

PASSENGER TRANSPORT CONTRACT

DATED _____

(1) 106 Partnership CIO (reg:1176484

and

(2)

**CONTRACT FOR THE PROVISION OF TRANSPORT SERVICES
Between Penrith and Kendal. Tuesday, Wednesday and Friday**

This CONTRACT is made the

2018

BETWEEN:

(1) The 106 Partnership CIO, c/o C Battersby, Aysgarth, Eamont Bridge, Penrith. CA10 2BH
(**The Partnership**) and;

(2) [INSERT COMPANY NAME] company number [] whose registered office is at [INSERT ADDRESS] (the "**Contractor**")

or The Proprietors/partners listed in Annex 1 owning and or comprising the firm [INSERT ADDRESS] whose principle place of business is situate at [ADDRESS] (the "**Contractor**")

or [NAME] of [HOME ADDRESS] (the "**Contractor**")

WHEREAS

(1) The Partnership wishes to have provided the Service set out in Part II of this Contract and

(2) The Contractor is willing to perform the Service in accordance with the provisions of Part I of the Contract.

IT IS HEREBY AGREED between the Partnership and the Contractor as follows:

PART 1

CONDITIONS OF CONTRACT

1.1 In these conditions (as hereafter defined) the following words and expressions shall have the meaning assigned to them except where otherwise indicated:

"Applicable Law" means –
(a) any statute or delegated or subordinate legislation;
(b) any enforceable community right within the meaning of Section2(1) European Communities Act 1972;
(c) any applicable direction, order, notice or determination issued by any Court with the relevant jurisdiction, or by any local authority, inspectorate, minister or public or statutory body.

"Authorised Officer" means the person defined in Clause 3.

"Contract" is this agreement entered into between the Partnership and the Contractor comprising of the Contract Documents.

"Contract Documents" Means the Conditions of Contract including the Schedules, Specification, Contract Price and any other documents attached to this Contract.

“Contract Manager”	means the person appointed by the Contractor under Clause 9 whose details are set out in the Specification.
“Contractor”	means the person or persons, firm or company whose tender has been accepted by the Partnership to deliver the Services.
“Contract Period”	means, subject to Clause 23, the period stated in the Specification.
“Contract Price”	means the respective sums of money set out in Part II of this Agreement as varied in accordance with Clause 21.
“Contract Route”	means one or more routes listed in the Specification and forming part of the Service.
“Contract Standard”	means, subject to Clause 12, such standard as complies in each and every respect with the Contract and where and to the extent that no criteria are stated the Contract Standard is to be to the entire satisfaction of the Authorised Officer.
“Drivers Vehicle Defect Report”	means the checklist concerning the condition of a vehicle in the form prescribed by the Partnership or otherwise agreed by it.
“Health and Safety Requirements”	means the requirements of the Health and Safety at Work Act 1974, all regulations thereunder, any Code of Practice or other relevant guidance issued by the Health and Safety Commission, and any relevant manufacturer’s instructions.
“Passenger”	means a person in possession of a valid travel pass or named in the Specification or entitled to use the Service as it is a scheduled bus service available to the general public. For the avoidance of doubt Passenger includes Authorised Passenger, Service User and Customer.
“Personnel”	means any person used engaged employed appointed or sub-contracted by the Contractor for the performance of the Service and for the avoidance of doubt can include the Contractor
“Review Date”	means the date the contract price is subject to an increase in line with the index. (subject to the contract having operated for a 12 month period).
“Schedules”	means the schedules attached to the end of these conditions of contract.
“Service”	means the provision of passenger transport as described in the Specification to be performed in accordance with this Contract.
“Specification”	means the description of the Service in Part II of this Contract.

“Vehicle” shall mean a vehicle being used by the Contractor or Personnel in performance of this Contract.

- 1.4 This Contract comprises of the Contract Documents which constitute the sole Contract agreement between the Partnership and the Contractor for the performance by the Contractor of the Service set out in Part II of the documentation.

1A WARRANTIES

Each Party severally warrants, represents and undertakes to the other that:

- (a) it has the power to enter into this Contract and to exercise its rights and perform its obligations hereunder; and
- (b) all corporate and other action required to authorise its execution of this Contract and the performance of its obligations hereunder has been duly taken; and
- (c) the obligations expressed to be assumed by it in this Contract will, upon execution and delivery, constitute its legal, valid and binding obligations, enforceable against it in accordance with the terms of this Contract; and
- (d) the execution of this Contract and the exercise of its rights and the performance of its obligations under this Contract by it will not violate or result in a contravention of:
 - (i) any of the provisions of any of its constitutional documents;
 - (ii) any applicable law, regulation or official or judicial order to which it is subject;
 - (iii) any other Agreement, instrument or undertaking binding upon it or any of its assets

it has not taken any corporate action nor, to the best of its knowledge and belief (after having made due enquiry) have any legal proceedings been started or threatened for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer over any or all of its assets.

2. FORM OF CONTRACT

2.1 Sufficiency of Information

The Contractor agrees and acknowledges that is has obtained all necessary information as to risks, contingencies and other circumstances which might influence or affect the Contract and has satisfied itself as to the accuracy and sufficiency of the Contract Price and confirms that the Contract Price shall cover all the Contractor’s obligations under the Contract.

2.2 Document Mutually Explanatory

2.2.1 Except as otherwise expressly provided, the several documents comprising the Contract are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies, the same shall be explained and adjusted by the Authorised Officer who shall thereupon issue to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instructions.

2.2.2 In the event of any inconsistency between the Conditions and any provision in any of the other Contract Documents, the Conditions shall prevail.

2.3 Variation of Conditions

Except for amendments covered by Clause 2.2.1 and Clause 4, no deletion from, addition to, or variation of the Contract shall be valid or of any effect unless agreed in writing, signed by both parties and in the form set out at Schedule G.

2.4 Copyright

Copyright in the Contract Documents shall vest in the Partnership but the Contractor may obtain or make at its own expense any further copies reasonably required for use by the Contractor in performance of the Service.

3. AUTHORISED OFFICER

3.1 The Authorised Officer shall be the person:-

3.1.1 The Chairman, Treasure or Secretary of the 106 Partnership
CIO

3.1.2 Or an such representative appointed by the Partnership to act in the name of the Partnership for the purposes of the Contract as shall be notified to the Contractor.

3.2 The Partnership shall as soon as practicable give notice in writing to the Contractor of the replacement of the Authorised Officer or if any person ceases to be the Authorised Officer.

4. UNILATERAL VARIATION TO THE CONTRACT

The Authorised Officer shall be entitled to issue to the Contractor instructions in writing, and the Contractor shall comply with such instructions, in relation to all or any of the following:-

4.1 to omit any part of the Service or to cease to provide any part of the Service in such locations during such times and for such period or periods as the Authorised Officer may determine, which period or periods may be of either a temporary or permanent nature;

4.2 to provide the Service or any part thereof in such manner as the Authorised Officer may reasonably temporarily require providing that a requirement to provide the Service to the Contract Standard shall not be a modification;

- 4.3 to provide such services additional to the Service including additional or substituted locations as the Authorised Officer may reasonably require;
- 4.4 to vary permanently the Service or any part thereof to be provided on any Contract Route;
- 4.5 extend the Contract Route by up to a maximum of 4 miles per journey;
- 4.6 where the Vehicle has spare capacity to carry additional Passengers as directed by the Authorised Officer.

5. VALUATION OF MODIFICATIONS

- 5.1 Where a modification is made under Clause 4, the Authorised Officer shall determine whether the Contract Price should be varied in accordance with the following principles:
 - 5.1.1 where part of the Service is omitted from or ceases to be provided under the Contract the rates and prices contained in the Contract Documents shall determine the valuation of the part of the Service omitted;
 - 5.1.2 where the modification is of a similar character to and is executed under similar conditions to the Service the rates and prices for the work contained in the Contract Documents shall determine the valuation;
 - 5.1.3 where the modification is not of a similar character to or is not executed under similar conditions to the Service the valuation shall be made at fair rates and prices having due regard where applicable to the rates and prices contained in the Contract Documents;
 - 5.1.4 a modification under Clause 4.5 shall not cause a change in the Contract Price but a change of a route which is greater than 2 miles may result in a renegotiation of the Contract Price between the parties;
 - 5.1.5 an increase in Passengers under clause 4.6 shall not cause a change in the Contract Price unless a change to the route is required greater than 4 miles in which case any variation to the Contract Price shall be calculated in accordance with clause 5.1.4
- 5.2 Where the Authorised Officer determines that the Contract Price shall be altered, the variation shall have effect for the remainder of the Contract Period in substitution for the Contract Price set out in the Specification, subject to any further variation that might be made.

6. GENERAL OBLIGATIONS OF THE CONTRACTOR

- 6.1 The Contractor shall provide the Service to the Contract Standard for the Contract Period.
- 6.2 The Contractor shall:

- (a) exercise all the skill, care and diligence to be expected of a competent Contractor in the provision of services of the type to be provided under this Contract;
 - (b) ensure that in providing the Service it shall conform with all requirements and descriptions set out in the Contract Documents; and
 - (c) obtain and at all time during the Contract Period maintain all the necessary licences and consent and comply with all applicable laws and regulations.
- 6.3 The Contractor shall comply with the requirements of Schedules A and B. The Contractor shall also comply with the additional Schedules identified in the Specification.
- 6.4 The Contractor shall maintain such reasonable records of the work carried out in the provision of the Service as the Partnership shall require, including operational days, passenger numbers and revenue collected. The records shall be open for inspection by the Authorised Officer or his/her representative at all reasonable times.
- 6.5 The Contractor shall allow access by the Authorised Officer and/or any Authority employee nominated by the Authorised Officer to:-
- 6.5.1 any of the Contractor's premises where services are provided or facilitated for the purpose of inspecting vehicles used in the provision of the Service, monitoring the performance of the Service, or inspecting records and documents in the possession of the Contractor which are relevant to the performance of the Service, including financial records, and;
 - 6.5.2 any of the Contractor's Vehicles while the Contract Route is being operated.
- 6.6 The Contractor shall at all times during the Contract Period allow the Authorised Officer and such other persons as may from time to time be nominated by the Authorised Officer access to any employee or agent of the Contractor for the purpose of interviewing such person in connection with the carrying out of all or any part of the Service or determining their suitability.
- 6.7 The Contractor shall provide to the Authorised Officer or to such other persons as may be nominated by the Authorised Officer on request within 5 Working Days:-
- 6.7.1 a copy of each year's audited accounts within six months of the relevant accounting reference date subsequent to those provided in accordance with the instructions for tendering;
 - 6.7.2 copies of insurance certificates, Department for Transport MOT or Vehicle Test Certificates, licences or other authorisations required by applicable law for the provision of the Service;
 - 6.7.3 any other documentation the Authority may reasonably require including information necessary to deal with a written complaint and which is relevant to the provision of the Service.

- 6.8 In order to comply with the requirements of the operators licence and Health and Safety at Work Act 1974, the Contractor shall:-
- 6.8.1 ensure the completion of the Drivers Vehicle Defect Report at least once a day prior to journey commencing and in addition whenever a change of driver occurs and
 - 6.8.2 have this report available for inspection as and when required by the Authorised Officer, the Police, VOSA and such other persons as may be nominated by the Authorised Officer.
- 6.10 The Contractor shall ensure that no alterations are to be made to the Service without the prior written consent of the Authorised Officer;
- 6.11 The Contractor shall supply the following to the Authorised Officer:-
- 6.11.1 immediately on receipt the details of any summons to the Contractor to attend a Traffic Commissioner Inquiry;
 - 6.11.2 details of the outcome of any Public Inquiry, or change to the Contractor's PSV Operator's Licence within 7 days of the outcome or change, along with the Contractor's opinion as to the effect of such outcome or change on the operation of the Contract.
- 6.12 The Contractor shall notify the Authorised Officer in writing immediately upon becoming aware that the Police or other enforcement agency intend to prosecute or are considering whether to commence a prosecution in respect of any offence allegedly committed by the Contractor or a driver or escort employed by him during the performance of the Service, or for any offence which might call into question the suitability of the driver, escort or Contractor to continue to act in the performance of the Contract.
- 6.15 The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions, or levies of any kind, relating to or arising out of the employment of any person employed by the Contractor and shall fully and promptly indemnify the Authority in respect of any liability of the Authority in respect thereof.
- 6.17 The Contractor shall keep accurate, full and up to date records in respect of the Personnel detailing qualifications, relevant experience, Criminal Record Bureau checks, training, supervision, hours of employment and rotas. The Contractor shall allow the Authority to inspect these records on reasonable request.

6A DURATION

- 6A.1 The Contractor shall provide the Service for the Contract Period.
- 6A.2 This Contract shall, unless terminated in accordance with clause 23, continue for the Contract Period where it shall end automatically without notice.

7. LEGISLATIVE REQUIREMENTS

- 7.1 The Contractor shall comply with the requirements of any Applicable Law relevant to the provision of the Service.
- 7.2 Without prejudice to the generality of Clause 7.1, the Contractor shall at all times during the operation of this Contract ensure that any vehicle used in the performance of the Service complies with all Applicable Law including but not limited to that which relates to the standard, condition, safety, construction and use of any such vehicle and the licensing requirements of any regulatory body.
- 7.3 The Contractor shall comply with the requirements of the Public Passenger Vehicles Act 1981, the Transport Act 1985, the Transport Act 2000 and the Concessionary Bus Travel Act 2007
- 7.4 The Contractor shall indemnify the Partnership against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Clause 7.

8. **CONTRACTOR'S PERSONNEL**

- 8.1 The Contractor shall employ in and about the provision of the Service sufficient persons to ensure that the Service is provided at all times and in all respects to the Contract Standard. The Contractor shall ensure that a sufficient reserve of Personnel is available to provide the Service to the Contract Standard during staff holidays or absence through sickness or otherwise.
- 8.2 The Contractor shall ensure that every person so employed is at all times properly and sufficiently qualified, competent, careful, skilled, honest, experienced, instructed and supervised as the case may be with regard to the Service and in particular:-
 - 8.2.1 the task or tasks such person has to perform;
 - 8.2.2 all relevant provisions of the Contract;
 - 8.2.3 the health and safety requirements;
 - 8.2.4 fire risks and fire precautions;
 - 8.2.5 the need to maintain the highest standards of personal hygiene, courtesy and consideration appropriate to the clients needs;
 - 8.2.6 correct use of all relevant equipment;
 - 8.2.7 the need to recognise situations which may involve any actual or potential danger of personal injury to any persons and where possible without personal risk, to make safe such situations, and forthwith to report such situations to the Contract Manager and Authorised Officer; and
 - 8.2.8 the need to complete the Drivers Vehicle Defect Report.

8.3

- 8.3.1 The Authorised Officer shall be entitled to require the Contractor, by not less than 5 Working Days' notice in writing, to remove or suspend from the provision of the Service any Personnel of the Contractor specified in such notice, save that such notice shall be given only on reasonable grounds. Where the grounds for suspension relate to a health and safety and/or safeguarding issue the Authorised Officer shall be entitled to require the Contractor to suspend or remove the identified Personnel from the provision of the Service immediately.
- 8.3.2 At any time prior to the expiry of such notice, the Contractor shall have the right to make representations to the Authorised Officer concerning such requirement. After taking such representations into account the Authorised Officer shall be entitled at his entire discretion to withdraw such notice, to suspend its operation upon such terms as he shall think fit, or to confirm the notice.
- 8.3.3 Where the Authorised Officer is responsible for the investigation of safeguarding issues, the Authorised Officer or nominated deputy within the Authority's integrated transport team, shall complete the investigation with 10 (ten) Working Days of the date of the date of the Suspension Notice. If the investigation is conducted by or requires the involvement of an external body this time frame may be longer and the suspension shall continue until the investigation is completed.
- 8.3.4 On receipt of a notice under clause 8.3.1 the Contractor shall provide replacement Personnel. The Authority shall not be liable to the Contractor or to the Personnel in respect of any liability, loss or damage occasioned by such suspension under clause 8.3 and the Contractor shall fully indemnify the Authority against any claim made by such Personnel.
- 8.4 The Contractor shall:-
- 8.4.1 not employ in the provision of the Service on any Contract Route any Personnel who has not completed the following checks to the satisfaction of the Authority's Disclosure and Barring Service:-
- Criminal Records Bureau Enhanced Disclosure
- 8.4.2 ensure that any of the Personnel who are to be employed in the provision of the Service or any Contract Route undertake the checks listed in Clause 8.4.2 above.
- 8.4.3 Ensure that Personnel have their Criminal Record Bureau Enhanced Disclosures renewed a minimum of every 3 years.
- 8.5 The Contractor shall, when requested by the Authorised Officer, provide with the agreement of those concerned, the names and other necessary details (including previous convictions which may be spent), in confidence to the Authorised Officer of Personnel who the Contractor wishes to employ under this Contract.

- 8.6 The Contractor shall ensure that the driver of any vehicle used for the purposes of this Contract is:-
- 8.6.1 the holder of a valid PCV, Hackney Carriage or Private Hire Licence entitling him to drive the said vehicle in pursuance of this Contract.
- 8.6.2 if driving a Vehicle that has 8 passenger seats or less the holder of a valid Hackney Carriage or Private Hire Licence entitling him to drive the said vehicle in pursuance of this Contract.
- 8.7 The Contractor shall ensure all drivers comply with statutory requirements relating to drivers hours.
- 8.9 The Contractor shall ensure that no Personnel shall smoke or cause to be inhaled any substance hazardous to health on or around any vehicle used or intended to be used in the performance of the Contract at any time when Passengers are or are likely to be present for not less than 20 minutes before Passengers are so present and the Contractor shall take reasonable steps to ensure that any other person shall comply with this requirement at such times.

9. CONTROL AND SUPERVISION OF CONTRACTOR'S EMPLOYEES

- 9.1 The Contractor shall appoint a Contract Manager empowered to act on behalf of the Contractor for all purposes connected with the Contract. Any notice, information, instruction or other communication given to the Contract Manager shall be deemed to have been given to the Contractor.
- 9.2 If the Contract Manager should change from the person identified in the Specification the Contractor shall forthwith give notice in writing to the Authorised Officer of the identity, address and telephone numbers of the replacement. Such notice is not effective until received by the Authorised Officer.
- 9.3 The Contractor shall forthwith give notice in writing to the Authorised Officer of the identity, address and telephone numbers of any persons authorised to act for any period as deputy for the Contract Manager and of the date when such deputy ceases to be so authorised. Such notice is not effective until received by the Authorised Officer.
- 9.4 The Contract Manager shall inform the Authorised Officer promptly of and confirm in writing, any instances of activity or omission on the part of the Authority which prevent or hinder or which may prevent or hinder the Contractor from complying with the Contract. The provision of information under this Clause shall not in any way release or excuse the Contractor from any of its obligations under the Contract.
- 9.5 The Contractor shall issue instructions to all drivers that they shall:-
- 9.5.1 not use a mobile phone at any time when the vehicle is in motion (including the use of handsfree equipment);
- 9.5.2 when it is necessary to use a mobile phone in the delivery of the Service stop at a safe place in order to do so.

10. VEHICLES, EQUIPMENT AND MATERIALS

- 10.1 Except as otherwise specified, the Contractor shall provide all Vehicles, materials and equipment necessary for the provision of the Service.
- 10.2 All Vehicles shall be in a good, clean and roadworthy condition and meet the requirements of all Applicable Law.
- 10.3 The Contractor shall maintain in a safe, serviceable and clean condition and replace as necessary all equipment used by the Personnel in the provision of the Service. For the avoidance of doubt this includes any equipment provided by the Partnership.
- 10.4 The Contractor shall use all vehicles, equipment and materials in a safe manner in accordance with the Health and Safety Requirements.
- 10.5 The Contractor shall be responsible for the security of all Vehicles, materials and equipment used in connection with the provision of the Service and the Partnership shall be under no liability in respect thereof.
- 10.6 For each Contract Route falling within the Service the Contractor shall provide a Vehicle of at least the minimum size set out in the Specification sufficient to carry the number of passengers involved with a seat each.
- 10.7 Vehicles with 17 or more seats shall be fitted with power operated doors under the control of the driver unless stated otherwise in the Specification or agreed otherwise by the Authorised Officer.
- 10.8 Where a powered operated door is not fitted to a Vehicle the driver shall operate the doors manually on behalf of the passengers.
- 10.9 The Contractor shall;
 - 10.9.1 ensure that suitable vehicle backup arrangements are in place;
 - 10.9.2 in the event of a breakdown provide a suitable replacement vehicle or vehicles.
- 10.10 Where it is necessary to provide an alternative vehicle to fulfil the Contract the vehicle shall:-
 - 10.10.1 be of equivalent or better standard as the one it replaces insofar as age, size, quality and accessibility are concerned;
 - 10.10.2 meet the requirements of all Applicable Laws; and
 - 10.10.3 be insured accordingly.
- 10.11 Every Vehicle in the provision of the Service shall be provided at the Contractor's own expense with a suitable radio or mobile communication facilities at all times.
- 10.12 The Partnership shall be entitled to examine, or arrange for the examination, of any vehicle used on the Contract. The Contractor shall make any such vehicle available for examination at his own expense.
- 10.13 No vehicle liveried as an ambulance shall be used in the provision of the service.

11. HAZARDOUS CONDITIONS OR BREAKDOWN

11.1 The Contractor shall ensure that:-

11.1.1 When the weather may be particularly bad and roads hazardous, the safety of Passengers shall be the paramount consideration in any decision whether to perform the Service. Before starting a journey check the prevailing weather conditions.

11.1.2 The Partnership is informed by contacting the Authorised Officer as soon as possible of:-

- (i) a decision not to operate the Service. Such notification shall be made on each day that the whole or part of the Service is not operated;
- (ii) the resumption of Service.

11.1.3 His employees will comply with the relevant parts of the procedure in Schedule B in the event of adverse weather.

11.2 In the event of an accident or vehicle breakdown during performance of the Service the Contractor shall:-

11.2.1 comply with the relevant parts of the procedure in Schedule B;

11.2.2 report the accident or breakdown to the Authorised Officer;

11.2.3 send as soon as is practicable (and in any event within 24 hours of the accident or breakdown) a written report (whether other road users were involved or not) to the Authority's officer (identified with the issue of the P25 form) such report to include:-

- (i) details of passengers being carried at the time and the effects of the incident upon them;
- (ii) any action the Contractor has taken or proposes to take to deal with the consequences of the incident;
- (iii) any action the Contractor has taken or proposes to take with a view to preventing a reoccurrence.

12. QUALITY STANDARDS

12.1 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution or an appropriate International Standards organisation standard is current during the currency of this Contract, the Contract Standard shall, as a minimum requirement, be in accordance with that standard without prejudice to any higher standard which may be required under this Contract.

13. HEALTH AND SAFETY

- 13.1 The Contractor shall at all times comply with the Health and Safety Requirements.
- 13.2 The Contractor shall nominate a person to be responsible for Health and Safety matters as required by the Section 2(3) of the 1974 Health and Safety Act.
- 13.3 The Authorised Officer shall be empowered to suspend the provision of the Service or any part thereof in the event of non-compliance by the Contractor with the health and safety requirements. The Contractor shall not resume provision of the Service or such part until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension the default provisions as set out in these Conditions shall apply.
- 13.4 The Contractor shall, in accordance with such detailed requirements as the Partnership may determine, notify the Authorised Officer in writing of any accidents or injury to the Contractor's Personnel or Passengers arising out of the provision of the Service.
- 13.5 Where the law requires the provision of a first aid kit and/or fire extinguisher(s), these should be appropriately maintained, housed and readily accessible.

14. CONFIDENTIALITY

- 14.1 The Contractor shall not, without the written consent of the Authorised Officer, during the Contract Period or at any time thereafter make use of for its own purposes or disclose to any person (except as may be required by Law) the Specification or any information contained therein or any material provided to the Contractor by the Partnership pursuant to the Contract or prepared by the Contractor pursuant to the Contract, all of which information shall be deemed to be confidential.
- 14.2
- 14.3 The Contractor shall not and shall ensure that its Personnel do not divulge to any third party any information which comes into its or their possession in the course of providing the Service.
- 14.4 The Contractor shall indemnify and keep indemnified the Partnership against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Clause 14.

14A DATA PROTECTION

- 14A.1 The Contractor shall (and shall procure that any of its Contractor's Personnel involved in the provision of the contract shall) comply with any notification requirements under the Data Protection Act 1998 ("the DPA") and both Parties shall duly observe all their obligations under the DPA, which arise in connection with the contract.

- 14A.2 Notwithstanding the general obligation in clause 14A.1, where the Contractor is processing Personal Data as a Data Processor for the Partnership, the Contractor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA; and
- (a) provide the Partnership with such information as the Partnership may reasonably require to satisfy itself that the Contractor is complying with its obligations under the DPA;
 - (b) promptly notify the Partnership of any breach of the security measures required to be put in place pursuant to clause 14A.20; and
 - (c) ensure it does not knowingly or negligently do or omit to do anything which places the Partnership in breach of the Authority's obligations under the DPA.
- 14A.3 The Contractor shall bring into effect and maintain all reasonable technical and organisational measures to prevent unauthorised or unlawful processing of personal data and accidental loss or destruction of or damage to personal data, including, but not limited to take reasonable steps to ensure the reliability of the Personnel having access to the personal data.
- 14A.4 The Contractor must indemnify the Partnership against all costs, claims, demands and proceedings and any liability, loss, damage or distress caused by the unauthorised disclosure of any personal data by the Contractor, its Personnel, servants or agents.
- 14A.5 The provisions of this clause shall apply during the continuance of the contract and indefinitely after its expiry or termination.

15. AGENCY

- 15.1 The Contractor is not and shall in no circumstances hold itself out as being, the servant or agent of the Partnership, otherwise than in circumstances expressly permitted by these Conditions.
- 15.2 The Contractor is not and shall in no circumstances hold itself out as being authorised to enter into any contract on behalf of the Partnership, or in any other way to bind the Partnership to the performance, variation, release or discharge of any obligations.
- 15.3 Neither the Contractor nor its Personnel shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any statutory order, byelaw or regulation of any kind.

- 15.4 The Contractor shall ensure that his Personnel are not, and shall not hold themselves out to be servants or agents of the Partnership for any purposes whatsoever.

16. GRATUITIES

- 16.1 The Contractor and or its Personnel shall not solicit or accept any gratuity, tip or any other form of money taking or reward, collection, or charge for any part of the Service other than bona fide charges approved by the Partnership.

17. INDEMNITY

- 17.1 The Contractor shall ensure that all passengers irrespective of their medical condition are fully covered by the Contractor's insurance policy. Further, the Contractor shall be responsible for all claims brought by third parties of whatever nature in respect of Services actually carried out by the Contractor.
- 17.2 The Contractor shall, be responsible for, and shall release and indemnify the Partnership and its respective employees and agents on demand from and against all liability for:
- (a) death or personal injury;
 - (b) loss of or damage to property;
 - (c) breach of statutory duty; and
 - (d) actions, claims or demands and costs, charges and expenses (including legal expenses on an indemnity basis),

which may arise out of, or in consequence of, the acts or omissions of the Contractor and or its Personnel in relation to the Contractor's performance or failure to perform under this Contract except to the extent that the same is due to any negligence of the Partnership.

17B. INSURANCE

- 17B.1 The Contractor shall effect and maintain adequate insurance with a reputable company or companies providing cover in respect of all risks which may be incurred by the Contractor arising out of the performance of the Contract in respect of death or personal injury to any person or loss of or damage to property.
- 17B.2 The Contractor shall provide the Partnership on request such information as the Partnership may reasonably require to confirm that the insurance has been effected and is in force at all times including without limitation originals or copies of all insurance policies including details of any excess requirements cover notes and certificates.

- 17B.3 The Contractor shall maintain the following minimum insurance for the provision of the Service;
- (a) public liability insurance with a limit of liability of at least of £5,000,000 five million pounds for each and every claim
 - (b) employers liability insurance with a limit of liability of at least of £10,000,000 ten million pounds for each and every claim; and
 - (c) adequate motor insurance to enable the legal provision of the Service by the Contractor including but not limited to insurance required to comply with the Road Traffic Act 1988.
- 17B.4 The Contractor shall notify the Partnership of any claims and their cause and outcome arising from the Service provided under this Contract.
- 17B.5 Where the Partnership reasonably requires it the Contractor shall increase its insurance cover to limits greater than those set out in this Contract. The Contractor shall be responsible for paying any increase in the insurance premium.
- 17B.6 The Partnership shall accept no liability for any damage to the Contractor's vehicles caused by Passengers.

18. USE OF AUTHORITY'S PREMISES AND FACILITIES

- 18.1
- 18.2 The Contractor shall use the appropriate roads and pathways only in connection with the provision of the Service and shall ensure that the Personnel use the said facilities and accesses only for such purpose.
- 18.3 The permission hereby given to use the appropriate roads and pathways is personal to the Contractor and or the Personnel and shall cease at the end of the Contract Period or upon the termination of the Contractor's employment by the Authority by notice in writing to the Contractor.
- 18.4 The Partnership shall permit the Contractor and or Personnel to use the appropriate roads and pathways only during those hours when the said employees are required to be on the premises to provide the Service and the Authority may further restrict the use of, or access to, its premises by the vehicles of the Contractor, or its suppliers at such times as may be specified by the Partnership or by the person in control of an individual location.
- 18.5 The parties agree that there is no intention on the part of the Partnership to create a tenancy of whatsoever nature in favour of the Contractor or its employees and that no such tenancy has or shall come into being.

19. NOT USED

20. CONTRACT PRICE

- 20.1 Subject to Clause 22 the Partnership shall pay the Contract Price subject to its being satisfied that the Contractor has delivered the Service and complied with the Conditions of Contract.

- 20.2 In addition to the sums specified in this Contract, the Partnership shall pay to the Contractor such VAT if any as may properly be chargeable by the Contractor under legislation from time to time in force upon the provision of the Service and the Contractor shall issue a tax invoice in respect thereof.
- 20.3 Subject to Clauses 20.2 and 20.4 the Partnership is not liable to pay any sum other than the Contract Price. All other costs, charges, fees and expenses of whatever kind for or arising out of or in connection with the provision of the Service shall be paid by the Contractor.
- 20.4

21. VARIATION OF CONTRACT PRICE

- 21.1 During the Contract Period the Contract Price shall be increased with effect from the Review Date by the percentage equivalent to the overall percentage increase in the Transport Index calculated by the means set out in Clause 21.2 below since the commencement of the Contract or the previous Review Date.

21.2

<u>Item</u>	<u>Transport Index Source</u>	<u>Percentage</u>
Earnings	No 1	45
Motoring Costs	No 2	30
Retail Price Index <u>excluding mortgage payments</u>	No 3	25
		100

All figures are taken from the Office for National Statistics, data for Consumer Price Indices and EMP Employment and Earnings.

Prices where:

“No 1” is EMP Employment and earnings, Average Weekly Earnings, NSA AWE Transport & Storage (H) less NSA AWE bonuses Transport & Storage (H);

“No 2” is Consumer Price Indices, Table 24, CHBK, Motoring Expenditure:

“No 3” is Consumer Price Indices, Table 24, CHMK, mortgage interest payments (RPIX).

- 21.3 In the event of the formula giving a negative figure, there will be no decrease in the Contract Price and the current Contract Price will be maintained for a further year. However, in the following year the negative figure will be deducted from any increase indicated by the Index. For example, if in the second year the figure was -0.5%, in the third year 3.5% and in the fourth year 2%, in year two the same price as year one would be paid, in year three there would be a 3% increase and in year four the full 2% increase would be made.
- 21.4 All calculations of the variation in Contract Price shall be the sole responsibility of the Authority. Any increase will be notified to the Contractor by the Authority in writing.

22. PAYMENT AND DEDUCTIONS

- 22.1 The Partnership will pay the Contract Price in periodic arrears as detailed in the Specification (Payment Period) subject to its being satisfied that the Contractor has delivered the Service in accordance with this Contract.
- 22.2 The Partnership shall pay the Contractor within 30 days of receipt of a valid and correct invoice for each Payment Period.
- 22.3 Payment will be by means of the Banks Automated Credit System (BACS)
- 22.4 Should payment not be received by the Contractor within 30 days of the due date the Contractor shall have the right to claim against the Partnership interest on the outstanding sums not exceeding 2% over the Bank of England base rate on the 30 June and 31 December.
- 22.5 Should the Contractor receive sums that are not due from the Partnership any such overpayment shall be repaid to the Partnership within 28 days of receipt of notification of the overpayment. Should payment not be received by the Authority within this time the Authority shall have the right to claim against the Contractor interest on the outstanding sums not exceeding 2% over the Bank of England base rate on the 30 June and 31 December.
- 22.6 The Partnership reserves the right to recover any monies owed as a civil debt or to deduct what is owed to it from any other payments due to the Contractor.
- 22.7 For the avoidance of doubt the Partnership shall not be required to pay any sum above the Contract Price unless the figure is agreed in writing between the parties.
- 22.8 The provisions of Schedule A shall apply as to the deductions that may be made from the Contract Price in the circumstances set out therein.

22A. SUSPENSION

- 22A.1 Without prejudice to the Partnership's rights under the Contract if in the reasonable opinion of the Authorised Officer the Contractor has not complied either in part or in full with any of its obligations under this Contract the Authority may at any time require the Contractor to suspend the Service or any part thereof.
- 22A.2 Where the Partnership under clause 22A.1 elects to suspend the Service the Authorised Officer shall give written notice of the suspension (the Suspension Notice). The Suspension Notice shall contain a statement that the provision of the Service by the Contractor is suspended pending the outcome of the Partnership's investigation. The Suspension Notice shall also include detail of the non compliance by the Contractor of its obligations that triggered the suspension and the date by when the investigation shall be completed.

- 22A.3 Having issued the Suspension Notice the Partnership shall carry out an investigation of the non compliance by the Contractor. The Contractor shall co-operate and assist the Authorised Officer during the investigation including but not limited to providing documentary evidence, attending meetings with the Authorised Officer and making Personnel available for interview.
- 22A.4 During any period of suspension of the Service or part of the Service
- (a) the Contractor shall not provide the Service;
 - (b) the Contractor shall not be entitled to and shall not be paid for the Service and
 - (c) the Partnership shall be entitled to use an alternative provider to deliver the suspended Service.
- 22A.5 Unless clause 22A.6 applies the Authorised Officer, or in the absence of the Authorised Officer a person appointed by the Partnership shall complete the investigation within 10 (ten) Working Days of the date of the Suspension Notice where after the Partnership shall provide written notice to the Contractor that;
- (a) the Service is to continue in full;
 - (b) the Service is to continue in part; or
 - (b) the Contract is to be terminated and the Partnership shall take steps
- to terminate the Contract under clause 23.
- 22A.6 If the investigation is conducted by or requires the involvement of an external body the time for completion of the investigation will be longer than 10 Working Days and the suspension shall continue until the investigation is completed.
- 22A.7 Regardless of the out come of any investigation under clause 22A the Contractor shall not be entitled to be paid or compensated for the suspended Service.

23. DEFAULT AND TERMINATION

- 23.1 Where the Partnership is of the view that the Contractor is in default of any of his obligations under this Contract it may serve notice on him requiring the default to be remedied within a period specified in the notice ("Default Notice"). If the Partnership considers the default is substantial, it may suspend payment of the Contract Price in whole or in part until the default is remedied.
- 23.2 The Partnership may terminate this Contract by written notice to the Contractor with immediate effect or at the end of the period specified in the notice of termination if:-
- 23.2.1 the Contractor has not complied with a default notice served under clause 23.1 above;

- 23.2.2 the Contractor is in default of any obligation under this Contract and the default is not capable of remedy;
- 23.2.3 the Contractor commits a material breach of his obligations which has or may have a material and adverse effect on passengers. For the purposes of Clause 23.2.3 a breach will be material if:
 - 23.2.3.1 the Contractor fails to comply fully with the obligations under Clause 8;
 - 23.2.3.2 the Contractor fails to comply with Clause 27.1 and or 27.2;
 - 23.2.3.3 in the reasonable opinion of the Partnership any action or inaction by the Contractor and or Personnel puts the health and safety of any Passenger at risk; or
 - 23.2.3.4 the Contractor fails to advise the Partnership of a non operation of the Service or part of the Service; or
 - 23.2.3.5 there is (in the reasonable view of the Authorised Officer) any serious misconduct by the Contractor or his employees.
- 23.2.4 the Contractor becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal in respect of its company for voluntary arrangement for composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;
- 23.2.5 the Contractor has a Winding-Up Order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
- 23.2.6 the Contractor has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
- 23.2.7 the Contractor has an administrative receiver, as defined in the Insolvency Act 1986, appointed;
- 23.2.8 the Contractor has possession taken by or on behalf of the holders of any debentures secured by a floating charge, or of any property comprised in, or subject to, the floating charge;
- 23.2.9 the Contractor is in circumstances which entitle the Court or a creditor to appoint, or have appointed, a receiver, a manager or administrative receiver, or which entitle the Court to make a Winding-Up Order;
- 23.2.10 the Contractor, its employees, agents or sub-contractors offer any reward relating to the Contract or commits any offence under the Bribery Act 2010;
- 23.2.11 the Service fails to comply with the requirements of Applicable Law or National Guidance; or

23.2.12 the withdrawal or amalgamation of a Contract Route under clause 24 means there are no Contract Routes being performed by the Contractor under this Contract.

23.3 This Contract may be terminated during the Contract Period by either party giving written notice to the other:-

23.3.1 56 calendar days written notice for Scheduled Bus Services;

23.4 The rights of the Partnership to terminate (or otherwise) under this clause 23 are in addition to and without prejudice to any other right the Partnership may have to;

- (i) terminate this Contract;
- (ii) claim the amount of its loss or damage; and or
- (iii) take any action other than termination

24. WITHDRAWAL OF CONTRACT ROUTE

The Partnership shall have the right to:-

24.1 without notice require the Contractor forthwith to cease to operate a Contract Route where there are no longer any passengers eligible to be carried on that Contract Route;

24.2 without notice require the Contractor forthwith to cease to operate a Contract Route where the Partnership determines it is possible for the Contractor to amalgamate the transport of the passengers into another Contract Route in this Contract or as part of another contract the Contractor has with the Authority; and/or

24.3 suspend the operation of a Contract Route without notice on a particular day when transport is not required for a passenger on that day and the Partnership shall give such notice as is practicable in the event of such a suspension.

25. CONSEQUENCES OF TERMINATION

25.1 If the Contractor terminates the Contract or any part of the Service in accordance with the provisions of this Contract the Partnership shall be entitled to make whatever arrangements it sees fit to ensure that the Service which should have been provided under the Contract is provided by other means.

25.2 Where the Partnership makes other arrangements for the provision of the Service, the Partnership shall be entitled to recover from the Contractor the cost of making those other arrangements and any additional expenditure incurred by the Partnership throughout the remainder of the Contract Period.

25.3 Termination of this Contract , for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

26. RECOVERY OF SUMS DUE TO THE AUTHORITY

- 26.1 Where under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Partnership the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this Contract or any other contract with the Partnership.

27. ASSIGNMENT AND SUB-CONTRACTING

- 27.1 The Contractor shall not assign novate or subcontract directly or indirectly the Contract or any of the Services to be performed under it without the prior written consent of the Authorised Officer.
- 27.2 In the event of an emergency the Contract may be temporarily subcontracted to another approved Contractor but only if prior verbal consent is obtained from the Authorised Officer.
- 27.3 Nothing in Clause 27.1 obliges the Authorised Officer to give the consent referred to and he may attach any reasonable conditions to any consent.
- 27.4 Any breach by the Contractor of this clause 27 shall entitle the Partnership to;
- (i) issue a penalty under Schedule A and or
 - (ii) terminate the Contract
- 27.5 In the event that the Contractor enters into any sub-contract in connection with this Contract the Contractor shall:
- (a) remain responsible to the Partnership for the performance of the obligations under the Contract notwithstanding the appointment of any sub-contractor and be responsible for the acts omissions and neglects of its sub-contractors;
 - (b) impose obligations on its sub-contractor in the same terms as those imposed on it pursuant to this Contract and shall procure that the sub-contractor complies with such terms; and
 - (c) provide a copy, at no charge to the Partnership, of any such sub-contract on receipt of a request for such by the Authorised Officer.

28. DISPUTE RESOLUTION

- 28.1 Both parties shall use reasonable endeavours to resolve any dispute relating to this Contract promptly.
- 28.2 The parties shall initially seek to resolve any difficulties locally at a meeting of their contract representatives.

- 28.3 If such local resolution is not possible, the parties shall arrange a meeting between the Trustees of the Partnership - Environment and a senior representative of the Contractor, which shall take place within 15 days of the meeting of the contract representatives.
- 28.4 If still not resolved, then both parties may agree to refer the matter to an individual agreeable to both parties for mediation.
- 28.5 If an independent mediator cannot be agreed, then both parties agree to accept an individual nominated by the Association of Northern Mediators.
- 28.6 If an independent mediation takes place, both parties are responsible for their own costs, but liability for the mediator's fees shall be split equally between them.

29. NOTICES

- 29.1 Each notice under this Contract shall be given by email or otherwise in writing by letter delivered by hand or sent by prepaid first class post. Such notice shall be given or sent to the relevant Party at the email or address and marked for the attention of the person identified below-

The Authority: 106 Partnership CIO
Address: Aysgarth, Eamont Bridge, Penrith. CA10 2BH

Email: Aysgartharcher@gmail.com
Attention: Chris Battersby

The Contractor:

Address:

Fax no.:
Attention:

- 29.2 Any communication to any Party will be deemed to be received by that Party (if sent by email) by the next Working Day in the place to which it is sent or (in any other case) when left at the relevant address above, or within 2 Working Days after being put in the post (first class postage prepaid) and addressed to that address.

31. SEVERANCE

- 31.1 If any court or competent authority finds that any provision of this Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Contract shall not be affected.
- 31.2 If any invalid, unenforceable or illegal provision of this Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable

32. FORCE MAJEURE

- 32.1 If either the Partnership or the Contractor is by reason of Force Majeure rendered unable wholly or in part to carry out its obligations under this Agreement then upon notice in writing of such Force Majeure from the party affected to the other party as soon as possible after the occurrence of the cause relied on the party affected shall be released from its obligations and suspended from the exercise of its rights under this Contract to the extent to which they are affected majeure and for the period during which those circumstances exist:
Provided that:
- (i) the party affected shall use all reasonable endeavours to terminate the circumstances of force majeure with all reasonable speed but nothing in this proviso shall limit the absolute discretion of the party affected in regard to any labour dispute constituting circumstances of Force Majeure;
 - (ii) nothing in this Clause shall relieve either Party of its obligations (including obligations to make payments under this Agreement) accrued at the date of the notice of Force Majeure.
- 32.2 In this Clause "Force Majeure" means circumstances beyond the control of the party concerned and which notwithstanding the exercise by it of reasonable diligence and foresight it was unable to prevent or overcome.

35. RIGHTS OF THIRD PARTIES

- 35.1 A person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

36. LAW

- 36.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 36.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

37.

- 37.1
- 37.2

38. COMPLETE CONTRACT AND VARIATION

- 38.1 This written Contract constitutes the entire Contract between the Parties in respect of the Services and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.
- 38.2 The Partnership reserves the right to vary any part of this Contract at any time as a direct result of any act of parliament enacted or direction of central government given during the Contract Period providing written notice has been given to the Contractor by the Partnership.
- 38.3 All amendments to this Contract shall be recorded in writing in the form of the attached Contract Amendment Sheet at Schedule G.
- 38.4 Subject to clauses 4 and 24 no amendments of the Contract shall be valid unless and until agreed in writing, signed by both the Parties.

39. SURVIVAL

- 39.1 Any provision of this Contract which expressly or by implication is intended to continue in force on or after termination of this Contract including but not limited to Clauses 14, 14A , 28, 34 and 36 shall remain in full force and effect

40. PREVENTION OF CORRUPTION

- 40.1 The Contractor shall not:
- (a) offer or agree to give any person working for or engaged by the Partnership any gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to this Contract, or any other Contract between the Contractor and the Partnership, including its award to the Contractor and any of the rights and obligations contained within it; nor
 - (b) enter into this Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority by or for the Contractor, or that an Contract has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Partnership before execution of this Contract.
- 40.2 If the Contractor (including any Personnel sub-contractor or agent, in all cases whether or not acting with the Contractor's knowledge) breaches:
- (a) clause 40.1; or
 - (b) the Bribery Act 2010;
- in relation to this Contract or any other Contract with the Partnership or any public body, the Partnership may terminate this Contract by written notice with immediate effect.
- 40.3 Any termination under clause 40.2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Partnership.

- 40.4 Notwithstanding clause 28, any dispute relating to:
- (a) the interpretation of clause 40.1 to clause 40.3 inclusive; or
 - (b) the amount or value of any gift, consideration or commission

shall be determined by the Partnership and the decision shall be final and conclusive.

41. EQUAL OPPORTUNITIES AND DISCRIMINATION AND HUMAN RIGHTS

41.1 The Contractor shall:

- (a) at all times observe a policy of equal opportunities in relation to employment and provisions of the Services;
- (b) not unlawfully discriminate in relation to race, disability, gender, marital status, religion or belief, sexual orientation or age;
- (c) take all reasonable steps to ensure the observance of Clauses 41.1 (a) and 41.1 (b) by its employees agents consultants and sub-contractors and
- (d) respond promptly to requests which the Partnership may make from time to time for monitoring information on the Contractor's compliance with Clauses 41.1 (a) and 41.1 (b) above.

41.2 The Contractor shall comply with the Equality Act 2010 as it affects the Service provided under this Contract and in particular regarding employment, the provision of goods and services and access to public buildings.

41.3 The Contractor shall (and shall use its reasonable endeavours to procure that the Personnel shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Contract.

41.4 The Contractor shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.

SCHEDULE A

PAYMENT DEDUCTIONS

- A1. In the event of any of the following the circumstances will be investigated and payments made by the Partnership to the Contractor shall be as follows:
- A1.1 Operation of registered Service earlier than normal timetable – no payment will be made;
 - A1.2 Arrival at or departure from establishment site before or after the designated times detailed in the Specification or as agreed with the Authorised Officer – 50% of the contract rate will be paid;
 - A1.3 Non operation due to weather conditions – 75% of the contract rate will be paid;
 - A1.4 Non operation other than due to weather conditions – no payment will be made;
 - A1.5 Non operation along the route or failing to use the specified stops, unless road works prevent such operations – 50% of the contract rate will be paid;
 - A1.6 Unauthorised sub contracting of contracts (see Section 27 of Conditions of Contract) - no payment will be made for the days the unauthorised sub contractor drove and or escorted;
 - A1.7 Inadequate or inappropriate fixing of harnesses, wheelchair clamps or other specialist equipment - no payment will be made;
 - A1.8 Provision of insufficient number of seats (unless agreed by The Authorised Officer) – no payment will be made;
 - A1.9 If the Partnership has suspended the contract – no payment will be made for the suspension period.
 - A1.10 In the event of a temporary closure of an establishment due to factors including but not restricted to, industrial action, on site health and safety issues, staff shortages and other factors as may arise, the Contractor will not be expected to provide the Service. Where the Contractor has been advised by the Authorised Officer of such an event by 5pm on the day prior to the temporary closure, payment will be made at 75% of the normal daily rate. Where the Contractor has not been advised by the Authorised Officer of such an event by 5pm on the day prior to the temporary closure, the normal daily payment will be made.
 - A1.11 Operating more than 5 minutes but less than 10 minutes late (without reasonable cause) on registered services at any one timetabled bus stop over the journey - 10% will be deducted from the contract payment rate for the day concerned and a further 10% will be deducted for late operation in excess of 10 minutes.
 - A1.12 Failure to stop at all designated stops -10% will be deducted from the daily contract price.
 - A1.13 Failure to declare not operating in accordance with the prescribed route and bus stop arrangements or late running will, if subsequently determined, result in a doubling of the rates of deduction.
 - A1.14 Failure to advise the Partnership of the non-operation of a Service could result in the cancellation of the contract by the Partnership in accordance with Clause 23.4.
 - A1.15 Failure to display relevant service/route number and destination - 10% will be deducted from the rate for the day concerned.

- A1.16 Failure to keep proper accounts of all monies collected on contracted services and failure to return to the Partnership monies rightfully due is liable to lead to the late payment of accounts. The Partnership will not be liable to pay bank charges incurred by the Contractor due to late payment of accounts.
- A1.17 Failure of the Contractor to supply the integrated transport team with an invoice (including appropriate details), within 10 Working Days of each period ending on the last day of each calendar month, leading for it being necessary for the Authorised Officer to contact the Contractor, will lead to a deduction of 10% from the invoice and a subsequent 10% deduction will be made for every subsequent 7 day period.
- A1.18 Failure of the Contractor to provide seatbelts to Passengers where required to under this Contract and or under the law no payment will be made.
- A1.19 Failure of the Contractor to check Passenger eligibility passes and or accepting an unauthorised passenger on the Vehicle - 10% will be deducted from the contract payment rate for the day concerned.

The Partnership has the discretion not to impose any of the aforementioned penalties, but in the event of a dispute the matter may be referred to dispute resolution, in accordance with Section 28.

SCHEDULE B

PROCEDURE IN THE EVENT OF ACCIDENT/BREAKDOWN OR ADVERSE WEATHER

B1. The Contractor shall ensure that the DRIVER and or ESCORT shall:

B1.1 Assess the 'safety' position of the vehicle. If in a safe position instruct the passengers to stay on the vehicle and stay in their seats. If the vehicle is in an unsafe position putting passengers' safety at risk, then a 'safe' area outside the vehicle should be found for passengers. Passengers should be escorted to this safe area and instructed not to move away from the safe area until instructed to do so by the driver.

B1.2 Once passengers have been made safe, call the emergency services if needed, call their employer or Contractor. This should be done by the driver or escort using the on-vehicle mobile or radio communication. In the event that the driver or escort are unable to make the call for help or that the on-vehicle communication is unavailable a passenger or passer-by may be requested to make the help call.

B1.3 In any event, make every effort to provide the call recipient with the following details:

- (i) a contact name and telephone number to call (the Contractor and the Authorised Officer);
- (ii) their own name and contact number;
- (iii) the number of passengers on board the vehicle;
- (iv) the location and extent of the problem;
- (v) any immediate passenger safety information; and
- (vi) suggested solutions to resolve the situation.

B1.4 In the event that the caller has to leave the location of the vehicle and passengers to make the help call, they should be asked to return to confirm that the call has been made and what action can be expected.

B1.5 remain with the passengers at all times.

B1.6 Ensure that passengers are not used for traffic control measures or for pushing vehicles.

B2. The Contractor shall;

B2.1 upon receipt of a telephone call from the caller, record the location and nature of the incident, number of passengers and any other details given;

B2.2 set in motion your own recovery scheme for the incident;

B2.3

B2.4 telephone the establishment(s) served by the vehicle and inform them of the problem and the action that you are taking;

B2.5 have a system in place for receiving telephone messages that can be actioned immediately. It is not acceptable for drivers to telephone an answerphone and leave a message. There must be a telephone contact who can action recovery of a problem; and

- B2.6 if following the incident it is not possible to perform the journey within 15 minutes of the normal delivery time notify the destination establishment and passengers that no transport to/from the establishment will run from that location that day.

B3. EARLY CLOSURE/COLLECTION

- B3.1 If, due to inclement weather, it is felt that journeys should take place before the normal closing time of the establishment, this decision shall be made by the Contractor in conjunction with the Manager of destination establishment.
- B3.2 Factors which the Contractor needs to be taken into consideration as a minimum are weather conditions, rate of deterioration, availability of vehicles, daylight and information to parents/carers.
- B3.3 In exceptional circumstances, some journeys may not be made for safety reasons. Passengers will be kept at the establishment until alternative travel or overnight arrangements have been made by the establishment's management.

B4. GENERAL

- B4.1 In the event of a journey not taking place due to factors other than adverse weather, the Contractor shall contact the Authorised Officer to confirm if the return journey is required in case some passengers have effected their own journey.
- B4.2 A journey will not take place if it is considered by the Contractor to be unsafe. In such an event, the Contractor must advise the Partnership.
- B4.3
- B4.4
- B4.5 If the driver considers that to continue a route would put passengers' safety at risk the route should not be continued. Passengers should stay on board whilst the driver continues to a safe area.
- B4.6 If a vehicle becomes stuck e.g. in snow, then drivers, escorts and passengers shall stay on the vehicle until help arrives.
- B4.7 The distress signal of 6 blasts on the horn followed by a minute's wait followed by a further 6 blasts on the horn maybe used to attract attention.
- B4.8 The procedure for reporting accidents or breakdowns shall be used to inform the Authorised Officer as set out in 11.2.
- B4.9 If young, elderly or special needs passengers are being carried, it is recommended that blankets should also be stowed in the vehicle.

SCHEDULE C

SCHEDULED BUS SERVICE CONTRACTS

E1. TIMETABLE AND ROUTE

E1.1 The Contractor shall operate the Service in accordance with the route and timetable as attached to the Specification.

Recognised stopping places shall be used in addition to any special points that may be specified from time to time.

The Partnership reserves the right to prohibit the use of any stops where this would cause traffic congestion or create road safety hazards.

E1.2 The Contractor shall bring to the notice of the Partnership any changes in conditions affecting patronage that merit alterations to the route "timetable". No alterations are to be made to the route or timetable or capacity of vehicle without the prior written consent of the Partnership.

E1.3 Where connections are specified on the timetable with other bus/rail services, drivers must wait for up to 10 minutes (or time interval shown on timetable) to maintain the connection. Where the connecting service has not arrived by this time the driver shall make reasonable efforts to find why the connection has not been made before departing.

E1.4 In the event of a failure to operate a journey for any reason (e.g. breakdown; driver failure; traffic congestion), the Contractor must inform the Authorised Officer at the earliest opportunity.

E1.5 Where a failure to operate (or failure to operate to the specified timetable or conditions) is felt to be within the Contractor's control (including breakdowns), the Contractor shall provide and pay for alternative transport and refund any reasonable expenses incurred by prospective passengers.

E1.6 In the event of the Contractor failing to make a refund as set out in condition E1.5, in a reasonable time, the Partnership may choose to make a refund and inform the Contractor that the amount will be deducted from their next invoice.

E1.7 The Contractor shall provide the PIP with timekeeping data to the Authority on a quarterly basis. The Contractor shall attend meetings when required by the Authority and or the PIP to address any issues that arise regarding reliability and punctuality of the Service.

E1.8 The Contractor is responsible for payment of any charges which may apply for the use of bus stations used in the provision of the Service.

E2. VEHICLES

E2.1 Unless stated otherwise vehicles must have power door, ticket machine and destination blind/electronic display (not board) above the windscreen. For Contracts operating before 8.00am or after 5.00pm destination display must be capable of illumination, which will be used as appropriate.

- E2.2 Where the Partnership requires it the Contractor shall display information on the Vehicle indicating that the Partnership subsidises the service being operated. The Partnership will provide this information.
- E2.3 The route number and destination display acceptable to the Partnership shall be displayed.
- E2.4 Contractors shall comply with the Public Service Vehicles Accessibility Regulations 2000.
- E2.5 Notwithstanding any other provision in this Contract the Contractor shall provide low floor accessible Vehicles as indicated in the Specification.
- E2.6 Vehicles shall not be fitted with contravision or similar advertising material, which obscures passengers' vision from windows.

E3. FARES AND TICKETING

- E3.1 A copy of the timetable and faretable for the service operated must be carried on the vehicle at all times and be made available for formal inspection by passengers.
- E3.2 The Contractor shall charge the fares determined or agreed by the Partnership. The Partnership reserves the right to increase or reduce the said fares at its discretion.
- E3.3 The Contractor shall not increase the fares in this contract without the prior written consent of the Partnership. The Contractor shall increase the fares on the Contract in line with annual advice from the Partnership.
- E3.4 The Contractor shall accept any travel cards for the mandatory travel concessions under the terms of the Transport Acts 1985 and 2000, and the Concessionary Bus Travel Act 2007.
- E3.5 The Contractor shall permit any registered blind person travelling on a service to be accompanied by a guide dog, free of charge.
- E3.8 Contractors shall issue and/or accept any through tickets, passes or discounts which the Partnership may negotiate with other transport operators. This includes accepting the return half of return tickets issued on commercial services/journeys or other service operated under contract by other operators. Any area wide tickets an Operator issues on other services in the area should be available on this service.

The Contractor shall accept any area wide tickets issued by other operators [e.g. Explorer Tickets and Day Discovery tickets.]

- E3.9 Multi-journey tickets shall be sold and accepted where stated on faretable.
- E3.10 Unless otherwise stipulated, the Contractor shall equip and maintain on the vehicle(s) used in this Contract an electronic ticket machine to a specification agreed by the Local Authority that is capable of reading smart card tickets.
- The Local Authority may enter into agreement with the Contractor regarding the lease or let of suitable equipment. The Contractor shall pay an annual maintenance fee.

The Contractor shall maintain, at their own expense, the necessary equipment to transmit smart transactions data from his depot to the NoWCard "Back Office", including suitable telecommunications.

The Electronic Ticket Machine(s) and any supplementary office systems shall be capable of the production of statistics in respect of revenue, revenue foregone and classes of passenger carried by journey and service to the satisfaction of the Local Authority.

E3.11 The Contractor shall fit, at their own expense, their vehicles with a stand suitable to hold a static ticket machine.

E3.12 All drivers shall have emergency ticket books, of a design that can be audited and prevents fraudulent use, for use when ticket machines fail. It is the Contractor's responsibility to provide a replacement ticket machine as soon as possible after any failure is reported.

E3.13 Where the Contractor is supplied with electronic ticket machines to use on Vehicles, the machines must be covered for loss or damage under the Contractor's insurance policy. The Contractor shall sign an agreement concerning use of electronic equipment where supplied by the Local Authority.

E3.14 Ticket machines are required and all fare paying passengers must be issued with a ticket. Details of revenue on Minimum Cost contracts and passengers carried will be returned with a monthly invoice on the form provided and revenue deducted on Minimum Cost Contracts from your account.

E4. PUBLICITY

E4.1 The Partnership will provide details of how the Service shall be advertised. In certain circumstances, however, the Contractor may be asked, or wish to provide publicity material, in which case the Contractor must ensure that it is displayed in appropriate prominent positions.

E4.2 The Contractor must acknowledge the Partnerships's support for journeys in any publicity issued for the Service.

E4.4 The Contractor if asked shall help in updating timetable posters and other publicity information displayed along the route. The Contractor shall ensure changes are implemented before any service changes are introduced.

E5 ACCOUNTING

E5.1 The Contractor shall provide to the Authorised Officer within 10 Working Days of each period ending on the last day of each calendar month an invoice together with details of revenue received (Minimum Cost Contracts Only), passengers carried, and any non operation classified for each journey day by day. (See Clause E5.5).

Waybills or computerised journey data shall be kept for every journey operated and must be carefully stored for a period of at least twelve months, during which time they can be inspected by any Authorised officer or other person authorized by the Partnership, during normal office hours.

E5.2 The Contractor shall keep a proper account of all monies collected so that this Revenue can be declared to the Authorised Officer as instructed by clause E5.1.

On Minimum Cost Contracts the amount will be deducted on the invoice from the Contract price due for payment in relation to this Service.

Should the amount of such fares exceed the rate to be paid to the Contractor then the Contractor shall refund such excess to the Partnership within the next monthly accounting period.

E5.3 Where the Contractor is not using a ticket machine, the Contractor must supply, at their own expense, a ticket machine capable of recording data, which they will be expected to supply to the Partnership at the end of each calendar month (or otherwise agreed period), with a copy of all data held on their system from that Contract in a suitable electronic format, at no additional cost to the Partnership.

E5.4 The Partnership reserves the right to audit the Contractor's records of the Service as required at any reasonable time. Officers duly authorised by the Partnership shall have access to any documents that relate to the operation of the Service(s) in question.

E5.5 On Minimum Cost Contracts, all revenue collected on the Contracted Service, including that from any period or area ticket, shall be paid to the Partnership.

The Contractor shall forward to the Partnership details of reimbursement to be paid in respect of services in this contract, under the terms of the Transport Act 1985 & 2000, for their participation in the National mandatory travel concession scheme.

E5.6 Contractors are obliged under the terms of the Transport Acts 1985 & 2000 and the Concessionary Bus Travel Act 2007 to offer free travel or a relevant concession to eligible cardholders. All revenue foregone as a result of participation in the concessionary fares scheme(s) in Cumbria shall, in the case of contracts let on a Minimum Cost basis, be retained by the Partnership. In the case of Minimum Subsidy contract, Contractors will be expected to claim the revenue foregone from relevant authorities using the NoWCard reimbursement service.

When a Contractor does not operate with electronic ticket machines supplied by the Local Authority, they will ensure that claims for reimbursement are identifiable to the Travel Concessionary Authority where the passenger boards the bus.

E5.7 The Contractor shall retain all Bus Operators Subsidy Grant reclaimed, whether the Contract is let on a Minimum Subsidy or Minimum Cost basis.

E6 BANK HOLIDAY OPERATION

E6.1 The days of operation are as shown on the Contract timetable.

E6.2 The Contractor will not be required to operate on a Public/Bank Holiday, including Good Friday.

E6.4 Bank/Public Holiday Operation :-

New Year's Day	No Service
Good Friday	No Service
Christmas Eve	Last departure 18:00
Christmas Day	No Service
Boxing Day	No Service
New Year's Eve	Last departure 18:00

SCHEDULE D -

FORM FOR CONTRACT VARIATION

DATED

The 106 Partnership CIO, Aysgarth, Eamont Bridge, Penrith CA10 2BH (“the **Partnership**”)

and

[] (“the **Contractor**”)

Background

1.1 The Partnership and the Contractor have entered into an agreement for the provision of [] dated [] (“the **Contract**”)

1.2 The Partnership under section 4 of the Contract is varying the Contract as set out below

Or

1.2.1 The Partnership and the Contractor have agreed to vary the Contract as set out below

It is Agreed;

2.1 Under Clause 4 of the Contract the Contract shall be varied as follows:

2.1 Under Clause 38 of the Contract the Contract shall be varied as follows:

2.2 Except for the amendments set out above;

(i) in all other respects the Contract shall remain unchanged and

(ii) the terms and conditions set out within the Contract shall apply to this variation

Signed by)

on behalf of the Partnership)

and by)

Signed by [NAME OF DIRECTOR] for)

and on behalf of [NAME OF COMPANY])

.....)

Director

Signed by [NAME OF PARTNER] for and)

on behalf of [NAME OF PARTNERSHIP])

.....)

.....

Partner

Signed by [NAME OF INDIVIDUAL])

ANNEX 1

List of Partners

In witness where the Parties have set their hands the day and year first before written.

Signed by)
on behalf of the Partnership)
and by)

Signed by [NAME OF DIRECTOR] for)
and on behalf of [NAME OF COMPANY])
.....)

.....

Director

Signed by [NAME OF PARTNER] for and)
on behalf of [NAME OF PARTNERSHIP])
.....)

.....

Partner

Signed by [NAME OF INDIVIDUAL])