

NATIONAL TRANSPORT AUTHORITY

PUBLIC TRANSPORT SERVICES CONTRACT

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AN tÚDARÁS NÁISIÚNTA IOMPAIR - NATIONAL TRANSPORT AUTHORITY

and

BERNARD KAVANAGH & SONS LTD.

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ROUTE 817 KILKENNY TO DUBLIN  
PUBLIC TRANSPORT SERVICES CONTRACT  
TERMS AND CONDITIONS

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TERMS AND CONDITIONS

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## PUBLIC TRANSPORT SERVICES CONTRACT

THIS AGREEMENT is made the 20<sup>th</sup> day of DECEMBER 2017

## BETWEEN:

- (1) National Transport Authority (or in the Irish language, An tÚdarás Náisiúnta Iompair), a statutory corporation established under the Dublin Transport Authority Act 2008, as amended by the Public Transport Regulation Act 2009 and having its principal office at Dún Scéine, Iveagh Court, Harcourt Lane, Dublin 2; and
- (2) Bernard Kavanagh & Sons Ltd.,  
Bridge Garage,  
Urlingford,  
Co. Kilkenny  
E41 X0D2

## INTRODUCTION:

- (A) Section 48 of the 2008 Act provides that the Authority shall secure the provision of public passenger transport services by means of public transport services contracts.
- (B) The Authority is proposing to enter into this Agreement (which is a public transport service contract) with the Operator whereby the Operator will provide the Services in accordance with, and subject to, the terms and conditions of this Agreement and the 2008 Act.
- (C) Before this Agreement takes effect:

you must accept the terms and conditions of this Agreement by signing and returning the counterpart of this document to the Authority; and

you must satisfy the conditions precedent specified in paragraph 3.

## TERMS AND CONDITIONS

## 1. Definitions and Interpretation

## 1.1 Definitions

In this Agreement:

"2008 Act" means the Dublin Transport Authority Act 2008.

"2009 Act" means the Public Transport Regulation Act 2009.

"Agreement" means this Agreement together with the Schedules.

"Annual Operating Charge" means the amount set out in Schedule 2, Part A.

"Annual Scheduled Kilometres" means the number of vehicle kilometres that the Operator is scheduled to operate when providing the Services in a year.

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“Authority” means us, the National Transport Authority.

“AVL” means Automatic Vehicle Location.

“Basic Amount” means, in relation to a Relevant Period, the Fee less the aggregate of the Retention Amount and the Lost Kilometre Deduction, in each case for that Relevant Period.

“Buses” means mechanically propelled buses designed for travel by road having seating accommodation for more than nine persons (including the driver) that are used in the provision of the Services and, subject to our consent or in accordance with paragraph 8.3, as specified in the Proposal and “Bus” means any one of them.

“Certificate of Roadworthiness” has the meaning given to it by section 2 of the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012.

“Commencement Date” means the date specified by us in accordance with paragraph 3.

“Delay Payment” means a payment, in the amount of five hundred euro (€500), to be made by you to us in connection with a failure by you to implement an improvement to the Services in accordance with an Improvement Notice.

“Electronic Ticket Machines” or “ETM” each has the meaning give to it in paragraph 15.1.

“Expiry Date” means the later of:

- (a) the day before the day falling 36 months after the Commencement Date; or
- (b) if we have exercised our right to extend the Services Period under paragraph 2.3 of this Agreement, the day before the last day of the last six monthly extension of this Agreement.

“Fares” means the fares specified in Schedule 4 for a journey on the Route and, where applicable, Integrated Fares.

“Fares Revenue” means the payment which the Operator receives from passengers for the provision of its transport services and which is due and owing to us.

“Fare Table” means the table displaying the fare to be paid by each passenger for use of the Services.

“Fee” means, in respect of each Relevant Period, that part of the Annual Operating Charge (as determined in accordance with paragraph 2 of Schedule 2, Part A) for each Relevant Period on which you provide the Service in accordance with this Agreement.

“first registered”, in relation to a Bus, means:

- (c) the date on which the Bus is entered in the register established and maintained by the Revenue Commissioners under section 131 of the Finance Act 1992; or
- (d) in the case of a Bus registered in a jurisdiction outside the State, the date when first registered in accordance with the laws of that jurisdiction or where only the year of

first registration of the vehicle is known, that year, in combination with the day and month on which the vehicle was entered in the above register,

and "first registration" is to be read accordingly.

"Free Travel Pass" means Public Service Cards issued by the Department of Social Protection, which entitle the holder, and eligible spouse or companion, to free travel on the Services.

"Improvement Notice" has the meaning given to it in paragraph 10.3.

"Integrated Fare" has the meaning given to it in paragraph 5.13.

"Integrated Ticketing Scheme" means the scheme for integrated ticketing for public transport procured, maintained and operated by the Authority pursuant to section 58 of the 2008 Act, known as LEAP, including:

- (e) any regulations made by the Authority pursuant to section 58(4) of the 2008 Act;
- (f) any directions given by the Authority pursuant to section 58(6) of the 2008 Act;
- (g) any agreement entered into by the Operator in connection with its participation in the Integrated Ticketing Scheme; and
- (h) any other arrangement involving the Operator (and to which the Authority has consented) in relation to the Integrated Ticketing Scheme,

which enables passengers to access one or more public transport services using contactless smart cards approved by the Authority for use on Network Services as an accepted ticketing medium.

"LEAP" means the name of the Integrated Ticketing Scheme.

"LEAP Card" means the contactless smart card approved by the Authority for use on public transport services as an accepted ticketing medium in accordance with the Integrated Ticketing Scheme.

"Liabilities" means all costs, claims, actions, proceedings, demands, losses, awards, penalties, fines, liabilities (including without limitation, any consequent liability to employer taxation) and reasonable expenses (including, without limitation, legal and other professional fees).

"Lost Kilometre Deduction" means, in respect of each Relevant Period, the amount determined in accordance with Schedule 2, Part B.

"Lost Service Kilometres" has the meaning given to it in Schedule 2, Part B.

"Operational Day" means a day upon which the Services are to be provided by the Operator.

"Operator" means you.

"public bus passenger service" means the use of a bus or buses travelling wholly or mainly on public roads for the carriage of passengers in such a manner that—

- (a) each journey is open to use by members of the public,
- (b) a charge or charges are paid in respect of each passenger, and
- (c) save where the Authority otherwise determines,
  - (i) the service is provided on a regular and scheduled basis, and
  - (ii) carriage is provided for passengers between specified terminal points or along a specified route or otherwise in accordance with a published timetable,

and is not a bus service solely for carrying children to or from school.

“Quarter” means each successive period of three (3) Relevant Periods, or four (4) Relevant Periods in the case of the fourth Quarter of each calendar year, except that:

- (i) the first Quarter during this Agreement shall commence on the Commencement Date and end on such date as may be specified by the Authority (being a date falling not more than 17 weeks after the Commencement Date); and
- (j) the final Quarter of this Agreement shall end on the earlier of the Expiry Date or Termination Date, as the case may be.

“Quarterly Performance Report” means the report to be furnished in accordance with paragraph 11.2.

“Re-transferring Employee(s)” means any employees of the Operator (or any of its sub-contractors) wholly or mainly assigned (within the meaning of the Transfer Regulations) to the Services on the expiry or termination of this Agreement.

“Relevant Period” means each successive period of four (4) weeks ending on a Sunday within a calendar year for the Services Period provided that:

- (k) the first Relevant Period during this Agreement shall commence on the Commencement Date and end on such a date as may be specified by the Authority (being a date generally falling not more than four (4) weeks after the Commencement Date);
- (l) the last Relevant Period during each calendar year shall end on 31 December, and
- (m) the final Relevant Period of this Agreement shall end on the earlier of the Expiry Date or Termination Date, as the case may be.

“Relevant Period Report” has the meaning given to it in paragraph 11.1.

“Retention Amount” means, in relation to an invoice issued in accordance with paragraph 5.7, an amount equal to ten per cent (10%) of the total Fee shown on such invoice (net of any applicable Tax).

“Review Date” means 1 January of each year from the Commencement Date until the Expiry Date.

“Road Authority” has the meaning given to it by the Roads Act 1993.

"Route" means the route described in Schedule 1, Part A including the Stopping Places.

"Route Journey" means the carriage of persons on the Route, starting at the first Stopping Place and ending at the last Stopping Place, in each case specified in Schedule 1, Part A.


"Service" or "Services" means the obligations contemplated by this Agreement, including carriage for reward of persons using a Bus on the Route pursuant to and in accordance with this Agreement.

"Service Credit Points" means the points to be awarded in accordance with paragraph 13.

"Service Levels" means each of the performance obligations specified in the "Service Levels" column in the table contained in Schedule 5 to this Agreement (and "Service Level" means any of them).

"Services Period" means the period commencing on the Commencement Date and ending on the earlier of:

- (n) the Expiry Date; or
- (o) the Termination Date.

"Specified Account" means 

"Specified Event" means any event or circumstance specified as such in paragraph 17.1 (Termination of Agreement).

"Stopping Places" means the stopping places along the Route at which passengers or intending passengers may request a Bus to stop (being, as at the Commencement Date, the stopping places specified in Schedule 1, Part A) and "Stopping Place" means any of them.

"Successor Operator" means any person appointed to provide the Services upon termination or expiry of this Agreement or any part of the Services.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Termination Date" means the date upon which this Agreement is terminated by the Authority.

"Ticketing Equipment" has the meaning given to it in paragraph 1.11, Schedule 7, Part B.

"Timetable" means in relation to the Route, the timing and frequency of Buses stopping to pick up or drop off passengers at Stopping Places on the Route, as set out in Schedule 1, Part B.

"Transfer Regulations" means the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (as amended).

"Transferring Employee(s)" means any employees of an incumbent operator wholly or mainly assigned (within the meaning of the Transfer Regulations) to the Services on the Commencement Date.

"Warning" has the meaning given to it in paragraph 12.2.

"Website" has the meaning given to it in paragraph 15.7(a).

"Working Day" means a day (other than a Saturday or Sunday or public holiday) on which banks are open for general business in Dublin.

## 1.2 Interpretation

(a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) the "Authority", "Operator", any "Party" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) "we", "us" or any cognate expression of either is a reference to the Authority;
- (iii) "you" or any cognate expression is a reference to you, the Operator;
- (iv) "assets" includes present and future properties, revenues and rights of every description;
- (v) a "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (vi) a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (vii) "including" means including without limitation;
- (viii) "VAT" shall be construed as a reference to value added tax including any similar tax which may be imposed in place thereof from time to time;
- (ix) a provision of law is a reference to that provision as amended or re-enacted; and
- (x) a time of day is a reference to Dublin time.

(b) Paragraph and Schedule headings are for ease of reference only.

## 1.3 Currency symbols and definitions

"€" denotes the lawful currency of Ireland.

## 2. Public bus passenger service

2.1 We and you hereby agree that you shall provide a public bus service:

- (a) on the Route, and
- (b) at the frequencies and timings set out in the Timetable and subject to the conditions set out in the Timetable,



for the Services Period in accordance with this Agreement.

2.2 Subject to:

- (a) the capacity of the Bus;
- (b) where the person is liable to pay a Fare, payment of the Fare;
- (c) the person not attempting to take on board the Bus any item that cannot be safely stowed;
- (d) the person not behaving in an anti-social manner; and
- (e) to all other legal requirements,

you shall transport any person seeking to journey between destinations on the Route and shall provide the Services.

2.3 The Service shall stop to pick up, and set down, passengers as required along the Route (subject to directions under section 16 of the Roads Traffic Act 2002 and to the extent otherwise specified in Schedule 1) at each Stopping Place.

2.4 On or before the date falling three (3) months prior to the then Expiry Date, or such later date as may be agreed between us, we shall have the option, on giving written notice to you, to extend the then Expiry Date on a monthly basis for up to twenty four (24) calendar months in which case all references in this Agreement to "Expiry Date" shall be construed as referring to the date contemplated by paragraph (b) of that definition.

3. Conditions to be satisfied

3.1 This Agreement shall not take effect unless and until:

- (a) we have received the following in form and substance satisfactory to us:
  - (i) evidence that the insurances set out in Schedule 3 have been taken out and maintained by you;
  - (ii) a valid tax clearance certificate;
  - (iii) evidence that any road authority in whose functional area the Service is to be provided has issued a direction under section 16 of the Road Traffic Act 2002 specifying the Stopping Places in its functional area; and

3.2 The conditions specified in paragraph 3.1 are for our sole benefit and may be waived or deferred in whole or in part and with or without conditions by us in our absolute discretion.

3.3 Upon the conditions being satisfied or waived in accordance with paragraph 3.2 within 14 days of the date of this Agreement (or such longer period as we may specify), we shall notify you of the date to be the "Commencement Date" for the purposes of this Agreement.

4. Your confirmations

You confirm to us, and acknowledge that we are relying on these confirmations, that:

- (a) your obligations under this Agreement are legal, valid, binding and enforceable obligations;
- (b) you have all necessary Authorisations to provide the Services, including, where applicable, an Operator's licence (within the meaning of section 2(9) of the Road Traffic and Transport Act 2006);
- (c) the entry into and performance by you of, and the transactions contemplated by, this Agreement do not and will not conflict with any law or regulation applicable to you or any agreement or instrument binding upon you or any of your assets;
- (d) you have the power to enter into, perform and deliver, and have taken all necessary action to authorise your entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement; and
- (e) any factual information which has been provided to us by you or on your behalf was, or will be, true and accurate in all material respects at the date it was, or is, provided or as at the date (if any) at which it is stated.

#### 5. Fares/Payment

5.1 You shall operate a fare system that complies with Schedule 4 of this Agreement and you shall collect all Fares that are payable by any person using the Service.

5.2 All Fares received by you from persons using the Service shall be:

- (a) lodged or otherwise transferred to the Specified Account in accordance with paragraph 5.3(a) and Schedule 7;
- (b) held for the benefit of, and on trust for, the Authority; and
- (c) kept separate and segregated from your assets.

5.3 (a) The Fares received by you during any week (commencing on a Monday and ending on the following Sunday) shall be lodged or otherwise transferred to the Specified Account on or before the close of business on the third Working Day after the end of the week in question.

(b) You shall not withdraw any money from the Specified Account except:

- (i) the lower of the amounts contemplated by paragraphs 5.7(a) and 5.7(b), upon you exercising your right to apply Fares received in a Relevant Period against the Basic Amount; or
- (ii) to pay to us any amount due to us in accordance with paragraph 5.7(i); or
- (iii) with the consent of the Authority.

5.4 You are not entitled to change or modify any Fare without the prior consent of the Authority.

5.5 Subject to the terms of this Agreement, in return for your provision of the Service during a Relevant Period, you are entitled to receive from us:

- (a) in respect of a Relevant Period, the Basic Amount determined for that Relevant Period; and

- (b) in relation to a Quarter, the amount determined in accordance with paragraph 13.3.
- 5.6 You shall not be entitled to any payment (including, exercising the right to apply the Fares against the Basic Amount in accordance with paragraph 5.7), nor to issue any invoice, unless:
- (a) we are satisfied with your performance and confirm that to you; and
- (b) you have provided us with a valid current tax clearance certificate.
- 5.7 Upon the requirements of paragraph 5.6 being satisfied in respect of a Relevant Period, you are entitled to withdraw from the Specified Account an amount equal to the lower of:
- (a) the aggregate of the Fares collected by you when providing the Service in a Relevant Period; and
- (b) the Basic Amount for that Relevant Period,
- and to apply such amount against the Basic Amount to which you are entitled in accordance with paragraph 5.5(a) and shall either:
- (i) transfer any amount in excess of the Basic Amount to such account as we may specify within three (3) Working Days of being so requested by us; or
- (ii) request us to pay any shortfall in accordance with paragraph 5.8.
- 5.8 (a) Unless we and you otherwise agree, you shall invoice us the Basic Amount in respect of the Services provided in a Relevant Period within five (5) Working Days after the end of such Relevant Period except in the case of the last Relevant Period of the Services Period where you shall invoice us within five (5) Working Days of the date on which the Expiry Date or the Termination Date, as the case may be, falls.
- (b) The invoice must:
- (i) be a valid VAT invoice;
- (ii) show a detailed breakdown of the components of the Fee payable for that Relevant Period and how the total Fee has been calculated; and
- (iii) show the amount applied against the Basic Amount payable together with details of the excess amount or shortfall arising.
- (c) Each invoice submitted by the Operator shall be accompanied by:
- (i) evidence (to the satisfaction of the Authority) of all lodgements to the Specified Account during the Relevant Period; and
- (ii) the Relevant Period Report for that Relevant Period.
- 5.9 On receipt of a validly issued and undisputed invoice together with the accompanying documents specified in paragraph 5.8(c), we shall pay you, if applicable, the shortfall between the amount applied in accordance with paragraph 5.7 and the Basic Amount within fifteen (15) Working Days of our receipt of the invoice.
- 5.10 On receipt of the validly issued and undisputed Quarterly Report as contemplated by paragraph 11.2, we shall pay you the Service Credits (calculated in accordance with

paragraph 13) for such Quarter which are due to you within twenty (20) Working Days of our receipt of an invoice for such Service Credits following such Quarterly Report.

- 5.11 The amount payable by us by way of Fee (including the release of any Retention Amounts but less any deductions, in each case, contemplated by this Agreement) is inclusive of all costs associated with bus vehicle provision and maintenance, driver provision, fuel, and all ancillary costs and other costs associated with this Agreement.
- 5.12 You are responsible for all costs, expenses and liabilities incurred in connection with the provision of the Services, including, without limitation, any registration fees, licence fees, vehicle inspection fees, Taxes, tolls or other costs and expenses payable in connection with the purchase, licensing or operation of the Buses.
- 5.13 From time to time, we may notify you that we have entered into an arrangement with one or more other operators of public bus services whereby such operator will accept tickets issued by you as valid tickets for journeys on its buses and where you are required to accept tickets issued by such operators as valid tickets for journeys on the Services. .
- 5.14 We will notify you of the Fares ("Integrated Fares") to be charged by you in respect of the journeys being undertaken by you and the journeys being undertaken by such other operators of public bus services that are the subject of the arrangements contemplated by paragraph 5.13.

## 6. Buses – standards

- 6.1 Each Bus, at any time, shall meet the requirements as set out in Schedule 8.
- 6.2 You shall ensure that you are compliant with any or all emission standards for pollutants and noise in respect of your provision of the Services and any associated activities.
- 6.3 You shall operate the Buses:
- (a) in the normal and ordinary course of your operations and in a careful manner and not for any purpose for which they are not designed or reasonably suited;
  - (b) in accordance with all applicable laws;
  - (c) in accordance with any manuals and technical documents and all certificates and approvals relating to the Buses regardless of upon whom any of the same are by their terms imposed; and
  - (d) so as not to render any insurances invalid, void, voidable or unenforceable or render any sum payable under any insurance repayable.
- 6.4 You shall maintain, service and repair the Buses (or ensure that the Buses are maintained, serviced and repaired) using suitably qualified personnel so as to:
- (a) keep each Bus in good repair, condition and appearance and roadworthy (fair wear and tear excepted);
  - (b) comply with the applicable manufacturer's maintenance, component maintenance or structural repair manuals and corrosion prevention programmes and all modifications, service bulletins and similar requirements applicable to the Buses; and
  - (c) operate each Bus in accordance with all applicable laws.

7. Changes to the Services
- 7.1 You may propose a change to the Services by notice in writing to us and we may, at our absolute discretion, accept or reject the proposed change.
- 7.2 Where you notify us of a proposed change to the Services, we will consider any such proposal and will notify you of our decision on the proposed change to the Services within four (4) weeks of the later of the receipt by us of:
- (a) the notice under paragraph 7.1; or
  - (b) any information that we may reasonably require from you in connection with such proposal.
- 7.3 You hereby acknowledge that we are entitled pursuant to section 51 of the 2008 Act to unilaterally alter this Agreement where we are of the opinion that such alteration is necessary to guarantee:
- (a) safe, efficient and high quality public passenger transport services; or
  - (b) transparency in the performance of public passenger transport services.
- 7.4 Without prejudice to section 51 of the 2008 Act or paragraph 7.3, by giving you not less than ten (10) Working Days' notice in writing, we may require you to implement changes to the Services including to:
- (a) the Route;
  - (b) the Timetable;
  - (c) accept tickets issued by another operator of public bus services for journeys on the Route;
  - (d) issue tickets that will be valid on journeys provided by another operator of public bus services'; and
  - (e) the information to be provided to the public.
- 7.5 The cost of implementation of a change pursuant to paragraph 7.4 (which, for the avoidance of doubt, may be a reduction or an extension of the Services) shall be by the Authority, acting reasonably, having regard to the amounts set out in Schedule 2, Part A.
- 7.6 You shall comply with any notice given to you under paragraph 7.4.
- 7.7 Where we exercise our rights under paragraph 7.3 or 7.4 to specify one or more additional Stopping Places, or changes to existing Stopping Places, you shall, as soon as possible thereafter, apply to the road authority in whose functional area the Service is provided for a direction under section 16 of the Road Traffic Act 2002 in relation to such Stopping Places.
- 7.8 You shall immediately provide a copy to the Authority of any direction issued to you by a road authority under section 16 of the Road Traffic Act 2002 in relation to any Stopping Places.

## 8. Insurance and Replacement

- 8.1 You shall ensure that such insurances in respect of the Buses as may be required by Law and as set out in Schedule 3 are taken out and maintained, and shall furnish such evidence in this respect as we may require.
- 8.2 If there should be damage to or loss of any of the Buses through fire or accident or any other cause the insurance or other compensation received by you shall be used forthwith to restore the Buses so damaged or lost and in the event of such compensation being insufficient for that purpose you shall make good the deficiency out of your own funds.
- 8.3 If there should be damage to or loss of any of the Buses resulting in such Bus being unavailable for use, you may substitute for such Bus any other Bus owned or operated by you provided that such Bus is of an equivalent specification, state of repair and roadworthy condition to the Bus prior to it being damaged or the subject of the loss.
- 8.4 If any of the Buses is being repaired, maintained or upgraded for a period of time resulting in such Bus being temporarily unavailable for use, you may substitute for such Bus during that period of time any other Bus owned or operated by you provided that such Bus is of an equivalent specification, state of repair and roadworthy condition to the Bus being repaired, maintained or upgraded.

## 9. Integration of Services

Without prejudice to paragraphs 5.13, 7.4 and 15.3, you shall, subject to paragraph 7.1, use best endeavours to integrate the provision of the Services with any other provider of public bus services, so that passengers using another provider's service incur the minimal disruption in transferring from such service to a Bus operated by you in your provision of the Services.

## 10. Performance obligations

- 10.1 In providing the Services, you shall ensure that you meet the Service Levels set out in Schedule 5.
- 10.2 Any Bus being used in the provision of the Services shall comply with applicable legislation in relation to the accessing of buses by passengers with mobility or sensory impairments or disabilities.
- 10.3 We may issue a notice (an "Improvement Notice") to you:-
- (a) where we become aware of a breach by you of this Agreement;
  - (b) where we have received complaints about the Services; or
  - (c) where we are aware of a failure to comply with a particular Service Level or requirement contemplated by this Agreement,
- specifying improvements to be implemented to the Services and the date by which such improvements must be implemented. You shall comply with any such Improvement Notice.
- 10.4 Without prejudice to the generality of paragraph 10.3, we may issue an Improvement Notice to you in relation to one or more of the matters specified in Schedule 6 (Improvement Notices).

**11. Data Provision Requirements**

- 11.1 Within five (5) Working Days of the expiry of a Relevant Period, you shall provide a report in electronic format containing the following data to us, in each case in respect of the performance of the Service during that Relevant Period (the "Relevant Period Report") or in a report format that may be specified by the Authority from time to time;
- (a) a list of the Services not provided in accordance with the Timetable and/or the Route (identifying any part of the Services that was not provided, including any scheduled kilometres not operated, and the reasons for the failure to provide some or all of the Services);
  - (b) the number of passengers that boarded the Services:
    - (i) by day of the week
    - (ii) by direction travelled;
    - (iii) by boarding point; and
    - (iv) by category of Fares collected as set out in Schedule 4;
  - (c) the Fares collected by:
    - (i) day of the week; and
    - (ii) by category of Fares, as set out in Schedule 4;
  - (d) a list of all complaints made to you in relation to the operation of the Services including the date, time and nature of each complaint, date of acknowledgement of each complaint and the date of response to each complaint;
  - (e) details of any incidents during the Relevant Period occurring in the performance of the Services, including:
    - (i) any injuries, deaths or other accidents involving a passenger or the Bus; or
    - (ii) any incident that required the attendance of An Garda Síochána,and the nature of such incidents;
  - (f) such details as may be required by Schedule 2, Part B in relation to Lost Service Kilometres;
  - (g) details of the date, time, duration, particular Route Journey for which Ticketing Equipment on board a Bus providing the Services operated with configuration data that was over twenty four (24) hours old when engaged in the provision of the Services; and
  - (h) details of any operational issues encountered during the Relevant Period, including:
    - (i) any delays in arriving at any Stopping Place in excess of ten (10) minutes of the arrival time specified in the Timetable; and
    - (ii) the reason for any delays referred to in subparagraph (i).

- 11.2 Within ten (10) Working Days of the end of each Quarter (including, for the avoidance of doubt, the final Quarter of the Services Period), you shall provide to us a Quarterly Performance Report in respect of the performance of the Services during such Quarter or in a report format that may be specified by the Authority from time to time which, at a minimum, includes the following:
- (a) the scheduled departure date and time and actual departure date and time for each Bus that departed from the first Stopping Place on the Route:
    - (i) before the departure time specified in the Timetable; or
    - (ii) five (5) minutes or more after the departure time specified in the Timetable.
  - (b) details of the number of buses scheduled that departed from the start of the Route
    - (i) not earlier than; and
    - (ii) not later than five (5) minutes after,  
the departure time specified in the Timetable; such details are to be expressed as absolute numbers and as percentages of the overall number of Buses being operated by the Operator on the Route; and
  - (c) details of the number of buses operating the entire Route and stopping at each Stopping Place; such details are to be expressed as absolute numbers and as percentages of the overall number of buses being operated by the Operator on the Route.
- 11.3 We may carry out inspections or audits to verify your compliance with the requirements of this Agreement (including, without limitation, to verify the accuracy of data provided by you under paragraph 11).
- 11.4 You shall disclose all performance-related information requested by the Authority in order to determine the extent of your adherence to the Service Levels.
12. **Failure to comply**
- 12.1 If you fail to comply with or breach this Agreement (each a "breach") upon becoming aware of the breach, you shall:
- (a) immediately inform us of such breach; and
  - (b) remedy such breach,
- 12.2 If you fail to remedy a breach of this Agreement or fail to implement an improvement to the Services in accordance with, and within the period specified by, an Improvement Notice:
- (a) we may issue a warning (a "Warning") to you specifying the steps to be taken by you to remedy such breach;
  - (b) you shall pay Delay Payments to us in respect of each such failure.



13. Service Credits and Service Credit Points

13.1 If you meet a Service Level, Service Credit Points shall be awarded to you in respect of such Service Level.

13.2 The number of Service Credit Points that shall be awarded to you for meeting a Service Level during a Quarter shall be the number specified in the "Service Credit Points" column opposite such Service Level in the table in Schedule 5.

13.3 The number of Service Credit Points awarded during a Quarter will be converted into a fraction to be applied to the Retention Amounts to determine the Service Credits to be paid to you by us from the Retention Amounts for such Quarter under paragraph 5.10 in accordance with the following formula:

$$SC = (TSCP/n) \times A$$

where:

A is the aggregate of the Retention Amounts retained by us during that Quarter;

n is the total number of Service Credit Points available to be awarded during that Quarter;

SC is the Service Credits to be paid by us for such Quarter; and

TSCP is the Service Credit Points awarded for such Quarter.

14. Complaints

14.1 You shall:

(a) display in a prominent location on board each Bus a sign regarding complaints in a format notified to you by the Authority from time to time.

(b) make available on the internet, information regarding your postal and email address for notification of complaints.

14.2 You shall record any complaints received by you and you shall acknowledge receipt of each such complaint in writing within forty eight (48) hours of notification of the complaint to you, and you shall seek to resolve each such complaint within fifteen (15) Working Days of it being received by you.

14.3 Any person making a complaint shall also be entitled to notify the Authority of their complaint.

14.4 The Authority may investigate or take such other steps as it deems appropriate in connection with such complaint, including:

(a) suspending or requiring the suspension of the Services or a particular part of the Services;

(b) issuing an Improvement Notice; or

(c) requiring particular steps to be taken to address the complaint.

**15. Ticketing/Information**

- 15.1 The Authority shall provide to the Operator, for the duration of this Agreement, electronic ticket machines ("Electronic Ticket Machines" or "ETM") which shall be installed, maintained and operated in accordance with Schedule 7, Part A.
- 15.2 The ETMs are to be used by the Operator solely in the provision of the Services.
- 15.3 Each passenger paying a Fare shall receive a ticket issued by the ETM (or otherwise in accordance with our requirements, as notified to you from time to time) indicating, at a minimum, the payment for the journey undertaken and date and time of issue of the ticket.
- 15.4 You shall ensure that, at all times, the Electronic Ticket Machines used by you in the performance of the Services:
- (a) issues a ticket complying with our requirements, as notified to you from time to time;
  - (b) records the tickets issued by ticket type;
  - (c) records the boarding point and destination of the passenger; and
  - (d) is capable of issuing a ticket which facilitates a journey on bus services provided by other operators of public bus services upon payment of an Integrated Fare.
- 15.5 You shall:
- (a) display on the inside passenger side of the front window of each Bus a sign regarding the operation of the Service in a format notified to you by the Authority from time to time;
  - (b) display the Fare Table inside each bus within the vicinity of the ticket machine so that it is easily visible to all passengers, details of which are to be notified to you by the Authority from time to time;
  - (c) display electronically;
    - (i) such route numbers as may be specified by the Authority; and
    - (ii) the destination,on the front of each Bus, and the route number at the rear of each Bus at a sufficient size and contrast to background so as to be legible by waiting passengers;
  - (d) if requested, supply copies of details of the Services, the Route, the Fares and the Timetable; and
  - (e) comply with the requirements of Schedule 7, Part B.
- 15.6 You shall:
- (a) submit any proposals to develop or procure any additional websites or mobile applications (apps) relevant to the Services to us for approval;
  - (b) submit any proposals to significantly alter or amend existing websites or mobile applications relevant to the Services to us for approval; and

- (c) comply with our requirements in relation to any changes we consider necessary to existing websites or mobile applications, in so far as such changes relate to the Services.
- 15.7 You shall:
- (a) provide a public portal on the internet (the "Website") in connection with the Services where information regarding the Services, the Route, the Fares, the Stopping Places, your points of contact and our points of contact and the Timetable can be accessed from the commencement of the provision of the Services to the expiry of the Services Period.
- (b) obtain our prior approval to the content and layout of the Website.
- 15.8 You acknowledge that we have no, nor do we assume any, responsibility for the content of the Website.
16. **Records**
- 16.1 You shall:
- (a) maintain all such records, information and documents that are required to be maintained in respect of the Buses and Services to comply with any applicable laws and in accordance with prudent ownership, operating and management practice;
- (b) keep accurate, complete and up to date records concerning the Services and the Buses and of all maintenance, repairs, additions, alterations and modifications to, and removal of parts from, the Buses; and
- (c) permit the Authority or its representatives at any time, on reasonable notice, to examine and take copies of such records, information and documents.
- 16.2 You shall maintain records with details of:
- (a) the tickets issued, including:
- (i) the date, time and origin and destination of the journey to which the Fare relates; and
- (ii) a specific record of the tickets to which an Integrated Fare applies, (if any);
- (b) the numbers of passengers using the Service and the journeys undertaken;
- (c) the Fares received (including a specific record of Integrated Fares, the operator to whose service such Integrated Fare applies and, if applicable, the journey to be undertaken with such operator);
- (d) actual and timetabled departure times from start of Route;
- (e) Services that have not been provided (in full or in part) in accordance with the Timetable;
- (f) comments or complaints received by you in connection with the Services, the date, time and nature of each such complaint and the date, time and content of any written response by you;

- (g) passenger injuries and vehicle accidents, (including, without limitation, the nature and severity of such injuries and/or accidents); and
  - (h) any incidents requiring the attendance of An Garda Síochána, and nature of each such incident.
- 16.3 If you are accepting tickets issued by another operator of a public bus service in accordance with this Agreement, you shall maintain a record of the journey undertaken using such ticket.
- 16.4 You shall supply us with such information as we may require in connection with the Services, including, without limitation, in relation to the matters contemplated by paragraphs 16.1 and 16.2.
17. **Termination of Agreement**
- 17.1 We may terminate your right to provide the Services if any one or more of the following Specified Events occur:
- (a) if you fail to inform us in accordance with paragraph 12.1(a) of a breach by you of this Agreement;
  - (b) if you fail to remedy a breach in accordance with a Warning issued under paragraph 12.2(a);
  - (c) if a breach by you of a provision of this Agreement is not capable of being remedied;
  - (d) if you are a body corporate, you enter into liquidation whether compulsory or voluntary or become insolvent or enter into receivership or examinership or enter into any arrangement with your creditors or take or suffer any similar action in consequence of debt other than a bona fide amalgamation or reconstruction of your body;
  - (e) if you are a natural person, you are declared bankrupt or enter into any arrangement with your creditors or take or suffer any similar action in consequence of debt;
  - (f) if it becomes unlawful for us to perform any of our obligations as contemplated by this Agreement;
  - (g) if, at any time during the Services Period, you cease to provide the Services;
  - (h) if you suspend or cease to carry on (or threaten to suspend or cease to carry on) within the Services Period:
    - (i) all or a material part of his, her or its business or trade; or
    - (ii) the provision of the Services,without the prior written consent of the Authority;
  - (i) if you do not commence provision of the Services within twenty one (21) days of the date of this Agreement;
  - (j) if we issue five (5) or more Warnings to you in any calendar year during the Services Period;

- (k) if you rescind or purport to rescind or repudiate or purport to repudiate this Agreement or evidence an intention to rescind or repudiate this Agreement
- 17.2 You agree that on the occurrence of any of the Specified Events you shall immediately notify the Authority of the occurrence of such event.
- 17.3 We may terminate this Agreement at any time, regardless of whether a Specified Event has occurred, on at least four (4) weeks' notice in writing to you.
18. **General Undertakings**
- You shall comply with all applicable laws and legal requirements in connection with the performance of your obligations under this Agreement.
19. **Advertising Rights**
- 19.1 You may not place advertisements on the interior and exterior of each Bus unless by agreement with the Authority.
- 19.2 The Authority's approval process with regards to advertising rights is outlined in Schedule 9 of this Contract.
20. **Changes to the Operator/Subcontracting**
- 20.1 You may not assign any of your rights or, transfer any of your rights or obligations under this Agreement without the consent in writing of the Authority.
- 20.2 You may not sub-contract the provision of the Services without our prior consent.
21. **Transfer Regulations**
- 21.1 The Parties agree that:
- (a) the Transfer Regulations shall apply on the Commencement Date, such that the Transferring Employees shall transfer to the employment of the Operator from the Commencement Date; and
- (b) in that regard, in relation to the Transferring Employee(s):
- (i) the Operator shall comply with its obligations under the Transfer Regulations;
- (ii) the Authority shall use reasonable endeavours to obtain details of such Transferring Employee(s)' existing contractual rights and obligations. However, the Authority neither warrants, represents nor takes responsibility for the accuracy of information so obtained and provided to the Operator; and
- (iii) the Operator shall indemnify the Authority and keep the Authority indemnified on demand against any and all Liabilities arising from:
- (A) a refusal to employ such Transferring Employee(s);
- (B) the employment or termination of such Transferring Employee(s)' employment after the Commencement Date; and

(C) any failure by the Operator to comply with the Transfer Regulations.

21.2 If the Transfer Regulations apply on termination or expiry of this Agreement, the Operator shall comply with its obligations under the Transfer Regulations, and it shall provide any reasonably necessary information and assistance to a Successor Operator to allow that party to comply with its obligations (including providing a list of Re-Transferring Employees, together with their terms and conditions of employment).

21.3 The Operator shall indemnify the Authority and the Successor Operator (to whom the Authority may assign the benefit of this Clause) and keep the Authority and Successor Operator indemnified against any and all Liabilities relating to Re-Transferring Employees arising from:

- (a) any claim which relates to such person's employment before the Termination Date;
- (b) the employment or termination of such person's employment before the Termination Date;
- (c) any failure by the Operator to comply with the Transfer Regulations; and/or
- (d) a failure by the Operator to provide an accurate list of Re-transferring Employees together with their terms and conditions of employment.

## 22. Notices

22.1 Where either you or us is required to notify the other pursuant to this Agreement, or otherwise wishes to communicate with the other, such notice or communication may be served:

- (a) in the case of you to us:
  - (i) by posting to: National Transport Authority, Dún Scéine, Harcourt Lane, Dublin 2, marked for the attention of: Chief Executive Officer; or
  - (ii) by e-mail or by facsimile transmission to such e-mail address or facsimile number as may be notified by the Authority from time to time; or
- (b) in the case of us to you:
  - (i) by posting or delivering to such address as is recorded in this Agreement;
  - (ii) by e-mail to such address as may be notified in writing by you to us from time to time; or
  - (iii) by such other means as we may consider appropriate.

22.2 Any notice or communication so served shall be deemed duly served:

- (a) in the case of post, forty eight (48) hours after posting or if delivered by hand, on delivery;
- (b) in the case of e-mail, upon delivery; or
- (c) in the case of facsimile transmission, upon confirmation of receipt by the addressee.

22.3 If notification is by telephone or in person, it will only be effective if confirmed by written notice served in accordance with this paragraph 21.1 within seven days of such notification by telephone or in person.

23. **Governing Law**

The Agreement is governed by and shall be construed in accordance with Irish law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first written above.

SIGNED by

Anne Graham,

Chief Executive of  
AN tÚDARÁS náisiúnta Iompair -  
NATIONAL TRANSPORT AUTHORITY

Anne Graham

in the presence of:

GER REGAN

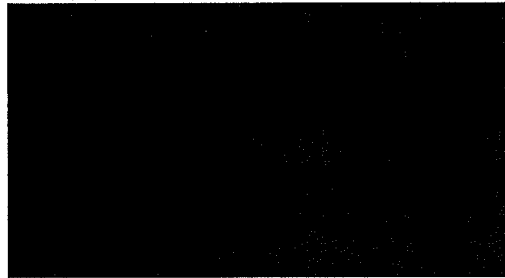
Signature of Witness

GER REGAN

Name of Witness

Address of Witness

Occupation of Witness



SIGNED by

a duly authorised representative of/for and on behalf  
of BERNARD KAVANAGH & SONS LTD.

Emmett Kavanagh

EMMETT KAVANAGH

in the presence of:

ANN CULHAYLE

Signature of Witness

ANN CULHAYLE

Name of Witness

Address of Witness

Occupation of Witness





## Schedule 1

## Timetable and Stopping Locations

The Route shall operate in both directions between Kilkenny and Dublin, including services as indicated on the time tables. The service shall stop to pick up and set down passengers as required along the Route (subject to directions under section 16 of the Roads Traffic Act 2002) at each of the following places and times:

| Kilkenny - Dublin |                   |                                  |                   | Dublin - Kilkenny |                      |                    |                   |
|-------------------|-------------------|----------------------------------|-------------------|-------------------|----------------------|--------------------|-------------------|
| Stop No.          | Stopping Location | Bus Stop Location                | Time Of Departure | Stop No.          | Stopping Location    | Bus Stop Location  | Time Of Departure |
| 1                 | Kilkenny          | Ormond House, Ormond Road        | 10:30             | 1                 | Dublin City (PUO)    | Georges Quay       | 16:00             |
| 2                 | Kilkenny          | Castlecomer Road<br>Glendine Inn | 10:35             | 2                 | Dublin City (PUO)    | Halfpenny Bridge   | 16:05             |
| 3                 | Kilkenny          | Castlecomer Road The Weir        | 10:36             | 3                 | Dublin Heuston (PUO) | Heuston Station    | 16:10             |
| 4                 | Castlecomer       | Church, Kilkenny Street          | 10:50             | 4                 | Dublin (PUO)         | Luas Red Cow       | 16:25             |
| 5                 | Moneenroe         | Railyard Junction                | 10:54             | 5                 | Newlands Cross (PUO) | Southbound         | 16:30             |
| 6                 | Crettyard         | Northbound                       | 10:55             | 6                 | Naas                 | Opp. Post Office   | 16:55             |
| 7                 | Newtown Cross     | Opp Flemings Pub                 | 11:00             | 7                 | Naas Hospital        | Ballymore Road     | 17:00             |
| 8                 | Ballylynan Cross  | Jct Village Estate               | 11:05             | 8                 | Kilashee             | Kilashee Hotel     | 17:05             |
| 9                 | Athy              | C Bar Leinster Street            | 11:15             | 9                 | Two Mile House       | Southbound         | 17:07             |
| 10                | Kilmead           | CMC Energy                       | 11:21             | 10                | Carnalway            | Southbound         | 17:10             |
| 11                | Ballyshannon      | Kildare Eastbound                | 11:28             | 11                | Kilcullen            | Opp. Lui Na Greine | 17:13             |
| 12                | Kilcullen         | Opp Frasers Garage               | 11:35             | 12                | Kilcullen            | Fraser Garage      | 17:15             |
| 13                | Kilcullen         | Lui Nia Greine                   | 11:37             | 13                | Ballyshannon         | National School    | 17:22             |

|    |                      |                     |       |    |                  |                                    |       |
|----|----------------------|---------------------|-------|----|------------------|------------------------------------|-------|
| 14 | Carnalway            | Northbound          | 11:40 | 14 | Kilmead          | Opp. CMC Energy                    | 17:29 |
| 15 | Two Mile House       | Northbound          | 11:43 | 15 | Athy             | Duke Street                        | 17:35 |
| 16 | Kilashee             | Opp. Kilashee Hotel | 11:45 | 16 | Ballylynan Cross | Taoghins Pub                       | 17:45 |
| 17 | Naas Hospital        | Ballymore Road      | 11:50 | 17 | Newtown Cross    | O Sullivans Fuels                  | 17:50 |
| 18 | Naas                 | Post Office         | 11:55 | 18 | Crettyard        | Southbound                         | 17:55 |
| 19 | Newlands Cross (SDO) | Northbound          | 12:20 | 19 | Moneenroe        | Railyard Junction                  | 17:56 |
| 20 | Dublin (SDO)         | Luas Red Cow        | 12:25 | 20 | Castlecome r     | Opp Church Kilkenny St             | 18:00 |
| 21 | Dublin Heuston (SDO) | Heuston Station     | 12:40 | 21 | Kilkenny         | Castleco mer Road Viewmou nt House | 18:14 |
| 22 | Dublin City          | Eden Quay           | 12:50 | 22 | Kilkenny         | McDonag h Junction Shopping Centre | 18:16 |
|    |                      |                     |       | 23 | Kilkenny         | Ormond Road                        | 18:20 |

## Notes:

1. SDO - Set Down Only
2. PUO - Pick Up Only
3. Service Operates Monday to Sunday except on Christmas Day
4. No driver or vehicle substitution is permitted along the Route, except, for the avoidance of doubt, at the first and last Stopping Place on the Route, without the prior written approval of the Authority being obtained.
5. The Operator is responsible for any layover arrangements needed between the operation of each Service.

Schedule 2

Part A - Fee payable to the Operator

1. Annual Operating Charge

The Annual Operating Charge is:

| Annual Operating Charge |  |  |
|-------------------------|--|--|
| 1                       | Materials (including fuel and tyres)   |  |
| 2                       | <b>Labour</b>  |  |
|                         | a) Drivers wages (including statutory contributions and Pensions)  |  |
|                         | b) Other Staff costs   |  |
| 3                       | <b>Vehicles</b>  |  |
|                         | a) All costs attributable to the Vehicles (including tax, licences etc.) other than to the extent included in 3 b).  |  |
|                         | b) Insurances  |  |
|                         | c) Maintenance, including labour   |  |
| 4                       | <b>Overheads</b>   |  |
|                         | a) Premises and plant, including all rent, tax, leases, and an apportionment of costs based on use of depots being used for these Services and other services (by reference to the proportion) |  |
|                         | b) Admin support   |  |
|                         | Margin   |  |
|                         | <b>Total Annual Operating Charge</b>   |  |

2. The Fee for a Relevant Period shall be determined as follows:

$$Fee = \left( \frac{Annual\ Operating\ Charge}{13} \right)$$

3. The Basic Amount for a Relevant Period is the Fee less the aggregate of the Retention Amount and the Lost Kilometre Deduction, in each case for that Relevant Period.

$$Basic\ Amount = Fee - (Retention\ Amount + Lost\ Kilometre\ Deduction)$$

## Schedule 2

## Part B – Lost Kilometre Deduction

1. The Operator is required to operate 100% of the Annual Scheduled Kilometres.
2. If a Route Journey fails to operate or is not operated fully, the Operator shall:
  - a. record the Scheduled Kilometres not operated by it on that Route Journey (the "Lost Service Kilometres"),
  - b. record the cause of the Lost Service Kilometres, and
  - c. submit this information to the Authority for each Relevant Period in a format notified by the Authority to the Operator from time to time.
3. Where the Authority determines that Scheduled Kilometres not operated by the Operator were for reasons beyond the Operator's reasonable control, no deductions shall apply and they shall not be included in the calculation of the Lost Kilometre Deduction for a Relevant Period.

It is agreed and acknowledged that, without prejudice to the right of the Authority to regard any particular circumstance as being within the Operator's control, the following reasons which may give rise to Lost Service Kilometres are within the Operator's control:

- a. Operator Staff availability,
  - b. Operator Vehicle availability,
  - c. normal traffic congestion conditions.
4. The amount of the Lost Kilometre Rate for each Lost Service Kilometre is determined as follows:
 
$$\text{Lost Kilometre Rate} = \left( \frac{\text{Annual Operating Charge}}{\text{Annual Scheduled Kilometres}} \right) = \text{[REDACTED]}$$
5. The Lost Kilometre Deduction to be applied in determining the Basic Amount for a Relevant Period in respect of Lost Service Kilometres (other than those which fall under paragraph 3) shall be the product of the number of Lost Service Kilometres in such Relevant Period and the Lost Kilometre Rate calculated in accordance with paragraph 4.

The Authority will notify the Operator of the amount of the Lost Kilometre Deduction to be applied to the Basic Amount in respect of a Relevant Period, as determined in accordance with this Schedule 2, Part B.

## Schedule 2

## Part C - Indexation

The Annual Operating Charge shall be adjusted on each Review Date in accordance with the following formula:

$$A = A_0 \times \left( 1 + \frac{I - I_0}{I_0} \right)$$

where:

- A = the amount that will apply from the Review Date in respect of which the formula is being applied;
- A<sub>0</sub> = the value of the Annual Operating Charge in Schedule 2 Part A;
- I = the value of the Consumer Price Index (Base December 2011 = 100) for the November preceding the Review Date;
- I<sub>0</sub> = the value of the Consumer Price Index (Base December 2011 = 100) for November 2016, being 101.2.

## Schedule 3

## Insurance requirements

## 1. Types of Insurance

| Type of Insurance                         | Minimum Insurance Level   |
|---|---|
| Damage to 3rd party property              | Six million, five hundred thousand euro (€6,500,000) in respect of any one accident |
| Death of, or bodily injury to, any person | Unlimited   |
| Public Liability                          | Six million, five hundred thousand euro (€6,500,000) in respect of any one accident |
| Employers' Liability                      | Thirteen million euro (€13,000,000) in respect of any one accident                  |

## 2. Other Insurance Requirements

- 2.1 A specific indemnity to the Authority shall be put in place and confirmed in writing in respect of each of the insurances specified in paragraph 1 (Types of Insurances).
- 2.2 Insurance cover in respect of all Buses to be used to provide the Service shall be Comprehensive, or evidence to be provided by the Operator, to the satisfaction of the Authority, that adequate replacement buses to the standards outlined in Schedule 8 are available to operate the Services in the event of any incident that renders current Buses to be unfit for the provision of the Service.



NATIONAL TRANSPORT AUTHORITY

PUBLIC TRANSPORT SERVICES CONTRACT

Route 817 Adult Return Fares

|                               |                               |        |                      |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|-------------------------------|-------------------------------|--------|----------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Dublin                        | Dublin                        |        |                      |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Area Post Office              | Area Post Office              | €12.00 | Opposite Post Office |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Black Rabbit (Ballymore Road) | Black Rabbit (Ballymore Road) | €12.00 | X                    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Killeshine Hotel              | Killeshine Hotel              | €12.00 | €4.00                |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Two Mile House                | Two Mile House                | €12.00 | €4.00                |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Cumshingaugh                  | Cumshingaugh                  | €12.00 | €7.00                |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Midleton (at Bus Stop)        | Midleton (at Bus Stop)        | €13.00 | €7.00                |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Kilgishin (at Bus Stop)       | Kilgishin (at Bus Stop)       | €13.00 | €7.00                |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Ballyphannon                  | Ballyphannon                  | €14.00 | €10.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Timonee (at Bus Stop)         | Timonee (at Bus Stop)         | €14.00 | €13.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Atty Dingo Street             | Atty Dingo Street             | €14.00 | €13.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Ballynary Old Church          | Ballynary Old Church          | €17.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Monaghan Cross                | Monaghan Cross                | €17.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Crossfield                    | Crossfield                    | €17.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Ballyred Cross                | Ballyred Cross                | €17.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Castlegrove Church            | Castlegrove Church            | €17.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Milspay                       | Milspay                       | €18.00 | €17.00               |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

Applies to Adults 16 years and over  
No Internal Kilkenny City Return







Schedule 5  
Service Levels

| Reference | Service Levels   | Service Credit Points |
|-----------|--|-----------------------|
| 1.        | <p><b>Punctuality</b></p> <p>At least ninety seven per cent (97%) of all Services depart from the first Stopping Place on the Route Journey:</p> <p style="padding-left: 40px;">(i) not earlier than one (1) minute before; and</p> <p style="padding-left: 40px;">(ii) not more than five (5) minutes after,</p> <p>the departure time specified in the Timetable in Schedule 1, provided that Services departing later than the specific departure time shall not be included where the Operator demonstrates to the reasonable satisfaction of the Authority that such late departure was due to the late arrival of a guaranteed connection.</p> <p><b>Measurement Methodology:</b></p> <ul style="list-style-type: none"> <li>• Operator’s Period Reports, and / or</li> <li>• NTA Audits</li> </ul>  | 4                     |
| 2.        | <p><b>Service Quality</b></p> <p>Driver is helpful, courteous and polite. <span style="float: right;">0.5</span></p> <p>Bus operating the Service complies with the requirements of this Agreement (including, Schedule 8). <span style="float: right;">0.5</span></p> <p>Wheelchair ramp/lift (whichever is provided) is operating correctly and used by driver on passenger request. <span style="float: right;">0.5</span></p> <p>Bus heating operated to match weather conditions. <span style="float: right;">0.5</span></p> <p>Seats and surfaces are clean <span style="float: right;">0.5</span></p> <p>Seats are in a good state of repair <span style="float: right;">0.5</span></p> <p>Exterior of bus is clean <span style="float: right;">0.5</span></p> <p>A copy of current fares for the Service is displayed prominently at the entrance to the Bus, at a location to be determined by the Authority and to a design approved by the Authority <span style="float: right;">0.5</span></p> <p><b>Measurement Methodology:</b> NTA Audits or Mystery Shopper surveys by the Authority or its agents</p> | 4                     |

**Schedule 6****Improvement Notices**

The matters in connection with which the Authority may issue an Improvement Notice to you shall include (but are not limited to):

- (a) unsatisfactory cleanliness of Buses (interior or exterior);
- (b) unsatisfactory physical repair or condition of Buses (interior or exterior);
- (c) inadequate internal heating of Buses;
- (d) inadequate display of information signs as specified in clause 15.5;
- (e) inadequate display of Bus route number and destination on exterior of vehicle;
- (f) breach of vehicle specification requirements;
- (g) unsatisfactory handling of complaints;
- (h) unsatisfactory provision of Website information;
- (i) inadequate or late provision of required information or data to the Authority;
- (j) late remittance of Fares to the Specified Account;
- (k) unsatisfactory maintenance of records in relation to the Service;
- (l) unsatisfactory provision of tickets to customers; and
- (m) operating bus service without an electronic ticket machine.

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**Schedule 7****Part A****Electronic Ticket Machine (ETM)**

- 1. Provision of Electronic Ticket Machines**
  - 1.1 The Authority shall provide Electronic Ticket Machines to the Operator for the Services Period.
  - 1.2 All ETM's issued to the Operator shall remain the property of the Authority.
  - 1.3 The Operator shall be responsible for the safe keeping of all ETMs issued to them until such time they are returned to the Authority.
- 2. Operator obligations**
  - 2.1 At their own cost the Operator shall provide suitable internet access connections in order to access ETM ticket transaction data from the Buses and to ensure full daily download of the ETM ticket transaction data.
  - 2.2 At their own cost the Operator will install the ETMs including the provision of all power supplies and wiring in accordance with instructions issued by the Authority
  - 2.3 The Operator shall at all times use the ETMs provided by the Authority for the provision of the Services of this Agreement.
  - 2.4 The Operator shall not use the ETMs issued by the Authority for any service other than the Services the subject of this Agreement.
- 3. Ongoing maintenance**
  - 3.1 The Operator shall, at their cost, be responsible for sourcing and purchasing all paper supplies required for the ETMs. This paper shall meet the specification issued by the Authority to the Operator.
  - 3.2 Except to the extent contemplated by paragraph 3.1, the Authority will be responsible for the maintenance of all ETMs issued to the Operator in accordance with this Agreement.
- 4. ETM Fault**
  - 4.1 The Operator shall, upon becoming aware of a fault with an ETM;
    - (a) notify the Authority of the fault.
    - (b) implement immediately, a method, previously agreed with the Authority for the issue of tickets, collection and record of all fares on the affected service.
    - (c) within two (2) hours change the faulty ETM with the spare ETM.
    - (d) arrange with the Authority collection of the faulty ETMs for repair and maintenance.
  - 4.2 Upon request from the Authority the Operator shall, as soon as practical, arrange for the return of any ETM which the Authority has requested be returned to it

**5. Return**

Upon the expiry or termination of the Services Period, the Operator shall arrange for, and cooperate in, the collection of all ETMs by the Authority.

## Schedule 7

Part B  
Ticketing and Revenue Arrangements

## 1. Ticketing Arrangements

1.1 The Operator shall procure tickets, make available, charge for and accept tickets of such types, design, fare zone or fare stage validity, time period validity and service validity (including joint tickets with other public transport operators) and fare levels and subject to operational arrangements as set out in this Schedule 7, Part B or as may be notified by the Authority to the Operator from time to time.

1.2 The Operator shall accept as a valid means of payment or right to travel, including:

- (n) cash fares;
- (o) travel credit on Leap Cards;
- (p) ticket products pre-loaded onto Leap Cards;
- (q) Free Travel Passes;
- (r) valid staff passes as prescribed by the Authority; and
- (s) other tickets, passes or smart cards as notified to the Operator by the Authority from time to time.

1.3 The Operator shall accept as valid means of payment or right to travel the following types of Leap Cards:

- (t) adult Leap Cards;
- (u) child under 16 anonymous Leap Cards;
- (v) child 16-18 personalised Leap Cards;
- (w) student personalised Leap Cards;
- (x) other Leap Cards as advised by the Authority from time to time,

provided such Leap Cards contain either a valid ticket for the service and/or sufficient travel credit to pay for the journey.

1.4 In cases of disruption to other public transport services operated under contract with the Authority, the Authority may notify the Operator, to require the Operator to accept tickets issued for travel on those services during the period of disruption as notified by the Authority.

1.5 The Operator shall familiarise themselves with the contents of the 'TTS Requirements' document in relation to the operation of the Integrated Ticketing Scheme.

1.6 The Authority shall provide the Operator with reasonable prior notice in relation to changes to the tickets/Fares and shall consult with the Operator concerning any operational or administrative issues in relation to such changes.

- 1.7 The Operator shall issue paper tickets (i.e. receipts serving as proof of payment for travel) for all cash fares paid on board the Bus.
- 1.8 The Operator shall not make any changes to the approved ticket design without the prior agreement of the Authority.
- 1.9 The operating charges for the Integrated Ticketing Scheme shall be payable by the Authority but shall be advised to the Operator on a monthly basis. The Operator shall assist the Authority as required to verify the accuracy of these charges and shall promptly identify and where applicable address any anomalies that arise on a timely basis. The basis for the calculation of the operating costs for the Integrated Ticketing Scheme is set out in the 'ITS Requirements' document.
- 1.10 The Authority shall provide the Operator with equipment for issuing and validating tickets and recording ticket transactions ("ETM") for use on board. This Ticketing Equipment shall include a Driver ticket machine including Leap Card reader (Smart Card Validator) ("Ticket Machine").
- 1.11 Several times each day (or as frequently as the Authority determines) the Authority shall provide the Operator with Ticketing Equipment configuration data (which may include but not be limited to product definitions, action lists, scheme wide codes and hotlists as set out in the 'ITS Requirements' document). The Operator shall ensure that the latest configuration data is successfully implemented on the Ticketing Equipment on each Network Bus in advance of commencement of services each Operational Day.

## 2. Leap Card Transactions

- 2.1 A Leap Card travel credit facility is available on certain Leap card types. Customers can present a Leap Card to the ETM, advise the driver of their destination or the fare they wish to pay and the driver shall select the relevant fare/destination option to deduct the correct travel credit fare from the card.
- 2.2 The Operator shall ensure that its staff are aware of, and facilitate the following:
- (y) certain Leap Card types do not have the travel credit facility (for example, Leap Family pass) and instead contain ticket products that can be validated at the ETM. In such cases the travel credit facility may be reported as being blocked but may still contain a valid ticket product and the driver shall validate such products rather than attempting to deduct a fare from the travel credit balance;
  - (z) Leap Cards that have the travel credit facility contain a deposit that can be used to pay for a fare, even if that fare exceeds the available travel credit on the Leap Card, provided that the Leap Card has a minimum positive balance of €0.01 and provided that the fare payable does not exceed €5.00;
  - (aa) customers may present a Leap Card and use the travel credit on a single card to pay for multiple additional passengers; if so requested the driver shall charge the additional fares from the travel credit and shall issue paper receipts in respect of each additional passenger;
  - (bb) customers may present a Leap Card that contains both a valid pre-loaded ticket product and travel credit and may request that either be used for travel; if so requested the driver shall select the requested means of payment and shall perform the appropriate action;



- (cc) customers may present a Leap Card that contains both an invalid (e.g. expired) as well as a valid pre-loaded ticket product. If necessary the driver shall select or ensure that the valid ticket product is used;
  - (dd) customers may present a personalised Leap Card with a pre-loaded period pass to the ETM.
- 2.3 In the event of error by the customer or by the driver in the usage of a Leap Card, the driver shall reverse the transaction as necessary.
- 2.4 In the event that the Ticketing Equipment reports an error or unsuccessful validation or cannot read the Leap Card, the driver shall refuse travel unless the customer pays via another means (e.g. cash).
- 2.5 Leap Cards shall not have travel credit value or ticket products added to them on board the Bus.
- 2.6 Customers with any complaints or having difficulties with their Leap Cards shall be advised to contact the Leap Card call centre, the telephone number of which is on the back of all Leap Cards.
- 2.7 Drivers shall, if appropriate (i.e. not when driving or if there are long queues) provide customers on request with a Leap Card status report from the ETM (including, a printed paper note which displays the remaining value, products and most recent five journeys). Such notes are not valid for travel.
- 3. Fare Collection Arrangements**
- 3.1 The Operator shall ensure that the on board Ticketing Equipment is fully functional at the commencement of use of the Bus on any Operational Day.
- 3.2 Drivers shall accept payment of cash fares in Euro currency coins only, taking reasonable steps to ensure they do not accept counterfeit cash.
- 4. Free Travel Passes**
- 4.1 Passengers presenting valid Free Travel Passes issued by the Department of Social Protection shall not be charged for their journey in accordance with the Fare Table in Schedule [4].
- 4.2 The Operator shall record on the ETM all journeys made by passengers presenting valid Free Travel Pass in accordance with instructions provided by the Authority from time to time.
- 4.3 Where an invalid Free Travel Pass is presented for travel, the driver shall not accept the Free Travel Pass and shall charge the appropriate cash fare for the journey.
- 4.4 The Operator shall cooperate in carrying out any survey of passengers required by the Authority, the Department of Social Protection or any other body with responsibility for travel concession schemes, in relation to the use of a travel concession scheme.
- 5. Passenger cannot pay**
- A passenger who cannot pay shall be refused travel unless he/she is a vulnerable person or in distress as a result of something happening to them, in which case he/she shall be allowed to travel provided the driver records the passenger journey in accordance with instructions issued with the Authority from time to time.

**6. Tickets issued in Error**

- 6.1 In the event of a cash ticket being issued in error the driver shall withdraw the ticket, and where appropriate, issue the correct ticket to the passenger and make any necessary cash adjustment.
- 6.2 The withdrawn ticket shall be handed in at the driver's garage at the end of his/her duty together with an explanation as to the circumstances and shall be retained by the Operator.
- 6.3 In the event that a driver fails to hand in the withdrawn ticket, the value of the ticket issued in error shall be payable by the Operator to the Authority, as if the ticket had not been issued in error.

**7. Re-issued Tickets**

Under no circumstances may used or withdrawn tickets be re-issued. Drivers must not have used tickets (except withdrawn tickets) in their possession at any time.

**8. Refunds**

- 8.1 In the event that a customer purchases a ticket, and is then unable to make their journey due to a disruption to the Service, the Operator shall refund the cost of the journey on request, provided the customer provides satisfactory evidence that they were unable to complete their journey by an alternative public transport operator due to the disruption without incurring additional ticket purchase costs.
- 8.2 Refunds shall not be issued by the driver.
- 8.3 The Operator shall maintain records of the amount and reason for each refund, and shall make such records available to the Authority on request.

**9. Information and Data from the Ticketing Equipment**

The Operator shall be responsible for the downloading of transaction data from the ETM, and for the recording and storage of the ticketing transaction data in order to prepare the Relevant Period Reports.

**10. Calculation of Fares Revenue to be lodged in the Specified Account****10.1 The Fares Revenue due to the Authority shall be:**

- (ee) the amount of revenue receipts identified by the data provided by the ETM, (or, in the absence of any or all of this data, the amount of revenue receipts accruing to the Services as can be identified or supported by such other information and documentation as the Authority may reasonably require);
- (ff) less any adjustments due in respect of tickets issued in error for which the withdrawn ticket has been retained and a satisfactory explanation provided;
- (gg) plus any adjustments due in respect of revenue due as a result of unsupported tickets issued in error for which the withdrawn ticket has not been retained.

- 10.2 In the event that the Operator is found to have failed to make the appropriate adjustments in any Relevant Period, the Authority shall be entitled to claim payment for all unsupported ticket annulments in the Relevant Period in question.

- 10.3 For the avoidance of doubt, the Operator shall be responsible for any mistakes, errors, invalid or ineligible claims by its drivers, operators or other staff which lead to invalid adjustments.
- 10.4 The Operator shall, in the Relevant Period Report, shall submit an analysis of any discrepancies between ETM transaction data (or other information or documentation used) and the amount paid into the Specified Account for agreement with the Authority, including an explanation as to tickets issued in error and which shall be subject to the approval of the Authority.
- 10.5 The Operator shall be responsible for any discrepancies or errors which result in a loss of Fares Revenue to the Authority including those caused by the malfunction of the ETM, the use of illegal tender, any illegal tampering, theft and other cash losses, and shall indemnify the Authority against such lost patronage revenue. Any over-collection of revenue by the Operator shall be the property of the Authority.
11. Misallocation of Fares Revenue
- 11.1 The Authority may conduct an audit or inspection or investigation of the Operator's revenue collection arrangements at any time during the contract.
- 11.2 The Operator shall co-operate fully with any investigation carried out by the Authority, and shall make all necessary records, documents and information available.
- 11.3 If it is discovered, or the Authority has reasonable grounds to believe, that any Fares Revenue which should have been paid to the Authority in respect of the Services together with all supporting documentation or information which would have identified the Fares Revenue as received or collected in respect of the Services has not been paid or provided to the Authority, then the Operator shall:
- (hh) pay forthwith to the Authority all Fares Revenue which should have been handed over in respect of the Services together with interest on the total amount of such delayed payment at the rate of 3% above the then current base rate of the European Central Bank from the date when payment should have been made in to the date when payment is received by the Authority;
  - (ii) indemnify the Authority in respect of all costs and expenses incurred by the Authority in checking all such previous payments, returns and information as the Authority in its absolute discretion considers necessary to ensure all Fares Revenue attributable to the Services has been paid over to the Authority; and
  - (jj) pay forthwith to the Authority all Fares Revenue which is identified by the Authority as a result of any investigation as being attributable to the Services and which has not previously been paid over to the Authority, together with interest on all such sums for the period and at the rate set out in paragraph (a) above.
- 11.4 For such period as the Authority is conducting any investigation and until all sums shown to be properly attributable to the Services have been paid to the Authority, the Authority may withhold the Basic Amount for each Relevant Period in an amount equal to any shortfall not otherwise discharged by the Operator. All such sums withheld shall be paid by the Authority to the Operator following the receipt by the Authority of all sums due under paragraph 11.1, 11.2 and 11.3 above.

## Schedule 8

## Part A

**Minimum Wheelchair Accessible Vehicle Specification**

1. Each Bus shall:
  - (a) have in force a valid Commercial Roadworthiness Test Certificate and large Public Service Licence at all times;
  - (b) conform to all relevant EU and Irish regulations;
  - (c) have a minimum seating capacity for twenty nine (29) persons (excluding the driver) and one restrained wheelchair space to appropriate UK / EU regulations;
  - (d) conform to minimum Euro 5 engine emission standard and be not more than twelve (12) years of age at any time in the Contract;
  - (e) Be fitted with seating to the following standard:
    - (i) to have replaceable upholstered seating and back pads that shall be of sufficient thickness and quality to provide good quality comfort and back support for passengers for the anticipated full route distance.
    - (ii) backs and pads moulded into body panels must provide equivalent levels of comfort to that provided by the standard seating.
    - (iii) minimum height to top of seat cushion 500mm
    - (iv) that is forward facing is the preferred layout except where the chassis design function over wheel boxes necessitates rearward facing.
    - (v) be at the same overall height.
    - (vi) of bench type will not be accepted.
    - (vii) arrangements and type shall be subject to the approval of the Authority before use on the proposed service.
  - (f) Be fitted with designated suitable interior or exterior luggage storage;
  - (g) have front or onside entrance door of sufficient width to allow comfortable access and egress of wheel chair passengers if ramp fitted at front doors. No offside or rear wheelchair entry points will be permitted.
  - (h) If fitted, an appropriate kneeling system to adjust step heights from and to the proposed bus.
  - (i) If fitted, have ramp requirements as follows:
    - (i) Retractable single ramp platform type.
    - (ii) Maximum gradient achieved from bus to standard kerbing heights ( 125mm) shall be 12%

- (iii) Where power operated a ramp deployment audible warning device at door to be beeping sound not to exceed 75dB(A) when measure at 1.25m height from exterior ground on the centre line of the exit door at a distance of 1.5m
  - (iv) Must function on all kerbs and surfaces likely to be encountered along the proposed route.
  - (j) If fitted, have the following wheelchair lift requirements:
    - (i) Retractable single platform type.
    - (ii) Be powered operated with audible warning device at door to be beeping sound not to exceed 75dB(A) when measure at 1.25m height from exterior ground on the centre line of the exit door at a distance of 1.5m
    - (iii) Remote control from driver location.
    - (iv) Must function on all kerbs and surfaces likely to be encountered along the proposed route.
    - (v) Shall conform to all relevant EU and Irish regulations
  - (k) Have the following wheelchair bay space requirements:
    - (i) Minimum one wheelchair bay space of appropriate dimensions.
    - (ii) Comply with EU regulations on carriage of restrained wheelchairs
    - (iii) Be fitted with dedicated accessible bell push
  - (l) have suitable heating and ventilation systems installed.
  - (m) have non slip floors.
  - (n) be fitted with passenger handrails and bell pushes
  - (o) be fitted with driver P.A. system.
2. The Authority reserves the right to fit AVL equipment on board any vehicle operating the Services at any point during the Contract.
3. The Authority reserves the right to require the Operator to provide vehicle livery to the Authority's design.

## Schedule 9

## Advertising Rights

- 1 All costs relating to the fitting and maintenance of advertisements shall be borne by the Operator.
- 2 The Operator's right to advertise is subject to any modification the Authority may require to meet the Authority's requirements for the display of any service or other information.
- 3 Advertisements will not be acceptable if in the opinion of the Authority and/or such other person that the Authority may from time to time specify they:
  - (a) do not comply with the law or incite anyone to break the law;
  - (b) conflict with the Advertising Standards Authority for Ireland, Code of Standards for Advertising and Marketing Communications in Ireland;
  - (c) are likely to cause widespread or serious offence to members of the public, on account of the nature of the product or service being advertised, the wording, or design of the advertisement, or inference contained in the advertisement, or are open to the possibility of its defacement;
  - (d) depict men, women or children in a sexual manner or displays nude or semi-nude figures in an overtly sexual context;
  - (e) depict direct and immediate violence to anyone shown in the poster or to anyone looking at the poster;
  - (f) advertise films which have not been granted permission for public exhibition or which do not show the certificate;
  - (g) are of a political nature calling for the support of a particular viewpoint, policy or action or attacking a member or policies of any legislative, central or local government authority. (Provided that advertisements are acceptable which simply announce the time, date and place of social activities or of meetings together with the names of the speakers and the subjects to be discussed)
  - (h) contain illustrations which depict or might reasonably be assumed to depict quotations from or references to a living person unless the written consent of that person is obtained and is produced to the Authority;
  - (i) are intended to or do undermine or impugn any other operator providing services under contract to or by agreement with the Authority; and/or
  - (j) might adversely affect in any way the interest of the Authority or are in any way considered inappropriate or do not comply with any advertising policy of the Authority from time to time (which shall not be unreasonably imposed).
  - (k) depict or refer to indecency or obscenity or use obscene or distasteful language;
  - (l) relate to lap-dancing, "gentlemen's clubs", escort agencies or massage parlours;
  - (m) condone or provoke anti-social behaviour;

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- (n) contain images or messages which relate to matters of public controversy and sensitivity;
  - (o) use handwriting or illustrations that would suggest the advertisement has been damaged, defaced, fly posted or subject to graffiti, after it has been posted;
  - (p) In the case of digital media, the advertisement must not pose a health and safety risks a result of flickering or other visual imagery.
- 4 If in the opinion of the Authority any advertisement is not acceptable, by reason of any reason set out in paragraph 19.4, such advertisement shall on the written request of the Authority be removed immediately at the cost of the Operator.
  - 5 The Operator shall remove or obscure any external commercial advertising, that has been damaged (including graffiti and vandalism) as soon as practicable, and shall repair, at its own cost such damage to the external commercial advertising in two Business Days of the damage occurring so that the appearance and standard of the Vehicle(s) is maintained.
  - 6 Where any damage (including graffiti and vandalism) is caused to the internal commercial advertising, the Operator shall remove or obscure the internal commercial advertising as soon as practicable. The cost of such repair shall be paid for by the Operator.
  - 7 The Operator shall indemnify and keep indemnified the Authority against all claims, demands, proceedings, costs, charges and/or expenses arising out of the display of advertisements on vehicles used on the Services.

