

Dated August 2022

Bus Partnering Contract

Deed of Variation: Performance Regime (2021)

Wellington Regional Council (**GWRC**)

and

[Operator]

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Deed of Variation

Parties

- (1) Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002 (**GWRC**); and
- (2) **[Operator]**

Background

- A On [Date], the Parties entered into the Partnering Contract.
- B The Parties have been operating under interim KPI arrangements since [Date] and have agreed to implement new Performance Indicators from 1 July 2021.
- C As a consequence of the above agreement, the Partnering Contract will be varied as set out in this Deed.

Operative provisions

1 Definitions and interpretation

- 1.1 The Parties agree that the definitions and interpretation provisions set out at Schedule 1 (*Definitions and interpretation*) of this Deed apply unless the context requires otherwise.

2 Coming into effect of provisions

- 2.1 The provisions of this Deed shall come into effect on the Effective Date.

3 Amendments to the Partnering Contract

- 3.1 The Parties agree that, from the Effective Date, the Partnering Contract will be amended as set out at Schedule 2 (*Amendments to the Partnering Contract*) of this Deed.

4 Guarantor acknowledgement

- 4.1 Within 5 Business Days following the Effective Date, the Operator shall provide to GWRC an acknowledgement substantially in the form set out in Schedule 3 (*Guarantor Acknowledgement*) duly signed and dated by each of the Guarantors [Operator].

Deed to comprise a Transaction Document

- 5** The Parties agree that this Deed shall constitute a Transaction Document for the purposes of the Partnering Contract.
- 5.1

5.2 Except to the extent that any obligations under any other Transaction Document are amended pursuant to this Deed:

5.2.1 the obligations of each Party under this Deed are in addition to, and without prejudice to, their respective obligations under the Partnering Contract and any other Transaction Document to which they are party; and

5.2.2 performance by a Party of any of its obligations under this Deed shall not relieve it from any of its other obligations under the Partnering Contract or any other Transaction Document.

6 Miscellaneous

No payment

6.1 The Operator acknowledges and agrees that, notwithstanding anything to the contrary contained in the Partnering Contract, it shall not be entitled to (and GWRC shall not be liable for) any payment in connection with the execution of this Deed or the performance by the Operator of any of its obligations under this Deed, except as expressly provided for in Schedule 2 (*Amendments to the Partnering Contract*) of this Deed.

Confidentiality

6.2 The Parties acknowledge and agree that the terms of this Deed constitute Confidential Information for the purposes of clause 59 (*Confidentiality*) of the Partnering Contract.

Notices

6.3 Any notice required to be given in relation to this Deed shall be given and deemed received in accordance with clause 63 (*Notices*) of the Partnering Contract.

Entire Agreement and amendments

6.4 This Deed, the Partnering Contract and the other Transaction Documents contain the entire agreement between the Parties with respect to their subject matter and supersede any earlier agreements or understandings between the Parties in connection with their subject matter.

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

No reliance

6.6 The Operator acknowledges that, before entering into this Deed, it made all enquiries it wanted to make in relation to the Operator's obligations under this Deed and that in entering into this Deed, the Operator:

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

6.6.2 has made its own assessment of the rights provided to the Operator and the obligations imposed on the Operator by this Deed.

No waiver

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

6.8 No waiver by a Party of any part of this Deed is binding unless it is made in writing by the Party granting that waiver.

Specific waiver for transitional period and acknowledgement

6.9 Notwithstanding clause 6.7 but subject to clause 6.9A, GWRC hereby waives any and all rights, powers or remedies it may have (whether contingent or actual) to the extent those arise from the Operator's breaches of, or failure to comply with the terms of:

6.9.1 this Deed; and/or

6.9.2 the amendments made to the Partnering Contract by this Deed, including the amendments to the Performance Indicators,

for the period running from the Effective Date until the date of this Deed.

6.9A GWRC does not waive, and nothing in clause 6.9 affects GWRC's entitlement to:

6.9A.1 the payment to be made by the Operator under paragraph 4 of the Consent Letter – 2022; or

6.9A.2 Performance Deductions, Reporting Error Deductions, Fleet Deductions and reductions in payments in respect of any period after 30 April 2022.

Rights cumulative

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

Further assurances

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

No merger

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

Costs and expenses

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

Severability of provisions

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

Disputes

6.15 Any dispute, difference of opinion or disagreement between any of the Parties, including any Claim, arising out of or in connection with this Deed shall be resolved in accordance with clause 45 (*Dispute Resolution Procedure*) of the Partnering Contract as if it were a Dispute under the Partnering Contract.

Governing law

6.16 This Deed and the transactions contemplated by this Deed are governed by and are to be construed in accordance with New Zealand law and, subject to clause 6.15 and the Dispute Resolution Procedure, the Parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand.

GWRC action

6.17 The Operator acknowledges that GWRC is the local authority in the region in which the Services are to be provided and that, notwithstanding anything to the contrary in this Deed, nothing in this Deed:

- 6.17.1 requires GWRC or any other Governmental Entity to exercise, or use, any regulatory or legislative powers in order to influence or affect an outcome;
or
- 6.17.2 shall restrict or affect in any way the manner in which GWRC or any other Governmental Entity may act in the exercise of its regulatory or legislative rights, powers and duties as a local authority.

Contract and Commercial Law Act 2017

6.18 Except to the extent any term of this Deed expressly states otherwise, a person who is not a Party to this Deed shall have no right under the Contract and Commercial Law Act 2017 to enforce any term of this Deed. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

Counterparts

6.19 This Deed may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument. Either Party may enter into this Deed by signing a counterpart copy and sending it to the other Party, including by email, facsimile or digital signing tool.

Delivery

6.20 For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by each party immediately on the earlier of:

- 6.20.1 physical delivery of an original of this Deed, executed by the relevant Party, into the custody of the other Party or the other Party's solicitors; or
- 6.20.2 transmission by the relevant party or its solicitors (or any other person authorised in writing by the relevant Party) of a facsimile, photocopied or scanned copy of an original of this Deed, executed by the relevant Party, to the other Party or the other Party's solicitors.

**Executed and delivered as a
Deed:**

Wellington Regional Council
by

Witnessed by

Signature of attorney acting
pursuant to a power of attorney
dated [Date]

Signature of witness

Nigel Corry

Name of attorney

Name of witness

Title of attorney

Occupation of witness

Address of witness

CERTIFICATE OF NON REVOCATION OF POWER OF ATTORNEY

I, Nigel Corry of Wellington, Chief Executive Officer of Wellington Regional Council hereby certify:

1. That by a Deed dated [Date], Wellington Regional Council appointed me as its Attorney on the terms and subject to the conditions set out in the said Deed.
2. That at the date hereof I have not received any notice or information of the revocation of that appointment

SIGNED at Wellington this day of

Nigel Corry

Chief Executive Officer
Wellington Regional Council

Executed by: **[Operator]**

Signature of director

Signature of director

Name of director

Name of director

Schedule 1 – Definitions and interpretation

Definitions

1. The following definitions apply to this Deed unless the context requires otherwise:

Effective Date	means [Date].
Parties	means the parties to this Deed.
Partnering Contract	means the partnering contract (s) in respect of PTOM Units [Units] made between GWRC and the Operator and dated [Date].

2. Unless otherwise defined in this Deed, capitalised terms have the meaning given in the Partnering Contract

Interpretation

3. Unless the context requires otherwise, paragraphs 2.1 to 2.5 and 2.8 to 2.23 of Schedule 1 (*Definitions and Interpretation*) of the Partnering Contract apply to this Deed as if they were set out in it.

4. The following rules apply unless the context requires otherwise:

- 4.1. A reference to a clause, schedule, annexure or appendix is a reference to a clause of or a schedule, annexure or appendix to, this Deed, and a reference to a paragraph is to a paragraph of the same clause, schedule, annexure or appendix unless the context requires otherwise.
- 4.2. A reference to an agreement or document (including a reference to this Deed or a Partnering Contract) is to the agreement or document as amended, varied or supplemented, novated or replaced, except to the extent prohibited by this Deed, the Partnering Contract or that other agreement or document.

Schedule 2 – Amendments to the Partnering Contract

Amendment to Part Eight (*Breach and Termination*)

1. The following clauses at Part Eight of the Partnering Contract are amended as follows:

Clause 46.1.15 (**Performance - KPIs**) is deleted and replaced as follows:

46.1.15A (**Performance - KPIs**) During any period of three consecutive Relevant Months, the Operator incurs Performance Deductions due to:

- (a) more than 3% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirements of the Reliability KPI; or
- (b) more than 7.5% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirements of the Punctuality KPI;

46.1.15B (**Performance – PIs**) During any period of three consecutive Relevant Months:

- (a) more than 3% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirement of PI #15 Reliability, Vehicle Size;
- (b) more than 3% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirement of PI#16 Reliability, Intermediate Timing Points.

Clause 47.4.3 (**Performance – KPIs**) is deleted and replaced as follows:

47.4.3A (**Performance - KPIs**) During any period of three consecutive Relevant Months, the Operator incurs Performance Deductions due to:

- (a) more than 4% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirements of the Reliability KPI; or
- (b) more than 10% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirements of the Punctuality KPI;

47.4.3B (**Performance – PIs**) During any period of three consecutive Relevant Months:

- (a) more than 4% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirement of PI #15 Reliability, Vehicle Size; or
- (b) more than 4% of the Scheduled Services which the Operator was required by this Partnering Contract to provide in that period failing to meet the requirement of PI #16 Reliability, Intermediate Timing Points.

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Clause 50.19.2(c) (**No breach**) is deleted and replaced as follows:

- 50.19.2 where the relevant Party whose obligations have been suspended is the Operator:
- (a) the failure by the Operator to perform the obligations which are so suspended will not constitute a Termination Event;
 - (b) subject to clause 50.15.4 and paragraph 11 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) of Schedule 6 (*Financial and Performance Regime*), the provisions of Schedule 6 (*Financial and Performance Regime*) shall continue to apply notwithstanding the suspension of any of the Operator's obligations;
 - (c) for the purposes of assessing whether an Event of Default has occurred under clause 46.1.15A (*Performance - KPIs*) or a Termination Event has occurred under clause 47.4.3A (*Performance - KPIs*), any Performance Deductions incurred as a direct result of the failure by the Operator to comply with those suspended obligations shall be disregarded; and(d) for the purposes of assessing whether an Event of Default has occurred under clause 46.1.15B (*Performance - PIs*) or a Termination Event has occurred under clause 47.4.3B (*Performance - PIs*), any failure to meet the requirements of PI #15 Reliability, Vehicle Size or PI #16 Reliability, Intermediate Timing Points as a direct result of the failure by the Operator to comply with those suspended obligations shall be disregarded.

Amendments to Schedule 1 (*Definitions and Interpretation*)

2. The following new definitions are added to Schedule 1 of the Partnering Contract and any existing definitions of the same terms are deleted:

Average Base Service Fee Per Scheduled Service	means the Base Service Fee in respect of the Relevant Month divided by the number of Scheduled Services for that Relevant Month.
Average Daily Base Service Fee	Means the Base Service Fee in respect of the Relevant Month divided by the number of days in that Relevant Month

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<p>Correct Equipment Use</p>	<p>means the bus driver has:</p> <ul style="list-style-type: none"> (a) correctly tripped on to the bus driver console at the Origin Stop of a Scheduled Service; (b) has remained correctly tripped on for the entirety of the Scheduled Service; and (c) correctly tripped off on the bus driver console at the last Stop of the Scheduled Service.
<p>Daily Reliability PI</p>	<p>means Performance Indicator #3 (<i>Daily Reliability</i>) (as calculated in accordance with Appendix 6 (<i>Performance Indicators</i>) of Schedule 5 (<i>Planning, Reporting and Meetings</i>)).</p>
<p>Daily Reliability Performance Payment</p>	<p>means performance payments calculated in accordance with paragraph 4.2 of Schedule 6 (Financial and Performance Regime)</p>
<p>First Trip of Driver Duty</p>	<p>means the start of an individual driver’s shift, as indicated on the RTPI System.</p>
<p>Lost Time Injury</p>	<p>means an injury that occurred in the workplace of the Operator which results in the injured party being absent from one or more shifts.</p>
<p>Monthly Reliability PI</p>	<p>means Performance Indicator #1 (<i>Monthly Reliability</i>) (as calculated in accordance with Appendix 6 (<i>Performance Indicators</i>) of Schedule 5 (<i>Planning, Reporting and Meetings</i>)).</p>
<p>Minimum PI Achieve Benchmark</p>	<p>means, in respect of a Performance Indicator selected as a Nominated Performance Indicator, the minimum benchmark for any Relevant Month to enable the Operator to receive a Nominated Performance Payment Amount.</p>
<p>Passenger Boardings</p>	<p>the boarding of a single passenger onto a Vehicle for the provision of Scheduled Services, as indicated by the Ticketing System.</p>

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<p>Performance Indicators or PIs</p>	<p>Means the Performance Indicators set out in Appendix 6 (<i>Performance Indicators</i>) of Schedule 5 (<i>Planning, Reporting and Meetings</i>) and any amended or additional performance indicators notified to the Operator in writing by GWRC (in its absolute discretion) from time to time (provided that any change to Performance Indicator #1 (<i>Monthly Reliability</i>), Performance Indicator #2 (<i>Punctuality</i>) and Performance Indicator #3 (<i>Daily Reliability</i>) shall be effected through a Minor Contract Variation or Contract Variation (as applicable)).</p>
<p>Scheduled School Services</p>	<p>means any single, one way passenger service forming part of the Bus Unit Timetable indicated as a school service and any Alternative Services of School Routes.</p>
<p>Staff Complaints</p>	<p>means any complaint or criticism received by the Operator, GWRC, the Metlink call centre, the Metlink website or other social media about a person who is an Operator Associate.</p>

Amendments to Schedule 3 (*Passenger Services*)

3. The following paragraphs at Schedule 3 of the Partnering Contract are deleted and replaced as follows:

Paragraph 3.13 (*Major Service Disruptions*) is deleted and replaced as follows:

3.13 A Service Disruption shall be deemed to be a Major Service Disruption:

- 3.13.1 once GWRC notifies the Operator that an integrated response to the event giving rise to the Service Disruption has been activated through the RTRT, excluding any RTRT training exercises;
- 3.13.2 if:
 - (a) the Route directions for the Scheduled Service or Special Event Service (as set out in Appendix 3 (*Route directions: Public Routes*) or Appendix 4 (*Route Directions: School Routes*) of Schedule 2 (*Agreement Details*) or the Special Events Plan, as applicable) require the service to use a road that is closed to through traffic for a consecutive period of more than four hours;
 - (b) not used;
 - (c) not used; or
- 3.13.3 if GWRC, in its sole discretion, deems an event to be a Major Service Disruption, despite such event not meeting the definition of Service Disruption. For the avoidance of doubt, if GWRC uses the power

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contained in this paragraph 3.13.3, there is no obligation upon GWRC to use this power for any future event.

Paragraph 3.14 (*Major Service Disruptions*) is deleted and replaced as follows:

3.14 If a Major Service Disruption occurs:

- 3.14.1 the Operator must comply with its obligations in this Partnering Contract in respect of Service Disruptions (treating the Major Service Disruption as a Service Disruption), including paragraphs 3.4 to 3.12;
- 3.14.2 the Operator must comply with GWRC's instructions in respect of changes to Scheduled Services and Alternative Services;
- 3.14.3 paragraph 11 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) of Schedule 6 (*Financial and Performance Regime*) shall apply; and
- 3.14.4 for the purpose of determining the direct impact of a Major Service Disruption, the period of impact is deemed to be the period of closure, as notified by GWRC.

Amendments to Schedule 6 (*Financial and Performance Regime*)

4. The following paragraphs at Schedule 6 of the Partnering Contract are deleted and replaced as follows:

Section 4 (*Punctuality Performance Payment*) is deleted and replaced as follows:

4. Performance Payments

- 4.1 In respect of any Relevant Month where the Operator's performance measured against Performance Indicator #2 (*Punctuality*) (as calculated in accordance with Appendix 6 (*Performance Indicators*) to Schedule 5 (*Planning, Reporting and Meetings*)) exceeds 97%, the Operator will be entitled to a performance payment equal to **Section** of the Performance Base in respect of that Relevant Month for every whole 0.1% by which "Y" for Performance Indicator #2 is above 97%.
- 4.2 In respect of any day where the Operator's performance measured against Performance Indicator #3 (*Daily Reliability*) (as calculated in accordance with Appendix 6 (*Performance Indicators*) to Schedule 5 (*Planning, Reporting and Meetings*)) exceeds 99%, the Operator will be entitled to a performance payment equal to **Se** of the Average Daily Base Service Fee.

Paragraph 5.3 (*Reliability KPI*) is deleted and replaced as follows:

5.3 The Operator shall ensure that:

- 5.3.1 each Scheduled Service shall depart from its Origin 59 seconds before to 29 minutes 59 seconds after the scheduled time for such departure in the Bus Unit Timetable; and

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5.3.2 in respect of each Scheduled Service, the bus driver has correctly tripped on to the bus driver console before starting the Scheduled Service.

5.3.3 Not used.

5.3.4 Not used.

Paragraph 5.4 (*Reliability KPI*) is deleted and replaced as follows:

5.4 Performance Deductions for Reliability KPI

5.4A The Performance Deductions applied to the Reliability KPI shall, in respect of a Relevant Month, be the sum of the amounts calculated in accordance with paragraph 5.4B.1, paragraph 5.4B.2 and paragraph 5.4B.3.

5.4B In respect of:

5.4B.1 any Relevant Month where the Operator's performance measured against Performance Indicator #1 (*Monthly Reliability*) (as calculated in accordance with Appendix 6 (*Performance Indicators*) of Schedule 5 (*Planning, Reporting and Meetings*)) fails to meet the relevant PI Achieve Benchmark, a Performance Deduction of **Secti** of the Performance Base for the Relevant Month will be incurred for every 0.1% (or part thereof) by which "X" for Performance Indicator #1 is below the PI Achieve Benchmark. For the avoidance of doubt, this measure is calculated independently of Performance Indicator #3 (*Daily Reliability*); or

5.4B.2 any day where the Operator's performance measured against Performance Indicator #3 (*Daily Reliability*) (as calculated in accordance with Appendix 6 (*Performance Indicators*) of Schedule 5 (*Planning, Reporting and Meetings*)) fails to meet the relevant PI Achieve Benchmark but equals or exceeds 80%, a Performance Deduction of **Se** of the Average Daily Base Service Fee will be incurred.

5.4B.3 any day where the Operator's performance measured against Performance Indicator #3 (*Daily Reliability*) (as calculated in accordance with Appendix 6 (*Performance Indicators*) of Schedule 5 (*Planning, Reporting and Meetings*)) fails to meet or exceed 80%, a Performance Deduction of **Sect** of the Average Daily Base Service Fee will be incurred.

Paragraph 5.5 (*Reliability KPI*) is deleted and replaced as follows:

5.5 **Section 7(2)(b)(ii) LGOIMA**

Paragraph 5.6 (*Punctuality KPI*) is deleted and replaced as follows:

5.6 The Operator shall ensure that:

5.6.1 each Scheduled Service shall depart from its Origin between 59 seconds before to 4 minutes 59 seconds after the scheduled time for such departure in the Bus Unit Timetable; and

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- 5.6.2 in respect of each Scheduled Service, the bus driver has correctly tripped on to the bus driver console before starting the Scheduled Service.

Paragraph 9.6 (*Operator's entitlement to payment*) is deleted and replaced as follows:

- 9.6 Subject to paragraph 9.5, the Operator shall be entitled to payment of the Nominated Performance Payment Amount for that Half Year applicable to the relevant Nominated Performance Indicator, if:

- 9.6.1 in respect of the applicable Half Year, the Operator's average performance meets the relevant PI Achieve Benchmark; and

- 9.6.2 in no Relevant Month in the applicable Half Year did the Operator's performance fall below the Minimum PI Achieve Benchmark.

Paragraph 11.1 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) is deleted and replaced as follows:

- 11.1 If a Scheduled Service fails to meet:

- 11.1.1 PI #1 (*Monthly Reliability*);
- 11.1.2 PI #2 (*Punctuality*);
- 11.1.3 PI #3 (*Daily Reliability*);
- 11.1.4 PI #15 (*Reliability, Vehicle Size*); or
- 11.1.5 PI #16 (*Reliability, Intermediate Timing Points*),

that Scheduled Service will not be included in the calculation of "A" and "B" in the Performance Indicators specified in paragraphs 11.1.1 to 11.1.5 (as applicable) provided that:

- 11.1.6 such failure is directly attributable to a Major Service Disruption or Force Majeure Event (as applicable);
- 11.1.7 the Operator has used all reasonable endeavours to mitigate the effect of the Major Service Disruption or Force Majeure Event (as applicable) on the provision of the Services;
- 11.1.8 the Operator has otherwise complied with any express obligation imposed on the Operator under this Partnering Contract in respect of such Major Service Disruption or Force Majeure Event (as applicable); and
- 11.1.9 the Operator has applied, by written notice, to GWRC for relief from its obligations under this Partnering Contract within 5 Business Days after the end of the Relevant Month in which the Major Service Disruption occurred.

Paragraph 11.2 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) is deleted and replaced as follows:

- 11.2 A failure by the Operator to achieve a PI Achieve Benchmark shall be disregarded for the purposes of calculating the relevant Performance Payment in respect of a

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Nominated Performance Indicator, or for Performance Indicators which are not Nominated Performance Indicators, for the purposes of determining the Operator’s performance against that Performance Indicator, provided that:

- 11.2.1 such failure is directly attributable to a Major Service Disruption or Force Majeure Event (as applicable);
- 11.2.2 the Operator has used all reasonable endeavours to mitigate the effect of the Major Service Disruption or Force Majeure Event (as applicable) on the provision of the Services;
- 11.2.3 the Operator has otherwise complied with any express obligation imposed on the Operator under this Partnering Contract in respect of such Major Service Disruption or Force Majeure Event (as applicable); and
- 11.2.4 the Operator has applied, by written notice, to GWRC for relief from its obligations under this Partnering Contract within 5 Business after the end of the Relevant Month in which the Major Service Disruption occurred.

Paragraph 11.9 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) is deleted and replaced as follows:

11.9 To the extent only that a Scheduled Service is indicated in Appendix 12 (*Scheduled Services excluded from Punctuality KPI and/or Reliability KPI*) of Schedule 2 (*Agreement Details*) as being excluded from either or both of the Punctuality KPI and the Reliability KPI, that Scheduled Service will not be included in the calculation of "A" and "B" in Performance Indicator #1 (*Monthly Reliability*), Performance Indicator #2 (*Punctuality*) or Performance Indicator #3 (*Daily Reliability*) (as applicable) provided that the Operator has complied with its obligations in this Partnering Contract in respect of that Scheduled Service (other than the obligations to comply with the Reliability KPI or the Punctuality KPI (as applicable)).

Paragraph 12.1 (*Temporary Exemptions to the application of KPIs*) is added as follows:

12.1 The following temporary exemptions to the application of KPIs will be applied:

Period to be applied	Temporary exemption
Section 7(2)(b)(ii) LGOIMA	Section 7(2)(b)(ii) LGOIMA
Section 7(2)(b)(ii) LGOIMA	Section 7(2)(b)(ii) LGOIMA
Section 7(2)(b)(ii) LGOIMA	Section 7(2)(b)(ii) LGOIMA

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<p>Section 7(2)(b)(ii) LGOIMA</p>	<p>Section 7(2)(b)(ii) LGOIMA</p>
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Amendments to Appendix 6 (*Performance Indicators*) of Schedule 5 (*Planning, Reporting and Meetings*)

Appendix 6 (*Performance Indicators*) to Schedule 5 (*Planning, Reporting and Meetings*) is deleted and replaced as follows:

Performance Indicators (PIs)

- 1.1 The Operator shall, without prejudice to its other obligations under this Partnering Contract, at all times:
 - 1.1.1 aim to achieve the PI Achieve Benchmark in respect of each of the following PIs;
 - 1.1.2 for the purpose of reporting its performance in the delivery of the Services, record data and calculate its performance against each of the following PIs; and
 - 1.1.3 work with GWRC to identify how performance of the Services could be improved in order to assist in growing patronage on the Bus Unit and the Wellington Public Transport Network.
- 1.2 Paragraph 11 (*Major Service Disruptions, Force Majeure Events and Deemed Performance*) of Schedule 6 (*Financial and Performance Regime*) shall apply in respect of determining the Operator's performance against each Performance Indicator.
- 1.3 The Parties acknowledge and agree that GWRC may by notice in writing to the Operator:
 - 1.3.1 specify further Performance Indicators which shall form part of this Schedule 5 (*Planning, Reporting and Meetings*) from the date of such notice, provided that the purpose of such Performance Indicators is limited to measuring or improving the Operator's compliance with this Partnering Contract;
 - 1.3.2 select different Performance Indicators under paragraph 9.2 of Schedule 6 (*Financial and Performance Regime*) to be Nominated Performance Indicators across any or all Associated Bus Units of the Operator;
 - 1.3.3 amend either or both of the PI Achieve Benchmark and Minimum PI Achieve Benchmark for:
 - (a) each Performance Indicator (other than those specified in paragraphs (b) and (c) below) without such amendment constituting a Contract Variation;

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- (b) PI #1 (*Monthly Reliability*), PI #2 (*Punctuality*) and PI #3 (*Daily Reliability*) by way of a Contract Variation or Minor Contract Variation (as applicable); or
 - (c) a Performance Indicator that is already selected as a Nominated Performance Indicator for the then current Half Year. For the avoidance of doubt, this paragraph (c) does not prevent GWRC amending the PI Achieve Benchmark or Minimum PI Achieve Benchmark of a Performance Indicator for the next applicable Half Year while in effect as a Nominated Performance Indicator.
- 1.4 For the purposes of the Performance Payment measurement and achievement of PI Achieve Benchmarks, GWRC may at its discretion, following consultation with the Operator as part of the Annual Business Planning process, consolidate the calculation of any of the Performance Indicators (including Nominated Performance Indicators) across this Partnering Contract and any Associated Partnering Contracts.
- 1.5 Each Performance Indicator is structured as follows:
 - 1.5.1 Purpose: this provides a general overview of the Performance Indicator and is for information purposes only;
 - 1.5.2 Measurement / calculation methodology: the Operator must apply the performance data collected in the relevant period to this calculation in order to produce a result which is compared against the PI Achieve Benchmark for that Performance Indicator. All figures should be expressed to one decimal point;
 - 1.5.3 Data Source: this is a non-exhaustive list of the sources of data for use in measuring the Operator's performance against the Performance Indicator;
 - 1.5.4 Worked example: sample facts and figures have been provided in order to illustrate the calculation methodology and the application of the PI Achieve Benchmark;
 - 1.5.5 Reporting frequency: this specifies how often the Operator must report its performance measured against the Performance Indicator and other information reporting requirements related to the Performance Indicator;
 - 1.5.6 PI Achieve Benchmark: for the Operator to achieve the PI Achieve Benchmark, the result of the calculation in the second row of the relevant table (Measurement / calculation methodology) must meet the threshold set out in this row of the table; and
 - 1.5.7 Minimum PI Achieve Benchmark: for all Performance Indicators other than PI #1 (*Monthly Reliability*), PI #2 (*Punctuality*) and PI #3 (*Daily Reliability*), the Operator must meet this threshold in every Relevant Month in the applicable Half Year to be entitled to a Nominated Performance Payment Amount (when this Performance Indicator is a Nominated Performance Indicator).

PI #1	Monthly Reliability
Purpose	To demonstrate the Operator's performance in respect of reliability on all Scheduled Services.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services in that Relevant Month which have complied with the Reliability KPI;</p> <p>B = the total number of Scheduled Services in that Relevant Month.</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>In July 2021, to calculate X:</p> <p>A = 980 of the Scheduled Services in July complied with the Reliability KPI;</p> <p>B = 1000 Scheduled Services are scheduled for July.</p> $X = \frac{980}{1000} \times 100 = 98.0\%$ <p>The Operator's performance in July 2021 measured against Performance Indicator #1 would achieve the PI Achieve Benchmark as X is equal to 98.0%.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #1 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, $X \geq 98.0\%$.

PI #2	Punctuality
Purpose	To demonstrate the Operator's performance in respect of punctuality on all Scheduled Services.
Measurement / calculation methodology	<p>For each Relevant Month, calculate Y% where:</p> $Y = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services in that Relevant Month which have complied with the Punctuality KPI;</p> <p>B = the total number of Scheduled Services that have been tracked in the RTPI System (and/or any other on or off-board system nominated from time to time by GWRC) at the Origin in that Relevant Month.</p>
Data source	RTPI System, and/or any other on or off-board system nominated from time to time by GWRC.
Worked example	<p>In July 2021, to calculate Y:</p> <p>A = 660 of the Scheduled Services in July complied with the Punctuality KPI;</p> <p>B = 700 Scheduled Services are scheduled for July.</p> $X = \frac{660}{700} \times 100 = 94.3\%$ <p>The Operator's performance in July 2021 measured against Performance Indicator #2 would not achieve the PI Achieve Benchmark as Y is less than 95%.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #2 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, $Y \geq 95\%$.

PI #3	Daily Reliability
Purpose	To demonstrate the Operator's performance in respect of reliability on all Scheduled Services on any given day.
Measurement / calculation methodology	<p>For each day, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services on that day which have complied with the Reliability KPI;</p> <p>B = the total number of Scheduled Services on that day.</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>On 1 July 2021, to calculate X:</p> <p>A = 950 of the Scheduled Services on 1 July complied with the Reliability KPI;</p> <p>B = 1000 Scheduled Services are scheduled for 1 July.</p> $X = \frac{950}{1000} \times 100 = 95.0\%$ <p>The Operator's performance on 1 July 2021 measured against Performance Indicator #3 would not achieve the PI Achieve Benchmark as X is less than 96.0%.</p> <p>A Performance Deduction of the Average Base Service Fee Per day x 1% would be incurred.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #3 and any other information as GWRC reasonably requires.
PI Achieve Benchmark	On any day, $X \geq 96.0\%$.

PI #4	Revenue Protection
Purpose	To identify whether the Operator is complying with its revenue protection obligations in Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>).
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of passengers on Scheduled Services and Special Event Services surveyed as part of a Revenue Protection Survey or Electronic Revenue Protection Survey during the Revenue Protection Survey Period who have not committed a Ticket Offence;</p> <p>B = the total number of passengers on Scheduled Services and Special Event Services surveyed as part of a Revenue Protection Survey or Electronic Revenue Protection Survey during the Revenue Protection Survey Period.</p> <p>The calculation for X will apply during each Relevant Month following the Revenue Protection Survey Period until the next Revenue Protection Survey Period. The Operator shall not be required to report its performance measured against this Performance Indicator during the period prior to the first Revenue Protection Survey being carried out.</p>
Data source	<p>Any or all of the following:</p> <ul style="list-style-type: none"> (i) Revenue Protection Survey undertaken in accordance with Appendix 7 (<i>Revenue Protection Survey</i>) to this Schedule 5 (<i>Planning, Reporting and Meetings</i>); (ii) Electronic Revenue Protection Survey; (iii) Ticketing System; (iv) any other information provided by GWRC which demonstrates the extent of the Operator's compliance with this PI #4.

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PI #4	Revenue Protection
Worked example	<p>In July 2021 GWRC procured a Revenue Protection Survey which resulted in a Revenue Protection Report detailing that:</p> <p style="padding-left: 40px;">A = of the 1000 passengers that were part of the Revenue Protection Survey, 18 passengers surveyed had committed a Ticket Offence;</p> <p style="padding-left: 40px;">B = 1000 passengers were part of the Revenue Protection Survey.</p> $X = \frac{982}{1000} \times 100 = 98.2\%$ <p>The Operator's performance measured against this PI #4 would not achieve the PI Achieve Benchmark as X is less than 99.5%. Applying the same methodology, the Operator would exceed the Minimum PI Achieve Benchmark of 99.5% in July 2021.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance for the Relevant Month against this Performance Indicator and any such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 99.5\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 99.5\%$.

PI #5	Number of Complaints
Purpose	To demonstrate that the Operator is complying with its obligations with respect to customer service.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X where:</p> $X = (A \div B) \times 100,000$ <p>and</p> <p>A = total number of Complaints received by the Operator, the Metlink contact centre, the Metlink website or other social media during the Relevant Month or the Half Year (as applicable);</p> <p>B = total number of Trips completed by passengers during the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: CRM System and Metlink contact centre records;</p> <p>For B: Ticketing System.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 18 Complaints received during the Half Year;</p> <p>B = 180,000 Trips completed during the Half Year.</p> $X = (18 \div 180,000) \times 100,000 = 10$ <p>The Operator's performance in July 2021 measured against PI #5 would achieve the PI Achieve Benchmark as X is less than 15.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #5 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of ≤ 18 in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance for the Relevant Month against this Performance Indicator and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \leq 15$.

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PI #5	Number of Complaints
Minimum PI Achieve Benchmark	In each Relevant Month, $X \leq 18$.

PI # 5a	Staff Complaints
Purpose	To incentivise the Operator to reduce Staff Complaints.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X where:</p> $X = (A \div B) \times 100,000$ <p>and</p> <p>A = total number of Staff Complaints received by the Operator, Metlink contact centre , the Metlink website or other social media during each Relevant Month or the Half Year (as applicable);</p> <p>B = total number of Passenger Boardings during the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: CRM System and Metlink contact centre records;</p> <p>For B: Ticketing System.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 100 Staff Complaints received during the Half Year;</p> <p>B = 1,000,000 Passenger Boardings completed during the Half Year.</p> $X = (100 \div 1,000,000) \times 100,000 = 10$ <p>The Operator's performance in July 2021 measured against PI #5a would achieve the PI Achieve Benchmark as X is less than 15.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #5a is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark ≤ 18 in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance for the Relevant Month against Performance Indicator #5a and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \leq 15$.

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PI # 5a	Staff Complaints
Minimum PI Achieve Benchmark	In each Relevant Month, $X \leq 18$.

PI #6	Serious questions, feedback and Complaints response - 1 Business Day
Purpose	To demonstrate that the Operator is complying with its obligations to provide a proposed response to GWRC within 1 Business Day of receiving a question, feedback or Complaint which relates to the Services and which is designated as serious (or similarly described) by GWRC in accordance with paragraphs 4.19.2 and 4.20.4 of Annexure 3 (<i>Customer Communication and Information Systems</i>) " Serious Complaints Obligations ".
Measurement / calculation methodology	<p>For each Relevant Month and the applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of questions, feedback and Complaints designated as serious by GWRC during the Relevant Month or the Half Year (as applicable) in respect of which the Operator has complied with the Serious Complaints Obligations;</p> <p>B = the total number of questions, feedback and Complaints designated as serious by GWRC during the Relevant Month or the Half Year (as applicable) in respect of which the Operator should have complied with the Serious Complaints Obligations.</p>
Data source	<p>Any or all of the following:</p> <ul style="list-style-type: none"> (i) Operator's electronic records of complaints; (ii) CRM System; (iii) Metlink contact centre records; (iv) Audits carried out by GWRC or its nominees.

PI #6	Serious questions, feedback and Complaints response - 1 Business Day
Worked Example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 20 serious questions, feedback and Complaints were received during the Half Year in respect of which the Operator complied with its Serious Complaints Obligations;</p> <p>B = 21 serious questions, feedback and Complaints were received during the Half Year in respect of which the Operator should have complied with its Serious Complaints Obligations.</p> <p>$X = \frac{20}{21} \times 100 = 95.2\%$</p> <p>The Operator's performance in July 2021 measured against Performance Indicator #6 would not achieve the PI Achieve Benchmark as X is less than 100% and therefore would not qualify for a Nominated Performance Payment Amount in respect of PI #6 for the relevant Half Year if PI #6 is a Nominated Performance Indicator for that Half Year.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #6 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, X = 100%.
Minimum PI Achieve Benchmark	In each Relevant Month, X = 100%.

PI #7	Questions, feedback and Complaints resolution - 5 Business Days
Purpose	To demonstrate that the Operator is complying with its obligations in paragraph 4.20.5(b) of Annexure 3 (<i>Customer Communication and Information Systems</i>) to take any necessary and reasonable action which GWRC requests to resolve a customer question, feedback or Complaint which relates to the Services within 5 Business Days of receipt of such request (" Complaints Obligations ").
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of questions, feedback and Complaints received during the Relevant Month or the Half Year (as applicable) in respect of which the Operator has complied with the Complaints Obligations;</p> <p>B = the total number of questions, feedback and Complaints received during the Relevant Month or the Half Year (as applicable) in respect of which the Operator should have complied with the Complaints Obligations.</p>
Data source	<p>Any or all of the following:</p> <ul style="list-style-type: none"> (i) Operator's electronic records of complaints; (ii) CRM System; (iii) Metlink contact centre records; (iv) Audits carried out by GWRC or its nominees.

PI #7	Questions, feedback and Complaints resolution - 5 Business Days
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 185 questions, feedback and Complaints were received in respect of which the Operator complied with its Complaints Obligations;</p> <p>B = 186 questions, feedback and Complaints were received in respect of which the Operator should have complied with its Complaints Obligations.</p> $X = \frac{185}{186} \times 100 = 99.5\%$ <p>The Operator's performance in July 2021 measured against Performance Indicator #7 would achieve the PI Achieve Benchmark as X is greater than 99%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #7 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark $\geq 98\%$ in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #7 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 99\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 98\%$.

PI #8	Notifiable Events
Purpose	To measure the Operator's compliance with its obligations with respect to safety.
Measurement / calculation methodology	For each Relevant Month and applicable Half Year, calculate X where: X = total number of Notifiable Events which occurred during the Relevant Month or the Half Year (as applicable).
Data source	Any or all of the following: (i) Operator's records; (ii) CRM System; (iii) Metlink contact centre records.
Worked example	In July 2021, X = 3 Notifiable Events occurred during the Half Year. The Operator's performance in July 2021 measured against Performance Indicator #8 would not achieve the PI Achieve Benchmark as X is greater than 0 and therefore would not qualify for a Nominated Performance Payment Amount in respect of PI #8 for the relevant Half Year if PI #8 is a Nominated Performance Indicator for that Half Year.
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #8 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, X = 0.
Minimum PI Achieve Benchmark	In each Relevant Month, X = 0.

PI #9	Customer Satisfaction Survey
Purpose	To measure the Operator's compliance with its obligations in respect of providing Scheduled Services and Special Event Services.
Measurement / calculation methodology	<p>GWRC shall procure that Customer Satisfaction Surveys shall be carried out by a Surveying Organisation in accordance with Annexure 8 (<i>Customer Satisfaction Surveys</i>). The results of Customer Satisfaction Survey undertaken after the Base Customer Satisfaction Survey shall be used to measure the Operator's performance against this PI #9.</p> <p>The results of any Customer Satisfaction Survey undertaken after the Base Customer Satisfaction Survey as reported by the Surveying Organisation under paragraph 5.5 of Annexure 8 (<i>Customer Satisfaction Survey</i>) shall apply for every Relevant Month after such results are reported until the results are reported by the Surveying Organisation for the next Customer Satisfaction Survey.</p>
Data source	Customer Satisfaction Surveys.
Worked example	<p>The results of a Customer Satisfaction Survey undertaken after the Base Customer Satisfaction Survey are reported by the Surveying Organisation under paragraph 5.5 of Annexure 8 (<i>Customer Satisfaction Survey</i>) in July 2021. The result is 92.3%.</p> <p>The then current Customer Satisfaction Threshold is 90% and the average response to the questions contained in the preceding Customer Satisfaction Survey was 92.1%.</p> <p>The Operator's performance in July 2021 measured against Performance Indicator #9 would achieve the PI Achieve Benchmark as although 92.3% is less than 95%, it exceeds the then current Customer Satisfaction Threshold and the average response to the questions contained in the preceding Customer Satisfaction Survey.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #9 and such other information as GWRC reasonably requires.

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PI #9	Customer Satisfaction Survey
PI Achieve Benchmark	<p>The results of any Customer Satisfaction Survey undertaken after the Base Customer Satisfaction Survey as reported by the Surveying Organisation under paragraph 5.5 of Annexure 8 (<i>Customer Satisfaction Survey</i>) demonstrate that the average response (expressed as a percentage to one decimal point) to the questions contained in the Customer Satisfaction Survey either:</p> <ul style="list-style-type: none"> (a) is more than 95%; or (b) exceeds the then current Customer Satisfaction Threshold and the average response (expressed as a percentage to one decimal point) to the questions contained in the preceding Customer Satisfaction Survey.
Minimum PI Achieve Benchmark	Not applicable.

PI # 10	Lost Time Injuries
Purpose	To demonstrate the Operator’s performance in respect of health and safety obligations
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X where:</p> $X = \frac{\text{Sum of Y for the Relevant Month and the preceding (12*-1) Relevant Months}}{12^*}$ <p>For each Relevant Month, calculate Y where:</p> $Y = \frac{(A \times 1,000,000)}{B}$ <p>and</p> <p>A** = the total number Lost Time Injuries in the Relevant Month</p> <p>B** = the total number of hours worked by Operator Associates in the Relevant Month</p> <p>* where the number of Relevant Months since the Commencement Date under this Partnering Contract is less than 12 this number will be the number of Relevant Months since the Commencement Date.</p> <p>**to be based on all driver, maintenance and cleaning staff.</p>
Data source	<p>Any or all of the following:</p> <ul style="list-style-type: none"> (i) The reports provided by the Operator pursuant to Appendix 4 (<i>Weekly, monthly and annual reports</i>) of Schedule 5 (<i>Planning, Reporting and Meetings</i>); (ii) Operator's records; (iii) Operators health and safety reports; (iv) Audits carried out by GWRC or its nominees.

PI # 10	Lost Time Injuries
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p style="padding-left: 40px;">A = 9 Lost Time Injuries occurred;</p> <p style="padding-left: 40px;">B = 1,200,000 hours were worked by Operator Associates.</p> $X = \frac{(9 \times 1,000,000)}{1,200,000} = 7.5$ <p>X for the preceding 11 months was = 5,9,8,5,2,9,7,3,7,6,4</p> $X = \frac{(7.5 + 5 + 9 + 8 + 5 + 2 + 9 + 7 + 3 + 7 + 6 + 4)}{12} = 6.04$ <p>The Operator's performance in July 2021 measured against Performance Indicator #10 would achieve the PI Achieve Benchmark as X is less than 15.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #10 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of ≤ 15 in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #10 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \leq 15$
Minimum PI Achieve Benchmark	In each Relevant Month, $Y \leq 15$.

PI # 11	Service Connections
Purpose	To demonstrate the Operator’s performance in managing Connecting Services.
Measurement / calculation methodology	<p>For the Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>And</p> <p>A = number of Waiting Vehicles that have complied with the Timetabled Service Connections requirements of the Partnering Contract (Schedule 2 (<i>Agreement Details</i>) paragraph 17.5), provided that both the Connecting Service and Waiting Vehicle were tracked in the RTPI System at their connection point. This also accounts for the minimum transfer time between Connecting Services and Waiting Vehicles.</p> <p>B = number of Timetabled Service Connections in the Relevant Month or the Half Year (as applicable) for which both the Connecting Service and the Waiting Vehicle were tracked by the RTPI System where the two Scheduled Services meet.</p>
Data source	<p>Any or all of the following:</p> <ul style="list-style-type: none"> (i) RTPI System; (ii) any other information provided by GWRC which demonstrates the extent of the Operator's performance against this PI #11.

PI # 11	Service Connections
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 290 Waiting Vehicles complied with the Timetabled Service Connections requirements in paragraph 17.5 of Schedule 2 (<i>Agreement Details</i>), and both the Connecting Service and the Waiting Vehicle were tracked in the RTPI System at the connection point.</p> <p>B = 301 Timetabled Service Connections were required in each Relevant Month or the Half Year (as applicable) and both the Connecting Service and the Waiting Vehicle were tracked in the RTPI System where the Connecting Service and Waiting Vehicle meet.</p> $X = \frac{290}{301} \times 100 = 96.3\%$ <p>The Operator's performance in July 2021 measured against Performance Indicator #11 would achieve the PI Achieve Benchmark as X is greater than 95%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #11 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of $\geq 92\%$ in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #11 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 95.0\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 92\%$.

PI # 12	Starting and Ending Trips Correctly
Purpose	To incentivise the Operator to train drivers to follow the correct steps required to operate the equipment to correctly start a trip at the Origin and end a trip at the Destination.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Trips in the Relevant Month or Half Year (as applicable) which have complied with Correct Equipment Use;</p> <p>B = the total number of Trips that have been tracked in the RTPI System (and/or any other on or off-board system nominated by GWRC) in the Relevant Month or Half Year (as applicable).</p>
Data source	RTPI System, and/or any other on or off-board system nominated from time to time by GWRC.
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 10,000 Trips have complied with Correct Equipment Use during the Relevant Month;</p> <p>B = 10,100 tracked Trips during the Relevant Month;</p> $X = (10,000 \div 10,100) \times 100 = 99\%$ <p>The Operator's performance in July 2021 measured against PI #12 would achieve the PI Achieve Benchmark as X is greater than 98%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #12 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of 96% in each Relevant Month of the Half Year.</p>

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PI # 12	Starting and Ending Trips Correctly
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #12 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 98\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 96\%$.

PI # 13	School Bus Punctuality
Purpose	To incentivise the Operator to improve punctuality performance with respect to Scheduled School Services
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled School Services in the Relevant Month or the Half Year (as applicable) which have complied with the Punctuality KPI at its Origin;</p> <p>B = the total number of Scheduled School Services that have been tracked in in the RTPI System (and/or any other on or off-board system nominated from time to time by GWRC) in the Relevant Month or the Half Year (as applicable).</p>
Data source	RTPI System, and/or any other on or off-board system nominated from time to time by GWRC.
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 660 Scheduled School Services in the Half Year complied with the Punctuality KPI at Origin;</p> <p>B = 700 Scheduled School Services are scheduled for the Half Year.</p> $X = \frac{660}{700} \times 100 = 94.3\%$ <p>The Operator's performance in the Half Year measured against Performance Indicator #13 would not achieve the PI Achieve Benchmark as X is less than 95% and therefore would not qualify for a Nominated Performance Payment Amount in respect of PI #13 for the relevant Half Year if PI #13 is a Nominated Performance Indicator for that Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #13 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any the applicable Half Year, $X \geq 95\%$.

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PI # 13	School Bus Punctuality
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 92\%$.

PI #14	Reliability, Intermediate Timing Points – Pass all Intermediate Timing Points
Purpose	To demonstrate that the Operator is complying with its obligations to operate the entire Scheduled Service.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services that pass all Intermediate Timing Points in the Relevant Month or the Half Year (as applicable);</p> <p>B = the total number of Scheduled Services in the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 980 of the Scheduled Services passed all Intermediate Timing Points;</p> <p>B = 1,000 Scheduled Services are scheduled for the Half Year.</p> $X = (980 \div 1,000) \times 100 = 98\%$ <p>The Operator's performance in July 2021 measured against PI #14 would achieve the PI Achieve Benchmark as X is equal to 98%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #14 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of $\geq 97\%$ in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #14 and such other information as GWRC reasonably requires.

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PI #14	Reliability, Intermediate Timing Points – Pass all Intermediate Timing Points
PI Achieve Benchmark	In the applicable Half Year, $X \geq 98\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 97\%$.

PI #15	Reliability, Vehicle Size – Scheduled Service is provided using a Vehicle with the applicable Vehicle Size Classification
Purpose	To demonstrate that the Operator is complying with its obligations to operate a Vehicle with sufficient capacity to meet the Scheduled Service passenger requirements.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services that comply with the applicable Vehicle Size Classification in the Relevant Month or the Half Year (as applicable);</p> <p>B = the total number of Scheduled Services in the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 980 Scheduled Services were provided using a Vehicle which complied with the applicable Vehicle Size Classification;</p> <p>B = 1,000 Scheduled Services for the Half Year.</p> $X = (980 \div 1,000) \times 100 = 98\%$ <p>The Operator's performance in July 2021 measured against PI #15 would achieve the PI Achieve Benchmark as X is equal to 98%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #15 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of $\geq 97\%$ in each Relevant Month of the Half Year.</p>

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PI #15	Reliability, Vehicle Size – Scheduled Service is provided using a Vehicle with the applicable Vehicle Size Classification
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #15 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 98\%$.
Minimum PI Achieve Benchmark	In any Relevant Month, $X \geq 97\%$.

PI #16	Punctuality, Intermediate Timing Points – Depart all Intermediate Timing Points not earlier than 59 seconds before the scheduled departure time
Purpose	To demonstrate that the Operator is complying with its obligations not to depart the Intermediate Timing Points early.
Measurement / calculation methodology	<p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services that pass all Intermediate Timing Points no earlier than 59 seconds before the scheduled departure time in the Relevant Month or the Half Year (as applicable);</p> <p>B = the total number of Scheduled Services in the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 980 Scheduled Services passed all Intermediate Timing Points and departed the Intermediate Timing Points not earlier than 59 seconds before the scheduled departure time;</p> <p>B = 1,000 scheduled trips for the Half Year.</p> $X = (980 \div 1,000) \times 100 = 98\%$ <p>The Operator's performance in July 2021 measured against PI #16 would achieve the PI Achieve Benchmark as X exceeds 95%.</p> <p>Applying the same methodology, to qualify for a Nominated Performance Payment Amount for that Half Year if PI #16 is a Nominated Performance Indicator, the Operator must also achieve the Minimum PI Achieve Benchmark of $\geq 92\%$ in each Relevant Month of the Half Year.</p>
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #16 and such other information as GWRC reasonably requires.

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PI #16	Punctuality, Intermediate Timing Points – Depart all Intermediate Timing Points not earlier than 59 seconds before the scheduled departure time
PI Achieve Benchmark	In the applicable Half Year, $X \geq 95\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 92\%$.

PI #17	Punctuality, First Trip of Driver Duty – depart from its Origin between 59 seconds before to 4 minutes 59 seconds after the scheduled time for such departure in the Bus Unit Timetable
Purpose	To demonstrate that the Operator is complying with its obligations not to depart start the first trip of a drivers’ duty on time, which is critical for remaining trips to remain on time.
Measurement / calculation methodology	<p>The following is to be calculated as an average for all Associated Bus Units.</p> <p>For each Relevant Month and applicable Half Year, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Scheduled Services (being First Trips of Driver Duty) that depart between 59 seconds before to 4 minutes 59 seconds after the scheduled time in the Relevant Month or the Half Year (as applicable);</p> <p>B = the total number of Scheduled Services which met the Reliability KPI and are the First Trip of Driver Duty in the Relevant Month or the Half Year (as applicable).</p>
Data source	<p>For A: RTPI System, and/or any other on or off-board system nominated from time to time by GWRC;</p> <p>For B: Bus Unit Timetable.</p>
Worked example	<p>In July 2021, to calculate X for the PI Achieve Benchmark:</p> <p>A = 970 Scheduled Services (being the First Trip of Driver Duty) departed Origin between 59 seconds before to 4 minutes 59 seconds after the scheduled time;</p> <p>B = of 1,000 Scheduled Services that are the First Trip of Driver Duty for July 2021, 985 met the Reliability KPI.</p> $X = (970 \div 985) \times 100 = 98\%$ <p>The Operator's performance in July 2021 measured against PI #17 would not achieve the PI Achieve Benchmark as X is less than 99% and therefore would not qualify for a Nominated Performance Payment Amount in respect of PI #17 for the relevant Half Year if PI #17 is a Nominated Performance Indicator for that Half Year.</p> <p>Applying the same methodology, the Operator must also achieve the Minimum PI Achieve Benchmark in each Relevant Month of the Half Year.</p>

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PI #17	Punctuality, First Trip of Driver Duty – depart from its Origin between 59 seconds before to 4 minutes 59 seconds after the scheduled time for such departure in the Bus Unit Timetable
Reporting frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #17 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In the applicable Half Year, $X \geq 99\%$.
Minimum PI Achieve Benchmark	In each Relevant Month, $X \geq 98\%$.

[insert company's letter head]

Schedule 3 – Guarantor Acknowledgement

To: Wellington Regional Council (**Beneficiary**)
PO Box 11646, Manners Street
Wellington 6142, New Zealand
samantha.gain@gw.govt.nz

Attention: Samantha Gain

Date:

Dear Samantha

BUS PARTNERING CONTRACT: PERFORMANCE REGIME (2021) DEED OF VARIATION ACKNOWLEDGEMENT IN RESPECT OF PARENT COMPANY GUARANTEE

Background

We refer to the Parent Company Guarantees dated [Date] and [Date] (**Guarantees**) by which we, as the Guarantors, provided guarantees and indemnities in favour of the Beneficiary to guarantee the performance of the Relevant Documents by [**Operator**].

The Relevant Documents include the partnering contract in respect of PTOM Units [Units] made between GWRC and the Operator and dated [Date] (**Partnering Contract**).

This acknowledgement has been requested by the Beneficiary, in accordance with clause 6.2 of the Guarantee, in respect of the deed of variation to the Partnering Contracts entitled "Bus Partnering Contract – Deed of Variation: Performance Regime (2021)" made between the Beneficiary and the Operator and dated on or about the date of this acknowledgement (**Deed of Variation**).

Unless otherwise defined in this letter, capitalised terms used in this letter have the same meaning given to those terms in the Guarantee.

Acknowledgement

We hereby acknowledge and agree that, pursuant to clause 6.1 of the Guarantees, our obligations and liabilities under the Guarantee and the guarantees and indemnities contained in it extend to any amendment, variation, increase, extension or addition (in each case, however fundamental) from time to time of or to the Relevant Documents or the Guaranteed Obligations, past and future, whether or not we provide any express acknowledgement of the same.

However, because the amendments and variations to the Partnering Contract effected under the Deed of Variation are made by way of deed, rather than as a Contract Variation or a Minor Contract Variation under Schedule 14 of the Partnering Contract, the Beneficiary has requested that we, as Guarantors, give this acknowledgement pursuant to clause 6.2 of the Guarantee.

Accordingly, we acknowledge and confirm in respect of the Deed of Variation (including the amendments and variations to the Partnering Contract effected thereunder) that:

1. such amendments and variations do not release, prejudice, impair or discharge any of our obligations or liabilities under the Guarantees; and
2. to the extent that the amendments or variations increase, vary or amend the obligations or liabilities of the Operator under the Relevant Documents, we consent to the same and confirm that our obligations and liabilities under the Guarantee shall be similarly increased, varied and amended.

Yours faithfully

Authorised signatory

[Operator]