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**Norfolk** County Council  
at your service

**Conditions of Contract for the  
Provision of Passenger Transport  
Services  
August 2023**

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# 1 Schedule 1

## 1.1 Definitions and Interpretation

### 1.2 In these Conditions of Contract:

“Accredited Supplier”	means a supplier who has been accepted onto the Council’s Dynamic Purchasing System for Passenger Transport Services or otherwise approved by the Council or a sole trader with no employees but who has an identification badge issued by the Council
“Bulk Flow Contract”	means a Contract for the provision of seats on a local bus service or train service available to the general public and not otherwise operating under Contract to the Council;
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“Clients”	means the service users of the Council’s Children’s Services and Adult Services departments (or any successor organisations) referred to in the Contract Schedules and/or Specification
“Closed Contract”	means a Contract for the exclusive transport of Clients;
“Conditions of Contract”	means these Conditions of Contract for the Provision of Passenger Transport Services as amended or re-issued from time to time in accordance with Condition 6.4;
“Contract”	means the Invitation to Tender, Call for Competition, Conditions of Tender, Contract Schedules including Specification and clarifications, Tender Forms and Certificates, the Council’s Tender acceptance letter and any Contract award letter, these Conditions of Contract, and any Contract variation note issued by the Council to record agreed changes to the Contract;
“Contractor”	means the person, firm or limited company or other organisation whose Tender has been accepted by the Council to form this Contract and includes that person, firm or company’s servants, agents, successors and assignees as permitted by these Conditions of Contract;
“Contract Price”	means the respective sums of money set out by the Contractor in the Tender or such variation of these sums as may be provided for or agreed in accordance with these Conditions of Contract;
Contract Purpose	When shown on a Specification indicates the main type of passenger to be conveyed or type of service to be provided

“Contract Schedules”	means the schedules and Specification specifying details of the Service to be provided under this Contract, including timetables and other information submitted by the Contractor and supplied by the Council as part of the Tender;
“Controller”	takes the meaning given in DPA 2018;
"Cost Basis"	means a Local Bus Contract where the Contractor returns all fares revenue to the Council;
“Council”	means Norfolk County Council, and shall include any duly authorised representative;
“CPC”	means Certificate of Professional Competence (Driver CPC) in accordance with the requirements of EU Directive 2003/59;
“Data Loss Event”	means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Legislation”	means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data;
“Data Protection Officer”	means the meaning given in DPA 2018;
“Data Subject”	means the meaning given in DPA 2018;
“Data Subject Access Request”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“DPA 2018”	means Data Protection Act 2018;
“DPS”	means Dynamic Purchasing System in accordance regulation 34 of the Public Contract Regulations 2015;
“Driver”	means Vehicle driver;

“Electronic Ticket Machine”	means an electronic device designed to allow the issue of tickets and the recording of passengers, revenue, tickets issued and tickets and travel passes accepted on an individual journey and the transfer of this data to a computer;
“Establishment”	means any school, college, day centre or any other Council nominated site served by the Contract;
“FOIA”	means Freedom of Information Act 2000 and Environmental Information Regulations 2004;
“GDPR”	means UK General Data Protection Regulations as defined in section 3(10) (as supplemented by section 205(4)) of the DPA 2018;
“LED”	means Law Enforcement Directive (Directive (EU) 2016/680);
“Licence”	means a public service vehicle operator’s licence, a community bus permit, a small bus permit, a large bus permit, a hackney carriage licence, a private hire operator’s licence or any other licence or permit required by law in order to provide the Service in accordance with the Contract;
"Local Bus Contract"	means a Contract where the Service is registered as a local bus service;
“Meet and Greet”	means a meeting between staff to be used on the Contract, the Clients to be transported and their parent/guardian if appropriate at the Clients home address or other location stated in the Specification;
“Passenger Assistant”	means the owner or an employee of the Contractor travelling on a Vehicle to assist one or more passengers;
“Personal Data”	means the meaning given in DPA 2018;
“Personal Data Breach”	means the meaning given in DPA 2018;
“Processor”	means the meaning given in DPA 2018;
“Procurement Regulations”	means the Public Contracts Regulations 2006 and 2015 as applicable according to the date of the relevant procurement and any regulations that supersede these regulations;
“Protective Measures”	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it;

“Service”	means the service or services described in and in accordance with the Specification and Contract Schedules;
“Senior Officer”	A Council employee in the Travel and Transport team at scale K or above
“Specification”	means the description of the service relating to the Contract;
“Sub-processor”:	any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement;
"Subsidy Basis"	means a Local Bus Contract where the Contractor keeps all fare revenue;
“Tender”	means the tender or quotation or Call for Competition under a DPS submitted by the Contractor and accepted by the Council;
“Valid Invoice”	means a request for payment, which accurately reflects the Contract Price minus any deductions that have been notified to the Contractor;
“Vehicle”	means a public service vehicle, hackney carriage vehicle, private hire vehicle, vehicle operating under a permit, ferry or any other vehicle as detailed in the Contract Schedules and Specification or subsequent variation, being used by the Contractor in the performance of the Contract.

- 1.3 In these Conditions of Contract, unless the context otherwise requires:
- 1.4 references to Conditions and Schedules are references to Conditions of and Schedules to the Contract;
- 1.5 the headings are for convenience of reference only and shall not affect the construction or interpretation of the Contract;
- 1.6 references to any person include references to any human being, company, body corporate, association, joint venture, partnership, trust and any legal entity capable of suing and being sued;
- 1.7 references to any statute, enactment, order, statutory provision or statutory instrument or other similar instrument include a reference to that statute, statutory instrument together with all rules and regulations made under it or them all as from time to time amended, consolidated or re-enacted;
- 1.8 Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## Preliminaries

### 2 Licences

- 2.1 The Contractor shall at its own expense obtain, keep in force, and comply with any Licence necessary to provide the Service. Failure to comply may result in the Council terminating the Contract in accordance with Condition 35.4.
- 2.2 The Contractor shall notify the Council by e-mail to [ptprcourment@norfolk.gov.uk](mailto:ptprcourment@norfolk.gov.uk) within 48 hours of any change made to the Licence by the appropriate licensing body, including curtailment. The Contractor shall also notify the Council if it is called before the Traffic Commissioner or other regulatory body, within 48 hours of receiving such notification. The Council reserves the right to ask for further details of actions taken to rectify any issues highlighted by the licensing body.
- 2.3 Without prejudice to the Council's rights and remedies, including but not limited to its termination rights, the Council may suspend the Contract during any period when (i) the Contractor does not have the appropriate Licence, or (ii) a Licence previously granted has been suspended or has had conditions attached which prevent the operation of the Service in accordance with the Contract. The Contractor shall be liable to the Council for the additional cost incurred by the Council in providing a replacement service for four months during the period of such suspension or until the Contract is terminated under Condition 35.

### 3 Indemnity and insurance

- 3.1 The Contractor shall indemnify the Council against all damages, liability, loss or proceedings claimed or begun against the Council by any person (including any Client) arising out of or in connection with the Contract and the performance of it, except for death or personal injury resulting from negligence by the Council.
- 3.2 The Contractor shall take out and maintain, with reputable insurers acceptable to the Council, the following insurances, which shall indemnify both the Contractor and the Council:

<b>Insurance</b>	<b>Sum insured</b>
Road Traffic Act insurance	As required by law
Employer's liability insurance (If required by law)	The greater of that required by law and £10,000,000 for any incident, unlimited in any one year of insurance
Public liability insurance covering incidents both on and off the Vehicle	The greater of that required by law and £10,000,000 for any incident, unlimited in any one year of insurance



- 3.3 The Contractor shall ensure that its current Insurance documents listed above are uploaded to the Councils e-tendering system or provided by email if requested. In addition, the Contractor must ensure they have a valid copy of the relevant insurance documents of any Accredited Supplier they use as a subcontractor. Failure to provide proof of insurance within fourteen days of a request by the Council shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 3.4 The Contractor shall notify the Council immediately by e-mail to [ptprocurement@norfolk.gov.uk](mailto:ptprocurement@norfolk.gov.uk) if any if any insurance policies are cancelled or become inoperative. Failure to have the correct insurance at any time during the Contract may result in the Council terminating the Contract in accordance with Condition 35.4.
- 3.5 The Council may approach the Contractor's insurers to verify any information regarding insurance submitted to the Council and the Contractor shall authorise any such approach.
- 3.6 The Council shall not be liable for any damage to any Vehicle or other equipment used by the Contractor in the performance of the Contract whether that damage is caused by Clients or other passengers. The Council shall investigate complaints of damage to the Contractor's Vehicle by Clients and shall endeavour to assist identification of those responsible and to assist the Contractor in recovering their costs.

## **4 Vehicles**

- 4.1 The Contractor shall provide Vehicles that comply with the Contract Schedules and Specification and are suitable for the route and passengers specified, unless otherwise agreed in advance by the Council, and shall maintain them in a fit, serviceable and clean condition. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 4.2 All Vehicles shall have an effective heating and ventilation system and shall be protected against leakage of snow and water into the Vehicle.
- 4.3 Vehicles with more than 16 passenger seats shall have passenger doors directly controlled by the Driver from the driver's seat by electrical or mechanical means. Otherwise, the Contractor shall ensure that the doors are operated solely by the Driver or Passenger Assistant (if any).
- 4.4 Vehicles with more than 16 passenger seats shall be fitted with a large oblong mirror on the nearside of the Vehicle to enable the Driver whilst seated to have an un-obscured view of every nearside passenger entrance and exit.
- 4.5 Vehicles used in the performance of a Contract shall carry a first aid kit.

- 4.6 Vehicles used in the performance of a closed Contract shall carry a fire extinguisher/s that comply with British Standard Institute BS5423 and appropriate to the size and type of the Vehicle.
- 4.7 Vehicles used in the performance of a Local Bus Contract shall display (at the front of the Vehicle) the service number, destination and any via points agreed with the Council (via points must be displayed if there are multiple services along a route). The display shall have a minimum character height of 75mm and shall be clearly legible from a distance of 50m. Failure to display the correct service number and/or destination in legible form shall entitle the Council to impose penalty points in accordance with Condition 29.2. If vehicles are fitted with side and rear display equipment, then the service number and destination should be displayed if space allows.
- 4.8 Where required by the Council, Vehicles used in the performance of Closed Contracts shall display a sign showing the bus number of the journey being operated, as specified in the Specification. Failure to display the correct bus number in legible form shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 4.9 Where the use of Vehicles that comply with the Specifications published by the Disabled Persons Transport Advisory Committee or with the Public Service Vehicle Accessibility Regulations 2000 is specified in the Specification, such Vehicles shall be used in the performance of the Contract. If the Contractor is unable to use such Vehicles, it shall notify the Council by e-mail to [ptgnetwork@norfolk.gov.uk](mailto:ptgnetwork@norfolk.gov.uk) within one working day. Failure to operate Vehicles of the specified type, whether reported to the Council or not, shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 4.10 Where the minimum seating capacity of Vehicles is specified in the Specification, Vehicles of at least the specified capacity shall be used in the performance of the Contract, unless otherwise agreed in advance by the Council. If the Contractor is unable to use such Vehicles it shall notify the Council by e-mail to [ptgnetwork@norfolk.gov.uk](mailto:ptgnetwork@norfolk.gov.uk) within one working day. Failure to operate Vehicles of the specified or otherwise agreed capacity, whether notified to the Council or not, shall entitle the Council to impose penalty points in accordance with Condition 29.2
- 4.11 Vehicles used in the performance of Closed Contracts shall have a seat belt available for each seat as required by law unless otherwise specified . The type(s) of seat belt used shall comply with the relevant EU or BS standards and the type and fitting of the seat belt anchorage points shall comply with current Construction and Use Regulations. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 4.12 Where necessary for the performance of the Contract, the council may request the provision of restraints and/or other safety equipment, including child and booster seats for use on Contracts involving the transport of Clients. Where this is specified as part of the Contract, the Contractor shall

be responsible for the purchase and ongoing maintenance. Where additional equipment is required after the commencement of the Contract and the Council requires the Contractor to purchase equipment the Council will reimburse the costs provided the Contractor supplies a receipt of purchase. Any such equipment shall remain the property of the Council and shall be fitted and removed at the Council's request and to the Specification of the equipment supplier. Failure to return the equipment, where appropriate, may result in a charge to the Contractor.

- 4.13 Any passenger-lifts fitted to Vehicles shall comply with the LOLER (Lifting Operations and Lifting Equipment) Regulations 1998 and the PUWER (Provision and Use of Work Equipment) Regulations 1998, as amended from time to time.
- 4.14 Vehicles used on journeys that operate for the primary purpose of conveying children to school, whether or not these children are eligible pupils as defined by Section 509 of the Education Act 1996, shall display a yellow reflective school bus sign at the front and rear, as defined in The Road Vehicles Lighting (amendment) Regulations 1994). Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2. It is recommended that these signs are removed when the Vehicle is not conveying children.
- 4.15 Vehicles used on journeys operating under a closed or Bulk Flow Contract shall not display (internally or externally) or make available for distribution any inappropriate advertising or promotional material. This includes but is not limited to posters, vinyl's, Vehicle livery and electronic displays.
- 4.16 Vehicles used on the Contract will be required to comply with any low emission zones and/or congestion charging zone, that they enter.

## **5 Vehicle to Base Communication**

- 5.1 The Contractor shall ensure that every Driver has a means of Vehicle to base communication available at all times. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.

## **6 Health and Safety**

- 6.1 The Contractor shall fully comply with the requirements of all applicable health and safety legislation, including without limitation the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and any other Acts, Regulations and Approved Codes of Practice relating to the health and safety of employees and others who may be affected by the Contractor's work activities.
- 6.2 Where the Operator is required by law to have a health and safety policy, signed and dated by the partner or director with overall responsibility for health and safety in the organisation, the Contractor shall submit this to the

Council before the commencement of the first Contract awarded to the Contractor, and thereafter at such times as the Council may require.

- 6.3 For all Contracts , the Contractor shall carry out a risk assessment of the Contract route before submitting a bid for the Contract (unless the bid is required to be submitted within less 7 days and shall maintain it annually and prior to any variations to any Contract route, including stops, road layout, traffic calming features, low bridges, overhanging trees and other factors that may affect the safe operation of the service or of the types or sizes of Vehicle to be used in the performance of the Contract, and shall report any concerns to the Council prior to commencement of the service, Contract or route variation.
- 6.4 For Contracts where bids are required to be submitted within less than 7 days or Contract variations, the Contractor shall carry out a risk assessment of the Contract route and any variations to any Contract route no later than one week after the commencement of the Contract, and then maintain it annually. The Contractor shall report any concerns to the Council within one week of the start of Contract or not later than one week following any route variation.
- 6.5 The Contractor shall ensure that its employees are made aware of all hazards identified by any risk assessment and receive sufficient information and training to mitigate the associated risk, including those arising from the needs of the passengers, including boarding or alighting, or from passenger behaviour. Any risk assessment relating to the needs of Clients should be readily available to staff on board the Vehicle at all times during transport, either physically, electronically, or via contact to a staffed office.
- 6.6 The Contractor shall keep records of route risk assessments and shall make those records available for inspection by the Council in accordance with Conditions 8.2 and 8.3.
- 6.7 Failure to undertake a risk assessment or have a copy available for inspection may result in the Council imposing penalty points in accordance with Condition 29.2.

## **7 Data Protection and Access to Information**

- 7.1 The Parties acknowledge that for the purposes of the Data Protection Legislation the Council is the Controller and the Contractor is the Processor except for the production of Drivers' identification badges in which case Clause 7.16 applies. The only processing that the Contractor is authorised to do is listed in Schedule 7 by the Council and may not be determined by the Contractor.
- 7.2 The Contractor shall notify customers immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.

- 7.3 The Contractor shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council include;
- 7.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 7.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 7.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 7.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 7.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 7.4.1 subject to Clause 7.16 process that Personal Data only in accordance with Schedule 7 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Council before processing the Personal Data unless prohibited by Law;
  - 7.4.2 ensure Protective Measures are in place, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. The Council has the right to review these Protective Measures at any point during the term of the Contract.
  - 7.4.3 implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
    - the pseudonymisation and encryption of personal data;
    - the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
    - the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
    - a process for regularly testing, assessing and evaluating the effectiveness of the security measures.

7.4.4 shall ensure that:

- the Contractor's Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 7);
- steps are taken to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
  - are aware of and comply with the Contractor's duties under this clause;
  - are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
  - are informed of the confidential nature of the Personal Data and do not publish, disclose, or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
  - have undergone adequate training in the use, care, protection, and handling of Personal Data; and
  - do not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
    - the Council or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;
    - the Data Subject has enforceable rights and effective legal remedies;
    - the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
    - the Contractor complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;

- at the written discretion of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Contractor is required by law to retain the Personal Data.

- 7.5 Subject to clause 7.6 the contractor shall notify the Council immediately if it:
- 7.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 7.5.2 receives a request to rectify, block or erase any Personal Data;
  - 7.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 7.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - 7.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - 7.5.6 becomes aware of a Data Loss Event.
- 7.6 The Contractor's obligation to notify under clause 7.5 shall include the provision of further information to the Council in phases, as details become available.
- 7.7 Taking into account the nature of the processing, the Contractor shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 7.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing;
- 7.7.1 the Council with full details and copies of the complaint, communication or request;
  - 7.7.2 such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 7.7.3 the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 7.7.4 assistance as requested by the Council following any Data Loss Event;
  - 7.7.5 assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

- 7.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause.
- 7.9 The Contractor shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.
- 7.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation.
- 7.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:
- 7.11.1 notify the Council in writing of the intended Sub-processor and processing;
  - 7.11.2 obtain the written consent of the Council;
  - 7.11.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 7 such that they apply to the Sub-processor; and
  - 7.11.4 provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
- 7.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-Processor.
- 7.13 The Council may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).
- 7.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may, on no less than 30 Working Days' notice to the Contractor, amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 7.15 The Contractor shall indemnify the Council in respect of any actions, suits, claims, demands, losses, charges, costs and expenses, which the Council may suffer or incur as a result of or in connection with any loss of data or any breach of this clause 33 occurring in the course of the performance of the Service to the extent that any such loss is attributable to any act or omission of the Contractor or any Sub-processor or sub-contractor.
- 7.16 For the purpose of producing Drivers' identification badges, the Council shall be the Processor of the Personal Data of the Contractor that is held by the Council. The Council shall use such Personal Data for the purposes of administering the Contract including the preparation and printing of badges and other identification that is required by the Council to be displayed or be made available to Clients of the Contractor ("the Purpose").



The Contractor consents to the use by the Council of a third party to process the Personal Data for the Purpose. The third party that the Council shall use is Norse Eastern Ltd. The Contractor consents to the appointment of any other third party appointed by the Council for the Purpose.

The duration of the processing shall be from the date of this variation until the expiry of the Contract.

(d) The Council and any third party appointed for the Purpose shall securely destroy (in accordance with good industry practice) all Personal Data at the expiry of the Contract.

(e) The Personal Data that shall be processed for the Purpose shall be names of the individual and company contact and shall include photographs.

(f) If 7.16 applies then the Council shall comply with Clauses 7.4.2, 7.4.3 and 7.4.4 as if the word Contractor is replaced with Council.

## **8 Access to records**

8.1 The Contractor shall retain all records from which monthly passenger, revenue and mileage returns for the Contract required by the Council have been compiled, for a period of no less than five years from the date of each return.

8.2 The Contractor shall allow the Council and its authorised representative access to, and permission to take copies of, all records relevant to the Contract and its performance at the Contractor's premises at any reasonable time and shall give such explanations of records as may be required.

8.3 Records relevant to the Contract shall include, without limitation:

- Vehicle maintenance records
- Drivers' rosters and duties
- Records of checks made on driving licences
- Waybills
- Passenger and revenue data including Ticket Machine data and off bus tickets sales
- Health and Safety documents
- Complaint and suggestion records
- Route risk assessments
- Driver and Passenger Assistant training records
- For Contractors operating under an "O" licence, the current Operator Compliance Risk Score (OCRS)

- 8.4 The Contractor shall supply within five working days any information relevant to the Contract that the Council requires. Failure to comply may result in the Council imposing penalty points in accordance with Condition 29.2. Repeated failure to provide the information will be considered a persistent breach of Contract for the purposes of Condition 35.4.
- 8.5 For any Contract awarded for a local bus service running five days a week or more and having a Contract period of more than a year, the Contractor, if they do not already have a punctuality improvement partnership with the Council shall sign such an agreement within 2 months of the start of the Contract.

## **Local Bus Contracts**

### **9 Local Bus Services**

- 9.1 Where the Contract specifies that the Contract is to be operated as a Local Bus Contract, the Contractor shall submit registrations electronically using relevant and approved electronic files, unless otherwise agreed by the Council. The Contractor will vary the registration in accordance with any agreed variation to the Contract in accordance with relevant legislation. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 9.2 The Contractor shall be liable for all fees payable in respect of the initial registration of the Service and subsequent variations, except for fees in respect of a variation to the Service made solely as a result of a request by the Council for a variation to the Contract.
- 9.3 The Contractor shall indemnify the Council against all damages, liability, loss or proceedings claimed or begun against the Council by any person (including any Client) arising out of or in connection with the Contract and the performance of it, except for death or personal injury resulting from negligence by the Council. If a commercial local bus service is registered to operate in whole or in part over the same route as a Local Bus Contract, the Council may require the Service to be varied with a minimum notice period of four weeks unless mutually agreed otherwise, subject to approval by the Traffic Commissioner.
- 9.4 When a Contract registered as a Local Bus Contract expires, or is terminated by either party, the Contractor shall cancel the service registration unless it intends to continue operating the service on a commercial basis. The Council will not be liable for costs incurred if the Contractor fails to de-register the service within the timescales in force at the time.
- 9.5 All contracts let to operate as a Local Bus Service, other than those which are solely for the purpose of home to school transport, shall comply with the

requirements of the current Norfolk Enhanced Partnership Plan and Scheme see schedule 9.

## **10 Ticket Machines**

- 10.1 Unless agreed in writing by the Council, all vehicles used on Local Bus Contracts shall be equipped with an electronic ticket machine that can accept contactless payment and complies with ITSO, accepts Norfolk's smartcards, Norfolk ITSO products and ENCTS cards. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2
- 10.2 On closed contracts for Home to school transport where the Specification requires Vehicles with 17 or more seats the Contractor shall ensure the Vehicle is fitted with a ticket machine capable of reading and recording smart cards issued to Clients allocated to the Contract. The machine does not need to comply with ITSO and could be the app developed for Norfolk that can be used on any android device. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 10.3 Where it is specified that Vehicles used on a Contract are to be tracked as part of an Automatic Vehicle Location (AVL) system, the Contractor shall provide Electronic Ticket Machines that have a GPS tracking function and can successfully communicate with the Council's AVL system(s). The Contractor shall cover all annual maintenance, communications and licensing costs arising from the use of GPS enabled Electronic Ticket Machines and connection to the Council's AVL system.

## **11 Fares**

- 11.1 Where a Local Bus Contract has been awarded on a Cost Basis, the Contractor shall charge fares as specified in the Specification and any subsequent variation. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 11.2 The Contractor shall make a copy of the current fare table for the Service concerned available on all Vehicles used in the performance of Local Bus Contracts. This may take the form of a digital display visible to passengers on an Electronic Ticket Machine. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 11.3 Where a Local Bus Contract has been awarded on a Subsidy Basis, the Contractor shall notify the Council by e mail to [ptgnetwork@norfolk.gov.uk](mailto:ptgnetwork@norfolk.gov.uk) of the fares to be charged at least 14 days before the service commences and give the Council a minimum of 14 days' notice of any changes in the fares to be charged. Details of the fares charged on the service shall be available on the Contractor's website. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.

- 11.4 The Contractor shall consider offering discounted travel to holders of ENCTS passes at times when free travel is not allowed. On certain contracts where journeys depart from some or all stops prior to 0930 Monday to Friday, the Council may require the Contractor to allow free travel under which circumstances reimbursement shall be made in accordance with the scheme in place at the time.
- 11.5 Family and/or group tickets offering a discount on individual fares shall be made available.

## **12 Publicity and roadside infrastructure**

- 12.1 The Contractor shall display any notices, posters or leaflets made available by the Council on board Vehicles used in the performance of the Contract.
- 12.2 The Contractor shall make details including, but not limited to, timetables, tickets and fares available for all local bus service contracts on their website.
- 12.3 The Contractor shall comply with the requirements of the Printed Information agreement as detailed in Schedule 11.

## **Day to day operations**

### **13 Sole Hirer**

- 13.1 Except in the case of a Bulk Flow Contract the Council shall be the sole hirer of any Vehicle used in the performance of the Contract, unless otherwise stated in the Specification or agreed with the Council.

### **14 Vehicles**

- 14.1 The Contractor shall keep records of the maintenance of its Vehicles and shall make those records available for inspection by the Council in accordance with Conditions 8.2 and 8.3.
- 14.2 The Contractor shall make Vehicles used in the performance of the Contract available for inspection by the Council or other agency at any reasonable time at the Contractor's operating centre where the Vehicle concerned is normally based or at an alternative agreed location.
- 14.3 The Contractor shall not use in the performance of the Contract any Vehicle which is found to have a defect which could in the Council's opinion affect the safety of passengers. In such circumstances the Contractor shall provide at its own expense an alternative Vehicle until such time as the defect has been remedied to the Council's satisfaction or the Vehicle approved as roadworthy by Driver and Vehicle Standards Agency (DVSA), Taxi Licensing Authority, Police or other enforcement agency appropriate to the Vehicle. Without prejudice to any other remedies available to the Council use of a Vehicle which is not in a roadworthy condition shall entitle the Council to impose penalty points in accordance with Condition 29.2.

- 14.4 The contents of the first aid kit shall be checked at regular intervals to ensure supplies are maintained and are within the specified use by dates. The location of the first aid kit on the Vehicle must be clearly marked and must be accessible at all times. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 14.5 The serviceability of the fire extinguisher shall be checked at regular intervals and appropriate testing labels must be displayed. The location of the fire extinguisher on the Vehicle must be clearly marked and be accessible at all times. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 14.6 Where safe to do so and unless the Vehicle manufacturer advises to the contrary in writing the engine of any Vehicle stationary at any location for more than two minutes shall be turned off. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 14.7 Vehicles shall be kept in a clean and tidy state. Vehicles shall not show excessive dirt after allowance for the road conditions of any given day. Vehicle interiors shall be checked, and any rubbish removed after each journey. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2

## **15 Use of communications equipment when driving**

- 15.1 Unless designed for use when driving a Vehicle, communications equipment must not be operated by the Driver whilst the Vehicle is in motion or at any other prohibited time. Use of any communication equipment shall comply with all applicable statutory and regulatory requirements.

## **16 Drivers, Passenger Assistants and other Employees of the Contractor**

- 16.1 The Contractor and its employees shall, at all times, observe and comply with the law relating to road traffic, the Highway Code, licensing obligations and legislation and regulations relating to drivers' hours.
- 16.2 The Contractor shall provide a competent Driver of clean and smart appearance who can communicate clearly with Clients and passengers and is qualified to drive or operate the type of Vehicle used in the performance of the Contract. The Contractor shall ensure that all Drivers hold a current driving licence of the appropriate class for the Vehicle concerned by regular inspection of Drivers' licences and shall keep records of such checks. Failure to provide a Driver with the appropriate Licence may result in the Council terminating the Contract in accordance with Condition 35.4. Failure to provide an appropriate driver shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 16.3 Where the Specification require the provision of a Passenger Assistant, the Contractor shall ensure that a suitable and competent Passenger Assistant,

who can communicate clearly with Clients, is on the Vehicle at all times whilst Clients are being conveyed. The Passenger Assistant must sit in the rear of the Vehicle with Clients at all times unless otherwise specified. Failure to comply may result in the Council terminating the Contract in accordance with Condition 35.4.

- 16.4 On all closed Contracts the Driver and Passenger Assistant, if any, must have a current certificate in emergency aid unless otherwise specified.
- 16.5 Neither the Driver nor Passenger Assistant may work under the influence of alcohol or drugs at any time during the performance of the Contract Failure to comply shall entitle the Council to terminate the Contract in accordance with Condition 35.4
- 16.6 Drivers and Passenger Assistants will for all purposes be considered as employees, servants or agents of the Contractor and in no sense or case employees, servants or agents of the Council. Any reference in these Conditions to employment of Drivers or Passenger Assistants by the Contractor shall include self-employed and agency staff working for the Contractor.
- 16.7 The Council shall be entitled to object to the use by the Contractor of any person as Driver or Passenger Assistant in the performance of the Contract (provided that the Council shall not so object frivolously or vexatiously) as follows:-
  - 16.7.1 If upon assessment of information provided via the Disclosure and Barring Service it is felt that there is a safeguarding risk to those on contracted transport, then permission shall be denied to work on Council Contracts and the issue of a badge shall be refused.
  - 16.7.2 Where information comes to the attention of the Council that indicates an approved (current badge holder) Contractor's employee may pose a safeguarding risk while working on the Council's Contracts, they may be subject to the suspension or withdrawal of this permission. Upon receipt of the Council's notification (by email or telephone) that there is a safeguarding risk, the Contractor shall cease to use the relevant person(s) in the performance of the Contract with immediate effect and provide a suitable replacement to continue the Contract.
- 16.8 The Council reserves the right, without prejudice to the final outcome, to suspend the Contractor employee from all contracted duties while investigations take place. (Please refer to Schedule 3 for further information)
  - 16.8.1 If the Driver or Passenger Assistant has failed to comply with the requirement of 16.1 and it is considered by the Council that their continued use on the Contract or similar contracts would be inappropriate, the Council reserves the right, acting reasonably but without prejudice to any other rights or remedies available to it, to suspend the Driver or Passenger Assistant from carrying out duties as an employee of the Contractor under any of the Council's Contracts.

- 16.9 When the Contract involves the transport of Clients, including on a Bulk Flow Contract:
- 16.9.1 no Driver or Passenger Assistant shall be employed in the performance of the Contract until the Council has given approval in accordance with Schedule 3, unless otherwise agreed by a Senior Officer of the Council. Failure to comply shall entitle the Council to terminate the Contract in accordance with Condition 35.4;
  - 16.9.2 the Driver and Passenger Assistant (if any) shall wear an identification badge issued by the Council throughout the performance of the Contract. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2;
  - 16.9.3 identification badges issued by the Council shall remain the property of the Council and must be returned to the Council immediately upon request
  - 16.9.4 the Contractor shall ensure that the Driver and Passenger Assistant (if any) are aware of, and observe at all times, any health and safety requirements of the passengers as communicated to the Contractor by the Council or its agents, and comply with the applicable health and safety legislation and regulations including but not limited to Health and Safety at Work Act 1974 and the Manual Handling Operators Regulations 1992;
  - 16.9.5 Not used;
  - 16.9.6 the Contractor shall ensure that the Driver and Passenger Assistant (if any) will observe various guidelines as published on the Council's website.
- 16.10 The Contractor shall ensure safeguarding of all Clients, students, passengers and staff used in the performance of the Contract. Contractors shall ensure that they and their employees understand and follow the guidance issued in Schedule 3 and any subsequent revisions. Any Contractor or Contractor employee found not to be following this guidance will be deemed to have committed a breach of Contract and may be liable to immediate suspension from all contracted duties while an investigation is conducted.
- 16.11 Not used.
- 16.12 The Contractor shall notify the Council if any employee or anyone involved in operating or managing the Contract is arrested within 24 hours of becoming aware, or as soon as is practicable. Failure to do so would be deemed as a breach of Contract. Failure representing a serious safeguarding risk could lead to Contract termination under clause 35.4 and/or suspension of the operator from contracted services.

- 16.13 The Council may require staff used on the Contract or who are involved with the day-to-day management of contracts to attend additional, appropriate training. No additional payment will be made for attendance at such training.
- 16.14 The Contractor shall notify the Council of the names of employees involved in the day-to-day management of Drivers and Passenger Assistants. Any employee notified by the Contractor shall be subject to an enhanced Disclosure and Barring service check and be approved by the Council. Failure to comply may result in the Council terminating the Contract in accordance with Condition 35.4.
- 16.15 The Contractor shall ensure that Drivers and Passenger Assistants used on the Contract are suitable for transporting children and vulnerable adults. This shall include, but is not limited to, taking up references and a face-to-face interview. The Council reserves the right to see relevant records.

## **17 Carriage of Passengers**

- 17.1 On any Service operated under a Local Bus Contract, each passenger (or group of passengers where a family or other group fare is paid) must hold a valid ticket or pass for the journey being made except for children who travel free of charge on the basis of their age. Passengers not holding valid tickets issued in advance (for example return tickets, day tickets, season tickets or travel passes) shall be issued, at the time of boarding, with a ticket produced by a Council approved automatic machine and bearing the fare paid, the Contractor's name or identity and the date of issue. The Driver shall cancel return tickets at the start of the return journey and return them to the passenger. Passengers shall be advised that they are required to retain their ticket throughout the journey. Failure to issue tickets without good cause or the issue of tickets which do not bear the information specified above, shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 17.2 On Local Bus Contracts the number of passengers travelling, including concessionary pass holders must be recorded. If ticket machine failure prevents normal ticket issue and/or the recording of passes, the Contractor shall ensure that emergency tickets showing any fare paid and date are issued, and/or a written record is maintained of cash taken, concessionary passes accepted and the number of passengers travelling.
- 17.3 On any Service for which the Council or Contractor has issued travel passes to Clients, the Contractor shall ensure that all travel passes are checked on every journey as passengers enter the Vehicle. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 17.4 Clients of high school age or over, who are unable to present a valid travel pass for their journey on a Local Bus Service for which travel passes are issued, must pay the relevant fare. Such Clients who fail to pay the relevant fare or show a relevant pass should be refused entry to the Vehicle.



- 17.5 Clients of primary school age, who are unable to present a valid travel pass for their journey on a Vehicle for which travel passes are issued, are to be conveyed without charge provided that the Vehicle will not become overloaded as a result. The names of any such Clients shall be recorded by the Contractor and reported to the Council by e-mail to [ptgelibility@norfolk.gov.uk](mailto:ptgelibility@norfolk.gov.uk) within 5 working days. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 17.6 On any Service operated as a Bulk Flow Contract the Contractor shall ensure that sufficient seating capacity is provided to transport all Clients issued with travel passes as advised by the Council on the journeys to which they have been allocated as specified in the Specification. Where any such Clients are unable to travel as a result of inadequate capacity being provided, the Contractor shall be liable for the cost of alternative travel arrangements for the Clients concerned.
- 17.7 Where, on any Service operated as a Bulk Flow Contract, the growth of other patronage after the letting of the Contract means that there are insufficient seats consistently available for Clients issued with travel passes by the Council under the Contract, the Contractor shall take immediate steps to provide additional capacity at its own expense. Failure to do so shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 17.8 On any Service operated as a Closed Contract, the Contractor must ensure that only those persons authorised by the Council are permitted to travel (see Conditions 17.4 and 17.5). Should the Contractor become aware that any persons authorised to travel no longer require transport or has moved to a new address, they must inform the Council immediately by e-mail to [ptgelibility@norfolk.gov.uk](mailto:ptgelibility@norfolk.gov.uk). Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.

## **18 Conduct of Passengers and Supervision of Clients**

- 18.1 The Contractor and its employees shall take all reasonable steps to ensure the good conduct and safety of passengers travelling on its Vehicle.
- 18.2 Reasonable steps shall be limited to instructions by the Driver and Passenger Assistant (if any) that are necessary to ensure the safety of the Vehicle and the wellbeing of Clients and other passengers.
- 18.3 Where the Contract specifies a Vehicle shall be fitted with CCTV equipment on the Vehicle, the contractor must comply with Schedule 10. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 18.4 Drivers or Passenger Assistants must not record Clients or passengers using mobile phones or other recording devices not specified in the Contract, is not permitted under any circumstances. Failure to comply may result in the

Driver and/or Passenger assistant being suspended and termination of the Contract in accordance with Condition 35.

## **Bus Contracts: Day to day**

### **19 Stopping Places and Terminal Facilities**

- 19.1 Passengers shall be picked up and set down in accordance with the stopping arrangements and times specified in the Contract Specification. For any Contract operating as a local bus service, the service shall serve all recognised stops on the line of route unless otherwise stated in the Specification. In rural areas, where bus stops do not exist, the service shall operate on a hail and ride basis stopping where it is safe to do so. For demand responsive services, the stops shall be agreed with the passenger when a booking is made.
- 19.2 On any Service operated as a Closed Contract, only the stopping places specified in the Contract Specification are to be used. Drivers and Passenger Assistants shall comply with instructions given by the Council or their agents in respect of boarding and alighting arrangements for passengers at stopping places.
- 19.3 The Contractor shall be liable for any fees or charges in respect of the use of bus station or other terminal facilities used in the performance of the Contract, where such use is specified in the Specification.
- 19.4 Unless a timetable is specified, or otherwise stated in the Contract, arrival at establishments shall be between 15 and 5 minutes prior to the specified establishment's opening time and departure shall be between 5 and 15 minutes after the specified closing time. Journey times for passengers travelling to educational establishments shall not exceed 45 minutes for primary aged children and 75 minutes for all other passengers unless otherwise stated in the Contract or the length of journey means this is not practical under normal traffic conditions.

### **20 Ticket Machine data**

- 20.1 The Contractor shall submit the passenger ticket data gathered in the operation of a Local Bus Contract to the Council in an agreed format, together with its monthly invoice. The data submitted shall include as a minimum:
- 20.1.1 Revenue, including any concessionary fares by service number as specified in the Specification;
- 20.1.2 Passengers by service number as specified in the Specification.
- Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2
- 20.2 Not used.

- 20.3 The Contractor shall, on request by the Council, supply full data at the individual journey level as downloaded from Drivers' modules or similar data capture and storage devices for a period of up to 31 consecutive days within the preceding two months. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 20.4 Where the Council has specified that the use of Electronic Ticket Machines is not required on a Local Bus Contract, the Contractor shall ensure that passenger and revenue information is recorded in an agreed format. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 20.5 Drivers must ensure that, where an Electronic Ticket Machine is fitted, all passengers (issued with a smartcard) tap the smartcard on each journey. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2

## **Contingencies**

### **21 Operational Contingencies**

- 21.1 If the Contractor fails to operate any of the journeys specified in the Specification, the Council shall make a pro-rata reduction in the Contract Price with a minimum deduction as specified in Schedule 4. The Contractor shall also be liable for any additional costs involved in providing alternative provision.
- 21.2 Any journeys operating more than 1 minute early or more than 5 minutes late, without good cause, shall be deemed by the Council as not to have operated to timetable. Failure to operate to timetable shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 21.3 If the Contractor is unable to operate any part of the Contract, or a contracted journey will operate more than 15 minutes late, or outside of the agreed pick up/drop off times, the Contractor shall immediately inform by telephone all Schools, Colleges and Social Services establishments served by the journeys and the Council's Travel and Transport Team. Details of and reasons for any journeys not operated should be submitted with the Contractor's invoice. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.
- 21.4 The Contractor shall make every reasonable effort to operate the Service in the event of snow, ice or flood, or any other extraordinary circumstances. In the event of adverse weather Contractors shall check the Council's school closure webpage and any other pages as advised by the Council. If the school closes due to weather or other extraordinary circumstances, the Council shall pay the full Contract price for a period of up to one week, but not payment shall be made if more than 5 days notice has been given.

Details of and reasons for any journeys not operated shall be submitted with Contractor's invoice

- 21.5 If the Contractor assesses that it is not safe or practicable to operate the Service due to adverse weather conditions or other circumstances beyond the control of the Contractor, it shall inform the Council at the earliest opportunity. Where contractors decide themselves not to operate on grounds of safety, The Council may agree to pay a reduced Contract price dependent on the reasons given for non-operation Details of and reasons for any journeys not operated shall be submitted with the Contractor's invoice.
- 21.6 If for any unforeseeable reason, such as strike action, damage to buildings etc, a School, College or Social Services establishment is closed so that it becomes unnecessary to provide transport on any day when the Contract would normally operate, the Council shall pay the full Contract Price for a period of up to one week, but no payment shall be made if more than 5 days' notice has been given. Details of and reasons for any journeys not operated shall be submitted with the Contractor's invoice.
- 21.7 Should the unforeseen closure of a School, College or Social Services establishment exceed one week in length, the Council shall pay 50% of the Contract Price for a period of up to three calendar months. The Council may alternatively negotiate with the Contractor for the provision of transport to an alternative destination and offset the Contract Price against the price agreed for provision of alternative transport.

## **22 Health and Safety**

- 22.1 For all Contracts, should any factor arise following the commencement of the Contract that the Contractor considers may affect the safe operation of the Contract, the Contractor shall bring this to the immediate attention of the Council followed by a written report detailing the circumstances. The Council will consider this information and the Contractor shall not compromise the health and safety of its passengers or employees.
- 22.2 In the event of concerns arising regarding the safe operation of the Contract, (including allegations made against the Driver and/or Passenger Assistant) the Council, the Contractor and such other bodies as the Council deems appropriate shall agree and implement promptly such measures as the Council considers necessary to remedy the situation. Any measures should consider Schedule 3.

## **23 Accidents and Emergencies**

- 23.1 The Contractor shall notify the Council of any accident involving any Vehicle used in the performance of the Contract, any incident which in the opinion of the Contractor acting reasonably could have contributed to or caused personal injury or risk of personal injury and any injury involving employees or passengers on the Contract, within 1 hour of becoming aware of the

accident, incident or injury, followed up by a written report by letter or email within 2 working days. Notification should be in accordance with any instructions issued by the Council.

- 23.2 In the event of any accident or injury or risk of injury or accident the Driver shall follow any agreed guidelines or instructions given by the Council, Establishment or emergency services to deal with the situation and comply with all applicable procedures and regulations of the Contractor.
- 23.3 Clients must not be left unattended in a Vehicle except in an extreme emergency. Clients should remain on the Vehicle unless the Driver considers this to be unsafe and in the event of evacuation of Clients from a Vehicle in such circumstances the Driver shall ensure their safety at all times. Failure to comply shall entitle the Council to terminate the Contract in accordance with Condition 35.

## **24 Complaints and Suggestions**

- 24.1 The Contractor shall operate and promote on its website a complaints and suggestions procedure whereby all complaints and suggestions received in connection with the performance of the Contract are recorded and investigated. Contractors with fewer than 5 vehicles are not required to have a website unless the Contractor operates a Local Bus Contract. All complaints shall be dealt with to standards that at least meet (are no worse) than the Council's standards as published on its website.

## **25 Revenue Protection**

- 25.1 Where a Local Bus Contract has been awarded on a Cost Basis, the Contractor shall be responsible for any loss of revenue arising out of dishonesty or negligence by its employees, agents or contractors.

## **Payment, Monitoring, and Performance**

### **26 Payment**

- 26.1 The Council shall make payments to the Contractor in arrears on a calendar month basis, or other agreed period, either:
- following receipt by e-mail sent to [ptufinance@norfolk.gov.uk](mailto:ptufinance@norfolk.gov.uk) (unless otherwise agreed) of the Contractor's Valid Invoice, provided that the Council is satisfied that the Service charged for by the Contractor in that invoice has been carried out; or
  - by automatic payment, without invoice, based on the price stated in the Contract award letter or subsequent variation to the

Contract, taking into account all deductions that have been notified to the Contractor.

- 26.2 The Contractor's monthly invoice shall quote the Contract Number (stated on the Tender Acceptance letter, Contract Award letter or purchase order), the daily rate or rates of payment applicable, the number of days on which the Service operated during the period concerned and/or the number of Clients carried (if requested in the Contract Specification) and the total amount claimed.
- 26.3 A record of operation of the Service for the period concerned including details of any journeys not operated, in full or in part, any sub-contracting arrangements, and any other irregularities and their cause must support the Contractor's invoice.
- 26.4 Invoices for a Local Bus Contract shall be accompanied by revenue and passenger data for the period concerned, as specified in Condition 20.1.
- 26.5 The Council shall verify invoices and supporting information and raise any queries promptly and make payment of correct and undisputed invoices within 30 days of receipt. Failure by the Contractor to submit a correct invoice and all supporting information as specified in Conditions 26.2 to 26.4 may result in a delay in payment to the Contractor.
- 26.6 Where a Local Bus Contract has been awarded on a Cost Basis, the Council shall, without prejudice to Conditions 34.1 to 34.4, pay to the Contractor the Contract Price for each day on which the Service is operated, less the revenues accruing from passenger fares, season tickets, concessionary travel schemes and any other source. The Council may offset any surplus of revenue over costs in any one period against the deficit incurred during the remainder of the Council's financial year.
- 26.7 For any Contract other than a Local Bus Contract awarded on a Cost basis, the Council shall, without prejudice to Conditions 34.1 to 34.4, pay to the Contractor the Contract Price for each day on which the Service is operated.
- 26.8 The Council will make no payment to the Contractor in respect of the Contract other than the Contract Price, as varied from time to time in accordance with the Contract.
- 26.9 Any sub-contract awarded by the Contractor to support the provision of this Contract shall contain suitable provisions to ensure that payments to the sub-contractor will be made no later than the end of a period of 30 days from the date on which a relevant invoice is regarded as valid and undisputed; and any sub-contract awarded by the sub-contractor to support the provision of this Contract shall make the same provisions.
- 26.10 Payment for any Contract let as a Bulk Flow will be on the basis of a price per Client per day. If a price per day rather than a price per pupil was submitted, then the tendered daily price divided by the minimum seating capacity required shall be used to calculate a price per Client per day. The

Council shall make payment for the Contract based on the number of students allocated to the Contract on 24th of each month. For July the last day of term will be used if this is before the 24 July.

## **27 Not Used**

## **28 Monitoring and Surveys**

- 28.1 The Contractor shall allow persons authorised by the Council to conduct inspections, ticket/pass checks, surveys and passenger interviews and to distribute publicity on board Vehicles used in the performance of the Contract, and on any other journeys operated by the Contractor along a similar route. Any journeys made would be without charge.
- 28.2 The Contractor shall allow persons holding a valid authority provided by the Council to travel without charge on any journey provided under the Contract and, by prior agreement with the Contractor, on any related positioning or out of service journeys, subject to the maximum capacity of the Vehicle not being exceeded.
- 28.3 For contracts operating as Local Bus Services the Contractor shall allow staff from any Contractor appointed by the Council to undertake surveys regarding the use of English National Concessionary Passes to travel free of charge on presentation of appropriate authority to travel.

## **29 Performance**

- 29.1 The Contractor shall perform the Contract in full compliance with the Specification and these Conditions and without prejudice to this obligation the Council will monitor the performance of the Contract to ensure compliance.
- 29.2 Where the Contractor fails to comply with these Conditions, the Council may impose penalty points or make deductions from any payments due to the Contractor and/or terminate the Contract either with immediate effect or within a shorter time period than the notice period stated in the Specification. The level of deductions and penalty points will be subject to annual review by the Council to be effective from 1 April each year, and Schedule 4 may be revised accordingly.
- 29.3 The Council shall give 14 days' notice either by letter or e-mail of any intention to make a financial deduction from a payment due to the Contractor as a result of infringement of these Conditions and will give the Council's reasons for making the deduction.
- 29.4 Where the Contractor fails to perform the Service in whole or in part the Council may issue a written warning to the Contractor, and in the event of subsequent unreasonable failures to perform the Service the Council may terminate the Contract in accordance with Condition 35.4 .

- 29.5 The provisions of Condition 29.4 are without prejudice to the Council's rights, under Condition 35.4 of these Conditions, to terminate the Contract in the event of substantial or persistent breach of these Conditions.
- 29.6 Where a Contract has been terminated for poor performance, the Council reserves the right to review and suspend or remove an operator from future procurements including Call for Competitions made through a Dynamic Purchasing System.

## **Dispute Resolution**

### **30 Dispute Resolution**

- 30.1 The Council and the Contractor shall attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract promptly through negotiation between the respective senior officers and executives of the parties who have authority to settle the matter.
- 30.2 If the dispute or claim is not resolved through negotiation pursuant to Condition 30.1 the parties shall attempt in good faith to resolve it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation a party shall give notice in writing (ADR notice) to the other party to the dispute requesting mediation. A copy of the request should be sent to CEDR Solve. The mediation shall start no later than 28 days after the date of the ADR notice.
- 30.3 No party may commence any court proceedings in relation to any dispute arising out of this Contract until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

## **Term, Variations, Review of Contract Price, and Termination**

### **31 Duration of Contract**

- 31.1 The Service to be provided under the Contract shall start and finish on the dates specified in the Specification and Council's Contract award letter or until terminated under Condition 35 of these Conditions of Contract, whichever shall be the shorter.
- 31.2 By mutual consent and where allowed for in the Contract, a Contract finish date may be extended to the maximum end date stated on the original Contract. Any extension will be in accordance with the Procurement Regulations and the Council's Contract Standing Orders.



- 31.3 The Council may at its discretion opt to extend the Contract beyond any specified extension period in exceptional circumstances.

## **32 Variation of Contract**

- 32.1 The Contract including the price, may be modified in the following circumstances:

32.1.1 If the number of passengers using the Contract require a Vehicle or Vehicle(s) of a different capacity or Specification to be used.

32.1.2 To meet changes in passenger demand and/or requirements - this may include:

- a revised timetable with more or fewer journeys;
- providing transport on additional, fewer or different days; or
- providing a Vehicle of different capacity and/or Specification; or
- providing transport to/from alternative origins and destinations.

32.1.3 If the contract is operated as a local bus service on the basis of a minimum subsidy contract and the actual revenue from fares (in a 12 month period from the start date of the contract or any subsequent 12 month period) varies by more than 10% from the annual revenue (including concessionary fares) that was stated on the contract Specification or any subsequent variation, then the timetable and/or price may be varied to reflect the change in revenue, but if the Council believes that any fall in revenue is due to the actions of the Contractor the Council may reject any request for a price variation

32.1.4 If the route and/or timetable needs amending for any of the following reasons:

- due to a change in opening hours of any destination passengers are travelling to/from
  - to ensure punctuality and reliability are maintained,
  - to provide transport for the same purpose in the same geographical area
- A Passenger Assistant is required or no longer required or an additional Passenger Assistant(s) is required.
  - Circumstances which the Council could not have foreseen including but not limited to changes in levels of funding, legislation and Council policy.

- 32.2 Any variation that may be agreed between the parties shall be sent electronically to the Contractor by the Council's Authorised Officer (in accordance with Condition 37) specifying the contract reference, nature and terms of the change and the date(s) from which it is to be operative. If the Contractor does not agree with the variation, then it shall give notice to the Council within 7 working days of the date of issue. Otherwise, the variation shall be deemed to be effective from the date of issue of the variation or as otherwise agreed.
- 32.3 If the parties cannot reach agreement on a variation to the Contract requested by the Council acting reasonably, then the Council may terminate the Contract by giving two calendar months' notice or the relevant contract notice period if shorter, unless a shorter termination period is mutually agreed.
- 32.4 Without prejudice to 32.1 the Council may vary the Conditions of Contract always acting reasonably by issuing a letter of amendment or re-issuing the Conditions of Contract in their entirety. Where any amendment or re-issue would substantially affect the Contract, the Council shall first consult with the Contractor. Any amendment or re-issue shall be effective one month after notice has been given to the Contractor.
- 32.5 The timetable, route, Vehicle capacity and any school transport obligations are as known at the time of tendering. However, any of these elements are subject to change over the life of the Contract and the Specification will need to flex in line with these changing requirements, although the overall intention of the contract cannot be altered. Each operational change will be agreed between the Council and Contractor, but any variation in price must be in line with the original Contract award.

### **33 Assignment, Novation and Sub-Contracting**

- 33.1 Except as provided for in the Contract, the Contractor is prohibited from sub-contracting, transferring, novating or assigning, directly or indirectly, to any person or persons whatever, the whole or any part of the Contract or any benefit or interest therein without the prior written consent of the Council, except that a sole trader can be used as a subcontractor so long as the sole trader employees no staff and that they have an identification badge issued by the Council . In the event of such consent being granted any transfer, novation or assignment shall be subject to such conditions as the Council may think fit. Such consent if given shall not relieve the Contractor from any liability or obligation under this Contract.
- 33.2 If the Contractor wishes to sub-contract, novate or assign a Contract (or any part of it) it shall write to the Council with the details of the proposed sub-contractor or assignee and the Contract or part Contract to be assigned. The Council shall require the proposed party to confirm compliance with the requirements of the Contract by letter or e-mail, including acceptance of the Contract Price, before making a decision on the Contractor's request. Failure

to notify the Council shall entitle the Council to impose penalty points in accordance with Condition 29.2.

- 33.3 In the event of Vehicle breakdown, staff shortage or other emergency preventing use of its own Vehicle, staff or other resources the Contractor shall promptly make alternative arrangements at its own cost to ensure the Service is maintained in accordance with the Contract. Contractors shall ensure that any replacement Vehicles used are clearly signed so passengers are aware of the temporary change. Details of sub-contracting in these instances shall be set out on the Contractor's invoice. Sub-contracting shall otherwise be prohibited, except as outlined in Condition 33.2.
- 33.4 Where sub-contracting takes place, the Contractor shall remain fully responsible for ensuring that the Service is provided in accordance with the Contract.
- 33.5 In the event of Vehicle breakdown, staff shortage or other emergency preventing use of its own Vehicle, staff or other resources if the Contractor is unable to make alternative arrangements satisfactory to the Council to fulfil its obligations under the Contract then the Council may make alternative arrangements and deduct the full cost of providing the alternative arrangement plus administrative costs based on staff costs and time taken to put the arrangements in place from a future Contract payment . If no payments are due, then an invoice shall be raised.
- 33.6 If the Council in whole or in part is to become a unitary authority or merged with another local authority by Implemental Order under the Local Government and Involvement in Public Health Act 2007 or otherwise the Council shall be entitled to terminate the Contract in accordance with Conditions 35.1 or 35.2 or freely assign any or all of its rights or obligations thereunder.
- 33.7 Any sub-contractor used on the Contract must be a Council Accredited Supplier unless otherwise agreed by the Council.

## **34 Review of Contract Price**

- 34.1 The Council shall vary the Contract Price annually in March in accordance with the provisions of Condition 34.3, with any resulting price change applied from the following April.
- 34.2 Contracts that have been in operation for less than six months at 1 April and/or which have a Contract length of less than 12 months (excluding any possible extension) will not qualify for a price increase.
- 34.3 An annual price review shall be undertaken and determined by the Council, taking into account national movements in labour costs, fuel costs and the general movement of costs in the market. A determining factor of the price review will also be the availability of funding from within the Council.

- 34.4 Any decision in respect of the annual Contract price review and any subsequent variation in the price shall be at the Council's sole discretion.

## **35 Termination of Contract**

- 35.1 The Council or Contractor may terminate a Contract for Services in accordance with the termination period stated on the Contract Specification. Termination by the Contractor shall be made using the online form link in schedule 8. Where a Contractor terminates a Contract for a Local Bus service, they shall upload the Passenger and Revenue data for the last 12 months when submitting their notice. The Council may agree a shorter period if the Contractor agrees to pay any additional costs incurred by the Council for the provision of transport between the earlier termination date and the date required by the notice period. Any such costs will be deducted from the next payment due to the Contractor. If this is not possible an invoice will be raised. Where the Contractor terminates a Contract within two years of the Contract start, the Council need not accept any bid from the Contractor for any replacement Contract for the same or similar requirement the Council tenders within 6 months.
- 35.2 Where transport is no longer required for Clients under a Closed Contract, the Council may terminate the Contract by giving immediate notice to take effect at any time.
- 35.3 The Council may terminate the Contract and recover from the Contractor any resulting loss if the Contractor or any person employed by the Contractor, or acting on behalf of the Contractor whether or not with the Contractor's knowledge has (i) offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking any action in relation to the Contract or any other Contract with the Council; (ii) has committed any offence under the Bribery Act 2010 or the Prevention of Corruption Acts 1889 to 1916; or (iii) has given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 35.4 If the Contractor:
- commits a substantial breach of any of its obligations under the Contract or any other Contract with the Council (and if such breach is remediable) and fails to remedy such breach in the manner specified by the Council following 28 days' notice or such shorter period as the Council considers reasonable in the circumstances.
  - persistently and without reasonable cause, fails to operate the service in accordance with the Contract and to the entire satisfaction of the Council;

- becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal in respect of its company for voluntary arrangement for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;
- has an application made under the Insolvency Act 1986 to the Court for the appointment of an Administrative Receiver;
- has a Winding Up Order made, or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding up passed;
- has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
- has an Administrative Receiver, as defined in the Insolvency Act 1986, appointed;
- has possession taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in, or subject to, the floating charge;
- is in circumstances which entitle the Court or a creditor to appoint a Receiver, a Manager, or Administrative Receiver, or which entitle the Court to make a Winding Up Order; or
- does not have a valid registration for a Local Bus Service required to fulfil the Contract
- commits any action or is subject to any legal, legislative, or licensing processes that puts the Council at significant financial or reputational risk
- commits a material breach of Contract

then in any one or more of such circumstances the Council may, in its absolute discretion and without prejudice to any accrued rights or remedies under the Contract, terminate the Contract or such parts thereof as the Council may determine by giving notice having immediate effect or by giving such notice as the Council in their absolute discretion determine. Without limitation any breach of this or any other Contract with the Council, which puts passengers or Clients at risk, shall be regarded as a substantial breach of Contract and any such breach shall entitle the Council to terminate this Contract, whether the breach is remediable or not. Any such notice must give the reason for the termination.

35.5 If the Contract is terminated as provided in Conditions 35.3 or 35.4 the Council shall:

- cease to be under any obligation to make payment in respect of any period after the date of termination;
- cease to be under any obligation to make payment in respect of any period prior to the date of termination until the costs, loss and/or damage resulting from or arising out of the termination have been calculated and provided such calculation shows a sum or sums due to the Contractor;
- be entitled to exercise a lien over any of the materials, clothing, equipment, Vehicles or other goods belonging to the Contractor for any sum due hereunder or otherwise from the Contractor to the Council;
- be entitled to employ and pay other persons to provide the Service or any part thereof;
- be entitled to deduct from any sums which would have been due from the Council to the Contractor under this Contract or any other Contract or recover from the Contractor as a debt, any loss or damage to the Council resulting from or arising out of the termination. Such loss or damage shall include:-
  - the reasonable cost to the Council of the time spent by its officers in terminating the Contract and in making alternative arrangements for the provision of the Service or any part thereof;
  - the additional cost to the Council of any alternative arrangements provided under paragraph (f) above for a maximum period of four calendar months following the date on which the termination takes effect;

- when the total costs, loss and/or damage resulting from or arising out of the termination have been calculated and deducted from any sums which would but for this Condition 35 have been due to the Contractor, any balance shown as due to the Council shall be recoverable as a debt, or alternatively the Council shall pay to the Contractor any balance shown as due to the Contractor.

35.6 The rights of the Council under Condition 35 are in addition to and without prejudice to any other rights the Council may have against the Contractor. To avoid doubt, where termination occurs pursuant to sub-conditions 35.1 or 35.2 , the Council shall cease to be under any obligation to make payment in respect of any period after the date of termination but shall be entitled to recover from the Contractor any losses arising as a result of any antecedent breach of the Contract by the Contractor.

35.7 The Council may also terminate the Contract if

- the Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of the Public Contracts Regulations 2015;
- the Contractor has, at the time of Contract award, been subject to a conviction as prescribed by regulation 57(1), including as a result of the application of regulation 57(2) of the Public Contract Regulations 2015, and should therefore have been excluded from the procurement procedure; or
- the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive (both as defined in the Public Contracts Regulations 2015) that has been declared as such by the Court of Justice of the European Union pursuant to Article 258 of TFEU (as defined in the Public Contracts Regulations 2015)

## **36 TUPE**

36.1 The Contractor shall provide by e-mail to the Council, within 10 days of any request, the workforce information set out at Condition 36.2 below and any additional information reasonably required by the Council, in connection with any re-tender of the Service (or a tender for Services similar to those set out in this Contract) to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply. Failure to comply shall entitle the Council to impose penalty points in accordance with Condition 29.2.

36.2 The workforce information required is, in relation to the Contractor's employees used in the provision of the Service, the following:

- Job title
- Work location
- Age
- Gender
- Continuous service date (dd/mm/yyyy)
- Date employment started with existing employer
- Contractual weekly hours
- Regular overtime hours per week
- Salary (or hourly rate of pay)
- Payment interval
- Bonus payments
- Pay review method
- Frequency of pay reviews
- Agreed pay increases
- Next pay review date
- Any existing or future commitment to training that has a time-off or financial implication
- Car allowance (£ per year)
- Lease or company car details
- Any other allowances paid
- Any other benefits in kind
- Type of pension provision
- Current employer contribution rate
- Private health insurance
- Annual leave entitlement (excluding bank holidays)
- Bank holiday entitlement
- Mobility or flexibility clause in contract (if appropriate)
- contract end date (if fixed term contract or temporary contract)
- Maternity or paternity leave
- Sick leave entitlement
- Sick pay entitlement
- Notice
- Any collective agreements
- Employment status (for example, employee, self-employed, agency worker)
- % of working time dedicated to the provision of services under the Contract
- Company redundancy policy



## **Other matters**

### **37 Communications Regarding the Contract**

- 37.1 Any notice or other communication which is required to be given to the Council shall be deemed to be properly given if delivered at or sent by post to the Travel and Transport team, Norfolk County Council, County Hall, Norwich, NR1 2SG or by e-mail to ptg@norfolk.gov.uk or by such other method or to such other person(s) or address as the Council may from time to time specify. Contractors are responsible for informing the Council of any change of address, including email address.
- 37.2 Any notice or other communication which is required to be given to the Contractor shall be deemed to be properly given if delivered at or sent by post or e-mail to the relevant address given by the Contractor in the Tender for the Contract or such other person or address as the Contractor may from time to time specify.

### **38 Special Terms**

- 38.1 Any special conditions included in the Specification or annexed hereto shall form part of these Conditions of Contract and in the case of any conflict the special terms shall prevail over the Conditions set out in this document

### **39 Waiver**

- 39.1 Failure by the Council at any time to enforce the provisions of the Contract or to require performance strictly or otherwise by the Contractor of any provisions of the Contract or any failure or delay by the Contractor to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such provisions and shall not affect the validity of the Contract or any part thereof or the right of the Contractor to enforce any provision.

## **40 Severability**

40.1 If any provision of the Contract shall be held to be invalid, illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

## **41 Law**

41.1 This Contract shall be governed by and construed in all respects in accordance with the laws of England and Wales, and each party hereby submits to the jurisdiction of the English Courts.

## **42 Legislation**

42.1 The Contractor shall ensure that it, its employees and the Vehicles used in the performance of the Contract comply with all current relevant legislation and regulations (whether or not such legislation and regulations relate specifically to passenger transport).

42.2 The Council and the Contractor agree that they do not intend that any third party which may benefit from this Contract or any part of it shall have any rights of enforcement under the terms of the Contracts (Rights of Third Parties) Act 1999.

## **43 Equal Opportunities**

43.1 The Contractor shall comply with its responsibilities and duties under the Equalities Act 2010 and take all reasonable steps to secure the observance of these provisions by all employees, or agents of the Contractor and all sub-contractors employed in the delivery of the Contract.

## **44 Modern Slavery**

44.1 In performing its obligations under the Contract, the Contractor shall:

44.1.1 Comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015, the Employment Relations Act 1999 (Blacklists) Regulations 2010 and any other wage-related and tax related legislation and

44.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK

44.2 The Contractor shall permit the Council and its third-party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this Clause 44, to have access to and take copies of the Contractor's records and any other information and

to meet with the Contractor's personnel to audit the Contractor's compliance with its obligations under this Clause 44:

44.3 Breach of this Clause 44, shall be a material breach of the Contract

**End of Schedule 1**

**Schedule 2: Not Used**

**End of Schedule 2**

## **Schedule 3: Safeguarding**

### **Safeguarding Clients on Transport**

All Contractor staff working on and with the Council's contracts are in a position of responsibility and trust. The safeguarding of everybody involved in our contracted transport from risk is essential.

All staff approved to work on Council contracts and holding a valid identity badge will be sent a copy of the Council's leaflet "Safeguarding Children and adults" Alternatively [View the Safeguarding the children and adults you transport leaflet on the Passenger Transport Providers webpage](#). Being an approved identity badge holder, giving permission to work on the Council's Contracts, will mean that the individual agrees that they have read, understood and abide by the details and guidance given in the leaflet and in this Schedule 3 document and that they have viewed the on-line guidance videos as directed (see Appendix 1).

It is important that all Contractor staff understand what action the Council will take should there be a failure to follow these guidelines, or if an allegation is made that behaviour is inappropriate and not in accordance with these guidelines.

### **Approval to Work on the Council's Contracts**

Identity badges, giving approval to work on the Council's Contracts are awarded following assessment of information included on the disclosure certificate submitted by the Disclosure and Barring Service and successful completion of the Council's online safeguarding course. Any information on the certificate which suggests that there is a risk to the Council's Clients/passengers will result in the application to work on the Council's Contracts being refused. Applicants may make a written appeal against this refusal, but will be expected to give further relevant information and detail in order for the appeal to be considered. If the original decision is upheld and application is still refused, this will be the final decision of the Council.

The Council will keep all disclosures for 6 months and then destroy them in accordance with the Data Protection Act 1998 and/or the General Data Protection Regulations (Regulation (EU) 2016/679). However, the Council has the right to ask for updated disclosures or to see previous disclosure certificates as necessary.

Identity badges are issued for a 3-year period, a new check should be requested from the Disclosure and Barring Service prior to the end of the 3 year period to allow time for an

assessment to be made by the Council to determine continued approval to work on the Council's Contracts.

Should a complaint or allegation be made to the Council regarding Operator staff used on the Contract, or the Council considers the Contract is being operated in a way which compromises safeguarding and/or poses a risk, to Clients/passengers, then the Council may without prejudice suspend the Operator or staff with immediate effect from its contracts while the complaint or allegation is investigated. In certain serious cases, the Council may make a referral to the Local Authority Designated Officers (LADO) team within Children's Services, which may involve Police investigations. In these cases, any temporary suspension can be quite lengthy and the Council will not be liable for any costs incurred whilst any suspension is in place. The Contractor and their staff may be asked to attend confidential meetings with all relevant stakeholders as part of this investigation.

The Council may also alert the licensing authorities to the issue being investigated, but do not make any decisions on the licenses held. The Council only makes decisions on whether staff can work on their contracts.

**End of Schedule 3**

## **Appendix 1**

[View the Safeguarding leaflet on the Passenger Transport Providers webpage](#)

## Schedule 4: Penalties and Financial Deductions for failure to comply with the Conditions of Contract

Pursuant to Condition 29.2 of the Conditions of Contract if the Council deems at its sole discretion that the Contractor has failed to meet the required standards for lost mileage, quality of service or under any other obligation of this Contract, it may impose penalty points in accordance with this Schedule 4. Where, on renewal, the Contract is re-awarded to the same operator, any warnings which had been issued within the last six months of the previous Contract period may be taken into account if penalty points are issued on the new Contract.

For most matters, a penalty points system shall be applied which will trigger a decision to terminate the Contract under Condition 29.2 of the Conditions of Contract. If a total of 100 or more points are imposed in a rolling period of six months the Contract may be terminated.

The table below contains examples of incidents which may lead to Penalty Points being imposed. This is not a complete list and the Council reserves the right to identify other Service performance or similar failures of the Contract and assign appropriate default points to them.

### Penalty Points for Poor Performance

<b>For gross misconduct</b>	<u>Penalty</u>	<u>Condition</u>
Use of a Vehicle without the necessary Licence	Immediate termination	2.1
Failure to have the correct insurance	Immediate termination	3.4
Failure to provide seatbelts or specialist equipment in accordance with legislation or as otherwise specified in the Contract	Immediate termination	4.11
Failure to provide a Driver with the appropriate driving licence for the type of Vehicle	Immediate termination	16.2
Failure to provide a Passenger Assistant as specified in the Specification	Immediate termination	16.3



<b>For gross misconduct</b>	<u>Penalty</u>	<u>Condition</u>
Driver or Passenger Assistant smoking, or working under the influence of alcohol or drugs	Immediate termination	16.5
Use of an unauthorised Driver or Passenger Assistant	Immediate termination	16.9.1
Failure to advise of employees used in day-to-day management of Drivers and Passengers Assistants or use employees without Council approval	Immediate termination	16.14

<b>For breach of Contract</b>	<u>Deduction</u>	<u>Condition</u>
Failure to make alternative arrangements to undertake the Contract	Cost of providing replacement plus administration costs.	14.3
Failure to operate: for Contracts of Vehicles with less than 17 seats	50% of Contract Price (min. £25) + 50 points	21.1
for contracts of Vehicles with 17 or more seats	50% of Contract Price (min. £50) + 50 points	21.1
	<b>Penalty Points</b>	<b>Condition</b>
Failure to notify of sub-contracting arrangements	20	33.2
Failure to undertake appropriate risk assessments and/or have a copy available for inspection	10	6.7
Failure to upload insurance documents	10	3.3
Failure to use the correct Vehicle (as specified in the Specification or as otherwise agreed)	30	4.1 4.10
Issue of an 'S' marked Immediate Prohibition, issued by DVSA, whilst performing the Contract	75	14.3

<b>For breach of Contract</b>	<u>Deduction</u>	<u>Condition</u>
Failure to provide first aid kit or fire extinguisher(s), where applicable	20	14.4 14.5
Failure to display correct destination display, service number, bus number or reflective school bus sign	15	4.7 4.14
Use of a Vehicle without the specified capacity (unless otherwise agreed in advance)	40	4.10
Failure to turn off engine	25	14.6
Failure to provide a clean and tidy Vehicle	10	14.17
Failure to provide an appropriate Driver and/or Passenger Assistant	10	16.2
Failure of Driver or Passenger Assistant to wear Council-issued ID badge, where supplied	10	16.9.2
No Vehicle to Base communication equipment	20	5.1
Failure to operate to timetable	25	21.2

<b>For breach of Contract</b>	<u>Deduction</u>	<u>Condition</u>
Failure to inform the Council and establishment(s) of non or late operation	20	21.3
Failure to issue tickets, or issuing tickets without the correct information	20	17.1
Failure to check travel passes	20	17.3
Failure to provide sufficient seating capacity for Clients issued with Council travel passes on a Bulk Flow Contract	20	17.7
Accepting invalid passes or tickets, or carriage of unauthorised passengers	25	17.8
Failure to send the Council a copy of a local bus registration	50	9.1
Failure to charge the correct fare on Local Bus Contracts	10	11.1
Failure to provide a fare table to the Council or make one available on the Vehicle, for Local Bus Contracts	10	11.2
Failure to provide an Electronic Ticket Machine	20	10.1 10.2

<b>For breach of Contract</b>	<u>Deduction</u>	<u>Condition</u>
Failure to supply passenger or journey data, as requested by the Council and/or ensure smart cards are tapped on each journey	25	10.2 20.1 20.3 20.4 20.5
Failure to supply information when requested	10	8.4
Failure to provide TUPE information	30	36.1
Where CCTV is fitted, failure to comply with schedule 10	25	18.3

**End of Schedule 4**

**Schedule 5: Not used**

**Schedule 6: Not used**

## Schedule 7: Data Processing

This schedule applies to any Contract where the Council provides Personal data relating to passengers and/or their parents/guardians or careers

Description	Details
Subject matter of the processing	Information to enable delivery of transport to passengers allocated to the Contract.
Duration of the Processing	From the date of Contract award until the expiry of the Contract.
Nature and purposes of the processing	<p>Collecting and recording information in order to provide the service.</p> <p>Collection and recording of information: storage in secure files either in locked cabinets, or password secured and encrypted computer storage. Disclosure must be between vetted staff only or with council employees. Data retrieval must be undertaken by authorised personnel only.</p> <p>Data must be securely destroyed using good industry practice at the end of the Contract, unless otherwise notified by the council.</p> <p>Information processed may be used for the purposes of complying with regulatory requirements and necessary communication with the purchasing authority.</p>
Type of Personal Data	Name, preferred name, parents, school or college, gender, ethnicity, address, date of birth, images, phone number, email address, health information relevant to the service including GP surgery contact information and GP name, medical conditions that may require monitoring or attention or affect the service provided or the way in which the service is provided, information about the service provided during the Contract term, all other types of personal information.

Categories of Data Subject	Passengers and parents/guardians/carers of the passengers.
Plan for return and destruction of the data once the processing is complete Unless requirement under union or member state law to preserve that type of data	The Contractor shall permanently delete any data at the end of the Contract period.



## **Schedule 8: Form for Termination of Passenger Transport Services Contract**

If you wish to terminate a Contract, including one that you have had an award notification for but yet to operate you must give notice using the online [Contract termination form](#)

You will need to complete a separate form for each Contract you wish to terminate.

Until the termination date is confirmed by an Officer from the Council you must continue to provide the Contract as specified.

## **Schedule 9: Norfolk Enhanced Partnership Scheme**

[View the Enhanced partnership plan and scheme](#)



## **Schedule 10: Vehicles fitted with CCTV**

### **Certain contracts specify that CCTV must be fitted to Vehicles used on the contract**

#### **Purpose:**

Footage and audio from CCTV fitted in Vehicles will be potentially used for the following...

- Investigating any allegations made against transport staff and/or Clients
- To manage and assist the safe delivery of transport and the safety of all staff and passengers

#### **Potential benefits:**

- Offers reassurance, a safeguard and confidence for passengers, transport staff, parents/carers and schools and establishments.
- A proactive preventative measure that can be used to protect passengers and staff used on the Contract, along with being a deterrent to committing an offence.
- Reduction in damage and bad behaviour on Vehicles.
- A useful tool for investigating allegations compared to 'he said, she said, they said'
- A positive effect on insurance premiums
- Can be used for all journeys, not just Council contracted work - provided it complies with the relevant laws and guidance nationally and from licensing authorities .
- Reduction in costs related to allegations, including whilst investigations are pending.

#### **Requirements for Contractors**

- Where specified in the Contract, CCTV must be in operation on all contracted journeys whilst there is a Client on board.
- The CCTV footage must cover all passengers, the Driver, and Passenger Assistant(s) and record both audio and images. Audio must be controlled so that you can choose to use it only whilst performing contracted journeys.
- There must be a notice/sign in the Vehicle, clearly displayed, informing (and visible to all) occupants that CCTV is in operation and that they are being recorded for the above purposes.
- The CCTV recordings should be stored in a secure location and password protected for no longer than is reasonably necessary. It is suggested a minimum of 10 days, but no longer than 28 days, unless required for investigation purposes as indicated below.
- It is the Contractors' responsibility to install, maintain and operate equipment and ensure they only use the data in accordance with the Data Protection Act 1998 and General Data Processing Regulations 2018 (GDPR) and any subsequent revisions.
- CCTV footage will be forwarded to the Council on request by the contractor in the event of any incident where an investigation is required due to, safety on transport being compromised, safeguarding issues and/or where behaviour of Clients is having

a negative effect on transport delivery and other Clients , such as (and not limited to) vandalism, bad behaviour and poor or inappropriate language.

- CCTV footage will only be viewed by relevant Council, school, establishment and Contractor staff and other relevant authorities, and where appropriate parents /carers and Clients relative to the incident. It will not be viewed or used by anyone unconnected with the transport and the specific issues being investigated.
- (In certain circumstances, CCTV data may be disclosed to the Police or other authorities, should they request it. Disclosure to these third parties will only made in limited circumstances, such as Law enforcement agencies, prosecution agencies, relevant legal representatives, anyone who can assist in identification of victim, witness or perpetrator where it is demonstrated that it is in relation to a crime or prevention of crime).
- Any viewing of data must be in a restricted area, where only relevant people can view it and while investigation is ongoing, will be stored in a secure manner.
- If a Dash-cam is fitted it may not be used to record inside the Vehicle, this does not meet GDPR regulations and at no point can be classified as CCTV.
- Please note that the recording or capturing of images or film on mobile phones is not permitted under any circumstances.

### **Accessing your personal data**

- You can request copies of images or footage of yourself by making a subject access request. As CCTV footage is only kept for a very limited time, and you shouldn't delay in making your request.
- You will need to provide as much information as possible about when and where the images or images were captured (such as specific date, time and location). You will also need to submit a clear photograph of yourself with your request so that we can identify you when searching for the relevant images.

### **Considerations:**

- For organisations operating Hackney/private hire Vehicle's, you may require permission from your local licensing district before installing and using CCTV on your Vehicles
- Where the Council has asked for CCTV on contracts then the Council is classified as the Data Controller and the operator is the Data Processor.

# Schedule 11: Printed Information Agreement

## Provision and Maintenance of Printed Bus Timetables and Bus Stop Flags at Bus Stops in Norfolk

**Date of Agreement: 1 January 2017**

**Objective:** Share responsibility for the provision and maintenance of printed bus timetables (referred to in this document as a 'Timetable Poster') and bus stop flags at bus stops and transport interchanges across Norfolk.

This agreement sets out a new shared responsibility for the provision and maintenance of Timetable Posters and bus stop flags at bus stops and transport interchanges across Norfolk. This represents a new approach to presenting information in a printed format and is in response to reductions in County Council budgets / resource and is based on discussions with stakeholders and interested parties.

### **Bus stops where there is a single bus operator**

The following applies where there is a single bus operator serving a bus stop:

- The relevant bus operator may provide and maintain their own Timetable Poster at that particular stop. Where an operator wishes to do this, we would recommend they make note of the following requirements:
  - The Timetable Poster should include as a minimum, the following:
    - Clear header with the bus stop name clearly shown e.g., Bus Station Stand A
    - Bus operator name / logo
    - Contact details for the operator (phone, email, twitter [if appropriate])
    - Departure times from the stop with the ability to clearly identify those that relate to weekdays, weekends and Bank Holidays
    - Appropriate use of alphabetic codes and footnotes to highlight any individual journeys that run on specific days or circumstances, such as School days only
    - Minimum font size of 12 font
    - Traveline logo including telephone number and website address
    - Validity date of timetable e.g. *Valid from 5 January 2017.*
    - Departures that meet the above criteria for any minor bus services e.g. market day, that also operate from the stop
    - The bus operator may use an existing timetable case if one is already erected at the stop. If no timetable case is already erected, or the existing case is the wrong size or badly damaged, the bus operator will be responsible for providing and maintaining a new or replacement timetable case. Existing case sizes in use are the following; 1017mm x 635mm (DR), 800mm x 590mm, 740mm x 285mm, 740mm x 210mm (dual case) and 420mm x 297mm (A3)

- Consideration should be given to the provision of a QR code to enable access to online travel information
  - Consideration should be given to the provision of a route diagram showing the line of route
  - Consideration should be given to the use of non-fade inks and paper that will be suited to damp and wet conditions
  - The bus operator will be responsible for covering the costs of producing, printing and erecting the Timetable Poster, as well as replacing the Timetable Poster should the timetable change. Should the bus service cease to operate, the bus operator will be responsible for removing the Timetable Poster within a **maximum of 1 month** following the cessation of operation
  - Bus operators will be required to provide an update at least every **3 months** to the County Council in terms of which stops they are providing a Timetable Poster. The County Council will use this information to maintain an up-to-date database of all bus stops across Norfolk where a Timetable Poster is displayed. This can be requested from the County Council at any time.
- The relevant bus operator may choose to commission Norfolk County Council (NCC) to produce a Timetable Poster on their behalf at that particular stop. Where an operator wishes to do this, the following would apply:
    - NCC will be responsible for arranging all works necessary to produce and print the Timetable Poster, as well as getting the Timetable Poster to the bus operator
    - The bus operator would be responsible for erecting the Timetable Poster at the bus stop **within two weeks** of the Timetable Posters being received by the bus operator
    - For any subsequent changes in timetable, agreement will be sought from the bus operator as to whether the Timetable Poster is updated and replaced using the same arrangement. Should the bus operator decide to not update and replace the Timetable Poster, the bus operator will be responsible for removing the Timetable Poster within a **maximum of 1 month** following a relevant timetable change
    - Should the bus service cease to operate, the bus operator will be responsible for removing the Timetable Poster within a **maximum of 1 month** following the cessation of the service
    - The Timetable Poster would be to the same design as currently in place and NCC would seek full cost recovery. The unit cost per Timetable Poster is **£13.25-15.25** depending on whether a route map is displayed or not. This will be agreed with the bus operator on a stop-by-stop basis
    - The full cost of works that would be payable by the bus operator will be agreed in writing (via email) advance before any works are carried out
    - NCC will invoice the bus operator for the agreed cost of the works **monthly** in arrears
  - If a bus operator does not want to provide a Timetable Poster at a stop where they are the sole operator and does not want to commission NCC to a Timetable Poster, NCC may, at its discretion, provide a Timetable Poster. Where this is the case, the following will apply:
    - Information is produced and printed by NCC at no cost to bus operators
    - The bus operator will be asked to erect the Timetable Poster at the stop
    - Should the bus operator decide at a later date that they want to provide their own Timetable Poster at the stop, the operator will be able to do this and the arrangement outlined above would come into force

## **Bus stops where there are two operators**

The following applies where there are two bus operators serving a bus stop:

- Where there are two operators serving a bus stop, each bus operator may provide and maintain their own Timetable Poster at that particular stop subject to the requirements outlined above under 'Bus stops where there is a single bus operator'. However, the following must be noted:
  - No more than one timetable case per operator can be used
  - Should there be a single timetable case available, the first bus operator to confirm to NCC that they wish to provide a Timetable Poster at that stop will be given first refusal on use of the case. Should they not wish to use the case, it will be offered to the second bus operator (assuming a second operator wants to also provide a Timetable Poster)
  - Bus operators will be required to provide an update at least every **3 months** to the County Council in terms of which stops they are providing a Timetable Poster. The County Council will use this information to maintain an up-to-date database of all bus stops across Norfolk where a Timetable Poster is displayed. This can be requested from the County Council at any time.
  
- There are the following exceptions where bus operators will not be able to provide their own Timetable Poster at bus stops where there are two bus operators:
  - Transport/bus interchanges:
    - Norwich Bus Station
    - Norwich Rail Station
    - Norwich City Centre [Castle Meadow/Red Lion Street/St Stephens Street/Prince of Wales Road/Rampant Horse Street/Tombland/Anglia Square]
    - Market Gates (Great Yarmouth)
    - Hospital sites
    - King's Lynn Bus Station
    - Cromer Bus Station
    - Market Town centres [such as Wymondham/Attleborough, etc])
  - A full list of these sites will be made available by NCC and updated regularly at a frequency no less than every 3 months
  - At these sites, NCC will fund the production and printing of a Timetable Poster at the bus stops. However, the following should be noted:
    - NCC will only fund the production and printing of a Timetable Poster at the above stops for up to **4 timetable changes in a financial year (1 April – 31 March)**. A single timetable change in this instance will represent an agreed window of time of **no more than 2 weeks** per change. If there are multiple change dates within that window, a Timetable Poster will be produced for as late in the window as possible. These timetable change windows will be jointly agreed for each financial year no later than the **end of January**.
    - If a bus operator changes a service outside of the agreed service change date windows, the bus operator will be responsible for funding the costs of NCC updating the Timetable Poster at all affected stops listed above. NCC would seek full cost recovery. The full cost of works that would be payable by the bus operator will be agreed in writing (via email) advance before any works are

carried out. NCC will invoice the bus operator for the agreed cost of the works **monthly** in arrears

### **Bus stops where there are more than two bus operators**

The following applies where there are more than two bus operators serving a bus stop:

- Bus operators will not be able to provide their own Timetable Poster at these stops
- This applies to stops that are in addition to those covered under 'Bus stops where there are two operators'
- At the discretion of NCC, a Timetable Poster will be produced and printed by NCC at no cost to bus operators. The stops chosen for a Timetable Poster will be agreed with bus operators
- NCC will only fund the production and printing of a Timetable Poster at the above stops for up to **4 timetable changes in a financial year (1 April – 31 March)**. A single timetable change in this instance will represent an agreed window of time of no more than **2 weeks per change**. If there are multiple change dates within that window, a Timetable Poster will be produced for as late in the window as possible. These timetable change windows will be jointly agreed for each financial year.
- If a bus operator changes a service outside of the agreed service change date windows, the bus operator will be responsible for funding the costs of NCC updating the Timetable Poster at all affected stops listed above. NCC would seek full cost recovery. The full cost of works that would be payable by the bus operator will be agreed in writing (via email) advance before any works are carried out. NCC will invoice the bus operator for the agreed cost of the works **monthly** in arrears
- Bus operators will be asked to assist with the erection of a Timetable Poster at the stop

### **Bus stop flags**

- All bus stop flags in Norfolk will be to an NCC design without individual operator branding
- Any bus operator branded flags will be removed and replaced by NCC
- A funding programme to achieve this aspiration will be delivered by NCC covering the next 5 years
  - NCC will fund the production and erection of bus stop flags
- Bus operators are asked to report any damaged or missing flags to NCC