

Annexure 1

Timetable Change Process

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Part A - Introduction, definitions and process for changing this Annexure

1 Purpose of this Annexure

- 1.1 This Annexure sets out the Timetable Change Process that applies to GWRC and each PTOM Operator that is a party to a Partnering Contract. Each Partnering Contract requires the relevant PTOM Operator and GWRC to ensure that all changes to the Timetable or the relevant Unit Timetable occur in accordance with this Timetable Change Process.
- 1.2 For the avoidance of doubt, this Annexure shall not apply to any change to a Unit Timetable to the extent that such change is a consequence of, or arises in connection with, the provision by or on behalf of the relevant PTOM Operator of any Special Event Service.

2 Definitions used in this Annexure

- 2.1 Capitalised terms used in this Annexure are as defined in the Regional Agreement, or in the relevant Partnering Contract.

3 Process for changing this Annexure

- 3.1 Any changes to this Annexure shall only occur in accordance with the change process for PT Network Documents set out in the Regional Agreement.

Part B - Short form process for Timetable changes affecting a single PTOM Operator

3A Application of this Part B

3A.1 This Part B shall only apply where a proposed change to the Timetable or a Unit Timetable affects:

3A.1.1 one Unit Timetable and no other Unit Timetable; or

3A.1.2 Unit Timetables in respect of PTOM Units which are operated by the same PTOM Operator.

3A.2 Where paragraph 3A.1 does not apply to a proposed change to the Timetable or a Unit Timetable, the process contained in this Part B shall not apply and such change must be proposed and (if applicable) made in accordance with Part C of this Annexure.

3B Process

3B.1 If paragraph 3A.1 applies in respect of a proposed change to the Timetable or any Unit Timetable, then:

3B.1.1 Part C of this Annexure 1 (*Timetable Change Process*) shall not apply; and

3B.1.2 GWRC or the relevant PTOM Operator may propose the change by serving a written notice on the other setting out:

- (a) details of the proposed change, including a description of the routes and Scheduled Services affected;
- (b) a draft of the relevant part of the Unit Timetable and Working Timetable in a standard matrix timetable format specified by GWRC, including all proposed time and route variation details;
- (c) the reasons for the proposed change;
- (d) confirmation that the proposed change will not impact or affect the Unit Timetable in respect of any PTOM Unit operated by any other PTOM Operator;
- (e) the likely resource changes arising from the implementation of the proposed change;
- (f) in the case of any change relating to a bus Unit, any change to the PVR arising in connection with the proposed change;
- (g) the proposed date for implementation of the timetable change;
- (h) any cost implications arising from the proposed change, including:

- (i) the Net Financial Impact of the proposed timetable change calculated in accordance with the provisions of the relevant Partnering Contract; and
 - (ii) the impact (if any) on GWRC's reliance on public subsidies needed to fund the proposed change; and
- (i) any other matter that the Party proposing the change considers relevant to the consideration of the proposed timetable change.

3B.2 Subject to paragraph 3B.3:

3B.2.1 as soon as reasonably practicable (and in any event within 5 Business Days) following the date of receipt by the receiving Party of a notice issued pursuant to paragraph 3B.1.2, GWRC and the relevant PTOM Operator shall meet for the purposes of discussing and agreeing matters related to the proposed change to the Unit Timetable(s); and

3B.2.2 within 10 Business Days following the meeting referred to in paragraph 3B.2.1, GWRC shall issue a written notice to the relevant PTOM Operator either:

- (a) requiring the PTOM Operator to implement the proposed change to the relevant Unit Timetable(s), in which event:
 - (i) the PTOM Operator shall implement the proposed change with effect from the date specified in the notice given pursuant to paragraph 3B.1.2 (or such other date as may be agreed between GWRC and the PTOM Operator); and
 - (ii) the Services Fee shall be adjusted in accordance with the provisions of the relevant Partnering Contract; or
- (b) rejecting or withdrawing the proposed change to the Unit Timetable, in which event:
 - (i) the PTOM Operator shall not implement the proposed change; and
 - (ii) the PTOM Operator shall have no rights or entitlement in connection with the proposed change to the Unit Timetable(s) (including rights to additional payment, compensation or relief from its obligations).

3B.3 In relation to bus Units only, where GWRC is required by paragraph 3.4.2 of Schedule 3 (*Passenger Services*) of the relevant Partnering Contract to issue a notice under paragraph 3B.1.2:

3B.3.1 the PTOM Operator shall implement the change to the relevant Bus Unit Timetable with effect from the date and time specified in

paragraph 3.4.2 of Schedule 3 (*Passenger Services*) of the relevant Partnering Contract;

3B.3.2 paragraph 3B.2.2 above shall not apply; and

3B.3.3 the Services Fee shall be adjusted in accordance with the provisions of the relevant Partnering Contract.

3C Changes to the Rail Unit Timetable

Notwithstanding paragraph 3B.1, if the proposed change relates to the Rail Unit Timetable, paragraph 10 (*Changes to Rail Unit Timetable*) shall apply (with such changes as are necessary to give effect to this principle) as if the change were proposed under Part C of this Annexure.

Part C - Long form process for Timetable changes affecting more than one PTOM Operator

3D Application of this Part C

3D.1 Unless paragraph 3A.1 applies, all changes to the Timetable or a Unit Timetable shall be made in accordance with this Part C.

4 Nature of timetable changes that may be proposed

4.1 GWRC and PTOM Operators may each propose changes to the Timetable or a Unit Timetable in the following circumstances:

4.1.1 to respond to a change in patronage or to encourage an increase in patronage;

4.1.2 to address a safety issue;

4.1.3 to improve connections between scheduled services operating on the Wellington Public Transport Network (including the Scheduled Services);

4.1.4 to improve the reliability and punctuality of scheduled services operating on the Wellington Public Transport Network (including the Scheduled Services);

4.1.5 to implement initiatives approved as part of an annual business plan for a Unit under the relevant Partnering Contract;

4.1.6 to implement initiatives discussed at a Wellington Regional Public Transport Forum; or

4.1.7 any adjustment is required as a result of a post implementation review in accordance with paragraph 15.

4.2 In addition to the circumstances at paragraph 4.1:

4.2.1 a PTOM Operator may propose changes to the Timetable or the relevant Unit Timetable to improve the operational capability of a Unit;

4.2.2 GWRC may propose changes to the Timetable or the relevant Unit Timetable in the following circumstances:

(a) to improve performance of the Wellington Public Transport Network;

(b) to enable the implementation of the Wellington Regional Public Transport Plan;

(c) to enable the implementation of the GWRC Long Term Plan; or

(d) to implement or otherwise facilitate PT Network Projects or, in the case of the Rail Partnering Contract, Additional PT Network Projects; and

4.2.3 a PTOM Operator may propose changes to the Timetable or the relevant Unit Timetable in connection with a Service Disruption (in the case of the Bus Partnering Contract) or any Planned Disruption or Unplanned Disruption (in the case of the Rail Partnering Contract) where such change shall not have any impact on the operations of another PTOM Operator, in which case the PTOM Operator which proposed the change and GWRC shall follow the process set out in Part B of this Annexure.

5 Principles to be applied in dealing with proposed timetable changes

5.1 GWRC and each PTOM Operator shall apply the following principles prior to proposing changes to the Timetable or a Unit Timetable and, in the case of GWRC, in the course of considering, reviewing or approving such proposed changes:

- 5.1.1 changes should, to the extent reasonably practicable, be proposed at least 6 months before the proposed date for implementation of the change;
- 5.1.2 consideration should be given to the impact of the change on other Scheduled Services operating on the Wellington Public Transport Network;
- 5.1.3 consideration should be given to the impact on traffic management;
- 5.1.4 consideration should be given to the impact of the change on other PTOM Operators;
- 5.1.5 consideration should be given to the impact of the change on other modes of transport;
- 5.1.6 consideration should be given to the likely patronage growth or loss as a result of the change;
- 5.1.7 consideration should be given to the impact of the change on customers, including the impacts arising from the proposed time of day in which the change will occur;
- 5.1.8 consideration should be given to the number of customers that are likely to be affected by the change;
- 5.1.9 consideration should be given to the impact on the broader community affected by the change;

- 5.1.10 consideration should be given to the impact of the change on PT Network Projects and in the case of the Rail Partnering Contract any relevant Additional PT Network Projects;
- 5.1.11 consideration should be given to the impact of the change on the Working Timetable; and
- 5.1.12 consideration should be given to the affordability of the change including:
 - (e) the estimated Net Financial Impact arising from the change; and
 - (f) the impact (if any) on GWRC's reliance on public subsidies needed to fund the proposed change.

6 Communication of proposed timetable changes

- 6.1 PTOM Operators shall communicate any intention to propose a change to the Timetable or the relevant Unit Timetable to GWRC at the earliest opportunity, including as part of:
 - 6.1.1 the Monthly Operational Report; and
 - 6.1.2 the Annual Business Plan.
- 6.2 GWRC shall communicate any intention to propose a change to the Timetable or the relevant Unit Timetable to the relevant PTOM Operators at the earliest opportunity.

7 Timetable Change Proposal

- 7.1 A party proposing a change to the Timetable or Unit Timetable shall prepare a written proposal setting out the information needed for the consideration of the proposed change, including:
 - 7.1.1 details of the proposed change, including a description of the rail lines or bus routes, and Scheduled Services affected;
 - 7.1.2 a draft of the relevant part of the Timetable or Unit Timetable (as applicable) and Working Timetable in a standard matrix timetable format specified by GWRC, including all proposed time and route variation details;
 - 7.1.3 the reasons for the proposed change;
 - 7.1.4 analysis of the impacts and other matters described at paragraph 5.1;
 - 7.1.5 the affected PTOM Operators;
 - 7.1.6 the likely resource changes arising from the implementation of the proposed change to each of the Working Timetable and the Unit Timetable;

- 7.1.7 in the case of changes affecting a Unit Timetable in respect of a bus Unit, any change to the PVR;
- 7.1.8 the proposed date for implementation of the timetable change;
- 7.1.9 a draft implementation plan setting out the steps required to consider, approve and implement the timetable change;
- 7.1.10 the proposed timeframe for the completion of the draft implementation plan;
- 7.1.11 any cost implications arising from the proposed timetable change, including:
 - (a) the Net Financial Impact of the proposed timetable change and any associated increase or decrease to the Services Fee calculated in accordance with the relevant Partnering Contract; and
 - (b) the impact (if any) on GWRC's reliance on public subsidies needed to fund the proposed change; and
- 7.1.12 any other matter that such party considers relevant to the consideration of the proposed timetable change,

(together the **Timetable Change Proposal**).

- 7.2 A copy of the Timetable Change Proposal shall be provided to GWRC and each affected PTOM Operator by the party proposing the change.

8 Timetable Review Meetings

- 8.1 GWRC may arrange a meeting of all PTOM Operators materially affected by the Timetable Change Proposal (**Timetable Review Meeting**) within 15 Business Days of receipt of a Timetable Change Proposal from a PTOM Operator or provision of a Timetable Change Proposal by GWRC to affected PTOM Operators, for the purpose of:
 - 8.1.1 allowing the proposing party to present and explain the reasons for the proposed change;
 - 8.1.2 receiving initial feedback on the Timetable Change Proposal;
 - 8.1.3 allowing materially affected PTOM Operators to discuss the proposed change;
 - 8.1.4 identifying any further consultation, work or approvals required to enable the Timetable Change Process to be properly considered and the change to be implemented;
 - 8.1.5 identifying any actions required to enable GWRC to determine any cost implications arising from the proposed timetable change, including changes in patronage revenue and any change to the

Services Fee payable by GWRC to an affected PTOM Operator under the relevant Partnering Contract; and

- 8.1.6 either recording the approval or otherwise by GWRC to the proposed change or scheduling a further Timetable Review Meeting (if required) to consider the outcome of any further consultation, work, approvals or actions required prior to a decision being made.
- 8.2 If GWRC elects to hold a Timetable Review Meeting, GWRC shall ensure that all PTOM Operators materially affected by the Timetable Change Proposal are invited to attend that Timetable Review Meeting and that each such PTOM Operator is given at least 5 Business Days' notice of the Timetable Review Meeting.
- 8.3 Each materially affected PTOM Operator shall:
 - 8.3.1 duly attend and participate in each Timetable Review Meeting to which it is invited pursuant to paragraph 8.2;
 - 8.3.2 act reasonably, in good faith and in accordance with the Partnering Principles at all times during the Timetable Review Meeting; and
 - 8.3.3 promptly carry out any actions reasonably allocated to it at a Timetable Review Meeting, within the timeframe allocated.

9 Decisions to approve a Timetable Change Proposal

- 9.1 Decisions about whether to approve or reject a Timetable Change Proposal and (if applicable) the date of implementation of a Timetable Change Proposal shall be made by GWRC, acting reasonably, in good faith and in accordance with the Partnering Principles.
- 9.2 Subject to paragraph 10, GWRC shall ensure that its decision whether to approve or reject a Timetable Change Proposal is communicated to all affected PTOM Operators in writing as soon as reasonably practicable.

10 Changes to Rail Unit Timetable

- 10.1 The Rail Operator and GWRC shall ensure that a Timetable Change Proposal that involves or requires a change to the Rail Unit Timetable is not approved by GWRC under paragraph 9.1 or implemented until it has first been approved by the Wellington Network Timetable Committee.
- 10.2 Each PTOM Operator:
 - 10.2.1 acknowledges that GWRC may not approve or implement a change to the Rail Unit Timetable until such change has first been approved by the Wellington Network Timetable Committee; and
 - 10.2.2 agrees that GWRC shall not be in breach of its obligations under this Timetable Change Process by virtue of it rejecting a Timetable

Change Proposal in circumstances where that change has been rejected by the Wellington Network Timetable Committee or by virtue of it delaying its decision as to whether or not to approve that Timetable Change Proposal until a decision has been made by the Wellington Network Timetable Committee in relation to that change.

11 Rejection of Timetable Change Proposal

- 11.1 If a Timetable Change Proposal is rejected by GWRC pursuant to paragraph 9.1, the Timetable Change Proposal shall be treated as withdrawn and not approved and shall not be implemented. For the avoidance of doubt, in such circumstances the affected PTOM Operators shall not be entitled under the terms of the relevant Partnering Contract to payment of any Net Financial Impact arising in connection with the Timetable Change Proposal.

12 Implementation by GWRC

- 12.1 Following the approval by GWRC of a Timetable Change Proposal pursuant to paragraph 9.1, without prejudice to any obligations of a PTOM Operator under the relevant Partnering Contract, GWRC shall ensure that the following occurs:
- 12.1.1 all PTOM Operators are informed about the change and provided with the updated Timetable;
 - 12.1.2 all PTOM Operators are informed about the implementation date for the change (which implementation date shall be reasonable);
 - 12.1.3 updated Timetables are communicated to customers:
 - (c) by posting the updated Timetable on the Metlink public website at least 10 Business Days prior to the implementation date; and
 - (d) in accordance with the other requirements set out in Annexure 3 (*Customer Communication and Information Systems*); and
 - 12.1.4 as soon as reasonably practicable following receipt by GWRC of the relevant information pursuant to paragraph 13.1.1, updated information (including Vehicle roster) regarding the new Timetable is uploaded to the RTPI System and any other necessary systems.

13 Implementation by affected PTOM Operators

- 13.1 Following the approval by GWRC of a Timetable Change Proposal pursuant to paragraph 9.1, affected PTOM Operators shall ensure that each of the following occurs:
- 13.1.1 the PTOM Operator amends the Working Timetable to accommodate the change and provides a copy of the revised Working Timetable and any other information required for the RTPI System to GWRC in

accordance with such timeframe that may be agreed between GWRC and the PTOM Operator but in any event by not less than 15 Business Days prior to the required implementation date (as notified to the PTOM Operator by GWRC pursuant to paragraph 12.1.2); and

- 13.1.2 Scheduled Services are operated by that PTOM Operator in accordance with the relevant updated Unit Timetable with effect from and including the required implementation date (as notified to that PTOM Operator by GWRC pursuant to paragraph 12.1.2).

14 Changes to Services Fees arising from an approved Timetable Change Proposal

- 14.1 Following the implementation of a Timetable Change Proposal approved by GWRC by an affected PTOM Operator in accordance with paragraph 13, the Services Fee payable by GWRC to the affected PTOM Operator pursuant to the relevant Partnering Contract shall be adjusted in accordance with the applicable provisions of the relevant Partnering Contract.

15 Post implementation review

- 15.1 GWRC and each affected PTOM Operator shall review any impacts arising from an approved Timetable Change Proposal within 3 months of the implementation of that timetable change.
- 15.2 Each post implementation review shall include:
- 15.2.1 considering any relevant feedback or Complaints relating to the Services received from customers;
 - 15.2.2 identifying any issues associated with the implementation of the timetable change; and
 - 15.2.3 identifying any operational or other improvements needed to address any difficulties related to the timetable change.
- 15.3 GWRC shall ensure that the outcome of each post implementation review is:
- 15.3.1 reported to affected PTOM Operators as soon as reasonably practicable following completion of the review; and
 - 15.3.2 tabled as an agenda item for discussion at the next Wellington Regional Public Transport Forum.

Annexure 2

Customer Service Standards

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1 Purpose of this Annexure

- 1.1 This Annexure sets out the baseline Customer Service Standards that GWRC requires PTOM Operators:
- 1.1.1 to adopt, implement and comply with; and
 - 1.1.2 other than the Bus Operators, to incorporate in the Customer Service Commitment that each PTOM Operator (other than Bus Operators) must adopt, publish and use best endeavours to comply with under the Partnering Contract made between GWRC and that PTOM Operator.

2 Definitions used in this Annexure

- 2.1 Capitalised terms used in this Annexure are as defined in the Regional Agreement, or in the relevant Partnering Contract.

3 Process for changing this Annexure

- 3.1 Any changes to this Annexure shall only occur in accordance with the change process for PT Network Documents set out in the Regional Agreement.

4 Customer Service Standards applicable to all PTOM Operators

- 4.1 The following baseline Customer Service Standards apply to all PTOM Operators and each PTOM Operator shall adopt, implement and comply with these baseline Customer Service Standards:
- 4.1.1 in performing services under the applicable Partnering Contract, the PTOM Operator is required at all times to:
 - (a) ensure that all services are delivered safely;
 - (b) ensure that all services offer a clean and comfortable travelling environment;
 - (c) ensure that all services run on time;
 - (d) keep all customers informed;
 - (e) treat all customers with respect and provide friendly and courteous service;
 - (f) ensure access for everyone; and
 - (g) respond to and act on feedback.
- 4.1A The following paragraphs 4.2, 4.3 and 5 do not apply to any Bus Operators.
- 4.2 Each PTOM Operator shall ensure that the Customer Service Commitment developed by that PTOM Operator meets or exceeds the baseline Customer Service Standards described at paragraph 4.1.
- 4.3 A PTOM Operator may only amend its Customer Service Commitment with the prior written consent of GWRC (not to be unreasonably withheld or delayed). Any

such amended Customer Service Commitment must meet or exceed the baseline Customer Service Standards described at paragraph 4.1 and must otherwise comply with the requirements of this Annexure.

5 Customer Service Commitment

5.1 At all times during the Term, each PTOM Operator shall adopt, publish and use best endeavours to implement and comply with a Customer Service Commitment that:

5.1.1 meets or exceeds the baseline Customer Service Standards described at paragraph 4.1; and

5.1.2 is provided to customers and GWRC in a manner that meets the requirements at paragraphs 5.2 to 5.4, as far as applicable to that PTOM Operator.

5.2 Each PTOM Operator shall ensure that the document recording its Customer Service Commitment includes:

5.2.1 an invitation to customers to submit a complaint if a customer believes the PTOM Operator has failed to honour the Customer Service Commitment;

5.2.2 an invitation to customers to submit a compliment if the customer believes the PTOM Operator has exceeded the Customer Service Commitment; and

5.2.3 details about how to lodge a complaint or compliment, consistent with the requirements of the Customer Communication and Information Systems.

5.3 The Rail Operator shall ensure that its Customer Service Commitment is highly visible to customers by ensuring that a copy of the current Customer Service Commitment is displayed prominently in each of the display cases provided pursuant to clause 30.1 of the Rail Partnering Contract on:

5.3.1 all EMUs and each generator Carriage; and

5.3.2 at the following Stations:

(a) Wellington Station;

(b) Johnsonville Station;

(c) Porirua Station;

(d) Plimmerton Station;

(e) Paraparaumu Station;

(f) Waikanae Station;

(g) Petone Station;

(h) Melling Station;

(i) Waterloo Station;

- (j) Taita Station;
- (k) Upper Hutt Station;
- (l) Featherston Station; and
- (m) Masterton Station.

5.4 The Ferry Operator shall ensure that its Customer Service Commitment is highly visible to customers by ensuring that a copy of the Customer Service Commitment is displayed prominently on all ferries operated by the Ferry Operator in provision of services under a Partnering Contract entered into with GWRC.

5.5 Each PTOM Operator shall also promptly provide GWRC with an electronic copy of the current Customer Service Commitment (including any amendments made in accordance with paragraph 4.3) for the purpose of GWRC:

- 5.5.1 posting the Customer Service Commitment on the Metlink website; and
- 5.5.2 providing a copy of the Customer Service Commitment to customers.

Annexure 3

Customer Communication and Information Systems

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1 Purpose of this Annexure

- 1.1 This Annexure sets out responsibilities and processes that apply to GWRC and PTOM Operators in relation to communicating information to the public relating to the Wellington Public Transport Network and all Scheduled Services.
- 1.2 References in this Annexure to the personnel or staff of a PTOM Operator include the Operator Associates and the personnel and staff of the Operator Associates.

2 Definitions used in this Annexure

- 2.1 Capitalised terms used in this Annexure are as defined in the Regional Agreement, or in the relevant Partnering Contract.

3 Process for changing this Annexure

- 3.1 Any changes to this Annexure shall only occur in accordance with the change process for PT Network Documents set out in the Regional Agreement.

4 Customer service communication and information channels

- 4.1 The customer service communication channels are as follows:
 - 4.1.1 Metlink website;
 - 4.1.2 Metlink social media;
 - 4.1.3 Metlink call centre;
 - 4.1.4 Metlink email address;
 - 4.1.5 Metlink apps, APIs, widgets including all future customer communication channels created by GWRC;
 - 4.1.6 RTPI System signs;
 - 4.1.7 printed Timetables;
 - 4.1.8 printed collateral such as brochures and posters;
 - 4.1.9 Operator personnel at Stations and on rail Vehicles (rail);
 - 4.1.10 in-Vehicle passenger information; and
 - 4.1.11 in- Vehicle announcements (rail and bus).
- 4.2 Specific obligations in relation to each customer service communication channel are set out in the following provisions of this Annexure.
- 4.3 GWRC and each PTOM Operator shall use best endeavours to ensure that the GWRC Systems and time keeping devices used to track and monitor Scheduled Services, Special Event Services and in the case of the Bus Partnering Contract, also the Alternative Services, use New Zealand Standard Time or New Zealand Daylight Time during the applicable period specified each year by the Department of Internal Affairs.

Metlink customer communication channels

- 4.4 GWRC provides the Metlink website, RTPI System, social media, call centre, CRM System (in the case of the Bus Partnering Contract), and email address to be the primary source of public transport information to customers about the Wellington Public Transport Network.
- 4.5 The purpose of the Metlink website is:
- 4.5.1 to be the primary online source of all public transport information to customers about the Wellington Public Transport Network including information about:
- (a) in the case of the Rail Partnering Contract, Timetables, Scheduled Services, Special Event Services, Planned Disruptions, Minor Disruptions and Unplanned Disruptions;
 - (b) in the case of the Bus Partnering Contract, Timetables, Scheduled Services, Special Event Services, Alternative Services and Service Disruptions;
 - (c) promotions and marketing initiatives to promote the Wellington Public Transport Network and grow patronage;
 - (d) fares and ticketing; and
 - (e) Customer Service Standards and Conditions of Carriage; and
- 4.5.2 to provide a portal for communication with customers and the public.
- 4.6 GWRC's obligations in relation to the Metlink website shall comprise:
- 4.6.1 managing and maintaining the website;
- 4.6.2 ensuring the website content is as up to date and accurate as reasonably practicable;
- 4.6.3 providing each PTOM Operator with access to the website to enable the PTOM Operator to upload and update information regarding in the case of a Rail Operator, Unplanned Disruptions, in the case of a Bus Operator, Service Disruptions and, in the case of a Ferry Operator, such information regarding disruptions as GWRC and the Ferry Operator may agree from time to time;
- 4.6.4 to the extent reasonably practicable, ensuring that the website is accessible as an online communication channel 24 hours per day;
- 4.6.5 advising PTOM Operators and customers if the website is unavailable for an extended period, and when service resumes;
- 4.6.6 responding promptly to address and resolve technical issues;
- 4.6.7 monitoring the website to identify trends in visitor numbers and content views; and

- 4.6.8 upgrading the website to reflect new developments in information and communications technology where GWRC considers it reasonable to do so.
- 4.7 GWRC's obligations in relation to Metlink's social media communications shall comprise:
- 4.7.1 managing and maintaining social media channels;
 - 4.7.2 communicating via social media in an ethical and socially responsible manner and in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided through the relevant channel; and
 - 4.7.3 monitoring traffic and comments in the social media space to identify trends and customer responses and perceptions.
- 4.8 GWRC shall operate the Metlink call centre to answer and respond to telephone calls and other messages received in connection with the operation of public transport services on the Wellington Public Transport Network.
- 4.9 GWRC shall maintain a Metlink email address (info@metlink.org.nz) to enable customers to contact GWRC via email and ask questions, seek information and provide feedback about the Wellington Public Transport Network.
- 4.10 GWRC's obligations in relation to the Metlink call centre and Metlink email address shall comprise:
- 4.10.1 managing, maintaining and resourcing the call centre;
 - 4.10.2 managing and maintaining the email address and email capabilities;
 - 4.10.3 providing relevant staff with appropriate training;
 - 4.10.4 ensuring that customer questions and feedback are responded to promptly and effectively;
 - 4.10.5 ensuring that staff provide a friendly, polite, accurate and helpful service;
 - 4.10.6 monitoring calls and messages to the Metlink call centre, email traffic addressed to the Metlink email address, and messages received through Metlink social media, including content, to identify trends in numbers, response times and the number and nature of queries and feedback;
 - 4.10.7 sharing customer feedback with affected or implicated PTOM Operators;
 - 4.10.8 upgrading the call centre and email management system to reflect new developments in information and communications technology where GWRC considers it reasonable to do so;
 - 4.10.9 ensuring that the call centre is accessible as a phone-based communication channel between the hours of at least 7am and 9pm Monday to Saturday, and 8am and 8pm on Sundays and public holidays in Wellington;

- 4.10.10 during the hours referred to in paragraph 4.10.9, providing staff and other resources to respond to calls and messages received by the call centre and to open and respond to emails sent to the Metlink email address and messages received through Metlink social media; and
- 4.10.11 responding promptly to address and resolve technical issues.

PTOM Operator obligations

- 4.11 In relation to the Metlink website, Metlink social media, Metlink call centre and Metlink email address, each PTOM Operator shall ensure that:
 - 4.11.1 the PTOM Operator includes a valid link to the Metlink website from the homepage of the PTOM Operator's website;
 - 4.11.2 if the PTOM Operator uses social media, it is not used for the purposes of providing public transport customer information and the PTOM Operator includes a link to Metlink social media from the PTOM Operator's social media;
 - 4.11.3 the PTOM Operator does not provide any information on the PTOM Operator's website or through any social media communication channels that is available on the Metlink website or Metlink social media;
 - 4.11.4 the PTOM Operator's personnel provide up to date, accurate and timely information to GWRC's Authorised Representative about, in the case of the Rail Partnering Contract, the Scheduled Services, Planned Disruptions (including alternative transport arrangements) and Special Event Services, in the case of the Bus Partnering Contract, Scheduled Services, Special Event Services, Alternative Services and Service Disruptions and, in the case of the Ferry Partnering Contract, such information regarding services and disruptions as GWRC may from time to time specify to enable information to be effectively communicated via the Metlink website, Metlink social media, Metlink call centre and Metlink email address, such information to be provided promptly and in any event in accordance with any relevant time periods provided for in the relevant Partnering Contract; and
 - 4.11.5 the PTOM Operator's personnel are helpful, responsive and promptly provide accurate information to GWRC personnel in response to requests for information about in the case of the Rail Partnering Contract, Scheduled Services, Special Event Services, Planned Disruptions, Minor Disruptions and Unplanned Disruptions, in the case of the Bus Partnering Contract, Scheduled Services, Special Event Services, Alternative Services and Service Disruptions and, in the case of the Ferry Partnering Contract, such information regarding services and disruptions as GWRC may from time to time specify and, in each case, to assist GWRC personnel to respond to customer questions, feedback or Complaints.

- 4.12 Without prejudice to any other obligations of a PTOM Operator, each PTOM Operator shall ensure that:
- 4.12.1 its personnel refer customers seeking information about in the case of the Rail Partnering Contract, the Timetable, Rail Unit Timetable, Scheduled Services, Special Event Services, Planned Disruptions and Unplanned Disruptions, in the case of the Bus Partnering Contract, the Timetable, Bus Unit Timetable, Scheduled Services, Special Event Services, Alternative Services and Service Disruptions and, in the case of the Ferry Partnering Contract, such information regarding timetables, services and disruptions as GWRC may from time to time specify to the Metlink website, Metlink social media and/or Metlink call centre;
 - 4.12.2 its personnel refer customers wishing to provide feedback on or make a complaint about the Wellington Public Transport Network, to the Metlink website and/or call centre;
 - 4.12.3 the PTOM Operator advises the Authorised Representative of GWRC within 1 Business Day following receipt by the PTOM Operator or its personnel of any customer feedback about the Metlink website, Metlink social media, Metlink call centre or Metlink email address;
 - 4.12.4 the PTOM Operator advises the Authorised Representative of GWRC as soon as possible after the PTOM Operator becomes aware of any informational error or technical issues in relation to the Metlink website, Metlink social media, Metlink call centre or Metlink email address; and
 - 4.12.5 the PTOM Operator considers and identifies as part of the Annual Business Plan process described at Schedule 5 (*Planning, Reporting and Meetings*) any opportunities to change, improve or correct the Metlink website, social media or call centre.
- 4.13 In order to ensure that the Metlink website and social media channels become the single focal point for customers, the PTOM Operators shall not provide (or permit any Operator Associate to provide) information relating to the Services or the Wellington Public Transport Network on any other website or on any other social media communication channels.

Rail Operator obligations in respect of Planned Disruptions

- 4.14 The Rail Operator shall provide the following information to GWRC at least 6 weeks prior to any Planned Disruption taking place:
- 4.14.1 full details of the Planned Disruption (including the reason for the Planned Disruption, the date on which the Planned Disruption will commence, the anticipated duration of the Planned Disruption, in the case of the Rail Partnering Contract the Lines that will be affected, the Scheduled Services and Special Event Services that will be affected and the date on which the

Rail Operator expects normal Scheduled Services and Special Event Services to be resumed); and

- 4.14.2 details of the alternative transport arrangements that will be provided by or on behalf of the Rail Operator in accordance with its obligations under Schedule 3 (*Passenger Services*).
- 4.15 From the date falling at least 4 weeks prior to any Planned Disruption commencing until the date on which the Planned Disruption ceases and normal Scheduled Services and Special Event Services are resumed, the Rail Operator shall:
- 4.15.1 prominently display in a manner which is highly visible to customers full details of the Planned Disruption (including those matters specified in paragraph 4.14.1) at locations (as notified by GWRC to the Rail Operator from time to time) at each Station on the Line(s) that will be affected by the Planned Disruption; and
- 4.15.2 ensure that personnel at the Stations and on board Vehicles respond appropriately to any request for information in respect of the Planned Disruption received from customers.
- 4.16 In the event that any information provided by the Rail Operator in connection with a Planned Disruption ceases to be correct or otherwise becomes out of date, the Operator shall promptly:
- 4.16.1 provide an update to GWRC; and
- 4.16.2 update the information provided to customers pursuant to paragraph 4.15.1.

PTOM Operator obligations in respect of Unplanned Disruptions and Service Disruptions

- 4.17 In the case of the Rail Partnering Contract, in the event of an Unplanned Disruption or Minor Disruption, each PTOM Operator shall:
- 4.17.1 in the case of Unplanned Disruptions only, immediately notify the GWRC Authorised Representative and each other PTOM Operator likely to be affected by the Unplanned Disruption and provide to each of them the information described in paragraph 4.17.2;
- 4.17.2 immediately notify the Metlink call centre of the Unplanned Disruption (including providing details of the nature and reason for the Unplanned Disruption, the estimated duration of the Unplanned Disruption, the Lines or routes that will be affected, the Scheduled Services and Special Event Services that will be affected and any alternative transport arrangements that will be provided by or on behalf of the PTOM Operator) in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;

- 4.17.3 immediately upload information to the Metlink website regarding the Unplanned Disruption (including the details referred to in paragraph 4.17.2) in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;
- 4.17.4 ensure that its personnel on Vehicles make frequent, up to date and accurate announcements to the passengers about the Minor Disruption or Unplanned Disruption (including the details referred to in paragraph 4.17.2) in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;
- 4.17.5 ensure that its personnel at Stations provide frequent, up to date and accurate announcements and information including signage about the Minor Disruption or Unplanned Disruption (including the details referred to in paragraph 4.17.2) in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;
- 4.17.6 maintain regular and accurate communications throughout the duration of the Unplanned Disruption with the Metlink call centre and the GWRC Authorised Representative (including promptly notifying the Metlink call centre and GWRC Authorised Representative if any information previously provided in relation to the Unplanned Disruption ceases to be correct or accurate or if new information comes to light);
- 4.17.7 provide frequent updates to the GWRC Authorised Representative and each other PTOM Operator in relation to Unplanned Disruptions and their effects;
- 4.17.8 immediately notify the Metlink call centre, the GWRC Authorised Representative, each other PTOM Operator and all passengers at each affected Station and on board affected Vehicles when the Unplanned Disruption ceases;
- 4.17.9 keep the information on the Metlink website regarding the Unplanned Disruption up to date throughout the disruption;
- 4.17.10 ensure that its personnel respond politely, accurately and helpfully to, and appropriately manage, customer questions and feedback relating to the Minor Disruption or Unplanned Disruption;
- 4.17.11 report to GWRC on customer questions, feedback and Complaints received in relation to the Unplanned Disruption as part of the relevant Weekly Operational Report; and
- 4.17.12 promptly provide such other information in relation to the Unplanned Disruption as GWRC may reasonably require.

- 4.18 In the case of the Bus Partnering Contract, in the event of a Service Disruption, each PTOM Operator shall:
- 4.18.1 in accordance with paragraph 3.7 of Schedule 3 (*Passenger Services*) notify the Metlink call centre and the GWRC Authorised Representative of the Service Disruption (including providing details of the nature, reason and estimated duration of the Service Disruption, Routes that will be affected, the Scheduled Services and Special Event Services that will be affected and any Alternative Services that will be provided by or on behalf of the PTOM Operator) in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;
 - 4.18.2 promptly update the RTPI System messaging in respect of the Service Disruption in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances, and update the RTPI System messaging with the status of any Scheduled Services, Special Event Services or Alternative Services in accordance with paragraph 5 and with the Bus Services Equipment Operations Manual without delay;
 - 4.18.3 ensure that its personnel on Vehicles make frequent, up to date and accurate announcements to the passengers about the Service Disruption in accordance with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances;
 - 4.18.4 maintain regular and accurate communications throughout the duration of the Service Disruption with the Metlink call centre and the GWRC Authorised Representative (including promptly notifying the Metlink call centre and GWRC Authorised Representative if any information previously provided in relation to the Service Disruption ceases to be correct or accurate or if new information comes to light);
 - 4.18.5 immediately notify the Metlink call centre and the GWRC Authorised Representative, and all passengers on board affected Vehicles when the Service Disruption ceases;
 - 4.18.6 immediately remove Service Disruption messaging from the RTPI System once the effects of the Service Disruption have ceased;
 - 4.18.7 ensure that its personnel respond politely, accurately and helpfully to, and appropriately manage, customer questions and feedback relating to the Service Disruption;
 - 4.18.8 report to GWRC on customer questions, feedback and Complaints received in relation to the Service Disruption as part of the relevant Weekly Operational Report; and

- 4.18.9 promptly provide such other information in relation to the Service Disruption as GWRC may reasonably require.

Questions, feedback and Complaints

- 4.19 In regard to customer questions, feedback and Complaints received by a PTOM Operator:
- 4.19.1 the PTOM Operator shall record, handle, store, transfer and otherwise manage such questions, feedback and Complaints in accordance with the Privacy Obligations and the privacy policy which the Operator is required to implement under the Ferry Partnering Contract or clauses 61.2 and 61.3 (*Operator's Privacy Policy*) of the Bus Partnering Contract or clauses 70.1 and 70.2 of the Rail Partnering Contract (as applicable);
 - 4.19.2 notwithstanding paragraph 4.19.1, the PTOM Operator shall report customer questions, feedback and Complaints (whether provided verbally or in writing) to GWRC within 1 Business Day of receipt thereof in the form and method specified by GWRC and also as part of the Weekly Operational Report;
 - 4.19.3 where a customer question, feedback or Complaint which relates to the Services is designated as serious (or similarly described) by GWRC, then, the PTOM Operator will provide its proposed response to GWRC (within 1 Business Day of receipt of the question, feedback or Complaint (as applicable)) and GWRC shall manage the communication with the customer;
 - 4.19.4 GWRC shall manage the responses to all customer questions, feedback and Complaints; and
 - 4.19.5 if requested to do so by GWRC (acting reasonably) a PTOM Operator shall:
 - (a) as soon as reasonably practicable following such a request, provide GWRC with a proposed formal response including a written description of the incident and actions to be taken to resolve the question, feedback or Complaint; and
 - (b) take any necessary and reasonable action which GWRC requests to resolve a customer question, feedback or Complaint which relates to the Services within 5 Business Days of receipt of such request.
- 4.20 In regard to questions, feedback and Complaints received by GWRC:
- 4.20.1 GWRC shall record all customer questions, feedback and Complaints;
 - 4.20.2 GWRC shall manage the responses to all customer questions, feedback and Complaints;

- 4.20.3 without prejudice to a PTOM Operator's obligations under paragraphs 4.20.4 and 4.20.5, GWRC shall work directly with the affected customers to resolve any Complaints;
- 4.20.4 where a customer question, feedback or Complaint relating to the Services is designated as serious (or similarly described) by GWRC, then the relevant PTOM Operator will provide its proposed response to GWRC (within 1 Business Day of receipt of the question, feedback or Complaint (as applicable)) and GWRC shall manage the communication with the customer; and
- 4.20.5 if requested to do so by GWRC (acting reasonably) a PTOM Operator shall:
- (a) as soon as reasonably practicable following such a request, provide GWRC with a proposed formal response including a written description of the incident and actions to be taken to resolve the question, feedback or Complaint; and
 - (b) take any necessary and reasonable action which GWRC requests to resolve any customer question, feedback or Complaint which relates to the Services within 5 Business Days of receipt of request.

Accessing the Metlink website

- 4.21 In accessing the Metlink website, each PTOM Operator shall ensure that:
- 4.21.1 it does so in accordance with the security policies and processes notified to it by GWRC from time to time and only for permitted purposes; and
 - 4.21.2 all information uploaded by the PTOM Operator to the Metlink website complies with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided through the Metlink website.

Printed Timetables and other collateral

- 4.22 GWRC shall be responsible for the development, design and production of printed collateral relating to the Wellington Public Transport Network, including Timetables. GWRC may use brochures and other printed collateral to inform and educate customers, to promote Metlink-related marketing and sponsorship activities and events and otherwise to promote the Wellington Public Transport Network.
- 4.23 GWRC shall ensure that printed Timetables are available on request to enable customers to be provided with accurate Timetable information in a hard copy format for use to plan journeys on the Wellington Public Transport Network.
- 4.24 GWRC obligations in relation to printed Timetables and any other printed brochures and collateral shall comprise:

- 4.24.1 developing, designing and printing Timetables and any other printed brochures and collateral that are accurate and fit for purpose;
 - 4.24.2 except in the case of displays on buses, designing, approving, supplying and installing Metlink displays to hold printed Timetables and any other printed brochures and collateral; and
 - 4.24.3 distributing printed Timetables and any other printed brochures and collateral to PTOM Operators for use in approved Metlink displays.
- 4.25 Each PTOM Operator shall:
- 4.25.1 if the PTOM Operator is a Bus Operator only, ensure that space is provided on Vehicles for approved Metlink displays;
 - 4.25.2 if the PTOM Operator is the Rail Operator, supply, install and maintain any approved Metlink displays;
 - 4.25.3 if required by GWRC appropriately display Timetables, brochures and other collateral provided to it by GWRC on board the Vehicles in accordance with the Metlink Branding Manual (as defined in the Bus Partnering Contract), the Metlink Brand Guidelines (as defined in the Rail Partnering Contract) and, in the case of a Ferry Operator, such manual or guidelines as GWRC may specify from time to time;
 - 4.25.4 when requested to do so by GWRC, promptly replace the Timetables, brochures or other collateral displayed on Vehicles with replacements provided by GWRC from time to time;
 - 4.25.5 promptly notify GWRC if the PTOM Operator becomes aware that any of the printed Timetables, brochures or collateral are out of date or inaccurate;
 - 4.25.6 inform GWRC about the nature of any additional printed brochures or collateral that the PTOM Operator considers are necessary; and
 - 4.25.7 undertake all other activities reasonably required by GWRC to ensure that the approved Metlink displays relevant to the Scheduled Services operated by the PTOM Operator are adequately stocked with printed Timetables, brochures or other collateral that is accurate and up to date.

PTOM Operator personnel

- 4.26 Each PTOM Operator shall ensure that all members of its personnel (including personnel engaged by an Operator Associate) who interact with customers face to face (whether at Stations, on board Vehicles, in ticket offices, at Depots, on board Vehicles, at bus stop locations, or otherwise):
- 4.26.1 are engaged and trained in accordance with the requirements set out in the Ferry Partnering Contract, at clause 15 (*Training requirements*) of the Rail Partnering Contract and clause 14 (*Training and driver requirements*) of the Bus Partnering Contract and in accordance with the Transition Plan;

- 4.26.2 have the knowledge and communication skills to respond appropriately to customer questions, feedback, Complaints and requests for information;
- 4.26.3 act all times in a polite, helpful and courteous manner;
- 4.26.4 wear uniforms that meet the requirements of the Ferry Partnering Contract, clause 16 (*Branding, uniforms and livery*) of the Rail Partnering Contract and clause 15 (*Branding, uniforms and livery*) of the Bus Partnering Contract;
- 4.26.5 comply with the requirements of the Customer Service Standards; and
- 4.26.6 comply with the relevant requirements of this Annexure.

Personnel at Stations and on rail Vehicles

- 4.27 Not used.
- 4.28 The Rail Operator shall ensure that sufficient numbers of its personnel are available at Stations and on board Vehicles to ensure that:
 - 4.28.1 customers receive personal service, information and assistance to make efficient journeys by public transport; and
 - 4.28.2 tickets are made available to passengers in accordance with the Fares, Ticketing and Enforcement Requirements.

In-Vehicle passenger information

- 4.29 The PTOM Operator shall ensure that electronic passenger information signs on each Vehicle provide accurate information to customers, in the format specified by GWRC.
- 4.30 GWRC may require the PTOM Operator to display particular information in the passenger information signs located on the Vehicles. If it does so then:
 - 4.30.1 GWRC shall ensure that:
 - (a) the PTOM Operator is supplied with accurate information for display in the electronic passenger information signs; and
 - (b) the PTOM Operator is informed about the period that the display information is required to run; and
 - 4.30.2 the PTOM Operator shall ensure that such information is displayed in the passenger information signs on each Vehicle for the duration specified by GWRC (acting reasonably).

In-Vehicle announcements

- 4.31 Without prejudice to any other obligations of the PTOM Operator under this Annexure 3, each PTOM Operator shall ensure that on board Vehicle announcements are made to ensure that passengers are kept fully informed of incidents, emergencies and disruptions affecting passenger services provided by that PTOM Operator, including in the case of the Rail Partnering Contract, Planned

Disruptions, Minor Disruptions and Unplanned Disruptions and in the case of the Bus Partnering Contract, Service Disruptions.

- 4.32 The PTOM Operators' obligations in regard to announcements to passengers on board Vehicles shall include ensuring that:
- 4.32.1 up to date and accurate information is provided to passengers;
 - 4.32.2 personnel making announcements comply with the Customer Service Standards and the requirements of this Annexure; and
 - 4.32.3 announcements comply with any guidance material that GWRC may issue from time to time regarding the style and content of information to be provided in those circumstances.

Failure of IFT System

- 4.33 In the event of any failure or faults in respect of ticketing systems or equipment affecting passengers travelling on the Scheduled Services or Special Event Services (including in the case of the Rail Partnering Contract, IFT System or IFT System Equipment and in the case of the Bus Partnering Contract, Ticketing System or Ticketing Equipment), the relevant PTOM Operator shall ensure that appropriate announcements and instructions are provided to passengers on board each Vehicle and (in the case of the Rail Operator) at each Station.

Media management

- 4.34 GWRC and each PTOM Operator will work together to implement the Partnering Principles set out in the Regional Agreement and in particular to present a unified and cooperative image to the public in regard to the running of public transport services on the Wellington Public Transport Network. To that end, in relation to media management:
- 4.34.1 GWRC shall coordinate and manage all strategic relationships and communications regarding the Wellington Public Transport Network with all news media including bloggers, and with community groups, interest groups and other stakeholders. Each PTOM Operator shall promptly provide such information and assistance as GWRC may reasonably request in connection therewith;
 - 4.34.2 each PTOM Operator shall ensure that all media queries and any approaches for comment from news media representatives (or similar) regarding the Wellington Public Transport Network in general and strategic issues associated with it, which are received by it are immediately referred to the GWRC Authorised Representative;
 - 4.34.3 GWRC and each PTOM Operator will take a 'no surprises' approach to media management and will engage with each other to the extent reasonably necessary in responding to media enquiries; and

- 4.34.4 a PTOM Operator shall not, by itself, in conjunction with other PTOM Operators, indirectly through any industry association or otherwise, make, participate in or issue any press release, public announcement or comment (including comments to news media, bloggers, community groups, interest groups or other stakeholders) relating to the Wellington Public Transport Network, any Partnering Contract or the Services, except to the extent permitted by the relevant Partnering Contract (including clause 69 (*Media Management*) of the Rail Partnering Contract and clause 60 (*Media Management*) of the Bus Partnering Contract).

5 RTPI System

Purpose of RTPI System

- 5.1 The RTPI System allows the real time tracking of Vehicles to provide for:
- 5.1.1 real time predictions of departure times of:
- (a) in the case of the Rail Partnering Contract, scheduled services on the Wellington Public Transport Network on display signs at key bus stops and stations; and
 - (b) in the case of the Bus Partnering Contract, Scheduled Services, Special Event Services and Alternative Services on the Wellington Public Transport Network on display signs at selected facilities,
- and other off-street locations such as hospitals, shopping malls and workplaces (as applicable to the Vehicle in question), so that customers can make informed decisions about their public transport options and journeys;
- 5.1.2 real time predictions of departure times of, in the case of the Rail Partnering Contract, scheduled services, and in the case of the Bus Partnering Contract, graphic depictions of Scheduled Services, Special Event Services and Alternative Services on the Wellington Public Transport Network for publication on the Metlink website and by mobile phone internet applications and in order for the Metlink call centre to respond to telephone enquiries and other messages;
- 5.1.3 real time Vehicle location information to be accessed through the Metlink website and related mobile applications, and available as open data;
- 5.1.4 bus priority at selected signal controlled junctions;
- 5.1.5 joint PTOM Operator and GWRC optimisation and development of schedule planning and service design;
- 5.1.6 an information basis that may be used to respond to Complaints made to a PTOM Operator or to GWRC by members of the public about scheduled services provided on the Wellington Public Transport Network;

- 5.1.7 use by a PTOM Operator in support of its operational management and business optimisation requirements, including:
- (a) fleet management; and
 - (b) adherence to timetable obligations;
- 5.1.8 GWRC to monitor Scheduled Services, and in the case of the Bus Partnering Contract, also Special Event Services and Alternative Services in accordance with the Reliability KPI, the Punctuality KPI and the PIs set out in the Partnering Contract; and
- 5.1.9 any other purpose set out in an Annual Business Plan or agreed in writing between GWRC and the relevant PTOM Operator(s) from time to time.

Title and control of RTPI System

- 5.2 GWRC and each PTOM Operator acknowledges and agrees that:
- 5.2.1 title to the RTPI System (in the case of the Bus Partnering Contract, except for any Optional Equipment or any Optional System Functionality procured by Bus Operators) shall at all times remain with GWRC; and
- 5.2.2 control over the RTPI System shall remain with GWRC, subject to any licence or other right to use the RTPI System granted to a PTOM Operator under the relevant Partnering Contract.

RTPI System signs at Stations and bus stops

- 5.3 GWRC shall ensure that:
- 5.3.1 subject to paragraph 5.3.2, RTPI System signs are in working order; and
- 5.3.2 any RTPI System signs that are damaged are, to the extent practicable, replaced or reinstated subject, at GWRC's sole discretion, to any limitations associated with the cost of doing so.
- 5.4 Each PTOM Operator shall not (and shall procure that its Operator Associates shall not) damage any part of the RTPI System, and in the case of the Bus Partnering Contract, the RTPI System or RTPI Equipment.
- 5.5 Each PTOM Operator shall:
- 5.5.1 continuously monitor the RTPI System signs located:
- (a) on board the Vehicles operated by that PTOM Operator; and
 - (b) at facilities serviced by Vehicles operated by that PTOM Operator,
- and shall promptly notify GWRC's Authorised Representative of any performance issues, damage or general wear and tear thereto; and
- 5.5.2 if that PTOM Operator is entitled to access the RTPI System in order to put information on the RTPI System signs, do so in accordance with any

guidance material that GWRC may issue from time to time regarding the style and content of information to be provided through the RTPI System.

RTPI System and RTPI Equipment on Vehicles

- 5.6 Without prejudice to any other obligations of the PTOM Operator, the PTOM Operator shall use its best endeavours to ensure that the RTPI System (and in the case of the Bus Partnering Contract, RTPI Equipment) in respect of the relevant Unit is in working order at all times during the hours of operation of the Scheduled Services and Special Event Services.
- 5.7 GWRC and the PTOM Operator acknowledge and agree that the operation of the RTPI System for the Rail Unit and the Bus Unit depends on:
- 5.7.1 in the case of the Bus Partnering Contract, PTOM Operator compliance with the Bus Services Equipment Operations Manual;
 - 5.7.2 in the case of the Rail Partnering Contract, 'KMC' units on rail Vehicles and in the case of the Bus Partnering Contract, RTPI Equipment on Vehicles which provide communication, tracking and data logging functionality for operational systems, and also provide GPS tracking capability for the RTPI System. This GPS data is provided in real time to the RTPI system via a web service interface;
 - 5.7.3 in the case of the Rail Partnering Contract, the operational management system and web service interface owned and maintained by the Access Provider; and
 - 5.7.4 in the case of the Bus Partnering Contract, suitable interface between Ticketing System and the RTPI System for the transfer of journey information.
- 5.8 The Rail Operator shall in the case of the Rail Partnering Contract:
- 5.8.1 create daily journey plans in the operational management system;
 - 5.8.2 promptly update the daily journey plans in the operational management system in cases of disruptions or any other events requiring an amendment to the daily journey plans; and
 - 5.8.3 manage and provide service status and disruption information to customers by promptly updating the RTPI System signs in accordance with paragraph 5.5.2.

Annexure 4

Security Service Specification

Contents

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1 Purpose of this Annexure

- 1.1 This Annexure sets out the specification for the security services that form part of the Services provided by the Operator under this Partnering Contract.
- 1.2 This Annexure sets out obligations that apply solely to the Rail Unit.

2 Relevance of this Annexure to other parts of the Rail Partnering Contract

- 2.1 This Annexure is relevant to the following aspects of the Partnering Contract:
 - 2.1.1 Schedule 3 (*Passenger Services*);
 - 2.1.2 Schedule 4 (*Vehicle Services*); and
 - 2.1.3 Schedule 5 (*Planning, Reporting and Meetings*).

3 Process for changing this Annexure

- 3.1 Any changes to this Annexure shall only occur as a Contract Variation in accordance with the relevant provisions relating to Contract Variations contained in Schedule 16 (*Change Events and Net Financial Impact*).

4 Exclusion from the Operator's obligations under this Annexure

- 4.1 Nothing in this Annexure shall oblige the Operator to:
 - 4.1.1 monitor burglar alarms located at any Station or monitor any burglar alarms or fire alarms located at the EMU Depot; or
 - 4.1.2 provide security services in regard to the Carriage Depot.
- 4.2 Without prejudice to the obligations of the Operator pursuant to clause 12.2 (*Spares warehouse*):
 - 4.2.1 except as provided for in paragraph 4.2.2, this Annexure does not relate to the provision of security services in regard to any Spares, Rotable Items, Special Tools and General Tools located at either the Carriage Depot or at the Operator's spares warehouse facility provided in accordance with clause 12.2; and
 - 4.2.2 the Operator shall determine and implement appropriate methods of securing such Spares, Rotable Items, Special Tools and General Tools as required to enable it to comply with its obligations under this Partnering Contract.

5 Objectives and outcomes for the delivery of security services

- 5.1 The Operator shall provide security services that contribute to the achievement of the Passenger Services Objectives and Outcomes and the Vehicle Services Objectives and Outcomes by:

- 5.1.1 providing a safe and secure physical environment for passengers while on Vehicles, on Stations, on platforms, in car parks and while utilising subways and over bridges; and
- 5.1.2 minimising wilful damage to GWRL Assets and GWRL Systems so that the GWRL Assets and GWRL Systems are always available for use by the Operator; and
- 5.1.3 minimising wilful damage to GWRC Assets and GWRC Systems.

6 **GWRL and GWRC obligations**

- 6.1 GWRL shall provide CCTV cameras on the Vehicles (excluding the Simulator) linked to recording devices from which recorded data may be downloaded retrospectively. For the avoidance of doubt, such CCTV cameras shall form part of the Vehicles for the purposes of the definition of Vehicles.
- 6.2 Subject to paragraph 7.7, GWRL shall provide access to and make the following premises and security systems available to the Operator, including to the extent provided for in clause 36 (*Licensing of GW Background IP and Developed IP*) Intellectual Property Rights in such assets to the extent that such Intellectual Property Rights are comprised in the GW Third Party Licensed IP:
 - 6.2.1 the Rail Monitoring Centre until the date of relocation in accordance with the Relocation Plan;
 - 6.2.2 the following security related systems located at the Sites and (where applicable) linked in real time to enable monitoring from the Rail Monitoring Centre and (where applicable) linked to recording devices from which recorded data may be downloaded retrospectively:
 - (a) CCTV cameras (excluding CCTV cameras at Wellington Station which are dealt with separately in paragraph 6.2.3 below);
 - (b) duress points;
 - (c) fencing and related alarms;
 - (d) information about and control of card access locations; and
 - (e) security lighting and security signage;
 - 6.2.3 the CCTV camera system at Wellington Station comprising:
 - (a) CCTV cameras in public areas which can be monitored live at both the Rail Monitoring Centre and at Wellington Station and which are linked to recording devices from which recorded data may be downloaded retrospectively; and
 - (b) CCTV cameras in staff areas which are linked to recording devices from which recorded data may be downloaded retrospectively;

- 6.2.4 the incident management systems developed by GWRL and located at the Rail Monitoring Centre; and
- 6.2.5 a viewing and download system at a location as agreed between the Parties from time to time, for use by the Operator's security personnel, (together the "**GWRL Security Systems**").

6.3 GWRC shall following receipt of written notice from the Operator advising that any component of the GWRL Security Systems is defective, promptly arrange for and meet the cost of maintenance or replacement of that component.

6.4 GWRL (in the case of the Station buildings (excluding Wellington Station) and the EMU Depot) and GWRC (in the case of the areas under which the Operator is provided a right of access or occupation of Wellington Station under Schedule 9 (*Stations and Depot Facilities*)) shall ensure that any appropriate parts of the Station buildings and the EMU Depot are capable of being secured.

7 Operator obligations

7.1 The Operator shall provide any Maintenance Works required to rectify faults in the CCTV cameras on the Vehicles as part of the Vehicle Services described at Schedule 4 (*Vehicle Services*) and shall otherwise maintain such CCTV cameras in accordance with clause 12.3 (*Maintained Assets*).

7.2 The Operator shall promptly provide GWRC with written notice setting out details (including location and nature of the fault) if any component of the GWRL Security Systems is defective. To the extent that GWRL and GWRC have ensured that any parts of the Station buildings and the EMU Depot are capable of being reasonably secured as provided for in paragraph 6.4, the Operator shall ensure that they are kept secure at all times.

7.2A The Operator shall, by no later date than GWRC may (acting reasonably) direct, develop the Relocation Plan in consultation with GWRC and submit the Relocation Plan to GWRC for approval. If GWRC provides comments on the draft Relocation Plan, the Operator shall duly amend the draft Relocation Plan to incorporate and reflect those comments and shall resubmit the amended draft Relocation Plan to GWRC within 3 Business Days following receipt by the Operator of GWRC's comments. This paragraph 7.2A shall reapply until the Relocation Plan is approved in writing by GWRC.

7.3 Once the Relocation Plan has been approved by GWRC in accordance with paragraph 7.2A, the Operator shall comply with its obligations under, and implement, the Relocation Plan in accordance with its terms.

7.4 The Operator shall ensure that each version of the Security Management Plan shall include (as a minimum):

- 7.4.1 details of the scope and delivery arrangements for the security services to be provided by the Operator including:
- (a) each of the matters set out at paragraph 7.6;
 - (b) monitoring services in regard to the Vehicles;
 - (c) monitoring services at Wellington Station;
 - (d) monitoring services at each of the Sites identified in Appendix 1 of this Annexure;
 - (e) mobile response services;
 - (f) routine static and mobile guard services;
 - (g) non- routine static and mobile guard services; and
 - (h) record keeping and reporting;
- 7.4.2 details of the operating procedures and quality standards that the Operator will adhere to in delivering the security services including, in relation to CCTV cameras, the matters set out at paragraph 7.7;
- 7.4.3 reference to all professional industry standards and codes of conduct that are applicable to the delivery of the security services and confirmation that the Operator will (and will ensure that all relevant Operator Associates will) comply with such standards and codes of conduct;
- 7.4.4 reference to all relevant laws, codes of practice and standards relevant to the delivery of the security services and confirmation that the Operator will (and will ensure that all relevant Operator Associates will) comply with such laws, codes of practice and standards; and
- 7.4.5 details of any proposed subcontracting arrangements in respect of the security services.
- 7.5 The Operator shall:
- 7.5.1 update the Security Management Plan in accordance with paragraph 5 (*Plans*) of Schedule 5 (*Planning, Reporting and Meetings*);
 - 7.5.2 implement and comply with the Security Management Plan; and
 - 7.5.3 provide all assets and equipment necessary to deliver the security services in accordance with this Partnering Contract and the Security Management Plan, with the exception of the GWRL Security Systems and the CCTV cameras on the Vehicles.
- 7.6 The Operator shall deliver the monitoring services and other services as set out in the Security Management Plan, which shall include:
- 7.6.1 retrospectively viewing the data downloaded from the cameras on Vehicles;

- 7.6.2 retrospectively viewing the data downloaded from cameras at all Sites;
- 7.6.3 monitoring the activation of duress points and security alarms 24 hours per day 365 days per year, including:
 - (a) immediately establishing and maintaining audio contact with persons at any activated duress point until the circumstances leading to the activation are resolved;
 - (b) monitoring intruder alarms;
 - (c) monitoring power fence alarms;
 - (d) monitoring future virtual fence alarms; and
 - (e) monitoring access control system alarms;
- 7.6.4 monitoring and operating CCTV cameras 24 hours per day 365 days per year and including:
 - (a) when duress points are activated;
 - (b) when CCTV cameras equipped with video motion detection systems are triggered;
 - (c) when beam sets providing virtual fences at stabling yards without physical fences are triggered;
 - (d) when alarms generated from power fence installations are triggered and where CCTV coverage exists;
 - (e) where necessary to ensure the welfare of security personnel while providing an on-site response;
 - (f) to ascertain if tagging of stabled Vehicles has occurred to the extent camera positioning enables;
 - (g) when Special Events occur including when Special Event Services are provided; and
 - (h) proactively in other circumstances where there is a heightened risk of safety or security incidents;
- 7.6.5 'Setting' and 'Unsetting' security alarms at the times specified in the Security Management Plan and monitoring 'Set' and 'Unset' status of security alarms;
- 7.6.6 receiving and verifying any notifications of imminent or actual safety or security incidents received from the public, GWRC, the Police or any other party;
- 7.6.7 providing an afterhours liaison/contact for enquiries received in respect of security at each Site;

- 7.6.8 subject to GWRC's obligations under paragraph 6.3, managing the performance of security systems 24 hours per day 365 days per year, including:
- (a) identifying defects in any component of the GWRL Security Systems or CCTV cameras on any Vehicle;
 - (b) advising GWRC's nominated person by email as soon as possible of any defective component of GWRL's Security Systems so that GWRC may promptly arrange and meet the cost of maintenance or replacement of that component; and
 - (c) maintaining or replacing any defective component of CCTV cameras on the Vehicles in accordance with the Operator's obligations set out at Schedule 4 (*Vehicle Services*) and clause 12.3 (*Maintained Assets*);
- 7.6.9 delivering appropriate on-site response services 24 hours per day 365 days per year when indicated by duress point activations, CCTV system monitoring, security alarm activations and any other notification of imminent or actual safety or security incidents, as set out in the Security Management Plan including:
- (a) immediately arranging the dispatch of a mobile patrol;
 - (b) immediately liaising with police, fire or ambulance service as necessary;
 - (c) monitoring the progress of the responding mobile patrol and the need for any additional resources or police response;
 - (d) ensuring that "pre-alarm" conditions are reinstated as soon as appropriate;
 - (e) initiating and co-ordinating any key holder and subsequent security response to alarms, incidents and events; and
 - (f) meeting police requests for assistance in respect of malicious calls, Complaints or other safety or security matters;
- 7.6.10 delivering routine static and mobile guard services to provide a visible presence for the purpose of dissuading and responding to any safety or security incidents caused by persons on Vehicles, at Stations, on platforms, in car parks and while utilising subways and over bridges. These routine services are to be provided 365 days per year at times and locations set out in the Security Management Plan and shall include:
- (a) routine static guard services;
 - (b) routine mobile patrols that complement static guard services;

- (c) vandalism and graffiti patrols to deter and detect criminal damage to the Vehicles and the Sites; and
 - (d) undertaking the removal of all tagging on Vehicles prior to the commencement of Scheduled Services or Special Event Services each day or, where this is not reasonably practicable, blacking out the tag so that it is not visible as at the commencement of Scheduled Services or Special Event Services each day and then removing the tag as soon as reasonably practicable thereafter;
- 7.6.11 delivering non-routine static and mobile guard services as set out in the Security Management Plan to include directed patrols at any time to provide an intense short term presence in response to a spate of security or safety incidents at any Site or on board any Train;
- 7.6.12 the provision of security services in respect of Special Event Services as contemplated by the Special Events Plan and otherwise in accordance with any security proposal approved by GWRC pursuant to paragraph 3.38.3 of Schedule 3 (*Passenger Services*); and
- 7.6.13 record keeping and reporting in the Monthly Operational Report or more promptly if required, comprising:
- (a) creating and retaining accurate records of all alarm activations, all responses to imminent or actual safety or security incidents, all graffiti and all wilful damage to Sites or Vehicles;
 - (b) providing records and other information to police to support their investigation into safety or security incidents, graffiti or wilful damage to Sites or Vehicles;
 - (c) reporting to GWRC all incidents of graffiti or wilful damage to Sites no later than 9.00am the day after detection so that GWRC may arrange prompt remedial work;
 - (d) reporting to GWRC the data set described in the Security Management Plan which shall include:
 - (i) the number of duress point activations;
 - (ii) the nature of duress point activations, nuisance, genuine and other;
 - (iii) the number of security alarm activations;
 - (iv) the number of imminent or actual safety or security incident alarms detected by CCTV monitoring or notified to the Operator;
 - (v) for each on-site response to an imminent or actual safety or security incident alarms:

- the nature and location;
 - the nature of the responses;
 - actions and outcomes of each incident (if known);
 - the outcomes of the response;
 - an incident report sheet for each incident that required police, fire or ambulance service; and
- (vi) all incidents of graffiti or vandalism to Vehicles (for which remedial work is the responsibility of the Operator); and
- (e) promptly reporting and providing written notice to GWRC setting out details (including location and nature of the fault) if any component of the GWRL Security Systems is defective.

7.7 The Operator shall comply (and shall ensure that each relevant Operator Associate shall comply) with all applicable Laws relating to the usage of CCTV cameras or to the viewing, storage, making available or destruction of images recorded by CCTV cameras and shall maintain and comply with specific operating procedures and quality standards for CCTV cameras which:

7.7.1 are compliant and consistent with:

- (a) the Operator's obligations under clause 70 (*Privacy and Data Protection*);
- (b) the Operator's obligations under this Annexure; and
- (c) GWRC's document entitled "Closed Circuit Television (CCTV) Policy Statement: Management and Standard Operating Procedures" (as updated or replaced from time to time); and

7.7.2 shall include as a minimum, appropriate procedures relating to:

- (a) screening, confidentiality obligations, appropriate use, requirements to give evidence and training for staff employed to monitor CCTV cameras;
- (b) access to, retention and use of recorded material;
- (c) monitoring point management and operation;
- (d) equipment usage, including monitoring procedures, record keeping and reporting;
- (e) public notices of CCTV cameras.

7.8 The Operator shall (and shall procure that the Operator Associates shall) access the Sites subject to and in accordance with Appendix 2 (*Access to Sites*). Without prejudice to the foregoing, where the delivery of any security services requires

access to any Site that is not owned by either GWRC or KiwiRail (including those Sites identified in paragraph 1.6 of Appendix 2 to this Annexure), the Operator shall obtain from the owner of each such Site all necessary consents to access the Site for the purpose of providing the security services and maintain and comply with such consents throughout the Term.

Appendix 1: Sites



Appendix 2: Access to Sites

Sites owned by KiwiRail

- 1.1 GWRL has entered into various ground leases, licences and deeds of grants for the use of land and access to buildings owned by GWRL as described at Schedule 9 (*Stations and Depot Facilities*).
- 1.2 The Operator is granted access to certain parts of this land and to the buildings owned by GWRL under the terms of the leases and licences and via the rights of access and occupation provided to the Operator as described at Schedule 9 (*Stations and Depot Facilities*).
- 1.3 Under the terms of the Car Park Lease, GWRL has certain rights to access and use the land contemplated by the Car Park Lease. GWRL shall permit the Operator to access such land to the extent reasonably required to enable the Operator to perform its obligations under this Annexure, provided that the Operator shall (and shall procure that the Operator Associates shall):
 - 1.3.1 comply with the terms and conditions of the Car Park Lease and not cause or contribute to any breach by GWRL thereof;
 - 1.3.2 when present on such land, comply with any other reasonable access or safety rules notified to the Operator by GWRC or GWRL;
 - 1.3.3 prior to accessing such land, obtain any necessary consents to do so; and
 - 1.3.4 comply with the terms of any consent referred to in paragraph 1.3.3.
- 1.4 Access to the Wellington rail yards and all rail corridors is subject to the Operator obtaining consent and meeting the conditions of any consent provided by the Access Provider under the Railways Act.

Sites owned by GWRL

- 1.5 GWRL owns the land used for car parking at Tawa, Paraparaumu, Featherston and Woodside stations. GWRL hereby grants the Operator access to the land used for car parking at Tawa, Paraparaumu, Featherston, Petone, Porirua and Woodside stations and any other land used for car parking by passengers which is acquired by GWRL during the Term, in each case for the purpose of the Operator performing its obligations under this Annexure. The Operator shall only access such land for this purpose and shall comply with (and ensure that the Operator Associates comply with) any reasonable access or safety rules notified to the Operator by GWRC or GWRL.

Sites owned by other parties

- 1.6 The Sites owned by other parties for which the Operator is required to obtain (and comply with) all necessary consents for access in order to deliver any part of the security services are:
 - 1.6.1 the land used for car parking at Plimmeron station which is owned by Porirua City Council;

- 1.6.2 the land used for car parking at Waterloo Ambulance station, Pomare station and the part of the Woburn station car park which is owned by Hutt City;
 - 1.6.3 the land used for car parking at Upper Hutt Library and station which is owned by Upper Hutt City Council;
 - 1.6.4 the land used for car parking at Paremata East station which is owned by NZTA;
 - 1.6.5 the land used for car parking next to the station at Takapu Road which is owned by Wellington City Council and the 62 parks at Tawa Outlet City which are owned by the Prime Property Group.
- 1.7 The references in paragraph 1.6 to the parties owning land are current as at the date of this Partnering Contract only and may be subject to change thereafter.

Annexure 5

Minimum Vehicle Operating Standards

Contents

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1 Purpose of this Annexure

1.1 This Annexure sets out the Minimum Vehicle Operating Standards that the Operator is required to adopt, implement and comply with.

1.2 This Annexure sets out obligations that apply solely to the Operator.

2 Relevance of this Annexure to other parts of the Partnering Contract

2.1 This Annexure is relevant to the following aspects of the Partnering Contract:

2.1.1 Schedule 3 (*Passenger Services*); and

2.1.2 Schedule 4 (*Vehicle Services*).

3 Process for changing this Annexure

3.1 Any changes to this Annexure shall only occur as a Contract Variation in accordance with the relevant provisions relating to Contract Variations contained in Schedule 16 (*Change Events and Net Financial Impact*).

4 Minimum Vehicle Operating Standards

4.1 The Minimum Vehicle Operating Standards applying to the Matangi Fleet and the Carriage Fleet are detailed in Tables A to D of this Annexure 5:

4.1.1 Table A - Matangi Fleet Minimum Vehicle Operating Standards;

4.1.2 Table B - Carriage Fleet Minimum Vehicle Operating Standards;

4.1.3 Table C - Matangi Fleet Checks; and

4.1.4 Table D - Carriage Fleet Checks.

4.2 The Operator must comply with the Minimum Vehicle Operating Standards in the manner required by this paragraph 4. To be compliant with the Minimum Vehicle Operating Standards, the Operator must ensure all Vehicles do not reach or exceed the "Limits" referred to below.

4.3 The Operator's obligations under this Annexure 5 are without prejudice to and do not limit or affect the Operator's obligations under the Interim Licence or the Licence (as applicable), including with respect to vehicle serviceability.

4.4 The Minimum Vehicle Operating Standards in Table A and Table B of this Annexure 5 operate as follows:

4.4.1 The "**Item**" column sets out the relevant aspect of the Matangi Fleet or Carriage Fleet to which a standard applies, grouped into broader categories such as "Saloon", "Safety", "Accessibility" and "Electronic Systems".

4.4.2 The "**Type**" column (in Table B only) details the type of Vehicle to which the standard applies (please see Schedule 2 (*Agreement Details*) for an explanation of the Vehicle types).

- 4.4.3 **"Measure"** sets out further detail on each "Item" or provides further sub-categories of "Items".
- 4.4.4 The column entitled **"In-service or release from A-check"** in Table A and **"In-service or release from daily servicing"** in Table B details the "Limit" and "Concession" which apply to each "Measure" for the period during which the Vehicle is operational or when a Vehicle is released from daily servicing or A-check (please see paragraph 4.9 in respect of the different types of checks). There are two sub-columns:
- (a) the columns entitled **"Limit (per Carriage)"** and **"Limit (per two-car)"** define the maximum defect tolerance for "Measures" applying to each two-car Vehicle (in the case of the Matangi Fleet) or each Carriage (in the case of the Carriage Fleet). If this tolerance is reached or exceeded for a "Measure", the "Limit" will be deemed to be reached or exceeded (as appropriate). Some of the "Limits" have conditions which must be fulfilled if the Vehicle is to remain in service; and
 - (b) the **"Concession"** column details the concession period which applies where a "Limit" is met or exceeded:
 - (i) if a "Limit" has been reached, the Operator must rectify the defect which has caused the "Limit" to be reached by the end of the concession period so that the "Limit" is not reached or exceeded. References to "checks" in the "Concession" column are explained in paragraph 4.9 below. If there is no concession period (i.e. the "Concession" column is shaded grey), the Operator must rectify the defect prior to using the Vehicle for Passenger Services (unless otherwise approved by GWRC in writing);
 - (ii) if a "Limit" has been exceeded, the Operator must rectify the defect prior to using the Vehicle for Passenger Services so that the "Limit" is not reached or exceeded (unless otherwise approved by GWRC in writing); and
 - (iii) the Operator may apply to GWRC for an extension to the Concession (or apply for a Concession) to allow the Vehicle to be used to provide services, which may be given or withheld in writing by GWRC at its absolute discretion.
- 4.4.5 The column entitled **"Upon release from B-check or higher level check"** in Table A and **"Upon release from A-check or higher level check"** in Table B details the "Limit" and "Concession" which apply to

each "Measure" when a Vehicle is released from the relevant check. The "Limit" and "Concession" apply to each "Measure" during these periods as per paragraphs 4.4.4(a) and 4.4.4(b), except where there is no "Limit" and "Concession" (i.e. they are both shaded grey) in respect of a "Measure", no defects of that type are permitted and all such defects must be corrected prior to the Vehicle being used to provide services.

- 4.4.6 The final column entitled "**Defect Type**" allocates one of the following categories to each "Limit" (including a "Limit of Inspection Interval" in Tables C and D), to be used by the Operator for reporting purposes:
- (a) "**Presentation Defect (P)**";
 - (b) "**Operationally Restricted (R)**"; and
 - (c) "**Not in Service (N)**".
- 4.4.6A Notwithstanding paragraph 4.4.7 where the final column entitled "**Defect Type**" includes the words "note 1", this indicates that although all items must be reported, GWRC has pre-approved a concession to allow the Vehicles to be used to provide Scheduled Services and Special Event Services until 1 January 2017.
- 4.4.7 If a Vehicle has reached a "Limit" which is categorised as:
- (a) "**Operationally Restricted (R)**", then in order to use such a Vehicle to provide Passenger Services, the Operator must take appropriate operational measures in accordance with Good Industry Practice; or
 - (b) "**Not in Service (N)**", then the Operator cannot use the Vehicle to provide Scheduled Services or Special Event Services.
- 4.5 The Operator must not remove any parts from a Vehicle to transfer to another Vehicle in order to avoid reaching or exceeding a "Limit".
- 4.6 If a Vehicle is required to be out of service in excess of 30 days as per the requirement in paragraph 2.1.3 of Schedule 4 (*Vehicle Services*), the Operator shall notify GWRC as soon as this is reasonably foreseeable.
- 4.7 In the Daily Operational Report provided under Schedule 5 (*Planning, Reporting and Meetings*), the Operator must detail the number of Vehicles (broken down by Matangi Fleet and Carriage Fleet) which have reached or exceeded a "Limit". The Operator must report the type and number of "Limits" which have been reached or exceeded for each Vehicle, along with the reasons for this.
- 4.8 In the Monthly Operational Report provided under Schedule 5 (*Planning, Reporting and Meetings*), the Operator must detail:
- 4.8.1 the number of Vehicles (divided by Matangi Fleet and Carriage Fleet) which were operated at the "Limits" for each day of the Relevant Month; and

- 4.8.2 duration for which each Vehicle was operated at the "Limits".
- 4.9 Table C - Matangi Fleet Checks and Table D - Carriage Fleet Checks set out the inspection intervals for each category of "check" and they operate as follows:
- 4.9.1 **"Check type"** details the type of checks (A, B etc.). Information on these checks are provided in the Carriage Fleet Maintenance Plan and the Matangi Fleet Maintenance Plan.
- 4.9.2 **"Type"** applies as explained in paragraph 4.4.2.
- 4.9.3 **"Inspection Interval"** details the intervals at which the Operator shall carry out the relevant checks.
- 4.9.4 **"Limit of Inspection Interval"** details maximum inspection interval for each type of check. If this inspection interval is reached without the relevant check being carried out by the Operator, the Vehicle shall not be used for Passenger Services by the Operator.
- 4.9.5 **"Defect Type"** applies as explained in paragraph 4.4.6.

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
Saloon	Passenger seats	Number of seats in defective or unusable condition Defective means: <ul style="list-style-type: none"> Ripped, torn or cut Significant wear, thread bare Stained, burnt, or graffitied Wet, soiled Unusable means: <ul style="list-style-type: none"> Missing Broken Loose or unstable Structural damage 	One individual seat or one pair of seats that is unusable (provided that unusable seats are clearly labelled "out-of-order") Or One individual seat or one pair of seats that are defective but useable	Next check	One individual seat or one pair of seats that are defective but useable	Next check	P1
	Interior Lighting	Number of interior lights not operational	Four (of 56) lights not operational	Next check	One light not operational		P2
			Two (of 14) emergency lights not operational	Next check			
		Number of damaged lighting diffusers	Two (of 56) damaged lighting diffusers (provided that the lighting diffusers remain safe and secure)	Next check	One damaged lighting diffuser (providing that it is safe and secure)	Next check	
Handrails, Grab poles, Grab handles, Strap-hangers,	All must be secure and in good working order	One unit not secure or not in good working order				P3	
	Area of damaged surface coating Damaged means:	Four damaged areas (provided that no individual area exceeds	Next check	One damaged area			

Table A - Matangi Fleet Minimum Vehicle Operating Standards						
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type
		Limit (per two-car)	Concession	Limit (per two-car)	Concession	
Luggage racks	<ul style="list-style-type: none"> • Peeled or blistered • Worn, scuffed • Deep scratches, chips 	50mm long or 25mm wide)				
Draught-screens, Heater covers	All must be secure and in good working order	One unit not secure or not in good working order				P4
Floor	Area of worn floor covering	Three areas worn through top surface of floor covering (provided that no individual area exceeds 100mm long or 100mm wide)	Next check	One area of worn floor covering		P5
	Area of damaged or missing floor covering Damaged means: <ul style="list-style-type: none"> • Dented or gouged • Ripped, torn or cut • Lifted or uneven • Burnt or graffitied 	Three damaged areas (provided that no individual area exceeds 50mm long or 50mm wide and trip hazards are temporarily repaired (e.g. taped))	Next B-check	One area of damaged or missing floor covering		
Interior wall and ceiling panels, Door panels, Equipment doors and covers	Area of scuffing and/or multiple light scratches	Four areas of scuffing or light scratches (provided that no individual area exceeds 100mm long or 100mm wide)	Next B-check	Up to two areas of scuffing or light scratches (provided that no area exceeds 100mm long or 100mm wide)	Next B-check	P6
	Area of deep scratches and/or cuts (through paint) Or Graffiti	One area with deep scratches (provided that no individual area exceeds 50mm long or 50mm wide)	Next check	One deep scratch or one area of graffiti		
	Equipment doors and covers must be present and securely locked	One equipment door or cover not present or not securely locked				

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
		Panels must be securely mounted	or One panel not securely mounted				
	Windows	Number of cracked windows	One cracked window (provided that the window remains structurally sound)	Two days	One cracked window		P7
		Area of graffiti, scratches, cuts or other defects	Three areas per car (provided that no individual area exceeds 100mm long or 100mm wide)	Next check	One area of graffiti, scratches, cuts or other defects		
		Windows must be securely fitted with seals intact	One window not securely fitted with seals intact				N
	Bicycle restraints	Number of restraints operational	One (of three) restraints not operational	Next check	One restraint not operational		P8
	Saloon doors	Number of operational doors	One (of eight) door sets not operational (provided that the affected door is isolated and labelled to indicate door is not operational (inside and outside)) If either wheelchair ramp door (A7/8 or B7/8) are not operational the unit must be run in multiple	One week	One door not operational		R1
Doors must properly close and remain closed until vehicle is stationary		One door not properly closed and remaining closed until vehicle is stationary				N	

Table A - Matangi Fleet Minimum Vehicle Operating Standards								
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type		
		Limit (per two-car)	Concession	Limit (per two-car)	Concession			
	Door open lights	Number of door open lights (internal and external) not operational	One (of 16) door open lights not operational	Next check	One door light not operational		P9	
	Door step lights	Number of door step lights not operational	One (of 16) door step lights not operational	Next check	One door step light not operational		P10	
	Saloon HVAC	Ventilation system must be fully operational (including emergency inverter)	Ventilation system not fully operational					N
		Saloon temperature	Temperature not to fall below 15°C or exceed 24°C					N
		Able to hold temperature within 5°C of set point with passenger doors opening every 2 minutes for a period of 15 seconds						N
		Smoke detectors must be fully operational	One smoke detector not fully operational					N
		Number of cooling systems not operational	One (of four halves) not operational	Next check	One cooling system not operational			R2
	Number of heating systems not operational	One (of four) roof heaters or one (of two) floor heaters not operational	Next check	One heating system not operational				
	Saloon Internal Noise	Noise measurement in accordance with ISO3381	75dB(A) at operating conditions up to 100km/h	Next check	73dB(A) at operating conditions up to 100km/h			P12
Saloon leaks	Presence of wet interior surfaces due to leaks	Any wet interior surfaces due to leaks (provided that interior surfaces must remain safe and	Next check	Any wet interior surfaces due to leaks			P13	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
			comfortable)				
Safety	Help points	Number of help points not operational	One (of five) help points not operational (provided it is clearly labelled "help point out-of-order")	Next check	One help point not operational		P14
	Passenger emergency handles	All (four) passenger emergency handles must be fully operational	One passenger emergency handle not fully operational				N
	Interior decals and signage	Number of decals and signage that is not clearly readable	One decal or sign that is not clearly readable	Next check	One decal or sign that is not clearly readable		P15
		Wheelchair floor signage must be clearly visible	Wheelchair floor signage not clearly visible (provided the unit is run in multiple)	Next check	Wheelchair floor signage not clearly visible		
	Anti-slip mats	Anti-slip on internal and external steps must provide good grip and visibility	One anti-slip on mat on internal and external steps does not provide good grip and visibility				N
	Fire extinguishers	Must be present and serviceable	One fire extinguisher not present or serviceable				N
	End Doors	End doors must be operational to allow emergency egress	End doors not operational to allow emergency egress				N
	Cab interior doors	Cab interior doors must be operational to allow emergency egress	Cab interior doors not operational to allow emergency egress				N
Gangway plate, Handrails	Gangway plate and handrails must be operational to allow emergency egress	Gangway plate and handrails not operational to allow				N	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
			emergency egress				
	Inter-car gangway	Inter-car gangway must be operational to allow emergency egress	Inter-car gangway not operational to allow emergency egress			N	
	Emergency door release handles	Number of emergency door release handles not operational	One (of eight) emergency door release handles not operational (provided that it is clearly labelled "out-of-order")	Next check	One emergency door release handle not operational	R1	
	Safety loop	Safety loop must be functional	Safety loop not functional			N	
Accessibility	Wheelchair ramp	Operation of the wheelchair ramp	One wheelchair ramp not operational (provided that the unit is run in multiple)	Next check	One wheelchair ramp not operational	R3	
	Wheelchair restraints	Number of restraints operational	Two (of four) wheelchair restraints not operational	Next check	One wheelchair restraint not operational	P16	
	Induction hearing loop	Number of systems fully operational	One (of two) induction hearing loops not operational	Next check	One induction hearing loop not operational	P17	
	Door step height	Height of door step above rail level 730±20mm	Height of door step not to fall outside 730±20mm above rail level			N (note 1)	
Electronic Systems	CCTV	Number of saloon cameras not operational	Two (of eight) not operational	Next check	One not operational	P18	
		Number of forward facing cameras not operational	One forward facing camera not operational (provided that the affected end is isolated and placed in centre of consist)	Next check	One forward facing camera not operational	R4	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
	Operation of monitor	One (of two) CCTV monitors not operational	Next check	One CCTV monitor not operational		P19 (note 1)	
	CCTV recorder must be operational	One CCTV recorder not operational				N	
	Automated Passenger Counter (APC) must be operational	Automated Passenger Counter (APC) not operational				N	
	RTPI System must be operational (Successful wifi download)	RTPI System not operational				N	
	PA	Number of speakers not operational	Two (of 16) speakers not operational	Next check	One (of 16) speakers not operational	Next check	P20
	PIS	Number of Internal displays not operational	One (of eight) not operational	Next check	One display not operational		
Number of external displays not operational		One (of six) not operational	Next check				
Drivers Cab	Windscreen	Length of cracks	One crack (provided that if crack is larger than 50mm the cab is isolated and placed in centre of consist)	Next check	One crack	R5	
		Cab glazing must be kept in good condition to ensure the driver can see through the windows clearly and can drive the vehicle safely	Light scratching and minor chipping of any windscreen or window glass (provided that the scratched or chipped area does not interfere with the driver's line of sight and no heating elements are affected)			N	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
	Drop windows	Drop windows must be able to open and close	Any drop windows not operational (provided that the affected cab is isolated and placed in centre of consist)	Next check	Any drop window not operational	R6	
	Cab HVAC	Ventilation system must be fully operational	Ventilation system not fully operational (provided that the affected cab is isolated and placed in centre of consist)	Next check	Ventilation system not fully operational		
		Cab temperature Able to hold temperature within 5°C of set point with windows and doors closed	Temperature not to fall below 15°C, or exceed 24°C (provided that if this temperature range cannot be met, the affected cab must be isolated and placed in centre of consist)	Next check	Temperature not to fall below 15°C, or exceed 24°C (provided that if this temperature range cannot be met, the affected cab must be isolated and placed in centre of consist)	Two weeks	R7
		Sound pressure level in dB(A) at the underneath of supply and return air opening, 1200mm above the floor	68dB(A) (provided that if this level cannot be met, the affected cab must be isolated and placed in centre of consist)	Next check	68dB(A) (provided that if this level cannot be met, the affected cab must be isolated and placed in centre of consist)	Two weeks	
		Smoke detectors fully operational	One smoke detector not fully operational				
	Speedo	Operation of speedo	Speedo not operational (provided that the affected cab is placed in centre of consist)	Next check	Speedo not operational	R8	
	Vigilance system,	Operation of Vigilance system or	Vigilance system or Deadman's switch not operational (provided	Next check	Vigilance system or Deadmans's	R9	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
Deadman's switch	Deadmans' switch	that the affected cab is placed in centre of consist)		switch not operational			
Event Recorder	Number of operational event recorders	One (of two) event recorders not operational (provided that the affected cab is placed in the centre of the consist)	One week	Event recorder not operational		R10	
Windscreen wipers, Demisters, Sun blinds	Operation of windscreen wipers, demisters, sun blinds	Windscreen wipers, demisters, sun blinds not operational (provided that the affected cab is placed in centre of consist)	Next check	Windscreen wipers, demisters, sun blinds not operational		R11	
Horns	Operation of the Horns	Horns not operational (provided that the affected cab is placed in centre of consist)	Next check	Horns not operational		R12	
TMS	Operation of the TMS	TMS not operational (provided that the affected cab is placed in centre of consist)	Next check	TMS not operational		R13	
Detrainment ramp	Operation of the detrainment ramp	Detrainment ramp not operational (provided that the affected cab is placed in centre of consist)	Next check	Detrainment ramp not operational		R14	
Driver's seat	Operation of the driver's seat	Driver's seat not operational (provided that the affected cab is placed in centre of consist)	Next check	Drivers' seat not operational		R15	
Driver's (Master) Power and Brake controller, PWM encoder	Operation of the Master controller or PWM encoder	Master controller or PWM encoder not operational (provided that the affected cab is placed in centre of consist)	Next check	Master controller and PWM encoder not operational		R16	

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
	Auxiliary brake controller and charging circuit	Operation of the Auxiliary brake controller and charging circuit	Auxiliary brake controller and/or charging circuit not operational (provided that the affected cab is placed in centre of consist)	Next check	Auxiliary brake control circuit not operational		R16
	Train radio	Operation of the train radio	Train radio not operational (provided that the affected cabis placed in centre of consist)	Next check	Train radio not operational		R17
		Operation of the Kupe Mobile Controller (KMC)	KMC not operational (provided that the affected cab is placed in centre of consist)	Next check	KMC not operational		R18
	Cab Gauges	Cab gauges must be operational	Cab gauges not operational (provided that the affected cab is placed in the centre of consist)	Next check	Cab gauges not operational		R19
	Emergency equipment	All items must be present and serviceable	One item of emergency equipment not present and serviceable				N
	Cab lamps	Cab lamps must be operational	Cab lamps not operational (provided that the affected cab is placed in the centre of consist)	Next check	One cab lamp not operational		R20
Exterior	Exterior decals and signage	Number of decals and signage that is not clearly readable	One decal or sign that is not clearly readable	Next B-check	One decal sign is not clearly readable		P21 (note 1)
		Presence, condition and cleaning of all underframe labelling	One safety label that is not clearly readable	Next B-check	One safety label is not clearly readable		

Table A - Matangi Fleet Minimum Vehicle Operating Standards						
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type
		Limit (per two-car)	Concession	Limit (per two-car)	Concession	
Colour-belt, Anti-graffiti film	Area of defective Colour-belt or Anti-graffiti film	Four damaged areas (provided that no individual area exceeds 100mm long or 100mm wide)	Next B-check	Two damaged areas (provided that no individual area to exceed 100mm long or 100mm wide) One area of graffiti		P22 (note 1)
	Defective means:					
	<ul style="list-style-type: none"> • Peeling, blistering, cracking • Scratched • Missing • Significantly discoloured • Opaque (Anti-graffiti film) • Graffitied 					
Cab mask, Skirt	Crack length	Crack length not to exceed 50mm (provided that the cab mask or skirt remains structurally sound and cracks are taped to make weatherproof)	Next B-check	One crack		P23
	Area of damage or defect	Damaged area not to exceed 150mm long or 150mm wide (provided that it remains structurally sound and damaged area is taped to make weatherproof)	Next B-check	One area of damage or defect		
Carbody exterior, Roof	Size of defective area	Two defective areas (provided that the areas remain structurally sound, and that no individual area exceeds 50mm long or 50mm wide)	Next B-check	One defective area		P24
	Defective means:					
	<ul style="list-style-type: none"> • Corrosion that cannot be buffed out • Deep scratches • Dents, gouges • Cracks 					

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
	Exterior door panels	Size of defective area Defective means: <ul style="list-style-type: none"> Corrosion or separation of surface coating Deep scratches Dents, gouges 	Defective area not to exceed 50mm long or 50mm wide per door panel	Next B-check	One defective area		P25
Vehicle Systems and Components	Headlights, Ditch lights, Tail lights	Number of Headlights or Ditch lights or Tail lights not operational	One light not operational. (provided that the affected end is placed in the centre of consist)	One week	One light not operational		R21
	Auxiliary Power Unit (APU)	Number of operational APUs	One (of two) APU not fully operational (provided that unit is run in multiple)	One week	One APU not fully operational		R22
	Traction system	Number of traction motors not operational	Two (of four) traction motors not operational, except for Vehicles on the Johnsonville Line (provided that the unit is run in multiple) For Vehicles on the Johnsonville Line, one traction motor not fully operational (provided that the unit is run in multiple)	Next B-check	One traction motor not operational		R23
	Air Compressor and Drier (AGTU)	Operation of AGTU	AGTU not operational (provided that the unit is run in multiple)	Next check	AGTU not operational (provided that the unit is run in multiple)	One week	R24

Table A - Matangi Fleet Minimum Vehicle Operating Standards						
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type
		Limit (per two-car)	Concession	Limit (per two-car)	Concession	
Bogie brake actuators	Number of bogies with service brake actuators isolated	One (of eight) bogie isolated (provided that the unit is run in multiple)	One week	One bogie isolated		R25
	Number of bogies with park brake actuators isolated	One (of eight) bogie isolated (provided that it is run in multiple)	One week	One bogie isolated		
Tripcock	Number of unserviceable tripcocks	Any tripcock that is unserviceable (provided that the affected end(s) of unit is placed in centre of consist)	Next check	Any tripcock that is unserviceable (provided that the affected end(s) of unit is placed in centre of consist)	One week	R26
Coupler	Coupler must be operational	One coupler not operational				N
Batteries	Batteries must have sufficient charge to provide emergency back-up: <ul style="list-style-type: none"> 1.5hrs supply of Operationally critical functions, 3hrs supply of Safety Critical Functions 	One battery has insufficient charge to provide emergency back-up				N
Wheels	Wheels must meet Code requirements	One wheel does not meet Code requirements				N
Wheel Slide Protection system (WSP)	WSP system must be operational	WSP system not operational				N

Table A - Matangi Fleet Minimum Vehicle Operating Standards						
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type
		Limit (per two-car)	Concession	Limit (per two-car)	Concession	
EP Brake system	EP Brake system must be operational No 'major' faults on BCU	EP Brake system not operational or any 'major' faults on BCU				N
Bogie	All bogie equipment must be secure and in good operational condition	One piece of bogie equipment not secure or not in good operational condition				N
Underframe equipment	All underframe equipment must be secure and in good operational condition. All equipment covers must be locked	One piece of underframe equipment not secure or not in good operational condition One equipment cover not locked				N
Roof equipment	All roof equipment must be secure and in good operational condition. All equipment covers must be locked	One piece of roof equipment not secure or not in good operational condition One equipment cover not locked				N
Life guards, Cow catcher	Must be correctly installed and in good working order	One life guard or cow catcher incorrectly installed or not in good working order				N
Trainlines	Trainlines must be operational	Trainlines not operational				N
External brake gauges	All external brake gauges must be operational	One external brake gauge not operational				N
Electrical wiring and connections	There must be no exposed wiring. All wiring and connections must be suitably insulated, secure and protected from	Any wiring or connection exposed, not suitably insulated or secured, or not protected				N

Table A - Matangi Fleet Minimum Vehicle Operating Standards							
Item	Measure	In-service or release from A-check		Upon release from B-check or higher level check		Defect Type	
		Limit (per two-car)	Concession	Limit (per two-car)	Concession		
	damage.	from damage					
Other	Leakage of fluids	There must be no leakage of fluids including: <ul style="list-style-type: none"> • Gear case oil • Compressor oil • Hvac refrigerant • Wheel flange lubricant 	Any leakage of fluids			N (note 1)	
	Aged notifications	Number of notifications on MMIS	Three notifications older than 60 days on MMIS			N (note 1)	

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
Interior	Passenger seats	ALL	Number of seats in defective or unusable condition Defective means: <ul style="list-style-type: none"> • Ripped, torn or cut • Significant wear, thread bare • Stained, burnt, or graffitied • Wet, soiled Unusable means: <ul style="list-style-type: none"> • Missing • Broken • Loose or unstable • Structural damage 	One individual seat or one pair of seats that is unusable (provided that unusable seats are clearly labelled "out-of-order") Or Two individual seats or two pairs of seats that are defective but useable	Two weeks	One individual seat or one pair of seats that are defective but useable	Next check	P1
	Tables	ALL	Number of tables in defective or unusable condition Defective means: <ul style="list-style-type: none"> • Surface damaged or worn Unusable means: <ul style="list-style-type: none"> • Missing • Broken • Loose or unstable • Structural damage 	One table that is defective or unusable (provided that table is removed if hazardous)	Two weeks	One table in defective but usable condition	Next check	P2

Table B - Carriage Fleet Minimum Vehicle Operating Standards							
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession	
	Interior Lighting	ALL	Percentage of interior lights not operational	5% of lights not operational	Two weeks	One light not operational	P3
			<ul style="list-style-type: none"> - Ceiling lights - Auxiliary lights - Reading lights - Vestibule and toilet lights 				
			Number of emergency lights not operational	Two emergency lights not operational	Two weeks		
	Handrails, Grab handles, Luggage racks	ALL	All must be secure and in good working order	One unit not secure or not in good working order			
			Area of damaged surface coating Damaged means: <ul style="list-style-type: none"> • Peeled or blistered • Worn, scuffed • Deep scratches, chips 	Four damaged areas (provided that no individual area exceeds 50mm long or 25mm wide)	Two weeks	One damaged area	P4
	Curtains	SW	Number of curtains damaged or missing	Two curtains damaged or missing	One week	One curtain damaged or missing	
		SWS					
		SWG					
Floor	ALL	Area of worn floor covering	Three areas worn through top surface of floor covering (provided that no individual area exceeds 100mm long or 100mm wide)	Two weeks	One worn area	P6	
		Area of damaged or missing floor covering Damaged means: <ul style="list-style-type: none"> • Dented or gouged 	Three damaged areas (provided that no individual area exceeds 50mm long or 50mm wide and trip hazards are temporarily repaired (e.g.	Two weeks	One damaged area		

Table B - Carriage Fleet Minimum Vehicle Operating Standards							
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession	
		<ul style="list-style-type: none"> Ripped, torn or cut Lifted or uneven Burnt or graffitied 	taped))				
Interior wall and ceiling panels, Door panels, Equipment doors and covers	ALL	Area of scuffing and/or multiple light scratches	Four areas of scuffing or light scratches (provided that no area exceeds 100mm long or 100mm wide)	Two weeks	Two areas of scuffing or light scratches (provided that no area exceeds 100mm long or 100mm wide)	Next B-check	P7
		Area of deep scratches and/or cuts (through paint) Or Graffiti	One area of deep scratches or cuts (provided that no area exceeds 50mm long or 50mm wide)	Two weeks	One area of deep scratches, cuts or graffiti		
		Equipment doors and covers must be present and securely locked Panels must be securely mounted	One equipment door or cover missing or not securely locked One panel not securely mounted				N
Windows	ALL	Number of cracked windows	One cracked window (provided that the window is structurally sound)	Two days	One cracked window		P8
		Area of graffiti, scratches, cuts or other defects	Three areas per car (provided that no individual area exceeds 100mm long or 100mm wide)	Two weeks	One area of graffiti, scratches cuts or other defects		
		Windows must be securely fitted with seals intact	One window not securely fitted with seals intact				N
		Internal condensation between double glazed panels (misted windows)	One misted window	Two weeks	One misted window		P9
Bicycle restraints	SWG	Number of restraints operational	Two (of seven) bike restraints not	Two weeks	One bike restraint not operational		P10

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
	SEG		operational					
	Doors	ALL	Number of external side doors (plug doors) or retractable steps not operational	One door or step per Vehicle per side is not operational (provided that the affected door is secured in the closed position and isolated, and that the "Door Out of Order" lights are illuminated)	Two days	One door or step per Vehicle is not operational		R1
			Number of internal doors (sliding doors) not operational	One door per Vehicle not operational (provided that the affected door is isolated in open position)	One week	One door per Vehicle not operational		
			Number of end doors (concertina doors) not operational	Two doors per Vehicle are not operational (provided that the affected end must operate in the centre of consist)	Two weeks	One door per Vehicle not operational		P11
			External side and end doors must properly close and remain closed until Vehicle is stationary	One external side or end door that does not properly close or remain closed until vehicle is stationary				N
	HVAC	ALL	Ventilation system must be fully operational	Ventilation system not fully operational				N
			Smoke detectors must be fully operational	One smoke detector not fully operational				N
			Cooling system capacity	Internal temperature not to exceed 25°C	Two weeks	Internal temperature not to exceed 25°C		R2
Heating system capacity			Heating system runs at reduced heating capacity (provided that it is	Two weeks	Heating system runs at reduced heating capacity			

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
				possible to maintain temperature above 15°C)				
Saloon leaks	ALL	Presence of wet interior surfaces due to leaks		Interior surfaces not safe and comfortable	Two weeks	Carriage not weather-tight		P12
Power sockets	SW SWS SWG	Number of power sockets not operational		10% of power sockets not operational (provided that affected sockets do not pose safety hazard and are labelled "out-of-order")	Two weeks	One power socket not operational		P13
Water supply system	SW SWS SE(t) SES	Number of water supply systems not operational		One water supply system per Vehicle not operational	One week	Water system not operational		P14
Water cooler, UV steriliser	SW SWS SES	Number of water coolers and sterilisers not operational		One water cooler or steriliser per Vehicle not operational (provided that each affected cooler or steriliser is labelled "out-of-order")	Two weeks	Water cooler, UV steriliser not operational		
Toilet Facilities including: Toilet, Washbasin, Water heater, Toilet fan, Waste bins, Toilet door, Hand dryer &	SW SWS SE(t) SES	Number of toilet facilities not operational		One toilet facility per Vehicle not operational (provided that each affected toilet is clearly labelled "out-of-order")	One week	One toilet facility not operational		P15

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
	Baby changing station (SWS & SES)							
	Gangway	ALL	Gangway not operational	Gangway not operational				N
Safety	Help points	ALL	Number of help points not operational	One (of two) help points not operational (provided that each affected help point is clearly labelled "help point out-of-order")	Two weeks	One help point not operational		P16
	Passenger emergency stop pushbuttons	ALL	One passenger emergency stop pushbutton not fully operational	One passenger emergency stop pushbutton not fully operational				N
	Interior decals and signage	ALL	Number of decals and signage that is not clearly readable	One decal or sign that is not clearly readable	Two weeks	One decals or sign is not clearly readable		P17
	Fire extinguishers	ALL	Must be present and serviceable	One fire extinguisher missing or not serviceable				N
	Emergency door release handles	ALL	Number of emergency door release handles that are not operational	One emergency door release handle per Vehicle not operational (provided that each affected handle is clearly labelled "out-of-order")	Two weeks	One emergency door release handle not operational		R3
	Emergency equipment	ALL	All required items must be present and serviceable: Wheel chocks (ALL) First Aid Kit (SWS,SWG,SES,SEG) Light sticks (SWS,SWG,SES,SEG) Gas Mask (SWG,SEG) Ladder (SWG,SEG,AG)	One required item missing or not serviceable				N

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
Accessibility	Wheelchair hoist, wheelchair doors	SWS SES	Operation of the wheelchair hoists and doors	Wheelchair hoist or door not fully operational (provided that the affected hoist or door is labelled "out-of-order" on outside of both wheelchair doors)	One week	One wheelchair hoist or door not fully operational		R4
	Wheelchair restraints	SWS SES	Number of restraints operational	One restraint (of two) not operational	One weeks	One restraint is not operational		P18
	Induction hearing loop	SWS SES	Operation of the hearing loop	Hearing loops not fully operational	Two weeks	One hearing loop not fully operational		P19
Electronic Systems	CCTV	ALL	Number of saloon cameras not operational	One camera per Carriage not operational	Two weeks	One camera not operational		P20
		ALL	CCTV recorder (DVR) must operate	CCTV recorder not operational				N
	Public Address (PA)	ALL	Number of speakers not operational	50% of speakers not operational	Two weeks	One speaker not operational	Next check	P21
	Passenger Information System (PIS)	ALL	Number of displays not operational	One display per Carriage not operational	Two weeks	One display not operational		
	Train Management System (TMS)	All	TMS must be operational	TMS not operational				N
Exterior	Exterior decals and signage	ALL	Number of decals and signage that is not clearly readable	One decal or sign that is not clearly readable	Next Check	One decal or sign that is not clearly readable		P22
		ALL	Presence, condition and cleaning of all underframe labelling	One safety label that is not clearly readable	Next Check	One safety label that is not clearly readable		

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
Exterior paint system	ALL	Area of defective paint system Defective means: <ul style="list-style-type: none"> • Peeling, blistering, cracking • Scratched • Significantly discoloured • Graffitied 	Four damaged areas (provided that no individual area exceeds 100mm long or 100mm wide)	Next Check	Two damaged areas (provided that no individual area exceeds 100mm long or 100mm wide and no graffiti)		P23	
	ALL	Size of defective area Defective means: <ul style="list-style-type: none"> • Corrosion that cannot be buffed out • Deep scratches • Dents, gouges, holes • Cracks 	Two defective areas (provided that the areas remain structurally sound, and that no individual area exceeds 50mm long or 50mm wide)	Next Check	One defective area		P24	
	ALL	Size of defective area Defective means: <ul style="list-style-type: none"> • Corrosion or separation of surface coating • Deep scratches • Dents, gouges 	Defective area not to exceed 50mm long or 50mm wide per door panel	Next Check	One defective area		P25	
Vehicle Systems and Components	ALL	Number of tail lights not operational	Any tail light not operational (provided that the affected end must be placed in the centre of consist)	One week	One tail light not operational		R5	
	SWG SEG AG	50Hz, 415/230VAC power must be available on the Vehicle	50Hz, 415/230VAC power not available on the Vehicle				N	

Table B - Carriage Fleet Minimum Vehicle Operating Standards							
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession	
Bogie brakes	ALL	Number of bogies with service brakes isolated	One (of eight) bogies isolated	One week	One bogie isolated		R6
	SW SWS SWG	Number of bogies with hand brakes not operational	One (of eight) bogies isolated	One week	One bogie isolated		R7
	SE SES SEG	Number of bogies with Park brakes not operational	One (of eight) bogies isolated	One week	One bogie isolated		R7
Coupler	ALL	Coupler must be operational	Coupler not operational				N
Adapter coupler		Adapter coupler must be present and serviceable	Adapter coupler missing or not serviceable				N
Batteries	ALL	Batteries must have sufficient charge to provide emergency back-up (Nominally 4hrs when fully charged)	Battery system has insufficient charge to provide emergency back-up				N
Wheels	ALL	Wheels must meet Code requirements	One wheel does not meet Code requirements				N
Bogie	ALL	All bogie equipment must be secure and in good operational condition	One piece of bogie equipment not secure or not operational				N
Underframe equipment	ALL	All underframe equipment must be secure and in good operational condition.	One piece of underframe equipment not secure or not operational				N

Table B - Carriage Fleet Minimum Vehicle Operating Standards								
Item	Type	Measure	In-service or release from daily servicing		Upon release from A-check or higher level check		Defect Type	
			Limit (per Carriage)	Concession	Limit (per Carriage)	Concession		
		All equipment covers must be locked	One piece of equipment not locked					
Trainlines	ALL	Trainlines must be operational	Trainlines not operational				N	
Trainline jumpers and air hoses	ALL	Trainline jumpers and air hoses must be in serviceable condition	One Trainline jumper or airhose not in serviceable condition				N	
Electrical wiring and connections	ALL	There must be no exposed wiring. All wiring and connections must be suitably insulated, secure and protected from damage.	Any wiring that is exposed, not suitably insulated or secure, or not protected from damage				N	
Aged notifications	ALL	Number of notifications on MMIS	Three notifications older than 60 days on MMIS				N (note 1)	

Table C - Matangi Fleet Checks	
[Redacted content]	



Table D - Carriage Fleet Checks	
[Redacted content]	





Annexure 6

Fares, Ticketing and Enforcement Requirements

Contents

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1 Purpose of this Annexure

1.1 This Annexure sets out the requirements in respect of fares, ticketing and enforcement measures that GWRC requires PTOM Operators to comply with under the Partnering Contract made between GWRC and that PTOM Operator. The issues addressed in this Annexure are as follows:

- 1.1.1 fares - sets out the terms and conditions associated with public transport fares in the Wellington region;
- 1.1.2 ticketing - sets out the methods of ticketing and revenue collection to be used by PTOM Operators; and
- 1.1.3 enforcement - sets out the revenue protection processes and controls used to minimise fare evasion and avoidance.

2 Definitions used in this Annexure

2.1 Capitalised terms used in this Annexure are as defined in the Regional Agreement, or in the relevant Partnering Contract.

3 Process for changing this Annexure

3.1 Any changes to the requirements set out in this Annexure shall occur in accordance with the change process for PT Network Documents set out in the Regional Agreement.

4 Fares

4.1 The PTOM Operator must implement and comply with, and charge fares in accordance with, the GWRC Fare Media Transition Plan and the Conditions of Carriage.

5 IFT Programme and IFT System

Rail Unit

5.1 The following paragraphs 5.2 to 5.3 relate only to the Rail Operator.

5.2 Schedule 13 (*IFT Programme*) sets out an overview of the IFT Programme and the Rail Operator's role in the development and implementation of the IFT Programme.

5.3 It is anticipated that the IFT Programme will impact on fares, ticketing and enforcement in the following manner:

- 5.3.1 *fares*: in IFT Phase One and IFT Phase Two there will be a progressive change and rationalisation of the fares and fare products, details of which are set out in the GWRC Fare Media Transition Plan;
- 5.3.2 *ticketing*: on and from the ETS Implementation Date, the Rail Operator will have a more limited role in ticketing than in IFT Phase One; and

- 5.3.3 *enforcement*: during IFT Phase Two, the revenue enforcement methodology will be as set out in paragraph 7 (*Enforcement*) with the main difference being that technology will be employed in all elements of enforcement.

Bus Units

- 5.4 The following paragraphs 5.5 to 5.7 relate only to Bus Operators.
- 5.5 Clauses 12.38 and 12.39 of the relevant Partnering Contract provide for the Bus Operator's role in the development and implementation of the IFT Programme.
- 5.6 It is anticipated that the IFT Programme will impact on ticketing, enforcement and fares in the following manner:
- 5.6.1 *ticketing*: on and from the Commencement Date, an electronic ticketing system will be implemented on all Bus Operators' Vehicles. As part of the IFT Programme, the ticketing solution may change and require upgrade as explained further in clause 12 (*Other assets and systems used in the provision of the Services*) of the Bus Partnering Contract;
- 5.6.2 *enforcement*: the revenue enforcement methodology will be as set out in paragraph 7 (*Enforcement*); and
- 5.6.3 *fares and fare products*: there will be a progressive change and rationalisation of the fares and fare products, details of which are set out in the GWRC Fare Media Transition Plan.
- 5.7 The Ticketing System comprises the following:

6 Ticketing

- 6.1 This section sets out the methods of ticketing and collection of Farebox Revenue to be implemented by the PTOM Operator.

Rail Unit

- 6.2 The following paragraphs 6.3 to 6.6 relate only to the Rail Operator.
- 6.3 The following paragraphs (inclusive) shall apply:
- 6.3.1 at all times from the Commencement Date, paragraphs 6.1 to 6.6;
- 6.3.2 IFT Phase One: from the Commencement Date up to and including the earlier of the IFT Programme Phase One Expiry Date and the Termination Date, paragraphs 6.17 to 6.21; and
- 6.3.3 IFT Phase Two: on and from the ETS Implementation Date until the Termination Date, paragraphs 6.22 to 6.33.
- 6.4 The process for depositing and transferring Farebox Revenue is set out in clause 48 (*Farebox Revenue and other Revenue*) of the Rail Partnering Contract.
- 6.5 The Rail Operator shall comply with the GWRC Fare Media Transition Plan.

6.6 A ticket issued by or on behalf of an Rail Operator remains the property of GWRC at all relevant times.

Bus Units

6.7 The following paragraphs 6.8 to 6.16 relate only to Bus Operators.

6.8 Ticket media shall include paper tickets and electronic fare payment media.

6.9 The Bus Operator shall accept and collect Farebox Revenue on board Vehicles by the following means:

6.9.1 allowing customers to tag on and off with an electronic fare payment device; and

6.9.2 selling paper tickets to customers for cash payment.

6.10 All fare collection and ticketing must be recorded by the Bus Operator using the Operator Ticketing Equipment, clearly identifying any concessionary fares by reference to the specific category of concession (e.g SuperGold).

6.11 A ticket issued by or on behalf of a Bus Operator remains the property of GWRC at all relevant times.

6.12 The Operator shall not be responsible for the sale, reloading and renewing of electronic fare payment media.

6.13 The process for depositing and transferring Farebox Revenue is set out in clause 39 (*Farebox Revenue and other Revenue*) of the Bus Partnering Contract.

6.14 GWRC shall be responsible for developing the branding of the Ticketing System.

6.15 The Bus Operator shall sell and accept the fare products set out in and comply with the GWRC Fare Media Transition Plan at the prices and in accordance with the conditions set out therein.

6.16 The Bus Operator shall be responsible for procuring all ticketing consumables to be used on the Vehicles.

IFT Phase One - Rail Unit

6.17 The following paragraphs 6.18 to 6.33 relate only to the Rail Operator.

6.18 The Rail Operator shall sell tickets and collect Farebox Revenue:

6.18.1 on board trains by cash;

6.18.2 at Ticket Offices and through Ticket Agents by cash, cheque and electronic payment; and

6.18.3 through the Operator's online payment facility for monthly passes which the Operator shall ensure is accessed by customers via a link from GWRC's Metlink website.

6.19 The Rail Operator shall, and shall procure that all Ticket Agents:

- 6.19.1 sell the fare products set out in the GWRC Fare Media Transition Plan at the prices set out therein;
 - 6.19.2 procure and keep sufficient stocks of paper tickets that meet GWRC's requirements; and
 - 6.19.3 keep accurate records of all paper ticket stock ordered, held and sold and report to GWRC in the revenue reports referred to in Schedule 5 (*Planning, Reporting and Meetings*) all paper tickets which are lost, stolen or not accounted for in the Rail Operator's records.
- 6.20 Revenue collection and transfer to the Farebox Account shall be in accordance with clause 48 (*Farebox Revenue and other Revenue*) of the Rail Partnering Contract.
- 6.21 The Rail Operator shall bear the cost associated with ticket sales, including:
- (a) ticketing staff;
 - (b) credit card fees;
 - (c) Ticket Agent commission;
 - (d) costs for collecting and depositing revenue into the Farebox Account;
 - (e) equipment required in order to carry out ticket sales, including EFTPOS machines; and
 - (f) any other costs relating to ticket sales.

IFT Phase Two - Rail Unit

- 6.22 The Rail Operator shall not sell tickets on board trains.
- 6.23 The Rail Operator shall sell tickets at Ticket Offices and collect Farebox Revenue by the following means:
- 6.23.1 selling paper printed tickets; and
 - 6.23.2 sale and top up of fare media.
- 6.24 The Rail Operator shall collect Farebox Revenue via the following payment channels:
- 6.24.1 cash;
 - 6.24.2 cheque; and
 - 6.24.3 electronic payment.
- 6.25 If buses are used as an alternative transport arrangement in accordance with the Rail Partnering Contract:
- 6.25.1 where such buses are not IFT Compatible, the Rail Operator shall use the Operator IFT System Equipment to ensure that all customers tag on and off the bus or have purchased a paper ticket prior to boarding the replacement service; or

- 6.25.2 where such buses are IFT Compatible, ensure that the IFT System Equipment has been programmed to allow customers to tag on and off the bus and that the bus driver checks that all customers either tag on or have purchased a paper ticket prior to boarding the replacement service.
- 6.26 The Rail Operator shall sell the fare products set out in the GWRC Fare Media Transition Plan at the prices set out therein.
- 6.27 Ticket media shall include paper tickets and other fare media.
- 6.28 Fare media may be supplied by either GWRC or third parties.
- 6.29 Fare media may be sold and reloaded/renewed by the Operator at all Ticket Offices.
- 6.30 Fare media may be sold and reloaded/renewed by other IFT System Equipment, on-line and through the Metlink call centre, each of which shall be GWRC's responsibility.
- 6.31 The Rail Operator shall not sell paper tickets other than through the Operator IFT System Equipment provided for this purpose.
- 6.32 The Rail Operator shall not permit any anti-public transport advertising or messaging to be printed on paper ticket media. The Rail Operator shall seek GWRC's consent to use the reverse of paper ticket media for advertising / messaging.
- 6.33 GWRC shall be responsible for developing the branding of the IFT System.

7 Enforcement

Background - Rail Unit

- 7.1 The following paragraphs 7.2 to 7.11 relate only to the Rail Operator.
- 7.2 The following paragraphs (inclusive) shall apply:
- 7.2.1 at all times from the Commencement Date, paragraphs 7.1 to 7.6;
- 7.2.2 IFT Phase One: from the Commencement Date up to and including the earlier of the IFT Programme Phase One Expiry Date and the Termination Date, paragraphs 7.7 to 7.9; and
- 7.2.3 IFT Phase Two: on and from the ETS Implementation Date until the Termination Date, paragraphs 7.10 to 7.11.
- 7.3 Revenue protection covers the activities for ensuring that people travelling on public transport have paid the appropriate fare to travel. Revenue protection is a series of processes and controls that are implemented to ensure that fare evasion and avoidance are minimised and that all revenues collected are fully accounted for and are applied to the intended parties.

Revenue protection obligations - Rail Unit

- 7.4 The Rail Operator shall minimise fare evasion by:

- 7.4.1 employing revenue protection officers to enforce Ticket Offences and, during IFT Phase Two, carry out the functions referred to in the GWRC Revenue Protection Strategy;
 - 7.4.2 providing a visible and effective deterrent to committing Ticket Offences; and
 - 7.4.3 during IFT Phase Two, implementing and complying with the GWRC Revenue Protection Strategy.
- 7.5 The Rail Operator shall comply with the Rail Operator's Revenue Protection Plan developed under Schedule 5 (*Planning, Reporting and Meetings*) and as updated for IFT Phase Two to reflect and be consistent with the GWRC Revenue Protection Strategy.
- 7.6 The means of measuring the Rail Operator's compliance with its revenue protection obligations and the consequences of failure by the Rail Operator to comply with its obligations are set out in Schedule 3 (*Passenger Services*) and Schedule 6 (*Financial and Performance Regime*).

IFT Phase One - Rail Unit

- 7.7 If a customer commits a Ticket Offence the Rail Operator shall request that the customer purchase a ticket for the customer's journey or shall request that the customer leaves the train at the next Station.
- 7.8 The Rail Operator shall comply with the Revenue Protection Plan.
- 7.9 The Rail Operator shall check tickets as set out in further detail in the GWRC Fare Media Transition Plan, including:
- 7.9.1 monthly passes shall be sighted; and
 - 7.9.2 single journey tickets shall be hole punched.

IFT Phase Two - Rail Unit

- 7.10 If a customer commits a Ticket Offence, the Rail Operator shall either:
- 7.10.1 issue an invoice for a Penalty Fare to be paid by the customer at a Ticket Office; or
 - 7.10.2 charge the Penalty Fare onto the customer's fare media.
- 7.11 The Rail Operator shall comply with the Revenue Protection Plan provided in accordance with paragraph 3.63 of Schedule 3 (*Passenger Services*) and updated in accordance with Schedule 5 (*Planning, Reporting and Meetings*).

Background and acknowledgement - Bus Units

- 7.12 The following paragraphs 7.13 to 7.20 relate only to Bus Operators.
- 7.13 Revenue protection covers the activities for ensuring that people travelling on public transport have paid the appropriate fare to travel. Revenue protection is a series of processes and controls that are implemented to ensure that fare evasion and

avoidance are minimised and that all revenues collected are fully accounted for and are applied to the intended parties.

- 7.14 The Operator acknowledges and agrees that GWRC may use the closed circuit television system installed on Vehicles in order to carry out revenue protection activities.

Revenue protection obligations - Bus Units

- 7.15 The Bus Operator shall minimise fare evasion by:
- 7.15.1 not used;
 - 7.15.2 enforcing the Conditions of Carriage and, without prejudice to the foregoing, taking all reasonably practicable steps to ensure that passengers comply with the Conditions of Carriage to the extent that they relate to fares and tickets; and
 - 7.15.3 giving effect to the Partnering Principles in clause 3 (*Partnering Principles*) of the Bus Partnering Contract by working with GWRC to reduce Ticket Offences.
- 7.16 The Bus Operator shall comply with the Bus Operator's Revenue Protection Plan, developed under Schedule 5 (*Planning, Reporting and Meetings*).
- 7.17 The means of measuring the Bus Operator's compliance with its revenue protection obligations and the consequences of failure by the Bus Operator to comply with its obligations are set out in Schedule 5 (*Planning, Reporting and Meetings*) and Schedule 6 (*Financial and Performance Regime*).
- 7.18 The Bus Operator must take all reasonably practicable steps to ensure that passengers have a ticket valid for the Scheduled Service or Special Event Service on which the customer is travelling and that passengers do not commit a Ticket Offence by:
- 7.18.1 drivers ensuring that passengers either purchase a ticket or tag on using the Operator Ticketing Equipment as they board a Vehicle;
 - 7.18.2 if the passenger has a concession ticket, drivers requiring such passengers to provide the corresponding concession entitlement;
 - 7.18.3 in respect of electronic fare media, drivers monitoring passengers for their compliance with requirements of the Operator Ticketing Equipment, including monitoring any passengers who tag off at a Bus Stop which is not the Bus Stop at which the passenger alights from the Vehicle; and
 - 7.18.4 complying with the GWRC Fare Media Transition Plan and the Conditions of Carriage.
- 7.19 If a customer has committed a Ticket Offence, the Bus Operator must enforce the Operator's Revenue Protection Plan.
- 7.20 For the purposes of determining whether a Ticket Offence has been committed:

- 7.20.1 a ticket is valid for a trip or entry into a Designated Area if:
- (a) any fare for the trip or entry has been paid;
 - (b) the whole of the trip or the entry is authorised on the face of the ticket;
 - (c) in the case of a concession ticket, it either itself constitutes, or is accompanied by, evidence of a current concession entitlement to rely on that ticket; and
 - (d) it is used in accordance with all other conditions for its use applicable in respect of that class of ticket;
- 7.20.2 only the person who first uses a ticket for a trip or an entry to a Designated Area is entitled to use that ticket for that trip or entry and any subsequent trip or entry to a Designated Area authorised by the ticket;
- 7.20.3 a ticket is invalid if:
- (a) it has been altered, defaced or mutilated in any material particular; or
 - (b) it becomes, or has been made, illegible in any material particular; or
 - (c) information stored in or on the ticket in an electronic chip has been altered or destroyed or made inaccessible in any material particular;
- 7.20.4 evidence of a concession entitlement is invalid if the card or other document which constitutes that evidence (other than a ticket):
- (a) has been altered, defaced or mutilated in any material particular; or
 - (b) becomes, or has been made, illegible in any material particular; and
- 7.20.5 other fare media is valid for a trip or entry into a Designated Area if.

Annexure 7

Conditions of Carriage

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1 Purpose of this Annexure

- 1.1 This Annexure sets out the requirements for the Conditions of Carriage that GWRC requires PTOM Operators to adopt, implement, enforce and comply with under the Partnering Contract made between GWRC and that PTOM Operator.

2 Definitions used in this Annexure

- 2.1 Capitalised terms used in this Annexure are as defined in the Regional Agreement, or in the relevant Partnering Contract.

3 Process for changing this Annexure

- 3.1 Any changes to this Annexure shall only occur in accordance with the change process for PT Network Documents set out in the Regional Agreement.
- 3.2 It is anticipated that this Annexure will be amended in accordance with such change process to reflect changes that result from the implementation of the IFT Programme, which changes shall take effect from the date notified by GWRC in writing.
- 3.3 In the event GWRC adopts or agrees new terms and conditions as a result of the implementation of the IFT Programme, then GWRC shall promptly provide an electronic copy of such amended Conditions of Carriage to each PTOM Operator.
- 3.4 Notwithstanding anything to the contrary in the relevant Partnering Contract, the Regional Agreement or any other Transaction Document, any amendments to this Annexure or to the Conditions of Carriage which arise in connection with, or as a consequence of, the implementation of the IFT Programme, or in the case of the Rail Partnering Contract the implementation of the RS1 Project, shall not constitute or give rise to a Contract Variation.

4 Process for adopting and implementing Conditions of Carriage

- 4.1 In the case of the Rail Partnering Contract, it is acknowledged that the Conditions of Carriage will not be finalised by the date of execution of the Rail Partnering Contract. GWRC shall consult with the Rail Operator regarding the Conditions of Carriage prior to the Commencement Date.

Amendments to the Conditions of Carriage

- 4.2 If GWRC considers in its sole discretion that any of the provisions of the Conditions of Carriage need to be amended, then GWRC shall promptly amend the Conditions of Carriage to reflect and incorporate the amended provisions and shall promptly provide an electronic copy of such amended Conditions of Carriage to the PTOM Operators.
- 4.3 The Parties agree and acknowledge that an up to date electronic version of the Conditions of Carriage shall be made available through the Metlink website at all times. On request by a customer, GWRC will provide hard copies of the Conditions of Carriage to the customer.

Implementing Conditions of Carriage

- 4.4 The PTOM Operator shall at all times adopt, implement, enforce and comply with the Conditions of Carriage.
- 4.5 The PTOM Operator shall (and shall procure that the Operator Associates shall) act reasonably when refusing to carry any customer on board a Vehicle or requiring any customer to leave a Vehicle in accordance with the Conditions of Carriage. Notwithstanding anything to the contrary in the Conditions of Carriage, a PTOM Operator shall not (and shall ensure that the Operator Associates shall not) remove a customer from a Vehicle if it is not safe to do so.

5 Passenger contract with GWRC

- 5.1 The Parties acknowledge and agree that the contract that passengers make for carriage on the passenger carrying services in consideration of the payment of the applicable fare is a contract with GWRC.

Annexure 8 - Not used

Annexure 9

Customer Satisfaction Survey

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1 Purpose of this Annexure

1.1 This Annexure sets out following information about the Customer Satisfaction Survey that will be used to calculate the Customer Satisfaction Payment in accordance with paragraph 8 (*Customer Satisfaction Payments*) of Schedule 6 (*Financial and Performance Regime*):

- 1.1.1 the questions that form the Customer Satisfaction Survey;
- 1.1.2 the timing and frequency of the Customer Satisfaction Survey; and
- 1.1.3 the appointment of the Surveying Organisation.

2 Relevance of this Annexure to other parts of the Partnering Contract

2.1 This Annexure is relevant to the following aspects of the Partnering Contract:

- 2.1.1 Clause 4 (*Appointment and Term*);
- 2.1.2 Schedule 3 (*Passenger Services*); and
- 2.1.3 Schedule 6 (*Financial and Performance Regime*).

3 Process for changing this Annexure

3.1 Any changes to this Annexure shall only occur as a Contract Variation in accordance with the relevant provisions relating to Contract Variations contained in Schedule 16 (*Change Events and Net Financial Impact*).

4 Questions that make up the Customer Satisfaction Survey

4.1 The Customer Satisfaction Survey shall include:

- 4.1.1 the questions set out at paragraph 4.2 below; and
- 4.1.2 such supplementary or amended questions that the Operator and GWRC agree as part of the Annual Business Plan or in writing from time to time.

4.2 The Customer Satisfaction Survey shall include the following questions:

GWRC shall appoint an independent surveying organisation to undertake that Customer Satisfaction Survey in accordance with this Annexure.

- 6.2 Each person appointed as the Surveying Organisation shall be independent of the Parties and shall have the appropriate skills, qualifications, resources and experience to undertake the Customer Satisfaction Survey.
- 6.3 The Surveying Organisation shall be appointed by GWRC on reasonable commercial terms.
- 6.4 Each Surveying Organisation's fees shall be paid by GWRC.
- 6.5 Under the terms of its appointment, the Surveying Organisation shall be required to:
 - 6.5.1 randomly select the passengers to be engaged in the Customer Satisfaction Survey on Vehicles at varying parts of the Wellington Rail Network, so as to ensure that the persons surveyed are representative of the passengers using the Wellington Rail Network;
 - 6.5.2 engage passengers in the Customer Satisfaction Survey at various different times of the day and on a mixture of Business Days, Saturdays, Sundays and public holidays (if any public holidays fall in the period in which the Customer Satisfaction Survey is being carried out), in order to ensure that the sample is representative of demand distribution;
 - 6.5.3 ensure that the number of passengers who complete and return the Customer Satisfaction Survey is sufficient to ensure that the results are statistically significant;
 - 6.5.4 complete the Customer Satisfaction Survey within the time frame specified in the terms and conditions of its appointment (which time frame shall be reasonable); and
 - 6.5.5 within 30 Business Days of completion of the Customer Satisfaction Survey, provide each of GWRC and the Operator with:
 - (a) a full copy of the results of the Customer Satisfaction Survey; and
 - (b) an informative and meaningful summary of the results of the Customer Satisfaction Survey, including:
 - (i) identifying the average response (expressed as a percentage to two decimal points) to each question contained in the Customer Satisfaction Survey; and
 - (ii) in relation to the third and any subsequent Customer Satisfaction Surveys, identifying the extent to which the Operator has met or exceeded the Customer Satisfaction Thresholds.

Setting the Customer Satisfaction Threshold

6.6 At the time of the provision by the Surveying Organisation of the results of the second Customer Satisfaction Survey undertaken pursuant to paragraph 5.1, the Surveying Organisation shall be required, based on the aggregate results of the first two Customer Satisfaction Surveys, to:

6.6.1 calculate the average response (expressed as a percentage to two decimal points) to the questions contained in the first two Customer Satisfaction Surveys (such average response being the initial Customer Satisfaction Threshold); and

6.6.2 notify GWRC and the Operator in writing of the initial Customer Satisfaction Threshold.

6.7 At the time of provision by the Surveying Organisation of the results of:

6.7.1 the sixth Customer Satisfaction Survey undertaken after notification of the initial Customer Satisfaction Threshold under paragraph 6.6.2; and

6.7.2 each sixth Customer Satisfaction Survey undertaken thereafter,

the Surveying Organisation shall be required to recalculate and notify to GWRC and the Operator in writing the average response (expressed as a percentage to two decimal points) to the questions contained in the Customer Satisfaction Survey based on the aggregate results of the last six Customer Satisfaction Surveys.

6.8 For the purpose of calculating the average response to the questions in a Customer Satisfaction Survey under paragraphs 6.6.1 and 6.7 and paragraph 8.2 of Schedule 6 (*Financial and Performance Regime*), the following principles shall apply:

6.8.1 any question not answered, answered ambiguously or answered "NA" by a respondent is ignored;

6.8.2 each question carries equal weighting;

6.8.3 the number on the scale circled or ticked as the response equates to the score given by that respondent for that question;

6.8.4 the average score for a question (for the purposes of paragraph 6.8.5 below) is the aggregate of all scores divided by the number of survey responses to that question (in each case excluding those to be ignored in accordance with paragraph 6.8.1); and

6.8.5 the average response to the questions contained in a Customer Satisfaction Survey is the total of the average score for each question in that Customer Satisfaction Survey, divided by the number of questions, expressed as a percentage to two decimal points.

6.9 Subject to paragraph 6.11, if the average response calculated in accordance with paragraph 6.7 is higher than the then current Customer Satisfaction Threshold, the

Customer Satisfaction Threshold shall be replaced with that higher value for the purposes of the next Customer Satisfaction Survey.

- 6.10 Subject to paragraph 6.11, if the average response calculated in accordance with paragraph 6.7 is equal to or less than the then current Customer Satisfaction Threshold, the Customer Satisfaction Threshold shall remain as it was for the purposes of the next Customer Satisfaction Survey.
- 6.11 If the average response calculated in accordance with paragraph 6.7 is equal to or higher than 90%, the Customer Satisfaction Threshold shall be deemed for each subsequent Customer Satisfaction Survey until the end of the Term to be 90% and paragraphs 6.7 to 6.10 shall cease to apply.
- 6.12 For the avoidance of doubt, the Customer Satisfaction Threshold may only be increased pursuant to the provisions of 6.7 to 6.10 and will in no circumstances be reduced.

Annexure 10



Annexure 11

Bond

Performance Bond

To: Wellington Regional Council and Greater Wellington Rail Limited (company number 1846367) (each a "**Principal**" and together "**Principals**")

For: Transdev Wellington Limited (company number 5164521) (the "**Customer**")

Date: [#]

This undertaking relates to the partnering contract between Wellington Regional Council, Greater Wellington Rail Limited and the Customer dated [*insert date*] ("**Partnering Contract**") pursuant to which the Customer is or will be required, among other things, to provide metropolitan rail services and associated services.

At the request of the Customer and in respect of the Customer's obligations under the Partnering Contract, [*Name of Bank*] [*Company #*] of [*Address*] (the "**Bank**") unconditionally and irrevocably undertakes to pay to the Principals, on written demand by either Principal, any sum or sums which may from time to time be demanded by either Principal to a maximum aggregate sum of NZ\$[#] ("**Maximum Aggregate Sum**"). [*Note - maximum aggregate sum to be the relevant amount specified in the Partnering Contract.*]

Each payment under this undertaking must be made by the Bank forthwith and without deduction, set-off or counterclaim to the account number nominated by the Principal on their demand or, in the event of a joint demand, the account number nominated by the Principals and:

- 1 without reference to the Customer, any other person (other than the Bank) or the Partnering Contract;
- 2 without enquiring into the performance or non-performance under the Partnering Contract;
- 3 despite any notice to, or request by, the Customer or any other person for the Bank not to make such payment (in whole or in part);
- 4 despite anything which but for this provision may operate to release, prejudicially affect or discharge or in any way relieve the Bank from any obligation including, without limitation:
 - (a) any variation or alteration to the Partnering Contract or any other agreement between either Principal and the Customer; or
 - (b) the grant to any person of any time, waiver or other indulgence, or the discharge or release of any person; and
- 5 in New Zealand dollars.

If two or more parties are named as the Principal, this undertaking takes effect for the benefit of them jointly and a demand under this undertaking by any one or more of them is deemed

to be a demand by both or all of them jointly. Payment by the Bank under this undertaking to any one or more of them discharges this undertaking to the extent of the amount so paid. A claim received from either of the Principals will be deemed to have been made with the full knowledge and consent of the other Principal.

This undertaking expires on the earlier of:

- 1 the date on which the Principals jointly notify the Bank in writing that this undertaking has been replaced by another undertaking;
- 2 the date the Principals jointly notify the Bank in writing that this undertaking is no longer required; or
- 3 the date the Bank has paid the Maximum Aggregate Sum to the Principals (or either of them).

The Bank may at any time without being required to do so pay to either Principal the Maximum Aggregate Sum less any amount or amounts it may previously have paid under this undertaking and thereupon the liability of the Bank hereunder shall immediately cease.

The Principals may assign the benefit of this undertaking to any person without the prior consent of the Bank.

A demand issued under this undertaking may be made to the Bank at:

- (a) the registered office of the Bank from time to time; or
- (b) any branch of the Issuer in [Wellington or Auckland]. This undertaking is governed by and construed in accordance with the laws of New Zealand.

EXECUTED AND DELIVERED AS A DEED:

Each attorney executing this deed states that [he/she] has no notice of revocation or suspension of [his/her] power of attorney.

[Insert execution clause of Bank]

Annexure 12

Preliminary Commencement Certificate

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Preliminary Commencement Certificate

Date:

To: Greater Wellington Regional Council

1 Confirmation by the Operator

1.1 By signing this Preliminary Commencement Certificate, the Operator hereby confirms in accordance with clause 3.3.3 of this Partnering Contract that the Operator has:

- 1.1.1 been granted an Interim Licence or a Licence (as applicable) and any other Consent which the Operator is required to hold by Law in respect of the operation of, or in connection with, the Services; and
- 1.1.2 established in writing to the Access Provider’s reasonable satisfaction, the matters set out at clause 4.8.4(b) of the Wellington Network Agreement.

2 Commencement Date and Transfer Time

2.1 The Commencement Date shall be [*GWRC to insert*].

2.2 The Transfer Time shall be [*GWRC to insert - this will be 3.00am on the Commencement Date unless GWRC specifies an alternative time in this certificate*].

.....

Signed for and on behalf of the Operator by its Authorised Representative

.....

Signed for and on behalf of GWRC by its Authorised Representative

.....

Annexure 13

Incoming Operator Confidentiality Undertaking

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THIS DEED is made on [*insert date*]

BY

- (1) [*insert full legal name and corporate details of recipient entity/entities*] (the "**Recipient**")

IN FAVOUR OF

- (2) Transdev Wellington Limited (company number 5164521);
- (3) Greater Wellington Rail Limited (company number 1846367); and
- (4) Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002,

(individually a "**Beneficiary**" and collectively the "**Beneficiaries**").

1 DEFINITIONS

- 1.1 In this Deed, the following definitions apply unless the context otherwise requires:

Affiliate	means, in relation to an entity (first entity), any other entity which: (a) is a holding company or a subsidiary of the first entity; (b) is another subsidiary of the same holding company as the first entity; (c) Controls the first entity; (d) is Controlled by the first entity; or (e) is Controlled by the same entity as the first entity.
Confidential Information	means all information (including information imparted orally) relating to the Wellington Network, services provided on the Wellington Network, the Rolling Stock, the Tender Process and/or the New Contract.
Control	means in relation to a body of any kind: (a) where that body is a company, having control or influence of, or having the capacity to control or influence, the composition of the board as defined in section 7 of the Companies

	<p>Act 1993;</p> <p>(b) where that body is a limited partnership, having control or influence of, or having the capacity to control or influence, the general partner(s) of that limited partnership;</p> <p>(c) being in a position to cast, or control the casting of, more than 20 per cent of the voting rights attributable to the total shareholding, membership or partnership interests of that body; or</p> <p>(d) having a relevant interest (as defined in sections 235 to 237 of the Financial Markets Conduct Act 2013) in more than 20 per cent of the securities of that body.</p>
Expression of Interest or EOI	<p>means the Recipient's response to an invitation to express interest in:</p> <p>(a) participating in the Tender Process; and/or</p> <p>(b) the award of the New Contract.</p>
Funder	<p>means any actual or potential provider of financial accommodation to the Recipient (whether by way of debt or equity or otherwise and whether directly or indirectly) in connection with the performance of the works and/or services under the New Contract.</p>
Intellectual Property Rights	<p>means rights in patents, registered designs, petty patents, utility models, trademarks (including logos and trade dress), domain names, copyright, circuit layouts, rights in computer software and databases, rights in inventions, know-how and business processes and methods, (in each case) whether registered or unregistered (including applications for the grant of any of the foregoing) and all rights or forms of protection that are capable of intellectual property protection under law.</p>
New Contract	<p>means a contract for the provision of passenger train services on the Wellington Network and/or associated maintenance services and/or other associated works and services anticipated to be awarded by Wellington Regional Council and/or Greater Wellington Rail Limited.</p>
Purpose	<p>means:</p> <p>(a) preparation of, and/or inclusion in, the Recipient's Expression of Interest;</p>

	<p>(b) the Recipient's preparation of, and/or inclusion in, a tender or offer for the New Contract, including:</p> <ul style="list-style-type: none"> (i) participation in the Tender Process; (ii) negotiation of the terms of the New Contract; (iii) preparation for performance of, and actual performance of, obligations under the New Contract; (iv) securing financial accommodation in connection with the performance of obligations under the New Contract; and/or (v) negotiating and agreeing terms of subcontracts and supply contracts in relation to the performance of obligations under the New Contract.
Rolling Stock	<p>means each unit of the Matangi fleets, the GanzMavag fleet, the SW fleet, the SE fleet and the AG wagon and any other vehicle from time to time used in providing passenger services on the Wellington Network, and includes all parts, components, systems, devices, equipment, software and mechanisms incorporated thereon and all spare parts, tools and equipment associated therewith.</p>
Tender Process	<p>means the competitive tender process or other negotiations or process implemented by or on behalf of Greater Wellington Regional Council in connection with the award of the New Contract.</p>
Wellington Network	<p>has the meaning given to it in clause 1.1 of the common access terms dated 20 June 2012, as amended, varied, replaced or supplemented from time to time.</p>

2 RECIPIENT'S OBLIGATIONS

2.1 The Recipient shall:

- 2.1.1 keep the Confidential Information secret;
- 2.1.2 only disclose the Confidential Information to any officer, employee, subcontractor, consortium member, supplier, Affiliate, Funder or advisor of the Recipient who is necessarily engaged in the Purpose and the Recipient shall ensure that each such person keeps the Confidential Information secret; and

2.1.3 use the Confidential Information only for the Purpose.

3 INDEMNITY

The Recipient indemnifies the Beneficiaries (and agrees to keep them so indemnified on demand) from and against any loss, damage, costs and expenses suffered or incurred by any of them arising from or in connection with the Recipient's breach of clause 2 or the Recipient's use of the Confidential Information other than for the Purpose (including from any claim that such use breaches the Intellectual Property Rights of a third party).

4 INFORMATION IS THE DISCLOSER'S PROPERTY

The Recipient acknowledges that the Confidential Information, and the media and tangible property recording it, is the absolute property of the Beneficiaries or one or more of them. The Recipient shall, on request by a Beneficiary at any time, return to that Beneficiary the Confidential Information provided by that Beneficiary including any copies, notes, drawings or recordings made of the Confidential Information (or, where applicable and if the relevant Beneficiary so requests, the Recipient shall destroy or erase the same).

5 EXCEPTIONS

5.1 The Recipient's obligations under this Deed shall not extend to Confidential Information which the Recipient can prove to the Beneficiaries' reasonable satisfaction:

- 5.1.1 has ceased to be secret without fault on the part of the Recipient, any of its Affiliates or any of its or their officers, employees, subcontractors, consortium members, suppliers, Funders or advisors;
- 5.1.2 is required to be disclosed by law or so as to satisfy the requirements of any recognised stock exchange;
- 5.1.3 was already in the Recipient's possession without any obligation of confidentiality prior to disclosure by a Beneficiary; and/or
- 5.1.4 becomes available to the Recipient from a source other than the Beneficiaries provided that the Recipient has no reason to believe such source is itself bound by an obligation of confidence or is otherwise prohibited by law from disclosing such information.

6 GOVERNING LAW

This Deed and any disputes or claims arising out of or in connection with it (including non-contractual disputes or claims) is governed by, and is to be construed in accordance with, the laws of New Zealand. The Recipient irrevocably submits to the non-exclusive jurisdiction of the New Zealand courts

for the purpose of hearing and determining all disputes under or in connection with this Deed (including any non-contractual obligations arising in connection herewith).

7 WAIVER

Any failure by any Beneficiary at any time to enforce any provision of this Deed shall not prejudice any future enforcement of any right under this Deed.

8 JOINT AND SEVERAL LIABILITY

- 8.1 The obligations and liabilities under this Deed of the Recipient, if more than one person, are joint and several. Each person constituting the Recipient agrees that it will be responsible for the acts and omissions (including breaches of this Deed) of the other as if those acts or omissions were its own and the Beneficiaries may proceed against any one or all of them.
- 8.2 The rights conferred on the Beneficiaries by this Deed are conferred on each of them individually and on all of them collectively and may be exercised by one or more of the Beneficiaries on any number of occasions.

Execution

Executed as a Deed by the Recipient

Date:

[RECIPIENT] Company

Number [Insert] by

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Title of authorised person

Title of authorised person

[Notes:

1. *If the Recipient is not a New Zealand company and/or does not execute this document by two directors, it should also provide a letter of undertaking together with evidence that this document has been duly executed as a deed by the Recipient and is binding on it.*
2. *If the Recipient comprises a consortium, to be signed by each member of consortium.]*

Annexure 14

Incoming Operator Access Indemnity

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THIS DEED is made on [*insert date*]

BY

(1) [*insert name*] corporate number [*insert*] (the "**Visitor**")

IN FAVOUR OF

- (2) Transdev Wellington Limited (company number 5164521), ("**Current Operator**");
 - (3) Greater Wellington Rail Limited (company number 1846367);
 - (4) Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002;
 - (5) KiwiRail Holdings Limited (company number 4045602); and
 - (6) KiwiRail Limited (company number 487638),
- (individually a "**Beneficiary**" and collectively the "**Beneficiaries**").

1 DEFINITIONS

1.1 In this Deed, the following definitions apply unless the context otherwise requires:

Associates	means the Visitor's employees, agents, advisors, consultants and officers and any other person acting on behalf of the Visitor.
Current Operator Assets	means the assets and improvements owned or used by, or under the control of, the Current Operator.
GW Rail Assets	means: (a) the Rolling Stock; and (b) any land or other assets (including spare parts, equipment and tools) connected with the Wellington Network which are owned by, or leased or licenced to, Wellington Regional Council or Greater Wellington Rail Limited.
KiwiRail	means each and both of KiwiRail Holdings Limited and KiwiRail.
KiwiRail Assets	means the assets and improvements owned or used by, or under the control of, KiwiRail.
Rolling Stock	means each unit of the Matangi fleets, the GanzMavag fleet, the SW fleet, the SE fleet and the AG wagon and

	any other vehicle from time to time used in providing passenger services on the Wellington metropolitan rail network, and includes all parts, components, systems, devices, equipment, software and mechanisms incorporated thereon and all spare parts, tools and equipment associated therewith.
Wellington Network	has the meaning given to it in clause 1.1 of the common access terms dated 20 June 2012, as amended, varied, replaced or supplemented from time to time.

2 VISITOR'S OBLIGATIONS

2.1 The Visitor shall (and shall procure that its Associates shall) while accessing any part of the Wellington Network, the Current Operator Assets, the KiwiRail Assets or the GW Rail Assets:

- 2.1.1 comply with all health and safety rules or other access requirements notified to it by any Beneficiary;
- 2.1.2 not unreasonably interfere with any activities of any Beneficiary;
- 2.1.3 not cause any damage to any part of the Wellington Network, the Current Operator Assets, the KiwiRail Assets or the GW Rail Assets and (at the request of any relevant Beneficiary) promptly make good any damage caused thereto by the Visitor or any of its Associates; and
- 2.1.4 take all steps necessary to minimise any disruption or inconvenience to the Beneficiaries and their invitees and to minimise any disruption to passenger carrying services on the Wellington Network.

3 INDEMNITY

3.1 The Visitor indemnifies the Beneficiaries to the extent permitted by law (and agrees to keep them indemnified on demand) from and against any loss, damage, costs and expenses suffered or incurred by any of them arising out of or in connection with:

- 3.1.1 any access to the Wellington Network, the Current Operator Assets, the KiwiRail Assets and/or the GW Rail Assets by or on behalf of the Visitor or any of its Associates; or
- 3.1.2 any breach by the Visitor of its obligations under this Deed.

4 GOVERNING LAW

This Deed and any disputes or claims arising out of or in connection with it (including non-contractual disputes or claims) is governed by, and is to be construed in accordance with, the laws of New Zealand. The Visitor irrevocably

submits to the non-exclusive jurisdiction of the New Zealand courts for the purpose of hearing and determining all disputes under or in connection with this Deed (including any non-contractual obligations arising in connection herewith).

5 WAIVER

Any failure by any Beneficiary at any time to enforce any provision of this Deed shall not prejudice any future enforcement of any right under this Deed.

6 JOINT AND SEVERAL LIABILITY

- 6.1 The obligations and liabilities under this Deed of the Visitor, if more than one person, are joint and several. Each person constituting the Visitor agrees that it will be responsible for the acts and omissions (including breaches of this Deed) of the other as if those acts or omissions were its own and the Beneficiaries may proceed against any one or all of them.
- 6.2 The rights conferred on the Beneficiaries by this Deed are conferred on each of them individually and on all of them collectively and may be exercised by one or more of the Beneficiaries on any number of occasions.

Execution

Executed as a Deed by the Visitor

Date:

[VISITOR] Company Number [Insert]

by:

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Title of authorised person

Title of authorised person

*[Note - this access indemnity to be executed by each entity participating in the award of a new contract and **not** each individual employee, consultant, officer etc who is engaged by that entity]*

Annexure 15



Initial Annual Heavy Maintenance Plan

Annexure 16



Initial Three Year Heavy Maintenance Plan

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Overarching Heavy Maintenance Plan

Annexure 18

Form of Payment Claim

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1 Minimum invoice content

Relevant Month to which this invoice relates: [Insert]

Operational Fees

Passenger Services Fee	\$
Special Event Services Fee	\$
Alternative Transport Fee	\$

Subtotal **\$**

Performance Deductions and Reporting Failure Deductions

Performance Deductions - Reliability KPI ¹	-\$
Performance Deductions - Punctuality KPI ²	-\$
Reporting Failure Deductions	-\$

Claim for relief from Performance Deductions

[Insert details of any claim for relief from Performance Deductions under paragraph 14 (Excusing Events and Deemed Performance) of Schedule 6, including evidence of satisfaction of the conditions in paragraph 14.1 of Schedule 6]

Subtotal **-\$**

Performance Payments

Customer Satisfaction Payment	\$
Performance Payment	\$

Claim for failure to achieve PI Achieve Benchmark to be disregarded

[Insert details of any claim that a failure by the Operator to achieve a PI Achieve Benchmark in respect of a Nominated Performance Indicator should be disregarded for the purposes of calculating the relevant Performance Payment under paragraph 14 (Excusing Events and Deemed Performance) of Schedule 6, including evidence of satisfaction of the conditions in paragraph 14.2 of Schedule 6]

Subtotal **\$**

FIM

FIMA \$

¹ Excluding any Performance Deductions in respect of which the Operator is seeking to claim relief under the Excusing Event regime

² Excluding any Performance Deductions in respect of which the Operator is seeking to claim relief under the Excusing Event regime

FIMD	-\$	
<i>Subtotal</i>		<i>\$/-\$</i>
Availability Payment		
Vehicle Availability Payment	\$	
<i>Subtotal</i>		<i>\$</i>
Vehicle Fee's		
Vehicle Services Fee	\$	
Exceptional Repair Work	\$	
Heavy Maintenance Services	\$	
GWRC funded Additional Modification Services	\$	
<i>Subtotal</i>		<i>\$</i>
Locomotive Services Fee³		
Base Locomotive Service Fee part 'A'	\$	
Base Locomotive Service Fee part 'B'	\$	
Special Event Locomotive Service Fee	\$	
Shunt Service Fee	\$	
Diesel Fuel Cost	\$	
<i>Subtotal</i>		<i>\$</i>
TOTAL		<i>\$</i>

³ Each part of the Locomotive Services Fee has the meaning given in the CLCSA.

Annexure 19

Variation Forms

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Part A - Form of Variation Proposal

Date of issue of Variation Proposal:

[GWRC to insert]

Name of proposed Contract Variation:

[GWRC to insert]

Reference No:

[GWRC to insert]

Particulars of proposed Contract Variation:

[GWRC to insert]

Summary of the amendments required to the Transaction Documents to achieve the proposed Contract Variation (if any):

[GWRC to insert]

Details of any additional services to be performed by the Operator:

[GWRC to insert]

Proposed date on which the Contract Variation is to take effect:

[GWRC to insert]

Further information which GWRC wishes to provide (if any) or requires the Operator to provide with the Variation Response (if any):

[GWRC to insert]

Part B - Form of Variation Response

Date of issue of Variation Response:

[Operator to insert]

Name of proposed Contract Variation:

[Operator to insert as per the name in the relevant Variation Proposal]

Reference No:

[Operator to insert as per the reference number in the relevant Variation Proposal]

This Variation Response relates to the Variation Proposal dated:

[Operator to insert as per the date set out in the relevant Variation Proposal]

Estimate of the Net Financial Impact arising from the proposed Contract Variation, calculated in accordance with paragraph 6.6 (*Variation Response*) of Schedule 16 (*Change Events and Net Financial Impact*):

[Operator to insert. This will be an amount specified in actual values (i.e real without indexation) as at the date of issue of the Variation Response. Note also the requirement in paragraph 6.6 of Schedule 16 to provide supporting documentation]

Timeframe within which the proposed Contract Variation will be implemented:

[Operator to insert. Note the requirement in paragraph 6.7 of Schedule 16 that this must be consistent with any timeframe proposed by GWRC in the relevant Variation Proposal]

Full details of the methodology and process by which the Operator proposes to implement the proposed Contract Variation:

[Operator to insert]

Full details of the effect (if any) that the proposed Contract Variation will have on the Operator's ability to meet the requirements of, or achieve, (as applicable) the Reliability KPI, the Punctuality KPI or the PI Achieve Benchmarks, the Vehicle Services Objectives and Outcomes, the Passenger Services Objectives and Outcomes, the Vehicle Use in Service Outputs and the Hand Back Standards

[Operator to insert]

Full details of the effects (if any) which the proposed Contract Variation will have on any of the following:

- (a) **the Operator's ability to perform its obligations in accordance with the Transaction Documents;**
- (b) **the safe and lawful operation of passenger services on the Wellington Rail Network;**
- (c) **the condition, value, or whole of life cost of any Vehicle, GWRL System, GWRC Asset, GWRC System, Spare, Rotable Item, Special Tool, General Tool, EMU Depot Plant and Equipment or any of the other assets or systems described at clause 12.1 (*General*) or on the safe and lawful use of any of the foregoing; and**
- (d) **any warranty or guarantee (including any claim thereunder) given by a supplier or manufacturer in relation to any Vehicle, GWRL System, GWRC Asset, GWRC System, Spare, Rotable Item, Special Tool, General Tool, EMU Depot Plant and Equipment or any of the other assets or systems described at clause 12.1 (*General*) (to the extent that the terms of such warranty or guarantee have been provided to the Operator by any person) or on any other obligations or liabilities of such supplier or manufacturer (to the extent that the Operator has been made aware of the same)**

[Operator to insert]

Full details of any relief sought from the Operator's obligations under this Partnering Contract to the extent reasonably required in order to implement the Contract Variation:

[Operator to insert]

Other information (if any) reasonably requested by GWRC in the relevant Variation Proposal:

[Operator to insert]

Part C - Form of Variation Order

Date of issue of Variation Order:

[GWRC to insert]

Name of proposed Contract Variation or Minor Contract Variation (as applicable):

[GWRC to insert]

Reference No:

[GWRC to insert]

This Variation Order relates to [the Contract Variation referred to in the Variation Proposal dated [xx]] [the Minor Contract Variation referred to in the Minor Contract Variation Notice dated [xx]] [the Contract Variation proposed by the Operator on xx]]¹

This Variation Order is issued pursuant to paragraph [GWRC to insert relevant cross reference to the provision under which the Variation Order is to be issued] of Schedule 16 (Change Events and Net Financial Impact)

The Net Financial Impact of the relevant [Contract Variation] [Minor Contract Variation]² which shall be NFI Indexed is: [GWRC to insert in accordance with Schedule 16. This will be an amount specified in actual values (i.e real without indexation) as at the date of issue of the Variation Order].

Other relevant matters (if any): [GWRC to insert - to include any matters which paragraph 6.19 of Schedule 16 contemplates being included in the Variation Order or, in the case of an Operator initiated Contract Variation, any conditions attaching to GWRC's approval of such Contract Variation and the basis on which it is to be implemented (as referred to in paragraph 8.9 of Schedule 16)]

¹ Delete as applicable

² Delete as applicable.

Annexure 20

Draft Initial Annual Business Plan

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1 Introduction

- 1.1 This Annexure 20 contains the draft Initial Annual Business Plan as at the date of execution of the Partnering Contract.
- 1.2 The Operator shall further develop this draft Initial Annual Business Plan, in consultation with GWRC, until GWRC confirms in writing that it accepts such plan as the Initial Annual Business Plan pursuant to clause 3.3.12 of the Partnering Contract.
- 1.3 Nothing in this document limits any other Operator initiative or obligation set out in Schedule 18 (*Operator's Proposals*) or otherwise in the Partnering Contract.
- 1.4 The Operator shall, and shall procure that the Operator Associates shall, cooperate and work with GWRC to implement the initiatives set out in this Annexure 20 and to comply with the Operator's obligations in this Annexure.
- 1.5 The participation by GWRC and its representatives in any of the activities undertaken by the Operator, including any meetings with the Operator, (including any opinions, comments, endorsements or approvals (or similar) given by GWRC or its representatives in connection therewith) shall not:
 - 1.5.1 give rise to any liability on the part of GWRC or GWRL and neither of them shall owe any duty of care or other obligation to the Operator to identify any defects, errors, omissions or non-compliances with the Transaction Documents in respect of any of the initiatives included in this Annexure 20;
 - 1.5.2 relieve the Operator from any of its obligations under the Partnering Contract or any other Transaction Document or limit or affect the Operator's liabilities under or in connection with the Partnering Contract or any other Transaction Document;
 - 1.5.3 prejudice any rights or remedies of GWRC or GWRL under or in connection with the Transaction Documents; or
 - 1.5.4 evidence or constitute confirmation or a representation by GWRC or GWRL that any part of the Services has or will be provided in accordance with the Transaction Documents.
- 1.6 The Operator shall not be entitled to any additional payment or fee in respect of the initiatives included in this Annexure.
- 1.7 Appendix 5 (*Initiatives to be completed in first Year of the Partnering Contract*) is included in this Annexure to assist in the management and implementation of the Operator's initiatives in the first Year of the Partnering Contract. Appendix 5 (*Initiatives to be completed in first Year of the Partnering Contract*) shall not limit any other Operator initiative or obligation set out in this Annexure, Schedule 18 (*Operator's Proposals*) or otherwise in the Partnering Contract.

2 Vision, goals and objectives

- 2.1 The Parties acknowledge and agree that the Operator's vision for the duration of the Partnering Contract is to deliver a reinvigorated and high quality rail experience for Greater Wellington region customers and to drive increased customer satisfaction, patronage and commerciality of services, and contribute to the Greater Wellington region's prosperity and well-being.
- 2.2 In order to achieve the vision referred to under paragraph 2.1, and having regard to the objectives of the Annual Business Plan referred to under paragraph 2.1 of Schedule 5 (*Planning, Reporting and Meetings*), the Operator agrees to use its best endeavours to achieve the following objectives:
- 2.2.1 grow patronage and increase Farebox Revenue;
 - 2.2.2 implement continuous service improvements and improve the Operator's performance of its obligations under the Partnering Contract;
 - 2.2.3 identify opportunities to improve the performance of obligations and activities provided by GWRC under the Partnering Contract;
 - 2.2.4 improve the performance of Vehicle Services and reduce the whole of life vehicle maintenance cost; and
 - 2.2.5 identify measures primarily designed to improve safety, integration and reliability of the Wellington Public Transport Network.
- 2.3 The Operator shall use its best endeavours to achieve the following goals, without limiting the Operator's other obligations under the Partnering Contract (including in relation to the Performance Indicators):
- 2.3.1 a 2.7% annual average increase in patronage across the Wellington Rail Network;
 - 2.3.2 50% reduction in SPADs for the year ending 30 June 2017; and
 - 2.3.3 continually improve the results of the Customer Satisfaction Survey as reported by the Surveying Organisation under paragraph 6.5 of Annexure 9 (*Customer Satisfaction Survey*).
- 2.4 Prior to 30 June 2017 and in order to achieve the goals referred to under paragraph 2.3, the Operator shall (and shall procure that the Vehicle Services Subcontractor shall):
- 2.4.1 get to know and understand the Services Employees and build a partnership to drive change;
 - 2.4.2 get to know and understand its customers better and further understand what steps the Operator can implement in order to provide an enjoyable journey for its customers;
 - 2.4.3 develop and train the Services Employees to meet the standards that the Operator will produce to underpin this Initial Annual Business Plan;

- (c) the meeting is held as soon as practicable after submission of the last Monthly Performance Report for the preceding month;
 - (d) an agenda as set out in Appendix 1 is followed; and
 - (e) the meeting is chaired by GWRC.
- 4.1.2 a quarterly performance review meeting commencing in September 2016 where:
- (a) the Parties may agree to combine this meeting with the appropriate monthly performance review meeting;
 - (b) the Parties shall identify any areas for partnership improvement;
 - (c) the Parties shall review the Passenger Services and Vehicle Services performance over the preceding three months and agree customer service and other improvement initiatives for the coming three months;
 - (d) the Parties resolve any matters not able to have been resolved at previous meetings;
 - (e) the meeting is held as soon as practicable after submission of the last Monthly Performance Report for the preceding quarter;
 - (f) an agenda as set out in Appendix 1 is followed; and
 - (g) the meeting is chaired by GWRC.
- 4.1.3 an annual executive partnership forum commencing in July 2017 where:
- (a) the Parties shall identify any areas for partnership improvement;
 - (b) the Parties shall discuss and review the draft Annual Business Plan for the coming year;
 - (c) the Parties shall review the Passenger Services and Vehicle Services performance over the preceding year and agree customer service and other improvement initiatives for the coming year;
 - (d) the Parties resolve any matters not able to have been resolved at preceding quarterly meetings;
 - (e) the meeting is held annually, as soon as practicable after submission of the Annual Business Plan for the forthcoming year;
 - (f) an agenda as set out in Appendix 1 is followed; and
 - (g) the forum is chaired by GWRC.
- 4.1.4 an annual business planning meeting where:

- (a) the Parties shall discuss and agree the matters to be addressed in the next year's Annual Business Plan;
 - (b) the meeting shall be scheduled for appropriate times between August through to April of each year to allow for consideration and discussion of the relevant reports and the draft Annual Business Plan for the forthcoming year. The anticipated meeting schedule is:
 - (i) August 2016;
 - (ii) September 2016;
 - (iii) March 2017; and
 - (iv) April 2017;
 - (c) an agenda as set out in Appendix 1 is followed; and
 - (d) the meeting is chaired by GWRC.
- 4.1.5 the Wellington Regional Public Transport Forum where the Parties shall comply with the obligations as set out in Schedule 11 (*Regional Agreement*).
- 4.2 The Parties acknowledge and agree that there will be further meetings scheduled from time to time regarding:
- 4.2.1 performance, to address any urgent matters or any matters identified by GWRC or GWRL as requiring such additional meetings; and
 - 4.2.2 projects and project delivery.
- 4.3 The Parties acknowledge and agree that there will be daily meetings, weekly operations meetings and monthly meetings held between the Operator and the Access Provider as referred to in paragraph 4.1 of Schedule 5 (*Planning, Reporting and Meetings*).

5 Part Three: Financial forecasts for the forthcoming Year (FY 16/17)

- 5.1 The Operator shall prepare a financial forecast to be included at Appendix 2 (*Financial Forecasts for the forthcoming Year (FY 16/17)*) and submit such financial forecast to GWRC in accordance with paragraph 25 of Schedule 15 (*Transition Plan*).

6 Part Four: Detailed plans

- 6.1 The Operator shall comply with the following detailed plans attached to this Annexure at Appendix 3 (*Detailed plans*):
- 6.1.1 Special Events Plan;
 - 6.1.2 Alternative Transport Plan;

- 6.1.3 Vehicle, Depot Facilities and Related Asset Management Plan;
 - 6.1.4 Security Management Plan;
 - 6.1.5 Health and Safety Management Plan;
 - 6.1.6 Risk Management Plan;
 - 6.1.7 Staff Training Plan;
 - 6.1.8 Emergency Management and Incident Response Plan;
 - 6.1.9 Quality Assurance Plan;
 - 6.1.10 Environmental Management Plan;
 - 6.1.11 Business Continuity Plan;
 - 6.1.12 Revenue Protection Plan; and
 - 6.1.13 Workplace Management Plan,
- as updated and approved by GWRC in accordance with paragraph 20 of Schedule 15.

Appendix 1 - Meeting agendas

1 Daily operations meeting

1.1 Proposed agenda

1.1.1 Look back on the past 24 hours with regard to:

- (a) safety of the line events including near misses;
- (b) depot safety events including near misses;
- (c) OH&S safety events including near misses;
- (d) on time availability;
- (e) train on time performance;
- (f) delay attributions;
- (g) staff performance and attendance issues; and
- (h) any other issues relating to the safe and punctual delivery of the business.

1.1.2 Look ahead to the next 24 hours with regard to:

- (a) train availability and proper presentation;
- (b) staff availability;
- (c) KiwiRail infrastructure availability and restrictions;
- (d) weather forecast; and
- (e) any other issues relating to the safe and punctual delivery of the business.

1.2 Key representatives to attend meeting

1.2.1 The representatives as set out in Table 1 to this Annexure shall attend the daily operations meeting.

2 Weekly operations meeting

2.1 Proposed agenda

- 2.1.1 review of all safety related issues of the week including accidents and near misses;
- 2.1.2 review of weekly performance and reliability;
- 2.1.3 outstanding delay attributions;
- 2.1.4 review of any significant complaints;
- 2.1.5 update on significant operational related projects;
- 2.1.6 updates and communicate with regard to any significant changes in risk;

- 2.1.7 updates and communication with regard to notification from KiwiRail regarding infrastructure changes or restrictions affecting the delivery of the Services;
 - 2.1.8 communication with regard to depot operations and availability of depot infrastructure;
 - 2.1.9 communication with regard to train availability and presentation standards;
 - 2.1.10 communication with regard to special trains, special timetables and train replacement services;
 - 2.1.11 communication with regard to staff availability;
 - 2.1.12 review of staff who are not fit for duty (off sick);
 - 2.1.13 communication with regard to training activity for all operational staff including continuation training; and
 - 2.1.14 any other issues relating to the safe and punctual delivery of the business.
- 2.2 Key representatives to attend meeting
- 2.2.1 The representatives as set out in Table 1 to this Annexure shall attend the weekly operations meeting.

3 Monthly performance review meetings

3.1 Proposed agenda

- 3.1.1 Review of the last month's performance
 - (a) Monthly Performance Report - strategic;
 - (b) Monthly Performance Report – operational - Passenger Services;
 - (c) Monthly Performance Report – operational - Vehicle Services;
 - (d) Monthly Performance Report – financial;
 - (e) Monthly Performance Report – patronage;
 - (f) Monthly Performance Report – revenue protection;
 - (g) Monthly Farebox Report;
 - (h) Review of Daily Operational Report and Weekly Operational Reports for the last month; and
 - (i) Health and safety.
- 3.1.2 Key activities and/or targets for the coming month:
 - (a) proposed actions to resolve any outstanding issues;
 - (b) review of improvement initiatives for the coming month; and

- (c) review of any other opportunities or risks for the coming month.

3.1.3 Commercial matters

- (a) invoicing and payments; and
- (b) any other commercial matters.

3.1.4 Any other business.

3.2 Key representatives to attend meeting

- 3.2.1 The representatives as set out in Table 1 to this Annexure shall attend the monthly performance review meeting.

4 Quarterly performance review meetings

4.1 Proposed agenda

4.1.1 Partnership review

- (a) what is working well;
- (b) areas for improvement; and
- (c) agreed actions.

4.1.2 Review of last quarter's performance

- (a) last three Monthly Performance Reports – operational – Passenger Services;
- (b) last three Monthly Performance Reports – operational – Vehicle Services;
- (c) last three Monthly Performance Reports – financial;
- (d) last three Monthly Performance Reports – patronage;
- (e) last three Monthly Performance Reports – revenue protection;
- (f) last three Monthly Farebox Reports; and
- (j) Health and safety.

4.1.3 Key activities and/or targets for the coming quarter

- (a) proposed actions to resolve any outstanding issues;
- (b) review of improvement initiatives for the coming quarter; and
- (c) review of any other opportunities or risks for the coming quarter.

4.1.4 Commercial matters

- (a) invoicing and payments; and
- (b) any other commercial matters.

4.1.5 Any other business.

4.2 Key representatives to attend meeting

- 4.2.1 The representatives as set out in Table 1 to this Annexure shall attend the quarterly performance review meeting.

5 Annual executive partnership forums

5.1 Proposed agenda

5.1.1 Partnership review

- (a) what is working well;
- (b) areas for improvement; and
- (c) agreed actions.

5.1.2 Review of last's year's performance – Passenger Services

- (a) patronage;
- (b) reliability;
- (c) punctuality; and
- (d) other Passenger Service Performance Indicators.

5.1.3 Review of last's year's performance – Vehicle Services

- (a) Vehicle Service Performance Indicators.

5.1.4 Key highlights

- (a) performance above expectations; and
- (b) performance below expectations.

5.1.5 Commercial matters

5.1.6 Review of draft Annual Business Plan

- (a) measures to correct any 'below expectation' outcomes;
- (b) proposed improvement initiatives; and
- (c) proposed financials.

5.2 Key representatives to attend meeting

- 5.2.1 The representatives as set out in Table 1 to this Annexure shall attend the annual executive partnership forum.

6 Annual business planning meetings - proposed agenda and key representatives to attend meetings

Proposed agenda - August 2016

6.1 Part three of Annual Business Plan

- 6.1.1 discuss financial matters to be included for forthcoming year; and
- 6.1.2 agree financial matters to be included for forthcoming year.

Proposed agenda - September 2016

6.2 Part three of Annual Business Plan

6.2.1 Operator's presentation of draft financials for forthcoming year;

6.2.2 discussion of draft financials for forthcoming year; and

6.2.3 agree draft financials for forthcoming year.

Proposed agenda - March 2017

6.3 Part one of Annual Business Plan

6.3.1 identify initiatives for forthcoming year;

6.3.2 discuss initiatives for forthcoming year; and

6.3.3 agree initiatives for forthcoming year.

6.4 Part two of Annual Business Plan

6.4.1 propose meeting programme for forthcoming year; and

6.4.2 agree meeting programme for forthcoming year.

Proposed agenda - April 2017

6.5 Final Annual Business Plan approval

6.5.1 discuss draft Annual Business Plan for the forthcoming year; and

6.5.2 agree above and 'sign off'.

Key representatives to attend meetings

6.6 The representatives as set out in Table 1 to this Annexure shall attend the annual business planning meetings.

Table 1: Key representatives

GWRC representatives	Operator / Vehicle Services Subcontractor representatives	Other attendees (if applicable)
Daily operations meeting		
Service Delivery Analyst (optional)	Fleet Operations Manager	KiwiRail Network Analyst – Asset Productivity and Performance (optional)
Fleet Engineers (optional)	Network Access and Performance Manager	KiwiRail Network Analyst
Rail Services Leader (optional)	Service Planning Manager	
Rail Assets Team Leader (optional)	Zero Harm Manager	
	SCC Senior Services Manager and or Service Delivery Duty Manager	
	Service Control Centre Team as directed by Service Delivery Duty Manager	
	Maintenance Manager (Hyundai Rotem)	
Weekly operations meeting		
Service Delivery Analyst	Chief Operations Officer, Transdev Wellington	KiwiRail Network Analyst – Asset Productivity and Performance (optional)
Fleet Engineers	Fleet Operations Manager	KiwiRail Network Analyst

Rail Services Leader (optional)	Network Access and Performance Manager	KiwiRail Network Control
Rail Assets Team Leader (optional)	Service Planning Manager	
	SCC Senior Services Manager	
	Fleet and Maintenance Manager	
Monthly performance review meeting		
General Manager, Public Transport (optional)		
Manager Rail Operations	Chief Operations Officer, Transdev Wellington	N/A
Rail Services Leader		
Strategic Business Partner, Finance	Manager Finance & Commercial, Transdev Wellington	
Health & Safety Manager	Manager Quality Safety & Environment, Transdev Wellington	
Manager Communications & Marketing	Manager Customers Stakeholders & Communication, Transdev Wellington	
Rail Assets Team Leader	Fleet and Maintenance Manager, Hyundai Rotem	
	Depot Manager, Hyundai Rotem	

	Network Access and Performance Manager	
Operator – Network Monthly performance review meeting		
Manager Rail Operations	Network Access and Performance Manager	Analyst – Asset Productivity and Performance
Rail Services Leader		Regional Manager Central
Rail Assets Team Leader		
Strategic Business Partner, Finance		
Quarterly performance review meetings		
Chief Executive Officer, GWRC (optional)	Chief Executive Officer, Transdev Australasia (optional)	N/A
General Manager, Public Transport	Managing Director Transdev Wellington	
Manager Rail Operations	Chief Operations Officer, Transdev Wellington	
Rail Services Leader		
Strategic Business Partner, Finance	Manager Finance & Commercial, Transdev Wellington	
Health and Safety Manager	Manager Quality Safety & Environment, Transdev Wellington	
Manger Communications & Marketing	Manager Customers Stakeholders & Communication, Transdev Wellington	

Rail Assets Team Leader	Fleet and Maintenance Manager, Hyundai Rotem	
	Depot Manager, Hyundai Rotem	
Annual executive partnership forums		
Chief Executive Officer, GWRC	Chief Executive Officer, Transdev Australasia	N/A
General Manager, Public Transport	Managing Director Transdev Wellington	
Manager Rail Operations	Chief Operations Officer, Transdev Wellington	
Rail Services Leader		
General Manager Corporate Services/ CFO	Manager Finance & Commercial, Transdev Wellington	
Strategic Business Partner, Finance		
Rail Assets Team Leader	Fleet and Maintenance Manager, Hyundai Rotem	
	Depot Manager, Hyundai Rotem	
Annual business planning meetings		
General Manager, Public Transport	Managing Director Transdev Wellington	N/A
Manager Rail Operations	Chief Operations Officer, Transdev Wellington	
Rail Services Leader		

Strategic Business Partner, Finance	Manager Finance & Commercial, Transdev Wellington	
Rail Assets Team Leader	Fleet and Maintenance Manager, Hyundai Rotem	
	Depot Manager, Hyundai Rotem	

Appendix 2 - Financial forecasts for the forthcoming Year (FY 16/17) 

This will be inserted as contemplated by paragraph 5.1 of this Annexure

Appendix 3 - Draft detailed plans 

Appendix 4 - Programme for meetings

Meeting	Purpose	Chaired By	Frequency	Timing
Daily Operations Meetings (Annexure 20 & Schedule 5)	Discuss and resolve operations issues, punctuality & reliability	Operator	Daily	As agreed. Teleconference or meeting.
Weekly Operations Meetings (Annexure 20 & Schedule 5)	Discuss and resolve operations issues, address the past week's performance issues and identify network and operational service improvements.	Operator	Weekly	First business day after the end of week.
Monthly Performance Review Meetings (Annexure 20 & Schedule 5)	Review of operational and other performance	GWRC	Monthly	After the 10 th Business Day and on or before the 15 th Business Day of the month after the Relevant Month to which performance relates.
Quarterly Performance Review Meetings (Annexure 20)	Review of operational and other performance	GWRC	Quarterly	After the 10 th Business Day and on or before the 15 th Business Day of the month after the Relevant Quarter to which performance relates.
Annual Executive Partnership Forum (Annexure 20)	Review areas for partnership improvement and review of annual business plan	GWRC	Annually	After the 15 th August and on or before the 31 st August each year.
Annual Business Planning Meeting (Annexure 20)	Discuss and agree the matters to be addressed in the next year's Annual Business Plan	GWRC	Annually	Meetings to be held in August, September, March and April each year.
Wellington Regional Public Transport Forum (Annexure 20)	To achieve the levels of integration, reliability, frequency and coverage necessary to grow patronage on the Wellington Public Transport Network	GWRC	6 monthly	As determined by GWRC
Additional Issues Meetings	To address any urgent matters or any	GWRC	As required	As required

(Annexure 20)	matters identified by GWRC or GWRL as requiring such additional meetings			
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Appendix 5 - Initiatives to be completed in first Year of the Partnering Contract



VERSION CONTROL

Version number:

Document reference:

Date:

Approved by GWRC:

Signature.....

Name.....

Position.....

Approved by GWRL:

Signature.....

Name.....

Position.....

Approved by Operator:

Signature.....

Name.....

Position.....

Annexure 21

Ticket Agent Agreement

Ticket Agent Agreement

Parties

- 1 Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002 (**GWRC**);
- 2 Greater Wellington Rail Limited (company number 1846367) (**GWRL**);
- 3 Transdev Wellington Limited (company number 5164521) (**Operator**); and
- 4 [Ticket Agent] (company number [insert]) (**Ticket Agent**).

Operative provisions

1. Definitions

- 1.1 In this Agreement the following definitions apply unless the context requires otherwise:

"Default Rate" means, in respect of a period, 2% above the official cash rate (set by the Reserve Bank) applicable from time to time during that period;

"Farebox Account" means the bank account named "GWRC Farebox Revenue Trust Account" having account number [insert] and held by the Operator with the [insert] bank at the [insert] branch and any other bank account subsequently notified to the Ticket Agent by the Operator to replace the GWRC Farebox Revenue Trust Account;

"Farebox Revenue" means the value of tickets sold by the Ticket Agent in respect of the Wellington Rail Network;

"GWRC Fare Media Transition Plan" means the plan for the transition of fare structure and fare products detailing the fare products to be sold by the Ticket Agent and the rules applying to such fare products, as provided by the Operator to the Ticket Agent from time to time;

"Security Interest" means each and all of the following:

- (a) any mortgage, charge, lien, conditional sale agreement (including an agreement to sell subject to retention of title), hire purchase agreement, pledge or other security interest securing the obligation of any person or any other agreement or arrangement having a similar effect; and
- (b) any security interest within the meaning ascribed to that term under section 17 of the Personal Property Securities Act 1999; and

"Wellington Public Transport Network" means the units (as defined in section 5(1) of the Land Transport Management Act 2003) specified in the Wellington Regional Public Transport Plan that make up the public transport network managed by GWRC.

2. Appointment

- 2.1 The Operator has been appointed by Greater Wellington Regional Council (**GWRC**) and Greater Wellington Rail Limited (company number 1846367) (**GWRL**) to sell tickets and collect Farebox Revenue in respect of the Wellington Rail Network as agent for GWRC on the terms of the Partnering Contract PT0416 dated on or about the date of this deed (**Partnering Contract**).
- 2.2 The Operator hereby on the terms of this Agreement appoints the Ticket Agent as the Operator's subagent to sell tickets and collect Farebox Revenue in respect of the Wellington Rail Network, and the Ticket Agent hereby accepts such appointment.

3. Duties of the Agent

- 3.1 The Ticket Agent shall:
 - 3.1.1 sell the fare products set out in the GWRC Fare Media Transition Plan at the prices set out therein and otherwise comply with the GWRC Fare Media Transition Plan;
 - 3.1.2 procure from the Operator at the Operator's expense, and keep sufficient stocks of, paper tickets;
 - 3.1.3 keep accurate records of all ticket stock ordered, held and sold and report to the Operator in the Report referred to in clause 3.5 all paper tickets which are lost, stolen or not accounted for in the Ticket Agent's records; and
 - 3.1.4 comply with all reasonable and lawful instructions of the Operator from time to time concerning the marketing and sale of the tickets referred to in the GWRC Fare Media Transition Plan.

Collecting and depositing Farebox Revenue

- 3.2 The Ticket Agent shall ensure that all Farebox Revenue (including by way of cash payment, cheque and electronic payment) is:
 - 3.2.1 deposited into the Farebox Account in accordance with such reasonable procedures as the Operator may from time to time notify to the Ticket Agent at the latest on or prior to the last Business Day of the month in which the Farebox Revenue is collected by the Ticket Agent; and

- 3.2.2 kept safe, secure and separate from any other moneys until the time at which it is deposited into the Farebox Account pursuant to clause 3.2.1.
- 3.3 The Ticket Agent acknowledges and agrees that all Farebox Revenue and all other amounts received in respect of ticket sales is the absolute property of GWRC and that the Ticket Agent holds such Farebox Revenue as bare trustee at all times for GWRC. This commitment creates a right under the *Contracts (Privity) Act 1982* which may be enforced by GWRC.
- 3.4 The Ticket Agent shall not:
 - 3.4.1 pay the Farebox Revenue into any account other than the Farebox Account;
 - 3.4.2 dispose of, assign, transfer or otherwise deal with the Farebox Revenue in any manner other than that contemplated by this Agreement;
 - 3.4.3 make any withdrawals or transfers from the Farebox Account;
 - 3.4.4 pay any amount into the Farebox Account other than Farebox Revenue;
 - 3.4.5 create any Security Interest over any or all of the Farebox Revenue, or permit such Security Interest to be created or to subsist at any time; and
 - 3.4.6 engage in any conduct which may damage or bring into dispute the Operator, GWRC or GWRL.

Reporting

- 3.5 The Ticket Agent must on or before the [third] business day of each calendar month provide a report which details (**Report**):
 - 3.5.1 the number of tickets sold by the Ticket Agent during the previous month by ticket description and type;
 - 3.5.2 aggregate face value of tickets sold during the previous month by the Ticket Agent and a breakdown of this amount by ticket description and type;
 - 3.5.3 any tickets unaccounted for (lost, stolen, etc) and the aggregate face value of such tickets (to the extent not included in a previous Report);

- 3.5.4 the total value of ticket sales sold by the Ticket Agent in the previous month and which should have been deposited into the Farebox Account, being:
- (a) the aggregate face value referred to in clause 3.5.2; plus
 - (b) the aggregate face value referred to in clause 3.5.3;
- 3.5.5 the Commission payable to the Ticket Agent in accordance with clause 3.7; and
- 3.5.6 any other information required by the Operator for accounting or GST purposes.
- 3.6 Should the amount deposited in the Farebox Account by the end of a month pursuant to clause 3.2.1 be less than the amount reported in clause 3.5.4, or any Report is incorrect or misleading in any way (including resulting from mistake, fraud or otherwise) (such matter being an **Error**) resulting in the Ticket Agent not depositing the full amount in respect of Farebox Revenue or unaccounted for tickets, the Ticket Agent shall pay to the Operator on demand the amount of the shortfall plus interest thereon calculated at the Default Rate from (and including) the day after the date on which the Error arose until (and including) the actual date that the Operator receives payment.

Payment of Commission

- 3.7 The Operator shall (subject to the Ticket Agent's compliance with the terms of this Agreement) pay to the Ticket Agent each [month], within [*insert*] business days of receipt of an Error-free Report relating to the previous month, [5]% of the aggregate face value of tickets sold by the Ticket Agent in accordance with the terms of this Agreement in the previous month (**Commission**).
- 3.8 The Commission payable is [inclusive / exclusive] of GST and other taxes.
- 3.9 The Ticket Agent accepts the Commission as full compensation for compliance with its obligations under this Agreement.

Provision of information

- 3.10 Without prejudice to any other obligations of the Ticket Agent, within 2 business days following a request, the Ticket Agent shall provide to the Operator (on an open book basis) such information as the Operator may reasonably request from time to time:
- 3.10.1 to evidence the gross amount of Farebox Revenue received by the Ticket Agent;

- 3.10.2 to evidence the amounts deposited from time to time into the Farebox Account by the Ticket Agent;
- 3.10.3 to evidence the type of tickets sold broken down by:
 - (a) description of tickets sold;
 - (b) numbers of tickets sold;
 - (c) the amount and nature of any Commission in relation to the tickets sold; and
 - (d) any other information required by GWRC or the Operator for accounting or GST purposes; and
- 3.10.4 to verify the extent to which the Ticket Agent has complied and is complying with this Agreement.

4. Novation

- 4.1 The Operator may at any time novate its rights and obligations (other than accrued obligations) under this Agreement to GWRC or any nominee of GWRC, and the Ticket Agent hereby consents to such novation.
- 4.2 The Ticket Agent shall execute and deliver any documentation reasonably required to vest in GWRC or its nominee the Operator's right, title and interest to this Agreement.
- 4.3 Unless otherwise agreed, the assumption by GWRC or its nominee of the obligations and liabilities of the Operator under this Agreement will not include any payment obligations of the Operator that arose prior to the date of novation (including any obligation to pay Commission).

5. Term and termination

- 5.1 Other than clauses 4, 5 and 6 which begin on the date of this Agreement, this Agreement will begin on the date the Ticket Agent receives written notice from the Operator that the "Commencement Date" has been achieved under the Partnering Contract.
- 5.2 This Agreement can be terminated at the convenience of the Operator by providing 5 business days' advance notice in writing to the Ticket Agent.
- 5.3 This Agreement can be terminated at the convenience of the Ticket Agent by providing 3 months' advance notice in writing to the Operator.

- 5.4 On termination or expiry of this Agreement for whatever reason, the Ticket Agent shall:
- 5.4.1 produce a final Report;
 - 5.4.2 return to the Operator all unsold tickets;
 - 5.4.3 transfer all remaining Farebox Revenue to the Farebox Account; and
 - 5.4.4 have no claim against the Operator under or in respect of this Agreement.

6. General

- 6.1 The Ticket Agent shall not in any way either directly or indirectly assign, novate, transfer, dispose of, part with possession of, create or allow any interest in, or otherwise deal with its rights or obligations under this Agreement other than in accordance with the terms of this Agreement or with the prior written consent of the Operator.
- 6.2 Any notice required to be given in relation to this Agreement will, except where otherwise expressly provided, be in writing and in English and delivered to the party's address referred to above for the attention of:
- 6.2.1 in respect of the Operator: *[insert]*; and
 - 6.2.2 in respect of the Ticket Agent: *[insert]*.
- 6.3 This Agreement contains the entire agreement between the parties with respect to its subject matter and supersedes any earlier agreements or understandings between the parties in connection with its subject matter.
- 6.4 This Agreement may only be amended by way of a written agreement duly executed by each of the parties.
- 6.5 No waiver by a party of any part of this Agreement is binding unless it is made in writing by the party granting that waiver.
- 6.6 Subject to any express provision to the contrary in this Agreement, each party shall bear its own costs and expenses relating directly or indirectly to the negotiation, preparation, execution of and performance of its obligations under this Agreement.
- 6.7 Except to the extent otherwise specified in this Agreement, a person who is not a party to this Agreement shall have no right under the Contracts (Privity) Act 1982 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

- 6.8 This Agreement and the transactions contemplated by this Agreement are governed by and are to be construed in accordance with New Zealand law and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 6.9 This Agreement is properly executed if each party executes either this document or an identical document.

Execution

SIGNED for and on behalf of
Wellington Regional Council
by

Signature of witness

Signature of authorised person

Name of witness

Name of authorised person

Occupation of witness

Title of authorised person

Address of witness

**Greater Wellington Rail
Limited** Company Number
1846367 by

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Title of authorised person

Title of authorised person

Transdev Wellington Limited
Company Number 5164521 by
the party's attorney pursuant to
power of attorney dated 4 March
2016

Signature of witness

Signature of authorised person

Name of witness

Name of authorised person

Occupation of witness

Title of authorised person

Address of witness

[Ticket Agent] Company
Number [insert] by

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Title of authorised person

Title of authorised person

[Note - Ticket agent to confirm the above execution block]

Annexure 22

Key Subcontractor Direct Deed

Date [*insert*]

Key Subcontractor Direct Deed

GREATER WELLINGTON METRO RAIL SERVICE

Wellington Regional Council (**GWRC**)

Greater Wellington Rail Limited (**GWRL**)

and

Transdev Wellington Limited (**Operator**)

[Subcontractor] (**Subcontractor**)

[Subcontractor Guarantor] (**Subcontractor Guarantor**)

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Execution 47

Key Subcontractor Direct Deed

Parties

- 1 Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002 (**GWRC**);
- 2 Greater Wellington Rail Limited (company number 1846367) (**GWRL**);
- 3 Transdev Wellington Limited (company number 5164521) (**Operator**);
- 4 [Subcontractor] (company number [*insert*]) (**Subcontractor**); and
- 5 [Subcontractor Guarantor] (company number [*insert*]) (**Subcontractor Guarantor**).

Background

- A GWRC, GWRL and the Operator have entered into the Partnering Contract for the provision of the Services.
- B The Operator and the Subcontractor have entered into the Subcontract for, amongst other things, [*insert brief description of subcontracted services*].
- C The Operator, the Subcontractor and the Subcontractor Guarantor have entered into the Subcontractor Guarantee to secure the Subcontractor's obligations under the Subcontract.
- D The Parties are entering into this Deed so that, amongst other things, GWRC and GWRL may exercise certain rights upon a default occurring under the Partnering Contract or the Subcontract.

Operative provisions

1. Interpretation

Definitions

1.1 The following definitions apply in this Deed unless the context requires otherwise:

"Associate" means each:

- (a) in respect of the Operator, each Operator Associate;
- (b) in respect of the Subcontractor or the Subcontractor Guarantor, each Subcontractor Associate and/or each Subcontractor Guarantor Associate (as the context requires); and
- (c) in respect of GWRC or GWRL, means each GW Associate (as defined in the Partnering Contract);

"Authorised Representative" means, in relation to a Party, the individual that is the primary contact person of that Party for the purpose of this Deed, being the individual specified in clauses 1.6 to 1.8 as amended from time to time in accordance with clause 1.8;

"Claim" means any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) whether under or in connection with any Project Document or otherwise at law, under statute or in equity, including in tort (whether for negligence or otherwise), for negligent misrepresentation, for strict liability, for breach or for restitution, including in each case for payment of money (including damages) or for an extension of time;

"Confidential Information" means:

- (a) all information and trade secrets already communicated or subsequently communicated under or in connection with this Deed or with respect to the Services or otherwise with respect to the subject matter of the Partnering Contract or the Subcontract Documents including (without limitation) any information obtained:
 - (i) in the course of negotiations leading to the conclusion of the Partnering Contract, this Deed and the Subcontract Documents; or
 - (ii) in the performance of the Partnering Contract, this Deed and the Subcontract Documents;

- (b) any information about the business or property of a person including (without limitation) any information:
 - (i) relating to the financial position of that person;
 - (ii) concerning that person's suppliers and customers or its agents or brokers;
 - (iii) relating to that person's internal management, structure, personnel or strategies; or
 - (iv) comprising the terms of this Deed, the Partnering Contract or the Subcontract Documents; and
- (c) any Intellectual Property Material; and
- (d) any Personal Information collected, used, disclosed, stored, managed, transferred or handled by a Party;

"Consent Date" has the meaning given in clause 5.13;

"Default Notice" means a notice given by the Subcontractor under clause 4.2;

"Dispute" means any dispute, difference of opinion, or disagreement between any of the Parties, including any Claim, arising out of or in connection with this Deed;

"Expert" has the meaning given in clause 10.10;

"GWRC Cure Notice" has the meaning given in clause 4.3;

"Insolvency Event" has the meaning given to it in the Partnering Contract as if references in that definition to "Operator" were to the "Operator", "Subcontractor" or "Subcontractor Guarantor" (as applicable);

"Novation Agreement" has the meaning given in clause 5.14.3;

"Novation Effective Date" means the date falling 3 Business Days after the Consent Date;

"Operator Associate" means any "Operator Associate" as defined in the Partnering Contract but excluding the Subcontractor and its subcontractors of any tier;

"Party" means each party to this Deed;

"Partnering Contract" means the contract entitled "Partnering Contract PT0416 Greater Wellington Metro Rail Service" dated [*insert*] between GWRC, GWRL and the Operator;

"Permitted Security Interest" means those security interests approved by GWRC in writing from time to time;

"Project Documents" means the Transaction Documents, the Subcontract Documents and this Deed;

"Proposed Novation Date" has the meaning given in clause 5.2;

"Proposed Novation Notice" has the meaning given in clause 5.1;

"Proposed Substitute" has the meaning given in clause 5.1.4;

"Revised Proposed Novation Notice" has the meaning given in clause 5.12.1;

"Senior Executives Meeting" means each panel established under clause 10.4;

"Services" has the meaning given to it in the Partnering Contract and/or the Subcontract (as applicable);

"Step In Date" means the date specified in a notice given by GWRC under clause 4.8;

"Step In Period" means the period from the Step In Date until the earliest of:

- (a) the Step Out Date;
- (b) the date on which the Subcontractor validly terminates the Subcontract in accordance with its terms and the terms of this Deed; and
- (c) the date of any novation under clause 5 (*Novation*);

"Step In Rights" has the meaning given in clause 4.7.2;

"Step Out Date" means the date specified in any notice given by GWRC under clause 4.16;

"Subcontract" means the contract between the Operator and the Subcontractor entitled [*insert*] and executed on [*insert date*];

"Subcontract Documents" means each and all of the following:

- (a) the Subcontract; and
- (b) the Subcontractor Guarantee;

"Subcontract Event of Default" means:

- (a) a breach or default by the Operator under the Subcontract which entitles the Subcontractor to terminate (or give notice terminating), rescind or accept the repudiation of the Subcontract or suspend the performance of any or all of its obligations under the Subcontract; and/or
- (b) the occurrence of any Insolvency Event in respect of the Operator or Operator Associates;

"Subcontractor Associate" means:

- (a) any Related Company of the Subcontractor;
- (b) any person that is engaged (directly or indirectly and at any tier) as a subcontractor to the Subcontractor in connection with the Subcontract and its subcontractors (of any tier); and
- (c) any director, advisor, officer, employee, delegate or agent of, or contractor to:
 - i. the Subcontractor; or
 - ii. any person referred to in paragraphs (a) or (b) of this definition;

"Subcontractor Guarantee" means the guarantee between the Operator, the Subcontractor and the Subcontractor Guarantor entitled [*insert*] and executed on [*insert*];

"Subcontractor Guarantor Associate" means:

- (a) any Related Company of the Subcontractor Guarantor;
- (b) any person that is engaged (directly or indirectly and at any tier) as a subcontractor to the Subcontractor Guarantor in connection with the Subcontract and its subcontractors (of any tier); and
- (c) any director, advisor, officer, employee, delegate or agent of, or contractor to:
 - i. the Subcontractor Guarantee; or
 - ii. any person referred to in paragraphs (a) or (b) of this definition; and

"Termination Date" means the date on which this Deed shall terminate, being the date of performance and satisfaction of all of the obligations under the Subcontract.

Definitions in Partnering Contract

- 1.2 Subject to clause 1.1, terms that are defined in the Partnering Contract have the same meanings in this Deed.

Rules for interpreting this Deed

- 1.3 The following rules apply unless the context requires otherwise:
- 1.3.1 headings are for convenience only and do not affect interpretation;
 - 1.3.2 the singular includes the plural and conversely;
 - 1.3.3 a gender includes all genders;
 - 1.3.4 if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - 1.3.5 a reference to a person, corporation, trust, partnership, unincorporated body, organisation or other entity includes any of them;
 - 1.3.6 a reference to a clause, Schedule, Annexure or Appendix is a reference to a clause of or a Schedule, Annexure or Appendix to, this Deed, and a reference to a paragraph is to a paragraph of the same clause, Schedule, Annexure or Appendix unless the context requires otherwise;
 - 1.3.7 a reference to an agreement or document (including a reference to this deed) is to the agreement or document as amended, varied or supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document;
 - 1.3.8 a reference to a person includes that person's successors, permitted substitutes and permitted assigns (and, where applicable, that person's legal personal representatives);
 - 1.3.9 a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
 - 1.3.10 a reference to conduct includes an act, omission, statement and undertaking, whether or not in writing;
 - 1.3.11 a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;
 - 1.3.12 a reference to dollars and \$ is to New Zealand currency;
 - 1.3.13 a reference to month or to a year is to a calendar month or a calendar year;

- 1.3.14 a reference to a right or an obligation of any two or more persons confers that right, or imposes that obligation as the case may be, on each of them severally and each two or more of them jointly.
- 1.3.15 a reference to a Party is a reference to each of those persons separately;
- 1.3.16 a reference to writing includes an email and any other means of reproducing words in a tangible and permanently visible form;
- 1.3.17 a reference to an asset includes any real or personal, present or future, tangible or intangible, property or asset (including Intellectual Property Rights) and any right, interest, revenue or benefit in, under or derived, from the property or asset;
- 1.3.18 a reference to any governmental department, professional body, committee, council, local authority, council controlled organisation or other body includes the successors to that body or any relevant activity or function of that body;
- 1.3.19 a reference to a liability includes any obligation whether present or future or actual or contingent or as a principal, surety or otherwise;
- 1.3.20 a reference to includes or including or other similar words should be construed without limitation;
- 1.3.21 where the time for performing an obligation or exercising a right is expressed by reference to a period of one or more months before or after a specified date (the **reference date**) that time period will be determined by calculating the number of months specified from the reference date, with the period expiring on the date which is the equivalent date to the reference date, or if there is no such date in the final month, the last day of that final month; and
- 1.3.22 a reference to obligations includes indemnities, warranties, representations and undertakings and a reference to breach or breach of obligations includes breach of any indemnities, warranties, representations and undertakings.

Consents or approvals

- 1.4 If the doing of any act, matter or thing under this Deed is dependent on the consent or approval of a Party or is within the discretion of a Party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the Party at its absolute discretion unless express provision to the contrary is made.

Priority between Subcontract Documents and this Deed

- 1.5 If there is any inconsistency between the provisions of this Deed and the provisions of the Subcontract Documents, the provisions of this Deed will prevail to the extent of such inconsistency.

Representatives

- 1.6 GWRC, GWRL and the Operator's Authorised Representatives

1.6.1 GWRC, GWRL and the Operator have each appointed Authorised Representatives in accordance with the terms of the Partnering Contract.

- 1.7 Representatives of the Subcontractor and the Subcontractor Guarantor

1.7.1 Each of the Subcontractor and Subcontractor Guarantor shall appoint an Authorised Representative with primary responsibility for:

- (a) managing the relationship between the Parties;
- (b) administering this Deed;
- (c) providing a designated point of contact for the other Parties in connection with this Deed; and
- (d) ensuring the relevant Party's contractual obligations under this Deed are met.

1.7.2 Each of the Subcontractor and Subcontractor Guarantor shall ensure that it appoints an Authorised Representative with the appropriate skill, knowledge and authority reasonably required to undertake the role of any authorised representative of the Subcontractor or the Subcontractor Guarantor (as the case may be) in this Deed.

- 1.8 General

1.8.1 The Parties' Authorised Representatives at the Commencement Date are: *[insert details of Authorised Representatives]*.

1.8.2 Each Party may treat the acts of the other Party's Authorised Representative as being the acts of that other Party.

1.8.3 The appointment by a Party of an Authorised Representative does not relieve that Party of, limit or otherwise affect that Party's obligations and liabilities under this Deed.

- 1.8.4 GWRC, GWRL and the Operator may change their Authorised Representative by following the process set out in clause 27 (*Authorised Representatives*) of the Partnering Contract and providing written notice to the other Parties to this Deed.
- 1.8.5 If the Operator wishes to change its Authorised Representative the Operator shall:
- (a) ensure that the proposed appointee will meet the requirements set out in clause 1.7;
 - (b) provide sufficient information about the proposed appointee (including the date that the proposed change will be effective) to enable GWRC to establish that the proposed appointee satisfies the requirements set out in clause 1.7 and to approve the change; and
 - (c) obtain GWRC's prior written approval before making any change to its Authorised Representative (such approval not to be unreasonably withheld or delayed).

Project Documents

- 1.9 Each of the Subcontractor and the Subcontractor Guarantor acknowledges that it has received a copy of each Project Document which one or more of the Parties to this Deed is or is proposed to be party.

Subcontractor's Liability

- 1.10 For the avoidance of doubt, and notwithstanding any other provision in this Deed:
- 1.10.1 the Subcontractor will have no greater obligations or liabilities to GWRC and GWRL under, arising out of, or in connection with, this Deed, than it would have had if GWRC and GWRL had been named as the Operator under the Subcontract; and
 - 1.10.2 the liability of the Subcontractor under, arising out of, or in connection with, this Deed, will not exceed the difference between the maximum liability of the Subcontractor under the Subcontract and the liability incurred (from time to time) by the Subcontractor to the Operator under the Subcontract.

2. GWRL's rights, powers and benefits

- 2.1 Except in the case of rights, powers and benefits relating to the Farebox Revenue, to the extent that this Deed confers a right, power or benefit on GWRC, such right, power or benefit also extends to GWRL and GWRC holds that right, power or benefit on its own behalf and on behalf of GWRL and such right, power or benefit may be exercised by GWRL independently from GWRC and by GWRC independently from GWRL.
- 2.2 The Parties acknowledge that GWRL has appointed GWRC to act as its agent on behalf of GWRL in relation to all matters under this Deed including in respect of the rights and powers which GWRL has under this Deed. Where GWRC so acts, GWRL is bound by those acts as though they were the acts of GWRL. Such appointment of GWRC does not prevent GWRL from itself exercising any right or power which it has under this Deed.

3. Conditions precedent

- 3.1 The following provisions of this Deed shall take effect and be binding upon the Parties from and including the date of this Deed: clauses 1, 2, 3, 6, 7, 8, 10 and 11 to 29.
- 3.2 Except as provided for in clause 3.1, the provisions of this Deed shall take effect and become binding on the Parties from and including the Commencement Date of the Partnering Contract.

4. Subcontract default and step in rights

Restriction on right to terminate or suspend

- 4.1 The Subcontractor is only entitled to terminate (or give notice terminating), rescind or accept the repudiation of the Subcontract or suspend the performance of any or all of its obligations under the Subcontract if:
- 4.1.1 the Subcontractor has given GWRC a Default Notice and a GWRC Cure Notice;
 - 4.1.2 the Subcontractor has complied (and continues to comply) with its obligations under clauses 4.2 to 4.6;
 - 4.1.3 either:
 - (a) the relevant time period specified in or contemplated by the GWRC Cure Notice has expired and GWRC has not (and has

not procured that another person has) taken the action specified in or contemplated by the GWRC Cure Notice; or

(b) GWRC has notified the Subcontractor in writing that it elects not to remedy the Subcontract Event of Default;

4.1.4 the Subcontractor is not prevented from doing so under clause 4.10 or 5.3; and

4.1.5 the relevant Subcontract Event of Default is subsisting and the Subcontractor is entitled to take such action in accordance with the terms of the Subcontract.

Default Notice

4.2 Promptly following the occurrence of a Subcontract Event of Default, the Subcontractor shall notify GWRC in writing of the occurrence of the Subcontract Event of Default, setting out the following information:

4.2.1 sufficient detail of the Subcontract Event of Default to enable GWRC to identify the material facts;

4.2.2 the steps reasonably required to cure or remedy the Subcontract Event of Default (if reasonably capable of remedy or cure);

4.2.3 details of any unpaid amount which is due and payable by the Operator to the Subcontractor under the Subcontract at the time of such Default Notice;

4.2.4 the nature and, to the best of the Subcontractor's knowledge and belief, the amount of any monetary claim asserted by the Subcontractor against the Operator under or arising out of the Subcontract Event of Default; and

4.2.5 if applicable, any other relief or remedy sought by the Subcontractor in accordance with the terms of the Subcontract.

GWRC Cure Notice

4.3 The Subcontractor shall, within 5 Business Days of issuing a Default Notice, give GWRC a written notice (**GWRC Cure Notice**).

4.4 The GWRC Cure Notice shall specify:

4.4.1 if the Subcontract Event of Default is a failure by the Operator to pay any amount due and payable by the Operator under the terms of the Subcontract, that GWRC will, subject to clause 4.23, have a period of

- 15 Business Days from receipt of the GWRC Cure Notice (or such longer period as is permitted under the Subcontract) within which to remedy such Subcontract Event of Default;
- 4.4.2 if the Subcontract Event of Default is the occurrence of an Insolvency Event in respect of the Operator or any Operator Associate, that GWRC will, subject to clause 4.23, have a period of 60 Business Days from receipt of the GWRC Cure Notice (or such longer period as is permitted under the Subcontract) within which to remedy such Subcontract Event of Default or (without prejudice to clause 5.3 and to the Subcontractor's and Subcontractor Guarantor's respective obligations under this Deed) to procure a novation of the Subcontract in accordance with clause 5;
- 4.4.3 if the Subcontract Event of Default is not one of those circumstances referred to in clause 4.4.1 or 4.4.2 but is otherwise reasonably capable of remedy, that GWRC will, subject to clause 4.23, have a period of 25 Business Days from receipt of the GWRC Cure Notice (or such longer period as is permitted under the Subcontract) within which to remedy the Subcontract Event of Default;
- 4.4.4 if the Subcontract Event of Default is not one of those circumstances referred to in clause 4.4.1 or 4.4.2 and is not reasonably capable of remedy, and the Default Notice contains a claim for reasonable compensation for the Subcontract Event of Default and the Subcontractor has not received that compensation, that GWRC will, subject to clause 4.23, have a period of 25 Business Days from receipt of the GWRC Cure Notice (or such longer period as is permitted under the Subcontract) to pay that compensation; or
- 4.4.5 if the Subcontract Event of Default is not one of those circumstances referred to in clause 4.4.1 or 4.4.2 and is not reasonably capable of remedy, and the Default Notice does not contain a claim for reasonable compensation for the Subcontract Event of Default, that GWRC will have a period of 25 Business Days from receipt of the GWRC Cure Notice (or such longer period as is permitted under the Subcontract) within which to commence and continue to perform the Operator's obligations under the Subcontract.
- 4.5 On receiving a GWRC Cure Notice, GWRC may (but is not obliged to) take the steps specified in the GWRC Cure Notice.
- 4.6 Save to the extent provided otherwise in clauses 4.10 to 4.15, the Subcontractor and the Subcontractor Guarantor each acknowledge and agree that any action taken by GWRC following the issue of a GWRC Cure Notice will not be construed as an

assumption by GWRC of the liabilities or obligations of the Operator under the Subcontract.

Assumption by GWRC

- 4.7 Without prejudice to GWRC's other rights under this Deed:
- 4.7.1 at any time on or after receipt of a GWRC Cure Notice, GWRC may assume (or procure that a third party assumes) all of the Operator's rights under the Subcontract and the Subcontractor Guarantee; and
 - 4.7.2 at any time on or after the date on which GWRC exercises its rights pursuant to clause 54 (*Step In*) of the Partnering Contract (such action being the **Step In Rights**), GWRC may assume (or procure that a third party assumes) those of the Operator's rights under the Subcontract and the Subcontractor Guarantee to the extent relevant to the Step In Rights.
- 4.8 GWRC shall give the Subcontractor and the Subcontractor Guarantor at least 5 days' prior written notice of any action to be taken by it referred to in clause 4.7.
- 4.9 The Operator, the Subcontractor and the Subcontractor Guarantor each acknowledge and agree that the exercise by GWRC of its rights pursuant to clause 4.7 will not of itself contravene the Partnering Contract, the Subcontract or the Subcontractor Guarantee or constitute a Subcontract Event of Default.

Step in period

- 4.10 Without prejudice to clause 4.1, the Subcontractor shall not terminate (or give notice terminating), rescind or accept the repudiation of the Subcontract or suspend the performance of any or all of its obligations under the Subcontract during the Step In Period on grounds:
- 4.10.1 that GWRC has taken any action referred to in clause 4.7; or
 - 4.10.2 arising prior to the Step In Date.
- 4.11 Subject to clause 4.10, during the Step In Period the Subcontractor shall be entitled:
- 4.11.1 where GWRC (or its nominee) has assumed all of the Operator's rights pursuant to clause 4.7.1, to terminate, rescind, or accept the repudiation of the Subcontract or suspend the performance of any or all of its obligations under the Subcontract on grounds arising after the Step In Date in accordance with the terms of the Subcontract; or
 - 4.11.2 where GWRC (or its nominee) has assumed those of the Operator's rights under the Subcontract to the extent relevant to the Step In Rights pursuant

to clause 4.7.2, to suspend the performance of any of its obligations under the Subcontract in respect of the Step In Rights on grounds arising after the Step In Date in accordance with the terms of the Subcontract.

- 4.12 For the avoidance of doubt, where GWRC (or its nominee) has assumed those of the Operator's rights under the Subcontract to the extent relevant to the Step In Rights pursuant to clause 4.7.2, and a Subcontract Event of Default occurs in respect of those obligations of the Operator that are not related to the Step In Rights, the Subcontractor shall issue a Default Notice and a GWRC Cure Notice in respect of such Subcontract Event of Default.
- 4.13 Each of the Subcontractor and the Subcontractor Guarantor shall deal with GWRC (or the relevant third party nominated by it) in place of the Operator during the Step In Period (provided that where clause 4.7.2 applies, the Subcontractor and the Subcontractor Guarantor shall continue to deal with the Operator in connection with those rights of the Operator that are not assumed by GWRC or its nominee).
- 4.14 During the Step In Period, the Subcontract and the Subcontractor Guarantee shall remain in full force and effect. The Subcontractor and the Subcontractor Guarantor shall continue diligently to perform all of their respective obligations thereunder as though GWRC (or the relevant third party nominated by it) was directly party to the Subcontract and the Subcontractor Guarantee in place of the Operator to the extent that GWRC (or its nominee) has assumed the rights of the Operator pursuant to clause 4.7.
- 4.15 During the Step In Period, GWRC (or the relevant third party nominated by it) shall be entitled:
- 4.15.1 where clause 4.7.1 applies, to enforce all of the rights of the Operator under the Subcontract and the Subcontractor Guarantee in place of the Operator; and
- 4.15.2 where clause 4.7.2 applies, to enforce all of the rights of the Operator under the Subcontract and the Subcontractor Guarantee, to the extent such rights relate to the Step In Rights, in place of the Operator.

Step out

- 4.16 GWRC may, at any time during the Step In Period, with at least 30 days' prior written notice to the Subcontractor and the Subcontractor Guarantor, terminate the Step In Period with effect from the date specified in that notice.
- 4.17 With effect from the Step Out Date, GWRC (and any relevant third party that was nominated by it to perform its obligations and/or exercise its rights under clauses 4.7

to 4.9) will be released from any and all obligations and liabilities to the Subcontractor and the Subcontractor Guarantor:

4.17.1 under the Subcontract;

4.17.2 under the Subcontractor Guarantee; and

4.17.3 under this Deed.

4.18 The release under clause 4.17 will not affect or prejudice the continuation of the Operator's obligations to the Subcontractor under the Subcontract.

Miscellaneous

4.19 The Subcontractor warrants to GWRC that all information contained in a Default Notice and a GWRC Cure Notice will be true, complete and accurate.

4.20 GWRC, any relevant third party nominated by GWRC to perform its obligations and/or exercise its rights under clauses 4.7 to 4.9 and each Proposed Substitute shall be entitled to rely on the information contained within any Default Notice or GWRC Cure Notice for the purpose of determining the extent of the matters relating to a Subcontract Event of Default and the requirements to effect the cure or remedy of that Subcontract Event of Default.

4.21 The information contained in a Default Notice will be conclusive evidence in favour of GWRC, any relevant third party nominated by GWRC to perform its obligations and/or exercise its rights under clauses 4.7 to 4.9 and any Proposed Substitute that the Subcontractor has waived and abandoned all claims then known (or which ought reasonably to have been known to the Subcontractor) arising out of or in connection with the Subcontract prior to the date of the Default Notice (other than those claims set out in the Default Notice).

4.22 Clauses 4.19, 4.20, and 4.21 are without prejudice to the rights of the Subcontractor to pursue any claims against the Operator following the end of the Step In Period.

4.23 GWRC shall be entitled to dispute the amount of any Claim by the Subcontractor, the existence of any Subcontract Event of Default or any other matter specified in a GWRC Cure Notice. In the case of any such dispute:

4.23.1 the dispute shall be referred for expert determination in accordance with clause 10; and

4.23.2 during the period of dispute resolution, all Parties shall continue to perform their respective obligations under the Partnering Contract, the Subcontract, the Subcontractor Guarantee and this Deed.

4.24 The Operator, the Subcontractor and the Subcontractor Guarantor each acknowledge and agree that neither GWRC nor any third party nominated by GWRC to perform its obligations and/or exercise its rights under clauses 4.7 to 4.9 will have any liability, nor will the Operator, the Subcontractor or the Subcontractor Guarantor be entitled to make, continue or enforce any claim against GWRC or such third party, arising out or in respect of or in connection with, the Partnering Contract, the Subcontract, the Subcontractor Guarantee or this Deed by reason only of the exercise of any of the Operator's rights, or performing any of the Operator's obligations in accordance with the Subcontract and the Subcontractor Guarantee other than, and then only to the extent of, liability for fraudulent, unlawful or negligent acts of GWRC or such third party.

5. Novation

Proposed Novation Notice

5.1 GWRC may:

- 5.1.1 at any time during the Step In Period or otherwise after receipt of a GWRC Cure Notice;
- 5.1.2 at any time on or after the date on which GWRC exercises its rights pursuant to clause 54 (*Step In*) of the Partnering Contract; or
- 5.1.3 at any time after the occurrence of an Insolvency Event in respect of the Operator or any Operator Associates,

give a notice (a **Proposed Novation Notice**) to the Subcontractor and the Subcontractor Guarantor that:

- 5.1.4 it wishes itself or another person (in either case, a **Proposed Substitute**) to assume, by way of novation, the rights and obligations of the Operator under the Subcontract and the Subcontractor Guarantee (which shall be limited, where the Proposed Novation Notice specifies that the circumstances in clause 5.1.2 apply, to those rights and obligations in respect of which GWRC exercises its rights pursuant to clause 54 (*Step In*) of the Partnering Contract); and
- 5.1.5 it wishes all rights, title and interest to any retention account, bank guarantee, performance bond, letter of credit and other security held by the Operator to secure the obligations of the Subcontractor under the Subcontract (which shall be limited, where the Proposed Novation Notice specifies that the circumstances in clause 5.1.2 apply, to the extent that the same secures the obligations of the Subcontractor in relation to those rights and obligations in respect of which GWRC exercises its rights pursuant to

clause 54 (*Step In*) of the Partnering Contract only) to vest in the Proposed Substitute.

- 5.2 The Proposed Novation Notice shall specify:
- 5.2.1 whether the circumstances in clause 5.1.1, 5.1.2 or 5.1.3 apply; and
 - 5.2.2 a date on which the proposed novation is to take effect (the **Proposed Novation Date**). The Proposed Novation Date shall fall not later than 30 Business Days after the date of the Proposed Novation Notice.
- 5.3 Without prejudice to (and save as permitted by) clauses 5.20 to 5.21, the Subcontractor and the Subcontractor Guarantor shall not exercise or seek to exercise any right that may be or become available to it to terminate or rescind or treat as terminated or repudiated the Subcontract or the Subcontractor Guarantee or discontinue or suspend the performance of any duties or obligations under the Subcontract or the Subcontractor Guarantee:
- 5.3.1 during the notice period specified in a Proposed Novation Notice; or
 - 5.3.2 against any Proposed Substitute that is party to a Novation Agreement.
- 5.4 The Operator, the Subcontractor and the Subcontractor Guarantor each acknowledge and agree that the exercise by GWRC of its rights under this clause 5 and any novation given effect to hereunder does not of itself contravene the Partnering Contract, the Subcontract or the Subcontractor Guarantee and does not entitle any of them to exercise any right or remedy (including any right to terminate) under the Partnering Contract, the Subcontract or the Subcontractor Guarantee.
- 5.5 Nothing in this clause 5 operates to require GWRC or the Proposed Substitute to assume any obligations or liabilities arising, or which are required to be performed under the Subcontract or the Subcontractor Guarantee, except to the extent expressly provided in this clause 5.

Proposed Substitute

- 5.6 Where the Proposed Substitute is not GWRC or GWRL, GWRC shall (as soon as reasonably practicable) supply the Subcontractor with the following information:
- 5.6.1 the name and registered address of the Proposed Substitute;
 - 5.6.2 the names of the directors of the Proposed Substitute;
 - 5.6.3 details of the means by which it is proposed to finance the Proposed Substitute (including, where relevant, the extent to which such finance is

committed and any conditions precedent as to its availability for drawing);
and

- 5.6.4 the resources (including contractual arrangements) that are to be available to the Proposed Substitute to enable it to perform its obligations under the Subcontract.

Consent to novation

- 5.7 The Subcontractor Guarantor hereby irrevocably consent to any proposed novation, irrespective of the identity of the Proposed Substitute.
- 5.8 Where the Proposed Substitute is GWRC, GWRL or any of their Associates, the Subcontractor hereby irrevocably consents to the proposed novation.
- 5.9 Where the Proposed Substitute is not GWRC, GWRL or any of their Associates, the Subcontractor is deemed to consent to the proposed novation, unless the Subcontractor demonstrates to GWRC's reasonable satisfaction that:
- 5.9.1 the Proposed Substitute does not have the legal capacity, power and authorisation to become a party to and perform the relevant obligations of the Operator under the Subcontract; or
- 5.9.2 the technical competence and financial standing of, and the technical and financial resources available to, the Proposed Substitute are not sufficient to perform the relevant obligations of the Operator under the Subcontract.
- 5.10 Where the Proposed Substitute is not GWRC, GWRL or any of their Associates, within 10 Business Days of the later of receipt of a Proposed Novation Notice and all information required under clause 5.9, the Subcontractor shall:
- 5.10.1 notify GWRC in writing as to whether or not it is seeking to withhold its consent under clause 5.9; and
- 5.10.2 where it is seeking to withhold that consent, provide an explanation of the reasons why it believes the grounds in clause 5.9 apply so as to permit it to do so.
- 5.11 The Subcontractor is deemed to have given its consent to the novation of the Subcontract and the Subcontractor Guarantee if the Subcontractor:
- 5.11.1 fails to serve notice in writing on GWRC within the period required by clause 5.10; or

- 5.11.2 serves notice within such time period but such notice does not demonstrate to GWRC's reasonable satisfaction that the circumstances specified in clauses 5.9.1 or 5.9.2 apply.
- 5.12 If, in accordance with clauses 5.7 to 5.12, the Subcontractor serves notice under clause 5.10 seeking to withhold its consent to a proposed novation:
- 5.12.1 GWRC shall be entitled to give one or more subsequent Proposed Novation Notices, pursuant to the provisions of clauses 5.1 to 5.5 (a **Revised Proposed Novation Notice**) containing changed particulars relating to the same Proposed Substitute or particulars relating to another Proposed Substitute, provided that:
- (a) only one Proposed Novation Notice may be outstanding at any one time; and
 - (b) any revised Proposed Novation Date shall be a date falling not later than 15 Business Days after the date of the Revised Proposed Novation Notice;
- 5.12.2 the Subcontractor and the Subcontractor Guarantor shall not:
- (a) exercise or seek to exercise any right that may be or become available to it to terminate, rescind or treat as terminated or repudiated the Subcontract or the Subcontractor Guarantee; or
 - (b) discontinue or suspend the performance of any duties or obligations under the Subcontract or the Subcontractor Guarantee,
- during the notice period specified in a Revised Proposed Novation Notice; and
- 5.12.3 the foregoing provisions of this clause 5 will apply in relation to that Revised Proposed Novation Notice, as if that notice was a Proposed Novation Notice.

Implementation of novation

- 5.13 Within 10 Business Days of the date on which the Subcontractor and the Subcontractor Guarantor consent or are deemed to have consented to a novation pursuant to a Proposed Novation Notice or a Revised Proposed Novation Notice (the **Consent Date**), the Operator shall (subject to the Proposed Substitute first providing a confidentiality undertaking in a form reasonably acceptable to the Operator) give the

Proposed Substitute an updated copy of all information in the possession of the Operator in relation to the Subcontract and the Subcontractor Guarantee.

5.14 The Parties agree that on the Novation Effective Date:

- 5.14.1 where the Proposed Novation Notice specifies that the circumstances in clause 5.1.1 or clause 5.1.3 apply, the Proposed Substitute shall be granted all of the rights of the Operator under the Subcontract and the Subcontractor Guarantee (including those rights arising prior to the Novation Effective Date) and the Proposed Substitute shall assume all of the obligations and liabilities of the Operator under the Subcontract and the Subcontractor Guarantee in accordance with clause 5.15;
- 5.14.2 where the Proposed Novation Notice specifies that the circumstances in clause 5.1.2 apply, the Proposed Substitute shall be granted all of those rights of the Operator under the Subcontract and the Subcontractor Guarantee (including those rights arising prior to the Novation Effective Date) to the extent such rights relate to those rights and obligations in respect of which GWRC exercises its rights pursuant to clause 54 (*Step In*) of the Partnering Contract and the Proposed Substitute shall in accordance with clause 5.15, assume all of those obligations and liabilities of the Operator under the Subcontract and the Subcontractor Guarantee to the extent such obligations and liabilities relate to those rights and obligations in respect of which GWRC exercises its rights pursuant to clause 54 (*Step In*) of the Partnering Contract;
- 5.14.3 if requested by GWRC, the Subcontractor, the Subcontractor Guarantor and the Operator shall validly execute and deliver a deed of novation (the **Novation Agreement**) and any other requisite agreements, in form and substance satisfactory to the Subcontractor and the Subcontractor Guarantor (acting reasonably) and GWRC (acting reasonably) and GWRC shall procure that the Proposed Substitute validly executes such Novation Agreement and any other requisite agreements, reflecting clause 5.14.1 or 5.14.2 (as applicable);
- 5.14.4 the Operator, the Subcontractor and the Subcontractor Guarantor shall execute and deliver any other documentation reasonably required to vest in the Proposed Substitute the Operator's right, title and interest to any of those items referred to in clause 5.1.5; and
- 5.14.5 if requested by GWRC, the Subcontractor and the Subcontractor Guarantor shall execute and deliver a side deed in favour of GWRC in substantially the same form as this Deed in respect of the Subcontract, as novated pursuant to this clause 5. Without prejudice to the accrued rights and

liabilities of the Subcontractor and the Subcontractor Guarantor under this Deed, with effect from the date on which such new side deed becomes effective, the Subcontractor and the Subcontractor Guarantor shall be released from any liabilities or obligations arising under this Deed after that date.

5.15 Unless otherwise agreed, the assumption by the Proposed Substitute of the obligations and liabilities of the Operator under the Subcontract will:

5.15.1 not include:

- (a) any payment obligations of the Operator that are in dispute as at the Consent Date, provided that, (subject to clause 5.15.1(b)) GWRC shall, on the determination of such dispute, procure that the Proposed Substitute shall assume such obligation in accordance with that determination; and/or
- (b) any payment for the performance of obligations by the Subcontractor under the Subcontract to the extent that GWRC has already paid the Operator for the performance by it of equivalent obligations under the terms of the Partnering Contract; and

5.15.2 only include (in relation to any other obligation of the Operator (not being an obligation to pay money)) those obligations that fall due to be performed as at or following the Consent Date.

5.16 On and after the Novation Effective Date, the Subcontractor and the Subcontractor Guarantor will owe its relevant respective obligations under the Subcontract and the Subcontractor Guarantee to the Proposed Substitute and will be bound by (and they shall comply with) the terms of the Subcontract and the Subcontractor Guarantee for the benefit of the Proposed Substitute as if the Proposed Substitute were the Operator.

5.17 With effect from the Consent Date, the Subcontractor and the Subcontractor Guarantor shall each use best endeavours to agree (and GWRC shall use best endeavours to procure that the Proposed Substitute agrees), any amendments to the Subcontract and the Subcontractor Guarantee that are necessary to reflect this clause 5 and the fact that the Partnering Contract may have terminated at the time of the Novation Effective Date.

Operator's obligations to continue

5.18 Until the Novation Effective Date, the Operator shall continue to be liable for all its obligations and liabilities, whenever occurring, under or arising from the Subcontract and the Subcontractor Guarantee notwithstanding:

- 5.18.1 the service of a Proposed Novation Notice or any Revised Proposed Novation Notice; or
 - 5.18.2 any other provision of this Deed.
- 5.19 Where the Proposed Novation Notice specifies that the circumstances in clause 5.1.2 apply, the Operator shall continue at all times (both before and after the Novation Effective Date) to be liable for all of its obligations and liabilities, whenever occurring, under or arising from the Subcontract and the Subcontractor Guarantee to the extent such obligations and liabilities are not novated to the Proposed Substitute.

Termination after Novation

- 5.20 After any Novation Effective Date where the relevant Proposed Novation Notice specified that the circumstances in clause 5.1.1 or clause 5.1.3 applied, the Subcontractor shall only be entitled to exercise its rights of termination under the Subcontract:
- 5.20.1 in respect of any Subcontract Event of Default first arising after that date in accordance with the Subcontract; or
 - 5.20.2 if subject to the Proposed Substitute's rights to dispute any obligations and liabilities, the Proposed Substitute does not discharge, within 60 Business Days following the Novation Effective Date (or such later date as may be permitted under the Subcontract), the obligations and liabilities assumed by it under clause 5.14.1 that relate to matters arising prior to the Novation Effective Date.
- 5.21 After any Novation Effective Date where the relevant Proposed Novation Notice specified that the circumstances in clause 5.1.2 applied, the Subcontractor shall only be entitled to exercise its rights of termination under the Subcontract:
- 5.21.1 in respect of any Subcontract Event of Default first arising after that date which is caused solely by the Proposed Substitute;
 - 5.21.2 if subject to the Proposed Substitute's rights to dispute any obligations and liabilities, the Proposed Substitute does not discharge, within 60 Business Days following the Novation Effective Date (or such later date as may be permitted under the Subcontract), the obligations and liabilities assumed by it under clause 5.14.2 that relate to matters arising prior to the Novation Effective Date; or
 - 5.21.3 where the Subcontractor has issued a valid Default Notice and GWRC Cure Notice to GWRC and the Subcontractor is entitled under the other terms of this Deed and the Subcontract to terminate the Subcontract.

6. Operator, Subcontractor and subcontractor guarantor acknowledgements and agreements

- 6.1 Except in accordance with the terms of this Deed, each of the Subcontractor and the Subcontractor Guarantor acknowledges and agrees that:
- 6.1.1 GWRC and GWRL are not responsible for, and have no liability (actual or contingent); and
 - 6.1.2 the Subcontractor and the Subcontractor Guarantor have no cause of action against GWRC or GWRL,
- in relation to a Subcontract Event of Default, or any other event, act or omission of the Operator or any other party, in relation to the Subcontract or the Subcontractor Guarantee.
- 6.2 Each of the Operator, the Subcontractor and the Subcontractor Guarantor shall (at GWRC's expense in the case of the Subcontractor and the Subcontractor Guarantor only), take whatever action GWRC may require for perfecting any step in, novation or release under clause 2, clause 4 or clause 5, including the execution of any novation or assignment, the transfer of any item referred to in clause 5.1.5 and the giving of any notice, order or direction and the making of any registration which, in each case, GWRC reasonably requires.
- 6.3 The Operator agrees not to do or omit to do anything that may prevent any Party from enforcing its rights under this Deed.
- 6.4 Notwithstanding anything to the contrary in the Subcontract or any other agreement, the Subcontract will not terminate on termination of the Partnering Contract until the earliest date on which the Subcontractor is entitled to terminate the Subcontract under the terms of this Deed.
- 6.5 The Operator, Subcontractor and Subcontractor Guarantor acknowledge and agree that:
- 6.5.1 where the Subcontractor is expressed in the Subcontract to have a right (or possible right) to compensation or relief that is dependent on or determined by reference to the Subcontract:
 - (a) this does not of itself expand the Subcontractor's rights, or GWRC's or GWRL's liability, under the Partnering Contract to include the compensation or relief to which the Subcontractor is or may become entitled under the Subcontract;

- (b) the Operator's rights, and GWRC's and GWRL's liability, under the Partnering Contract will be determined solely in accordance with the terms of the Partnering Contract;
- (c) as between GWRC and GWRL (on the one hand) and the Operator, Subcontractor Guarantor and Subcontractor (on the other hand), the Operator, Subcontractor and Subcontractor Guarantor accept and will bear the risk of any ambiguity, discrepancy or inconsistency between the terms of the Subcontract or the Subcontractor Guarantee (on the one hand) and the Partnering Contract (on the other hand); and
- (d) notwithstanding anything to the contrary in the Subcontract but save as expressly contemplated by this Deed, the Subcontractor has no right to deal directly with GWRC or GWRL or participate in any meeting, consultation or process (including negotiation or dispute resolution) unless:
 - (i) expressly provided to the contrary in the Partnering Contract; or
 - (ii) GWRC or GWRL consents.

7. Representations and warranties

GWRC's representations and warranties

- 7.1 GWRC represents and warrants to the Operator, Subcontractor and the Subcontractor Guarantor that:
 - 7.1.1 it has power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed; and
 - 7.1.2 this Deed constitutes a valid and binding obligation on GWRC and is enforceable in accordance with its terms, in each case subject to any applicable laws.

GWRL warranties

- 7.2 GWRL represents and warrants to the Operator, Subcontractor and the Subcontractor Guarantor that:
 - 7.2.1 it has power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed; and

- 7.2.2 this Deed constitutes a valid and binding obligation on GWRL and is enforceable in accordance with its terms, in each case subject to any applicable laws.

Operator, Subcontractor and Subcontractor Guarantor general representations and warranties

- 7.3 Each of the Operator, the Subcontractor and the Subcontractor Guarantor represents and warrants to GWRC that:

Prohibited Act

- 7.3.1 Neither it nor any of its Associates or anyone employed by any of them or acting on behalf of any of them have committed any Prohibited Act.

Information provided

- 7.3.2 All information which has been given by it or its Associates or anyone employed by any of them or acting on behalf of any of them to GWRC was (when given, whether in the Expression of Interest, Tender, correspondence, negotiations or otherwise) true and remains true, complete and accurate in all material respects.

Corporate

- 7.3.3 The Operator is a corporation duly incorporated in New Zealand and is validly existing under the Companies Act and the Subcontractor is a [corporation duly incorporated in New Zealand and is validly existing under the Companies Act].
- 7.3.4 It has the power to enter into and perform its obligations under the Project Documents to which it is a party, to carry out the transactions contemplated by those documents and to carry on its business as now conducted or contemplated.
- 7.3.5 Its constitution produced to GWRC at the date of this Deed and signed by its solicitors for the purposes of identification is its full constitution including all resolutions affecting it.
- 7.3.6 In entering into the Project Documents, it is not acting as responsible entity or trustee of any trust or settlement or as an agent on behalf of another entity.

Tax status

- 7.3.7 At the date of this Deed and throughout the Term, it is and will remain registered as a single entity under the Income Tax Act and the GST Act.

Project Documents

- 7.3.8 It has taken all necessary corporate action to authorise the entry into and performance of the Project Documents to which it is a party and to carry out the transactions contemplated by those documents.
- 7.3.9 Each Project Document to which it is a party creates valid and binding obligations and is enforceable in accordance with its terms, subject to any necessary stamping and registration, laws generally affecting creditors' rights and general principles of equity.
- 7.3.10 The execution and performance by it of the Project Documents to which it is a party and each transaction contemplated under those documents did not and will not violate in any respect a provision of:
- (a) any Law;
 - (b) its constitution or other constituent documents; or
 - (c) any other document or agreement that is binding on it or its assets.

Legal proceedings and insolvency

- 7.3.11 No litigation, arbitration or other proceedings are current, pending or to its knowledge, threatened, which, if adversely determined, would or could have a material adverse effect upon it or its ability to perform its obligations under the Project Documents.
- 7.3.12 There has been no material change in the financial condition of it or its Associates (since the date of their last audited accounts provided by it to GWRC) which would prejudice its ability to perform its obligations under the Project Documents.
- 7.3.13 No Insolvency Event has occurred in relation to it.
- 7.3.14 There is no unsatisfied judgment against it.

Authorisations

- 7.3.15 Each authorisation that is required in relation to:

- (a) the execution, delivery and performance by it of the Project Documents to which it is a party and the transactions contemplated by those documents;
 - (b) the validity and enforceability of the Project Documents to which it is a party; and
 - (c) its business as now conducted or contemplated,
- has been obtained or effected and remains in full force and effect, it is in compliance with them and it has paid all applicable fees in respect of them.

Title and security

- 7.3.16 None of its property is subject to any Security Interest (other than a Permitted Security Interest).
- 7.3.17 It does not hold any assets as the trustee or responsible entity of any trust.

Other

- 7.3.18 It is not aware of any facts or circumstances that have not been disclosed to GWRC in writing that would, if disclosed, be likely to materially adversely affect the decision of a prudent and reasonable public sector entity considering whether or not to enter into this Deed with it.

Representations and warranties regarding the Subcontract

- 7.4 The Subcontractor represents and warrants to GWRC and GWRL that:
 - 7.4.1 it has carried out and will continue to carry out all its obligations and duties under and in accordance with and to the standards required by the Subcontract; and
 - 7.4.2 without prejudice to the generality of clause 7.4.1:
 - (a) it has exercised and will continue to exercise, in accordance with Good Industry Practice, a level of skill, care and diligence reasonably expected of the relevant profession, in performing its duties under the Subcontract;
 - (b) it has exercised and will continue to exercise reasonable skill, care and diligence in connection with the selection and supervision of its employees, agents, subcontractors and suppliers;

- (c) it has taken out and will continue to maintain those insurances that it is required to take out and maintain under the terms of the Subcontract, that such insurances are valid and the premiums for the current periods of insurance have been duly paid, that the Subcontractor is not aware (after having made due and careful enquiry) of any circumstances likely to give rise to any claim under such insurances, and that the Subcontractor will maintain such insurances for so long as any liability may arise under the Subcontract;
- (d) if called upon to do so by GWRC or GWRL, the Subcontractor will promptly provide the GWRC or GWRL (as applicable) with such information relating to the services to be provided by it under the Subcontract as they may reasonably require provided always that neither the provision of such information nor any inspection of such services by GWRC, GWRL or the Operator or any of their representatives shall limit or discharge the obligations of the Subcontractor under the Subcontract or relieve the Subcontractor from any liability which it may have thereunder; and
- (e) it will not do anything that may invalidate any insurance policy held by GWRC, GWRL or the Operator in relation to the Project, the GWRC Assets, the GWRL Assets, the GWRC Systems or the GWRL Systems (or any other insurance policy required to be effected and maintained under the Partnering Contract or the Subcontract).

Representations and warranties regarding the Subcontractor Guarantee

- 7.5 Each of the Subcontractor and the Subcontractor Guarantor represents and warrants to GWRC and GWRL that it has carried out and will continue to carry out all its obligations and duties under and in accordance with the Subcontractor Guarantee.

General

- 7.6 The representations and warranties in clauses 7.3 to 7.3.18 are given by the Operator, the Subcontractor and the Subcontractor Guarantor (as appropriate) on the date of this Deed and shall be deemed repeated on each day thereafter up to and including the Termination Date by reference to the facts existing on that day.
- 7.7 Each of the Operator, Subcontractor and Subcontractor Guarantor shall immediately notify GWRC in writing upon becoming aware that any representation or warranty

given or deemed repeated by it under this Deed has become untrue, incorrect or misleading in whole or in part at any time prior to the Termination Date.

- 7.8 Each of the Operator, Subcontractor and Subcontractor Guarantor acknowledges that GWRC has entered into or will enter into this Deed in reliance on the representations and warranties given by each of the Operator, Subcontractor and Subcontractor Guarantor in this clause 7.

8. Amendment and waiver

- 8.1 Each of the Operator, the Subcontractor and the Subcontractor Guarantor shall:

8.1.1 not without GWRC's prior written consent make or permit any material variation or amendment to, material departure from, termination or assignment or replacement of a Subcontract Document; and

8.1.2 not without GWRC's prior written consent compromise or waive any material claim it may have under or in connection with any Subcontract Document.

9. Indemnity

- 9.1 The Operator shall indemnify GWRC and GWRL (and keep them so indemnified) on demand from and against any Loss that GWRC or GWRL suffer or incur arising out of or in connection with it taking any action to prevent the Subcontractor from suspending the performance of its obligations under the Subcontract or taking any action pursuant to clause 4 (*Subcontractor default and step in rights*) or clause 5 (*Novation*), including any amount payable by GWRC or GWRL to a Proposed Substitute (or any other person) in connection with the Proposed Substitute assuming any accrued liabilities of the Operator pursuant to the terms of the Novation Agreement.

- 9.2 Without prejudice to clause 9.1, the Operator shall indemnify GWRC and GWRL (and keep them so indemnified) on demand from and against all Loss incurred by GWRC or GWRL in connection with the administration, and any actual or attempted preservation or enforcement, of any rights under this Deed including legal expenses on a full indemnity basis and expenses incurred in engaging consultants.

10. Dispute Resolution Procedure

Application of Procedure

- 10.1 Any Dispute shall be dealt with under this clause 10 provided that nothing in this clause 10 will prevent a Party from applying to a court of competent jurisdiction to seek urgent or interim relief.

- 10.2 Except as provided for in clause 10.1, no Party may commence court proceedings unless and until the steps provided by this clause 10 have been undertaken, or one or more of the Parties has attempted to follow the steps and the other relevant Party has failed to participate, and the steps have not resolved the Dispute.

Referral to Senior Executives Meeting

- 10.3 Any Party may by written notice (**Notice of Dispute**) to the other Parties, setting out a brief description (to be no more than 5 pages in length) of the Dispute and an indication of the amount involved (if any) as well as the relief or remedy sought, refer a Dispute for resolution by a Senior Executives Meeting.
- 10.4 Within 3 Business Days after the referral to the Senior Executives Meeting under clause 10.3, each of Parties shall nominate a senior representative (being a General Manager or Managing Director or equivalent) with the authority to settle the Dispute who shall attend the Senior Executives Meeting. GWRL shall be represented at the Senior Executives Meeting by the person so nominated by GWRC.
- 10.5 The Senior Executives Meeting will determine its own procedures (if any) for the resolution of the Dispute as expeditiously as possible. Decisions of the Senior Executives Meeting shall be made by unanimous agreement of the members of the Senior Executives Meeting. Any decision of the Senior Executives Meeting is binding on the Parties once reduced to writing and signed by all of the members of the Senior Executives Meeting. All discussions of the Senior Executives Meeting are held on a without prejudice basis unless expressly agreed otherwise.
- 10.6 If the Dispute is not resolved by the Senior Executives Meeting within 10 Business Days after referral to the Senior Executives Meeting (or such other period agreed by the Senior Executives Meeting), the Dispute will be deemed to be not resolved and any Party may, as the next step, refer the Dispute to mediation.

Mediation

- 10.7 If any Dispute is referred to mediation in accordance with clause 10.6, the mediation shall be conducted in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc. The mediation shall be conducted:
- 10.7.1 by a single mediator agreed upon between the Parties; or
- 10.7.2 if no such agreement is reached within 10 Business Days after the Dispute is referred to mediation, by a single mediator selected by the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 10.8 If the Dispute is not resolved by mediation:

- 10.8.1 within 5 Business Days after the conclusion of the mediation, the Parties may by written agreement refer the Dispute to Expert determination; or
- 10.8.2 no earlier than 5 Business Days after the conclusion of the mediation, any Party may commence proceedings to have the Dispute determined by a court of competent jurisdiction.

Expert determination

- 10.9 For those Disputes which this Deed contemplates being referred directly to Expert determination and for any Dispute that is agreed by the Parties pursuant to clause 10.8.1 to be referred to Expert determination, the procedure set out in clauses 10.10 to 10.15 shall apply.
- 10.10 The Parties shall, within 5 Business Days of referral to Expert determination, endeavour to agree upon a single independent expert (**Expert**) (who shall be independent of the Parties and shall have qualifications and experience appropriate to the matter in dispute) to whom the matter will be referred for determination. The Parties shall promptly appoint the relevant person as the Expert.
- 10.11 If within 10 Business Days of referral to Expert determination, the Parties have not agreed upon the appointment of the Expert, the Parties shall request:
- 10.11.1 the then president of the Chartered Accountants Australia and New Zealand (for financial, valuation, economic or accounting issues); or
- 10.11.2 the then current Pacific Region representative of the International Union of Railways (**UIC**) (for all technical issues); or
- 10.11.3 the then president of the New Zealand Bar Association (for all other issues),
- to nominate the person to be appointed as the Expert, provided that if a dispute involves both issues falling within clause 10.11.1 and other issues, the Parties shall request the then president of the New Zealand Bar Association to provide the nomination. The Parties shall promptly appoint the person so nominated pursuant to this clause 10.11.
- 10.12 The Parties shall instruct the Expert to:
- 10.12.1 determine the Dispute within the shortest practicable time, and in any event within 30 Business Days unless otherwise agreed by the Parties; and
- 10.12.2 deliver a report to the Parties stating the Expert's determination and setting out the reasons for the determination.

- 10.13 The procedures for the conduct of the process in order to make the determination will be determined by the Expert and shall provide each Party with a fair opportunity to make submissions in relation to the matter in dispute.
- 10.14 Any process or determination by the Expert will be made as an expert and not as an arbitrator. The determination of the Expert will be final and binding on the Parties, except in the case of a manifest error in the process of determination or the determination itself or in the event of the determination being influenced by fraud or corruption of the Expert or any of the Parties, in which case any Party (except a Party whose fraud or corruption influenced the determination) may commence court proceedings to challenge or to resist the enforcement of the determination of the Expert.
- 10.15 Each Party shall bear its own costs of and incidental to any Expert determination under this clause 10. The costs of the Expert will be shared equally between GWRC, the Operator, the Subcontractor and the Subcontractor Guarantor.

Performance of obligations pending resolution of dispute

- 10.16 Despite the existence of a Dispute, each Party shall continue to perform its obligations under this Deed.

Survival

- 10.17 This clause 10 survives the expiry or termination of this Deed.

11. Survival of obligations

- 11.1 The expiry or termination of this Deed shall be without prejudice to the accrued rights, liabilities and obligations of each Party as at the date of such expiry or termination.
- 11.2 The obligations contained in clauses 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 20.2, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and any provision of this Deed which is expressly or impliedly to apply after the termination or expiry of this Deed shall survive the termination or expiry of this Deed.

12. Confidentiality

General Obligations

- 12.1 Subject to clause 12.3, GWRC, GWRL, the Operator, the Subcontractor and the Subcontractor Guarantor shall keep confidential and not make or cause any disclosure of any of another Party's Confidential Information without the prior written consent of

that other Party (which consent may be given or withheld, in that other Party's sole discretion).

- 12.2 The Operator, the Subcontractor and the Subcontractor Guarantor acknowledge that their confidentiality obligations under or in connection with the RFT continue notwithstanding the coming into effect of this Deed.

Exceptions

- 12.3 The Parties' obligations in clause 12.1 do not apply to disclosure to the extent that the disclosure is:

12.3.1 by a Party to its subcontractors, legal and other professional advisers, auditors or other consultants or employees of that Party or a shareholder or Related Company of that Party, in each case for the purpose of enabling that Party to perform its obligations or exercise its rights in relation to a Project Document (or the transactions contemplated thereunder) or for the purpose of advising that Party in relation thereto, provided that the Party disclosing the Confidential Information shall ensure that the recipient:

- (a) is made aware of this clause 12; and
- (b) shall keep such information confidential on the same terms as this clause 12;

12.3.2 of information which is at the time lawfully in the possession of the disclosing Party through sources other than a Party, provided that the disclosing Party has no reason to believe that such source is itself bound by an obligation of confidence to the person that disclosed that information or is otherwise prohibited by Law from disclosing such information;

12.3.3 required by Law or by a lawful requirement of any judicial authority, Governmental Entity or recognised stock exchange having jurisdiction over a Party or a Related Company provided that, where the disclosing Party is any of the Operator, the Subcontractor or the Subcontractor Guarantor, the disclosing Party provides written notice to GWRC of the required disclosure promptly on receipt of notice of the required disclosure (if it is permitted to do so by Law);

12.3.4 required in connection with legal proceedings, arbitration, mediation or expert determination relating to this Deed or the Project Documents or for the purpose of advising a Party in relation thereto;

12.3.5 by GWRC or GWRL to any elected member or Minister of the Crown or to Auckland Transport or any Governmental Entity;

- 12.3.6 by GWRC or GWRL to a proposed or prospective Incoming Operator or any Potential Incoming Operator or any such person's officers, employees, agents, consultants, contractors and advisors, provided that the Incoming Operator or Potential Incoming Operator (as applicable) has provided a duly executed Incoming Operator Confidentiality Undertaking in favour of the Operator; or
- 12.3.7 made by GWRC or GWRL in accordance with clauses 12.4 to 12.7 (*LGOIMA*).

LGOIMA

- 12.4 Each of the Operator, the Subcontractor and the Subcontractor Guarantor acknowledges that GWRC and GWRL are subject to LGOIMA and are obliged to disclose information, including Confidential Information and Restricted Confidential Information and any other information held by contractors engaged by GWRC, under LGOIMA if so requested and there is no good reason under the terms of LGOIMA to withhold that information.
- 12.5 If GWRC or GWRL receives a request for any information (including Confidential Information) under LGOIMA then, to the extent that such request does not relate to Restricted Confidential Information, GWRC or GWRL (as applicable) shall determine in its sole discretion the extent to which any disclosure of the Confidential Information is made in order to comply with the requirements of LGOIMA.
- 12.6 Subject to clause 12.7, if GWRC or GWRL receives a request for Confidential Information under LGOIMA then to the extent that such request relates to Restricted Confidential Information:
- 12.6.1 GWRC or GWRL (as applicable) shall notify the Operator, the Subcontractor or the Subcontractor Guarantor (as applicable) of the request;
- 12.6.2 within two Business Days' of receipt of such notification pursuant to clause 12.6.1, the Operator, the Subcontractor or the Subcontractor Guarantor (as applicable) shall demonstrate to GWRC or GWRL (as applicable) the grounds (if any) under LGOIMA for withholding disclosure of the relevant Restricted Confidential Information;
- 12.6.3 to the extent that it is reasonably practical under the circumstances GWRC or GWRL (as applicable) shall consult with the Operator, the Subcontractor or the Subcontractor Guarantor (as applicable) in relation to the Restricted Confidential Information that GWRC or GWRL (as

applicable) is required to disclose under LGOIMA to comply with the request; and

- 12.6.4 notwithstanding the foregoing, GWRC or GWRL (as applicable) shall determine in its sole discretion the extent to which any Restricted Confidential Information is disclosed in order to comply with the requirements of LGOIMA.
- 12.7 Nothing in clauses 12.3 or 12.6 shall require GWRC or GWRL to breach any requirements of LGOIMA and neither of them shall be required to comply with the provisions of clauses 12.3 or 12.6 to the extent that such compliance will or is likely to result in a breach of LGOIMA.

13. Media Management

- 13.1 Subject to clause 13.2, except to the extent that the Operator, the Subcontractor or the Subcontractor Guarantor is expressly obliged to do so under this Deed or is otherwise required to do so by Law or the requirements of any recognised stock exchange having jurisdiction over the Operator, the Subcontractor or the Subcontractor Guarantor or any of their respective Related Companies, the Operator, the Subcontractor and the Subcontractor Guarantor shall not make or issue any press release or other public announcement relating to this Deed or the Services without the prior written approval of GWRC. Where GWRC has granted its approval to any such press release or public announcement, the Operator, the Subcontractor or the Subcontractor Guarantor (as applicable) shall ensure that such press release or public announcement (as applicable) is in the form approved by GWRC.
- 13.2 The restriction in clause 13.1 shall not apply to the making of announcements to passengers in relation to the status of any Scheduled Service or Special Event Service (including in respect of any alternative transport arrangements to be provided by or on behalf of the Operator or the Subcontractor in connection therewith).

14. Assignment

Assignment by Operator, Subcontractor and Subcontractor Guarantor

- 14.1 The Operator shall not create or allow a Security Interest over, or in any other way either directly or indirectly assign, novate, transfer, dispose of, part with possession of, create or allow any interest in, or otherwise deal with:
- 14.1.1 any of its rights or obligations under this Deed or any other Project Document to which it is a party other than under a Permitted Security Interest, in accordance with the terms of this Deed or with the prior written consent of GWRC; or

- 14.1.2 any of the GWRL Assets, the GWRL Systems, the GWRC Assets or the GWRC Systems except with the prior written consent of GWRC.
- 14.2 The Operator, Subcontractor and Subcontractor Guarantor (as applicable) shall provide any request for approval under clause 14.1 at least 20 Business Days prior to the proposed effective date of any such assignment, transfer, disposal or interest.

Assignment by GWRC/GWRL

- 14.3 GWRC and GWRL may assign, novate, transfer or otherwise dispose of any right or obligation under this Deed or any other Project Document to any local authority or council controlled organisation of a local authority (each as defined in the LGA) or to any other Governmental Entity and the Operator, the Subcontractor and Subcontractor Guarantee each hereby consent to the same. The Operator, Subcontractor and Subcontractor Guarantor shall promptly execute any such documents as GWRC may reasonably require to give effect to such transaction.

15. Notices

- 15.1 Any notice required to be given in relation to this Deed will, except where otherwise expressly provided, be in writing and in English and delivered to the Party's Authorised Representative.
- 15.2 This clause 15.2 is subject to clause 15.4. A notice may be:
- 15.2.1 personally delivered, in which case it will be deemed to be given upon delivery at the relevant address; or
 - 15.2.2 if sent from and to places within New Zealand, sent by fast pre- paid post, in which case it will be deemed to have been given 2 Business Days after the date of posting; or
 - 15.2.3 if sent from or to any place outside New Zealand, sent by pre-paid priority airmail, in which case it will be deemed to have been given 10 Business Days after the date of posting; or
 - 15.2.4 sent by email, in which case it will be deemed to have been given at the time at which it arrives in the recipient's information system, provided that if there is any dispute as to when an email has been received, the email shall be deemed to have been received at the time at which the email was sent as evidenced by a printed copy of the email provided by the sender which evidences that the email was sent to the correct email address of the recipient; or

15.2.5 delivered by courier requiring signature as proof of receipt to the relevant address, in which case it will be deemed to have been given when signed for.

15.3 The initial addresses and other relevant details of each Party are set out below:

[insert notice details of each Party]

A Party may provide written notice to the other Parties of any change to the address or other relevant details, provided that such notification will only be effective on the date specified in such notice or 5 Business Days after the notice is given, whichever is the later.

15.4 Where any notice is deemed given pursuant to clause 15.2:

15.4.1 before 9.00 am or after 5.30 pm (local time) at the place of receipt; or

15.4.2 on a day which is a Saturday, Sunday or a public holiday in the place of receipt,

then such notice will be deemed given at 9.00 am (local time) on the next day at the place of receipt which is not a Saturday, Sunday or public holiday. For the purposes of this clause 15.4 the place of receipt of a notice is the applicable postal address for the receiving Party in accordance with clause 15.3, irrespective of whether the notice is communicated by email or otherwise.

16. Relationship between Parties

16.1 Nothing in this Deed, is to be construed or interpreted as constituting the relationship between the Parties as a partnership, quasi-partnership, association or any other relationship in which a Party may (except as expressly provided for in this Deed) be liable for the acts or omissions of one of the other Parties.

16.2 Except as expressly provided in this Deed, nothing in this Deed shall be deemed to be construed to authorise any Party to act as an agent for any other Party for any purpose.

17. Entire Agreement and amendments

17.1 This Deed and the other Project Documents contain the entire agreement between the Parties with respect to their subject matter and supersede any earlier agreements or understandings between the Parties in connection with their subject matter.

17.2 This Deed may only be amended by way of a written agreement duly executed by each of the Parties.

18. No reliance

18.1 Each of the Operator, the Subcontractor and the Subcontractor Guarantor acknowledges that, before entering into this Deed or any other Project Document, it made all enquiries it wanted to make in relation to its obligations under this Deed and the other Project Documents and that in entering into this Deed and the other Project Documents, it:

18.1.1 did not rely on any representation, warranty, guarantee, assurance, undertaking or other statement made by or on behalf of GWRC or GWRL;

18.1.2 has made its own assessment of the rights provided to it and the obligations imposed on it by the Project Documents;

18.1.3 has made its own assessment as to the quality of all other material and other information provided during the tender process.

19. No waiver

19.1 No waiver of any breach of, or failure to enforce any provision of, this Deed or any other Project Document, nor any delay in exercising any right, power or remedy by a Party in any way affects, limits or waives the right of such Party thereafter to enforce and compel strict compliance with the provision of this Deed or any other Project Document. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.

19.2 No waiver by a Party of any part of this Deed or any other Project Document is binding unless it is made in writing by the Party granting that waiver.

20. Contracts (Privity) Act 1982

20.1 Except as provided in clause 20.1, this Deed is not intended to create any obligation enforceable at the suit of any person who is not a Party to this Deed and a person who is not a Party to this Deed shall have no right under the *Contracts (Privity) Act 1982* to enforce any term of this Deed. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

20.2 To the extent that this Deed purports to confer any right or benefit on a third party nominated by GWRC for the purposes of clauses 4.7.1 or 4.7.2 ("**Nominee**"), this Deed is enforceable by such Nominee against the Operator, the Subcontractor Guarantor and the Subcontractor.

20.3 Notwithstanding clause 20.2, the Parties may vary or terminate this Deed by agreement in writing between them and they shall not require the consent of any Nominee in respect of any such variation or termination.

21. Rights cumulative

21.1 Subject to any express provision in this Deed to the contrary, the rights, powers and remedies of a Party under this Deed are cumulative and are in addition to, and do not exclude or limit any right, power or remedy provided by law or equity or by any agreement.

22. Further assurances

22.1 Each Party agrees to execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed or any other Project Document.

23. No merger

23.1 The rights and obligations of the Parties shall not merge on the completion of any transaction contemplated by this Deed or any other Project Document. The rights and obligations of the Parties will survive the execution and delivery of any assignment or other document entered into for the purposes of implementing any such transaction.

24. Costs and expenses

24.1 Subject to any express provision to the contrary in this Deed, each Party shall bear its own costs and expenses relating directly or indirectly to the negotiation, preparation, execution of and performance of its obligations under this Deed.

25. Severability of provisions

25.1 The illegality, invalidity or unenforceability at any time of any provision of this Deed under any law will not affect the legality, validity or enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of those provisions under any other law.

26. Governing law

26.1 This Deed and the transactions contemplated by this Deed are governed by and are to be construed in accordance with New Zealand law, and subject to clause 10 (*Dispute Resolution Procedure*) and the Parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand.

27. GWRC and GWRL Action

27.1 Each of Operator, Subcontractor and Subcontractor Guarantor acknowledge that GWRC is the local authority in the region in which the Services are to be provided and that, notwithstanding anything to the contrary in this Deed, nothing in this Deed:

27.1.1 requires GWRC or GWRL to exercise, or use, any regulatory or legislative powers in order to influence or affect an outcome; or

27.1.2 shall restrict or affect in any way the manner in which GWRC may act in the exercise of its regulatory or legislative rights, powers and duties as a local authority.

28. Counterparts

28.1 This Deed may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

29. Power of Attorney

29.1 For valuable consideration receipt of which is hereby acknowledged, each of the Operator, the Subcontractor and the Subcontractor Guarantor:

29.1.1 irrevocably appoints GWRC (and any person nominated by GWRC) as its attorney with full power and authority to:

- (a) do anything necessary or desirable in the reasonable opinion of GWRC or the attorney to give full effect to the terms of this Deed or to effect the novation of the Subcontract in accordance with the terms of this Deed;
- (b) do anything which the appointing Party is required to do by this Deed; and
- (c) execute any deed or other document as contemplated by this Deed;

29.1.2 agrees to immediately ratify and confirm whatever action is taken by GWRC and its nominee in the course of exercising its rights, provided that such action is not unlawful or negligent;

29.1.3 agrees that it shall promptly on request by GWRC execute a separate power of attorney on the terms of this clause 29 by way of a deed or otherwise in such form as GWRC may reasonably require; and

29.1.4 agrees that an attorney appointed under this clause 29 is not liable for any Loss the Operator, the Subcontractor or the Subcontractor Guarantor may suffer or incur as a result of the attorney's actions.

30. Operation of indemnities

- 30.1 No indemnity in this Deed limits the effect or operation of any other indemnity in this Deed.
- 30.2 Unless expressly provided otherwise, each indemnity in this Deed is a continuing obligation, separate and independent from the other obligations of the Parties.
- 30.3 Each indemnity in this Deed survives the expiry or termination of this Deed.
- 30.4 A Party may recover a payment under an indemnity in this Deed before it makes the payment in respect of which the indemnity is given.

31. Requirement to use 'best endeavours'

- 31.1 Where this Deed requires that a Party shall use 'best endeavours', this does not require the Party to:
 - 31.1.1 act unreasonably, in breach of Safety Law or outside the Law;
 - 31.1.2 interfere with or influence the exercise by any person of a statutory power or discretion;
 - 31.1.3 in the case of GWRC or GWRL only, exercise a power or discretion or otherwise act in a manner that either of them regards as not in the public interest; or
 - 31.1.4 provide any performance bond, guarantee or Security Interest other than as specifically required under this Deed.

Execution

Executed and Delivered as a Deed

Executed by **Wellington
Regional Council** by its
Attorney Gregory Campbell

in the presence of:

Signature of Gregory Campbell
(Chief Executive)

Signature of witness

Name of witness

Occupation of witness

Address of witness

Executed by **Greater
Wellington Rail Limited**
Company Number 1846367 by

Signature of director

Signature of director

Name of director

Name of director

Executed by **Transdev
Wellington Limited** Company
Number 5164521 by the party's
attorney pursuant to power of
attorney dated 4 March 2016

Signature of witness

Signature of authorised person

Name of witness

Name of authorised person

Occupation of witness

Title of authorised person

Address of witness

[Subcontractor] by

Authorised signatory

Authorised signatory

Name

Name

Title

Title

[Subcontractor Guarantor] by

Authorised signatory

Authorised signatory

Name

Name

Title

Title

[Note - Execution block for the Subcontractor and Subcontractor Guarantor to be amended if necessary depending on the status and structure of each entity to ensure compliance with the requirements of NZ law.]

Annexure 23

GWRC Privacy Policy



Privacy Policy

A policy to ensure that Greater Wellington Regional Council manages personal information consistently with the Privacy Act 1993, that Privacy Act requests are promptly brought to the attention of the Privacy Officer and are dealt with appropriately

Policy owner	General Manager, People and Capability
Position administering this policy	Privacy Officer (Manager, Democratic Services)
Date policy comes into effect	The first working day following the date of approval by the Chief Executive.
Related policies and legislation	<p>Privacy Act 1993</p> <p>Local Government Official Information and Meetings Act 1987</p> <p>Local Government (Rating) Act 2002</p> <p>Local Government Act 2002</p> <p>Public Records Act 2005</p> <p>Resource Management Act 1991</p> <p>Archives New Zealand's General Disposal Authority 6: Common Corporate Service Public Records</p> <p>Greater Wellington Regional Council's Human Resources policies and Code of Conduct</p>
Policy review date	By 31 December 2018
Policy history	This is a reviewed policy.

Approved: Greg Campbell
Chief Executive

Date: 12 February 2015

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1. Purpose

This policy is designed to ensure that Greater Wellington Regional Council Regional Council handles personal information in a way that is consistent with the Privacy Act 1993. It sits alongside Greater Wellington Regional Council's process for handling Local Government Official Information and Meetings Act 1987 (LGOIMA) requests,¹ and ensures that Privacy Act requests are promptly brought to the attention of the Privacy Officer.²

2. Background

The Privacy Act restricts the collection, storage, use and disclosure of personal information, and allows individuals to access and correct records of personal information about themselves.

Greater Wellington Regional Council collects and stores information relating to members of the public and its employees.

Staff involved with the collection and storage of personal information are encouraged to familiarise themselves with the information privacy principles so that they manage personal information consistently with the Privacy Act. Staff should also consult the Privacy Officer in cases of doubt surrounding Privacy Act issues.

3. Definitions

The Privacy Act contains a number of definitions. Those relevant to this policy are summarised as follows:

¹ *Step by Step Guide to Considering Requests for Official Information pursuant to the Local Government Official Information and Meetings Act.*

² The Manager, Democratic Services is Greater Wellington Regional Council's Privacy Officer.

Agency is any person or body of persons, whether corporate or unincorporate, and whether in the public sector or the private sector, and includes a Department.

Greater Wellington Regional Council is an “agency” under the Privacy Act, and Greater Wellington Regional Council can transfer requests to another agency if that request is more closely related to that agency.

Evaluative material is assessment or opinion material that is collected and compiled solely for determining the suitability, eligibility, or qualifications of the individual to whom the material relates.

An **individual** is a person other than a deceased person.

The Privacy Act does not apply in the same way to a person who has died.

Personal information is “information about an identifiable individual” and includes any information that Greater Wellington Regional Council might hold about a member of the public or staff.

Typical kinds of personal information held by Greater Wellington Regional Council include information held in the:

- *Contacts Database;*
- *Rating Database;*
- *Pest Plants Database;*

and information held by:

- *Environmental Regulation (under the Resource Management Act 1991); and*
- *Human Resources (such as job applications, curricula vitae, employment agreements, performance assessments and training records).*

4. Information privacy principles

When collecting, accessing and correcting, using and disclosing personal information on behalf of Greater Wellington Regional Council, staff must comply with the following information privacy principles. Consult with the Privacy Officer to determine whether any of the listed exceptions to the information privacy principles apply.

- 1 Only collect personal information for lawful purposes necessary for Greater Wellington Regional Council’s functions or activities.
- 2 Collect personal information directly from the person concerned, unless:
 - the information is publicly available;
 - the individual authorised the collection of the information from someone else;
 - collecting the information from someone else would not prejudice the interests of the individual concerned;

- given the purpose of the collection (e.g. detection of a crime) it is not appropriate for the individual to know about the collection;
- collecting the information directly from the person concerned would prejudice the purpose of collection;
- collecting the information directly from the person concerned is not reasonably practicable in the circumstances of the case; or
- the information will not be used in a form in which the individual concerned is identified, or will be used for statistical or research purposes and will not be published in a form that identifies the individual.

3 When collecting personal information from an individual ensure the individual is aware of:

- the fact of collection;
- the purpose for collection;
- the intended recipients of the information;
- any law that requires/authorises the collection (and, if so, whether the supply of information is voluntary or mandatory);
- any consequences of not providing the information; and
- the individual's rights under the Privacy Act of access to, and correction of, that information.

For example, when members of the public provide submissions they should be made aware that they can ask for exclusion of personal details (unless a particular law or the purpose of collection requires disclosure), and this should be noted on the file.

However, Greater Wellington Regional Council does not have to comply with the above requirements regarding collection if:

- the individual concerned has consented to the non-compliance;
- the individual's interests would not be prejudiced;
- non-compliance is necessary to uphold the law;
- compliance would prejudice the purposes of collection;
- compliance is not reasonably practicable in the circumstances of the case; or
- the information will not be used in a form in which the individual concerned is identified, or will be used for statistical or research purposes and will not be published in a form that identifies the individual.

4 Personal information must be collected in a lawful and fair manner. Greater Wellington Regional Council must not collect information in an unreasonably intrusive way, particularly with regard to the personal affairs of the individual.

For example, when conducting reference checks as part of the recruitment process, the individual's consent to reference checks will be obtained before the checks are carried out.

- 5 Securely store personal information so as to prevent it being lost, or accessed or disclosed without authorisation. Ensure that where contractors or other agents are used to collect or process personal information, steps are taken (including under a contract) to prevent unauthorised use or disclosure of the information.³

For example, personal files will be kept in a secure, locked area and access will be restricted to the appropriate people.

- 6 Individuals are entitled to obtain confirmation of whether or not Greater Wellington Regional Council holds their personal information, and to have access to that information, unless a specific exception applies.

For example, staff can make a request to Human Resources to see their personal file. If information is found to be incorrect, employees can request to have it corrected. Staff will not be granted access to their evaluative material (e.g. reference checks) as it is the subject of an express or implied promise of confidentiality: see section 29(1)(b) and 29(3) of the Privacy Act.

- 7 If Greater Wellington Regional Council holds personal information it must, if requested by the individual concerned or on its own initiative, take reasonable steps to correct that information so that the information is accurate, up to date, complete and not misleading.

If Greater Wellington Regional Council does not wish to correct the personal information in this manner, it must (if requested) attach any statement provided by that individual of the correction sought (but not made) to the information so that it will always be read with the information.

Greater Wellington Regional Council must inform the person to whom the personal information has been disclosed of the steps referred to above and the action taken as a result of the request.

- 8 Greater Wellington Regional Council must not use personal information without checking that (having regard to the purpose for which it is to be used) it is accurate, up to date, complete, relevant and not misleading.

- 9 Greater Wellington Regional Council must not keep personal information for longer than is required for its intended use.⁴

³ When considering cloud storage and related technology options for external storage of personal information the Privacy Commissioner's publication "Cloud Computing – a guide to making the right choices" provides useful guidance.

⁴ General Disposal Authority 6: Common Corporate Service Public Records issued by Archives New Zealand in June 2014 sets out procedures and guidelines relating to the storage (retention and destruction) of personal information for the purpose of recruitment or employment.

10 Greater Wellington Regional Council must not use personal information for any other purpose than for which it was collected, unless:

- the source of the information is a publicly available publication;

For example, information, such as property owner details, publicly available on the public Rating Information Databases can be used by Greater Wellington Regional Council for council purposes (other than rating)..

- the use of the information for another purpose is authorised by the individual concerned;
- using the information for a different purpose is necessary to:
 - uphold the law; or
 - to prevent a serious threat to public health or public safety; or
 - to prevent a serious threat the life or health of the individual concerned or another individual; or
- the information is used in a form in which the individual concerned is not identified; or is used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

11 Greater Wellington Regional Council must not disclose personal information for any other purpose than it was collected for, unless:

- the source of the information is a publicly available publication;
- disclosure is to, or is authorised by, the individual concerned;
- disclosing the information for a different purpose is necessary to:
 - uphold the law; or
 - to prevent a serious threat to public health or public safety; or
 - to prevent a serious threat the life or health of the individual concerned or another individual;
- disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern; or
- the information is to be used in a form in which the individual concerned is not identified; or is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

For example, managers requested to give an opinion on an individual's performance must be certain that the person requesting it has the permission of the individual concerned to obtain such opinions or has informed the individual ahead of time that they will be doing so.

5. Privacy Act requests

From time to time Greater Wellington Regional Council receives requests from individuals for access to, and correction of, their personal information. This section outlines the procedure that staff must follow when receiving such requests.

As soon as a request for information is received, a decision must be made as to whether it should be logged onto Greater Wellington Regional Council's central system. Registration is done by forwarding the request (by email or internal mail) to Information Services. They will record:

- the name of the requester;
- the date the request is received; and
- a processing timeframe for the request.⁵

Information Services will also determine which Act is to apply to the request.

The Privacy Act applies where individuals request personal information about themselves, including through their agents or representatives. An exception exists when a person makes a request for an explanation as to the reasons why a decision or recommendation was made about them. In that case section 22 of LGOIMA applies.

LGOIMA applies to all other information and requests, including:

- requests for personal information about other individuals and organisations; and
- requests made by companies.

Requests for personal information which comprise of a mix of information about the requester and information about other persons may be covered by the Privacy Act and LGOIMA, depending upon the nature of the information at issue in a particular case.

If Information Services determines that the request is for personal information, it will be sent to the Privacy Officer for response. A letter to the requestor acknowledging Greater Wellington Regional Council's receipt of their request

⁵ A decision must be made on a request as soon as practicable, and no later than 20 working days after the receipt of the request, unless the request is transferred or an extension is available.

will also be sent at this time. The Privacy Officer (or his or her delegated representative) will deal with the request, in accordance with the Privacy Act.⁶

6. Complaints

The Privacy Act provides for individuals to make a complaint to the Privacy Commissioner if they consider that there has been an interference with their privacy. If you receive a complaint from a member of the public in relation to their personal information, contact the Privacy Officer. The Privacy Officer will work through the problem and will work with the Privacy Commissioner in relation to any investigation the Privacy Commissioner makes as a result of the complaint.

Greater Wellington Regional Council takes breaches of the Privacy Act seriously. A breach could result in penalties from the Human Rights Review Tribunal, damages awarded to individuals, legal fees and costs, political embarrassment and/or Greater Wellington Regional Council's reputation suffering because of resulting bad publicity. It is therefore crucial that Greater Wellington Regional Council staff carefully apply this policy, and seek advice from the Privacy Officer in cases of doubt.

7. Further information

Further information on the Privacy Act and its compliance can be obtained from:

- SOLGM Good Practice Toolkit, Privacy Act Module
- The Office of the Privacy Commissioner (www.privacy.org.nz or the Enquiries Line 0800 803 909)
- The Privacy Officer.

⁶ The Privacy Officer will consider the application of other Acts: the Privacy Act is subject to other legislation relating to the obtaining or availability of personal information (eg the Local Government Official Information and Meetings Act 1987), and this legislation may override the restrictions of the Privacy Act.