the Expert of a joint statement prepared by both parties, both parties being obliged to act reasonably and expeditiously in the preparation of such a statement. Any decision issued by such an Expert shall be binding on both parties except in the event of a manifest error in fact or in law. Both parties shall bear the costs of appointing the Expert equally or, alternatively, the Expert may, in certain circumstances, determine that one or other party bears a higher proportion of the costs.

26.3 Where any matter arising out of or under this Contract is subject to discussion or referred to arbitration in accordance with Clauses 26.1 or 26.2, the Service Provider shall remain responsible for the provision of the Services and the Council shall remain responsible for the payment, without prejudice to the rights of the parties in matters other than the matter in dispute.

26.4 Where the Council believes the Services provided to the Service User to be affected, the Council is entitled to remove the Service User from the Services.

27 TERMINATION

27.1 Termination of the Contract

27.1.1 Either party may terminate this Contract, even though the other party is not in default, by giving at least 40 days notice in writing. During the period of notice both parties shall co-operate to ensure that the interests of Service Users are met under whatever new arrangements may be proposed.

27.1.2 The Council may terminate this Contract without notice if the Service Provider commits a material breach of the terms and conditions of this Contract. A material breach includes but is not limited to:-

- (a) Any illegal operation.
- (b) Insufficient/incorrect insurance cover or any cover which is withdrawn by the Service Provider's insurers.

- (c) Any action by the Services Provider which, in the view of the Council compromises safety or the welfare of the Service User.
- (d) Persistent breach of any Operational Requirement.
- (e) Save as provided for within Clause 19.1, assignation of any portion of the Service to a sub-contractor without the prior written consent of the Council.
- (h) Contravention of Clause 19.1.
- (i) Failure to inform the Council of the issue of a Vehicle prohibition or defect notice by the Vehicle Inspectorate or Traffic Commissioner against Vehicles employed on the Contract or the variation, suspension or refusal to renew any taxi or private hire vehicle licence by the Licensing Authority.
- (j) Those specific events as listed in Clauses 8.4.2, 9.20, 9.24, 9.50 and 9.64.
- (k) Any other breach which is capable of being remedied, but has not been remedied within 21 days following written notice by the Council to the Service Provider of such a breach.

27.1.3 In a case of material breach of the Contract, the Council may employ another Contractor to provide the Services and the Service Provider shall be liable for: -

- (a) All reasonable administrative costs incurred by the Council in doing so.
- (b) Any excess payment which is reasonably incurred by the Council in respect of the four month period which would otherwise have been required under notice of termination in accordance with Clause 27.1.1 herein.
- (c) Where a material breach has occurred, the Council shall be entitled to set-off any such administrative or excess costs against any of the Service Provider's outstanding invoices.

27.1.4 The Service Provider shall notify the Council in writing immediately upon the occurrence of any of the following: -

- (a) Where the Service Provider is an individual, if the Service Provider becomes insolvent within the meaning of Section 7 of the Bankruptcy (Scotland) Act 1985.
- (b) Where the Service Provider is a firm or a number of persons acting together in any capacity if any event in sub-clause (a)

occurs in respect of the firm or any partner in the firm or any of those persons, or a petition is presented for the Service Provider to be wound up as an unregistered company.

- (c) Where the Service Provider is a company, if the company passes a resolution for winding up, or the Court makes an Administration Order or a Winding Up Order, or an Administrator or Receiver is appointed by or on behalf of a creditor, or possession is taken of any of its property under the terms of a Floating Charge.

On the occurrence of any of the events described above the Council shall be entitled to terminate this Contract with immediate effect.

27.1.5 This Contract may be terminated with immediate effect in the event of the Service Provider: -

- (a) Offering any improper inducements or exerting unreasonable pressure upon potential Service Users or their relatives, or others with an interest, to attempt to encourage the potential Service User to use the Services;
- (b) Giving or agreeing to give, to any member, employee or representative of the Council any gift or consideration of any kind as an inducement or reward for doing any act in relation to the obtaining or carrying out of this Contract or for showing or refraining from showing favour or disfavour to any person in relation to this Contract.

27.1.6 The Council may terminate this Contract forthwith by notice in writing upon discovery of any material misrepresentation by the Service Provider either within the Response to the Invitation to Tender or during the performance of the Services.

27.1.7 Either party shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of this Contract. The determination of this Contract shall not affect or prejudice their respective rights and liabilities against the other, or against any third party under it. Any right or remedy to which either party is or may become entitled under this Contract or in consequence of the other's conduct may be enforced from time to time separately or currently with any right or remedy given by this Contract now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative.

27.2 This section is intentionally blank

27.2.1 This section is intentionally blank

27.2.2 In all other cases, the formal period of notice of termination of Services to Individual Service Users shall not start until negotiation has taken

place between the Council, Service Provider and the Service User unless otherwise agreed in particular cases.

27.2.3 The Council may terminate an Individual Service Specification upon giving twenty four hours notice if in the opinion of the Council, following a Review Meeting, the Service User no longer requires the provision of the Services. If the Service Provider disagrees with the proposed termination, then Clause 26 - RESOLUTION OF DISPUTES shall apply.

27.2.4 The Service Provider may terminate the Individual Service Specification having given twenty-four hours notice, if the needs of the Service User are such that the two parties agree that the Service Provider is unable to provide appropriate Services.

27.2.5 This section is intentionally blank.

27.2.6 This section is intentionally blank.

27.2.7 This section is intentionally blank.

27.2.8 This section is intentionally blank.

28 FORCE MAJEURE

28.1 In the event of an Act of God or Force Majeure (which shall include acts of government, fire, tempest, acts of war and related matters, which are both beyond the control of the Council and the Service Provider and are such that neither party with the application of all due diligence and foresight could not prevent) which causes the cessation of or substantial interference with the performance of the Services, then the duty of the Service Provider to perform the Services shall be suspended until such circumstances have ceased. The Council shall not be liable to make any payment to the Service Provider in respect of such suspension and any such sum already paid in respect of any part of the Services not yet performed shall be held to the credit of the Council or returned to the Council.

28.2 For the avoidance of doubt, it is hereby expressly agreed that industrial relations difficulties and failure to provide adequate premises, equipment, materials, consumables and/or staff or similar matters are not to be considered as events of Acts of God or Force Majeure.

28.3 If the period of suspension stipulated in Clause 28.1 above lasts for longer than one month, the Council may serve upon the Service Provider one month's written notice of termination of this Contract. Unless the Services have been resumed before the expiry of such notice, this Contract shall terminate in accordance with said notice.

29 CONFLICT OF INTEREST

- 29.1** In order to prevent conflicts of interest arising, officers and elected Members of the Council must not participate in the award of any Contract to an organisation in which they have an interest. The Service Provider shall inform the Council if any elected Member or Officer of the Council has a financial interest in the Service Provider, is a member or trustee of the Service Provider or any governing body or committee, or is a member, volunteer, adviser or otherwise has an interest in or involvement with the Service Provider.

30 AGENCY

- 30.1** The Service Provider is not and shall in no circumstances hold itself out as being servant or agent of the Council for any purpose whatsoever.
- 30.2** The Service Provider is not and shall in no circumstances hold itself out as being authorised to enter into any contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligations.
- 30.3** The Service Provider's employees, and/or agents, and/or Sub-Contractors are not and shall not hold themselves as being, nor shall they be held out by the Service Provider as being, servants or agents of the Council for any purpose whatsoever and shall in no circumstances be authorised to enter into any contract on behalf of the Council.

31 SEVERABILITY

- 31.1** In the event that any of the terms or provisions of the Contract shall become invalid, illegal or unenforceable, the remainder shall survive unaffected.

32 EQUAL OPPORTUNITIES

- 32.1** The Service Provider shall provide a copy of its Equal Opportunities Policy, which upon execution of the Contract shall be deemed to be part hereof. The Service Provider warrants that this policy complies with all statutory obligations. Further, the Service Provider warrants that it shall not treat one group of people (whether Service Users or its employees, its agents or its Sub-Contractors), less favourably than others because of their age, colour, race, nationality or ethnic origin, gender, physical abilities, religious beliefs or sexual orientation.
- 32.2** The Service Provider shall observe as far as possible the Commission for Racial Equality's Code of Practice for Employment as approved by Parliament in 1983, which gives practical guidance to employers and others in the elimination of racial discrimination and the promotion of equality of opportunity in employment, including the steps that can be

taken to encourage members of the ethnic minorities to apply for jobs or take up training opportunities. If any court or tribunal, or the Commission for Racial Equality, should make any finding of unlawful discrimination against the Service Provider, then the Service Provider shall take all necessary steps to prevent recurrence of such unlawful discrimination.

33 JURISDICTION

33.1 This Contract shall be governed by and construed with Scots Law. Aberdeen Sheriff Court shall have exclusive jurisdiction to settle any disputes (including claims for set-off and counter claim) which may arise in connection with the validity, effect, interpretation or performance of the legal relationship established by this Contract.

34 LEGAL COSTS

34.1 Each party shall bear their own legal costs in respect of this Contract.

IN WITNESS WHEREOF these presents typewritten on this and the preceding 73 pages, together with the Schedule are executed as follows: -

They are sealed with the Common Seal and
signed for and on behalf of Aberdeen City
Council at Aberdeen by

Signed
(Authorised Signatory)

Name
Position
Date

For and on behalf of First Aberdeen Ltd. at
by

Signed
(Director/Company Secretary/Authorised Signatory/Witness)

Name
Position
Date

Signed
(Director/Company Secretary/Authorised Signatory/Witness)

Name

Position
Date

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CONTRACT BETWEEN ABERDEEN CITY COUNCIL AND THE SERVICE PROVIDER.

PART 1
(a) Timetable
Monday to Friday only

Basic Timetable.

Outward:

Broad Street		10:30	12:30	14:30
Holburn Junction		10:37	12:37	14:37
Garthdee Retail Park		10:45	12:45	14:45
Two Mile Cross		10:50	12:50	14:50
Kirk Brae		10:58	12:58	14:58
Cults Academy		11:02	13:02	15:02
Tor-na-dee		11:07	13:07	15:07
Bucklerburn		11:13	13:13	15:13
Culter Village		11:18	13:18	15:18
Johnston Gardens		11:21	13:21	15:21

Return:

Johnston Gardens		11:30	13:30	15:30
Culter Village		11:33	13:33	15:33
Bucklerburn		11:38	13:38	15:38
Tor-na-dee		11:44	13:44	15:44
Cults Academy		11:49	13:49	15:49
Kirk Brae		11:53	13:53	15:53
Two Mile Cross		12:01	14:01	16:01
RGU Campus		12:01	14:01	16:01
Garthdee Retail Park		12:06	14:06	16:06
Holburn Junction		12:14	14:14	16:14
Broad Street		12:21	14:21	16:21

Additional journeys in PM period.

Outward:

Broad Street	16:30
Holburn Junction	16:37
Garthdee Retail Park	16:45
Two Mile Cross	16:50
Kirk Brae	16:58
Cults Academy	17:02
Tor-na-dee	17:07
Bucklerburn	17:13
Culter Village	17:18
Johnston Gardens	17:21

Return:

Johnston Gardens	17:30
Culter Village	17:33
Bucklerburn	17:38
Tor-na-dee	17:44
Cults Academy	17:49
Kirk Brae	17:53
Two Mile Cross	18:01
RGU Campus	18:01
Garthdee Retail Park	18:06
Holburn Junction	18:14
Broad Street	18:21

(b) Route

Broad Street – TP.

Union Street

Holburn Street – TP.

Garthdee Road

Asda Superstore

Garthdee Road

Sainsbury's Superstore – TP.

Garthdee Road

Craigievar Road

Craigievar Crescent

Aboyne Place

Two Mile Cross (south branch) – TP.

Pitmedden Crescent

Pitmedden Terrace

Garthdee Drive

Pitmedden Road

Craigievar Place

Aboyne Road

Inchbrae Drive

Gaitside Drive

Ramsay Crescent

Auchinyell Road

Garthdee Road

Inchgarth Road

Westerton Road

North Deeside Road

Kirk Brae – TP.

Kirk Place

Kirk Terrace

Hilltop Avenue – TP.

Cults Avenue

Hillview Crescent

Quarry Road

Manse Road

Cairn Road

Baillieswells Road

Coronation Road

School Road

Bucklerburn Drive

Bucklerburn Wynd – TP.

Bucklerburn Drive
School Road
North Deeside Road – TP.
Malcolm Road
Johnston Gardens to Terminus.

Return:

Johnston Gardens from Terminus – TP.

Malcolm Road
North Deeside Road – TP.
School Road
Bucklerburn Drive

Bucklerburn Wynd – TP.

Bucklerburn Drive
School Road

Coronation Road
Baillieswells Road
Cairn Road

Manse Road
Quarry Road
Hillview Crescent
Cults Avenue

Hilltop Avenue – TP.

Kirk Terrace
Kirk Place

Kirk Brae- TP.

North Deeside Road
Westerton Road
Inchgarth Road
Garthdee Road
Auchinyell Road
Ramsay Crescent
Gaitside Drive
Inchbrae Drive
Aboyne Road
Craigievar Place
Pitmedden Road
Garthdee Road
Pitmedden Terrace
Pitmedden Crescent

Two Mile Cross (South branch) - TP.

Aboyne Place
Craigievar Crescent
Craigievar Road
Garthdee Road

Sainsbury's Superstore – TP.

Garthdee Road
Asda Superstore
Garthdee Road

Holburn Street – TP.

Union Street
Union Terrace
Rosemount Viaduct
Schoolhill
Upperkirkgate

Broad Street – Terminus – TP.

(c) Fares

Adult Single:

	Broad Street	Garthdee	Peterculter
Broad Street	£0.50		
Garthdee	£1.00	£0.50	
Peterculter	£1.50	£1.00	£0.50

	Peterculter	Garthdee	Broad Street
Peterculter	£0.50		
Garthdee	£1.00	£0.50	
Broad Street	£1.50	£1.00	£0.50

Adult Return:

	Broad Street	Garthdee	Peterculter
Broad Street	£0.90		
Garthdee	£1.80	£0.90	
Peterculter	£2.70	£1.80	£0.90

	Peterculter	Garthdee	Broad Street
Peterculter	£0.90		
Garthdee	£1.80	£0.90	
Broad Street	£2.70	£1.80	£0.90

Child single:

	Broad Street	Garthdee	Peterculter
Broad Street	£0.30		
Garthdee	£0.60	£0.30	
Peterculter	£1.00	£0.60	£0.30

	Peterculter	Garthdee	Broad Street
Peterculter	£0.30		
Garthdee	£0.60	£0.30	
Broad Street	£1.00	£0.60	£0.30

Child Return:

	Broad Street	Garthdee	Peterculter
Broad Street	£0.60		
Garthdee	£1.10	£0.60	
Peterculter	£1.80	£1.10	£0.60

	Peterculter	Garthdee	Broad Street
Peterculter	£0.60		
Garthdee	£1.10	£0.60	
Broad Street	£1.80	£1.10	£0.60

1 week adult unlimited travel: £10.

1 week child unlimited travel: £7.

National Entitlement cards are valid for travel on this service.

Fares will be reviewed every 3 months by the Council giving 14 days notice to the operator of any required changes.

(d) Reporting to Council

Invoices submitted to the Council must also include the following information per financial period:

- **Number of single journeys made**
- **Number of return tickets sold**
- **Number of Weekly tickets sold**
- **Number of journeys made under the National Concessionary Travel Scheme**

From time to time the Council will require daily or weekly breakdowns of this information or further breakdown by fare stage.

(e) Vehicle Requirements

The vehicles deployed on this service must be no longer than 9m.

Vehicles must have seating capacity for at least 29.

The Council will provide, at their cost, vinyls for the vehicle(s) required that must be displayed.

(f) Special Clauses/Conditions

NONE

(g) This section is intentionally blank

PART 2

THIS SECTION IS INTENTIONALLY BLANK

PART 3

REMUNERATION

(a) Operating Cost £--- per vehicle per day

On bus revenue will be the sum of (a) and (b) below:

(b) Value of all on bus cash ticket sales

The revenue shortfall shall be:

Revenue Shortfall (d) = (a) – (b)

The invoice submitted should detail the Daily Rate for each day of operation and total for each item using the format below:

Period No.	1 – 13	Period Date	
------------	--------	-------------	--

Period Date	(a) Daily Rate	(b) Cash Ticket Sales	(d) Revenue Shortfall
1 - 1/4/8	370	136	216
2 – 2/4/8	370	30	340
3 – 3/4/8	370	420	-70
...			
28 – 28/4/8	370	0	365
Total	£1480	£586	£851

Payment Details

- (i) The Service Provider shall submit invoices in arrears every 28 days in accordance with the Schedule of Periods laid down by the Council. Invoices must include any relevant contract number(s). Provided that the Service Provider submits invoices accurately, timeously and in accordance with the terms and conditions of this Contract, the Council facilitate payment within 28 days of invoice receipt in accordance with Clause 12.2 of this Contract.
- (ii) If any aspect of the invoice cannot be verified within 28 days of receipt, the Council and Service Provider must agree in writing a timescale for verification of the Invoice. The anticipated timescale for payment of the invoice in this case shall be no greater than 56 days from the date of receipt of same by the Council. In this event, the Council will not pay interest in accordance with Clause 12.2 of this Contract unless this timescale for verification and payment of the invoice is not adhered to by the Council.
- (iii) The outstanding unverified amount of the invoice will then be verified within a new timescale and subsequently agreed in writing by the Council and the Service Provider.
- (iv) Any invoice that is not received in arrears every 28 days in accordance with the Schedule of Periods will be subject to liquidated damages on either of the following levels.
 - a) An invoice received by the PTU after 28 days but within 56 days of the final day of the financial period will have its net amount reduced by 10%. If the value of the invoice then becomes nil (or less), no payment will be made.
 - b) Any invoice received by the PTU after 56 days from the final day of the financial period will not be paid, without exception.

- (v) ***Payment will only be made for days on which the Services have been operated in accordance with the Service Specification and may be subject to adjustment in accordance with the various provisions of the terms and conditions of this Contract.***
- (vi) ***Whenever under the Contract any sum of money shall be recoverable from or payable by the Service Provider the same may be deducted from any sum then due to the Service Provider or which at any time thereafter may become due to the Service Provider under this or any other contract with the Council.***
- (vii) ***The Service Provider upon receiving written confirmation that the Council seeks to recover a sum of money from the Service Provider will ensure that future invoices submitted to the Council reflect this set off in the items listed within the invoice.***
- (viii) Once annually, the Council will make automatic adjustments to the Contract Price in accordance with the undermentioned formula. The annual price review date will be the 1st April of each calendar year.
- (ix) Contract Price adjustments will reflect percentage fluctuations in the “Monthly Digest of Statistics” published by the Central Statistical Office weighted in the proportions set out below:-

- 45% Average Earnings Index (Transport, Storage and Communication excluding bonuses) (18.15, JVVM).
- 35% Index of Producer Prices (Transport Equipment) (18.9, POKT).
- 20% Retail Prices Index – Motoring Expenditure (Petrol and Oil) (18.4, DOCU).

Contract Price adjustments will be calculated as at 1st April and implemented on the first financial period of any given financial year.

- (ix) In the event that there is undue delay in publication of the said indices, the Council will use the most recent statistics available. In the event that the said indices cease to be published, or the basis of compilation is so changed as to render the foregoing provisions inoperable, the Council shall substitute such other means of adjusting the Contract Price as appear to the Council to reasonably and fairly reflect the costs of operating the Services.