

**CONDITIONS OF CONTRACT FOR SUBSIDISED  
LOCAL SERVICES, SCHOOL TRANSPORT  
CONTRACTS  
AND DEMAND RESPONSIVE TRANSPORT SERVICES**

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## STRATHCLYDE PARTNERSHIP for TRANSPORT

### CONDITIONS OF CONTRACT FOR SUBSIDISED LOCAL SERVICES, SCHOOL TRANSPORT CONTRACTS AND DEMAND RESPONSIVE TRANSPORT SERVICES

#### PART ONE

#### INTRODUCTION

In terms of the Transport (Scotland) Act 2005, Strathclyde Partnership for Transport (“SPT”) has the power to enter into contracts with any competent person for the provision of public passenger transport services (“the Contracts”). The parties to any contract shall be SPT and the relevant transport operator (“the Operator”).

SPT also acts as an agent for both public and private sector clients for the purpose of arranging transport contracts on their behalf. In these circumstances, the parties to any contract shall be the relevant council or other client of SPT and the Operator. For such contracts, reference in these Conditions of Contract to the powers, discretion or rights of SPT shall be regarded as the powers, discretion or rights of the council or other client of SPT. The Contract Specification and Letter of Award of Contract will identify the parties to the Contract. Unless otherwise specified, these Conditions of Contract shall apply to all contracts for subsidised local services, school transport services and demand responsive transport services.

The Operator must bring these Conditions of Contract to the attention of all relevant employees, ensure that they are aware of all of their obligations and, for the avoidance of doubt, will be responsible for all of the actions and omissions of such employees.

#### **1. CONTRACT SPECIFICATION**

(a) The Operator shall perform the Contract:

(i) In accordance with the timetable, the stopping places and route details as specified or as may be agreed with the Operator.

and/or

(ii) In accordance with the daily worksheet or passenger schedule which will be transmitted to the Operator by email or by other appropriate means of communication each day and updated as required.

The Operator shall not make any change of any kind to the Contract without obtaining the prior written or email approval of SPT.

(b) (i) Where, due to unforeseen circumstances (e.g. emergency road-works) it is impossible to give prior notice of change, the Operator shall follow the Contract Specification as closely as is practicable and immediately advise SPT’s Bus Services Section in such reasonable detail as SPT may require. The Operator shall then comply with any instructions given by SPT.

- (ii) Should the Operator become aware of any circumstances arising or potentially arising eg road-works, road closures, congestion, parking, traffic signalling issues or difficulties with other road users which could adversely impact upon the Operator's ability to perform the Contract in the manner set out in 1(a) above, the Operator must immediately advise SPT's Bus Services Section in such reasonable detail as SPT may require. The Operator shall then comply with any instructions given by SPT.
- (c) At any time during the period of the Contract, SPT reserves the right to modify any aspect of the Contract. SPT further reserves the right to modify the Contract price in a manner consistent with any modification to the Contract. The Operator shall comply with any modification specified by SPT within such time-scale as is required by SPT. Such modifications could include the termination of the Contract, without liability to SPT, if it is judged in the opinion of SPT that the Service provided under the Contract no longer appropriately meets or will no longer appropriately meet the needs of the area or the needs of SPT or its client. In such circumstances, SPT may terminate the Contract by giving such written notice to the Operator as may be reasonably practicable in the circumstances. SPT may also suspend the operation of a Contract if the lack of justification for the Contract is believed to be for a temporary period.

## **2 STATUTORY REQUIREMENTS**

- (a) The Operator, and all vehicles, maintenance facilities and drivers used in the performance of this Contract, shall conform fully with all appropriate statutory and regulatory requirements and particularly those of the Road Traffic and Transport Acts. In this respect, the Operator will be held to have satisfied himself/herself in respect of what documentation by way of certificates, licences and records of inspection and maintenance will be required in relation to the carrying out of the Contract and must display these to SPT as and when required. The Operator shall disclose such information and documentation relating to legislative and regulatory compliance as is required by SPT to it upon request.
- (b) Unless otherwise determined by SPT, this and any other Contract which the Operator has with SPT and/or any third party on whose behalf SPT acts as agent shall be terminated and of no force and effect from the commencement of any period that:
  - (i) the Operator does not have a relevant Operator's licence or if any licence previously granted has been suspended for any reason;
  - (ii) when required, the Operator does not have the relevant Local Service registration as required in terms of the Transport Act 1985 or any Regulation made in terms thereof;
  - (iii) the Operator does not have valid and satisfactory insurance to cover the operation of the Contract;
  - (iv) the Operator does not have a valid Test Certificate, appropriate for the class of vehicle, issued by the Department for Transport for every vehicle used on the Contract;

- (v) the Operator does not have valid Vehicle Excise Duty for every vehicle used on the Contract;
  - (vi) any driver does not have a valid driving licence appropriate for the class of vehicle required for use on the Contract; or
  - (vii) SPT reasonably considers the Operator may have otherwise acted in an illegal manner.
- (c) Where it is the opinion of SPT that an Operator has breached the terms of this Clause 2, SPT may, at its discretion, suspend any or all Contracts to allow further investigation or may terminate the Contract or Contracts.
- (d) Where a Contract or Contracts have been suspended or any Contract or Contracts have been terminated as a result of action taken under sub-clause 2(c), SPT may arrange for another Operator to fulfil the Contract or Contracts and any and all increased or additional costs incurred or to be incurred by SPT shall be charged to the defaulting Operator and recovered either by deduction from any payments due to be made to the Operator by SPT in terms of this or any other contract or such other appropriate means as may be necessary.

### 3. VEHICLES AND DRIVERS

- (a) The vehicles used on Contracts must comply with the Contract Specification and these Conditions of Contract. The Operator will not operate a Contract with any non-compliant vehicles.

If the Contract specifies the use of vehicles to be leased by SPT, the Operator shall use only those vehicles in compliance with the terms of these Conditions of Contract and the lease agreement.

Should a compliant vehicle not be available through unforeseeable circumstances, the Contract may be operated by another vehicle of the same taxation class from the Operator's fleet. The Operator shall ensure that any replacement vehicle complies to the greatest extent possible with the Contract Specification. Should such an event occur, the Operator must immediately advise SPT's Bus Services Section by email to [Bus.Operations@spt.co.uk](mailto:Bus.Operations@spt.co.uk). Should SPT's offices be closed, the Operator must advise SPT's Bus Services Section by no later than 9 am on its next working day. For the avoidance of doubt, a replacement vehicle that is not fully compliant **MUST NOT** be used to allow for any scheduled test, maintenance or repair of the compliant vehicle.

- (b) All vehicles used in the performance of this and any other Contract will be licensed, equipped, insured and maintained as required by statute and inspected in compliance with the terms of any undertaking given to the Commissioner for the Scottish Traffic Area (The Commissioner), other licensing authority or SPT, details of which will be made available to SPT upon request. Notwithstanding the foregoing, inspection and maintenance records for all vehicles shall be completed and maintained in such a manner as may be prescribed by SPT and provided to SPT on demand.

- (c) The Operator shall ensure that all vehicles are subject to a daily “pre-service inspection” and that a written or otherwise appropriately recorded “nil-defect” reporting system is adhered to. Any failure to strictly adhere to this requirement may result in the suspension or termination of this and any other Contract.
- (d) All vehicles will be driven by a competent driver who will be licensed, insured and who possesses all necessary certification as required by statute or otherwise, who will ensure the full safety of passengers, pedestrians and other road users and who will also, when the Contract so requires, have been confirmed in writing by SPT as being “suitable” following appropriate checks having been carried out via Disclosure Scotland.
- (e) The Operator shall ensure that no driver, attendant or other employee carries out any duties relating to this or any other Contract while under the influence of alcohol or drugs or having consumed alcohol or drugs. Drivers and attendants must also inform the Operator of all prescribed and “over-the-counter” medication taken or any health condition which may affect their ability to work safely.  
The Operator shall have appropriate policies and procedures in place which all personnel must adhere to in this regard and shall ensure that all personnel used on this and any other Contract are medically fit and capable in all respects for the role and their eyesight meets all required standards.
- (f) The Operator shall, with or without prior notification, allow SPT’s representatives to enter and inspect the Operator’s vehicles used or to be used to operate the Contract. Such inspections may take place at an appropriate roadside location or at the Operator’s premises. SPT may also inspect the Operator’s maintenance facilities or arrangements and have access to the inspection and maintenance records kept for the said vehicles. For the avoidance of doubt, SPT reserves the right to suspend or terminate this or any other Contract should any such inspection result in a finding of material failings in respect of those vehicles, facilities or records or if access to the vehicles, maintenance facilities or arrangements and/or records is refused.
- (g) If it is necessary to involve a third party to ensure that SPT’s representatives can carry out a satisfactory inspection of the Operator’s vehicles, maintenance facilities or arrangements or any aspect of the Contract, this will be arranged by the Operator to meet SPT’s requirements at no additional cost to SPT. Alternatively, appropriate arrangements may be made directly by SPT with all associated costs being for the account of the Operator. To allow examination of the underside of vehicles, a pit, vehicle hoist or ramp will be necessary. For the avoidance of doubt, portable drive-on ramps will not be acceptable.
- (h) All vehicles must comply with any weight, height, width, length and seated passenger capacity restrictions applicable to the Contract.

- (i)** The overall livery and standard of presentation of vehicles operating on the Contract shall be of a design and standard acceptable to SPT. All vehicles operating on a particular Contract must, within reason, be in the same livery. SPT reserves the right to require the Operator to remove any advertising or publicity material that SPT in its sole discretion deems to be unsuitable. If SPT livery is applied, that vehicle must only be used for carrying out this Contract and livery must be removed at the cost of the Operator immediately upon termination for any reason.
- (j)** The name of the Operator must be clearly displayed on all vehicles operating on the Contract.
- (k)** The Operator must ensure that all vehicles are clean and damage free inside and out. The Operator must sweep vehicles daily and wash them regularly. The Operator will provide details of its cleaning and washing procedures to SPT on request and shall comply with directions given in order to improve the standard of same.
- (l)** All vehicles must be properly heated and ventilated at all times.
- (m)** All vehicle logos and notices supplied by SPT must be clearly displayed in the appropriate manner, maintained in good condition and returned to SPT on request.
- (n)** The destination and service number (allocated by SPT) must be clearly displayed on the front of each vehicle in such a way as to be clearly visible from at least fifty yards under all but the most severe weather conditions. If enhanced facilities such as electronic destination equipment, signage illumination, or side and rear displays are available on the vehicle, these must be maintained in working order and in use at all times.
- (o)** For all registered local services, the Operator shall have available for inspection the service timetable and fare-table in all vehicles for the route or routes on which they operate. Any timetable modifications must be agreed in writing by SPT and all details must be published at least twenty one days prior to implementation.
- (p)** All vehicles with 18 passenger seats or more must be fitted with power operated doors controlled by the driver from his cab. All vehicles operating on demand responsive transport contracts must be fitted with power operated doors controlled by the driver from his cab, regardless of the number of passenger seats.
- (q)** All vehicles with 9 passenger seats or more must be fitted with a 'door open warning device' maintained in a fully operational condition for each and every entrance/exit door (including emergency exit doors) situated rearward of the driver's seat. This warning device must alert the driver to a door being opened and shall not deactivate until such time as the exit has been closed. The device must give the driver a visual and/or audible warning. A device that relies solely upon activating the standard interior light to the vehicle will not be satisfactory to SPT. The driver of the vehicle must be familiar with and be able to demonstrate the operation of the warning device.

Vehicles found with warning devices not fitted or inoperative, will be subject to immediate prohibition from use on all Contracts and this may result in the termination of the Contract or Contracts.

- (r) Should the Contract specify that the service is to participate in the regional Real Time Passenger Information system, all vehicles used on that Contract must, at all times have installed on them such fully operational equipment as may be specified from time to time. All drivers must be fully trained in the operation of such equipment and enter all data required for each journey. The Operator shall, if so required by SPT, enter into a Data Sharing Agreement as specified by SPT.
- (s) Subject to meeting the above requirements, Operators may choose their own vehicles for the Contract, provided that they conform to the detailed requirements specified. Any vehicle which does not so comply must not be used.

#### **4. FARES AND INCOME**

The following sub-clauses shall apply to **MINIMUM SUBSIDY CONTRACTS ONLY**:

- (a) The Operator shall charge passenger fares at or below the rate detailed in the then applicable Fare-scale for Subsidised Local Services.
- (b) SPT shall notify the Operator of any change to the maximum permitted fare-scale at least 28 days before it takes effect. On such Contracts, the Operator may make adjustments to the fares charged (except the maximum fare) by prior arrangement with SPT's Bus Services Manager and provided at least 28 days' notice is given before any such adjustment to the fares take place. For the avoidance of doubt, complete and accurate details of all changes to fares which are to be Naptan specific, must be timeously received by SPT in Excel spread-sheet format or such other format as may be specified from time to time at Bus.Operations@spt.co.uk. The Operator will be advised if details are incomplete or inaccurate and will be required to submit a new notification to SPT. Details of any alterations to fares must be notified to passengers by on-bus notices at least 21 days prior to implementation.

The following sub-clauses shall apply to **GROSS COST CONTRACTS ONLY**:

- (c) SPT will specify the fares to be charged and shall notify the Operator of any change at least 28 days before it takes effect. The Operator may not make adjustments to the fares charged other than as instructed by SPT. Details of any alteration to fares instructed by SPT must be notified to passengers by on-bus notices at least 21 days prior to implementation.
- (d) Approval to participate in any other fare scheme or arrangement not promoted by SPT will only be given subject to the Operator undertaking to reimburse SPT to the extent of 75% of the equivalent standard fare for each journey made under such arrangements. On all such Contracts a record must be kept by the Operator of all journeys undertaken through the use of pre-paid tickets not promoted by SPT, indicating the stage of boarding and alighting.
- (e) Gross Cost Contracts must be operated separately from any other subsidised or unsubsidised service. Through fare arrangements will not be permitted with any other bus service in the absence of prior written approval of SPT.

The following sub-clauses shall apply to **ALL CONTRACTS**:

- (f) The Operator shall ensure that the relevant fare table, fares being Naptan specific, is submitted to SPT in Excel spread-sheet format or such other format as may be specified from time to time to Bus.Operations@spt.co.uk no later than 21 days prior to commencement of the Contract and no later than 21 days prior to any changes to the fare table, and is available for inspection on request in all vehicles for the route or routes on which they operate. If the Operator makes any change without notifying SPT or if any fares are charged in excess of the maximum permitted, SPT shall deduct 5% of the next monthly payment due to the Operator in terms of clause 5 below.
- (g) Contracted services shall be included in any pass or special ticket scheme including any “multi-modal” or commercial smart ticket scheme as directed by SPT and shall not participate in any other fare scheme or promotion without the prior written approval of SPT. When submitting tenders, Operator’s assumptions on income must take account of such schemes in operation or about which notification has been given.
- (h) All vehicles shall carry ticket machines capable of issuing single and return or such other range of tickets indicating fare paid, journey number, class of passenger/ticket, and boarding point (by stage). Ticket machines must also record the number of tickets of each type sold and their total value on each trip. SPT may also require such alterations to the ticketing equipment as may be required in order to allow for the inclusion of new facilities and technology.

All ticket machines must if so required by SPT be capable of accepting ITSO compatible commercial tickets as directed by SPT. This includes (but is not limited to, season tickets, multi-journey products and “Stored Travel Rights” (pay-as-you-go) products supported by or on behalf of SPT. This must include the means to load and decrement pay-as-you-go value and to load and validate season and multi-journey products.

The Operator shall also ensure that emergency procedures, to the satisfaction of SPT, are available for use in the event of ticket machine failure. The ticket machine must also be capable of interrogation by appropriate ticketing analysis software and it shall be a requirement that the Operator allows installation of this software by, or on behalf of SPT to enable SPT to have access to relevant information in connection with subsidised services operated on its behalf. Other than this software, the fitting and maintenance of all ticket machine equipment shall be the responsibility of the Operator and be undertaken at the Operator’s expense.

The Operator may not alter the ticket machine equipment or emergency procedures in the absence of the prior written consent of SPT. Operators must ensure that at all times, drivers are fully trained regarding the use of the ticketing equipment and that full and accurate details including journey numbers are entered for all passengers carried on all journeys. Operators will also be responsible for ensuring the accuracy of the timing module on all ticketing machines.

- (i) Fares must be collected from passengers or, passes or other pre-paid tickets inspected as passengers board. Tickets must be issued to the exact value of all fares paid. Tickets must also indicate the information detailed at sub-clause 4(h) above. All passes and tickets in lieu of cash payment or to allow travel at a reduced rate must be checked for validity. All fares collected from passengers will be at the Operator's risk.
- (j) The Operator shall permit SPT's representatives to act as inspectors on any vehicle used by the Operator for the purpose of the Contract. The said representatives shall be permitted to travel on vehicles operating on the Contract at no charge for the purpose of inspecting ticket fare receipts or other records or equipment kept by the Operator's drivers or other staff and to ensure compliance with the Contract. SPT will take appropriate action against the Operator in the event that any passenger does not have the correct ticket or pass for the journey being undertaken.
- (k) The Operator shall, in a manner approved by SPT, keep records of total daily passenger receipts for each Contract operated. Full and accurate details shall be included in the traffic returns submitted to SPT.
- (l) The Operator will display on vehicles, in a prominent position, notices provided by SPT indicating that passengers may take advantage of any special ticket schemes promoted by SPT and applicable to the service on which the vehicle is being used.

## 5. CONTRACT PAYMENT

The following clauses shall apply to **MINIMUM SUBSIDY CONTRACTS ONLY**:

- (a) On or about the last day of each month, SPT shall, subject to the terms of these Conditions of Contract pay the Operator a sum equivalent to one twelfth of the relevant annual Contract price. Payment shall be made via BACS.

Should SPT make any change to the maximum permitted farescale, SPT may also apply the same percentage change to the passenger income element of the Contract price as indicated in the tender completed and submitted by the Operator and adjust the Contract price and monthly payment accordingly.

The following provisions shall apply to **GROSS COST CONTRACTS ONLY**:

- (b) On or about the last day of each month, SPT shall, subject to the terms of these Conditions of Contract, pay the Operator a sum equivalent to one twelfth of the relevant annual Contract price. Payment shall be made via BACS.
- (c) The income detailed on the traffic returns submitted to SPT will be deducted from the appropriate monthly payments, together with 75% of the equivalent standard fare for each journey made under pre-payment arrangements not promoted by SPT. These payments will only be made if traffic returns are accompanied by all supporting documentation. No deduction will be made from the first payment regarding income, but the last Contract payment will be subject to deduction of income for two payment periods.

(d) For each gross cost Contract, SPT may require the Operator to provide a certificate of completeness and accuracy, issued by a person who is a member of one of the following bodies:

- I. Institute of Chartered Accountants in Scotland;
- II. Institute of Chartered Accountants in England and Wales;
- III. Chartered Association of Certified Accountants;
- IV. Chartered Institute of Public Finance and Accountants;
- V. Chartered Institute of Management Accountants.

stating they are satisfied that revenue collected on behalf of SPT and the associated patronage have been accounted for on the relevant traffic returns and other documentation (copies of which must be provided by the Operator for the auditors' use in certification). The certificate shall be forwarded at the Operator's expense to SPT within such time period as SPT may require. Failure to timeously submit such a certificate will result in the suspension of all payments otherwise due to the Operator.

The following provisions apply to **ALL CONTRACTS**:

(e) SPT shall make payment to the Operator subject to these Conditions of Contract. SPT shall not be responsible for any inaccuracies in costs or income estimates associated with the Contract price.

(f) After the end of each month, the performance of the Operator shall be assessed in relation to the service specified in the Contract and the provisions of these Conditions of Contract and any balance payable to or receivable from the Operator shall be calculated and paid or deducted in the subsequent month.

(g) SPT must receive, by no later than the dates stipulated, a fully and accurately completed Traffic Return for the relevant period for each Contract held.

(h) Contracts awarded for periods of twelve months or less will be on a fixed price basis.

For Contracts awarded for periods in excess of twelve months, the total cost indicated in the tender completed and submitted by the Operator shall be adjusted each ensuing year by the percentage variation in the Consumer Price Index (CPI) in the year to the preceding April subject to a maximum increase of no more than 3% and a decrease of no more than 1%

All adjustments will be applied with effect from the payment made each August. The first adjustment shall be made with effect from the August following the first anniversary of the commencement of the Contract.

**Note:** The Consumer Price Index is produced monthly in the National Statistics Office Monthly Digest of Statistics. It will be necessary for SPT to estimate index factors at the commencement of each period prior to publication of indices. Retrospective adjustments will only be made when there is a significant difference between the estimated and published index.

(i) SPT reserves the right to be provided with a breakdown of the Contract price detailing all costs relating to labour, fuel, materials and all other operating costs and overheads.

## 6. PUBLICITY

- (a) SPT may advertise the Contract and provide passenger information e.g. public timetables and changes to the Contract in such manner as it may decide. Any Operator's advertising of the Contract must be with the prior approval of SPT and such publicity must state that the Contract is operated on behalf of SPT.
- (b) The Operator shall display in a manner prescribed by SPT on each vehicle used in providing the Contract, service numbers and, where applicable, e.g. MyBus logos, together with logos stating that the Contract is being operated on behalf of SPT and where applicable a client or clients of SPT.
- (c) Where an Operator provides both subsidised and unsubsidised journeys on the same service, and the subsidised journeys constitute less than half the total number of journeys, the Operator will show all journeys on his timetables and roadside information which will comply with the Bus Information Standards Guide. Information regarding the subsidised journeys will be incorporated into the Operator's timetables and roadside information at the next reprint or, within six months, whichever is the sooner, prior to which, SPT will make temporary arrangements to ensure availability of information about subsidised journeys.

## 7. CARRIAGE OF SCHOOL PUPILS

The following conditions apply when the Contract specifies the carriage of school pupils.

- (a) Pupils must arrive at school and return therefrom within the acceptable time limits specified in the Contract Specification or as subsequently agreed by SPT. Boarding and alighting times at other locations must also be within acceptable limits specified in the Contract Specification.
- (b) The Operator shall, **without exception**, provide transport for all pupils notified to it by SPT. The Operator shall **under no circumstances**, refuse to provide transport to any designated pupil or pupils in the absence of the express prior written permission of the relevant Council or SPT. The Operator shall convey such different and/or revised numbers of passengers as may be required by SPT at any time during the period of the Contract at no financial detriment to the Operator, subject to sub-clause 7(c) below. Irrespective of whether an additional vehicle is provided to fulfil the terms of the Contract, the Contract Price shall only be increased if the Operator can demonstrate that such changes have led to an increase in the cost of operating the Contract.
- (c) SPT reserves the right to modify the Contract price in a manner consistent with any modification in the Contract Specification arising from sub-clause 7(b) above.
- (d) If a vehicle used in this Contract requires to turn around, the manoeuvre shall be completed before the passengers are set down.
- (e) Taxis or Private Hire cars shall be considered only in cases of exclusive school Contracts. Operators will not be permitted to register such Contracts as local Services.

- (f)** Travel passes must always be issued by the Operator at no additional cost if the Contract will be delivered using vehicles with more than 16 passenger seats. Passes must always be issued within any time period specified by SPT. SPT reserves the right to specify that any such passes to be issued will be “smart” enabled. The Operator may be required to issue passes at no additional cost to SPT, for any Contract, if SPT considers that there is a need for passes on that Contract
- (g)** Any passes issued must only be valid until the end of the school year following the date of issue, and must be designed to a satisfactory minimum standard in order to last for the period of validity.
- (h)** In the event of travel passes having to be replaced, the Operator will be required to cooperate with SPT and Council Officials to expedite such replacement. The charge of such replacement must not exceed £3 per pass. Any charge will be payable by the pupil or their parent/guardian/carer.
- (i)** Operators must report all concerns or complaints about pupil misbehaviour. Complaints concerning pupil misbehaviour must be reported in the first instance to the head teacher of the school concerned and confirmed in writing on request. If it is considered that the safety of pupils, employees of the Operator or members of the public is being put at risk, the matter must immediately be brought to the attention of the Bus Contracts Section of SPT by email to [Schoolcontracts@spt.co.uk](mailto:Schoolcontracts@spt.co.uk) and in any event, by no later than 9am on the next working day after the date of the incident.
- (j)** If a vehicle with 16 seats or less is used to carry out any Contract, any side facing seats must not be used and must not be counted as part of the seating capacity provided.
- (k)** If a vehicle with 16 passenger seats or less is used for any Contract then fully functional lap and diagonal seat belts fitted to the standard acceptable to the Department for Transport shall be provided for each child being transported under the terms of the Contract. If the Contract requires that any vehicle(s) used is fitted with seatbelts, evidence of a seatbelt installation check carried out by the Department for Transport shall be provided. Where seatbelts have been “retro-fitted” to a vehicle, a copy of the appropriate notification to the Department for Transport shall be provided to SPT on request together with a copy of the MOT certificate detailing that the seatbelt installation check has been carried out.
- (l)** An Operator must not transfer pupils from one vehicle to another without authorisation from SPT or unless instructed to do so, e.g. a link contract, except in an emergency.
- (m)** With the exception of conditions relating to punctuality, the conditions shall apply to all journeys transporting pupils specified by SPT whenever the journey operates.
- (n)** Operators must ensure that all drivers and attendants comply at all times with the relevant Code of Conduct forming the Schedule to these conditions of contract.

- (o) Operators must, unless instructed otherwise, destroy all information relating to school pupils by no later than 7 days following the last day of the school term in June of each year and by no later than 7 days following the termination of this Contract for any reason. Confirmation of such destruction must be submitted to [Schoolcontracts@spt.co.uk](mailto:Schoolcontracts@spt.co.uk) within this 7 day period.

## 8. CONTRACTS SOLELY FOR SCHOOL TRANSPORT

The following conditions apply in addition to Section 7 above where the Contract is solely for the carriage of school pupils.

- (a) Other than parents, guardians or carers transporting only their own children or those children for whom they are legally responsible, the suitability of all drivers and attendants employed on Contracts will be checked via Disclosure Scotland. **The roles of driver and attendant on dedicated school transport are deemed “Regulated Work” and no driver or attendant may be deployed on a contract involving the carriage of school pupils until such time as membership of the “Protection of Vulnerable Groups” scheme has been obtained and formal notification of the suitability of the individual(s) concerned has been received by the Operator from SPT.** Any decision that an individual is suitable shall remain valid only until the date intimated in the formal notification. A further check via Disclosure Scotland and decision on suitability will be necessary to allow the deployment of any driver or attendant beyond that date. SPT also reserves the right, should it have reasonable cause to do so, to suspend or withdraw clearance for any driver or attendant at any time. Written notice of such a decision shall be given both to the individual(s) concerned and the Operator. In such circumstances, the individual(s) concerned may not be deployed on any contract involving the carriage of school pupils until clearance is re-instated or new clearance obtained. The Operator must advise SPT in writing of any changes to the details of drivers and attendants on school transport contracts and written notice must also be given within 28 days of any such individual leaving the employment of the Operator for any reason. These provisions will be strictly adhered to.

The Operator’s attention is specifically drawn to the detailed guidance issued by SPT on this matter. For the avoidance of doubt, all costs associated with this process shall be for the account of the Operator.

For the avoidance of doubt, any breach of this clause 8(a) may result in the suspension and/or termination of this and any other Contract that the Operator has with SPT or any client of SPT.

- (b) The Contract is for one journey, morning and afternoon each school day during the period of the Contract, unless otherwise detailed in the Contract Specification.
- (c) The Operator shall comply with instructions from SPT with regard to places where passengers shall join and leave the conveyance and shall further comply with any instructions which may be issued by SPT as to the hours of arrival and departure to and from school and as to holidays, in-service days etc..

- (d)** **Only** persons authorised by SPT or its client shall be entitled to board or travel on any vehicle while it is engaged on the Contract.
- (e)** Attendants must be on duty at all times on all Contracts on which double or twin deck buses are used.
- (f)** Vehicles with open platforms or open top decks must not be used on contracts solely for school transport.
- (g)** Where childproof locks are fitted to any non public service vehicle(s), such locks must be in operation, set to the “child safe” mode at all times.
- (h)** The Operator shall register any part of the Contract as a ‘Local Service’ only with the prior written agreement of SPT.
- (i)** On all Contracts, drivers and attendants are required to carry and display, when required, photographic identification. Where the identification is of a type provided by the Operator, the Operator must be identified together with the signature of the person responsible for issuing the card, which must be a type approved by SPT. A passport or photographic driving licence is satisfactory. SPT reserves the right to require all drivers and attendants to display only identification provided by SPT.
- (j)** One seat per pupil shall be provided on all vehicles and pupils shall not be permitted to stand.
- (k)** On vehicles with 16 passenger seats or more, the destination of the vehicle must be clearly displayed on the destination screen or at the door of the vehicle. Any sign displayed must not be on the “swept area” of the windscreen.
- (l)** All vehicles must be equipped with 2-way radio or mobile telephone, by which the driver is able to communicate directly with their base or the school(s) served by the Contract. Communication equipment must only be used in compliance with all legislative and regulatory requirements.
- (m)** The driver shall be responsible for opening and closing doors and supervising the setting down and picking up of passengers.
- (n)** Drivers must not move the vehicle until they have ensured that all passengers are seated.
- (o)** Vehicles using terminal or turning areas adjacent to or within school grounds must be stationary prior to the time detailed in the Contract Specification.
- (p)** All vehicles will, in addition to any sign required by law in respect of the carriage of school children, display at the front of the vehicle, a sign supplied by SPT. Signs will be displayed in such a way as not to impinge on the swept area of the windscreen. Signs must only be displayed when the vehicle is being used on the Contract.

- (q) On Contracts operated by taxis or cars, Operators must ensure the availability of a seat belt for each pupil carried and drivers must ensure that it is securely fastened prior to moving off and that it remains fastened throughout the journey. Operators must also provide seating that is appropriate for the age, weight and height of all pupils carried
- (r) For Contracts involving water borne transport, the vessel must be in position at the boarding point by no later than the earliest specified acceptable time. A suitable life jacket must be available for all passengers included in the Contract.

## **9. CONTRACTS FOR DEMAND RESPONSIVE TRANSPORT (DRT) SERVICES**

- (a) The Operator shall provide the Services in accordance with the daily worksheet or passenger schedule which, will be communicated to the Operator by email or other appropriate means of communication. The Operator shall adhere to the specified pick-up and drop-off points, times and route details and shall not make any change to these without obtaining the prior approval of SPT. The worksheet and/or passenger schedule may be updated by SPT by means of direct communication to the mobile data terminal situated in each vehicle or by other appropriate means. The Operator shall ensure that all drivers adhere to such updates.
- (b) A Mobile Data Terminal and associated software supplied by SPT shall be carried on all vehicles used by the Operator in the performance of any Contract for DRT services. The Operator shall be responsible for the safety and security of the Mobile Data Terminal and software whilst in the possession of the Operator and shall reimburse SPT all costs associated with the loss of or damage to any terminal or software whilst in the possession of the Operator.
- (c) The Operator shall provide and maintain a secure email address for the purpose of communicating with SPT and specifically for the receipt of daily worksheets and passenger schedules and updates thereto. The Operator shall provide SPT's DRT Unit with no less than forty-eight hours' notice of any change to the email address.
- (d) The Operator will inform SPT's DRT Unit by email to [mybus@spt.co.uk](mailto:mybus@spt.co.uk) immediately of any late running or breakdown of any vehicle and shall comply with all instructions given in response to such information. In the event of this occurring when SPT's offices are closed, the Operator must advise SPT's DRT Unit no later than 9 am on its next working day.
- (e) All drivers who the Operator intends to deploy on DRT Services must attend and satisfactorily complete training provided by or on behalf of SPT on relevant aspects of customer care, disability awareness and the operation of DRT services on behalf of SPT. The Operator will ensure that all drivers attend such training when they are required to do so.
- (f) All drivers must carry and display, when required, photographic identification. Where the identification is of a type provided by the Operator, the Operator must be identified together with the signature of the person responsible for issuing the card, which must be of a type approved by SPT. A passport or photographic driving licence is satisfactory.

- (g) Each vehicle used in the operation of the Contract will be equipped with a hands free mobile telephone which can be used by the driver in compliance with all relevant legislation and regulations. SPT shall be advised of the mobile telephone numbers applicable for all vehicles prior to the commencement of the Contract. The Operator must provide SPT's DRT Unit with a minimum of twenty-four hours prior notice of the change to any such mobile telephone numbers.
- (h) Unless instructed otherwise, all worksheets or passenger schedules must be destroyed by the Operator within 7 days of receipt to ensure passenger confidentiality. Operators are reminded that the information contained in the vehicle worksheet or passenger schedule is covered by the terms of the Data Protection Act 1998.
- (i) Drivers must not move the vehicle until they have ensured that all passengers are seated.
- (j) Notwithstanding any other provision of these conditions of contract, Demand Responsive Transport Services must be operated at all times with vehicles that are fully compliant with all requirements relating to capacity (both seated capacity and wheelchair space), accessibility, telephone and mobile data terminal. For the avoidance of doubt, any failure to strictly adhere to the requirements of this clause 9(j), including when complying with any instructions given in terms of clause 9(e) above will be a breach of these Conditions of Contract.

## **10. OPERATORS' LIABILITY AND INSURANCE**

- (a) The Operator shall be responsible for and shall indemnify, save and hold harmless SPT, its servants, agents and principals from and against all liability for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses which may arise out of, or in consequence of, the performance of this Contract by the Operator, its servants or agents or the presence on SPT's property or the property of a principal of SPT, of the Operator, its servants or agents whether such injury, loss, damage, cost or expenses be caused by negligence or otherwise. Provided always that the Operator shall not be responsible to indemnify SPT for any injury, loss or damage caused solely by the negligence of SPT, its servants or agents and the Operator's liability to indemnify SPT as aforesaid shall be reduced proportionately to the extent that the act or negligence of SPT, its servants or agents may have contributed to the said injury, loss or damage.
- (b) The Operator shall inform SPT of all accidents or other incidents involving vehicles, or which occur within vehicles being used during the operation of the Contract which result in damage to a vehicle or other property (including theft) or injury to or assault on any person. The Operator shall inform SPT immediately by email to [Bus.Operations@spt.co.uk](mailto:Bus.Operations@spt.co.uk) in any case of personal injury or assault; or other incident attended to by the police or other relevant authority and within twenty four hours of the accident or incident in other cases. Within forty eight hours of the accident or incident, the Operator shall provide a written report to SPT. The written report will contain confirmation that the incident in question has been brought to the attention of the Operator's insurers when it is necessary to do so. When required to do so,

any necessary report shall be made to the police and confirmation will be provided to SPT that this has been done.

- (c) It will be the responsibility of the Operator to produce on demand for inspection by SPT the certificate(s) of insurance and the receipt(s) for payment of the current premiums or alternatively, evidence of the provision of appropriate security as required by statute in respect of all vehicles used on the Contract.
- (d) The Operator of any water-borne transport used on a Contract will produce for examination by SPT the marine inspection report obtained for the purposes of insurance, before the Contract takes effect.

## 11. SUB-CONTRACTING

- (a) In situations of an emergency nature **only**, the Operator is permitted to sub-contract the operation of the Contract to ensure that it is carried out. In such circumstances, the Operator is required to advise the Bus Services Section of SPT by email to [Bus.Operations@spt.co.uk](mailto:Bus.Operations@spt.co.uk) in advance if at all possible and in all circumstances, by no later than 9am on its next working day. In doing so, the Operator must ensure that all Conditions of Contract are met and shall remain liable to SPT for all actions and omissions of any sub-contractor.
- (b) Other than in situations of an emergency nature, the Operator is not permitted to sub-contract the Contract or any part thereof without the prior written consent of SPT. SPT reserves the right to suspend or terminate any Contract should unauthorised sub-contracting occur.
- (c) Any sub-contractor must be satisfactory to SPT. Should SPT, at its discretion not consider any proposed sub-contractor to be satisfactory, SPT reserves the right to arrange for an alternative operator to carry out the Contract for the duration of the period during which the Operator is unable to do so. Any costs incurred or to be incurred by SPT in so doing shall be for the account of the Operator and shall be recovered by withholding payments otherwise due or by such other means as may be necessary.

## 12. ASSIGNATION

The Operator **must not** assign the Contract or any part thereof without the prior written consent of SPT. Should the Operator wish to sell any part of its business which includes the operation of this or any other Contract, or change status from e.g. a sole trader to a limited company then, before doing so, the Operator must obtain the consent of SPT which shall not be unreasonably withheld.

## 13. CONFIDENTIALITY

The Operator shall keep confidential and not to disclose without SPT's prior written consent, any information supplied by SPT to the Operator, save where ordered to do so by a Court or Tribunal of competent jurisdiction.

#### **14. NOTICES**

- (a)** Any notice which is required to be given to SPT shall be properly given if it is addressed to SPT's Senior Legal Advisor, 131 St Vincent Street, Glasgow G2 5JF or such other person or address as SPT may from time to time specify.
- (b)** Any notice which is required to be given to the Operator shall be properly given if sent to the address set out in the letter of award, or such other person or address as the Operator may from time to time specify.
- (c)** Any notice required to be given hereunder shall in the absence of any provision to the contrary be sufficiently given if forwarded by first class mail, signed for mail or given by hand in writing to SPT or the Operator by the other. Every notice shall be deemed to have been received and given at the time when in the ordinary course of transmission it should have been delivered at the address to which it was sent.

#### **15. TERMINATION AND SUSPENSION**

SPT shall, in the circumstances detailed at (a)-(e) below, be entitled to terminate or suspend this or any other Contract with the Operator forthwith and to recover from the Operator the amount of any and all costs and/or losses resulting from such termination or suspension. SPT may also arrange for another operator to fulfil the Contract or Contracts and any and all increased costs incurred or to be incurred by SPT in so doing shall be for the account of the Operator and shall be retrieved either by deduction from payments otherwise due or such other appropriate methods as necessary. SPT reserves the right to apply interest to any monies due to it which are unpaid for any period in excess of 30 days from the date on which payment is required from the Operator. Interest will be applied at the rate of 2% above the then applicable base lending rate of the Bank of Scotland. The right of SPT to terminate or suspend a Contract or Contracts in the circumstances outlined below are in addition to any other right to suspend or terminate any Contract or Contracts as set out elsewhere in these Conditions of Contract. For the avoidance of doubt, no payment will be made to the Operator for any period during which any Contract is suspended.

- (a)** If the Operator or his representative (whether with or without the knowledge of the Operator) shall have practised collusion in tendering for the Contract or any other Contract with SPT or shall have employed any corrupt, fraudulent or other illegal practices either in obtaining or performing the Contract, or any other Contract with SPT.
- (b)** If the Operator becomes bankrupt or insolvent, or has a receiving order made against him or her, or compounds with or assigns for the benefit of his or her creditors or, being a company, commences to be wound up (not being a members voluntary winding up for the purposes only of solvent reconstruction or amalgamation) or carries on his business under a receiver for the benefit of creditors or gives, offers or promises any loan, fee, reward or advantage of any kind to any employee or Member of SPT.

- (c) If the Operator or any employee, agent or representative of the Operator fails in any material respect to observe the terms and conditions of this or any other Contract or fails to execute with due diligence and expedition anything necessary for the proper performance of a Contract or Contracts, or acts in any way to undermine the good repute of SPT or any principal on behalf of which, SPT acts as agent.
- (d) If any of the circumstances detailed in Regulation 73 of the Public Contracts (Scotland) Regulations 2015 apply.
- (e) If the Operator fails to provide SPT with satisfactory evidence of its compliance with any obligation regarding the recording, accounting or paying of Income Tax, Corporation Tax, Value Added Tax, National Insurance Contributions, Minimum Wage or any benefit to which any employee may be entitled.
- (f) If this Contract is suspended or terminated in accordance with any provision of these Conditions of Contract, no tender submitted by the Operator will be considered for any contract that is required to replace the Contract that has been suspended or terminated. SPT further reserves the right to exclude the Operator from tendering for other contracts. SPT will advise the Operator of the period during which such exclusion shall apply.

## **16. FREEDOM OF INFORMATION**

- (a) SPT and the councils on behalf of which SPT acts as agent are required to comply with the terms of the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EISRs). The Operator shall assist and co-operate with the Council (at the Operator's expense) to enable the Council to comply with these Information disclosure requirements.
- (b) The Operator shall provide SPT with a copy of all Information in its possession in the form that SPT requires within such period as SPT may specify of SPT requesting that Information; and provide all necessary assistance as reasonably requested by SPT to enable it to respond to a request for information within the time for compliance.
- (c) SPT reserves the right to disclose information held by it in response to a request, the decision of SPT in relation to the interpretation of FOISA and the EISRs shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms.
- (d) The Operator acknowledges that SPT may disclose Information (a) without consulting with the Operator or (b) following consultation with the Operator and having taken its views into account.
- (e) The Operator shall ensure that they retain all information produced in the course of the Contract or relating to the Contract and shall permit SPT to inspect such records as requested from time to time.

- (f) SPT may also communicate with The Commissioner, the Driver and Vehicle Services Agency, the Police, a licensing authority or any other appropriate public authority or agency on any matter concerning the performance of the Contract. SPT may also report all and any matters concerning the Contract to any principal on whose behalf SPT acts as agent.

## **17. DATA PROTECTION**

- (a) The Operator shall fully comply with both the terms and principles of the Data Protection Act 1998 (DPA) as may be amended or replaced from time to time by the General Data Protection Regulation or otherwise and shall act at all times so as to enable SPT and any principal of SPT to so comply.
- i) The Operator will process personal data received from SPT only as required for this Contract and for no other purpose and shall return all such data to SPT immediately on demand.
  - ii) The Operator shall maintain in place appropriate technical and other measures to ensure against unauthorised or unlawful access to, processing, loss, damage or destruction of personal data. Specifically, the Operator shall ensure that all computer equipment is password protected and all email communications between the Operator and SPT which contain Personal Data shall be encrypted using 7-zip 256.
  - iii) The Operator shall be registered as a Data Controller with the Office of the Information Commissioner should such registration be necessary to comply with the DPA.
  - iv) SPT reserves the right to audit the Operator's compliance with the terms and principles of the DPA and the Operator shall provide such information and/or access to its premises and documentation as SPT may require.
  - v) The Operator shall immediately advise SPT upon becoming aware of any breach or potential breach of the DPA or its obligations hereunder and shall fully comply with all instructions given by SPT in this regard.
- (b) Where SPT receives any subject access requests relating to personal data in the possession of the Operator, the Operator shall
- i) fully co-operate with SPT in complying with SPT's obligations under the DPA in relation to that personal data
  - ii) only make disclosure of the personal data or do anything else required by the DPA with SPT's express written consent
  - iii) respond promptly (and in any event within two working days) to any request from SPT for details of personal data in the possession of the Operator
  - iv) ensure that it processes any subject access requests in such a manner that SPT can access that personal data and respond to the request within the period set down by the DPA.
- (c) Notwithstanding the above, any computer used to store or process information in relation to this Contract shall be password protected and used solely by the Operator. All email communications between the Operator and SPT containing personal data (as such term is defined in the DPA) shall be encrypted using 7-zip 256 encryption or comparable.

- (d) Any breach by the Operator of the provisions either of this clause or of the DPA in relation to the processing of personal data or any other obligations on the Operator under the DPA shall amount to a breach of this Contract entitling SPT to terminate this Contract and any other contract with the Operator.
- (e) The Operator shall indemnify SPT against all liabilities, damages, costs, losses, claims, expenses and proceedings (including the costs of defending any action brought by the Information Commissioner, including criminal prosecution) arising out of any breach by the Operator of the DPA or any breach by SPT of the DPA, which is caused in whole by any breach by the Operator of the DPA.

## **18. VARIATION**

SPT reserves the right to vary these Conditions of Contract or any document forming the Contract by giving the Operator prior notice in writing of the variations.

## **19. LAW OF SCOTLAND**

This Contract is subject to the Law of Scotland.

## **20. GENERAL AND MISCELLANEOUS**

- (a) No smoking or use of electronic or vapour cigarettes is permitted by any driver, attendant or other employee or passenger on or at the entrance to any vehicle at any time when that vehicle is being used in the performance of the Contract. The Operator must ensure that the terms of the Smoking, Health & Social Care (Scotland) Act 2005 are adhered to at all times.
- (b) The Operator shall maintain sufficient records of vehicles, maintenance, and personnel together with details of all income received in relation to the Contract, to satisfy SPT that all aspects of the Contract have been complied with at all times.
- (c) The Operator shall provide to SPT or its representatives such financial, or other information or documents with regard to the Contract as SPT may require, and shall permit access to the Operator's premises and vehicles at all times to permit inspection of such documentation. For the avoidance of doubt, such inspections may include the copying and/or removal of documentation.
- (d) The Operator together with all employees, agents and sub-contractors, shall comply with all instructions from SPT's representatives. This requirement does not obviate the Operator's responsibilities, and those of its staff, regarding safety and legislative requirements.
- (e) No delay, neglect or forbearance on the part of SPT in enforcing any right available to it, arising from these Conditions of Contract shall be or deemed to be a waiver of or in any way prejudice any right.

- (f)** The Operator is responsible for the safe carriage of all passengers and specifically, must ensure that all drivers are appropriately trained so that if any passenger who travels in a wheelchair, requests assistance with boarding, reasonable assistance will be provided and the wheelchair passenger will then be appropriately positioned in the space provided for that purpose or, securely restrained by approved wheelchair safety restraints (where permitted in terms of the Contract Specification) prior to the vehicle moving. If the wheelchair space is occupied by other passengers or their belongings, the driver must use all reasonable endeavours to ensure that the wheelchair passenger can safely and comfortably occupy the designated space. Reasonable assistance will also be provided on request to enable the passenger to alight from the vehicle.
- (g)** The Operator shall, within forty-eight hours of receipt of any oral or written complaint in respect of any aspect of the Contract, forward a copy of such complaint to SPT by email to [Bus.Operations@spt.co.uk](mailto:Bus.Operations@spt.co.uk) together with any reply from the Operator to the complainant. The Operator will respond to any enquiry from SPT in respect of any complaint, orally within twenty-four hours and in writing within forty-eight hours.
- (h)** Notwithstanding the terms of any other provision contained within these Conditions of Contract SPT may, acting reasonably, require the Operator to remove, temporarily or permanently any driver, attendant or other employee from the operation of any or all Contracts which the Operator may have with SPT or any client of SPT.
- (i)** Should any Contract require the Operator to access any bus station owned or managed by SPT then, the Operator shall, prior to commencement of the Contract, enter into any necessary Bus Station Licence Agreement and undertake to comply with the terms of the Bus Station Rules as may be amended from time to time.
- (j)** If the Operator uses a vehicle owned by another operator to carry out the Contract, that vehicle will prominently have on display a sign stating that the vehicle is "on hire" to the Operator.
- (k)** All drivers and attendants shall at all times be smartly attired.
- (l)** All Operators of registered local services must, for the term of the Contract, be members of Traveline Scotland and, if so required by SPT, participate in the Strathclyde Bus Alliance or other appropriate body.
- (m)** With the exception of those Operators contracting solely for school transport services, all Operators must be eligible to participate in the National Concessionary Travel Scheme. SPT reserves the right to terminate all contracts with any Operator whose membership of the said scheme ceases for any reason. In the event of such termination, any and all additional and increased costs incurred or to be incurred by SPT shall be for the account of the Operator and shall be recovered either by deduction from payments otherwise due or such other appropriate methods as necessary.
- (n)** All signs supplied by SPT or its client to the Operator shall be returned to SPT on conclusion of the Contract or as otherwise required. The cost of any signs not returned shall be recovered from any payments due to be made to the Operator or by other appropriate means.

- (o) Other than responding to complaints as detailed in sub-clause 18(g) above, the Operator shall not, either orally, in writing or by any other means including email and social media, communicate with passengers, prospective passengers or parents of school pupils on any matter concerning this or any previous or prospective Contract unless the proposed communication has been approved by SPT.
- (p) Operators of registered local services shall, if so required by SPT, submit all registration documentation electronically in a manner stipulated by SPT.
- (q) All Contracts shall, unless otherwise excluded, participate in any Statutory Quality Partnership for the area within which the Contract operates.
- (r) Operators shall, if so required by SPT, operate all services subject to Conditions of Carriage approved by SPT and which will be available to all passengers.
- (s) Operators shall maintain all necessary equipment and materials and have in place procedures at their premises to ensure that vehicles can safely move within and leave from those premises and access the nearest adopted road in all situations of snow, ice or other inclement weather.
- (t) The Operator shall comply at all times with all statutory and regulatory obligations regarding payment of wages together with the recording and payment of Income Tax, National Insurance Contributions and Value added Tax and shall ensure that all personnel are engaged subject to appropriate checks on their employment history and their entitlement to work in the United Kingdom.
- (u) Should SPT provide an Operator with greater than seven days' notice that operation of the Contract shall not be required on a day or days; the Operator shall not receive payment for any day or days on which the Contract is not operated. Should SPT provide an Operator with less than seven days' notice but more than twelve hours' notice that operation of the Contract shall not be required on a day or days, payment will be made at 50% of the normal daily rate of payment for the day or days on which the Contract is not operated.
- (v) The Operator shall if so required by SPT nominate at least one individual with whom SPT may communicate when necessary on all aspects of the Contract including giving and receiving instructions on all operational, performance and financial matters arising.
- (w) The Operator shall inform SPT immediately upon it becoming aware of it being called to a Public Inquiry by the Commissioner; of any prosecution or legislative or regulatory action being raised against it or any office holder or of any such prosecution, legislative or regulatory action being taken or potentially taken against it, any office holder, transport manager, driver or attendant. The Operator shall provide such information as SPT may require.

- (x)** If applicable to this Contract the Operator shall:
- (i) When required to do so by SPT, make a statement to SPT or to any prospective tenderer(s) for a contract for the work being carried out by the Operator as to whether TUPE is deemed to apply to any of the Operator's employees;
  - (ii) [Should the Operator deem that TUPE applies], be bound to advise SPT, or any prospective tenderers as aforesaid or anyone advised to the contractor by SPT of all necessary details of employees, benefits, wage rates etc, to which TUPE applies; and
  - (iii) Indemnify SPT for any claims for loss or damage arising from claims from employees that a breach of the TUPE regulations occurred.
- (y)** During the term of this Contract, SPT reserves the right to require that all communications between it and the Operator shall be conducted by email, including encrypted email. This may include all communications relating to the award of contracts, variations, warnings, traffic returns and passenger information. The Operator shall ensure that they have appropriate private computing equipment and software, access to which will be restricted and password protected to allow for communication in this way.

## **PART TWO**

### **SERVICE PERFORMANCE AND MONITORING**

#### **1. INTRODUCTION**

The Operator's performance of the Contract will be monitored in relation to service quality and quantity together with the collection of all income due.

#### **2 ADDITIONAL INFORMATION**

- (a)** Subject to any agreement between the Operator and SPT stipulating the operation of vehicles fitted with tachographs, the Operator will be responsible for retaining the tachograph records for the duration of the term of the Contract and making them available for inspection by SPT's staff or representatives. Records shall be identified by vehicle, service, duty number and date.
- (b)** The driver will carry details showing the vehicle trip number relative to the timetable which will be made available to SPT's representatives on request.
- (c)** The Operator shall keep updated a list of drivers' names, together with their PCV and Driving Licence numbers and expiry dates.
- (d)** The Operator shall keep updated a list of registration and fleet numbers for those vehicles used in the operation of the Contract.
- (e)** The Operator will supply such further or additional information as SPT may from time to time reasonably require.
- (f)** Other than on Contracts on which pupils are carried on registered local services which operate irrespective of school transport requirements, all drivers must be able to identify the Contract(s) which they have or are about to carry out. They must also be able to state which of those Contract(s) are covered in full or part by the vehicle. All drivers must have available for inspection documentation detailing the Contract(s) covered in full or in part.

#### **3. ACCESS TO VEHICLES, INFORMATION AND PREMISES**

- (a)** SPT retains the right to conduct roadside compliance checks on all vehicles. Such checks may be undertaken whilst the vehicle is en-route to commence operation of the Contract, during operation of the Contract or on completion of a journey or journeys. The Operator shall fully cooperate and shall ensure that all drivers fully cooperate with SPT for the purposes of such checks and shall comply with all instructions given by SPT
- (b)** SPT retains the right to audit all information supplied or obtained or required to be maintained by the Operator and the Operator will provide access as required to its premises and vehicles to examine any aspect of the operation and finances of the Contract.
- (c)** The Operator shall permit access to its premises, maintenance facilities or arrangements and vehicles to SPT's representatives for the purposes of:

- (i) surveys of income, tickets, passengers and such other information as SPT may reasonably determine. Any information ingathered shall be the property of SPT.
  - (ii) inspection of said premises, maintenance facilities or arrangements, inspection and maintenance records and vehicles to ensure compliance with the terms of these Conditions of Contract.
- (d)** The Operator must provide, when requested, details of the working hours of all drivers who carry out duties on Contracts. The records must include details of all working known, if the driver is full or part-time, temporary or permanent, if other employers provide employment. The records must be held for a period of at least 6 months after the end date of the Contract.
- (e)** The Operator shall carry out regular checks on the licences of all drivers to ensure that they have entitlement to drive the class of vehicle used. Licences shall be checked no less frequently than every six months. The Operator shall oblige all drivers and attendants to immediately advise them of any occurrence of whatever nature which affects or may affect their entitlement to drive or impact on their ability to carry out their duties and shall be fully responsible for the deployment of all drivers and attendants.

#### **4. TRAFFIC RETURNS**

- (a)** Traffic Return documents will be provided by SPT which will be fully and accurately completed by the Operator and returned electronically or as otherwise instructed to SPT by the dates specified. The Operator will certify that all information regarding passengers carried, receipts, and mileage that is operated, lost or deemed to be lost is complete and accurate.
- (b)** A financial deduction will be applied in every case when either SPT does not receive a Traffic Return by the date specified in respect of each Contract or if any Traffic Return received is inaccurately completed. Deductions will be applied on the basis that 5% of the normal current monthly Contract payment will be deducted on the first occasion an inaccurate Traffic Return is submitted or when no Traffic Return is received on time. On the second occasion an inaccurate Traffic Return is submitted or where no Traffic Return is received on time, the Operator will be required to attend a Service Review meeting as detailed in Clause 9 below. Contract payments will be suspended pending a satisfactory outcome of the Service Review Meeting.
- (c)** All Operators shall maintain and keep for a period of at least 6 months after the end date of the Contract, records of information in order to permit SPT to investigate the validity of claims in respect of operation of the Contract.

## **5. FINANCIAL DEDUCTIONS (GROSS COST CONTRACTS)**

For Gross Cost Contracts, SPT shall have the right:

- (i) Where mileage has not been operated without good reason, to deduct from the payment otherwise due to the Operator an amount equal to the average cost per mile operated for each mile not operated for the appropriate day of the week, plus a deduction equal to the average income normally received. The average cost per mile operated shall be calculated by dividing the monthly cost by the monthly Contract mileage.
- (ii) SPT shall have the right to make deductions from the payment due to the Operator in respect of any fare payment irregularities which could reasonably have been avoided.

SPT shall, as soon as reasonably practicable, notify the Operator in writing of the deduction it decides appropriate and the reasons for such. Within 14 days of such notification, the Operator's representations regarding the deduction will be considered by SPT which may, if it is thought fit as a result of such representations, increase or decrease the amount of the deduction. SPT's decision, whether altered or not, will be final.

## **6. MONITORING**

- (a) SPT may carry out comprehensive monitoring of all aspects of the operation and performance of the Contract. For the avoidance of doubt, such monitoring may include the use of still or video photography. Operators must permit SPT's representatives to be carried free of charge on vehicles or vessels as and when required to allow monitoring duties to be carried out.
- (b) Any breach of Contract will be brought to the attention of the Operator using the formal warning letter procedure or by such other means as may be appropriate in the circumstances. Operators will have the right of appeal against any warning.
- (c) Any warning for which no appeal is submitted or where any appeal has not resulted in the warning being rescinded will result in a formal recording of that warning and/or the appropriate financial deduction being made.
- (d) For the avoidance of doubt, should SPT be of the opinion that any aspect of the Contract is not being complied with, it may carry out repeat monitoring of a Contract or an Operator and issue formal warnings or take such other or further appropriate action as provided for herein.

## **7. WARNINGS**

### **(a) Formal Warnings**

SPT may issue a formal warning to the Operator in respect of any breach of Contract. Warnings are primarily issued to draw the Operator's attention to a breach or breaches of Contract to allow for remedial action to be taken in order to improve performance. A warning or warnings issued for a breach or breaches of Contract may however result in the termination of this or other contracts with SPT as set out in clause 8 below and elsewhere in these Conditions of Contract. Each formal warning will be "weighted" reflecting the seriousness of the breach of Contract and will, subject to the outcome of any Appeal, result:

- (i) in the recording of the appropriate number of points against the particular Contract(s) to which the warning relates; and
- (ii) in a corresponding financial deduction being applied to the payment made to the Operator in terms of Clause 5 of Part One of these Conditions of Contract.

Warnings will be "weighted" as noted below:

- (1) Any breach of Contract regarding the Operator's vehicles, premises, maintenance facilities, inspection, maintenance or relevant record keeping. 5 points (major adverse impact)
- (2) Any breach of Contract which has not resulted in the suspension or termination of this or any other Contract regarding a failure to adhere to all of the requirements to have relevant drivers and attendants confirmed by SPT as being suitable following checks carried out via Disclosure Scotland. For the avoidance of doubt, such warnings will be applied against all Contracts held by the Operator to which these requirements apply: 1 point (limited adverse impact) to 5 points (major adverse impact)
- (3) Any breach of Contract which results in a limited adverse impact to SPT, any contracting principal or service user: 1 point (limited adverse impact)
- (4) Any breach of Contract which results in a significant adverse impact to SPT, any contracting principal or service user: 3 points (significant adverse impact)
- (5) Any breach of Contract which results in a major adverse impact to SPT, any contracting principal or service user: 5 points (major adverse impact)

All warning points will remain in force for a period of 1 year from the date those points were originally allocated.

For the avoidance of doubt, this and any other Contract may be suspended or terminated prior or subsequent to a formal warning being issued.

**(b) Appeals**

Any appeal must be submitted within 14 days of receipt by the Operator of a formal warning or notification by SPT to impose a financial deduction. Any such appeal must fully detail, with supporting evidence, reasons why, in the opinion of the Operator, no formal warning or financial deduction should apply. Such submissions will be considered by SPT. Any warning in respect of which no appeal is submitted or where an appeal does not result in the warning being rescinded will result in a formal recording of that warning and the appropriate financial deduction being made.

**(c) Deductions**

(1) Subsidised local service journeys

If the Contract is not complied with, there will be a deduction from the normal current monthly payment equivalent to the subsidy cost of the whole journey or journeys.

(2) School journeys

If the Contract is not complied with, there will be a deduction from the normal current monthly payment equivalent to the subsidy for the whole journey concerned.

(3) Demand responsive transport journeys

(i) If a passenger journey scheduled on the worksheet or passenger schedule is not provided or, if a passenger is collected from a pick up point or arrives at a destination five or more minutes early or ten or more minutes late and which adversely impacts on a passenger or SPT, such incidents will be deemed as a failure to provide a journey or journeys scheduled on the worksheet or passenger schedule. In such circumstances, there will be a financial deduction from the normal current monthly payment equivalent to a percentage of the passenger journeys not carried by the vehicle as a proportion to the Contract operating cost per vehicle per day.

(ii) In respect of any adverse impact to SPT or any passenger or intending passenger from any failure to: equip vehicles with a mobile telephone in working order; and/or failure to advise SPT of any change to mobile telephone numbers; or failure to provide and maintain an email address at the Operator's premises; and/or failure to advise SPT of any change to the email address; or failure to use a Mobile Data Terminal; and/or failure to operate a Mobile Data Terminal in accordance with agreed procedures, a fifty pounds deduction per failure per day shall be applied in addition to a formal warning highlighting a major adverse impact.

**(d) Extenuating Circumstances**

At the discretion of SPT, deductions may not be made in respect of operating out-with the Contract Specification, or non-operation, or failure to comply with any aspect of the Contract if it is found that such failure is due to extenuating circumstances beyond the control of the Operator and acceptable to SPT.

## **8. TERMINATION**

In addition to any other right available to suspend or terminate any Contract, SPT reserves the right to terminate the Contract and recover from the Operator any and all costs and/or losses:

When a Contract has within any period of 12 weeks received a total of 20 or more points or 6 or more warnings and within any period of 12 months received a total of 30 or more points or 10 or more warnings.

In the event of termination of a Contract or Contracts, SPT may also arrange for another operator to fulfil the Contract or Contracts and any and all increased costs incurred or to be incurred shall be for the account of the Operator and shall be retrieved either by deduction from payments otherwise due or such other appropriate methods as necessary. SPT reserves the right to apply interest to any monies due which are unpaid for any period in excess of 30 days from the date on which payment is required from the Operator. Interest will be applied at the rate of 2% above the then applicable base lending rate of the Bank of Scotland.

## **9. SERVICE REVIEW MEETINGS**

The Operator shall meet SPT or its representatives as and when required, to discuss the performance of the Contract. Service Review Meetings shall be minuted by SPT and a copy of the Minute will be made available to the Operator. SPT may require the Operator to provide written undertakings as to improvements in the operation of the Contract. Any failure to adhere to the terms of such undertakings will be regarded by SPT as a breach of the Conditions of the Contract. Such meetings will be held at SPT's premises or such other venue as SPT may determine.

## **10. DISPUTE RESOLUTION**

If at any time any question of dispute or difference whatsoever arises between the parties in relation to this Contract that cannot be resolved satisfactorily by the parties authorised representatives, the issue in dispute shall be discussed at directorate or equivalent level between the parties in an attempt to resolve the matter. In the event that the matter remains unresolved after a period of no less than 14 days, the matter shall be referred for Alternative Dispute Resolution with a mediator being appointed by the President of the Freight Transport Association. SPT and the Operator shall each bear their own costs arising from such mediation.

## **Schedule to the Conditions of Contract for Subsidised Local Services, School Transport Contracts and Demand Responsive Transport Services**

### **Code of Conduct for Drivers and Attendants of school transport vehicles**

This code of conduct is issued on behalf of councils on behalf of which SPT acts as agent for the purpose of managing school transport contracts.

Operators are responsible for taking all reasonable care of pupils temporarily in their charge. These guidelines concern the safety of passengers in normal operation, in the case of breakdown and other emergency, and for dealing with misbehaviour of pupils. In such circumstances the driver, assisted by the attendant will be the only person(s) in a position to decide the appropriate action to take.

**Operators must ensure that drivers and attendants are suitably briefed on the action to take in the circumstances set out below.**

#### **1. Safety during normal operation.**

##### **Drivers MUST:**

- 1.1 Carry out a pre-service inspection of their vehicle and record same before the vehicle is used to fulfil a contract
- 1.2 Comply with the Highway Code, drive in a courteous manner and adhere to speed limits.
- 1.3 Approach each pick-up and drop-off point slowly and with care keeping the doors closed until the vehicle has come to a complete standstill.
- 1.4 Ensure that doors are properly closed, and that no coats, bags, etc. are caught in the mechanism of the door from inside or outside and that all pupils are seated before moving off. Check the nearside mirror every time before moving.
- 1.5 Pay particular attention to nearside mirrors in case latecomers attempt to board.
- 1.6 Discourage pupils from crossing in front of the vehicle.
- 1.7 Ensure that all pupils are picked up and set down at a suitable and safe place, paying special attention to any hazards, traffic or obstructions.
- 1.8 Ensure that the number of passengers does not exceed the permitted seating capacity of the vehicle.
- 1.9 Ensure that all doors and emergency exits are fully operational and remain free of any obstruction, giving a clear exit in case of emergency.
- 1.10 Endeavour to ensure that pupils remain seated with seatbelts fastened whilst travelling. If pupils do not wear seatbelts, this must be brought to the attention of the head teacher as a matter of urgency.
- 1.11 Ensure that where child proof locks are fitted to a vehicle that the locks are in the "child safe" position throughout the journey.

- 1.12 Immediately advise their supervisor of any difficulties on the route regarding road-works, parking or traffic volumes etc which would cause difficulty in maintaining the timetable.
- 1.13 Fully co-operate at all times with all representatives of SPT, councils, DVSA and the police.
- 1.14 Avoid physical contact with pupils. Maintain a courteous and professional relationship with pupils avoiding inappropriate language and topics of conversation at all times and never engage in personal telephone, text, email or social media contact with pupils.

**Attendants MUST:**

- 1.1 Ensure pupil safety when boarding or alighting and be at or near the entrance/exit at these times.
- 1.2 Assist the driver in ensuring that before moving off, all doors are properly closed and no coats, bags, etc. are caught in the mechanism of the door from inside or outside.
- 1.3 Discourage children from crossing in front of the vehicle.
- 1.4 Assist the driver in ensuring that the number of passengers does not exceed the permitted number.
- 1.5 Ensure that all doors and emergency exits remain free of any obstruction, giving a clear exit in the case of emergency.
- 1.6 Ensure that pupils remain seated with seatbelts fastened whilst travelling.
- 1.7 Monitor both the upper and lower decks throughout the journey.
- 1.8 Not stand beside the driver whilst the vehicle is in motion or obstruct his view through the windscreen.
- 1.9 Not converse with the driver except when it is necessary for the safety of the pupils.
- 1.10 Be aware of the legal responsibilities for the wearing of seatbelts on school transport vehicles which vary depending on the type of vehicle and the age of the pupils. If difficulties are experienced in gaining co-operation from pupils in the wearing of seatbelts then the problem must be reported to the child's head teacher in writing through the management of the company.
- 1.11 Fully co-operate at all times with all representatives of SPT, councils, DVSA and the police.
- 1.12 Avoid physical contact with pupils. Maintain a courteous and professional relationship with pupils avoiding inappropriate language and topics of conversation at all times and never engage in personal telephone, text, email or social media contact with pupils.

## **2. Seating arrangements and wearing of seat belts in motor cars**

- 2.1 Drivers must be aware of the legal and contractual responsibilities for the wearing of seatbelts on school transport vehicles. These responsibilities vary depending on the type of vehicle and the age and height of the pupils. If difficulties are experienced in gaining co-operation from pupils in the wearing of seatbelts then the problem should be reported to the child's head teacher in writing through the management of the company.
- 2.2 In all cases seatbelts appropriate to the child's size must be used including, if necessary, booster cushions.
- 2.3 On primary school contracts children should not occupy the front seat of the vehicle unless the rear seats are occupied. The eldest child should sit in the front seat wherever practicable.

## **3. Safety in case of breakdown or accident**

- 3.1 In case of breakdown or accident resulting in the vehicle being unable to be moved, the driver will normally instruct the pupils on the vehicle to stay on the vehicle. The driver may only leave the vehicle to summon assistance and then, only in the event of the failure of the mobile phone or radio on the vehicle.
- 3.2 Where contracts use motorways, specific instructions may be issued by SPT which **MUST** be followed.

## **4. Adverse weather and other conditions jeopardising a journey**

- 4.1 In such conditions, drivers **MUST** liaise with Head Teachers to ensure the children are safe.
- 4.2 In periods of snow, ice, flooding or other adverse weather, the driver must use discretion to decide whether a road is passable or not. The driver should endeavour to choose a route which gives the greatest number of children a reasonable opportunity of getting to school in safety.
- 4.3 At their discretion drivers may abandon a morning journey. In such an event, the driver will contact the Head Teacher for further instructions and inform SPT.
- 4.4 On homeward journeys pupils shall only be set down at their normal vehicle set down point. If it is likely that the vehicle will be unable to take the pupils to that point, contingency plans must be made with the Head Teacher.
- 4.5 In the event that transport becomes stuck because of blocked roads, children shall be instructed to stay on the vehicle until alternative arrangements can be made.

## **5. Misbehaviour by pupils on transport**

- 5.1 The driver or attendant should warn the pupil about their behaviour and ask them to stop. It may be that this will be sufficient action.
- 5.2 In the case of more serious misbehaviour or repeated misbehaviour, drivers should take all reasonable steps to identify the pupil concerned. The driver may request the assistance of senior pupils on the bus to identify the pupil responsible for the misbehaviour and may ask for and retain the pupil's season ticket or pass as proof of identity. Having identified the pupil, the driver should report the incident to the Head Teacher and to their supervisor.

- 5.3 A supervisor receiving a report of misbehaviour must send the details directly to the Head Teacher concerned, together with any ticket or pass taken from the pupil. SPT must also be advised if it is considered that the misbehaviour causes a risk to the safety of passengers.
- 5.4 A driver or attendant shall not remove a pupil from a vehicle for misbehaviour. In a severe case of misbehaviour which affects the safety of other passengers on the vehicle or the vehicle itself, the driver should seek assistance from other bus company staff, school staff or the police by any reasonable means.
- 5.5 As well as behaviour which is disruptive to other passengers, drivers are asked so far as is possible to note any incidents of bullying amongst pupils and to report problems of this kind to the Head Teacher at the earliest opportunity.
- 5.6 Should a pupil or pupils leave the vehicle in the course of a journey prior to arrival at school, the driver must report this to the Head Teacher immediately upon arriving at the school.

## **6. Refusal of Transport**

**Under no circumstances will pupils be refused transport without the express prior permission of the relevant council or SPT.**

## **7. Tickets or Passes**

- 7.1 Where pupils have been issued with a ticket or pass to show their entitlement to travel on the Contract, a pupil claiming to be travelling to or from school shall not be refused travel where they are unable to produce their pass.
- 7.2 Where a pupil who has been issued with a pass regularly refuses to display a pass on boarding this must be reported to the Head Teacher.

## **8. Carriage of unauthorised persons**

For the avoidance of doubt, the only persons who may board the vehicle are those pupils entitled to travel on the Contract. No unauthorised person, including parents of pupils may board the vehicle whilst it is on contract to the council.

## **9. Smoking**

As required by legislation, smoking is not permitted on vehicles at any time including by drivers or attendants. Drivers and attendants must ensure that this is enforced. For the avoidance of doubt, the use of electronic or vapour cigarettes is similarly prohibited.