

WORCESTERSHIRE COUNTY COUNCIL

TERMS AND CONDITIONS OF CONTRACT

FOR PASSENGER TRANSPORT SERVICES

OCTOBER 2016 Edition

Summary of material changes from May 2014 Edition

Most paragraphs in all sections have had some wording changed but the following have had material changes to the wording or additional sections added.

Section	Description	Change
All sections	All document updated with paragraph headings and links to other sections for ease of use on a daily basis. References to legislation and most sections updated.	
Table of Contents	Changed so users can select links to take them straight to relevant section	Updated and revised format
Part 1 Sect 4	Add in DPS explanation	NEW
7.3	Communication Methods	Updated
8.10	Clients no longer requiring transport	Updated
8.11	Journey times for passengers	NEW
9.7	Restraints and Seat Belts	Updated
10	Personnel – most sub sections amended	Updated
11	DBS	Updated
12.5	Electronic Ticketing Machine	Updated
15.4	DBS and WCC ID Badge invoices	Updated
18	Health and Safety and Safeguarding	Updated
37	Termination	Updated
Part 9 all sections	Contractor Performance Management and Tendering Procedures	NEW
Appendices	All Appendices unless specifically mentioned have been amended.	Updated
Appendix 3	Quality Points Schedule	NEW
Appendix 4	Contractor Quality	NEW
Appendix 12	NO Travel No Pass Policy	NEW

Table of Contents

(To move directly to a section hold down CTRL and move the cursor over the Heading and click mouse to follow link)

Part 1 - General Provisions	12
1. Definitions and Interpretation	12
2. Context of Words	18
3. Period of Contract	18
4. Contractor’s Status (Principal)	18
4.1 Agent Status	18
4.2 Dynamic Purchasing System (DPS)	18
5. Exclusion of Third Party Rights	19
6. Entire Agreement	19
6.1 Agreement Succession	19
6.2 Precedence of Documents	19
7. Notices	19
7.1 Notice Submission	19
7.2 Correct Contact Details.....	20
7.3 Communication Methods	20
7.4 Telephone Availability	20
7.5 Operational Variances	20
Part 2 - Provision of the Services	21
8. The Services	21
8.1 Contractor Obligations	21
8.2 Registration of Local Bus Service	21
8.3 The following clauses and sub-clauses 8.3 to 8.6 inclusive only apply to Local Bus Contracts	21
8.4 Police Free Travel.....	22
8.5 Persons permitted Free Travel	22
8.6 Non-payment Travel –Local Bus Service.....	22

8.7	TUPE (Transfer of Undertakings (Protection of Employment)).....	23
8.8	Emergency Service Provision	24
8.9	Equality Act.....	24
8.10	Clients not requiring Transport & Client requests to vary the Services	25
8.11	Journey Times for Passengers with Special Requirements	25
9.	Vehicle	26
9.1	Condition of the Vehicle	26
9.2	Council Inspection Rights	26
9.3	Fire Extinguishers	26
9.4	First Aid Kits	26
9.5	Good Industry Practice	27
9.6	Display of Signs	27
9.7	Restraints and Seat Belts	28
9.8	Vehicle Tests and Approval	30
9.9	Vehicle Conversions and Adaptations	31
9.10	Advertisements	32
10.	Personnel	33
10.1	Personnel provision	33
10.2	Verbal and Physical demands of Personnel	33
10.3	Personnel References	33
10.4	Personnel previously removed from Council contracts	33
10.5	Hi-Visibility Clothing	33
10.6	Appropriate Clothing and Footwear	33
10.7	Photographic Identification	34
10.8	Contracts requiring a DBS Check and Council ID Badge.....	34
10.9	Replacement or Temporary Badges	34
10.10	Contractor's Own Photo ID	34
10.11	Personnel Cessation of Employment on WCC Contracts	34

10.12	Assistance to Service Users	35
10.13	The Contractor shall ensure that:.....	35
10.14	Personnel Conduct	35
10.15	Use of Mobile Communication Devices	36
10.16	Route Familiarity:.....	37
10.17	Deviations to Designated Route	37
10.18	Employment of Relatives and Individuals who have a close personal relationship:	37
10.19	Transfer of Staff (TUPE)	37
11.	Disclosure and Barring Service (formerly Criminal Records Bureau).....	38
11.1	Staff Details prior to commencement of contract	38
11.2	Notification of changes in any Personnel status.....	39
11.3	Allegations against Personnel.....	40
12.	Local Bus Contract Fares.....	40
12.1	Subsidy contract fares	40
12.2	Notification by contractor of revision to fares	40
12.3	Council revision of fares	40
12.4	Sufficient Cash float.....	40
12.5	Electronic Ticketing Machine	40
	Part 3 – Price and Payment.....	42
13.	Price.....	42
14.	Payment.....	42
14.1	Invoice information.....	42
14.2	Invoice Tax	42
14.3	Reduction in payment	42
14.4	Service variation	42
14.5	Provisions for Closures of Establishments and Emergencies	42
14.6	Closure reduced or no notice period payment	43

14.7 Adverse Weather	43
15. Recovery of Sums Due	43
15.1 Council Deductions.....	43
15.2 Overpayments	43
15.3 Contractor deductions.....	44
15.4 DBS and WCC ID Badge invoices	44
16. Revision of Price.....	44
16.1 Efficiency Savings.....	44
16.2 Operational changes.....	44
16.3 Consumer Price Index (CPI)	44
Part 4 – Statutory Obligations and Regulations.....	45
17. Operators Licences	45
17.1 Public Service Vehicles Operators.....	45
17.2 Private Hires	45
18. Health and Safety and Safeguarding.....	45
18.1 Statutory Requirements	45
18.2 Smoking Legislation.....	45
18.3 Vehicle Supervision	45
18.4 Health & Safety Statement.....	45
18.5 Incidents during operation of Service	46
18.6 Safeguarding for Children	46
18.7 Safeguarding for Vulnerable Adults	46
18.8 Statutory Requirements	46
19. Environmental Requirements	46
19.1 Reduction in Fuel Usage and Emissions	46
19.2 Emissions from Service Provision.....	46
20. Equal Opportunities.....	47
21. Prevention of Corruption.....	47

21.1	Inducements	47
21.2	Commission	47
21.3	Prohibited Conduct	47
22.	Prevention of Fraud	48
22.1	Receipt of Monies	48
22.2	Suspicion of Fraud	48
22.3	Council's action for confirmed fraud	48
	Part 5 – Control of the Contract	49
23.	Monitoring of Performance	49
23.1	Monitoring Officers Travel	49
23.2	Council Access	49
23.3	Information Requests	49
24.	Quality Assurance	50
25.	Complaints Policy	50
26.	Customer Satisfaction Survey	50
26.1	Surveys	50
26.2	Questionnaire	50
26.3	Legal Compliance	50
26.4	Council Assistance	51
26.5	Survey Results	51
27.	Annual Service Report	51
27.1	Provision of Written Report	51
27.2	Verification of Report results	51
28.	Remedies in the event of inadequate performance	51
28.1	Complaints or Other Service issues	51
28.2	Breach of Contract	51
28.3	Recovery of additional Costs	52
29.	Waiver	53

29.1 Contract Obligations	53
29.2 Waiver	53
29.3 Waiver rights.....	53
30. Assignment and Sub-Letting	53
31. Variation of the Services	53
31.1 Council's Rights	53
31.2 Variation Request by Council.....	53
31.3 Non-Acceptance of variation by Contractor	54
Part 6 – Protection of Information	55
32. Confidentiality, Freedom of Information and Data Protection.....	55
32.1 Each Party:-.....	55
32.2 Precautions.....	55
32.3 Professional Advisers Undertaking	55
32.4 Use of Confidential information	55
32.5 Exclusion	56
32.6 Council's rights	56
32.7 Use of Information	57
32.8 Contract Termination	57
32.9 Official Secrets Act 1911	57
33. Freedom of Information.....	57
33.1 Statutory obligations	57
33.2 Obligations on Sub-Contractor.....	57
33.3 FOI Decisions	58
33.4 Disclosure of Information	58
33.5 Retention of Information	58
33.6 Information provision by Contractor	58
34. Data Protection	59
34.1 Processing of Personal Data	59

34.2	Data Processing Control	59
34.3	Contractor Data Processes	59
34.4	Personal Data Protection	59
34.5	Contractor Data Protection measures	59
34.6	Council Access to Contractor Data	59
34.7	Data Subject	60
34.8	Contractor receipt of rights under legislation	60
34.9	Council prior consent	60
34.10	Performance of Contractor	60
34.11	Sub-contracting of obligations	60
34.12	Contract Termination obligations	61
Part 7	- Indemnity and Insurance	62
35.	Indemnity and Insurance	62
35.1	Insurance requirements	62
35.2	Production of Evidence of compliance	62
35.3	Contractor Indemnity	62
Part 8	- Termination	63
36.	Termination on Change of Control or Status and Insolvency	63
36.1	Contract Termination	63
36.2	Change of Control	64
36.3	Incapacity of Contractor	64
37.	Termination	64
37.1	Termination notice period	64
37.2	Cessation of passenger transport services	64
37.3	Contract Extension	64
37.4	Contractor's request for termination	65
37.5	Termination with Immediate Effect	65
37.6	Reconstitution of Lost or unusable Data	65

37.7	Default Points for Poor performance.....	65
37.8	Contractor's right of appeal.....	66
38.	Consequences of Termination.....	66
38.1	Recovery of additional Costs incurred	66
38.2	Termination recovery of outstanding costs	66
38.3	Liquidated damages payment to the Council	66
39.	Law.....	67
40.	Dispute Resolution	67
40.1	Settlement negotiations	67
40.2	Restraining order	67
Part 9 - Contractor Performance Management and Tendering		68
41.	Contractor Performance Management	68
41.1	Performance Management System.....	68
41.2	Contract Performance Rating	68
41.3	Contract Extensions.....	68
41.4	Tendering - Contractor Performance Rating	68
41.5	Performance review by Contractor	69
41.6	Monitoring of Contractor Rating	69
42.	Tendering Procedures	70
42.1	Contractor Registration	70
42.2	Dynamic Purchasing System (DPS) Applications	70
42.3	Contractor Information	70
42.4	Contractor Documents	70
42.5	Tendering Opportunities	71
42.6	Contractor Bidding	71
42.7	Contract Award	71
42.8	Bids on Multiple Contracts	71
42.9	Vehicle Inspections prior to Contract Award	71

42.10 Personnel data prior to Contract Award	71
42.11 Contract Award	71
42.12 Refusal of Contract Award	72
42.13 Poor Contractor Performance	72
Appendix 1 Payment Schedule.....	73
Appendix 2 Default Points Schedule	78
Appendix 3 Quality Points Schedule	84
Appendix 4 Contractor Quality	86
Tendering Awards using 70%/30% split between bid price and quality	86
Contract Extensions based on Quality	89
Appendix 5 Good Industry Practice	92
Appendix 6 Personnel and Vehicle Equipment Requirements	93
Appendix 7 Compulsory and Recommended Training Courses and Qualifications	94
Appendix 8 Driver and Vehicle Licensing Requirements	97
Appendix 9 WCC Photo Identification for Contractor's Personnel.....	101
Appendix 10 Guidelines on Safe Working Practice for the Protection of Vulnerable Children and Adults	103
Appendix 11 TUPE Pensions Guidelines where Local authority staff may transfer	107
Appendix 12 "No Travel No Pass" Policy	108

Part 1 - General Provisions

1. Definitions and Interpretation

In these Terms and Conditions of Contract unless the context otherwise requires the following words shall have the meanings given to them below:

'Annual Service Report' has the meaning given in **Clause 27**

'Authorised Officer' means the person for the time being appointed by the Council as being authorised to administer the Contract on behalf of the Council or such person as may be nominated by the Authorised Officer to act on his behalf.

'Automatic Vehicle Location' (AVL) is a means for automatically determining and transmitting the geographic location of a vehicle. This data, from one or more vehicles, may then be collected by a vehicle tracking system for a picture of vehicle travel

'Child' means a young person under the age of 16 years

'Commencement Date' means the date on the Contract Summary issued by the Council and returned by the Contractor duly signed signifying his acceptance.

'Concessionary Travel Scheme' means any statutory or discretionary scheme published by a Travel Concession Authority offering free or reduced fare travel known as concessionary travel within the area served by Contract. 'Concessionary Travel Pass' means any pass issued to facilitate travel under any such scheme.

'Confidential Information' means information, the disclosure of which would constitute an actionable breach of confidence, which has either been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including commercially sensitive information, information which relates to the business affairs, properties, assets, trading practices, goods/services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and supplies of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998 and any subsequent amendments.

'Contract Award Letter' means the letter sent by the Council to the Contractor notifying him of the award of the Contract

'Contract Summary' means the document signed by the Council and the Contractor following award of the Contract summarising the main details of the

Services and the Price.

'Contract' means the agreement concluded between the Council and the Contractor, consisting of these Terms and Conditions of Contract and attached Schedules, the Invitation to Tender, Contract Award Letter, Contract Summary, the Tender, Dynamic Purchasing System Registration and any other documents specified by the Council.

'Contractor' means the person, partnership, firm or company who's Tender or other offer has been accepted by the Council and includes the Contractor's personal representatives, employees, servants, agents, successors and permitted assigns.

'Contract Period' means the period of duration of the Contract as specified in Clause 3

'Council' means Worcestershire County Council

'CPC' means Certificate of Professional Competence

'CPI' means Consumer Price Index and six-monthly or annual changes to be used dependent on the period to be covered by a discretionary Contract Price revision.

'Customer Satisfaction Survey' has the meaning given to it in **Clause 26**.

'Customer Satisfaction Survey Date' means the date in the Invitation to Tender

'Data Controller' shall under the provisions of the Data Protection Act mean the Council

'Data Feed' means a mechanism for the user to receive updated data from Data Sources

'Data Processor' means the Contractor

'Data Protection Act' means the Data Protection Act 1998

'Data Subject' mean the living individuals who are the subject of the Personal Data

'DBS' means the Disclosure and Barring Service.

'Default' means any breach of the obligations of either Party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either party, its Personnel, employees, agents or sub-contractors in connection with or in relation to the subject matter of the Agreement and in respect of which such Party is liable to the other

'Default Point' means a measure of performance in relation to conformance with contract specification as set out in **Appendix 2 – Default Points Schedule**.

'Disclosure and Barring Service' ('DBS') formed by the amalgamation of 'Criminal Records Bureau' or 'CRB' and 'Independent Safeguarding Authority' or

'ISA' means the bureau established pursuant to Part V of the Police Act 1997 and Protection of Freedoms Act 2012.

'**DQC**' means the **Driver Qualification Card** which is the legal requirement for drivers of Public Service Vehicles who carry 9 or more passengers excluding driver to have passed the relevant CPC training.

'**Dynamic Purchasing System**' or **DPS** is a web-based system of e-procurement to be used by the Council from 2016 for tendering of all contract provision. This means the list of pre-qualified contractors that meet the Council's quality standards and who may tender to provide Services to the Council. This replaces Framework membership.

'**Education Contract**' means a Contract for the provision of school or college transport services including the provision of transport services for children with special educational needs

'**Environmental Information Regulations**' means the Environmental Information Regulations 2004

'**Fare Stage**' means a defined section along the route of a bus used in calculating the amount of fare to be paid throughout which the fare charged to another destination is the same.

'**FOIA**' means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

'**Force Majeure**' means any event or occurrence which is outside the reasonable control of the party concerned and which is not attributable to any act or failure to take preventative action by the party concerned, including (but not limited to) fire, flood, riot or any disaster. It does not include any industrial action occurring amongst the Contractor's staff or any staff of any sub-contractor.

'**Good Industry Practice**' means using standards, practices, methods and procedures conforming to the law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances. A non- exhaustive list of such practices is attached in **Appendix 5 Good Industry Practice**

'**Information**' has the meaning given under Section 84 of the Freedom of Information Act 2000

'**Invitation to Tender**' means an invitation to bid for the Services required by the

Council

'ITSO' means Integrated Smartcard Organisation

'Local Bus' means a route registered with the Traffic Commissioner by a licensed Contractor to carry passengers at separate fares over short distances using a Public Service Vehicle (PSV)

'Local Bus Contract' means a Contract for the provision of a Local Bus Service

'Low Floor Bus' or 'Vehicle, Low Floor, DDA Compliant' means a Public Service Vehicle with a capacity greater than 22 seats that meets in full the provisions of the Public Service Vehicle Accessibility Regulations (PSVAR) 2000 including Schedules 1 and 2.

'Low Floor Small Bus' means a Public Service Vehicle with a capacity of 22 seats or fewer that generally conforms with the standards contained in the Public Service Vehicle Accessibility Regulations (PSVAR) 2000 and will provide direct wheelchair accessibility via the main passenger entrance by means of a kneeling mechanism or ramp

'Payment Schedule' means the attached Schedule containing details of payment in **Appendix 1 Payment Schedule**

'PCV' or 'Passenger Carrying Vehicle' means any vehicle capable of transporting 9 or more passengers in addition to the driver.

'Personal Data' means personal data as defined in the Data Protection Act

'Personnel' means all persons engaged by the Contractor in delivery of the Services including but not restricted to owner drivers, drivers/passenger assistants, escorts, guides, transport assistants, casual staff, volunteers, agents and subcontractors.

'Price' means the price exclusive of Value Added Tax as set out in the Tender and the Council's written acceptance thereof payable to the Contractor by the Council in accordance with the Payment Schedule as set out in **Appendix 1 Payment Schedule**

'Processing' means obtaining, recording or holding Personal Data or carrying out any operation or set of operations on Personal Data including: organisation, adaptation or alteration of Personal Data; retrieval, consultation or use of Personal Data; disclosure of the information or Personal Data by transmission, dissemination or otherwise making available; or alignment, combination, blocking, erasure or destruction of the Personal Data

'Public Service Vehicle' or 'PSV' means a vehicle designed or adapted to carry

nine or more passengers and operating for Hire and Reward.

'Real Time Information' means a system for predicting and providing information to the public on the actual arrival and departure times of bus services

'Regulated Activity' means any form of work (paid or voluntary) involving contact with children or vulnerable adults defined in the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012.

'Request for Information' shall have the meaning set out in the FOIA or any apparent request for information under the FOIA, the Environmental Information Regulations or the Code of Practice on Access to Government Information issued under Section 45 of the FOIA

'Safeguarding' is the Council's responsibility for protecting vulnerable adults and children 's health, wellbeing and human rights, and enabling them to live free from harm, abuse and neglect whether economic, physical or mental.

'Services' means the transport and/or associated services to be provided as specified in the Invitation to Tender or any other tender documentation as issued by the Council..

'Seventh Principle' means the seventh principle set out in Part 1 of Schedule 1 of the Data Protection Act

'Social Care Contract' means a Contract for the provision of social care transport services for children and adults

'Smart Ticket Equipment' means the equipment to facilitate the use of the smartcard

'Smoking' means all forms of smoking to include Electronic Cigarettes and all forms of Vaping.

'Sub-contractor' means any Contractor who is a member of the DPS who acts as a sub-contractor for another DPS Contractor who is the principal for the awarded contract

'Tender' means the Contractor's response to the Invitation to Tender including submission of bids for an eAuction, web based electronic request, email or telephone tender.

'Traveline' means the Travel Information Service or any future electronic travel information system adopted by the Council. .

'TUPE' means the Transfer of Undertakings (Protection of Employment) Regulations 2006

'Update Service' means an online service provided by the Disclosure and Barring

Service providing information on any changes to the relevant record relating to subscribing personnel.

'Vehicle' means the vehicle or vehicles that meet the Council's requirements that are used to provide the Services.

'Vulnerable Adult' means someone who may be unable to take care of themselves or be unable to protect themselves against harm or exploitation. This may be because they are elderly or frail, are chronically ill, have learning disabilities, suffer from mental health illness or have social or emotional problems.

'Working Day' means a day other than a Saturday or Sunday or a bank or public holiday. This definition will not take precedence over any Contract specification requiring operation of the service on Saturday or Sunday or a bank or public holiday.

2. Context of Words

In these Terms and Conditions of Contract except where the context otherwise requires: words importing the singular meaning include where the context so admits the plural meaning and vice versa;

Words importing the masculine include the feminine and the neuter;

- a references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- b References to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;
- c Headings are included for ease of reference only and shall not affect the interpretation or construction of the Terms and Conditions of Contract

3. Period of Contract

Subject to the Council's right to terminate the Contract under **Clauses 36 and 37**, the Contract shall take effect on the Commencement Date and shall continue in force for the period stated in the Invitation to Tender provided that in the case of Local Bus Contracts such period, including any extensions, shall be no longer than eight years or such other period as may be permitted by legislation from time to time.

4. Contractor's Status (Principal)

4.1 Agent Status

In carrying out the Services the Contractor shall be acting as principal and not as the agent of the Council. The Contractor shall not (and shall procure that its staff do not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent of the Council

4.2 Dynamic Purchasing System (DPS)

The contractor must have membership of the Council's DPS before

tendering for any transport services contracts.

5. Exclusion of Third Party Rights

The parties to this Contract do not intend that any of its terms will be enforceable by virtue of The Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

6. Entire Agreement

6.1 Agreement Succession

The Contract constitutes the entire agreement between the parties relating to the subject matter of the Agreement. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation

6.2 Precedence of Documents

In the event of and only to the extent of any conflict between these Terms and Conditions of Contract, the Invitation to Tender the Contractor's Tender and other documents referred to or attached to the Agreement, the conflict shall be resolved in accordance with the following order of precedence:

1. The Terms and Conditions of Contract;
2. The DPS Agreement;
3. The Invitation to Tender including the Tender Specification;
4. Rules of Participation, Email Tender or Quick Quote;
5. Rules for Bidding through e-sourcing system;
6. Contract Award Letter and Contract Summary;
7. The Tender;
8. The TUPE Information Pack (where applicable)
9. Any other document referred to in the Agreement;

7. Notices

7.1 Notice Submission

Save as otherwise provided in this Agreement, any notice required by this Contract to be given by either party to the other shall be in writing and shall be served by delivery by hand or email transmission to the address of the other party given in this Contract or to such other address as that party shall have notified in writing to the other party as their address for service.

Subject to proof to the contrary, such notice shall be deemed to have been

received by the addressee on the next Working Day after the date of successful transmission, and/or by sending the same by first class delivery post, in which case it shall be deemed to have been received by the addressee on the second Working Day after the date of posting.

7.2 Correct Contact Details

It is the responsibility of both parties to ensure the correct contact details to include each party's contact name, postal address, email address and telephone number.

Each party shall ensure that any changes are communicated to the other party in writing within 5 Working Days of any such change.

7.3 Communication Methods

The preferred method of communication is electronic mail and the Contractor will maintain a functioning email address and monitor it at least on a daily basis and preferably hourly. Use of Smartphones and other electronic devices is recommended especially for checking for tendering opportunities as well as other urgent communications from the Council.

7.4 Telephone Availability

Contractor will provide and monitor a telephone number including a facility for leaving messages upon which the Council may contact him in relation to operational issues during the hours of operation of the Services. In the event that Council is unable to speak directly with the Contractor, the Contractor shall respond to all telephone messages within 30 minutes of the message being left.

7.5 Operational Variances

In the event of any matter affecting the proper operation of the Services, the Contractor shall contact the Council no later than one hour but preferably within 30 minutes of such occurrence. If such matter relates to either health and safety or safeguarding such as behaviour of passenger, driver or passenger assistant a detailed written explanation will be requested with a notified deadline.

Part 2- Provision of the Services

8. The Services

8.1 Contractor Obligations

The Contractor shall provide the Services during the Contract Period in accordance with the Council's requirements as set out in the Invitation to Tender, Timetables, Contract Award Letter, Contract Summary, or other tender documentation and these Terms and Conditions of Contract. The Contractor shall discharge its obligations with all due skill, care and diligence including but not limited to Good Industry Practice.

8.2 Registration of Local Bus Service

If the Council so requires, the Contractor shall register the Services as a Local Bus Service. If the Contractor wishes to register the Services as a Local Bus Service, the Contractor shall obtain the prior written approval of the Council including agreement on bus stops to be served, fares to be charged and reimbursement arrangements for any revenues accruing as a result of the registration. The Council reserves the right to require the cancellation of the registration of the Services as a Local Bus Service at any time.

8.3 The following clauses and sub-clauses 8.3 to 8.6 inclusive only apply to Local Bus Contracts

8.3.1 Concessionary Travel Scheme

The Contractor shall immediately apply for admission to the travel concession schemes of all local authorities and any multi-Contractor ticketing schemes in place in any part of the area in which the Services are provided and agrees to participate fully in such schemes, subject always to the provisions of all relevant legislation.

8.3.2 Traveline

Worcestershire County Council supports Traveline, the Council requires that the Contractor will and will meet all costs for the provision of information relating to its registered bus services.

8.3.3 Departure charges for Bus infrastructure

The Contractor will be responsible for meeting all departure charges or any other charge for the use of bus stops and/or bus stations relating to the provision of the services. The Contractor will

comply with any Codes of Conduct or similar conditions related to the use of such bus stops and bus stations.

8.3.4 Real Time Information

The Contractor will participate in any scheme for the provision of Real Time Information (RTI) in place within Worcestershire relevant to the area of operation of the Services including signing any participation agreements.

8.4 Police Free Travel

The Contractor shall permit on duty police officers and community service officers to travel on the Vehicle free of charge on production of identification.

8.5 Persons permitted Free Travel

Irrespective of Contractor's general conditions of carriage, the Contractor shall permit free access to services operated under Local Bus Contracts covered any Contract to any passengers, or their chattels, meeting one or more of the criteria described below:

- a Passengers on production of a valid Concessionary Travel Pass subject to the conditions set out in the relevant Concessionary Travel Scheme;
- b Manual and electric wheelchairs meeting the dimensions of the reference wheelchair as defined in Public Service Vehicle Accessibility Regulations (PSVAR) 2000;
- c Registered puppy walkers upon presentation of accreditation;
- d Independent travel trainers upon presentation of accreditation;
- e Assistance Dogs (guide dog most well-known) accompanying passengers with the relevant disability;
- f All pupils/students travelling to and from educational establishments shall be allowed to travel free of charge on production of a valid travel pass issued by the Council in relation to the Services;
- g Passengers presenting tickets and passes specified by the Council including applicable multi-Contractor tickets;
- h Any other category of passenger specified in the Invitation to Tender;

8.6 Non-payment Travel –Local Bus Service

The Contractor will not refuse travel to a Child or Vulnerable Adult on a

Local Bus Service provided under contract to the Council if he or she is unable to pay or is not in possession of a valid pass. The Contractor will request the passenger to provide their name and address and issue a single ticket to allow the passenger to travel home. The Contractor will provide the Council with details of any passenger permitted to travel under the terms of this sub clause in order that the Council may take appropriate action.

8.7 TUPE (Transfer of Undertakings (Protection of Employment))

8.7.1 Contractors Responsibility

Provision of Services may be subject to the transfer of employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”). It is the responsibility of Contractors to make their own enquiries directly with the existing Contractor or provider of services to obtain such TUPE and related information as may be required in order to include the full costs to the Contractor of TUPE compliance in the Price.

8.7.2 Existing Contractors Period of Notice for application of TUPE

It is the responsibility of the existing contractor to notify the Council at least 6 months prior to the contract ceasing, or within 7 days of termination being notified to the contractor in the case of a contract ceasing prior to the current end date, whether TUPE applies to the contract.

8.7.3 TUPE information requests

The Contractor will comply with any reasonable request for information relating to Personnel from the Council or prospective Contractor in advance of termination or expiry of the Contract.

8.7.4 Non-requests for TUPE information

The Council will not award any contract where tender documents indicate that it may be subject to TUPE, to a contractor that has not requested the relevant information prior to submitting a tender irrespective of the value of the tender submitted.

8.7.5 Contract Award – Transfer of Staff

Clause 10.19 (Transfer of Staff) will apply to any contractor awarded a contract that will involve the transfer of Staff under TUPE.

8.8 Emergency Service Provision

By exception, where there is an emergency situation requiring a coordinated response by emergency services, the Council may request that the Contractor re-assign the resources allocated to provision of the Services. The Contractor will not unreasonably withhold agreement to such a request and the Council will consider any evidenced claim submitted by the Contractor for net additional operational expenses as a result of complying with such a request.

8.9 Equality Act

The Council requires that the Contractor takes all reasonable steps to ensure that in delivering this contract, there is compliance with three elements of the Equality Act Public Sector Equality duty which states that we must have due regard to the need to: -

Promote equality of opportunity between those who have one or more of the Protected Characteristics which are:

- a age;
- b disability;
- c gender reassignment;
- d marriage and civil partnership;
- e pregnancy and maternity;
- f race;
- g religion or belief;
- h sex;
- i sexual orientation.
- j and those who do not
- k Eliminate unlawful discrimination
- l Foster good community relations.

In delivering this obligation, the Contractor will ensure that staff are appropriately trained and briefed, including training specified in **Appendix 5** 'Compulsory and Recommended Training Courses and Qualifications', that a robust procedure is in place to handle complaints as specified in **Clause 25** 'Complaints Policy' and that any incidents are reported promptly to the Council as specified in **Clause 7.5**

8.10 Clients not requiring Transport & Client requests to vary the Services

The provisions of this clause apply to vehicles conveying 16 or fewer clients. The Council understands that Contractors of vehicles contracted to carry more than 16 passengers may not have the same direct relationship with their clients. Notwithstanding the contents of this Clause, the general provisions contained in **Clause 7.5** of these Terms and Conditions relating to notification on matters affecting the proper operation of the contract will still apply to all transport contracts.

8.10.1 Clients no longer requiring transport

Where individual clients are no longer requiring transport or the contractor receives a request to vary the transport for whatever reason, the contractor is obliged to notify the Council in line in accordance with **Clause 7.5** of these Terms and Conditions. This will include but not be limited to:

1. Passengers no longer needing transport either temporarily or permanently due to reasons such as death, holiday or change of address.
2. Any refusal or cancellation of transport by the carer, parent or user either temporarily or permanently.
3. Any request for deviation from the route or timetable.

8.10.2 Abortive Transport operation

Where a client is not available for collection on 5 consecutive occasions, the Contractor will notify the Council and act upon the written instructions received from the Council. Where the Council instructs the contractor to continue attempting collection and the client is still not available for transport for a further 5 consecutive occasions, the contractor will notify the Council again in writing. Failure to notify of such matters within the time specified is a breach of contract and the Council reserves the right to withhold payments on a pro-rata basis from the date that notification should have taken place.

8.11 Journey Times for Passengers with Special Requirements

In general, journey times for passengers are planned generally not to exceed 60 minutes. Where this journey time cannot be adhered to, such

arrangements will need to be pre-authorised and included in the particular contract agreement between the County Council and the operator. There will be a scheduled window of 7 minutes either side of the pre-arranged pick-up and drop-off times. Where this cannot be adhered to, specific reference will be included in the particular contract agreement between the County Council and the operator.

9. Vehicle

9.1 Condition of the Vehicle

The Contractor shall ensure that in the reasonable opinion of the Council, the condition of the Vehicle is appropriate having regard to the image and reputation of the Council. In particular the Contractor shall ensure that the Vehicle is kept in a clean and tidy condition, adequately heated and ventilated and sufficiently protected against all weather conditions and that it complies with all statutory requirements and relevant industry standards for the time being in force.

9.2 Council Inspection Rights

The Council reserves the right to inspect any vehicle that the Contractor proposes to use in the provision of the Services and may elect not to award a new Contract if the Vehicle does not meet the required standard.

9.3 Fire Extinguishers

The Contractor shall ensure that the every Vehicle is furnished with fire extinguishers suitable for motor vehicles meeting BS EN3 and BS7863 equipped with a pressure gauge at all times. The Contractor shall ensure that such items are labelled with expiry dates and regularly inspected to ensure that items are 'in date', contain adequate pressure and are compliant with the relevant standards.

9.4 First Aid Kits

The Contractor shall ensure that the any vehicle is furnished with a first aid kit fully maintained to meet the Council's requirements and any relevant legislation or guidance. As a minimum it shall be contained in a green container clearly labelled as 'First Aid' and associated with a guidance leaflet. The Contractor shall ensure that contents are labelled with expiry dates and regularly inspected to ensure that items are in unopened sealed packets or containers and 'in date', The minimum contents for the First Aid Kit are set out in **Appendix 6 Personnel and Vehicle Equipment**

Requirements

9.5 Good Industry Practice

The Contractor shall observe Good Industry Practice relating to the Services and shall ensure that its employees and agents are made aware of and comply with the provisions of any such Good Industry Practice. Contractors may find a non- exhaustive list of relevant Good Industry Practice in Display of Signs in **Appendix 5 Good Industry Practice**

9.6 Display of Signs

9.6.1 Statutory Requirement

This sub-clause applies to all Education Contracts and Local Bus Contracts that are dedicated to serving schools and operated by PSV vehicles.

The Contractor shall display the prescribed School Bus sign in accordance with the Road Vehicles Lighting Regulations 1989 (as amended) on the front and rear of the Vehicle at all times when it is being used in the provision of such Services.

9.6.2 Council's minimum requirements

As a minimum, the Contractor shall display the destination and service number on the front of the Vehicle for Local Bus Contracts and the Contract number for Education Contracts operated by PSV's in letters and numbers not less than 64 millimetres in height and clearly legible at a distance of 15 metres from the Vehicle at all times when it is being used in the provision of the Services, and such sign shall be illuminated during poor visibility and at night

9.6.3 Local Bus Services Displays

This clause applies to Local Bus Contracts requiring a vehicle with a capacity of 22 passengers or more and described as 'Low Floor Bus' or 'Vehicle, Low Floor, DDA Compliant'.

The vehicle should be equipped with the following displays

1. On the front of the vehicle
2. On the nearside of the vehicle close to the front entrance
3. Rear of the vehicle above the rear window -where one exists (Route Number only)

The display will show:

4. Route Number
5. Destination information relating to the direction of the journey. The display should not show both ends of the route simultaneously. You should avoid the use of generic terms like Park and Ride and brand names for the route as the main display.

You should not use Capital letters only for the service destination.

For further details please refer to Public Service Vehicle

Accessibility Regulations (PSVAR) 2000.

9.7 Restraints and Seat Belts

This sub clause applies to all Contracts where Restraints and Seat Belts are required by law or required to meet the contract specification

9.7.1 Seat Belts

The Contractor shall ensure that the Vehicle is fitted with seat belts for all passengers and that the installation of such seat belts complies with MOT standards.

1. Contractors should note that Lap belts will not be accepted by the Council as a satisfactory restraint for vehicles with 16 passenger seats or fewer. A 3 point seat belt is required for all passenger seats that will be occupied in meeting the contract specification. For vehicles with more than 16 passenger seats, Contractors should check the Contract Specification for any specific requirements relating to seatbelts.
2. The Contractor shall provide to the Authorised Officer on request evidence that the installation of all seat belts complies with MOT standards.
3. The Contractor shall also ensure that at all times the general condition of all seat belts in the Vehicle complies (as a minimum) with MOT standards.

9.7.2 Wheelchair Passengers

When conveying a passenger who is unable to transfer from their wheel chair to a conventional vehicle seat, contractor will employ a system that will secure the wheel chair while providing the occupant with a seat belt to protect not only the chair but the

passenger's body. This system is expected to be a three or four point restraint of the inertia reel type.

Under no circumstances will the passenger be permitted to travel unrestrained or restrained solely by a lap belt or restrained solely by the integral restraint that forms part of the wheel chair, even where the passenger has been issued with a Medical Exemption Certificate. When securing a wheel chair, contractor will employ a Wheelchair Tie-down Occupant Restraint System (WTORS) certified as suitable for the wheel chair and follow the manufacturer's instructions to ensure safety of the client.

Prior to the award of the contract, a full Risk Assessment will take place for the circumstances of each individual and wheelchair from which a Standard Operating Procedure (SOP) will be documented for inclusion in the contract documents. Where any change occurs such as a change in the type of wheel chair then the SOP will be reviewed and modified as appropriate.

9.7.3 Special Seats and Restraints

The Contractor shall ensure that any special seat or restraint supplied by the Council is fitted to the Vehicle and any such installations shall meet applicable legal standards and be to a standard designated and approved by the Council. The Contractor shall return any such seats or restraints to the Council on expiry or earlier termination of the Contract. Whilst on loan to the Contractor, such special equipment is the responsibility of the contractor, and the Council will seek reimbursement for loss or damage beyond reasonable wear and tear.

9.7.4 Wheelchair Tracking Security

The Contractor shall, upon request, supply confirmation that any tracking fitted to the vehicle is approved and tested for its intended purpose whether to secure seats or to secure wheelchairs.

9.7.5 Passenger Security

It shall be the responsibility of the Contractor to ensure that all passengers are properly secured using any seat belts, clamping mechanisms, special seats or restraints fitted to or provided with the Vehicle during the provision of the Services.

9.7.6 Passenger Luggage for Short Breaks

It is the Contractor's responsibility to ensure suitable luggage capacity is available in the vehicle when required. Passengers travelling to and from Short Breaks are asked to limit their luggage to be transported to a single item not exceeding 600 mm by 400 mm by 200 mm and 15 kilograms in weight. If larger or heavier items need to be transported because they are essential for the passenger's health and well-being, carers are asked to take responsibility for transporting such items to and from short break care. All luggage transported must be appropriately secured in the vehicle to ensure that, in the event of any accident or incident, it will not cause damage to contractor's personnel or passengers.

9.7.7 Seat Belt Wearing Signs

The contract will ensure that all PSV's used in providing the Services and fitted with seat belts shall be fitted with signs advising passengers to secure seat belts.

9.7.8 Unimpeded access to Exits

The Contractor will ensure that there is unimpeded access to a minimum of one exit door from all seats that may be occupied by a passenger.

9.7.9 Use of Front Seats in vehicles

It is not Council policy to permit the use of a front seat of a vehicle for the transport of vulnerable adults or clients with Special Education Needs.

9.7.10 Front Seats – Child under 12 years of age

Where use of the front seat is not excluded in the Contract Specification, the Contractor will not permit a child under 12 years of age to occupy the front seat of any vehicle used in the provision of the services in any circumstances and then the driver will be responsible to ensure that the client is restrained in accordance with the law.

9.8 Vehicle Tests and Approval

9.8.1 Vehicle Tests at Council Request

If so required by the Council, the Contractor shall submit the Vehicle for a vehicle test to be carried out by or on behalf of the

Council at such times as the Council shall specify such vehicle tests to be at the Contractor's expense. For the purposes of this sub-clause 'vehicle test' means the test as defined from time to time by the Department of Transport with additional items (if any) to meet the Council's requirements.

9.8.2 Tail Lifts and Testing

Vehicles equipped with tail lifts or other lifting equipment intended for lifting passengers are subject to LOLER regulations (The lifting operations and lifting equipment regulations 1998) covering marking and testing . The Council requires such equipment to be tested and certified prior to commencement of the services and every six months thereafter by a competent person approved by the Council. In addition to statutory marking requirements, the Council requires that the equipment either carry a marking indicating the date of expiry of current certification or a copy of the Test Certificate.

9.9 Vehicle Conversions and Adaptations

9.9.1 Statutory Vehicle Approval

Where a Vehicle has been converted or adapted to carry passengers, the contractor should present either a Voluntary or Compulsory Single Vehicle Approval (SVA) preferably classed as a Wheelchair Accessible Vehicle, a Voluntary Individual Vehicle Approval or equivalent document to ensure that the Vehicle meets the same standards as that applied to a new purpose built vehicle. Contractors should note that from 29th April 2012 DVSA will no longer accept applications for SVA. From that date the following routes for approval are available:

- EC Whole Vehicle Type Approval (ECWVTA)
- National Small Series Type Approval (NSSTA)
- Individual Vehicle Approval (IVA)

9.9.2 Vehicle Registration Document

The registration document should indicate that the Vehicle is licensed for carrying passengers and indicate the number of passengers that the Vehicle is currently approved to carry. If it

does not, the Contractor should apply to the Driver and Vehicle Licensing Agency to amend the registration document.

9.10 Advertisements

9.10.1 Inappropriate signage on vehicles

The Contractor shall not display on any Vehicle whilst providing the services, any advertisement or notice which in the reasonable opinion of the Council is inappropriate having regard to the image and reputation of the Council. Should the Council determine that an advertisement does not comply with the provisions of this Clause; the Council may request that the Contractor shall cease displaying the advertisement whilst providing the Services and the Contractor will not unreasonably refuse such a request.

9.10.2 Specialised Equipment - Bus Priority, Real Time Information & Restricted Routes

This Clause applies to Local Bus Services Only

The Tender Specification will state whether any restricted sections of route (bus lanes) are in place on the routes offered for tender and the specification of any specialised equipment required to operate along those routes, the most common being on bus transponders and automatic vehicle location systems to activate traffic signals or barriers. The contractor will be responsible for procuring, installing and maintaining such equipment.

9.10.3 Use of CCTV

CCTV systems may be installed in the Contractor's vehicles to provide a safer environment for the benefit of the contractor's personnel and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting the Council and other regulatory bodies in investigating complaints

Any CCTV system installed and operating in Contractor's vehicles must comply with the requirements of the Information Commissioner's CCTV Code of Practice which can be found at the following link:

<https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/>

10. Personnel

10.1 Personnel provision

The Contractor shall provide competent, trained and appropriately qualified Personnel meeting the requirements set out in **Appendix 7** for the provision of the Services. Such Personnel shall be careful, courteous, attentive and punctual in the performance of their duties. As and when requested by the Council, the Contractor shall provide a list of the names of all such Personnel, evidence of eligibility to provide the Services and such other details as may be required from time to time.

10.2 Verbal and Physical demands of Personnel

All Personnel must have an understanding of the English language, to a standard sufficient in both verbal and written capacities, to permit the safe and effective delivery of the Services. This would include ability to converse fluently with schools, parents, guardians and passengers to meet the Council's safeguarding requirements. The ability to record in written form all incidents relating to the service to provide a log which may be required as evidence during an investigation or risk assessment. All Personnel must be physically capable of transferring passengers to the vehicle by either ramp and tail lift and closing of all vehicle exits without any assistance.

10.3 Personnel References

The Contractor is expected to seek a minimum of 2 references for any staff they intend to use on Council contracts. One should be obtained from the current or most recent employer.

10.4 Personnel previously removed from Council contracts

The Contractor shall not make use of the services of any Personnel in the provision of the Services who has previously been removed by the Council from any other Council contract without first obtaining approval in writing from the Authorised Officer.

10.5 Hi-Visibility Clothing

The Contractor shall ensure that all Personnel engaged in the provision of the Services wear suitable PPE including high visibility clothing. Passenger Assistants to wear Hi-Visibility clothing at all times and Drivers to wear such items outside the vehicle.

10.6 Appropriate Clothing and Footwear

Drivers should wear safety boots when operating a tail lift or ramp as well as

high viz vests. Passenger Assistants should wear suitable closed footwear and not open toed sandals, flip flops or high heels for safety reasons. All staff should wear appropriate clothing while working on the service. Passenger Assistants should not wear miniskirts or mini dresses or trousers/jeans that fall well past their footwear line. i.e. could be a trip hazard.

10.7 Photographic Identification

The Contractor shall ensure that all Personnel engaged in the provision of the Services carry identification (including photographic identification) as specified by the Council at all times.

10.8 Contracts requiring a DBS Check and Council ID Badge

For contracts that are Regulated Activities requiring Disclosure and Barring Services checks such identification will be issued by the Council and will signify that the holder complies with the Council's requirements in respect of DBS checks **Clause 11.1** and Qualifications **Clause 10.1**. Examples of approved identification are shown in **Appendix 9**. Details of the badge application process can be found on the Council's website by entering in the search box Passenger Transport ID Badges or using this link.

http://www.worcestershire.gov.uk/info/20007/travel_and_roads/1010/passenger_transport_id_badges .

10.9 Replacement or Temporary Badges

The cost of a WCC ID Badge is currently £10 plus VAT but this may rise in the future and covers administration costs only. Replacement badges are charged at £20 plus VAT. Temporary Badges are charged at £10 plus VAT.

10.10 Contractor's Own Photo ID

By exception the Council may approve Contractor's own photographic identification for personnel delivering non Regulated services not requiring DBS Checks. Where approval is given, the contractor will supply the Council with electronic copies of such identification for all personnel employed on the relevant services. The Driver Qualification Card issued by DVLA constitutes approved Photographic ID for the purposes of this clause.

10.11 Personnel Cessation of Employment on WCC Contracts

The Contractor must return all WCC ID Badges to the Council on the cessation of employment for any Personnel, including Owner Drivers, working on Council Contracts to enable the updating of the Contractor's records to show withdrawal of such badges. Non-return of badges may incur

default points for the Contractor.

10.12 Assistance to Service Users

10.12.1 Securing of vehicle doors

The Contractor shall ensure that Personnel open and closes the door of the Vehicle if the Vehicle does not have power-assisted doors.

10.12.2 Deployment of tail lifts, ramps or power assisted steps.

It is the responsibility of Personnel to deploy any aids to access the vehicle. This includes manual and power assisted steps, ramps and tail-lifts. Contractor will ensure that Personnel have been trained in the use of the equipment in line with manufacturer's recommendations.

10.13 The Contractor shall ensure that:

- a Personnel properly monitor all service users during the course of the journey and properly supervise all service users when boarding and alighting from the Vehicle;
- b The passengers must be supervised whilst on the vehicle and at no time must the vehicle be left unattended whilst passengers remain on board.
- c Personnel check the travel pass of each pupil/student for every journey, where applicable.
- d Passenger Assistants (also known as Escorts, Guides or Transport Assistants) have access to equipment specified in Appendix 6 at all times
- e Passenger Assistants maintain an activity log giving details of contract number, number of passengers transported together with information relating to late pick- ups or issues with passenger behaviour etc.

10.14 Personnel Conduct

If the Council has reasonable grounds to suspect the conduct of any Personnel including failure to carry identification specified by the Council, it shall be entitled to require the Contractor, by notice in writing immediately to remove from the provision of the Services such Personnel specified in such a notice and recover any identification issued by the Council. The Contractor shall forthwith remove such Personnel from the provision of the Services

and shall immediately provide a replacement.

10.14.1 Removed Personnel

The Contractor will be in breach of the Contract if such Personnel specified in such a notice, continues to be engaged in the provision of the Services and such breach will permit the Council to terminate the Contract forthwith. The Contractor shall bear the cost of any notice, instruction or decision of the Council under this clause.

10.14.2 Personnel Sub-contracted Out

Default points awarded to personnel undertaking operation of a service under the umbrella of a sub-contractor will be given to both the Main Contractor and Sub-Contractor. The responsibility for compliance lies with the Main Contractor but the Sub-Contractor must take responsibility for their staff's actions.

10.15 Use of Mobile Communication Devices

10.15.1 Hands free clarification

While performing the services, Contractor's personnel (Drivers and Passenger Assistants) will refrain from using mobile communication devices including Mobile Phones, (this includes the use of hands free equipment) PDA's and portable computers whether for voice calls, 'texting' or sending emails except in relation to the proper operation of the service as specified in **Clause 7.5**.

10.15.2 Permitted Use

If Contractors personnel do need to use such a device, the vehicle must be parked in a safe location with regard to other road users with the engine switched off. The Council will not accept use of hands free, Bluetooth or similar devices whilst the vehicle is in motion under any circumstances. Contractor's personnel should switch off such devices while delivering the service and make use of Call Divert and Voice Mail facilities to avoid being distracted by incoming calls.

10.15.3 Client Residences

The Council advises that Contractors staff should not cross thresholds and enter client properties.

10.16 Route Familiarity:

The Contractor will ensure that all personnel employed in providing the services are familiar with the route, ensuring that drivers, including relief drivers are 'route trained' and provided with navigation aids including maps and route descriptions as appropriate. Such navigation aids will include route variations during the day, details of agreed flood diversions and where appropriate alternative routes suitable for larger vehicles.

10.17 Deviations to Designated Route

Drivers are to be instructed to contact the depot for advice should an unexpected road closure occurs which requires the driver to deviate off the designated route. Such deviation should be notified to the Council so that details can be stored against future claims for non-operation.

10.18 Employment of Relatives and Individuals who have a close personal relationship:

Contractors should use their best efforts to ensure that staff who work in close proximity with service users or other employees to whom they are related or have a close personal connection, maintain a strictly professional relationship at work. If any relationship leads to disruption in the workplace, unacceptable conduct or performance or situations involving undue favouritism or detriment, action may be taken under **Clause 10.14** of these Terms and Conditions to remove staff from the contract.

10.19 Transfer of Staff (TUPE)

10.19.1 Contractor Compliance

Further to **Clause 8.7** where the tender specification indicates that the contract is subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006, commonly known as TUPE, the contractor is responsible for compliance with the regulations in relation to any eligible personnel who may transfer. The Contractor will request detailed information relating to staff eligible to transfer prior to submitting a tender and will use its best efforts to obtain specialist advice to ensure that compliance is achieved.

10.19.2 Outgoing Contractor Potential TUPE for staff on termination of contract

It is the responsibility of the existing Contractor to notify the Council at least 6 (six) months prior to the contract ceasing, or within 7

(seven) days of termination being notified to the contractor in the case of a contract ceasing prior to the current end date, whether TUPE applies to this contract.

10.19.3 Tender specification – WCC Staff

Where the tender specification indicates that the contract is subject to TUPE for WCC staff, the contractor will request detailed information relating to the staff eligible to transfer prior to submitting a tender to ensure that all foreseen costs relating to TUPE are taken into account.

10.19.4 Tender Specification – Outgoing Contractor Staff

It is the potential Incoming contractor's responsibility to make their own enquiries directly with the Outgoing contractor or provider of services to obtain such TUPE and related information as may be required in order to include the full costs to the Incoming Contractor of TUPE compliance in their bid.

10.19.5 Staff Pension Arrangements

For any member of staff who does transfer, the contractor will be responsible to provide comparable pension arrangements to those provided for the staff affected by the transferring employer. Failure to comply with this condition will result in immediate termination of contract and associated DPS penalties and may lead to claims for damages by Worcestershire County Council and /or any employee affected by the omission. Further information on the pensions implications of a TUPE transfer may be found in **Appendix 11**, this information is provided without prejudice and does not in any way affect the contractor's obligations as set out elsewhere in this **Clause 10.19** and in **Clause 8.7**.

10.19.6 Tendered prices to include TUPE costs

The contractor is responsible to ensure that the tendered price includes any costs associated with TUPE and the provision of comparable pension arrangements for any personnel who transfer.

11. Disclosure and Barring Service (formerly Criminal Records Bureau)

11.1 Staff Details prior to commencement of contract

The Contractor shall provide to the Council the names of all potential Personnel and any other relevant personal information required, before any

person begins to perform any of the Services.

11.1.1 Production of DBS Disclosure

Where the applicant for a WCC ID badge is not in possession of a Disclosure issued by WCC or Worcestershire Regulatory Services in the last 3 months and has not subscribed to the DBS Update Service, WCC propose two options for obtaining DBS clearance in order to obtain the badge

- a A new DBS check via WCC or Worcestershire Regulatory Services
- b A new DBS check undertaken by an external Registered Person/Body in addition to the applicant subscribing to the DBS Update Service.

11.1.2 DBS Update Service

Worcestershire County Council recommends that all contractor personnel eligible for Enhanced DBS checks subscribe to the Update Service

11.1.3 Missing or Lost DBS

For all personnel delivering services that fall within the definition of a Regulated Activity, where a person is unable to provide an original copy of an enhanced DBS disclosure with relevant Barred Lists checked issued within the previous 3 months or the equivalent information through the DBS Update Service, the Council shall conduct on the Contractor's behalf and at the Contractor's cost a check of the most extensive available kind made with the Disclosure and Barring Service in accordance with Part V of the Police Act 1997 in respect of each person.

11.1.4 Council refusal for use of individuals

The Council shall be entitled to require the Contractor not to use any person in the provision of the Services following the results of a check.

11.2 Notification of changes in any Personnel status

The Contractor shall ensure that the Council is notified of any Personnel who, subsequent to his/her commencement of performing the Services with the Contractor, is arrested or receives a warning, caution or conviction or whose previous convictions become known to the Contractor. Any such

person shall not continue to be employed or engaged by the Contractor or on the Contractor's behalf to provide the Services without the Council's prior written consent (such consent not to be unreasonably withheld or delayed)

11.3 Allegations against Personnel

Where an allegation is made against Personnel, the Council will require a precautionary suspension from providing the Services to allow an investigation to take place. In this case, the Council, dependent on the details of the allegation, reserves the right to withhold such details from the Contractor in order to maintain the integrity of the investigation.

12. Local Bus Contract Fares

12.1 Subsidy contract fares

The Contractor shall ensure that the fare for any journey, on a subsidy based contract, shall not exceed that in force for the same journey twelve months previously by more than fifteen per cent.

12.2 Notification by contractor of revision to fares

Subject to **Sub-clause 12.1** the Contractor shall be free to revise the fares on subsidy-based contracts provided that full details of the changes are notified to the Authorised Officer in writing not less than one calendar month prior to the revision.

12.3 Council revision of fares

The Council may vary the fares on a cost based contract by giving not less than one month's notice in writing.

12.4 Sufficient Cash float

Unless otherwise agreed by the Council, the Contractor will ensure that Personnel responsible for the collection of fares carry sufficient change to enable such change to normally be available to passengers in respect of fares paid.

12.5 Electronic Ticketing Machine

Unless otherwise agreed by the Council, the Contractor will ensure that the bus is equipped with an Electronic Ticketing Machine capable of saving records of passengers boarding, tickets issued and fares collected by Fare Stage. Such data will be stored electronically and made available upon request by the Authorised Officer for a period of one year after termination of the Contract.

Part 3 – Price and Payment

13. Price

In consideration of the performance of the Contractor's obligations under the Contract by the Contractor, the Council shall pay the Price in accordance with **Clause 13** and **Appendix 1**.

14. Payment

14.1 Invoice information

As set out in **Appendix 1** -, the Council shall pay the undisputed sums due to the Contractor in cleared funds within 30 days of either the receipt of Contractors invoice submitted monthly, in arrears or where an invoice is not required, within 30 days of the end of the month in which the Services were provided, for provision of the Services to the reasonable satisfaction of the Council. .

14.2 Invoice Tax

Tax, where applicable, shall be shown separately on valid tax invoices as a strictly net extra charge

14.3 Reduction in payment

The Council may, in accordance with **Clause 28.2b**, reduce payment in respect of any Services which the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Council.

14.4 Service variation

Where the Contractor desires to vary the Service e.g. substitution of a vehicle which does not meet the contract specification, the Contractor will notify the Council in accordance with **Clause 7.5**. The Council will consider all such requests sympathetically against the Service requirement and apply the terms of **Clause 28.2b** if applicable. Failure to notify of such variations within the time specified is a breach of contract.

14.5 Provisions for Closures of Establishments and Emergencies

14.5.1 Contractor responsibility

For the avoidance of doubt the Contractor is responsible for obtaining the dates of all planned closures of establishments covered by the Services. This shall include teacher education days (T.E.D), main and half term school and college holidays and

will receive no payment for these days.

14.5.2 No Payment for 7 days period of notice

There will be no payment where the Council gives the Contractor not less than 7 days written notice of occasional closures and other days when transport of the pupils is not required..

14.6 Closure reduced or no notice period payment

If any school, college or establishment covered by the Contract is closed and notice is not given in accordance with **Clause 14.5**, the Council shall pay fifty percent (50%) of that proportion of the Price which is attributable to the transport of pupils/clients to that school, college or establishment for the first 7 days of such closure and thereafter the Contractor shall not be entitled to any payment until the said school, college or establishment is re-opened.

14.7 Adverse Weather

Where provision of the service is substantially disrupted due to adverse weather or other unforeseen events and emergencies:

14.7.1 Full Payment

There will be full payment where the Contractor has, in the opinion of the Council, used his best efforts to provide the Services.

14.7.2 50% Payment

The Council shall pay fifty percent (50%) of the daily rate, or the equivalent pro-rata rate for Subsidy based contracts, for days when where the Contractor has been unable to provide the Services

14.7.3 Additional Costs incurred

The Council will consider any evidenced claim for net additional costs incurred as a result of the disruption

15. Recovery of Sums Due

15.1 Council Deductions

Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Council in respect of any breach of the Contract), the Council may unilaterally deduct that sum from any sum then due or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Council.

15.2 Overpayments

Any overpayment by either party shall be a sum of money recoverable by

the party who made the overpayment from the party in receipt of the overpayment.

15.3 Contractor deductions

The Contractor shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Contractor.

15.4 DBS and WCC ID Badge invoices

The costs for a DBS check and production of WCC identity Badge to be paid on receipt of invoice or no more than 30 days after receipt of such invoice. Late payments may incur an interest charge if paid more than 30 days after invoice date.

16. Revision of Price

16.1 Efficiency Savings

Any revision of the Price shall be at the sole discretion of the Council and shall have regard to efficiency savings.

16.2 Operational changes

Such revision of the Price may take into account any operational changes since the last such revision.

16.3 Consumer Price Index (CPI)

Elements of CPI relevant to passenger transport to be used if such Price revision is authorised.

Part 4 – Statutory Obligations and Regulations

17. Operators Licences

17.1 Public Service Vehicles Operators

The Contractor shall ensure that it holds all licences required to operate the Vehicle and that all drivers of the Vehicle are appropriately licensed by the relevant licensing authority. For the avoidance of doubt, the Council will not accept any Vehicle with fewer than nine passenger seats and the driver thereof to be operated under a Public Service Vehicle (PSV) Operators Licence.

17.2 Private Hires

Notwithstanding any exemption under Section 75(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976, any Vehicle with fewer than nine passenger seats and the driver thereof shall be licensed with the appropriate local authority as a Hackney Carriage or Private Hire Vehicle. All Contractors who operate a fleet of Private Hire vehicles must obtain a Private Hire s Licence from the appropriate local authority.

18. Health and Safety and Safeguarding

18.1 Statutory Requirements

The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Acts, Regulations, Orders and Codes of Practice relating to health and safety.

18.2 Smoking Legislation

Contractors are reminded that the vehicle is a place of work and as such comes under the regulations banning smoking in the work place and from October 2015 banning all smoking in vehicles containing children. Failure to observe these regulations shall be treated as a breach of contract.

Smoking as defined in **Clause 1**.

18.3 Vehicle Supervision

Personnel must not leave the vehicle unattended during the provision of the Service including but not limited to whilst parked on establishment grounds.

18.4 Health & Safety Statement

The Contractor shall provide its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) to the Council.

Contractors not covered by the Act will provide a brief statement of health

and safety procedures.

18.5 Incidents during operation of Service

The Contractor shall report any incident involving the Vehicle, Personnel or any passenger to the Authorised Officer in accordance with **Clause 7.5** and shall confirm any verbal notification in writing within forty eight hours of the occurrence of the incident, including any statements by Personnel requested by the Authorised Officer.

18.6 Safeguarding for Children

To ensure the safeguarding of children, it is a mandatory requirement that Contractors will follow the principles set out in the following guidance accessed at <https://www.gov.uk/government/publications/safeguarding-children-and-young-people/safeguarding-children-and-young-people#guidance-and-legislation> Brief guidelines are set out in **Appendix 10**.

18.7 Safeguarding for Vulnerable Adults

Worcestershire County Council is part of the West Midlands Adult Safeguarding Group and the detailed Policy & Procedures is accessed at http://www.worcestershire.gov.uk/downloads/file/5646/west_midlands_adult_safeguarding_policy_and_procedures Brief guidelines are set out in **Appendix 10**.

18.8 Statutory Requirements

The Contractor shall comply with all statutory enactments and regulations relating to the provision of the Services.

19. Environmental Requirements

The Contractor shall take all reasonable steps to minimise any adverse impact of its activities on the environment including but not restricted to:

19.1 Reduction in Fuel Usage and Emissions

Measures should be taken to reduce fuel usage and the resulting emissions due to inefficient driving practices. Such measure may include accredited training ('Eco-driving') and use of In Cab technology.

19.2 Emissions from Service Provision

The Contractor will comply with any reasonable request by the Authorised Officer for information relating to calculation of atmospheric emissions resulting from provision of the Services including but not restricted to Carbon Footprint.

20. Equal Opportunities

The Contractor, in recruiting Personnel and in providing the Services, shall be committed to anti-discriminatory and anti-oppressive practices and policies and shall not discriminate on the grounds of age, race, gender, marital status, religion, sexual orientation or disability.

21. Prevention of Corruption

21.1 Inducements

The Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Council, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract. The attention of the Contractor is drawn to the criminal offences under the Bribery Act 2010.

21.2 Commission

The Contractor warrants that it has not paid commission or has agreed to pay any commission to any employee or representative of the Council by the Contractor or on the Contractor's behalf.

21.3 Prohibited Conduct

Where the Contractor or Contractor's employees, servants, sub-contractors, suppliers or agents or anyone acting on the Contractor's behalf, engages in conduct prohibited by **Clauses 22.1** or **22.2** in relation to this or any other contract with the Council, the Council has the right to;

- a terminate the Contract and recover from the Contractor the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the provision of the Services and any additional expenditure incurred by the Council throughout the remainder of the Term; or
- b (recover in full from the Contractor any other loss sustained by the Council in consequence of any breach of this clause, whether or not the Contract has been terminated.

22. Prevention of Fraud

22.1 Receipt of Monies

The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by its employees and agents and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Council or members of the public.

22.2 Suspicion of Fraud

The Contractor shall notify the Council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

22.3 Council's action for confirmed fraud

If the Contractor or its employees or agents commits fraud in relation to this or any other contract with the Council the Council may terminate the Contract and recover from the Contractor the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period; and recover in full from the Contractor any other loss sustained by the Council in consequence of any breach of this clause.

Part 5 – Control of the Contract

23. Monitoring of Performance

23.1 Monitoring Officers Travel

The Contractor shall allow any officer of the Council to travel without charge and without notice on the Vehicle for the purpose of conducting surveys and inspecting tickets, passes, permits and other records provided that such officer produces to the driver of the Vehicle an appropriate pass issued by the Council. For the purpose of Sections 24 and 25 of the Public Passenger Vehicles Act 1981 insofar as they are applicable, the Contractor authorises any such officer to act as an inspector on the Service.

23.2 Council Access

The Contractor shall at all reasonable times during the period of the Contract allow officers authorised by the Council access to:-

- a any of its premises for the purpose of inspecting the Vehicle;
- b any of its premises for the purpose of inspecting records and documents in the possession of the Contractor in connection with the provision of the Services;
- c any employee or agent of the Contractor for the purpose of interviewing him/her in connection with the carrying out of all or any part of the Services.

23.3 Information Requests

The Contractor shall at its own expense supply all information requested by the Council to enable the Council to monitor the provision of the Services by the Contractor and to investigate any complaints arising out of the Contract. Such request for information shall include but not be restricted to:

- a Monthly passenger loadings for any Local Bus contracts within 10 working days of the end of the month referred to
- b Trip loadings upon the request of the Authorised Officer
- c Copies of vehicle and driver licences, insurance documents, training certificates or any other documents relating to their continued membership of the Dynamic Purchasing System.

24. Quality Assurance

The Contractor shall demonstrate and maintain its commitment to quality by having and operating at all times a quality assurance system.

25. Complaints Policy

The Contractor shall have a written complaints policy and shall produce it to the Council on request. The Contractor shall endeavour to promptly deal with all complaints received about the Services in accordance with its complaints policy and the provisions of the contract. The Contractor shall immediately notify the Council of any complaint received about the Services and shall keep a written record of all complaints, which shall be made available to the Council on request.

Notwithstanding its' Complaints policy as a minimum standard the Contractor shall provide a written response within 7 days of receipt of such complaint about the Services.

26. Customer Satisfaction Survey

26.1 Surveys

If required by the Council the Contractor shall, on each Customer Satisfaction Survey Date, undertake (or procure the undertaking of) a Customer Satisfaction Survey, the purpose of which shall include:

- a assessing the level of satisfaction among users of Services (including the way in which the Services are provided, performed and delivered) and, in particular, with the quality, efficiency and effectiveness of the Services;
- b assisting in the preparation of the Contractor's Annual Service Report.

26.2 Questionnaire

The Customer Satisfaction Survey shall be undertaken by means of distributing to users of the Services within 10 Working Days of each Customer Satisfaction Survey Date a questionnaire or other survey method as agreed between the parties in a form to be agreed with the Council.

26.3 Legal Compliance

The content of the questionnaire or other material to be used for any other survey method referred to in **Clause 26** and the method of undertaking the Customer Satisfaction Survey shall comply with all laws.

26.4 Council Assistance

The Council shall provide reasonable assistance and information to the Contractor to enable the Contractor to undertake the Customer Satisfaction Survey.

26.5 Survey Results

Within one month of each Customer Satisfaction Survey Date, the Contractor shall prepare a summary of the results of the Customer Satisfaction Survey in such form as the Council shall reasonably require and promptly upon a written request from the Council provide such further details (including copies of all returned questionnaires and/or any other survey material used by the Contractor) as the Council shall reasonably require.

27. Annual Service Report

27.1 Provision of Written Report

If required by the Council the Contractor shall at its own cost provide to the Council a written report (Annual Service Report) to the reasonable satisfaction of the Council.

27.2 Verification of Report results

The Contractor shall upon a written request from the Council promptly provide such written evidence or other supporting information as the Council may reasonably require verifying and auditing the information and other material contained in the Annual Service Report.

28. Remedies in the event of inadequate performance

28.1 Complaints or Other Service issues

Where a complaint is received or a problem indicated in any Customer Satisfaction Survey about the standard of the Services, then the Authorised Officer shall take all reasonable steps to ascertain whether the complaint is valid. If the Authorised Officer so decides, he may take further action in accordance with these Terms and Conditions.

28.2 Breach of Contract

In the event that the Council is of the reasonable opinion that there has been a breach of the Contract by the Contractor, or the Contractor's performance of its obligations under the Contract has failed to meet the requirements of the Contract, then the Council may, without prejudice to its rights under **Clause 37** of these Terms and Conditions, do any one or more of the

following:

- a award Default Points against the Contractor in accordance with the Default Points Schedule as detailed in **Appendix 2**;
- b make such deduction from the Price to be paid to the Contractor as the Council shall reasonably determine (having regard to industry standards) to reflect sums paid or sums which would otherwise be payable in respect of such of the Services as the Contractor shall have failed to provide or performed inadequately;
- c without terminating the Contract itself, provide or procure the provision of part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Council that the Contractor will be able to perform such part of the Services in accordance with the Contract;
- d without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself provide or procure a third party to provide such part of the relevant Services;
and/or
- e terminate the whole of the Contract, in accordance with **Clause 37**;
- f Suspend the Contractor from the DPS for such period as may be deemed appropriate for the severity of the breach of contract. During the suspension, the Contractor would not be able to tender for any additional Services;

28.3 Recovery of additional Costs

The Council may charge to the Contractor any cost reasonably incurred by the Council and any reasonable administration costs in respect of the provision of such part of the relevant Services by the Council or by a third party to the extent that such costs exceed the Price which would otherwise have been payable to the Contractor for such part of the relevant Services and provided that the Council uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

29. Waiver

29.1 Contract Obligations

The failure of either party to insist upon strict performance of any provision of the Contract or the failure of either party to exercise any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract

29.2 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing in accordance with the provisions of Clause 7.

29.3 Waiver rights

A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

30. Assignment and Sub-Letting

The Contractor shall not assign the Contract or sub-contract the provision of the Services or any part thereof without the prior written consent of the Council which consent shall be in the absolute discretion of the Council provided that in the event of any emergency the Contractor may sub-contract the provision of the Services, for a period not exceeding 48 hours, to a contractor on the County Councils list of approved Contractors , the DPS, (subject to the Council's right to prohibit the use of any specified person for this purpose) and shall notify the Authorised Officer of such sub-contracting as soon as possible by telephone, email

31. Variation of the Services

31.1 Council's Rights

The Council reserves the right on giving reasonable written notice from time to time to require changes to the Services (whether by way of the removal of Services, the addition of new Services, or increasing or decreasing the Services or specifying the order in which the Services are to be performed or the locations where the Services are to be provided) for any reasons whatsoever provided that such addition, omission or variation does not amount to a material change to the specification in the Invitation to Tender. Such a change is hereinafter called "a Variation".

31.2 Variation Request by Council

The Council may request a Variation by notifying the Contractor in writing of

the Variation and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement the Variation. The Council shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limit shall be reasonable having regard to the nature of the Variation. If the Contractor accepts the Variation it shall confirm the same in writing.

31.3 Non-Acceptance of variation by Contractor

In the event that the Contractor is unable to accept the Variation to the specification or where the parties are unable to agree a change to the Price, the Council may:

- a Allow the Contractor to fulfil its obligations under the Contract without the Variation to the specification; or
- OR**
- b Terminate the Contract with immediate effect.

Part 6 – Protection of Information

32. Confidentiality, Freedom of Information and Data Protection

32.1 Each Party:-

32.1.1 Safeguarding Confidentiality

Each Party shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly;

AND

32.1.2 Disclosure of confidential information

Each Party shall not disclose any Confidential Information belonging to the other party to any other person without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of this Contract.

32.2 Precautions

The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from the Client under or in connection with the Contract:-

32.2.1 Distribution of Data

is given only to such of the staff and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;

32.2.2 Non-Disclosure

Is treated as confidential and not disclosed (without prior approval) or used by any staff or such professional advisors or consultants otherwise than for the purposes of the Contract.

32.3 Professional Advisers Undertaking

Where it is considered necessary in the opinion of the Council, the Contractor shall ensure that Staff or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with the Contract.

32.4 Use of Confidential information

The Contractor shall not use any Confidential Information received

otherwise than for the purposes of the Contract.

32.5 Exclusion

The provisions of **Clauses 32.2 to 32.4** shall not apply to any Confidential Information received by one Party from the other:-

- 32.5.1 Which is or becomes public knowledge (otherwise than by breach of this Clause);
- 32.5.2 Which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;
- 32.5.3 Which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- 32.5.4 Is independently developed without access to the Confidential Information; or
- 32.5.5 Which must be disclosed pursuant to a statutory, legal or Parliamentary obligation placed upon the Party making the disclosure, including but not limited to any requirements for disclosure under the FOIA or the Environmental Information Regulations or the Code of Practice on Access to Government Information issued under Section 45 of the FOIA?

32.6 Council's rights

Nothing in this Condition shall prevent the Council:-

32.6.1 Disclosing any Confidential Information for the purpose of:-

1. The examination and certification of the Council's accounts;
Or
2. Any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness of which the Council has used its resources;
Or

32.6.2 Disclosing any Confidential Information obtained from the Contractor:-

1. To any other Public Authority; or
2. To any person engaged in providing any services to the Council for any purpose relating to or ancillary to the Contract

32.7 Use of Information

Nothing in this Clause shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

32.8 Contract Termination

In the event that the Contractor fails to comply with this **Clause 37** the Council reserves the right to terminate the Contract by notice in writing with immediate effect.

32.9 Official Secrets Act 1911

Provisions under this Clause 31 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.

33. Freedom of Information

33.1 Statutory obligations

The Contractor acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and the Code of Practice on Access to Government Information issued under Section 45 of the FOIA and shall assist and co-operate with the Council (at the Contractor's expense) to enable the Council to comply with these information disclosure requirements.

33.2 Obligations on Sub-Contractor

The Contractor shall and shall ensure that any of its Sub-Contractors shall:-

- a Transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two working days of receiving a Request for Information;
- b Provide the Council with a copy of all information in its possession or power in the form that the Council requires within five working days (or such other period as the Council may specify) of the

- Client requesting that information; and
- c Provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA.

33.3 FOI Decisions

The Council shall be responsible for determining at its absolute discretion whether:-

- a The information is exempt from disclosure under the FOIA or the Environmental Information Regulations or under the Code of Practice on Access to Government Information issued under Section 45 of the FOIA;
 - b The information is to be disclosed in response to a Request for Information; **and**
 - c Contractors obligations
- In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Client.

33.4 Disclosure of Information

The Contractor acknowledges that the Council may, acting in accordance with the FOIA or the Environmental Information Regulations or the Code of Practice issued under Section 45 of the FOIA, be obliged to disclose information:-

- a Without consulting with the Contractor;
- Or**
- b Following consultation with the Contractor and having taken its views into account.

33.5 Retention of Information

The Contractor shall ensure that information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

33.6 Information provision by Contractor

The Contractor acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with **Clause 33.4**.

34. Data Protection

34.1 Processing of Personal Data

The Contractor acknowledges that in the course of providing the services it may be required to process Personal Data on behalf of the Council. In such cases, the Contractor is acting as a Data Processor on behalf of the Council and the Council is acting as the Data Controller. The Contractor shall only process Personal Data in accordance with the provisions of this Contract.

34.2 Data Processing Control

The Contractor shall process the Personal Data only in accordance with instructions from the Data Controller.

34.3 Contractor Data Processes

The Contractor shall process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or is required by law.

34.4 Personal Data Protection

The Contractor shall take appropriate technical and organisational measures to protect the Personal Data from unauthorised or unlawful processing and accidental loss, destruction, damage or disclosure. Such measures shall ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction, damage, alteration or disclosure to the Personal Data and having regard to the nature of the Personal Data which is to be protected.

34.5 Contractor Data Protection measures

The Contractor shall furnish the Council at any time and from time to time upon seven clear days written notice with details of the measures it has taken in order to comply with the Data Protection Act and **Clause 34.4**, and will, at its own cost, implement any further steps that are necessary for compliance with the same.

34.6 Council Access to Contractor Data

The Contractor shall permit the Council at any time and from time to time upon seven days written notice to have escorted access to that part of the Contractor's premises, systems, equipment, materials and facilities to enable the Data Controller to inspect the same for the purposes of ensuring compliance with the Data Protection Act and **Clause 34.4**. Such inspection shall not relieve the Contractor of any of its obligations under this Contract.

34.7 Data Subject

Where a Data Subject exercises his or her rights under the Data Protection Act in respect of Personal Data processed on behalf of the Council by the Contractor or where the Council is required to deal with or comply with an assessment, enquiry, legal notice or investigation by the Office of the Information Commissioner, the Contractor will cooperate as requested by the Council to enable the Council to comply with all obligations arising as a result of the exercise of such rights or as a result of such assessment, enquiry, legal notice or investigation.

34.8 Contractor receipt of rights under legislation

Where the Contractor receives a notice of the exercise of any legal rights under the Data Protection Act or a complaint relating to the exercise of any of the Council's obligations under the Data Protection Act, the Contractor will notify the Council of that fact and provide all relevant details to the Council as soon as is practicable and in any event within 5 working days.

34.9 Council prior consent

The Contractor shall not process Personal Data outside the European Economic Area without the prior written consent of the Council and without first satisfying the Contractor that such processing would not breach the Data Protection Act.

34.10 Performance of Contractor

The Contractor shall not perform its obligations under the Contract in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Act or any related legislation.

34.11 Sub-contracting of obligations

The Contractor shall not sub-contract to any third party any of its obligations to process Personal Data on behalf of the Council unless all of the following provisions of this clause have first been complied with:

- a the Contractor has supplied to the Council such information as the Client may require to ascertain that such sub-contractor has the ability to comply with the provisions of the seventh principle and **Clause 34.4** of the Contract; **and**
- b The Contractor has obtained the prior written consent of the Council;

And

- c The proposed sub-contractor has entered into a contract with the Data Controller substantially upon the terms of **Clause 34** of this Contract.

34.12 Contract Termination obligations

Upon termination of the Contract the Contractor shall:

- a Cease processing personal Data on behalf of the Council; and
- b At the Council's option, either forthwith return to the Data Controller all copies of the Personal Data which it is processing or has processed upon behalf of the Data Controller, or destroy the same within 14 days of being requested to do so by the Council.

Part 7 - Indemnity and Insurance

35. Indemnity and Insurance

35.1 Insurance requirements

The Contractor shall effect and maintain with a reputable insurance company the following insurances throughout the Contract Period:

- a Insurance in respect of each Vehicle that complies with the requirements of the Road Traffic Acts 1972 and 1988;
- b Public liability insurance for the minimum sum of two and a half million pounds (£2,500,000) or any other amount notified by the Council in respect of any one event or series of connected events;
- c Employers liability insurance for the minimum sum of five million pounds (£5,000,000).

35.2 Production of Evidence of compliance

The Contractor shall provide evidence of such insurances to the Council on request in the form required by the Council.

35.3 Contractor Indemnity

The Contractor shall indemnify and keep indemnified the Council against all costs, claims, demands, proceedings, damages and expenses whatsoever in respect of, or in any way arising out of the provision of, the Services except and to the extent caused by the negligence of the Council, its employees or agents.

Part 8 – Termination

36. Termination on Change of Control or Status and Insolvency

36.1 Contract Termination

The Council may terminate the Contract and any other Contract between the Council and the Contractor by notice in writing with immediate effect where:

- a the Contractor undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract; or
- b the Contractor is an individual or a firm and a petition is presented for the Contractor's bankruptcy, or a criminal bankruptcy order is made against the Contractor or any partner in the firm, or the Contractor or any partner in the firm makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors or if an administrator is appointed to manage the Contractor's or firm's affairs; or
- c the Contractor is a company, if the company passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for, an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or
- d Where the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
- e Where the Contractor ceases to be a member of the DPS for

whatever reason.

36.2 Change of Control

The Contractor shall notify the Council immediately when any change of control occurs. The Council may only exercise its right under **Clause 36.1a** within 6 months of:

- a Being notified that a change of control has occurred; or
- b Where no notification has been made, the date that the Council becomes aware of the change of control;
- c But shall not be permitted to do so where written approval was given prior to the change of control of the Contractor.

36.3 Incapacity of Contractor

If the Contractor, being an individual, shall die or be adjudged incapable of managing his or her affairs within the meaning of Part VII of the Mental Health Act 1983, The Council shall be entitled to terminate the Agreement by notice to the Contractor or the Contractor's representative with immediate effect.

37. Termination

37.1 Termination notice period

The Council may terminate the Contract prior to the end of the period referred to in **Clause 3** by giving to the Contractor not less than 2 calendar months' notice in writing provided that in the case of Education contracts such notice shall expire on the last day of any School term unless otherwise stated

37.2 Cessation of passenger transport services

In the event that school transport services or social services transport services are no longer required by the Council in respect of significant changes to the requirements of the clients assigned to the contract, the Council may terminate the Contract by giving the Contractor not less than 5 working days' notice by telephone or email provided that in the case of notice by telephone such notice is confirmed by the Council by email as soon as reasonably possible.

37.3 Contract Extension

If the Invitation to Tender allows the Council to extend the period of the Contract, the Council may invoke such extension to the Contract by giving the Contractor not less than three months' notice in writing.

37.4 Contractor's request for termination

Exceptionally, the Contractor may apply to the Council to terminate the Contract before the end date by giving not less than 2 months' notice in writing stating the reason for such termination. The Council will consider such application to terminate based on the circumstances outlined therein.

37.5 Termination with Immediate Effect

The Council may terminate the Contract, or terminate the provision of any part of the Contract by written notice to the Contractor with immediate effect if the Contractor commits a Default and if:

- a The Contractor is classified at "red" in accordance with the Default Points Schedule; or
- b the Contractor has not remedied the Default to the satisfaction of the Council within 20 Working Days, or such other period as may be specified by the Council, after issue of a written notice specifying the Default and requesting it to be remedied; or
- c The Default is not, in the opinion of the Council capable of remedy; or
- d The Default is a material breach of the Contract.

37.6 Reconstitution of Lost or unusable Data

In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall provide a full credit in respect of any charge levied for its transmission and shall reimburse the Council for any costs charged in connection with such Default of the Contractor.

37.7 Default Points for Poor performance

In the event that the Contractor accumulates 26 or more Default Points across all contracts operated by the Contractor on behalf of the Council in a period of 12 months as a result of major breach of contract, persistent minor breaches of contract or failing to comply with tendering procedures, the Council reserves the right to restrict the ability of the Contractor to tender to provide additional Services. Such restriction shall include but not be restricted to, deferred suspension, full suspension or expulsion from the DPS.

37.8 Contractor's right of appeal

The Contractor may appeal in writing any decision by the Council to suspend or expel the Contractor from the DPS stating the grounds for appeal within 5 working days of receiving such notice from the Council to:

Transport Commissioning & logistics Manager
Transport Depot
Persshore Lane
Worcester
WR4 0AA

The Council will consider the written representation and will respond in writing within 5 working days of receipt of the appeal, if appropriate inviting the appellant to a meeting.

38. Consequences of Termination

38.1 Recovery of additional Costs incurred

Where the Council terminates the Contract under **Clause 37.5**, or terminates the provision of any part of the Contract under that **Clause 37.5** and then makes other arrangements for the provision of the Services, the Council shall be entitled to recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Council throughout the remainder of the Contract Period. The Council shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under **Clause 37** no further payments shall be payable by the Council to the Contractor until the Council has established the final cost of making those other arrangements.

38.2 Termination recovery of outstanding costs

Termination of this Contract shall be without prejudice to any rights, remedies or obligations, accrued under this Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either party to recover any amount outstanding at such termination or expiry.

38.3 Liquidated damages payment to the Council

Where the Contractor terminates the contract in accordance with **Clause 37.4** then it shall pay liquidated damages to the Council in the sum of the

average of one month's net payment based on the revenue of the previous 3 months. The parties agree that this sum is a reasonable pre-estimate of losses that would be incurred by the Council in accepting such early termination.

39. Law

The Contract shall be governed by and construed in accordance with the laws of England.

40. Dispute Resolution

40.1 Settlement negotiations

The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either party notifying the other of the dispute such efforts shall involve the escalation of the dispute, to the Authorised Officer and Contractors nominated representative.

40.2 Restraining order

Nothing in **Clause 40.1** shall prevent the parties from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.

Part 9 - Contractor Performance Management and Tendering

41. Contractor Performance Management

41.1 Performance Management System

The Council anticipates implementing the system to be fully operational within 6 months and no later than March 2017. The system will reward good consistent performance by the Contractor by crediting Quality Points for each item as detailed in **Appendix 3 Quality Points Schedule**. The system will give a "traffic light" indication of rating for each Contractor and individual contracts as detailed in Appendix **4 Contractor Quality**. This performance rating will form part of both the "quality" element of tendering as well as the formal process for extending contracts.

41.2 Contract Performance Rating

On a rolling 12 month period, a cumulative total of all quality and default points will be used to form the contract and contractor performance rating. Any default points acquired will be reduced by the total quality points for each contract. Material breaches of contract with maximum points of 20 or 30 will be offset by removing at least that amount of quality points.

41.3 Contract Extensions

The Contractor's performance rating will give the Council the opportunity, where appropriate, to extend contracts up to their maximum contracted life as indicated in the tender documents. Examples shown in **Appendix 4 Contractor Quality**.

However, if a contract is not extended due to poor performance then the Council reserves the right to exclude the Outgoing Contractor from bidding on the said same contract.

41.4 Tendering - Contractor Performance Rating

The score for each Contractor will be generated by obtaining the average points total for all contracts during a rolling 12 month period. This will be made up of 2 elements:

- a Total of both quality and default points for each contract.
- b Cumulative Total of points of all contracts for each operator divided by the number of current contracts held at that point in time to form an average across all contracts..

This total will then be assigned a % out of 100% which will be included in "traffic light" colour rating as detailed in Appendix **4 Contractor Quality** and

this rating will form the "performance" element for any tendering exercise.

41.5 Performance review by Contractor

The Contractor will have the ability to view their overall performance within the e-Sourcing system. In the event of a system failure Contractors will be informed of their current status. The Contractor will not be able to view any other Contractor's performance. It is anticipated that further development of the system will enable the Contractor to view all contracts and their performance ratings. The Contractor may wish to consider what actions need to be taken to remedy any issues highlighted by the contract scores. These actions would need to be submitted to the Council, agreed and verified that such action has resulted in the required improvement before scores would be updated.

41.6 Monitoring of Contractor Rating

The Council will update ratings as and when required to ensure consistency and transparency for all Contractors.

42. Tendering Procedures

42.1 Contractor Registration

The Council has an approved supplier list or DPS list which is held electronically within a recently purchased eSourcing system used for tendering of contracts. All contractors must register with the system including successfully applying to join the DPS and meet all relevant compliance before tendering opportunities will be available to them. (See 42.2 below). The contractor is required to ensure all information is regularly updated to ensure full compliance. See Clause **42.3** below with relation to information held.

42.2 Dynamic Purchasing System (DPS) Applications

All Contractors will be required to join the Council's DPS which forms part of the eSourcing system. Applications can be made at any time and information supplied will be saved and used to update their registration data already held in the system.

42.3 Contractor Information

Each Contractor will be required to supply data from time to time which will be stored in electronic format and which may include but is not limited to:

1. Full operational and tendering contact details including email addresses.
2. Operator Licences as appropriate.
3. Copies of insurance certificates including Employers and Public liability as well as vehicle insurances for all vehicles used on Council contracts.
4. Vehicle information and documents including Registration document, MOT expiry, licensing document and LOLER certificate if relevant.
5. Staff details including DBS checks, ID badges, training and other relevant information.
6. Details of tendering opportunity categories to enable Contractors to receive appropriate contract information.
7. Vehicles will be inspected at various times and outcomes will be held within the Contractor's data.

42.4 Contractor Documents

The Contractor is responsible for scanning and uploading of documents,

updating of expiry dates and other information into eSourcing system at regular intervals as required by the Council.

42.5 Tendering Opportunities

It is anticipated that all transport requirements will be tendered within the Council's eSourcing system including emergency transport, short-term and long-term contracts. It is recommended that the Contractor check their email on a regular basis throughout the day to ensure that they are aware of all tendering opportunities.

42.6 Contractor Bidding

The Contractor will be required to place online bids for all tenders and the Council will not accept any other form of bidding unless otherwise confirmed by email. Registered DPS compliant bidders will automatically be treated as accepting the Council's Terms and Conditions for tendering as contained therein.

42.7 Contract Award

The Council will advise all bidders of the award criteria prior to the start of the tender process. All Transport tenders awards will be based on a split between performance and price and is likely to be 70%/30% price against quality. The actual criteria will be confirmed at the time of the tender.

42.8 Bids on Multiple Contracts

Contractors may bid on as many contracts as they wish for each tendering exercise. The bidders will be required to state at the time of bidding their actual capacity. If the contractor wins more contracts than they are able to operate the Council will decide which of said contracts will be awarded to the winning operator as per the published Award Criteria.

42.9 Vehicle Inspections prior to Contract Award

The Council may include a requirement in the tender specification for the winning bidder to present their vehicles for inspection to ensure compliance with the Terms and Conditions.

42.10 Personnel data prior to Contract Award

The Council will request details of the Personnel to be used on the contract for checking against records held to ensure they meet contract requirements.

42.11 Contract Award

All Bidders will be notified by a communication from the e-sourcing system

the results of the tendering exercise. The successful bidder will need to log in to the system to view full details of the award. After all pre-contract award details have been agreed with the successful bidder the Council will submit the contract documents for signature and return.

42.12 Refusal of Contract Award

A Contractor who refuses a contract award without reasonable justification will be liable to an award of default points or other action as set out in **Appendix 2 Default Points Schedule H.2** refers. This excludes contracts under 42.8 above.

42.13 Poor Contractor Performance

If a contract is not extended due to poor quality of contractor performance then the Council reserves the right for the Outgoing Contractor to be excluded from bidding for that contract when it is retendered.

Appendix 1 Payment Schedule

Local Bus Cost based contracts

The payment period is one calendar month.

The sum to be paid will be the balance between revenues earned during the period and the guaranteed payment for the period, less an allowance for any services not operated.

Revenue

All monies taken on the bus, including - any relevant off-bus ticket sales and any out of County Concessionary reimbursements.

Any concessionary fares reimbursement from Worcestershire will be retained at source by the Council

Services not operated

Any journeys that do not run either 5 or more minutes early or 10 or more minutes late or operate an incorrect route. If the reasons for the non-operation are outside of the Contractor's control then an explanation should be included with the "Statement of lost or delayed journeys".

Invoices

Each contract must have a separate invoice for each month, clearly indicating:

Name and address of Contractor including telephone number

Contract number

Month and year that claim relates to

Number of days the Contract operated (the invoice should be adjusted to take account of any services not operated.)

Guaranteed price per day

Revenue (showing on bus revenue including relevant, off bus ticket sale and any out of County Concessionary Reimbursements

Any balance of payments due

Also enclosed with each invoice must be:

Statement of any lost or delayed journeys during the month

Monthly total of passengers carried

Monthly total of passengers carried by Service.

Document showing loadings per trip per Service for the first complete week in March and October each year

Details of any Out of County concessionary claims

All invoices and supporting paperwork must be submitted within 21 days of the end of each calendar month. Incomplete invoices will be returned to the Contractor and considered not received until completed. This could delay payment.

Local Bus and Education Subsidy based contracts

The payment period is one calendar month payable as set out in the tender specification.

Standard Local Bus Subsidy Contracts are based on 12 equal payments per annum in arrears.

Local Bus Services which included Schools services and only run during term time and Education Mainstream Contracts. 11 equal payments per annum are paid in arrears for the period September to July (i.e. no payment will be made for August). This will be set out in the Tender Specification.

The sum to be paid will be the agreed monthly payment less an allowance for any services not operated. Where a contract commences or ends mid- month, the payment is made pro-rata based on the actual number of operating days divided by the number of operating days had the contract operated for the full month.

Services not operated- any journeys that do not run, run either 5 or more minutes early or 10 or more minutes late or operate an incorrect route. If the reasons for the non-operation are outside of the Contractor's control then an explanation should be included with the "Statement of lost or delayed journeys".

Each month the Contractor must provide for each Contract held:

Statement of any lost or delayed journeys during the month

In addition, for Local Bus contracts only, the Contractor must provide for each Contract held:

Monthly total of passengers carried.

Document showing total loadings per trip per Service for the first complete week in March and October each year

Details of any Out of County concessionary claims

All information must be submitted within 21 days of the end of each calendar month.

Explanatory Note on reconciliation of Education subsidy based contracts

We have considered further the necessity for reconciliation regarding the payment made to Contractors awarded education contracts on the subsidy based method. Please note that this type of contract only applies to education contracts for larger vehicles, relevant contracts being clearly identified in the specification.

These subsidy based education contracts will be subject to 11 equal monthly payments. It is suggested that prospective tenderers calculate this by dividing the annual cost (based on 190 days for school services and 180 days for college services) by 11.

However should the service not operate due to very bad weather or because the school is unexpectedly closed, then a deduction will be made at the end of that or the next month.

- If seven days' notice has been given to the contractor then a full day's payment is deducted.
- If less notice or no notice has been given then only 50% will be deducted.
- If the contractor ran part of the day or attempted to run then no deduction will be made.
- Should the service not be provided by the contractor for any other reason than a day or half day's payment will be deducted, as appropriate.

Variance to Days of Operation

If the contractor runs more than 190 days for a school contract (or 180 days for a college contract) due to an individual contract serving more than one school or college with different Teacher Training Days, then an additional day's payment can be made. This reconciliation will need to take place at the end of the school year in July. The contractor will submit an invoice detailing the days operated during the year and indicating the additional number of days operated.

Day's Payment

A day's payment will be calculated for these deductions or additional payments based on 1/190th of the annual payment for school contracts and 1/180th of the annual payment for college contracts.

Education (E contracts) – Daily Rate

The payment period is one calendar month.

The sum to be paid will be the number of days operated in the month at the agreed daily rate, plus any claims for payments detailed in **Sub-clause 14.6**.

The invoice must include a statement of days operated:

Invoices

Each Contract must have a separate invoice for each month, clearly indicating:

Name and address of contractor

Vendor Number

Vat Registration Number (if applicable)

Month and year that claim relates to

Contract number

Cost per day for Transport (i.e. Driver and vehicle)

Cost per day for Passenger Assistant (if relevant)*

Establishment Name

Number of Days operated (Displayed either on a calendar with operating days highlighted or list of dates)

Any payments claimed under **Sub-clause 14.6** Deductions or variations with an explanation and supporting documents.

Signed by the Contractor

All invoices and information must be submitted within 21 days of the end of each calendar month.

Social Care and Special Education Needs Contracts (Daily rates)

The payment period is one calendar month.

The sum to be paid will be the number of days operated in the month at the agreed daily rate, plus any claims for payments detailed in sub-clauses **14.6**.

The invoice must include a statement of days operated

Invoices

Each contract must have a separate invoice for each month, clearly indicating:

Name and address of Contractor

Vendor Number

Vat Registration Number (if applicable)

Contract number

Month and year that claim relates to

No of Seats of Vehicle

Passenger Name(s)

Pickup Point and Destination

Cost per day for Transport (i.e. Driver and vehicle)

Cost per day for Passenger Assistant (if relevant)*

*For combined Transport contracts including provision of Passenger Assistant services; the costs relating to Transport and the costs relating to provision of Passenger Assistant services will be clearly identified as separate items on the Invoice

Statement of number of days the contract operated displayed either on a calendar with operating days highlighted or list of dates

Any payments claimed under **Sub-clause 14.6**

Deductions or variations with an explanation and supporting documents.

All invoices and information must be submitted within 21 days of the end of each calendar month.

Appendix 2 Default Points Schedule

<u>Default Group/ No.</u>	<u>Clause No.</u>	<u>Unless Specifically identified points relate to all types of contracts.</u>	<u>Default Points</u>
GROUP A COMMUNICATIONS BETWEEN COUNCIL AND CONTRACTOR			
A.1	7.5 18.5	Failing to communicate operational issues within appropriate period normally 30 minutes but no later than 1 hour.	10 Points
A.2	7.2 7.3	Failing to maintain and monitor the operational telephone, failing to maintain and monitor the operational email address or failing to respond to an operational communications from the Council.	10 Points
A.3	7.3 18.5	Failing to notify the Council of an Accident or incident involving the Vehicle. Initial contact within 1 (one) hour.	10 Points
A.4	7.3 7.5	Failing to notify the Council of an incident involving Personnel or a passenger. Initial contact within 1 (one) hour.	10 Points
A.5	7.5	Failing to provide the Council with a detailed report on any such accident or incident involving a Vehicle within 48 hours.	10 Points
A.6	7.5	Failing to provide the Council with a detailed report on any such incident involving Personnel or a passenger within 48 hours.	10 Points
A.7	8.2	Not obtaining approval for local bus service registration and bus stops.	10 points
A.8	30	Failure to notify the County Council of any sub-contracting arrangements.	10 points
A.9	25	Failing to maintain a procedure for handling customer complaints, failing to provide a response to customer complaints within 7 days of receipt.	10 points
A.10	8.10	<i>All contracts with 16 or less seat capacity</i> Failure to notify the Council of clients no longer requiring transport or requests for change of transport from parties other than the Council.	10 points
GROUP B ARRIVAL AND DEPARTURE PERFORMANCE			
B.1	8.1	<i>Local bus contracts</i> Service leaving the stop between 5 and 10 minutes late.	3 points
B.2	8.1	<i>Local bus contracts</i> Service leaving the stop between 2 and 4 minutes early	3 points
B.3	8.1	Service leaving the stop more than 5 minutes early	5 points
B.4	8.1	Service leaving the stop more than 10 minutes late.	5 points

Default Group/ No.	Clause No.	Unless Specifically identified points relate to all types of contracts.	Default Points
B.5	8.1	<u>Education, SEN and Social service contracts</u> Leaving a designated pick up point more than 2 minutes early. First Incidence.	3 points
B.6	8.1	<u>Education, SEN and Social service contracts</u> Arriving at school or establishment between 5 and 10 minutes late. First Incidence	5 points
B.7	8.1	<u>Education, SEN and Social service contracts</u> Arriving at school or establishment more than 10 minutes late.	5 points
B.8	8.1	Failing to operate a journey or not serving a section(s) of, or stops on, the specified contract route without an acceptable reason.	10 points
GROUP C LOCAL BUS ACCESSIBILITY			
C.1	8.1 8.4 8.5 8.6	Failure to allow access to the service to one of the groups specified in Clauses 8.4, 8.5 and 8.6	5 points
C.2	8.3	Not joining relevant Concessionary Travel and /or Multi-Operator Ticketing Schemes or Not Participating in 'Traveline' or Not complying with conditions for use of Bus Stations or Bus Stops or use of Real Time Information or Smart Ticketing.	20 points
GROUP D SERVICE NUMBERS AND SIGNS ON VEHICLES			
D.1	9.6 9.6.1 9.6.2 9.6.3	Display of signs Incorrect, or, no destination display Incorrect, or, no service number displayed Display not illuminated correctly	2 Points
GROUP E VEHICLES			
E.1	9.1 9.2	Failing to supply a Vehicle in a reasonable condition, including poor mechanical condition, unsatisfactory cleanliness and inadequate passenger lighting, heating and ventilation. – Minor default. First Incidence	3 points

Default Group/ No.	Clause No.	Unless Specifically identified points relate to all types of contracts.	Default Points
E.2	9.1 9.2	Failing to supply a Vehicle in a reasonable condition, including poor mechanical condition, unsatisfactory cleanliness and inadequate passenger lighting, heating and ventilation – serious default or repeat failures	20 points
E.3	9.1 9.2	Failing to provide a vehicle in a roadworthy state including prohibition notices by DVSA or Taxi Licensing Authorities.	20 points
E.4	9.7	Failure to provide Seat belts and restraints where required by law or contract specification.	20 points
E.5	9.3 9.4	Failure to supply a Fire Extinguisher or First Aid Kit meeting the Council's specification	5 points
E.5	9.9	Failing to convert and register a vehicle to appropriate standard. Failing to provide a vehicle in a roadworthy state including prohibition notices by DVSA or Taxi Licensing Authorities.	20 points
E.7	9.10	Displaying of advertisements deemed inappropriate with regard to image and reputation of Council. Failing to convert and register a vehicle to appropriate standard.	5 points
E.8	9.10.2 Contract Specification	Failure to procure, install and maintain specialised equipment.	10 points
E.9	8.1 Contract Specification	Failing to provide the correct size, capacity or type (i.e. low floor) of vehicle as specified in the contract without first notifying the Council. First Incidence	10 points
E.10	9.8.2 17.1	Not meeting statutory vehicle licensing, testing and insurance requirements.	20 points
E.11	17.1 17.2	Failure to test Tail Lift, Ramp or other vehicle accessibility equipment to meet statutory or contract requirements	10 Points
F PERSONNEL			
F.1	10.13	Driver failing to check concessionary travel passes or student's travel passes or other travel passes and permits.	3 points
F.2	10.13	Contractors Personnel failing to monitor Service Users, open doors, deploy ramps or operate tail-lifts	5 points

Default Group/ No.	Clause No.	Unless Specifically identified points relate to all types of contracts.	Default Points
F.3	10 10.1 10.4 10.5 10.6 10.7 10.12	Any conduct by Contractor's Personnel that may adversely affect the passengers, or other members of the public's, safety.	20 points
F.4	10.5	Personnel not wearing Hi-vis clothing when outside a contract vehicle whilst the contract is in operation. Passenger Assistants to wear Hi-vis clothing at all times.	5 points
F.5	10.6	Personnel wearing inappropriate clothing or footwear	5 points
F.6	9.7.6 9.7.8	Failure to allow unimpeded access to exit door or blocking of emergency exits.	20 points
F.7	10.12	Failure to provide appropriate assistance to Service Users.	10 points
F.8	10.15	Use of mobile phones and communication devices whilst moving.	20 points
F.9	10.13	Leaving on board passengers unsupervised in vehicle.	20 points
F.10	9.5	Failure to comply with Good Industry Practice Appendix 5	10 points
F.11	10.7 10.8 10.9	Contractors staff who have been checked and issued identification not carrying their valid WCC Identification or not showing them when requested by Authorised Officer.	5 points
F.12	10.7 10.8 10.9	Failing to meet contract requirements by using Personnel that have not had their DBS disclosure (formerly known as CRB) checked and approved, by Worcestershire County Council and issued with a valid WCC ID badge.	20 points
F.13	10 10.7 10.8 10.9 11.1	Failing to meet contract requirements by not keeping all Personnel data up to date and valid including submission to Council. i.e. not allowing sufficient time for renewals of DBS checks, ID badges and training including but not limited to: <ul style="list-style-type: none"> • DBS check expired • DBS check late application • WCC ID badge late application • Training expired • Training not undertaken • No training undertaken 	10 points per item
F.14	10.4	Using Personnel previously banned by the Council from working on WCC contracts.	20 points
F.15	10.16	Failing to ensure Personnel are provided with route details to correctly operate the service.	10 points

Default Group/ No.	Clause No.	Unless Specifically identified points relate to all types of contracts.	Default Points
F.16	23.2 23.3	Failing to submit all training or any other documents, whether through Council or external provision when requested within specified timescales.	5 Points per item
F.17	10.1 17	Using unqualified , incorrectly or unlicensed drivers to include vehicle driving licence, taxi and PSV licensing.	20 points
G CONTRACTOR COMPLIANCE			
G.1	17	Not meeting PSV Operators licensing requirements including failure to notify DVSA of any changes to current name and status of business.	20 points
G.2	Contract Specification	Failing to meet 'Development of Service' commitments in Contract Specification.	10 points
G.3	23.2 23.3	Failing to provide required documents, or information, such as customer satisfaction surveys, annual service reports, passenger numbers, invoices or insurance certificates within 4 weeks of receipt the request or due date whichever is earlier.	5 points per incidence
G.4	10.19	Failing to adequately respond to requests for TUPE information from either the Council or potential Incoming Contractor within specific deadlines issued.	10 points
G.5	14.4 31	Failing to respond to changes in services on being given reasonable written notice	10 points
G.6	14.1	Failing to submit monthly invoices on a timely basis in the prescribed format with all relevant information. Points awarded per month's invoices submitted late i.e. April and May would accumulate 10 points.	5 points
H CONTRACTOR PERFORMANCE COMPLIANCE			
H.1	37.5 37.7	Termination on default due to consistent poor performance.	DPS suspension for minimum 6 months.
H.2		Successful Tenderer not accepting the award without good cause. First Incidence	10 points against operator
H.3		Successful Tenderer not accepting the award without good cause. Second Incidence	DPS suspension for 6 months
H.4		Early termination of one or more contracts by an operator without good cause. Action dependent on individual circumstances.	Deferred suspension, Full suspension or removal from the DPS

Default Group/ No.	Clause No.	Unless Specifically identified points relate to all types of contracts.	Default Points
H.5		Contractor Persistent poor performance. 26 or more Average Cumulative Points in a rolling period of 12 months.	20 points per incident and then termination of contract(s)
H.6		Contractor consistent poor performance with regard to one or more contracts including but not limited to repeated faults of the same default group/number within a rolling 12 month period. Contracts to be in the "Red" and Orange banding to be included.	Full suspension for minimum of 6 months or removal from the DPS
H.7		3 DPS penalties. (Categories H.1 to H.6)	Removal from the DPS for specific period.

Default termination

Default Points are awarded against poor performance. Any points accrued will be held on file until sufficient correct performance indicates that the Services are being provided to specified levels. The Authorised Officer may monitor the Services and may remove points each time he checks the Services and is satisfied with the performance.

Any contract reaching 16 points will be classified as "ORANGE" and the Contractor will be asked to provide details of how he intends to rectify the situation.

Monitoring will increase until the status either returns to "GREEN" or escalates to "RED".

When the contract status is at "RED" (26 or more points) the Council will place the contract under review and will seek to jointly agree a Performance Improvement Plan with the Contractor. The Council may at its discretion terminate the Contract in accordance with **Clause 37.5** of the Terms and Conditions should there be no remedy to the poor performance.

Appendix 3 Quality Points Schedule

Number	Description	Quality Points
Q-01	Monitoring exercise – All compliant with no issues found One Contract Route Only	5 points per contract
Q-02	Monitoring exercise – All compliant with no issues found Multiple Routes within a Contract. % Points to be split between the routes. Total points not to exceed 5.	1 point per route as relevant
Q-03	Pre Contract Award – operator data and vehicle check with no issues found.	5 points per contract
Q-04	No justified Complaints over a 12 month period during lifetime of contract. This will be based on contract anniversary years or other periods as notified from time to time.	5 points per Contract
Q-05	Supply of requested documents for badging within 2 weeks of request.	5 points
Q-06	Applying for WCC ID badges and DBS checks in advance of expiry of current identification of at least 6 weeks or other period to be notified from time to time.	5 points
Q-07	Submission of all necessary badging/training documents at least 20 working days before expiry date of current WCC ID badge (or date WCC ID badge required).	2 points per badge
Q-08	Supply of Vehicle documents such as, but not limited to, Taxi plate, mot, insurance and LOLER certificate if applicable with 4 weeks of expiry date or request whichever is the sooner.	2 points per Vehicle
Q-09	Supply of Staff documents such as, but not limited to, driving licence, DQC (if applicable), Taxi badge, training certificates within 4 weeks of expiry date or request deadline whichever is the sooner.	2 points per Staff member
Q-10	Supply of Operator documents such as, but not limited to, employers and public liability insurance, fleet vehicle documents and PSV or Private Hire Operators licence (if applicable) with 4 weeks of expiry date or request deadline whichever is the sooner.	2 points per document
Q11	Receiving positive feedback from service users, establishments or members of the public.	5 points per comment
Q-12	Operator confirming and provision of evidence to Council that processes or systems have been implemented to ensure previous issue does not recur.	5 points per issue
Q-13	Dealing with known issues in advance of monitoring and/or complaints. For example; <ul style="list-style-type: none"> • Notification to Council of changes in vehicles • Notification of Issues with student behaviour • Notification of changes to passengers such as leaving school etc. • Notification of changes in qualifications to enable staff to move between different types of contracts. 	2 points per issue

Number	Description	Quality Points
Q-14	Proactively enhancing position with WCC as in Terms & Conditions under Development of Service currently included in some contract specifications. For example, adopting RTI, marketing services, adoption of Smartcard ticketing, route enhancement.	2 – 10 points depending on enhancement

Appendix 4 Contractor Quality

Tendering Awards using 70%/30% split between bid price and quality

The formula to be used for contract awards is made up of 2 elements of **Tender Cost Weighting plus Quality Weighting** as per the example below. This allows the quality of the Contractor performance to be part of the evaluation of bids for individual contracts. Bidder 2 is the cheapest but performance out of 30% is low so Bidder 3 wins on the combined cost and quality score.

	Bid	Tender Cost Weighting	Quality Weighting	Tender %	Tender Ranking
Bidder 1	£ 7,200.00	61.1%	23.4%	84.46%	3rd
Bidder 2	£ 6,280.00	70.0%	6.0%	76.00%	6th
Bidder 3	£ 6,595.00	66.7%	28.2%	94.86%	1st
Bidder 4	£ 6,396.00	68.7%	10.2%	78.93%	5th
Bidder 5	£ 6,580.00	66.8%	14.4%	81.21%	4th
Bidder 6	£ 7,157.00	61.4%	27.0%	88.42%	2nd

Tender Cost Weighting is generated by applying the following formula to each bid for each contract-

$$(\text{Lowest Bid Price Received} / \text{Bid Price from Supplier}) * (\text{Tender Cost \%})$$

i.e. Bidder 1 = $(6280/7200) * 70\% = 61.1\%$

The lowest bid gets the highest percentage i.e. bidder 2.

Quality Weighting is generated by taking the % in Col B and multiplying by the Quality element of 30% as shown in the table below. The % in Col C will be the Quality element for any tendering exercise.

Col A	Col B	Col C	Col D	
Operator Average Points over all contracts Totals	Points Percentage 100%	Quality Weighting 30 %	RAG Banding	Description
<= 0	100.0%	30.0%	GREEN	Fully Compliant
1	98.0%	29.4%	GREEN	Fully Compliant
2	96.0%	28.8%	GREEN	Fully Compliant
3	94.0%	28.2%	GREEN	Fully Compliant
4	92.0%	27.6%	GREEN	Fully Compliant
5	90.0%	27.0%	GREEN	Fully Compliant

Col A	Col B	Col C	Col D	
Operator Average Points over all contracts Totals	Points Percentage 100%	Quality Weighting 30 %	RAG Banding	Description
6	88.0%	26.4%	GREEN	Fully Compliant
7	86.0%	25.8%	GREEN	Fully Compliant
8	84.0%	25.2%	AMBER	Satisfactory
9	82.0%	24.6%	AMBER	Satisfactory
10	80.0%	24.0%	AMBER	Satisfactory
11	78.0%	23.4%	AMBER	Satisfactory
12	76.0%	22.8%	AMBER	Satisfactory
13	74.0%	22.2%	AMBER	Satisfactory
14	72.0%	21.6%	AMBER	Satisfactory
15	70.0%	21.0%	AMBER	Satisfactory
16	68.0%	20.4%	ORANGE	Requires Improvement
17	66.0%	19.8%	ORANGE	Requires Improvement
18	64.0%	19.2%	ORANGE	Requires Improvement
19	62.0%	18.6%	ORANGE	Requires Improvement
20	60.0%	18.0%	ORANGE	Requires Improvement
21	58.0%	17.4%	ORANGE	Requires Improvement
22	56.0%	16.8%	ORANGE	Requires Improvement
23	54.0%	16.2%	ORANGE	Requires Improvement
24	52.0%	15.6%	ORANGE	Requires Improvement
25	50.0%	15.0%	ORANGE	Requires Improvement
26	48.0%	14.4%	RED	Non-Compliant
27	46.0%	13.8%	RED	Non-Compliant
28	44.0%	13.2%	RED	Non-Compliant
29	42.0%	12.6%	RED	Non-Compliant
30	40.0%	12.0%	RED	Non-Compliant
31	38.0%	11.4%	RED	Non-Compliant
32	36.0%	10.8%	RED	Non-Compliant
33	34.0%	10.2%	RED	Non-Compliant
34	32.0%	9.6%	RED	Non-Compliant
35	30.0%	9.0%	RED	Non-Compliant
36	28.0%	8.4%	RED	Non-Compliant

Col A	Col B	Col C	Col D	
Operator Average Points over all contracts Totals	Points Percentage 100%	Quality Weighting 30 %	RAG Banding	Description
37	26.0%	7.8%	RED	Non-Compliant
38	24.0%	7.2%	RED	Non-Compliant
39	22.0%	6.6%	RED	Non-Compliant
40	20.0%	6.0%	RED	Non-Compliant
41	18.0%	5.4%	RED	Non-Compliant
42	16.0%	4.8%	RED	Non-Compliant
43	14.0%	4.2%	RED	Non-Compliant
44	12.0%	3.6%	RED	Non-Compliant
45	10.0%	3.0%	RED	Non-Compliant
46	8.0%	2.4%	RED	Non-Compliant
47	6.0%	1.8%	RED	Non-Compliant
48	4.0%	1.2%	RED	Non-Compliant
49	2.0%	0.6%	RED	Non-Compliant
> =50	0.0%	0.0%	RED	Non-Compliant

1. Average points per contract taken over 12 month rolling period on the basis of total points awarded divide by number of contracts with adjustments for serious breaches (see 2 below). This ensures all contractors are treated equally whether they have 1 or 100 contracts.

2. In case of serious non-compliance (20 default points See Appendix 2), any quality points is removed before the points are applied.

3. Contracts awarded to supplier with lowest weighted bid.
4. When an operator is rated at Orange or Red, an improvement Plan is required, Amber replaces the deferred suspension.
5. An Operator rated at RED who fails to deliver the improvement plan is prevented from tendering based on the above criteria and will be subject to a contract review where the Council may elect to terminate one or more contracts to reduce workload for the Operator to assist in delivering performance improvement.

Contract Extensions based on Quality

Contracts will be awarded with a given period length together with a number of years possible extension periods, if applicable, which would be dependent upon quality of Contractor's performance and will be specified in individual tender documents. The quality band would need to be Green for extension years to be offered to the Contractor. This is to ensure a consistent level of quality over the lifetime of the contract.

Contract Type	Core Years	Potential Extension years	Potential Contract Years
E - Contracts - Mainstream Education	3 Core Years	2 Extension years	5 Years
N/M -Contracts – SEN or Medical Contracts	3 Core Years	No extensions	3 Years
L- Local Bus Contracts	3 Core Years	Up to 5 Extension Years	8 Years
X – Adult Social Care Contracts	3 Core Years	2 Extension Years	5 Years
Childrens Social Care Contracts	As Required	N/A	As required
R - Childrens and Adults Respite/Short Break Contracts	As required	N/A	As required

An example of how this would work in practice for a 5 year contract is shown below with different quality rankings at contract anniversary date. The Contractor can only gain an extension year with good performance (GREEN) at the end of a Core year. Any extension lost due to poor performance cannot be regained by good performance in a later core year.

In order to maintain the area based review approach to tendering, where the contract is not extended for its full number of years then the remaining year(s) until the next tendering date will instigate a shorter term tender for such contract. i.e. if contract only runs for 4 years out of 5 then the contract will be retendered for 1 year only until the true anniversary date is reached.

PROFILE - 5 YEAR Green Status through contract life	Year 1	Year 2	Year 3	Year 4	Year 5
Sample 5 year contract	Core 1	Core 2	Extension 1	Core 3	Extension 2
Start of Contract	Operated	Operated			
Quality at end of Y2		GREEN	Operated		
Quality at end of Y3			GREEN	Operated	
Quality at end of Y4				GREEN	
Full 5 years completed					Operated
	Next year				
GREEN	Extension				
AMBER	Core only				
ORANGE	Core only				
RED	Core only				

PROFILE - 5 YEAR Status other than Green through contract life	Year 1	Year 2	Year 3	Year 4	Year 5
Sample 5 year contract	Core 1	Core 2	Extension 1	Core 3	Extension 2
Start of Contract	Operated	Operated			
Quality at end of Y2		GREEN	Operated		
Quality at end of Y3			RED	Operated	
Contract ceased at end of Year 4					not Extended

An example of an 8 year contract with different quality rankings.

The Contractor can only gain an extension year with good performance (GREEN) at the end of a Core year. Any extension lost due to poor performance cannot be regained by good performance in a later core year.

In order to maintain the area based review approach to tendering, where the contract is not extended for its full number of years then the remaining year(s) until the next tendering date will instigate a shorter term tender for such contract. i.e. if contract only runs for 5 years out of 8 then the contract will be retendered until the true anniversary date is reached.

PROFILE - 8 YEAR Status mixed through contract life	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7/8
Sample 8 year contract 4 core years and 4 extension years	Core 1	Core 2	Extension 1	Core 3	Core 4	Extension	Extension
Start of Contract	Operated	Operated					
Quality at end of Y2		GREEN	Operated				
Quality at end of Y3			AMBER	Operated			
Quality at end of Y4				GREEN	Operated		
Quality at end of Y5					AMBER		
Quality at end of Y6						Not Operated	
Contract ceased at end of Year 5							Not Operated
4 Core Years with 4 Extension Years							
	Next year						
GREEN	Extension						
AMBER	Core only						
ORANGE	Core only						
RED	Core only						

Appendix 5 Good Industry Practice

<https://www.gov.uk/browse/driving> - Web link for government website for driving and transport regulations.

Vehicle Compliance and Maintenance

Public Service Vehicle Regulations 2000 (PSVAR 2000) – Guidance

The Law on Child Car Seats

Driver and Vehicle Standards Agency (DVSA) – Advice Note to PSV Operators on Fire Extinguishers containing Halon

Driver and Vehicle Standards Agency (DVSA) – A guide to notifiable alterations

Driver and Vehicle Standards Agency (DVSA) – Enforcement Sanctions Policy

Driver and Vehicle Standards Agency (DVSA) – Guide to maintaining roadworthiness

Driver and Vehicle Standards Agency (DVSA) – PSV Walk around Check Pull Out

Driver and Vehicle Standards Agency (DVSA) – Public Service Vehicle Operator Licensing

Driver and Vehicle Standards Agency (DVSA) – The Single Vehicle Approval Scheme

Children's and Older People's Transport

- Allegations Management Advisors – Guidance for Safer Working Practice for Adults who Work with Children and Young People (Refer to Appendix 10)
- Safeguarding Vulnerable Groups Act 2006 – Schedule 4 Regulated Activity

Part 1 Children

Part 2 Vulnerable Adults

Worcestershire County Council "No Pass, No Travel" Policy (NPNT) for Mainstream Education Contracts

Appendix 6 Personnel and Vehicle Equipment Requirements Vehicle Requirements

First Aid kits through the recommendation of the HSE first aid regulations 1981 third edition L74 guidance should contain as a minimum. Any dated item must be in date.

Leaflet on first aid guidance

2 x Large Dressings

6 x Medium dressings

2 x Wrapped Triangular Bandages

2 x Wrapped Sterile Eye pads/ Dressings

Minimum of 3 x Vinyl powder free gloves

6 x Safety Pins

20 x Individually wrapped Assorted Plasters (hypo-allergenic recommended for children)

1 x pair Scissors

Fire Extinguisher as appropriate for type of vehicle as recommended by HSE and in accordance with all current legislation.

Personnel Requirements

All Passenger Assistants (also known as Escorts Guides and Transport Assistants) will carry or have access to the following equipment at all times during the operation of the contract:

Seat Belt Cutter

Spillage Kit

Protective Latex Gloves

Record Book of Journey (log book) – to record a written note all vehicle, passenger or other incidents including variances to designated route such as stopping at shop to pick up chocolate and report these to employer/contractor, school and parents as appropriate. All incidents to be reported to the Council.

Suitable secure means to record emergency telephone numbers for school parents, Council and contractor to meet Data Protection legislation.

Appendix 7 Compulsory and Recommended Training Courses and Qualifications

Safeguarding

All new Contractors and existing Contractors must attend a mandatory Safeguarding workshop run by the Council which gives guidance on what is and what is not acceptable behaviour by personnel involved in service operations.

All Personnel

The Council recommends that all personnel employed in the provision of the Services, attend formal training in Equality and Diversity that includes Disability Awareness and Safeguarding. The Council is able to assist in identifying suitable courses and course content.

Drivers

The Council recommends that all drivers should attend a course to improve their fuel efficiency ('Eco-driving'), and a course raising their awareness of Safeguarding issues when transporting children and vulnerable adults.

PSV Vehicle Drivers

Driver Certificate of Professional Competence:

All drivers who have passed a PCV Test prior to 10th September 2008 must be able to show evidence of compliance with mandatory periodic training at an Accredited Centre (EU Directive 2003/59). After 9th September 2013 all PCV licensed drivers will be required able to demonstrate their full Driver Certificate of Professional Competence.

All drivers who have passed a PCV Test since 10th September 2008 must be able to demonstrate their full Driver Certificate of Professional Competence.

All drivers of PCV vehicles carrying 16 or fewer passengers, and other drivers on contracts that will involve passengers with wheelchairs, must have attended the Wheelchair Clamping and Smoke Evacuation course provided by Worcestershire County Council. This will include a section on Equality and Diversity and Disability Awareness.

Taxi Drivers (Vehicles with 8 or less passenger seats)

Drivers of vehicles with eight seats or less will be licensed by their Local District Council and will have attended all training required by that Council. If the vehicle is suitable for wheelchair access and carriage the Council will require evidence that the driver has undertaken training which includes wheelchair restraint systems as

well as the seat belt regulations regarding the securing and safety of the wheelchair passenger who does not transfer to a seat within the vehicle.

Passenger Assistants, Escorts, Transport Assistants and Guides

As a minimum standard any Contractor provided Passenger Assistants (also referred to as Guides, Transport Assistants or Escorts) will be required to have accreditation in the following courses or equivalent, normally refresher training is required every three years to maintain accreditation:

PATS

Passenger Assistant Training Scheme (PATS) course provided by Worcestershire County Council, this requires attendance at a refresher course every three years to maintain accreditation. The course runs over two days and covers Wheelchair clamping and smoke evacuation procedures.

First Aid

Hold a current Emergency First Aid in the Workplace Certificate; this may be achieved by attendance of the County Council's First Aid Training Course.

Behaviour Management

A one day course Behavioural Management is mandatory.

Team Teach

A 'Team Teach' course will be required for transport to establishments where the Council deems this appropriate. Where applicable this will be indicated in the contract specification. This covers:

Equality and Diversity and Disability Awareness

Challenging and difficult behaviour

Techniques for appropriate restraint of Service Users

Techniques for appropriate 'Defence of Self'

Risk

Seating and Working in Confined Spaces

NOTE – The Council is working towards offering a Team Teach Course which will include Behaviour Management as part of the course. The Contractors will be notified when this is available.

Council Training

The training courses delivered by the County Council Training Team have been developed with the aid of many years of practical experience in the fields of Special Needs and Adult Care transport. The training is accredited, comprehensive and to the very highest standards to ensure the safety of clients entitled to transport

Training through other Bodies

We are asked to recognize training delivered by other bodies, which we will do provided it demonstrably reaches the same exacting standards as our own. We have found in many cases alternative training does not include adequate practical exercises to demonstrate or ensure skills acquisition. We reserve the right to conduct a risk based assessment of critical skills such as the use of wheelchair restraint systems, passenger lifts and the safe manoeuvring of wheelchair clients. There will be an administrative charge of £25 for such an individual assessment, and pointers given for improvement or retraining

Use of Lifting Equipment

Vehicles equipped with tail lifts or other lifting equipment intended for lifting passengers comes under LOLER regulations (The lifting operations and lifting equipment regulations 1998). Staff employed on services to the Council that require use of such equipment must have appropriate training, instructions and experience so that they are able to carry out the Safe System of Work for operating the equipment and pre-use check effectively.

Appendix 8 Driver and Vehicle Licensing Requirements

Worcestershire County Council Vehicle Category	Vehicle Definition	Minimum Driving Licence Category required for WCC Contracts	Operator's Licence Requirements for WCC Contracts	Vehicle Documentation required for WCC Contracts
Hackney Carriage (Taxis) and Private Hire Vehicles	Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat and having a maximum mass not exceeding 3.5 tonnes.	B	Local Authority Licensed as Hackney Carriage or Private Hire Vehicle. Operated under Section 19 Standard Permit or Community Car scheme on the basis of separate fares. <u>This excludes the use of vehicles with fewer than 9 seats that are</u>	Vehicle Registration Document V5C Single Vehicle Approval (Disability category)* or Individual Vehicle Approval including certification for anchor points and racking for: <ul style="list-style-type: none"> • Conversions • Vehicles originally licensed as having more than eight seats in addition to the driver's seat DVSA will no longer accept applications for SVA. From 29th April 2012 the routes for approval changed to: <ul style="list-style-type: none"> • EC Whole Vehicle Type Approval (ECWVTA) • National Small Series Type Approval (NSSTA) • Individual Vehicle Approval (IVA) • Valid MOT Test certificate <p style="text-align: center;">Valid LOLER certificate for lifting gear</p>
Hackney Carriage (Taxis) and Private Hire Vehicles	Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat and having a maximum mass exceeding 3.5 tonnes.	Full D1 (without restrictions)	<ol style="list-style-type: none"> 1. operated on a Passenger Service Vehicle Contractors License under the exemption granted in Section 79A of the Public Passenger Vehicles Act (1981) 2. Operated under a Section 19 Standard Permit or a Community Car Scheme where a vehicle is contracted as a whole. 	
Minibuses	Vehicles designed	Full D1	Passenger Service Vehicle	Vehicle Registration Document V5C

	and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes.	(without restrictions)	Contractors License issued by the Traffic Commissioner including Restricted Contractors License	ECWVTA , Certificate of Initial Fitness (COIF) Certificate of Conformity (CoC) or Pre Registration Inspection Certificate (PRI) – see footnote Valid MOT Test Certificate Valid LOLER certificate for lifting gear
Minibuses	Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes.	Restricted D1 Licence (101 Licence endorsement "Not fore Hire & Reward")	Section 19 Permit – Voluntary Organisation or Local Authority only	Vehicle Registration Document V5C ECWVTA , Certificate of Initial Fitness (COIF) Certificate of Conformity (CoC) or Pre Registration Inspection Certificate (PRI) – see footnote Valid MOT Test Certificate Valid LOLER certificate for lifting gear
Large Coaches and Buses	Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass	D	Passenger Service Vehicle Contractors License issued by the Traffic Commissioner Section 22 Permit - Voluntary Organisation only	Vehicle Registration Document V5C ECWVTA , Certificate of Initial Fitness (COIF) Certificate of Conformity (CoC) or Pre Registration Inspection Certificate (PRI) – see

	exceeding 5 tonnes Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding 5 tonnes			footnote Valid MOT Test Certificate Valid LOLER certificate for lifting gear
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Footnotes

A Certificate of Initial Fitness is a certificate that confirms that a vehicle has been built or adapted to meet the requirements of the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981. It's issued by a DVSA certifying officer when the vehicle meets all the relevant PSV requirements.

A Certificate of Conformity is for vehicles covered by a Type Approval Certificate. Type approval is the approval of mass-produced vehicles and components and the certificate sets the specification of a vehicle or vehicle component.

The vehicle approval process is changing and COIFs and CoCs are to be replaced by certificates issued under the Road Vehicles (Approval) Regulations 2009. These certificates are for vehicles which meet standards set out in European Whole Vehicle Type Approval (ECWVTA) or the New National Scheme (NNS). COIFs and CoCs will continue to be the valid certificate for older

vehicles. If your vehicle has not be issued with either of these then you should check to see whether it has been approved either under ECWVTA or NNS as it does require a certificate. For further information please contact DVSA.

Appendix 9 WCC Photo Identification for Contractor's Personnel

This does not apply to drivers working on registered local bus services who are required to carry photo id and Driver Qualification Card.

This applies to all other Contractor's Personnel including all Hackney Carriage and Private Hire drivers whether employees or owner drivers.



JOE BLOGGS
Taxi, Coach & Bus Operator

Contact No: 01905 822077
CRB clearance expires:
10 NOV 2014

DRIVER



200000

Conditions of issue

- This badge should be available at all times when employed on transport contracts for Worcestershire County Council
- This badge must be shown to Head Teachers, Managers, or Officers of the Council if they ask to see it
- This badge is not transferable and must be returned to Worcestershire County Council if you leave the employment of the coach/taxi company
- This badge remains the property of Worcestershire County Council and may be withdrawn by the Council at any time
- If found, please return this badge to:

Transport Services Unit
Persnore Lane
Warndon
Worcestershire
WR4 0AA Tel: 01905 843088

Appendix 10 Guidelines on Safe Working Practice for the Protection of Vulnerable Children and Adults

Personnel

Staff includes drivers and passenger assistants (also known as Guides, Escorts or Transport Assistants) working who come into contact vulnerable children and adults in the course of providing transport irrespective of whether employed by Worcestershire County Council, Contractors or Voluntary Groups.

All staff working on transport contracts will undergo Enhanced DBS Checks and will carry the identification specified by Worcestershire County Council in Appendix 9 of its' Contract Terms and Conditions.

Adults with Care and Support Needs

Adults with care and support needs are people who are at a greater than normal risk of abuse or neglect – Care and support is the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems and carers.

The Adult safeguarding duties under the Care Act 2014 apply to an adult, aged 18 or over, who:

- Has needs for care and support (whether or not the local authority is meeting any of those needs and:
- Is experiencing, or at risk of, abuse or neglect; and
- As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

Children

Children include all young people under the age of 18. Be aware that welfare of the child is paramount (Children Act 1989).

Underpinning Principles

Staff should:

- Understand their responsibilities to safeguard and protect vulnerable adults, children and young people
- Be responsible for their own actions and behaviour and avoid any conduct that would lead any reasonable person to question their motivation and intentions
- Work and be seen to work in an open and transparent way
- Be aware that breaches of the law and guidelines could lead to criminal, contractual or disciplinary action being taken against them
- Report concerns or take advice immediately from their manager or the manager at Worcestershire County Council responsible for your contract over any incident that may give rise to concern not just to themselves but also to others. Some incidents that staff consider either unimportant or that have been dealt with will need to be reported – see the examples at the end of this Appendix.
- For SEN and Adult transport keep a written log of any such concerns that have been raised together with any decisions made and agreed actions (the log will also record any special procedures for that contract and must be kept away from public view).
- For Mainstream and Public Transport it is advised that contractors implement and incident report form to record incidents and actions taken.

Safe Working Practices:

- Staff must report concerns that they have about other people's behaviour to their manager or the manager at Worcestershire County Council responsible for your contract.
- Staff must avoid discussing incidents with third parties – but to explain with sensitivity that they have to follow the proper procedure.

- Staff must be careful not to misuse their power or influence over their clients.
- Staff should be professional at all times including their dress, use of language and tone. Staff must not participate in name calling or swear or otherwise inappropriate language.
- Staff should not give gifts to clients except where this is agreed and administered through establishments, parents or carers.
- Physical intervention should never be used inappropriately and should always be recorded and reported.
- Physical contact should be minimal and appropriate to the health and safety of the client.
- Intimate care and first aid should only be administered through approved procedures
- Staff should not engage in personal email, contact by online social network (e.g. Facebook and Twitter), telephone or text contact with clients.
- There should be no photography of clients – any CCTV systems on vehicles are subject to strict monitoring arrangements.
- Staff should guard against any client forming an infatuation with them and report any incidents to their manager or the manager at Worcestershire County Council responsible for your contract.
- Communication with clients should never be sexually aggressive. Staff should never engage in sexual relationships with clients in or out of a Council transport environment.

Examples of incidents that should be reported

A child mentions as she gets off the bus that a boy has made suggestive remarks to her and made her feel uncomfortable. This should be reported with the name of the girl and the boy – if known. If the girl does not wish to give her name the incident should be reported.

A child asks if the driver will drop her off last as the regular driver does – even though this means altering the route.

You over hear a conversation relating to sexual acts. You advise children that this is inappropriate and advise them to change the topic.

You are aware of horseplay, physical aggression or vandalism involving clients that may be indicative of bullying.

Signs of bruising or physical injury to a client that cannot be readily explained.

Signs of neglect, the client is unwashed or soiled coming onto the vehicle.

An adult client never has any money which may indicate that someone is taking advantage of them financially

You are not on your own

There are a set of procedures that managers use for dealing with the reports that you make. These are designed to deal appropriately with each report and may involve other agencies who will make decisions based on child or vulnerable adult protection principles as appropriate. You must never feel that you need to solve issues on your own – and where you feel that you are able to resolve an issue it should still be reported.

Appendix 11 TUPE Pensions Guidelines where Local authority staff may transfer

When Worcestershire County Council (the letting authority) contracts out its services to a private contractor under TUPE transfer, it is the contractor which needs to decide whether to apply for admitted status or, alternatively, offer its own pension scheme to the transferring employees which is broadly comparable to the LGPS.

In order to establish whether a scheme is broadly comparable it is necessary for the proposed scheme to be scrutinised by the Government Actuary's Department (GAD). Scrutiny may be commissioned by the transferor (Worcestershire County Council) or transferee (the new transport contractor). Each case is considered on its merits by the GAD. Many contractors have, historically, put forward Passport Certificates of broad comparability prepared by the GAD as providing evidence of the latter approach. GAD will no longer accept applications for Passport Certificates against LGPS and gives notice that it will invalidate existing certificates once the new LGPS regulations are on the statute book.

In some instances it may be possible for transferring staff to remain within the LGPS if the new service provider can be given admitted status. The Pensions Manager is willing to answer queries from potential bidders on the potential costs and process associated with seeking admitted body status to the LGPS under the current regulations. Please contact Linda Probin on 01905 566511 or email LProbin@worcestershire.gov.uk.

Potential bidders should review the information on the Local Government Pension Scheme which is available on the County Council's website <http://www.worcestershire.gov.uk/cms/jobs-and-careers/pensions.aspx>

If you submit a bid, Worcestershire County Council will assume that before doing so you have read all the relevant information provided and have obtained independent advice as appropriate. Worcestershire County Council assumes that you will have factored in any resulting costs when deciding which bids to make.

Appendix 12 "No Travel No Pass" Policy

A "**No Pass, No Travel**" (NPNT) Policy applies to most Mainstream School and College Transport contracts in Worcestershire and was introduced to:

- Tackle health and safety concerns about overloaded vehicles
- Prevent unauthorised students from using subsidised transport services
- Ensure students use the correct service to which they have been allocated

Extreme or repeated bad behaviour by a student which causes a threat to the operation of the vehicle or damage to the vehicle itself, a ban may take effect immediately after the incident has been reported. The Council will liaise with the school and the contractor as to what action is appropriate following more serious issues.

It is parental responsibility to ensure that their child has successfully boarded the transport each morning.

"No Pass, No Travel" commences 3 weeks after the start of the Autumn Term each new academic year. There is usually a "bedding in" period from the start of the autumn term in September as this allows a breathing period for adjustment by personnel checking passes as well as students carrying them.

- It is a contractual requirement for Contractors to check bus passes;
- NPNT applies on College, High School and Middle School contracts;
- NPNT only applies to vehicles of 12 seats and larger;
- Bus passes should be checked **every** time the student boards the vehicle (i.e. AM + PM journeys);
- A Temporary Authorisation to Travel (TATT) can be issued by the County Council for a maximum period of 2 weeks, and only one per term;

As the title "No Pass, No Travel" suggests, students should be refused if they are unable to produce a valid bus pass or TATT.

That said, the scheme is not meant to be draconian. Drivers may use their discretion and allow transport without a pass rather than simply refusing transport only if ...

(a) Students are advised that they **must** obtain a temporary pass (TATT) during the course of the school day via the school office;

(b) Inclement or extreme weather suggests that students should board the vehicle quickly rather than delays caused by pass checking that slow up boarding the vehicle (e.g. heavy rain or snow);

(c) Drivers are satisfied that a student has genuinely forgotten their pass on a **one-off** occasion and that the student has been presenting their pass routinely every day. It is useful for drivers to report the names of any student permitted transport in this manner in case another driver is on the route in the afternoon and to prevent any abuse of transport services by students repeatedly 'trying it on';

(d) On the request of a senior member of staff from the school;

As stated above, it is a contractual condition that Contractors check bus passes. Contractors will receive penalty points against their contract if drivers are found not to be pass checking. This may affect your ability to tender for future contracts.

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