

Schedule 3

Passenger Services

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1 Introduction

1.1 This Schedule sets out the required Passenger Services Objectives and Outcomes, the Vehicle Use in Service Outputs and the Operator's obligations in regard to the activities to be carried out in the delivery of:

1.1.1 Passenger Operating Services;

1.1.2 Network Access Services; and

1.1.3 PT Network Project Services

(together the **Passenger Services**).

1.2 This Schedule also sets out the Performance Indicators for the Passenger Services that the Operator is required to measure and report against.

2 Passenger Services objective, outcomes and outputs

Objectives and Passenger Services Outcomes

2.1 Without prejudice to any other obligation of the Operator or any rights or remedies of GWRC or GWRL, the Operator shall ensure that the Passenger Services are provided to achieve the following objectives and outcomes:

2.1.1 Passenger Operating Services are provided in a manner that enables the Operator to ensure that:

- (a) Scheduled Services are delivered safely, reliably and punctually in accordance with the Rail Unit Timetable and in a manner that encourages patronage growth, maximises payments under Schedule 6 and minimises Performance Deductions;
- (b) the Vehicles are always operated in accordance with the Licence or Interim Licence (as applicable), for the purpose for which the Vehicles were designed and not in excess of the maximum capacity for which the Vehicles were designed;
- (c) the Operator complies with its obligations set out at Schedule 9 (*Stations and Depot Facilities*);
- (d) the Operator complies with its obligations under this Partnering Contract, the other Transaction Documents and the requirements of all applicable Law; and
- (e) fare evasion and Ticket Offences are minimised;

2.1.2 Network Access Services are provided consistently with the rights and obligations of the Operator set out in the Wellington Network Agreement, the Common Access Terms, the Deed of Accession to

Common Access Terms and the Deed of Accession to the Wellington Network Agreement; and

- 2.1.3 PT Network Project Services are provided in a manner that ensures:
- (a) the Operator provides an effective contribution to the planning and implementation of PT Network Projects;
 - (b) as little impact as possible from the implementation of the PT Network Projects to the on-time performance of Scheduled Services; and
 - (c) minimum Minor Disruptions and Unplanned Disruptions arising in connection with the implementation of the PT Network Projects,

(together the **Passenger Services Objectives and Outcomes**).

2.2 The Operator shall measure its performance against the Passenger Service Objectives and Outcomes by:

- 2.2.1 measuring the Operator's adherence to the Rail Unit Timetable and its performance as against the Reliability KPI and Punctuality KPI and applying Performance Deductions;
- 2.2.2 measuring the Operator's ability to meet or exceed customer satisfaction levels through the Customer Satisfaction Survey regime (and, in the applicable circumstances, the Operator will be rewarded through Customer Satisfaction Payments calculated in accordance with paragraph 8 of Schedule 6 (*Financial and Performance Regime*));
- 2.2.3 measuring (with GWRC) the Parties' ability to achieve patronage growth and applying the FIM; and
- 2.2.4 measuring its performance against the Performance Indicators (and, in the applicable circumstances, the Operator will be rewarded through Performance Payments calculated in accordance with paragraph 9 of Schedule 6 (*Financial and Performance Regime*)).

Vehicle availability and use in service outputs

2.3 Without prejudice to any other obligations of the Operator or any rights or remedies of GWRC or GWRL, the Operator shall use best endeavours to ensure that the following outputs are achieved in regard to the availability for and use of the Vehicles for Scheduled Services and Special Event Services:

- 2.3.1 that each EMU making up the Matangi Fleet suffers approximately the same level of wear and tear;
- 2.3.2 that each Carriage making up the Carriage Fleet suffers approximately the same level of wear and tear;

- 2.3.3 subject to paragraph 2.5, that sufficient EMUs and Carriages are used to provide passenger carrying capacity for each Scheduled Service or Special Event Service which is at least equal to the customer demand that should reasonably have been contemplated for that Scheduled Service or Special Event Service and the consist size needed to meet that demand;
 - 2.3.4 that each EMU is made available and used in Scheduled Services and Special Event Services in a manner that ensures that the variation in annual kilometres travelled between the highest used EMU and the least used EMU is not more than 10% (unless the Operator has obtained GWRC's prior written approval); and
 - 2.3.5 that each Carriage is made available and used in Scheduled Services and Special Event Services in a manner that ensures that the variation in annual kilometres travelled between the highest used Carriage and the least used Carriage is not more than 10% (unless the Operator has obtained GWRC's prior written approval),

(together the **Vehicle Use in Service Outputs**).
- 2.4 The Operator shall measure the Vehicle Use in Service Outputs annually from the Commencement Date in accordance with the Performance Indicators.
- 2.5 For the avoidance of doubt, the Operator shall not be entitled to any additional payment or compensation in connection with the performance of its obligations under paragraph 2.3.3. However, the Operator shall not be required to comply with paragraph 2.3.3 to the extent that:
- 2.5.1 compliance with paragraph 2.3.3 would require the Operator to acquire any rolling stock in addition to the Vehicles; and
 - 2.5.2 the requirement to acquire such additional rolling stock has not been caused or contributed to by any failure by the Operator to operate and maintain the Vehicles in accordance with this Partnering Contract.

3 Passenger Operating Services

Compliance with Rail Unit Timetable

- 3.1 The Operator shall provide:
 - 3.1.1 the Scheduled Services in accordance with the Rail Unit Timetable and;
 - 3.1.2 all of the Services in accordance with the Working Timetable and consistently with the requirements of the Wellington Network Agreement, the Common Access Terms, the Deed of Accession to Common Access Terms and the Deed of Accession to Wellington Network Agreement,

in each case except to the extent that GWRC may, in exceptional circumstances and at its sole discretion, otherwise agree in advance in writing.

3.2 Without prejudice to the generality of paragraph 3.1, the Operator's obligations under paragraph 3.1 include but are not limited to:

3.2.1 the obligation to plan and resource its operations and implement those plans and resources to take account of any reasonably likely change in patronage to the greatest extent reasonably practicable having regard to all the circumstances and historical trends, including the reasonably foreseeable growth arising from:

- (a) PT Network Projects; and
- (b) Annual Business Plan initiatives;

3.2.2 the obligation to plan and resource its operations and implement those plans and resources to take account of the risk of Minor Disruptions and Unplanned Disruptions in the provision of Scheduled Services in accordance with the Rail Unit Timetable to the greatest extent reasonably practical having regard to all the circumstances, including the reasonably foreseeable risks arising from:

- (a) variations in weather and operating conditions (which may include but shall not be limited to seasonal variations);
- (b) default by, or other restrictions imposed by, suppliers or subcontractors to the Operator;
- (c) shortages of appropriately skilled or qualified employees;
- (d) disputes with employees;
- (e) shortage of or defects in the Vehicles;
- (f) Track Possessions;
- (g) the requirements of the Common Access Terms;
- (h) the implementation of PT Network Projects; and
- (i) the implementation of Annual Business Plan initiatives.

3.3 The Operator shall ensure that for the purpose of assessing the extent of any change in patronage or risk described in paragraphs 3.2.1 and 3.2.2 and the extent to which it is reasonably foreseeable, regard shall be had to both:

3.3.1 the historical levels of incidence of any Minor Disruptions and Unplanned Disruptions to the Rail Unit Timetable in the operation of the Scheduled Services (both by the Operator and its predecessors); and

3.3.2 potential changes in the circumstances which may affect those levels.

- 3.4 References in paragraph 3.2.2 to plans and resources to take account of the risk of Minor Disruptions and Unplanned Disruptions shall include:
- 3.4.1 plans and resources directed at preventing any Minor Disruptions and Unplanned Disruption; and
 - 3.4.2 without limiting paragraph 3.4.1 above or any other obligation of the Operator, plans and resources directed at managing and minimising the extent and effect of any Minor Disruptions and Unplanned Disruption.

Working Timetable

- 3.5 The Working Timetable shall be prepared by the Operator in a form that:
- 3.5.1 will ensure that the Operator is able to meet its obligations under the Transaction Documents (including achieving the Passenger Service Objectives and Outcomes, meeting the requirements of the Reliability KPI and the Punctuality KPI and achieving the PI Achieve Benchmark in respect of each of the Performance Indicators);
 - 3.5.2 GWRC (acting reasonably) considers meets the requirements of paragraph 3.5.1; and
 - 3.5.3 enables GWRC to fully understand:
 - (a) all Vehicle movements (including Ancillary Movements) from an Origin Point to a Termination Point required for:
 - (i) Scheduled Services; and
 - (ii) the provision of Vehicle Services;
 - (b) consist size and passenger loadings; and
 - (c) any time margins that exist between Origin Points and Termination Points on the Working Timetable and the Rail Unit Timetable.
- 3.6 The Operator shall promptly update the Working Timetable to take account of any:
- 3.6.1 changes to the Rail Unit Timetable made in accordance with the Timetable Change Process;
 - 3.6.2 Contract Variation which is to be implemented in accordance with the terms of this Partnering Contract; or
 - 3.6.3 change in patronage so as to ensure that, subject to paragraph 3.57 (*Relief from capacity and consist size obligations*), the requirements of paragraph 3.55 (*Load standards*) and 3.56 (*Capacity and consist size*) are met.
- 3.7 The Operator shall provide GWRC with:
- 3.7.1 the initial Working Timetable by at least 17 June 2016;

- 3.7.2 remote access to the Working Timetable from the Commencement Date;
- 3.7.3 to the extent that the Operator is obliged to update the Working Timetable pursuant to paragraph 3.6 or otherwise amends the Working Timetable, a copy of such updated or amended Working Timetable immediately following such update or amendment being made; and
- 3.7.4 a summary of any material changes to the Working Timetable, including an explanation as to the reasons for the changes.

Daily timetable deviations

3.8 Without prejudice to paragraph 3.1, on any day the Operator may operate its Passenger Operating Services to a daily timetable which deviates from the Rail Unit Timetable or the Working Timetable to the extent a temporary deviation is necessary on that day due to:

- 3.8.1 a Planned Disruption;
- 3.8.2 a Minor Disruption;
- 3.8.3 an Unplanned Disruption; or
- 3.8.4 a requirement to add capacity to a Scheduled Service for a Special Event Service,

provided that this paragraph 3.8 shall not relieve the Operator from Performance Deductions or its other obligations and liabilities under or in connection with this Partnering Contract, the Wellington Network Agreement, the Common Access Terms, the Deed of Accession to Common Access Terms or the Deed of Accession to Wellington Network Agreement.

Notice of Planned Disruptions

3.9 The Operator shall ensure that advance notice and details of all Planned Disruptions are:

- 3.9.1 provided to GWRC at least 6 weeks prior to the Planned Disruption taking place in accordance with the Operator's obligations set out in the Customer Communication and Information Systems;
- 3.9.2 included in the version of the Monthly Operational Report which is submitted by the Operator immediately prior to the Planned Disruption taking place; and
- 3.9.3 included (if known) in the Annual Business Plan.

Notice of Minor Disruptions and Unplanned Disruptions

3.10 The Operator shall ensure that GWRC is notified of all Minor Disruptions and Unplanned Disruptions in accordance with the Operator's obligations set out in the Customer Communication and Information Systems.

Alternative transport and information about disruptions

- 3.11 If the Scheduled Services or Special Event Services are disrupted as a result of a Planned Disruption, the Operator shall:
- 3.11.1 unless otherwise instructed by GWRC in writing, provide or procure alternative transport arrangements to replace the disrupted Scheduled Service or Special Event Service and which allow passengers to board and disembark the relevant vehicle as close to the Stations as is lawful, safe and reasonably practicable and as close as reasonably practicable to the times at which such Scheduled Service or Special Event Service was scheduled to arrive at and depart from such Stations;
 - 3.11.2 provide information about the Planned Disruption (including information about the alternative transport arrangements) to GWRC and customers in accordance with the requirements of the Customer Communication and Information Systems; and
 - 3.11.3 ensure that sufficient numbers of staff are made available to:
 - (a) provide information to customers in accordance with the requirements of the Customer Communication and Information Systems; and
 - (b) without prejudice to paragraph 3.11.3(a), provide appropriate on-platform assistance to affected passengers so as to minimise disruption to passengers to the extent reasonably practicable.
- 3.12 If Scheduled Services or Special Event Services are disrupted as a result of an Unplanned Disruption the Operator shall:
- 3.12.1 in the case of any Unplanned Disruption involving an indefinite suspension of Scheduled Services or Special Event Services or a suspension that has lasted or is likely to last more than 45 minutes, use best endeavours to provide or procure alternative transport arrangements to replace the disrupted Scheduled Service or Special Event Service and which allow passengers to board and disembark the relevant vehicle as close to the Stations as is lawful, safe and reasonably practicable and as close as reasonably practicable to the times at which such Scheduled Service or Special Event Service was scheduled to arrive at and depart from such Stations;
 - 3.12.2 provide information about the Unplanned Disruption (including information about the provision of or inability to provide alternative transport arrangements) to GWRC and customers in accordance with the requirements of the Customer Communication and Information Systems;

- 3.12.3 ensure that sufficient numbers of staff are made available to:
- (a) provide information to customers in accordance with the requirements of the Customer Communication and Information Systems; and
 - (b) without prejudice to paragraph 3.12.3(a), provide appropriate on-platform assistance to affected passengers so as to minimise disruption to passengers to the extent reasonably practicable; and
- 3.12.4 ensure that details about each Unplanned Disruption that has occurred within the last 24 hours (including the reason for each Unplanned Disruption) are set out in the relevant Daily Operational Report.
- 3.13 In respect of each vehicle used to provide alternative transport arrangements, the Operator shall:
- 3.13.1 ensure that:
- (a) such vehicle meets the requirements of, and is operated in accordance with, all applicable Law;
 - (b) such vehicle is operated by a Licenced Operator; and
 - (c) the recommended passenger load limits for such vehicle are not exceeded; and
- 3.13.2 use best endeavours to procure that each vehicle used after the introduction in the Wellington region of electronic ticketing on that type of vehicle (if applicable) is IFT Compatible.
- 3.14 Without prejudice to the Operator's obligations pursuant to paragraph 3.13.2, if any bus or other vehicle used to provide alternative transport arrangements is not IFT Compatible, the Operator shall ensure that the driver of that bus or vehicle or its conductor uses a hand held device to verify tickets and collect the correct fares from passengers.

Costs relating to alternative transport arrangements

- 3.15 The Operator shall use its best endeavours to mitigate any costs incurred by it in connection with the provision of alternative transport arrangements pursuant to paragraph 3.11 or 3.12.
- 3.16 Notwithstanding anything to the contrary in this Partnering Contract, the Wellington Network Agreement or the Common Access Terms:
- 3.16.1 except to the extent provided for in Schedule 16 (*Change Events and Net Financial Impact*), the Operator shall not be entitled to recover any of the costs incurred by it in connection with the provision of alternative transport arrangements pursuant to paragraph 3.11 or 3.12 to the extent that the relevant Planned Disruption or Unplanned Disruption is caused

or contributed to by, or arises in connection with, a Compensation Event or an NFI Event; and

- 3.16.2 the Operator shall bear all costs incurred by it in connection with the provision of alternative transport arrangements pursuant to paragraph 3.11 or 3.12 to the extent that the relevant Planned Disruption or Unplanned Disruption is caused or contributed to by the acts or omissions of the Operator or any Operator Associate and it shall not seek to recover such costs from GWRC, GWRL or the Access Provider.
- 3.17 Promptly following a request to do so, the Operator shall provide such information and evidence as GWRC may reasonably require in order to verify the costs incurred or to be incurred by the Operator in connection with the provision of alternative transport arrangements (including copies of the relevant agreements with Third Party Transport Operators).

Planning and budgeting for Planned Disruptions

- 3.18 The Operator acknowledges its obligations pursuant to paragraph 4.2 of Annexure 2 to Schedule 4 of the Wellington Network Agreement in relation to co-operating and jointly planning with the Access Provider and negotiating and agreeing funding requirements in respect of alternative transport arrangements. The Operator shall comply with its obligations pursuant to that paragraph 4.2 of Annexure 2 to Schedule 4 of the Wellington Network Agreement.
- 3.19 The Operator shall liaise with the Access Provider to prepare and submit to GWRC the financial forecasts referred to in paragraph 1.1.2 of Appendix 2 to Schedule 5 (which relate to the costs of alternative transport arrangements provided to replace Scheduled Services or Special Event Services disrupted by Planned Disruptions). The Operator shall ensure that such forecasts have due regard to the reasonable comments of and information provided by the Access Provider and have been approved in principle by the Access Provider before being provided to GWRC.
- 3.20 Subject to paragraph 3.16, to the extent it is entitled to do so under the Wellington Network Agreement the Operator shall be responsible for recovering from the Access Provider 80% of the costs incurred by the Operator in connection with the provision of alternative transport arrangements in the event of a Planned Disruption, provided that the amount so recovered by the Operator shall not exceed the amount so contemplated by the relevant financial forecast provided by the Operator pursuant to paragraph 1.1.2 of Appendix 2 to Schedule 5. The remainder of the costs shall be borne by the Operator.

Planning and budgeting for Unplanned Disruptions

- 3.21 The Operator shall provide forecast budgets in respect of the estimated costs that the Operator is reasonably likely to incur in providing alternative transport arrangements pursuant to paragraph 3.12 in respect of Unplanned Disruptions as part of each Annual Business Plan in accordance with paragraph 1.1 of Appendix 2 to Schedule 5 (*Planning, Reporting and Meetings*).

- 3.22 To the extent that:
- 3.22.1 an Unplanned Disruption is attributable to the fault of the Operator or an Operator Associate, the Operator shall bear all costs incurred by it in connection with the provision of alternative transport arrangements pursuant to paragraph 3.12; or
 - 3.22.2 an Unplanned Disruption is not attributable to the fault of the Operator or an Operator Associate, the Operator shall, subject to paragraph 3.16 and any conditions specified in paragraph 12 (*Calculation of Alternative Transport Fee*) of Schedule 6, be entitled to payment of the Alternative Transport Fee and to the extent that the Alternative Transport Fee does not cover the costs incurred by the Operator in connection with the provision of the alternative transport arrangements pursuant to paragraph 3.12, the Operator shall bear such costs itself.

Records of deviations and Unplanned Disruptions

- 3.23 The Operator shall keep accurate records of:
- 3.23.1 every Unplanned Disruption;
 - 3.23.2 the circumstances that gave rise to the Unplanned Disruption and the date and time on which the Operator became aware of the Unplanned Disruption;
 - 3.23.3 the estimated number of customers affected by Unplanned Disruption;
 - 3.23.4 steps the Operator has taken to minimise the Unplanned Disruption;
 - 3.23.5 the plans and resources implemented by the Operator to prevent or minimise the extent of any Unplanned Disruption to the Scheduled Services and the Special Event Services as described at paragraph 3.4;
 - 3.23.6 steps taken to notify customers, GWRC and other PTOM Operators of the Unplanned Disruptions including the timing of such notification, in accordance with the Customer Communication and Information Systems; and
 - 3.23.7 the feedback (if any) received by the Operator from customers in regard to each Unplanned Disruption and the steps taken to manage the disruption.
- 3.24 The Operator shall provide copies of such records to GWRC promptly following a request therefor.

Christmas period and Public Holidays

- 3.25 The Operator shall ensure that Scheduled Services are provided:
- 3.25.1 during the Christmas period, in accordance with the Christmas Timetable; and

- 3.25.2 during all other Public Holidays, in accordance with the Rail Unit Timetable applicable at that time on Sundays.
- 3.26 The Operator acknowledges and agrees that, notwithstanding anything to the contrary in this Partnering Contract, the operation of the Scheduled Services in accordance with the Christmas Timetable as required by paragraph 3.25.1 and the operation of Scheduled Services on other Public Holidays in accordance with paragraph 3.25.2 shall not:
- 3.26.1 constitute an NFI Event; or
- 3.26.2 entitle the Operator to any additional payment, compensation or relief from its obligations under this Partnering Contract.

Special Events Services

- 3.27 The Operator shall provide the Special Event Services in accordance with the Special Events Plan approved as part of the Annual Business Plan and in accordance with any proposal approved by GWRC pursuant to paragraph 3.38.3 below (as applicable).

Special Events Plan

- 3.28 The Special Events Plan in respect of the forthcoming Year shall set out:
- 3.28.1 each of the Special Events which are expected to take place in that Year, including the nature, date and location of each such Special Event;
- 3.28.2 the estimated number of persons that will attend each such Special Event, including the estimated number of persons that will use the Special Event Services contemplated by the Special Events Plan in respect of that Special Event;
- 3.28.3 the number of Special Event Services required to support each Special Event;
- 3.28.4 the timetable for each Special Event Service, including:
- (a) the origin point for each Special Event Service, including the departure time; and
- (b) the termination point for each Special Event Service, including the arrival time;
- 3.28.5 if the agreement of the Wellington Network Timetable Committee and the approval of the Network Controller is required, the anticipated timeframes required to seek such agreement and approval;
- 3.28.6 the estimated Special Event Services Fee payable in connection with the Special Event Services referred to in the Special Events Plan;
- 3.28.7 the estimated additional fare revenue that will be received by GWRC in connection with the Special Event Services;

- 3.28.8 any implications for Scheduled Services arising from the provision of the Special Event Services, including how those implications will be managed;
- 3.28.9 any implications for the RTPI System or the IFT System arising from the provision of the Special Event Services, including how those implications will be managed;
- 3.28.10 the customer information that GWRC would be required to provide via the Metlink website, Metlink social media, Metlink call centre or Metlink email address in accordance with its obligations under Annexure 3 (*Customer Communication and Information Systems*), together with information about the communication strategy that will be used in connection with the Special Event;
- 3.28.11 the identification of any safety issues or risks associated with the Special Event Services and an appropriate risk / incident management plan;
- 3.28.12 a security proposal in relation to each Special Event and Special Event Service, which security proposal shall:
- (a) be consistent with the Security Management Plan contained in the Annual Business Plan;
 - (b) be consistent with the Security Service Specification;
 - (c) identify the proposed number of person hours for which security personnel will be deployed for that Special Event Service; and
 - (d) set out the forecast Security Cost that will be payable by GWRC in connection with that Special Event Service; and
- 3.28.13 an evaluation plan to assess any customer feedback and any other matters that GWRC may from time to time consider relevant in relation to the Special Event Services.
- 3.29 The Operator and GWRC shall review and update the Special Event Plan annually as part of the development and approval of the Annual Business Plan in accordance with Schedule 5 (*Planning Reporting and Meetings*).
- 3.30 If the Operator wishes to depart from compliance with the terms of the Special Events Plan (which has been included in the Annual Business Plan) on the day of a Special Event Service in order to meet unexpected demand or changes to the event timetable, provided that the Operator complies with the principles outlined in paragraph 3.40, GWRC shall not unreasonably withhold its consent to such departure.
- 3.31 The Operator shall be responsible for obtaining the required agreement of the Wellington Network Timetable Committee and the approval of the Network Controller to the provision of the Special Event Services.

Additional Special Events Services approved by GWRC

- 3.32 Either GWRC or the Operator may (by notice to the other Party) propose the provision of a special event service that is not included in the Special Events Plan.
- 3.33 The Party proposing the special event service that is not included in the Special Events Plan shall provide at least 30 Business Days prior written notice to the other Party (**Special Event Notice**).
- 3.34 A Special Event Notice provided by GWRC shall include the following:
- 3.34.1 details of the relevant Special Event, including the nature, date and location of such Special Event; and
 - 3.34.2 a summary of why existing Scheduled Services are not adequate to support the Special Event, including the estimated number of persons that will attend the Special Event and the estimated number of persons that will use the proposed special event services.
- 3.35 A Special Event Notice provided by the Operator shall include the following:
- 3.35.1 the information specified in paragraphs 3.34.1 and 3.34.2; and
 - 3.35.2 the information specified in paragraphs 3.28.3 to 3.28.13 in relation to the relevant Special Event and the proposed special event services referred to in the Special Event Notice, which paragraphs shall apply to the relevant Special Event and the proposed special event services as if they were contained in the Special Events Plan.
- 3.36 If a Special Event Notice is issued by GWRC, the Operator shall promptly consider its contents and within 10 Business Days of receipt of such Special Event Notice, the Operator shall provide to GWRC the information specified in paragraphs 3.28.3 to 3.28.13 in relation to the relevant Special Event and the proposed special event services referred to in the Special Event Notice, which paragraphs shall apply to the relevant Special Event and the proposed special event services as if they were contained in the Special Events Plan.
- 3.37 The Operator shall promptly provide GWRC with such information as GWRC may reasonably request in connection with any matter referred to in a Special Event Notice or any of the information provided by the Operator pursuant to paragraph 3.36.
- 3.38 Within 10 Business Days following:
- 3.38.1 where the Operator has issued the Special Event Notice, the later of the date of receipt by GWRC of that Special Event Notice and the date of receipt by GWRC of the information which the Operator is required to provide pursuant to paragraph 3.37; and
 - 3.38.2 where GWRC has issued the Special Event Notice, the later of the date of receipt by GWRC of the information which the Operator is required to provide pursuant to paragraph 3.36 and the date of receipt

by GWRC of the information which the Operator is required to provide pursuant to paragraph 3.37,

GWRC shall consider the proposed special event services contemplated in the Special Event Notice and any associated information provided by the Operator pursuant to paragraph 3.36 (by reference to the principles set out in paragraph 3.40) and shall:

- 3.38.3 approve (with or without conditions) the proposed special event services and the matters contemplated by the Special Event Notice or any associated information provided by the Operator pursuant to paragraph 3.36 (including any security proposal provided by the Operator in connection therewith) by issuing written notice to the Operator to that effect; or
 - 3.38.4 decline the proposed special event services by issuing written notice to the Operator to that effect.
- 3.39 If GWRC has approved a proposed special event service subject to conditions pursuant to paragraph 3.38.3:
- 3.39.1 such conditions shall be reasonable; and
 - 3.39.2 the Operator shall comply with such conditions.

Principles to be applied before approval of Special Event Services

- 3.40 GWRC shall ensure that the following principles are applied and used to guide the consideration of a proposed special event service for inclusion in the Special Events Plan or for approval as an additional special event service under the provisions at paragraphs 3.32 to 3.38:
- 3.40.1 to the extent reasonably practicable, Scheduled Services (including by increasing consist size) must be used to provide passenger carrying services in connection with a Special Event, unless the anticipated demand exceeds the capacity provided by the relevant Scheduled Services;
 - 3.40.2 Vehicles of adequate consist size must be used to meet the anticipated patronage demand for the Special Event;
 - 3.40.3 load standards for all Special Event Services must be consistent with the load standards described at paragraph 3.55 (*Load standards*);
 - 3.40.4 Special Event Services should be planned in a manner that ensures:
 - (a) as little impact as reasonably possible on the on-time performance of Scheduled Services; and
 - (b) Minor Disruptions and Unplanned Disruptions are minimised to the extent reasonably practicable;

- 3.40.5 unless GWRC (in its sole discretion) otherwise considers appropriate, the provision of the proposed special event service should be economically viable and the cost that will be incurred by GWRC in connection with the provision of the proposed special event service should not exceed the net additional revenue that will be received by GWRC as a result of the provision of that proposed special event service;
- 3.40.6 GWRC shall not be required to approve a special event service where GWRC (acting reasonably) determines that it does not have sufficient financial resources allocated for such purposes;
- 3.40.7 GWRC shall not be required to approve a special event service if GWRC considers (acting reasonably) that the Operator will not have adequate resources to ensure that the Customer Service Standards are achieved;
- 3.40.8 GWRC shall not be required to approve a special event service if GWRC considers (acting reasonably) that adequate resources will not be available for fare collection and enforcement in accordance with the requirements set out in the Fares, Ticketing and Enforcement Requirements;
- 3.40.9 GWRC shall not be required to approve a special event service if GWRC considers (acting reasonably) that the Operator will not have adequate resources to provide the required communication and information to customers in accordance with the requirements set out in the Customer Communication and Information Systems;
- 3.40.10 GWRC shall not be required to approve a special event service if GWRC considers (acting reasonably) that the Operator will not have adequate security arrangements in place in accordance with the requirements set out in the Security Service Specification; and
- 3.40.11 GWRC shall not be required to approve a special event service if GWRC considers (acting reasonably) that the Operator has not identified any safety issues or risks or has not prepared and adopted an appropriate plan to manage those safety issues and risks.

Special Event Services Fee - supporting documentation

- 3.41 To the extent that the Operator wishes to claim payment of a Special Event Services Fee in connection with the provision of a Special Event Service, the Operator shall ensure that relevant payment claim submitted by it is accompanied by supporting documentation setting out a detailed breakdown of the calculation of the Special Event Services Fee together with a statement signed by the Operator's Authorised Representative as being true and accurate which confirms:

- 3.41.1 the number of EMUs or Carriages utilised in providing the relevant Special Event Service;
 - 3.41.2 the aggregate number of additional Revenue Service Kilometres travelled by each Train in order to provide the Special Event Service; and
 - 3.41.3 the number of person hours for which security personnel were deployed for the Special Event Service.
- 3.42 During the development of each Annual Business Plan a budget for Special Event Services for the forthcoming Year shall be agreed by the Parties pursuant to paragraph 2.7 of Schedule 5 (*Planning, Reporting and Meetings*), along with any conditions applying to the Special Event Services. The Operator shall not be entitled to claim for payment of a Special Event Services Fee exceeding the budget agreed in the Annual Business Plan, unless otherwise agreed to in writing by GWRC.

Rail Unit Timetable changes

- 3.43 The Operator shall adopt, implement and comply with the Operator's obligations set out in the Timetable Change Process.
- 3.44 It is acknowledged that the Rail Unit Timetable forms part of the Rail Network Timetable which is subject to:
- 3.44.1 the Operator's access rights set out in the Wellington Network Agreement;
 - 3.44.2 the Wellington Network Timetable Committee processes under the Common Access Terms;
 - 3.44.3 the provisions in the Wellington Network Agreement and the Common Access Terms relevant to the development of a Track Possession Plan.
- 3.45 All changes to the Rail Unit Timetable proposed by any of the Operator, GWRC or any other PTOM Operator shall occur in accordance with the Timetable Change Process which includes the requirements of the Wellington Network Agreement and the Common Access Terms.
- 3.46 The Operator shall participate in reviews of the Timetable Change Process in accordance with the requirements set out in the Regional Agreement.

Customer Service Standards

- 3.47 The Operator shall adopt, implement and comply with the baseline Customer Service Standards set out at paragraph 4.1 of Annexure 2 (*Customer Service Standards*).
- 3.48 The Operator shall also adopt, publish and use best endeavours to implement and comply with a Customer Service Commitment in accordance with the requirements at paragraph 5 of Annexure 2 (*Customer Service Standards*).

- 3.49 Without prejudice to clause 14 (*Licence, Laws and standards*), the Operator shall use best endeavours to ensure that the Vehicles, Trains, personnel and other resources used in the provision of Scheduled Services satisfy the baseline Customer Service Standards and the Customer Service Commitment.
- 3.50 Where compliance by the Operator with the baseline Customer Service Standards or the Customer Service Commitment would, under applicable Law or any Transaction Document, require the consent or approval of another person, the Operator shall use best endeavours to ensure that the other person provides such consent or approval, and does not prohibit or restrict the Operator's compliance with those requirements.
- 3.51 The Operator shall participate in reviews of the baseline Customer Service Standards in accordance with the requirements set out in the Regional Agreement.

Customer Communication and Information Systems

- 3.52 The Operator shall adopt, implement and comply with its obligations set out in Annexure 3 (*Customer Communication and Information Systems*).
- 3.53 The Operator shall ensure that all Scheduled Services and Special Event Services are tracked, monitored and reported to GWRC:
- 3.53.1 using the RTPI System and any other GWRC Systems and methods described in the Customer Communication and Information Systems;
 - 3.53.2 in accordance with the Operator's obligations related to the RTPI System and any other GWRC Systems and methods as set out in Annexure 3 (*Customer Communication and Information Systems*);
 - 3.53.3 in accordance with the measurement and reporting requirements described in relation to the Reliability KPI and the Punctuality KPI described at paragraph 6 (*Calculation of Performance Deductions*) of Schedule 6 (*Financial and Performance Regime*); and
 - 3.53.4 in accordance with the measurement and reporting requirements in relation to the Performance Indicators set out in paragraph 7 (*Performance Indicators*) of this Schedule.
- 3.54 The Operator shall participate in the change process in respect of Annexure 3 (*Customer Communication and Information Systems*) in accordance with the requirements set out in the Regional Agreement.

Load standards

- 3.55 Subject to paragraph 3.57, the Operator shall use best endeavours to operate Scheduled Services in accordance with the maximum seating capacity, maximum capacity (seated and standing) and maximum consist size described at paragraph 3.56 (*Capacity and consist size*) and to ensure that:
- 3.55.1 for each Scheduled Service departing Wellington Station on the Hutt Valley Line:

- (a) seating capacity and/or standing capacity is available for all passengers desiring to board prior to Waterloo Station; and
 - (b) seating capacity is available for all passengers travelling on the Scheduled Service from Waterloo Station onwards;
- 3.55.2 for each Scheduled Service departing Wellington Station on the Wairarapa Line:
 - (a) seating capacity and/or standing capacity is available for all passengers desiring to board prior to Waterloo Station; and
 - (b) seating capacity is available for all passengers travelling on the Scheduled Service from Waterloo Station onwards;
- 3.55.3 for each Scheduled Service departing Wellington Station on the Waikanae Line:
 - (a) seating capacity and/or standing capacity is available for all passengers desiring to board prior to Porirua Station; and
 - (b) seating capacity is available for all passengers travelling on the Scheduled Service from Porirua Station onwards;
- 3.55.4 for each Scheduled Service on the Hutt Valley Line travelling to Wellington Station:
 - (a) seating capacity is available for all passengers boarding prior to Waterloo Station; and
 - (b) seating capacity and/or standing capacity is available for all passengers desiring to travel on the Scheduled Service from Waterloo Station onwards;
- 3.55.5 for each Scheduled Service on the Masterton Line travelling to Wellington Station:
 - (a) seating capacity is available for all passengers boarding prior to Waterloo Station; and
 - (b) seating capacity and/or standing capacity is available for all passengers desiring to travel on the Scheduled Service from Waterloo Station onwards; and
- 3.55.6 for each Scheduled Service on the Waikanae Line travelling to Wellington Station:
 - (a) seating capacity is available for all passengers boarding prior to Porirua; and
 - (b) seating capacity and/or standing capacity is available for all passengers desiring to travel on the Scheduled Service from Porirua Station onwards.

Capacity and consist size

3.56 Subject to paragraph 3.57, the Operator shall ensure that Scheduled Services and Special Event Services are operated in a manner that ensures that the following maximum capacities are not exceeded:

<u>Vehicle</u>	<u>Maximum seating capacity</u>	<u>Maximum capacity (seated and standing)</u>
EMU	147	246
SW Carriage	64	81
SWG Carriage	37	47
SWS and wheel chair Carriage	37	54
SE Carriage	69	90
SEG Carriage	40	61
SES and wheel chair Carriage	44	69

Relief from capacity and consist size obligations

3.57 Nothing in paragraph 3.55 or 3.56 shall be interpreted as requiring the Operator to acquire any rolling stock in addition to the Vehicles, provided that this paragraph 3.57 shall not relieve the Operator from its obligations to operate and maintain the Vehicles in accordance with this Partnering Contract.

Security Service Specification

3.58 At all times during the Term, the Operator shall:

- 3.58.1 provide security services in accordance with the Security Service Specification;
- 3.58.2 otherwise comply with its obligations under the Security Service Specification; and
- 3.58.3 comply with and implement the Security Management Plan.

Minimum Vehicle Operating Standards

3.59 The Operator shall adopt, implement and comply with (and ensure that the Vehicles comply with) the Minimum Vehicle Operating Standards in the manner required by Annexure 5 (*Minimum Vehicle Operating Standards*).

Fares, Ticketing and Revenue Protection

3.60 The Operator shall adopt, implement and comply with the Fares, Ticketing and Enforcement Requirements.

- 3.61 The Operator shall participate in reviews of the Fares, Ticketing and Enforcement Requirements in accordance with requirements set out in the Regional Agreement.
- 3.62 Without prejudice to paragraph 3.60, from the Commencement Date to and including the IFT Programme Phase One Expiry Date the Operator shall:
- 3.62.1 ensure that all customers travelling on Scheduled Services and Special Event Services are not committing a Ticket Offence; and
- 3.62.2 implement and comply with the Revenue Protection Plan.
- 3.62A Without prejudice to paragraph 3.60, from the ETS Implementation Date until and including the Termination Date the Operator shall:
- 3.62.3 ensure that all customers travelling on Scheduled Services and Special Event Services are not committing a Ticket Offence; and
- 3.62.4 implement and comply with the updated Revenue Protection Plan referred to in paragraph 3.63.
- 3.63 Without prejudice to paragraph 3.60, on and from the ETS Implementation Date until the Termination Date the Operator shall:
- 3.63.1 within 5 Business Days following the ETS Implementation Date, provide to GWRC an updated draft of the Revenue Protection Plan;
- 3.63.2 promptly incorporate any changes to the plan submitted under paragraph 3.63.1 that are reasonably requested by GWRC; and
- 3.63.3 implement and comply with the plan submitted under paragraph 3.63.1 and amended pursuant to paragraph 3.63.2.
- 3.64 The Revenue Protection Plan referred to in paragraph 3.63 will thereafter be updated on an annual basis in accordance with the process set out in Schedule 5.
- 3.65 The Operator shall ensure that each Scheduled Service and each Special Event Service has at least one train manager on board throughout the duration of the journey.

Conditions of Carriage

- 3.66 The Operator shall adopt, implement and comply with the Conditions of Carriage.
- 3.67 The Operator shall duly enforce the Conditions of Carriage.
- 3.68 The Operator shall participate in reviews of the Conditions of Carriage in accordance with the requirements set out in the Regional Agreement.

Lost Property

- 3.69 The Operator shall provide a lost property service for property found by it on the Wellington Rail Network or the Vehicles or otherwise in the course of performing the Services, including as a minimum by:

- 3.69.1 collecting and storing for at least 14 days from collection all such property in a single location (**Lost Property Office**) on the Wellington Network;
- 3.69.2 ensure that the Lost Property Office is open to members of the public in person and by telephone at least between the following hours:
 - (a) Monday to Thursday between 6.30am and 7.30pm;
 - (b) Friday between 6.30am and 8.30pm; and
 - (c) Saturday and Sunday between 9.30am and 4.30pm; and
- 3.69.3 in the case of any such property not collected by the owner within the 14 day period referred to in paragraph 3.69.1 (or such longer period as the Operator may determine), forward such property to either (in the Operator's discretion) the police or a charity of the Operator's choosing.

Passenger counting

- 3.70 The Operator shall:
 - 3.70.1 manually count all passengers on the Passenger Operating Services travelling on the Carriage Fleet;
 - 3.70.2 manually count all passengers on the Passenger Operating Services travelling on the Matangi Fleet until GWRC directs the Operator that the automatic counting technology has been verified and GWRC no longer requires the Operator to count passengers travelling on the Matangi Fleet; and
 - 3.70.3 provide GWRC with the data set out in paragraphs 3.70.1 and 3.70.2 as part of the Monthly Patronage Report.

4 Network Access Services

- 4.1 The Operator shall perform all the obligations of:
 - 4.1.1 the "Metro Service Operator" under, and as defined in, each of the Wellington Network Agreement and the Common Access Terms; and
 - 4.1.2 an "Operator" under, and as defined in, the Common Access Terms, except to the extent that the Common Access Terms specifically provide that such obligations do not apply to a "Metro Service Operator" (as defined in the Common Access Terms),(together the **Network Access Services**).

5 PT Network Project Services

- 5.1 The Operator shall perform all of the Operator's obligations described:
 - 5.1.1 in Schedule 13 (*IFT Programme*);

- 5.1.2 in Schedule 14 (*RSI Project*); and
 - 5.1.3 in the Annual Business Plan in regard to Additional PT Network Projects,
- (together the **PT Network Project Services**).

6 Non-performance of Passenger Services

- 6.1 Without prejudice to any other rights and remedies of GWRC or GWRL, the Operator acknowledges and agrees that a failure by the Operator to provide the Passenger Services in accordance with the requirements of this Partnering Contract may give rise to GWRC enforcing any or all of its rights pursuant to clauses 54 (*Step in*), 55 (*Events of Default, Cure Plan and Persistent Breach*) and/or 56 (*Termination for Termination Events*) and/or to a reduction in the Services Fee in accordance with Schedule 6.

7 Performance Indicators (PIs)

- 7.1 The Operator shall, without prejudice to its other obligations under this Partnering Contract, at all times:
 - 7.1.1 ensure that it achieves the PI Achieve Benchmark in respect of each of the following PIs; and
 - 7.1.2 for the purpose of reporting its performance in the delivery of the Passenger Services, record data and calculate its performance against each of the following PIs.
- 7.2 Paragraph 14 of Schedule 6 (*Financial and Performance Regime*) shall apply in respect of determining the Operator's performance against each Performance Indicator.
- 7.3 Each Performance Indicator is structured as follows:
 - 7.3.1 Purpose: this provides a general overview of the Performance Indicator and is for information purposes only;
 - 7.3.2 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;
 - 7.3.3 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
 - 7.3.4 Worked example: sample facts and figures have been provided in order to illustrate the calculation methodology and the application of the PI Achieve Benchmark;

- 7.3.5 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; and
- 7.3.6 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.

PIs #1.1-1.5	Reliability – Peak Services
Purpose	To demonstrate the Operator's performance in respect of reliability on Peak 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 Peak Services in that Relevant Month in respect of which no Performance Deductions have been applied as a result of failure to meet the Reliability KPI under Schedule 6 (<i>Financial and Performance Regime</i>) on the applicable Line;</p> <p>B = the total number of Peak Services in that Relevant Month on the applicable Line.</p> <p>The Operator's performance is calculated for each Line as follows:</p> <ul style="list-style-type: none"> (i) Performance Indicator #1.1 relates to Peak Services on the Hutt Valley Line including the Melling Line; (ii) Performance Indicator #1.2 relates to Peak Services on the Johnsonville Line; (iii) Performance Indicator #1.3 relates to Peak Services on the Kapiti Line; (iv) Performance Indicator #1.4 relates to Peak Services on the Wairarapa Line; and (v) Performance Indicator #1.5 relates to all Peak Services on the Wellington Rail Network.
Data source	<p>For A: GWRC's rail performance monitoring system;</p> <p>For B: Rail Unit Timetable.</p>

PIs #1.1-1.5	Reliability – Peak Services
Worked Example	<p>Performance Indicator #1.2</p> <p>In March 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 38 of the Peak Services on the Johnsonville Line in March do not incur Performance Deductions as a result of failure to meet the Reliability KPI;</p> <p style="padding-left: 40px;">B = 40 Peak Services are scheduled in March on the Johnsonville Line;</p> <p style="padding-left: 40px;">$X = \frac{38}{40} \times 100 = 95\%$</p> <p>The Operator's performance in March 2018 measured against Performance Indicator #1.2 would not achieve the PI Achieve Benchmark as $X < 99.5\%$.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicators #1.1 to #1.5 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, for each of Performance Indicators #1.1 to #1.5, $X \geq 99.5\%$.

PIs #2.1-2.5	Reliability – all Scheduled Services
Purpose	To demonstrate the Operator's performance in respect of reliability 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 in respect of which no Performance Deductions have been applied as a result of failure to meet the Reliability KPI under Schedule 6 (<i>Financial and Performance Regime</i>) on the applicable Line;</p> <p>B = the total number of Scheduled Services in that Relevant Month on the applicable Line.</p> <p>The Operator's performance is calculated for each Line as follows:</p> <ul style="list-style-type: none"> (i) Performance Indicator #2.1 relates to Scheduled Services on the Hutt Valley Line including the Melling Line; (ii) Performance Indicator #2.2 relates to Scheduled Services on the Johnsonville Line; (iii) Performance Indicator #2.3 relates to Scheduled Services on the Kapiti Line; (iv) Performance Indicator #2.4 relates to Scheduled Services on the Wairarapa Line; and (v) Performance Indicator #2.5 relates to all Scheduled Services on the Wellington Rail Network.
Data source	<p>For A: GWRC's rail performance monitoring system;</p> <p>For B: Rail Unit Timetable.</p>
Worked Example	<p>Performance Indicator #2.2</p> <p>In March 2018, to calculate Y:</p> <p>A = 995 of the Scheduled Services on the Johnsonville Line in March do not incur Performance Deductions as a result of</p>

PIs #2.1-2.5	Reliability – all Scheduled Services
	<p>failure to meet the Reliability KPI;</p> <p>B = 1000 Scheduled Services are scheduled for March on the Johnsonville Line.</p> $Y = \frac{995}{1000} \times 100 = 99.5\%$ <p>The Operator's performance in March 2018 measured against Performance Indicator #2.2 would achieve the PI Achieve Benchmark as Y is equal to 99.5%.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicators #2.1 to #2.5 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, for each of Performance Indicators #2.1 to #2.5, $Y \geq 99.5\%$.

PIs #3.1-3.5	Punctuality – Peak Services
Purpose	To demonstrate the Operator's performance in respect of punctuality on Peak Services.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X%, where:</p> $X = \frac{(C + D)}{6}$ <p>and</p> <p>A = the total number of Peak Services in that Relevant Month in respect of which no Performance Deductions have been applied as a result of failure to meet the Punctuality KPI under Schedule 6 (<i>Financial and Performance Regime</i>) on the applicable Line;</p> <p>B = total number of Peak Services in that Relevant Month on the applicable Line;</p> <p>C = $\frac{A}{B} \times 100$;</p> <p>D = the accumulated result for C for the 5 months prior to the Relevant Month.</p> <p>For the first month after the Commencement Date, C for that month is deemed to be C for the previous 5 months. For the second month after the Commencement Date, C for that month is deemed to be C for 4 of the 5 previous months (the actual result for the previous month can be used for that month), and so on until 6 months after the Commencement Date at which point actual results will be available for all previous months.</p> <p>The Operator's performance is calculated for each Line as follows:</p> <ul style="list-style-type: none"> (i) Performance Indicator #3.1 applies to Peak Services on the Hutt Valley Line including the Melling Line; (ii) Performance Indicator #3.2 applies to Peak Services on the Johnsonville Line; (iii) Performance Indicator #3.3 applies to Peak Services on the Kapiti Line; (iv) Performance Indicator #3.4 applies to Peak Services on the Wairarapa Line; (v) Performance Indicator #3.5 applies to all Peak Services on the Rail Unit.

PIs #3.1-3.5	Punctuality – Peak Services
Data source	<p>For A: GWRC's rail performance monitoring system;</p> <p>For B: Rail Unit Timetable.</p>
Worked Example	<p>Performance Indicator #3.2</p> <p>In December 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 195 Peak Services in December on the Johnsonville Line did not result in Performance Deductions being applied as a result of failure to meet the Punctuality KPI under Schedule 6.</p> <p style="padding-left: 40px;">B = total of 200 Peak Services scheduled for December on the Johnsonville Line.</p> <p style="padding-left: 40px;">$C = \frac{195}{200} \times 100 = 97.5$</p> <p style="padding-left: 40px;">D = 492 is the accumulated result for C for the 5 months prior to December (July to November 2017).</p> <p style="padding-left: 40px;">$X = \frac{(97.5 + 492)}{6} = 98.25\%$</p> <p>The Operator's performance in December 2018 measured against Performance Indicator #3.2 would achieve the PI Achieve Benchmark as $X > 95\%$.</p>
Reporting Frequency	<p>The Monthly Operational Report shall include the Operator's performance against Performance Indicators #3.1 to #3.5:</p> <ul style="list-style-type: none"> (i) X for the Relevant Month; (ii) X over a six month period; and (iii) such other information as GWRC may reasonably require.
PI Achieve Benchmark	<p>In any Relevant Month, for</p>

PIs #3.1-3.5	Punctuality – Peak Services
	<ul style="list-style-type: none">(i) Performance Indicator #3.1, $X \geq 95\%$;(ii) Performance Indicator #3.2, $X \geq 95\%$;(iii) Performance Indicator #3.3, $X \geq 95\%$;(iv) Performance Indicator #3.4, $X \geq 95\%$;(v) Performance Indicator #3.5, $X \geq 95\%$.

PIs #4.1-4.5	Punctuality – all Scheduled Services
Purpose	To demonstrate the Operator's performance in respect of punctuality on Scheduled Services.
Measurement / calculation methodology	<p>For each Relevant Month, calculate Y%, where:</p> $Y = \frac{(C + D)}{6}$ <p>and</p> <p>A = the total number of Scheduled Services in that Relevant Month in respect of which no Performance Deductions have been applied as a result of failure to meet the Punctuality KPI under Schedule 6 (<i>Financial and Performance Regime</i>) on the applicable Line;</p> <p>B = total number of Scheduled Services in that Relevant Month on the applicable Line;</p> $C = \frac{A}{B} \times 100;$ <p>D = the accumulated result for C for the 5 months prior to the Relevant Month.</p> <p>For the first month after the Commencement Date, C for that month is deemed to be C for the previous 5 months. For the second month after the Commencement Date, C for that month is deemed to be C for 4 of the 5 previous months (the actual result for the previous month can be used for that month), and so on until 6 months after the Commencement Date at which point actual results will be available for all previous months.</p> <p>The Operator's performance is calculated for each Line as follows:</p> <ul style="list-style-type: none"> (i) Performance Indicator #4.1 applies to Scheduled Services on the Hutt Valley Line including the Melling Line; (ii) Performance Indicator #4.2 applies to Scheduled Services on the Johnsonville Line; (iii) Performance Indicator #4.3 applies to Scheduled Services on the Kapiti Line; (iv) Performance Indicator #4.4 applies to Scheduled Services on the Wairarapa Line; (v) Performance Indicator #4.5 applies to all Scheduled Services on the Rail Unit.

PIs #4.1-4.5	Punctuality – all Scheduled Services
Data source	<p>A = GWRC's rail performance monitoring system; B = Rail Unit Timetable.</p>
Worked Example	<p>Performance Indicator #4.2 In December 2018, to calculate Y:</p> <p style="padding-left: 40px;">A = 398 Scheduled Services in December on the Johnsonville Line did not result in Performance Deductions being applied as a result of failure to meet the Punctuality KPI under Schedule 6.</p> <p style="padding-left: 40px;">B = total of 400 Scheduled Services scheduled for December on the Johnsonville Line.</p> <p style="padding-left: 40px;">$C = \frac{398}{400} \times 100 = 99.5\%$</p> <p style="padding-left: 40px;">D = 490 is the accumulated result for C for the 5 months prior to December (July to November 2017).</p> <p style="padding-left: 40px;">$Y = \frac{(99.5 + 490)}{6} = 98.25\%$</p> <p>The Operator's performance in December 2018 measured against Performance Indicator #4.2 would achieve the PI Achieve Benchmark as $Y > 95\%$.</p>
Reporting Frequency	<p>The Monthly Operational Report shall include the Operator's performance against Performance Indicators #4.1 to #4.5:</p> <ul style="list-style-type: none"> (i) for the Relevant Month on a 6 month rolling basis; and (ii) as a 6 month trend, <p>and such other information as GWRC may reasonably require.</p>
PI Achieve Benchmark	<p>In any Relevant Month, for</p> <ul style="list-style-type: none"> (i) Performance Indicator #4.1, $Y \geq 95\%$;

PIs #4.1-4.5	Punctuality – all Scheduled Services
	<ul style="list-style-type: none"><li data-bbox="488 268 1032 300">(ii) Performance Indicator #4.2, $Y \geq 95\%$;<li data-bbox="488 331 1032 363">(iii) Performance Indicator #4.3, $Y \geq 95\%$;<li data-bbox="488 395 1032 427">(iv) Performance Indicator #4.4, $Y \geq 95\%$;<li data-bbox="488 459 1032 491">(v) Performance Indicator #4.5, $Y \geq 95\%$.

PI #5	Notification and Reporting to GWRC – Planned Disruptions
Purpose	To demonstrate the Operator's performance in respect of its obligations to provide notification to GWRC of Planned Disruptions.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the Planned Disruptions in respect of which the Operator has complied with its obligations to notify GWRC of Planned Disruptions set out in paragraphs 3.9.1 and 3.9.2 (<i>Notice of Planned Disruptions</i>) of Schedule 3 (<i>Passenger Services</i>) and paragraphs 3.1.8 (<i>Monthly Performance Report</i>) and 3.2 (<i>Timeframes for Reports</i>) of Schedule 5 (<i>Planning, Reporting and Meetings</i>) in that Relevant Month;</p> <p>B = total number of Planned Disruptions in respect of which the Operator should have complied with the obligations referred to above in that Relevant Month.</p>
Data source	<p>For A: GWRC's and the Operator's email records of notifications to Metlink call centre in respect of Planned Disruptions;</p> <p>For B: the monthly 'track possessions sub-committee' report.</p>
Worked Example	<p>In December 2018, to calculate X:</p> <p>A = 6 Planned Disruptions in December in respect of which the Operator has complied with its obligations to notify GWRC of Planned Disruptions set out above;</p> <p>B = 8 Planned Disruptions in December in respect of which the Operator should have complied with the obligations referred to above.</p> $X = \frac{6}{8} \times 100 = 75\%$ <p>The Operator's performance in December 2018 measured against PI #5 would achieve the PI Achieve Benchmark as X is equal to 75%.</p>

PI #5	Notification and Reporting to GWRC – Planned Disruptions
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #5 and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, $X \geq 75\%$.

PI #6	Notification and Reporting to Passengers – Planned Disruptions
Purpose	To demonstrate the Operator's performance in respect of its obligations to provide notification to customers of Planned Disruptions by posters placed in Poster Spaces in affected Stations.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the aggregate of C for all Planned Disruptions in that Relevant Month;</p> <p>B = the aggregate of D for all Planned Disruptions in that Relevant Month;</p> <p>C = in respect of each Planned Disruption, the aggregate number of Poster Spaces at all those Stations affected by the Planned Disruption in which the Operator has affixed a poster in compliance with paragraph 4.15.1 of Annexure 3 (<i>Customer Communication and Information Systems</i>);</p> <p>D = in respect of each Planned Disruption, the aggregate number of Poster Spaces at all those Stations affected by the Planned Disruption in which the Operator should have affixed a poster in compliance with paragraph 4.15.1 of Annexure 3 (<i>Customer Communication and Information Systems</i>).</p> <p>"Poster Spaces" means those spaces at Stations notified by GWRC to the Operator from time to time for the purposes of affixing posters pursuant to paragraph 4.15.1 of Annexure 3 (<i>Customer Communication and Information Systems</i>).</p>
Data source	<p>For C: time and date stamped photographic records for each Poster Space (to be provided by the Operator to GWRC upon request) and audits and inspections undertaken by GWRC or its nominee;</p> <p>For D: based on the Poster Spaces notified by GWRC to the Operator from time to time.</p>
Worked Example	<p>In December 2018, to calculate X:</p> <p>A = 33, which is the aggregate of C;</p> <p>B = 35, which is the aggregate of D;</p> <p>C = for the first Planned Disruption in December, the Operator affixed a poster in 15 Poster Spaces and for the second Planned Disruption in December, the Operator affixed posters in 18 Poster Spaces;</p>

PI #6	Notification and Reporting to Passengers – Planned Disruptions
	<p>D = for the first Planned Disruption referred to in C, the aggregate number of Poster Spaces at all those Stations affected by that Planned Disruption was 15 and for the second Planned Disruption was 20.</p> $X = \frac{33}{35} \times 100 = 94\%$ <p>The Operator's performance in December 2018 measured against PI #6 would not achieve the PI Achieve Benchmark as $X < 95\%$.</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 any Relevant Month, $X \geq 95\%$.

PI #7	Notifiable Events
Purpose	To demonstrate that the Operator is complying with its obligations with respect to Notifiable Events.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X where:</p> $X = \frac{A}{B} \times 1,000,000$ <p>and</p> <p style="padding-left: 40px;">A = the number of Notifiable Events during that Relevant Month and the previous 5 months;</p> <p style="padding-left: 40px;">B = total Revenue Service Kilometres travelled during the 6 month period referred to in A.</p> <p>For the first month after the Commencement Date, the relevant numbers for that month (i.e. number of Notifiable Events, Revenue Service Kilometres and the value of X) are deemed to be the relevant numbers for the previous 5 months. For the first month after the Commencement Date only, the Operator shall not be required to report whether the result for that month achieved the PI Achieve Benchmark (given that it will not be possible to compare that month's result against the previous month's result) but shall be required to report the results of the calculations above.</p> <p>For the second month after the Commencement Date, the numbers applying for that month are deemed to be the numbers applying for 4 of the 5 previous months (the actual numbers for the previous month can be used for that month), and so on until 6 months after the Commencement Date at which point actual numbers will be available for all previous months.</p>
Data source	<p>For A: COMPASS</p> <p>For B: COMPASS</p>
Worked Example	<p>In March 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 10 Notifiable Events during March and the previous 5 months;</p> <p style="padding-left: 40px;">B = 15,000,000 Revenue Service Kilometres travelled during that 6 month period.</p> <p>X = $\frac{10}{15,000,000} \times 1,000,000 = 0.67$</p>

PI #7	Notifiable Events
	<p>15,000,000</p> <p>In February 2018, X was 0.69. The Operator's performance in March 2018 measured against PI #7 would achieve the PI Achieve Benchmark as X was lower in March than in February.</p>
<p>Reporting Frequency</p>	<p>The Monthly Operational Report shall include the Operator's performance against Performance Indicator #7, details of all Revenue Service Kilometres travelled during the Relevant Month and such other information as GWRC reasonably requires.</p>
<p>PI Achieve Benchmark</p>	<p>In any Relevant Month, X is zero or is lower than the figure for X in the previous month.</p>

PI #8	SPAD A incidents
Purpose	To demonstrate that the Operator is complying with its obligations with respect to safe operation of the Vehicles.
Measurement / calculation methodology	<p>For each Relevant Month, calculate X where:</p> $X = \frac{A}{B} \times 1,000,000$ <p>and</p> <p style="padding-left: 40px;">A = the number of SPAD A incidents during that Relevant Month and the previous 5 months;</p> <p style="padding-left: 40px;">B = total Revenue Service Kilometres travelled during the 6 month period referred to in A.</p> <p>For the purposes of this Performance Indicator, "SPAD A" means any signal, which has been passed without the correct authority or where the safe-working authority has been exceeded, and the stop signal indication (and any associated preceding cautionary indications) was displayed correctly in sufficient time for the Vehicle to be stopped safely at the signal. Note that a "stop signal" also includes points indicators, notice boards (those requiring a train to stop), and track warrant limit over-runs.</p> <p>For the first month after the Commencement Date, the relevant numbers for that month (i.e. number of SPAD A incidents, Revenue Service Kilometres and the value of X) are deemed to be the relevant numbers for the previous 5 months. For the first month after the Commencement Date only, the Operator shall not be required to report whether the result for that month achieved the PI Achieve Benchmark (given that it will not be possible to compare that month's result against the previous month's result) but shall be required to report the results of the calculations above.</p> <p>For the second month after the Commencement Date, the numbers applying for that month are deemed to be the numbers applying for 4 of the 5 previous months (the actual numbers for the previous month can be used for that month), and so on until 6 months after the Commencement Date at which point actual numbers will be available for all previous months.</p>
Data source	<p>For A: COMPASS</p> <p>For B: COMPASS</p>
Worked Example	<p>In March 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 5 SPAD A incidents during March and the previous 5 months;</p> <p style="padding-left: 40px;">B = 15,000,000 Revenue Service Kilometres travelled during that 6 month period.</p>

PI #8	SPAD A incidents
	$X = \frac{5}{15,000,000} \times 1,000,000 = 0.333$ <p>In February 2018, X was 0.028. The Operator's performance in March 2018 measured against PI #8 would not achieve the PI Achieve Benchmark as X was lower in February than in March.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #8, details of all Revenue Service Kilometres travelled during the Relevant Month and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, X is zero or is lower than the figure for X in the previous month.

PI #9	Communicating and responding to Unplanned Disruptions	
Purpose	To demonstrate the Operator's compliance with its obligations to communicate with stakeholders and respond adequately to Unplanned Disruptions.	
Measurement / calculation methodology	<p>(I) Compliance with Annexure 3 paragraph 4.17</p> <p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Unplanned Disruptions in that Relevant Month in respect of which the Operator has complied with its obligations in paragraph 4.17 of Annexure 3 (Customer Communication and Information Systems);</p> <p>B = the total number of Unplanned Disruptions in that Relevant Month.</p>	<p>(II) Compliance with Schedule 3 paragraph 3.12.1</p> <p>For each Relevant Month, calculate X% where:</p> $X = \frac{C}{B} \times 100$ <p>and</p> <p>C = the total number of Unplanned Disruptions in that Relevant Month in respect of which the Operator has complied with its obligations in paragraph 3.12.1 of Schedule 3 (Passenger Services);</p> <p>B = the total number of Unplanned Disruptions in that Relevant Month.</p>
Data source	<p>For A: COMPASS</p> <p>For B: COMPASS</p>	<p>For C: COMPASS</p> <p>For B: COMPASS</p>
Worked Example	<p>(I) Compliance with Annexure 3 paragraph 4.17</p> <p>In March, to calculate X:</p> <p>A = 69 Unplanned Disruptions in March in respect of which the Operator has complied with its obligations in paragraph 4.17 of Annexure 3 (Customer Communication and Information Systems);</p> <p>B = 70 Unplanned Disruptions in March.</p> $X = \frac{69}{70} \times 100 = 98.57\%$	<p>(II) Compliance with Schedule 3 paragraph 3.12.1</p> <p>In March, to calculate X:</p> <p>C = 68 Unplanned Disruptions in March in respect of which the Operator has complied with its obligations in paragraph 3.12.1 of Schedule 3 (Passenger Services);</p> <p>B = 70 Unplanned Disruptions in March.</p> $X = \frac{68}{70} \times 100 = 97.14\%$

PI #9	Communicating and responding to Unplanned Disruptions	
	70	
	The Operator's performance in March measured against PI #9 would not achieve the PI Achieve Benchmark as although in respect of part (I) (<i>Compliance with Annexure 3 paragraph 4.17</i>) $X > 95\%$, for part (II) (<i>Compliance with Schedule 3 paragraph 3.12.1</i>) $X < 100\%$.	
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against this Performance Indicator #9 and such other information as GWRC reasonably requires.	
PI Achieve Benchmark	In any Relevant Month, both (I) and (II):	
	(I) Compliance with Annexure 3 paragraph 4.17 $X \geq 95\%$	(I) Compliance with Schedule 3 paragraph 3.12.1 $X = 100\%$

PI #10	Passenger Load Factor - Peak a.m. Service
Purpose	To demonstrate that Peak Services are being operated in a manner that complies with the load standards referred to in paragraphs 3.55 and 3.56 of Schedule 3 (<i>Passenger Services</i>).
Measurement / calculation methodology	<p>The degree of crowding on a passenger rail Vehicle is based on the occupancy of the Vehicle relative to the maximum seated and standing capacity (as set out in paragraph 3.56 of Schedule 3 (<i>Passenger Services</i>)) ("Maximum Capacity").</p> <p>This Performance Indicator #10 relates to Trains travelling towards Wellington Station scheduled in the Rail Unit Timetable to arrive at its Destination between 06:30 and 09:30 on a Business Day ("Peak a.m. Services").</p> <hr/> <p>For each Peak a.m. Service, calculate X% where:</p> $X = \frac{D}{E}$ <p>and</p> <p>A = highest number of passengers aboard that Peak Service at any point;</p> <p>B = the Maximum Capacity of the Vehicles used for that Peak Service;</p> $C = \frac{A}{B} \times 100;$ <p>D = the aggregate figure for C for each Business Day on which that Peak Service operated during the Relevant Month;</p> <p>E = the number of Business Days on which that Peak Service operated during the Relevant Month.</p>
Data source	<ul style="list-style-type: none"> (i) Matangi Telemetry System in respect of those Vehicles comprising the Matangi Fleet; (ii) Monthly Operational Report;

PI #10	Passenger Load Factor - Peak a.m. Service
	<p>(iii) prior to the ETS Implementation Date, the passenger count undertaken by the Operator's train managers on the Wairarapa Line only; and</p> <p>(iv) on and from the ETS Implementation Date, data from the IFT System on the Wairarapa Line only.</p>
Worked Example	<p>For Service 9213 (service arriving at Wellington at 07.15 from Johnsonville) during February, to calculate X:</p> <p>A = on Friday 28 February, the maximum number of passengers on the service at one point was 475;</p> <p>B = on Friday 28 February, 492 is the Maximum Capacity of the Vehicles used to provide Service 9213;</p> <p>$C = \frac{475}{492} \times 100 = 96.54\%$</p> <p>D = the sum of C for each Business Day on which the service was operated during February is 1952.88;</p> <p>E = the service operated on 20 days during February.</p> <p>$X = \frac{1952.88}{20} = 97.64\%$</p> <p>The Operator's performance in February measured against PI #10 would achieve the PI Achieve Benchmark as X is less than 100%.</p> <p>For the avoidance of doubt, X will be calculated for each Peak a.m. Service, and if the value of X for any Peak a.m. Service does not achieve the PI Achieve Benchmark the Operator will be deemed to have failed to achieve this PI #10 in the Relevant Month.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #10 for the Relevant Month:

PI #10	Passenger Load Factor - Peak a.m. Service
	(i) for each Peak a.m. Service on a day by day basis; and (ii) an average for each Peak a.m. Service for the Relevant Month, and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, for each Peak a.m. Service operated during that Relevant Month, $X \leq 100\%$.

PI #11	Passenger Load Factor - Peak p.m. Service
Purpose	To demonstrate that Peak Services are being operated in a manner that complies with the load standards referred to in paragraphs 3.55 and 3.56 of Schedule 3 (<i>Passenger Services</i>).
Measurement / calculation methodology	<p>The degree of crowding on a passenger rail Vehicle is based on the occupancy of the Vehicle relative to the maximum seated and standing capacity (as set out in paragraph 3.56 of Schedule 3 (<i>Passenger Services</i>)) ("Maximum Capacity").</p> <p>This Performance Indicator #11 relates to Trains travelling away from Wellington Station scheduled in the Rail Unit Timetable to depart Wellington Station between 15:30 and 18:30 on a Business Day ("Peak p.m. Services").</p> <hr/> <p>For each Peak p.m. Service, calculate X% where:</p> $X = \frac{D}{E}$ <p>and</p> <p>A = highest number of passengers aboard that Peak Service at any point;</p> <p>B = the Maximum Capacity of the Vehicles used for that Peak Service;</p> $C = \frac{A}{B} \times 100$ <p>D = the figure for C for each Business Day on which that Peak Service operated during the Relevant Month;</p> <p>E = the number of Business Days on which that Peak Service operated during the Relevant Month.</p>
Data source	(i) Matangi Telemetry System in respect of those Vehicles comprising the Matangi Fleet;

PI #11	Passenger Load Factor - Peak p.m. Service
	<ul style="list-style-type: none"> (ii) Monthly Operational Report; (iii) prior to the ETS Implementation Date, the passenger count undertaken by the Operator's train managers on the Wairarapa Line only; and (iv) on and from the ETS Implementation Date, data from the IFT System on the Wairarapa Line only.
Worked Example	<p>Service 9266 (service departing at 17.11 from Wellington):</p> <p>A = on Friday 28 February, the maximum number of passengers on the service at one point was 523;</p> <p>B = on Friday 28 February, 492 is the Maximum Capacity of the Vehicles used to provide Service 9266;</p> $C = \frac{523}{492} \times 100 = 106.3\%$ <p>D = the sum of C for each Business Day on which the service was operated during February is 2032.48;</p> <p>E = the service operated on 20 days during February.</p> $X = \frac{2032.8}{20} = 101.64\%$ <p>The Operator's performance in February measured against PI #11 would not achieve the PI Achieve Benchmark as X is greater than 100%.</p> <p>For the avoidance of doubt X will be calculated for each Peak p.m. Service, and if the value of X for any Peak p.m. Service does not achieve the PI Achieve Benchmark the Operator will be deemed to have failed to achieve this PI #11 in the Relevant Month.</p>
Reporting Frequency	The Monthly Operational Report shall include the Operator's performance against Performance Indicator #11 for the

PI #11	Passenger Load Factor - Peak p.m. Service
	<p>Relevant Month:</p> <ul style="list-style-type: none"> (i) for each Peak p.m. Service on a day by day basis; and (ii) an average for each Peak p.m. Service for the Relevant Month, <p>and such other information as GWRC reasonably requires.</p>
PI Achieve Benchmark	In any Relevant Month, for each Peak p.m. Service operated during that Relevant Month, $X \leq 100\%$.

PI #12	Complaints resolution
Purpose	To demonstrate that the Operator is complying with its obligations with respect to customer Complaints set out in paragraphs 4.19.2, 4.19.4, 4.20.4 and 4.20.5 of Annexure 3 (<i>Customer Communication and Information Systems</i>) (" Complaints Obligations ").
Measurement / calculation methodology	<p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B + C} \times 100$ <p>and</p> <p>A = the total number of customer Complaints in respect of which the Operator has complied with the Complaints Obligations during the Relevant Month and the two previous months within the timeframes required in Annexure 3;</p> <p>B = the total number of customer Complaints forwarded to the Operator by GWRC or otherwise received by the Operator in that Relevant Month and the two previous months in respect of which the Operator should have complied with the Complaints Obligations;</p> <p>C = the total number of customer Complaints forwarded to the Operator by GWRC or otherwise received by the Operator at any time prior to the three month period referred to in B in respect of which the Operator had not complied with the Complaints Obligations prior to the beginning of that three month period.</p>
Data source	GWRC's and the Operator's electronic records of Complaints sent to the Operator by GWRC and responses to Complaints sent by the Operator to GWRC.
Worked Example	<p>In March 2018, to calculate X:</p> <p>A = during January, February and March 2018, the Operator complied with its Complaints Obligations in respect of 32 Complaints;</p> <p>B = 30 customer Complaints were reported during January to March 2018;</p> <p>C = there were 4 customer Complaints received on 31 December 2017 in respect of which the Operator had not</p>

PI #12	Complaints resolution
	<p>complied with the Complaints Obligations prior to January 2018.</p> $X = \frac{32}{(30 + 4)} \times 100 = 94.12\%$ <p>The Operator's performance in March 2018 measured against Performance Indicator #12 would not achieve the PI Achieve Benchmark as X is lower than 95%.</p>
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 any Relevant Month, $X \geq 95\%$.

PI #13	Revenue Protection for IFT Phase One
Purpose	<p>To identify whether the Operator is complying with its revenue protection obligations in paragraphs 3.60 to 3.62 of this Schedule 3.</p> <p>This PI #13 applies during IFT Phase One only.</p>
Measurement / calculation methodology	<p>GWRC shall appoint a Surveyor to undertake Revenue Protection Surveys in accordance with Appendix 2 (<i>Revenue Protection Survey</i>) to this Schedule.</p> <p>For each Relevant Month, calculate X% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the number of Scheduled Services and Special Event Services on which the Surveyor's nominees are reported to have travelled during the Revenue Protection Survey Period on which the Surveyor's nominees were requested to produce proof of non-commission of a Ticket Offence as detailed in the most recent Revenue Protection Survey Report;</p> <p>B = the total number of Scheduled Services and Special Event Services on which the Surveyor's nominees are reported to have travelled during the Revenue Protection Survey Period as detailed in the most recent Revenue Protection Report.</p> <p>The calculation for X will apply during each Relevant Month following the Revenue Protection Survey until GWRC procures a new Revenue Protection Survey. 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	Revenue Protection Survey
Worked Example	<p>In June 2018 GWRC procured a Revenue Protection Survey which resulted in a Revenue Protection Report detailing that:</p> <p>A = the Surveyor's nominees were requested to provide proof of non-commission of a Ticket Offence on 96 services;</p> <p>B = the total number of Scheduled Services and Special Event Services on which the Surveyor's nominees travelled during the Revenue Protection Survey Period was 100.</p>

PI #13	Revenue Protection for IFT Phase One
	$X = \frac{96}{100} \times 100 = 96\%$ <p>The Operator's performance measured against this PI #13 would fall within the PI Achieve Benchmark.</p>
Reporting Frequency	<p>The Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the Operator's performance for the Relevant Month against this Performance Indicator; and (ii) such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month, $X > 95\%$

PI #14	Revenue Protection for IFT Phase Two
Purpose	<p>To identify whether the Operator is complying with its revenue protection obligations in paragraphs 3.60, 3.61 and 3.62A of this Schedule 3.</p> <p>This PI #14 applies during IFT Phase Two only.</p>
Measurement / calculation methodology	<p>A fare evasion survey will be conducted on a half yearly basis by a fare evasion surveyor engaged by GWRC.</p> <p>The fare evasion survey will commence in the first 6 months immediately following the ETS Implementation Date.</p> <p>For each 6 month period, calculate $X_q\%$ where:</p> $X_q\% = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of passengers who have a valid ticket and proof of concession (if relevant) for the Services surveyed by the fare evasion surveyor;</p> <p>B = the total number of passengers surveyed (which must be not less than 2000 passengers across the Wellington Rail Network) by the fare evasion surveyor.</p> <p>The Operator's performance is required to reduce fare evasion and accordingly $X_q\%$ is required:</p> <ul style="list-style-type: none"> (i) to be equal to or greater than 92%; and (ii) to be equal to or greater than the result of the previous 6 month period.
Data Source	GWRC fare evasion survey.

PI #14	Revenue Protection for IFT Phase Two
Worked Example	<p>In June 2023 GWRC procured a fare evasion survey which resulted in a report detailing that:</p> <p style="padding-left: 40px;">A = the total number of passengers who were surveyed by the surveyor and had a valid ticket and proof of concession (if relevant) for the Services was 1980;</p> <p style="padding-left: 40px;">B = the total number of passengers surveyed by the surveyor was 2020.</p> $X = \frac{1980}{2020} \times 100 = 98\%$ <p>The Operator's performance measured against this PI #14 would fall within the PI Achieve Benchmark.</p>
Reporting Frequency	<p>The Monthly Operational Report for the Relevant Month after which the survey is conducted shall include the Operator's performance against Performance Indicator #14 and such other information as GWRC reasonably requires.</p>
PI Achieve Benchmark	<p>In any relevant 6 month period in which the survey is conducted:</p> <ul style="list-style-type: none"> (i) $X_q\% \geq 92\%$, and (ii) $X_q\% \geq X_{q-1}$.

Appendix 1 - Not used

Appendix 2 - Revenue Protection Survey

- a) GWRC will appoint a suitably qualified Surveyor to undertake the design and conduct of Revenue Protection Surveys to determine whether the Operator is checking that all passengers travelling on a Scheduled Service or Special Event Service are not committing a Ticket Offence.
- b) GWRC will provide the proposed detailed methodology for the Revenue Protection Survey to the Operator at least 60 days in advance of the first Revenue Protection Survey Period for the first Revenue Protection Survey. GWRC may update the proposed detailed methodology for subsequent Revenue Protection Surveys provided it provides such methodology to the Operator at least 60 days in advance of the relevant Revenue Protection Survey Period. The Operator may submit comments to GWRC on the proposed methodology. GWRC shall take into account any reasonable comments made by the Operator prior to the finalisation of the detailed methodology.
- c) GWRC shall ensure that:
 - (i) the Revenue Protection Surveys will be undertaken by the Surveyor at GWRC's cost;
 - (ii) the Surveyor will be instructed to design the Revenue Protection Survey methodology to be statistically robust and proportionate to the Actual Patronage;
 - (iii) the Surveyor will be instructed to undertake the Revenue Protection Survey during a "typical" one week period (**Revenue Protection Survey Period**) which must not fall within public school holiday periods;
 - (iv) the first Revenue Protection Survey shall be undertaken between 90 and 180 days after the Commencement Date;
 - (v) subsequent Revenue Protection Surveys are undertaken at intervals of no greater than 180 days, on a date selected at the absolute discretion of GWRC; and
 - (vi) the Surveyor produces a report detailing the number of Scheduled Services and Special Event Services travelled on by the Surveyor's nominees during the Revenue Protection Survey Period and the number of services on which the Surveyor's nominees were requested to provide proof of not having committed a Ticket Offence (**Revenue Protection Report**), a copy of which shall be provided by GWRC to the Operator within 5 Business Days of its receipt by GWRC from the Surveyor.
- d) The Operator is not entitled to prior notice of the exact dates of the Revenue Protection Survey Periods.
- e) The Operator shall not materially change its revenue protection activities during the Revenue Protection Survey Period.

Schedule 4

Vehicle Services

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1 Introduction

1.1 This Schedule sets out the Vehicle Services Objectives and Outcomes, the Vehicle Use in Service Outputs and the Operator's obligations in regard to the activities to be carried out in the delivery of:

- 1.1.1 Planned Maintenance Services;
 - 1.1.2 Unplanned Maintenance Services;
 - 1.1.3 Operator funded Approved Modification Services;
 - 1.1.4 Spares Inventory Services;
 - 1.1.5 Special and General Tools Management Services;
 - 1.1.6 MMIS Management Services;
 - 1.1.7 EMU Depot Plant and Equipment Management Services;
 - 1.1.8 FRACAS and Warranty Management Services;
 - 1.1.9 Vehicle and Asset Cleaning Services;
 - 1.1.10 Vehicle and Asset Security Services;
 - 1.1.11 Exceptional Repair Work;
 - 1.1.12 Heavy Maintenance Services; and
 - 1.1.13 GWRC funded Additional Modification Services;
- (together the **Vehicle Services**).

1.2 This Schedule also sets out the Performance Indicators for the Vehicle Services that the Operator is required to report against.

2 Vehicle Services objectives, outcomes, outputs and hand back standards

Objectives and Vehicle Services Outcomes

2.1 Without prejudice to any other obligation of the Operator or any rights or remedies of GWRC or GWRL, the Operator shall ensure that the Vehicle Services are provided to achieve the following objectives and outcomes:

- 2.1.1 the Vehicles are always in a condition that enables the Operator to comply with its obligations under this Partnering Contract, the other Transaction Documents and the requirements of all applicable Law;
- 2.1.2 the Vehicles are in proper working order, condition and repair and capable of being operated fully, efficiently, safely and in serviceable condition:

- (a) in accordance with the Licence and the Interim Licence (if applicable) and for the purpose and to the capacity for which the Vehicles were designed;
- (b) in accordance with the terms set out at Schedule 10 (*Operating Lease*); and
- (c) in accordance with the requirements of all applicable Law; and

2.1.3 Vehicle Services are provided in accordance with the requirements and standards set out at clause 14 (*Licence, Laws and standards*) and this Schedule to achieve the following outcomes:

- (a) in regard to Planned Maintenance Services:
 - (i) all Planned Maintenance Services are completed in accordance with the defined time frames set out in the Matangi Fleet Maintenance Plan, the Carriage Fleet Maintenance Plan and the Electric Shunt Manual;
 - (ii) no Vehicle enters service if any material Planned Maintenance Services are outstanding or incomplete; and
 - (iii) each Vehicle meets the Minimum Vehicle Operating Standards in the manner required by Annexure 5 (*Minimum Vehicle Operating Standards*) at the time at which it commences any Scheduled Service or Special Event Service;
- (b) in regard to Unplanned Maintenance Services:
 - (i) no Vehicle is unavailable for Scheduled Services or Special Event Services for more than 30 days awaiting Unplanned Maintenance Services unless the Operator has obtained GWRC's prior written approval;
 - (ii) each Vehicle is repaired to enable the Operator to meet the requirements of the Reliability KPI and the Punctuality KPI;
 - (iii) each Vehicle meets the Minimum Vehicle Operating Standards in the manner required by Annexure 5 (*Minimum Vehicle Operating Standards*) at the time at which it commences any Scheduled Service or Special Event Service; and
 - (iv) without prejudice to the foregoing or to any other rights and remedies of GWRC or GWRL, the Unplanned Maintenance Services are carried out and completed as soon as reasonably practicable;

- (c) in regard to Operator funded Approved Modification Services:
 - (i) each Vehicle meets the Minimum Vehicle Operating Standards in the manner required by Annexure 5 (*Minimum Vehicle Operating Standards*) at the time at which it commences any Scheduled Service or Special Event Service;
 - (ii) such Approved Modification Services are completed in accordance with the relevant Variation Order; and
 - (iii) no Vehicle is used in the provision of Scheduled Services or Special Event Services if any material Approved Modification Services remain incomplete on that Vehicle at the end of the time period agreed by GWRC and the Operator for the performance of such Approved Modification Services (unless the Operator has obtained GWRC's prior written approval);
- (d) in regard to Spares Inventory Services, Special and General Tools Management Services, and MMIS Management Services, at all times:
 - (i) the MMIS accurately records all maintenance activity in regard to, and the condition of, each Vehicle;
 - (ii) the MMIS accurately records all maintenance activity in regard to, and the condition of, the Spares and Rotable Items available to repair the Vehicles including the location, status, quantity and value of the Spares and Rotable Items;
 - (iii) the MMIS accurately records all maintenance activity in regard to, and the condition of, the Special Tools and General Tools available to repair the Vehicles including the location, status, quantity and value of the Special Tools and General Tools; and
 - (iv) the MMIS accurately records all maintenance activity in regard to, and the condition of, the EMU Depot Plant and Equipment;
- (e) in regard to EMU Depot Plant and Equipment Management Services, the EMU Depot Plant and Equipment is available and in a condition that enables the Operator to comply with its obligations under this Partnering Contract, the other Transaction Documents and the requirements of all applicable Law;
- (f) in regard to FRACAS and Warranty Management Services:

- (i) the FRACAS accurately records the outcome of all defect or deficiency investigations or assessments; and
 - (ii) the FRACAS accurately records the status of all warranty claims;
- (g) in regard to Vehicle and Asset Cleaning Services:
- (i) all EMUs are cleaned in accordance with the defined time frames set out in the Matangi Fleet Maintenance Plan except where the Operator can demonstrate to GWRC's satisfaction (acting reasonably) that the frequency of cleaning is not required to ensure that an EMU meets the cleanliness requirements set out in the Matangi Fleet Maintenance Plan;
 - (ii) all Carriages are cleaned in accordance with the defined time frames set out in the Carriage Fleet Maintenance Plan except where the Operator can demonstrate to GWRC's satisfaction (acting reasonably) that the frequency of cleaning is not required to ensure that a Carriage meets the cleanliness requirements set out in the Carriage Fleet Maintenance Plan; and
 - (iii) no Vehicle is used for Scheduled Services or Special Event Services if any material scheduled cleaning is outstanding or incomplete and the Vehicle does not meet the cleanliness requirements set out in the Carriage Fleet Maintenance Plan or the Matangi Fleet Maintenance Plan (as applicable);
- (h) in regard to Vehicle and Asset Security Services:
- (i) all of the Vehicles, Spares, Rotable Items, Special Tools, General Tools, EMU Depot and EMU Depot Plant and Equipment are always available for use by the Operator; and
 - (ii) the Carriage Depot is always available for use by the Operator, provided that the Operator shall not be responsible for any unavailability to the extent this is caused by KiwiRail Limited's breach of the Carriage Depot Licence where such breach is not caused or contributed to by any act or omission of the Operator or an Operator Associate;
- (i) in regard to Exceptional Repair Work:

- (i) no Exceptional Repair Work is completed unless the Operator has obtained GWRC's prior written approval to complete the work in accordance with paragraphs 13.2 and 13.3; and
- (ii) no Vehicle is used for Scheduled Services or Special Event Services if any Exceptional Repair Work is outstanding or incomplete;
- (j) in regard to Heavy Maintenance Services:
 - (i) all Heavy Maintenance Services are completed in accordance with the agreed time frames set out in the Heavy Maintenance Plans; and
 - (ii) no Vehicle is used for Scheduled Services or Special Event Services if any Heavy Maintenance Services are outstanding or incomplete; and
- (k) in regard to GWRC funded Additional Modification Services:
 - (i) no GWRC funded Additional Modification Services are completed unless the Operator has obtained GWRC's prior written approval to complete the work in accordance with paragraphs 15.1 and 15.2;
 - (ii) such Additional Modification Services are completed in accordance with the relevant timetable approved by GWRC pursuant to paragraph 15.1.7; and
 - (iii) no Vehicle is used in the provision of Scheduled Services or Special Event Services if any material Additional Modification Services remain incomplete on that Vehicle at the end of the time period specified for their completion in such timetable (unless the Operator has obtained GWRC's prior written approval),

(together the **Vehicle Services Objectives and Outcomes**).

Vehicle availability and use in service outputs

2.2 Without prejudice to any other obligation of the Operator or any rights or remedies of GWRC or GWRL, the Operator shall use best endeavours to ensure that the following outputs are achieved in regard to the availability for and use of the Vehicles for Scheduled Services and Special Event Services:

- 2.2.1 that each EMU making up the Matangi Fleet suffers approximately the same level of wear and tear;
- 2.2.2 that each Carriage making up the Carriage Fleet suffers approximately the same level of wear and tear;



- 2.2.3 subject to paragraph 2.3, that sufficient EMUs and Carriages are used to provide passenger carrying capacity for each Scheduled Service or Special Event Service which is at least equal to the customer demand that should reasonably have been contemplated for that Scheduled Service or Special Event Service and the consist size needed to meet that demand;
 - 2.2.4 that each EMU is made available and used in Scheduled Services and Special Event Services in a manner that ensures that the variation in annual kilometres travelled between the highest used EMU and the least used EMU is not more than 10% (unless the Operator has obtained GWRC's prior written approval); and
 - 2.2.5 that each Carriage is made available and used in Scheduled Services and Special Event Services in a manner that ensures that the variation in annual kilometres travelled between the highest used Carriage and the least used Carriage is not more than 10% (unless the Operator has obtained GWRC's prior written approval),

(together the **Vehicle Use in Service Outputs**).
- 2.3 The Operator shall measure the Vehicle Use in Service Outputs annually from the Commencement Date in accordance with the Performance Indicators.
- 2.4 For the avoidance of doubt, the Operator shall not be entitled to any additional payment or compensation in connection with the performance of its obligations under paragraph 2.2.3. However, the Operator shall not be required to comply with paragraph 2.2.3 to the extent that:
- 2.4.1 compliance with paragraph 2.2.3 would require the Operator to acquire any rolling stock in addition to the Vehicles; and
 - 2.4.2 the requirement to acquire such additional rolling stock has not been caused or contributed to by any failure by the Operator to operate and maintain the Vehicles in accordance with this Partnering Contract.

Matangi 2 EMU Testing and Commissioning

- 2.4A The Operator shall perform the Matangi 2 EMU Testing and Commissioning Services. The Operator acknowledges and agrees that, at the date of this Partnering Contract, it envisages that it and the Vehicle Services Subcontractor will be capable of performing the Matangi 2 EMU Testing and Commissioning Services without any requirement to engage external third parties. To the extent that the Operator considers that it is necessary (through no fault of the Operator or the Vehicle Services Subcontractor) for them to engage an external third party to perform any element (**Outsourced Element**) of the Matangi 2 EMU Testing and Commissioning Services, the Operator shall be entitled to submit a proposal to GWRC under paragraph 15 (*GWRC funded Additional Modification Services*) in respect of the Outsourced Element. Paragraph 15 (*GWRC funded Additional*

Modification Services) shall apply to such proposal as if the Outsourced Element were Additional Modification Services with the following amendments:

- 2.4A.1 paragraph 15.1.1, 15.1.5 and 15.1.7 shall not apply;
- 2.4A.2 GWRC shall not unreasonably withhold or delay its agreement in respect of the matters referred to in paragraphs 15.1.2 and 15.1.6 to the extent that the Operator can demonstrate to GWRC's reasonable satisfaction that it is necessary (through no fault of the Operator or the Vehicle Services Subcontractor) for them to engage an external third party to perform the Outsourced Element and the costs of so doing are in accordance with the Matangi 2 EMU Testing and Commissioning Services Budget as confirmed by GWRC pursuant to clause 3.3.16.
- 2.4B Subject to paragraph 2.4C, as soon as reasonably practicable after the date of this Partnering Contract, the Operator shall prepare a draft Matangi 2 EMU Testing and Commissioning Services Budget and submit to GWRC a detailed proposal for the Matangi 2 EMU Testing and Commissioning Services Budget to GWRC for its approval pursuant to clause 3.3.16. If GWRC provides comments, the Operator shall promptly amend the proposal to incorporate and reflect those comments and resubmit the proposal for approval to GWRC. this paragraph 2.4B shall reapply until such proposal is approved in writing by GWRC.
- 2.4C The Matangi 2 EMU Testing and Commissioning Services Budget shall not exceed  .

Hand Back Standards

- 2.5 Without prejudice to any other obligation of the Operator or any rights or remedies of GWRC or GWRL, the Operator shall ensure that:
 - 2.5.1 as at the Termination Date, each Maintained Asset has been operated and maintained in accordance with this Partnering Contract up to the Termination Date; and
 - 2.5.2 as at the Termination Date:
 - (a) each EMU and the Simulator is capable of being used in the provision or operation of services equivalent to the Scheduled Services and to the same standard provided under this Partnering Contract for at least 5 years following the Termination Date subject to:
 - (i) the EMU and Simulator being maintained after the Termination Date in accordance with the Matangi Fleet Maintenance Plans; and
 - (ii) where the Matangi Fleet Refurbishment has not been completed by GWRC as at the Termination Date, the Matangi Fleet Refurbishment being completed by GWRC when reasonably necessary provided that this

paragraph (ii) shall not apply to the extent such refurbishment becomes necessary due to an act or omission of the Operator or the Operator Associate,

so that:

- (iii) the Reliability KPI is reasonably capable of being satisfied during such period;
 - (iv) the Punctuality KPI is reasonably capable of being satisfied during such period; and
 - (v) no material replacement, refurbishment or overhaul is required which was not specified in the then current Heavy Maintenance Plans as being required to be undertaken in the 5 year period following the Termination Date;
- (b) each Carriage is capable of being used in the provision or operation of services equivalent to the Scheduled Services and to the same standard provided under this Partnering Contract for at least 5 years following the Termination Date subject to:
- (i) the Carriage being maintained after the Termination Date in accordance with the Carriage Fleet Maintenance Plans; and
 - (ii) where the Carriage Fleet Refurbishment has not been completed by GWRC as at the Termination Date, the Carriage Fleet Refurbishment being commenced by GWRC by 31 December 2020 and completed by GWRC by the later of 30 June 2023 and the date on which it becomes reasonably necessary,
- so that:
- (iii) the Reliability KPI is reasonably capable of being satisfied during such period;
 - (iv) the Punctuality KPI is reasonably capable of being satisfied during such period; and
 - (v) no material replacement, refurbishment or overhaul is required which was not specified in the then current Heavy Maintenance Plans as being required to be undertaken in the 5 year period following the Termination Date;
- (c) the Electric Shunts are capable of being used in the provision or operation of services equivalent to the Scheduled Services and to the same standard provided under this Partnering Contract for at

least 5 years following the Termination Date (subject to the Electric Shunts being maintained after the Termination Date in accordance with the Electric Shunt Manual) so that no material replacement, refurbishment or overhaul is required which was not specified in the then current Electric Shunt Manual as being required to be undertaken in the 5 year period following the Termination Date;

- (d) the data in the MMIS is accurate and up to date and the MMIS data is capable of being transferred to GWRC, GWRL or either of their nominees or an Incoming Operator in accordance with the provisions at Part Ten (*Obligations associated with change of Operator*);
- (e) the data in the FRACAS is accurate and up to date and the FRACAS data is capable of being transferred to GWRC, GWRL or either of their nominees or an Incoming Operator in accordance with the provisions at Part Ten (*Obligations associated with change of Operator*); and
- (f) the EMU Depot Plant and Equipment is capable of being used in the provision or operation of services equivalent to the Services and to the same standard provided under this Partnering Contract for at least 5 years following the Termination Date (subject to the EMU Depot Plant and Equipment being maintained after the Termination Date in accordance with the EMU Depot Plant and Equipment Manual) so that no material replacement, refurbishment or overhaul is required which was not specified in the EMU Depot Plant and Equipment Manual as being required to be undertaken in the 5 year period following the Termination Date,

(the **Hand Back Standards**).

3 Planned Maintenance Services

3.1 The Operator shall provide Planned Maintenance Services in accordance with:

- 3.1.1 the Matangi Fleet Maintenance Plan;
- 3.1.2 the Carriage Fleet Maintenance Plan; and
- 3.1.3 the Electric Shunt Manual.

4 Unplanned Maintenance Services

4.1 Subject to paragraph 13 (*Exceptional Repair Work*) the Operator shall provide Unplanned Maintenance Services comprising all Maintenance Work and other activities required in regard to the Vehicles that is necessary for the:

- 4.1.1 remediation of all acts of graffiti or vandalism to the Vehicles;
 - 4.1.2 remediation or repair of damage caused by Operator error;
 - 4.1.3 repair (including corrective repair) of faults or defects identified by the driver or crew during or when preparing for Scheduled Services or Special Event Services;
 - 4.1.4 repair (including corrective repair) of faults or defects which have otherwise been identified in the Vehicles;
 - 4.1.5 repair (including corrective repair) to ensure the Vehicles remain in a condition suitable for use in the provision of Scheduled Services and Special Event Services in accordance with Annexure 5 (*Minimum Vehicle Operating Standards*) and otherwise in accordance with this Partnering Contract;
 - 4.1.6 remediation or repair of damage caused by the Access Provider or any other person in the course of such other person operating vehicles on the Wellington Rail Network, in each case to the extent that the cost of such remediation or repair is recoverable under the Wellington Network Agreement, the Common Access Terms or the Material Damage Policy (or would have been so recoverable but for any breach by the Operator of any Transaction Document or any deductible applicable to the Material Damage Policy); or
 - 4.1.7 safe recovery and transit back to the EMU Depot or Carriage Depot of any Vehicle in respect of which a breakdown, collision, derailment or other similar incident occurs.
- 4.2 The Operator shall provide all Unplanned Maintenance Services in accordance with:
- 4.2.1 the Matangi Fleet Maintenance Plan;
 - 4.2.2 the Carriage Fleet Maintenance Plan; and
 - 4.2.3 the Electric Shunt Manual.
- 4.3 Prior to undertaking any Unplanned Maintenance Services, the Operator shall notify GWRC in writing if such Unplanned Maintenance Services will give rise to (or are likely to give rise to) the unavailability of a Vehicle which in turn would entitle the Operator to claim an Excusing Event. Any such notification shall include the Operator's reasonable estimate of the likely period of unavailability of the Vehicle.

5 Operator funded Approved Modification Services

- 5.1 Without prejudice to the obligations of the Operator under this Partnering Contract the Operator may propose that the Operator shall provide Operator funded work to enhance or modify the EMUs or the Carriages (**Approved Modification Services**)

by way of an Operator initiated Contract Variation in accordance with paragraph 8 of Schedule 16 (*Change Events and Net Financial Impact*).

- 5.2 The Operator shall not undertake such enhancements or modifications unless and until GWRC issues a Variation Order in respect thereof pursuant to paragraph 8 of Schedule 16 (*Change Events and Net Financial Impact*).
- 5.3 As part of the notice given by the Operator pursuant to paragraph 8.2 of Schedule 16 (*Change Events and Net Financial Impact*) in relation to any Approved Modification Services, the Operator shall also specify:
- 5.3.1 whether the carrying out of such Approved Modification Services will give rise to (or is likely to give rise to) the unavailability of any Vehicle which in turn would entitle the Operator to claim an Excusing Event; and
- 5.3.2 the Operator's reasonable estimate of the likely period of unavailability (if any) of the affected Vehicles.

6 Spares Inventory Services

- 6.1 The Operator shall provide Spares Inventory Services to ensure that at all times during the Term:
- 6.1.1 as a minimum the Operator has those Spares in the quantities specified in Schedule 19 (*Minimum Initial Transferring Assets*); and
- 6.1.2 an appropriate quality and quantity of Spares and Rotable Items are held by the Operator at the EMU Depot, the Carriage Depot or at the spares warehouse facility provided by the Operator pursuant to clause 12.2 (*Spares warehouse*) and are readily available for use on the Vehicles or the EMU Depot Plant and Equipment (as applicable) to enable:
- (a) the Operator to comply with its obligations under this Partnering Contract, including but not limited to its obligations in regard to Planned Maintenance Services, Unplanned Maintenance Services, Heavy Maintenance Services and EMU Depot Plant and Equipment Management Services and its obligations under Part 10 (*Obligations associated with change of Operator*); and
- (b) GWRC, GWRL or either of their nominees or an Incoming Operator to operate and maintain the Vehicles and the EMU Depot Plant and Equipment to the standards required by this Partnering Contract for a period of at least 12 months following the Termination Date, having regard to the lead times that are likely to apply to any orders for Spares and Rotable Items placed by GWRC, GWRL, their nominees or the Incoming Operator (as applicable) after the Termination Date;
- 6.1.3 all Spares and Rotable Items are only sourced from approved suppliers in accordance with the requirements set out in the Matangi Fleet

Maintenance Plan, the Carriage Fleet Maintenance Plan, Electric Shunt Manual or the EMU Depot Plant and Equipment Manual (as applicable) or otherwise from suppliers approved in writing by GWRC (in its absolute discretion);

- 6.1.4 all Spares and Rotable Items are maintained, protected and preserved in proper working order and condition and in good repair in accordance with the degree of skill, diligence, prudence and practice which would reasonably be expected of a skilled, competent and experienced operator and maintainer of railway assets engaged in a similar undertaking in the same or similar circumstances; and
- 6.1.5 the programme for maintenance, repair, servicing and reconditioning of Rotable Items is adequate to enable the Operator to comply with its obligations under this Partnering Contract (including its obligations in respect of the Hand Back Standards).

7 Special and General Tools Management Services

- 7.1 The Operator shall provide Special and General Tools Management Services to ensure that at all times during the Term:
 - 7.1.1 an appropriate quality and quantity of Special Tools and General Tools are held by the Operator at the EMU Depot or the Carriage Depot to enable:
 - (a) the Operator to comply with its obligations under this Partnering Contract; and
 - (b) GWRC, GWRL, any GWRC nominee or any Incoming Operator to operate and maintain the Vehicles to the standards required by this Partnering Contract for a period of at least 6 months following the Termination Date;
 - 7.1.2 all Special Tools and General Tools are kept and maintained in proper working order and condition and in good repair;
 - 7.1.3 in addition and without prejudice to paragraph 7.1.2 all Special Tools and General Tools are maintained, protected and preserved in proper working order and condition and in good repair in accordance with the degree of skill, diligence, prudence and practice which would reasonably be expected of a skilled, competent and experienced operator and maintainer of railway assets engaged in a similar undertaking in the same or similar circumstances; and
 - 7.1.4 the programme for maintenance, repair, servicing, reconditioning, replacement and addition of Special Tools and General Tools is adequate to enable the Operator to comply with its obligations under this Partnering Contract.

8 MMIS Management Services

- 8.1 The Operator shall supply and provide a MMIS in accordance with the requirements at clause 11 (*MMIS provided by Operator*).
- 8.2 The Operator shall provide and maintain the MMIS in relation to the Vehicles, EMU Depot Plant and Equipment, Spares, Rotable Items, Special Tools and General Tools for the duration of the Term.
- 8.3 The Operator shall provide MMIS Management Services to ensure that at all times from and including the Commencement Date:
- 8.3.1 each of the Vehicles, all of the EMU Depot Plant and Equipment and all Spares, Rotable Items, Special Tools and General Tools are properly and accurately recorded in the MMIS;
- 8.3.2 without prejudice to paragraph 8.3.1, the MMIS accurately records and tracks all of the following items by serial number:
- (a) bogies;
 - (b) traction motors;
 - (c) gear boxes;
 - (d) heating, ventilation and air conditioning systems;
 - (e) auxiliary power units;
 - (f) variable voltage frequency propulsion units;
 - (g) main air compressors; and
 - (h) Matangi Fleet semi-permanent couplers and auto couplers;
- 8.3.3 the MMIS accurately records for each Vehicle, item of EMU Depot Plant and Equipment, Spare, Rotable Item, Special Tool and General Tool all Maintenance Work performed, including:
- (a) the service level completed;
 - (b) the nature of the work completed;
 - (c) who completed the work;
 - (d) the date the work was completed;
 - (e) configuration / change management;
 - (f) condition; and
 - (g) value (where applicable);
- 8.3.4 all data contained in the MMIS is readily capable of being transferred to GWRL, GWRC, either of their nominees or an Incoming Operator;

- 8.3.5 GWRL, GWRC or either of their nominees are provided with remote access to the data contained in the MMIS and a licence to that effect is maintained by the Operator;
- 8.3.6 GWRL, GWRC or either of their nominees are provided with data from the MMIS within a reasonable period of GWRC or GWRL requesting such data;
- 8.3.7 the MMIS is maintained and serviced in accordance with Good Industry Practice; and
- 8.3.8 the MMIS achieves the outputs specified in and complies with:
 - (a) the Transition Plan;
 - (b) the plans approved by GWRC pursuant to clause 5.6.1 (Licence and MMIS Plan); and
 - (c) the MMIS technical specification set out in Appendix 2 of this Schedule.
- 8.4 On the Termination Date, the Operator shall transfer all of the data contained in the MMIS to GWRC (or its nominees) in accordance with clause 63.15 (*MMIS and FRACAS data*).
- 8.5 Without prejudice to any other obligations of the Operator under this Partnering Contract, during the Term the Operator shall implement and comply with (and shall ensure that the Operator Associates shall implement and comply with) Good Industry Practice in respect of inventory management in connection with the Services.

9 EMU Depot Plant and Equipment Management Services

- 9.1 The Operator shall provide EMU Depot Plant and Equipment Management Services to ensure that at all times during the Term:
 - 9.1.1 the EMU Depot Plant and Equipment is used, managed and maintained in accordance with:
 - (a) the EMU Depot Plant and Equipment Manual;
 - (b) Good Industry Practice; and
 - (c) any other guidelines or recommendations of the OEM which are provided to the Operator by GWRC or GWRL;
 - 9.1.2 in addition and without prejudice to paragraph 9.1.1, all the EMU Depot Plant and Equipment is maintained, protected and preserved in proper working order and condition and in good repair in accordance with the degree of skill, diligence, prudence and practice which would reasonably be expected of a skilled, competent and experienced operator and

maintainer of railway assets engaged in a similar undertaking in the same or similar circumstances;

- 9.1.3 the programme for maintenance, repair, servicing and reconditioning of the EMU Depot Plant and Equipment is adequate to enable the Operator to comply with its obligations under this Partnering Contract (including its obligations in respect of the Hand Back Standards); and
- 9.1.4 the required information about the EMU Depot Plant and Equipment is made available to GWRC, GWRL, or either of their nominees or any Incoming Operator in accordance with the provisions at Part Ten (*Obligations associated with change of Operator*).

10 FRACAS and Warranty Management Services

References to warranty to include certain provisions

- 10.1 In this Schedule 4, unless the context otherwise requires, references to warranty or warranties include (but are not limited to) the rights and remedies of GWRL under each of:
 - 10.1.1 the following provisions of the Matangi 1 Supply Agreement:
 - (a) clauses 9.15 to 9.26 (*Rejection*);
 - (b) clause 12.5 and 12.6 (*Design Warranties*);
 - (c) clause 12.7 and 12.8 (*Manufacture Warranties*);
 - (d) clause 12.9 to clause 12.11 (*Unit Warranties*);
 - (e) clause 12.12 to clause 12.17 (*Warranty Periods*);
 - 10.1.2 the following provisions of the Matangi 2 Supply Agreement:
 - (a) clauses 9.15 to 9.26 (*Rejection of Units*);
 - (b) clauses 12.5 to 12.7 (*Design warranties*);
 - (c) clauses 12.8 to 12.10 (*Manufacture warranties*);
 - (d) clauses 12.11 to 12.13 (*Retrofit and Unit warranties*); and
 - (e) clauses 12.14 to 12.23 (*Warranty Periods*); and
 - 10.1.3 such provisions in respect of the supply of the Simulator and Electric Shunts as GWRC may notify in writing to the Operator.
- 10.2 The Operator hereby warrants to GWRC and GWRL that it has received a copy of, and has a full and complete understanding of, each of the provisions referred to in paragraph 10.1.

Provision of the FRACAS and Warranty Management Services

- 10.3 The Operator shall provide FRACAS and Warranty Management Services to ensure that at all times during the Term:

- 10.3.1 the Operator understands the nature of any warranties that apply to the Vehicles, Spares, Rotable Items, Special Tools, General Tools and the EMU Depot Plant and Equipment (to the extent that such warranties have been provided to the Operator by any person), including but not limited to:
- (a) the terms and conditions of the relevant warranties; and
 - (b) the duration of the relevant warranties, including commencement date, extensions and the expiry date;
- 10.3.2 the Operator continuously monitors the condition and performance of the Vehicles, Spares, Rotable Items, Special Tools, General Tools and EMU Depot Plant and Equipment and informs GWRL and GWRC in writing promptly following the Operator becoming aware of any circumstance which has given rise, will give rise or is reasonably likely to give rise to GWRL or GWRC having a right or remedy under any warranty relating thereto;
- 10.3.3 the Operator maintains, develops and implements the FRACAS in accordance with Good Industry Practice for the investigation of defects or deficiencies in the Vehicles, Spares, Rotable Items, Special Tools, General Tools and EMU Depot Plant and Equipment which includes but is not limited to:
- (a) a systematic method of recording, investigating and correcting defects or deficiencies observed in the Vehicles, Spares, Rotable Items, Special Tools, General Tools and EMU Depot Plant and Equipment;
 - (b) a method of identifying any applicable warranties;
 - (c) a method of recording all warranty investigations, assessments and claims;
 - (d) a method of recording the outcome of all warranty claims, including all warranty work and testing;
 - (e) a method of recording and updating the status of all warranties including the warranty commencement date, any extensions and the relevant expiry dates;
 - (f) a method of recording any corrective actions arising from any defects or deficiencies that are not the subject of warranty claims;
 - (g) maintaining a consolidated record of the FRACAS reports, including the status of each report in a form that can be provided to GWRC (or its nominees) in accordance with clause 63.15 (*MMIS and FRACAS data*); and

- (h) ensuring that all data that forms part of the FRACAS is readily capable of being transferred to GWRC (or its nominees) in accordance with clause 63.15 (*MMIS and FRACAS data*);
- 10.3.4 the Operator assesses every incident using the FRACAS to determine if a warranty investigation or assessment is necessary and whether a warranty claim is available;
- 10.3.5 subject to paragraph 10.4, the Operator takes all proper and reasonable steps to diligently and expeditiously exercise, pursue and enforce the rights and remedies of GWRL and GWRC (on behalf of GWRL and GWRC) under any applicable warranty and the Operator promptly records the outcome using the FRACAS;
- 10.3.6 the Operator maintains as part of the FRACAS (in a form that can be provided to GWRC and GWRL upon request and that is readily capable of being transferred to GWRC (or its nominees) in accordance with clause 63.15 (*MMIS and FRACAS data*)):
 - (a) a record of all warranties, including:
 - (i) all warranty assessments and investigations;
 - (ii) all warranty claims;
 - (iii) the outcome of all warranty claims;
 - (iv) all Maintenance Work completed as a result of a warranty claim (whether performed by the Operator or any other party);
 - (v) all warranty testing;
 - (vi) a summary of all current warranties including the nature of the warranty, the date the warranty commenced, any extensions and the warranty expiry date and the key terms and conditions of the warranty; and
 - (b) a copy of the FRACAS reports and all data described at paragraphs 10.3.3(g) and 10.3.3(h).

Pursuing claims

- 10.4 The Operator shall:
 - 10.4.1 not act vexatiously or frivolously in exercising, pursuing and enforcing GWRL's or GWRC's rights and remedies under any warranty;
 - 10.4.2 keep GWRL and GWRC fully informed of the progress of any claim or other action brought by the Operator pursuant to paragraph 10.3.5 (including promptly providing full details of the outcome of any such claim or other action);

- 10.4.3 promptly provide such information as GWRC or GWRL may reasonably require in connection with any claim or other action brought by the Operator pursuant to paragraph 10.3.5;
- 10.4.4 regularly consult with GWRC and GWRL in relation to the manner in which the Operator exercises, pursues or enforces any rights or remedies on behalf of GWRL or GWRC pursuant to paragraph 10.3.5;
- 10.4.5 implement any reasonable steps suggested by GWRC or GWRL as to the manner in which any rights or remedies of GWRC or GWRL should be exercised, pursued or enforced pursuant to paragraph 10.3.5;
- 10.4.6 not:
 - (a) waive any rights of GWRL or GWRC or any obligations or liabilities of the Vehicle Supplier or any other warranty provider; or
 - (b) resolve, settle, compromise or make any admission in relation to any claim or other action brought by the Operator against the Vehicle Supplier or any other warranty provider on behalf of GWRL or GWRC pursuant to paragraph 10.3.5,in each case without the prior written consent of GWRL or GWRC (as applicable).

Proceeds of claims

- 10.5 The Operator shall ensure that any proceeds recoverable as a consequence of the Operator enforcing the rights and remedies of GWRL or GWRC (on their behalf) under any applicable warranty pursuant to this paragraph 10 are paid by the warranty provider directly to GWRL or GWRC (as applicable). Except to the extent provided for in paragraph 10.6, the Operator shall have no right or entitlement in respect of such proceeds.
- 10.6 To the extent that:
 - 10.6.1 GWRL or GWRC receives the proceeds of a warranty claim pursuant to paragraph 10.5 as a consequence of the Operator having enforced the rights and remedies of GWRL or GWRC (as applicable) under any applicable warranty; and
 - 10.6.2 the Operator is able to demonstrate to GWRL or GWRC (as applicable) that it has reasonably suffered losses as a direct result of the defect, deficiency or other matter giving rise to that warranty claim,GWRL or GWRC (as applicable) shall pay to the Operator the lesser of:
 - 10.6.3 the amount of the proceeds so received by GWRL or GWRC (as applicable); and
 - 10.6.4 the amount of the losses reasonably suffered by the Operator.

- 10.7 For the avoidance of doubt, to the extent that the losses reasonably suffered by the Operator exceed the amount of the proceeds received by GWRL or GWRC (as applicable) from the relevant warranty provider, the Operator shall bear the deficit.

Warranty related information

- 10.8 The Operator shall ensure that at all times the information and data that forms part of the FRACAS (or which is held by the Operator or the Operator Associates in connection with the FRACAS) and the warranty records and FRACAS reports described in paragraph 10.3.6 are complete and up to date.
- 10.9 Promptly following a request to do so, the Operator shall provide copies of the information, data and records referred to in paragraph 10.8 to GWRC.

Operator not to prejudice warranties and restrictions in relation to modifications etc

- 10.10 Without prejudice to its obligations under clause 13 (*Use of Vehicles, assets and systems for proper purpose*), the Operator shall not (and shall procure that any Operator Associates shall not) through its or their acts or omissions:
- 10.10.1 cause any warranty which applies to the Vehicles, Spares, Rotable Items, Special Tools, General Tools or the EMU Depot Plant and Equipment to be invalidated, terminated, avoided or voidable; or
 - 10.10.2 otherwise prejudice any actual or potential claim, rights or remedies under such warranty.
- 10.11 If any alteration or modification to any Vehicle, Spare, Rotable Item, Special Tool, General Tool or EMU Depot Plant and Equipment is proposed or required in order to resolve a defect, deficiency or other matter giving rise to a claim under a warranty, the Operator shall not permit such alteration or modification to take place without obtaining the prior written consent of GWRL (such consent not to be unreasonably withheld or delayed). The Operator shall promptly provide such information as GWRL may reasonably require in connection with any such proposed alteration or modification, including:
- 10.11.1 a summary of the proposed scope of the works, including a timetable for completion;
 - 10.11.2 information to confirm that the relevant OEM has agreed to meet the cost of the work and confirmation that, except as provided for in paragraph 10.6, the Operator will not seek to be reimbursed in any way for the cost of the work by GWRC, by GWRL or under any provision of this Partnering Contract; and
 - 10.11.3 an undertaking confirming that the completion of the work will not interfere with or prevent the Operator from performing its obligations under this Partnering Agreement.
- 10.12 The Operator shall bear all risks associated with the performance of any alteration or modification undertaken pursuant to paragraph 10.11.

Failure to comply

- 10.13 If at any time the Operator fails to comply with its obligations under paragraph 10.3.5 or 10.4:
- 10.13.1 GWRL or GWRC may (by written notice) require the Operator to cease pursuing any or all warranty claims on behalf of GWRL or GWRC (as applicable), in which event the Operator shall immediately comply with such instruction; and
- 10.13.2 the Operator shall (to the maximum extent permitted by Law) indemnify GWRC and GWRL (and keep them so indemnified) on demand from and against any Claim or Loss arising from, incurred or suffered in connection with such failure.

Acknowledgement

- 10.14 The Operator acknowledges and agrees that nothing in this Partnering Contract is intended to constitute, or shall be interpreted as constituting, an assignment or transfer by GWRL or GWRC to the Operator of any of their respective rights or obligations under the Matangi 1 Supply Agreement or the Matangi 2 Supply Agreement or under any other warranty.

11 Vehicle and Asset Cleaning Services

- 11.1 The Operator shall provide Vehicle and Asset Cleaning Services to ensure that at all times during the Term:
- 11.1.1 the EMUs are cleaned in accordance with the requirements set out in the Matangi Fleet Maintenance Plan;
- 11.1.2 the Carriages are cleaned in accordance with the requirements set out in the Carriage Fleet Maintenance Plan;
- 11.1.3 the Electric Shunts are cleaned in accordance with Good Industry Practice and the Electric Shunt Manual;
- 11.1.4 the interior of the EMU Depot and the EMU Depot Plant and Equipment is cleaned in accordance with:
- (a) Good Industry Practice;
 - (b) the Operator's obligations under Schedule 9 (*Stations and Depot Facilities*); and
 - (c) and the EMU Depot Plant and Equipment Manual; and
- 11.1.5 the interior of the Carriage Depot is cleaned in accordance with:
- (a) Good Industry Practice; and
 - (b) the Operator's obligations under Schedule 9 (*Stations and Depot Facilities*).

12 Vehicle and Asset Security Services

12.1 The Operator shall provide Vehicle and Asset Security Services to ensure that at all times during the Term the Vehicles, Spares, Rotable Items, Special Tools, General Tools, the EMU Depot, the EMU Depot Plant and Equipment are protected in accordance with the requirements at Annexure 4 (*Security Service Specification*), Good Industry Practice and the Security Management Plan.

13 Exceptional Repair Work

13.1 Exceptional Repair Work is all Maintenance Work in respect of the Vehicles and other activities in respect of the Vehicles, in each case where each of the following conditions is satisfied:

- 13.1.1 the cost that will be incurred by the Operator in completing such Maintenance Work or other activities is more than \$10,000 per activity (which amount shall not be Indexed);
- 13.1.2 the Operator can demonstrate to GWRC's satisfaction (acting reasonably) that:
 - (a) the proposed Maintenance Work or other activity is required to rectify faults or repair damage in the Vehicles that arises due to any of the following:
 - (i) an Endemic Defect or Structural Defect in the Matangi Fleet; or
 - (ii) an Endemic Defect or Structural Defect in the Carriage Fleet; or
 - (iii) damage caused by:
 - (A) the Access Provider;
 - (B) any third party; or
 - (C) any fire, flood, storm, explosion, earthquake, land slide, tsunami, hurricane, tornado, cyclone, adverse weather event or natural disaster; and
 - (b) the proposed Maintenance Work or other activity does not form part of :
 - (i) Planned Maintenance Services;
 - (ii) Operator funded Approved Modification Services;
 - (iii) Heavy Maintenance Services;
 - (iv) GWRC funded Additional Modification Services;
 - (v) Maintenance Work covered by a warranty claim; or

- (vi) Maintenance Work for which the Vehicle Supplier would have been liable if the Operator had properly performed the FRACAS and Warranty Management Services in accordance with this Partnering Contract;
- 13.1.3 the proposed Maintenance Work or other activity is required to enable the Operator to continue to provide Scheduled Services and Special Event Services in accordance with the obligations of this Partnering Contract;
- 13.1.4 the need for the proposed Maintenance Work or other activities has not been caused or contributed to by the acts or omissions of the Operator or any Operator Associate; and
- 13.1.5 the Operator (having used best endeavours to do so) is unable to recover under the Material Damage Policy, the Wellington Network Agreement or the Common Access Terms or from any other person:
 - (a) the costs of performing such Maintenance Work or other activity; or
 - (b) the cost of otherwise repairing the fault, defect or damage or replacing the Vehicle which is the subject of the same,except to the extent that the Operator is unable to recover such costs as a consequence of any breach by the Operator of any Transaction Document, any breach by the Operator of any warranty given by the Vehicle Supplier or any other act or omission of the Operator or any Operator Associate.
- 13.2 The Operator shall not complete any Exceptional Repair Work unless the Operator has provided GWRC with:
 - 13.2.1 a summary of all proposed Exceptional Repair Work including the nature of the fault or damage that created the need for the work;
 - 13.2.2 the estimated cost to complete the Exceptional Repair Work calculated in accordance with paragraph 13.3 (including a detailed breakdown on an Open Book Basis setting out how the costs are made up), provided that the Operator shall take all reasonable steps to mitigate such costs;
 - 13.2.3 a proposed payment schedule for payments to the Operator in respect of the costs referred to in paragraph 13.2.2, including any milestones against which payment is to be made;
 - 13.2.4 an explanation about why the Operator considers the work to be Exceptional Repair Work;
 - 13.2.5 a proposed timetable for completion of the Exceptional Repair Work;
 - 13.2.6 the consequences for the Operator, GWRC and GWRL if the Exceptional Repair Work is not completed;

- 13.2.7 written confirmation as to whether or not the carrying out of the Exceptional Repair Work will give rise to (or is likely to give rise to) the unavailability of a Vehicle which in turn would entitle the Operator to claim an Excusing Event, and any such confirmation shall include the Operator's reasonable estimate of the likely period of unavailability of the Vehicle (if any); and
- 13.2.8 any other information that the Operator or GWRC considers is necessary to enable GWRC to make an informed decision about the proposal.
- 13.3 The cost to complete Exceptional Repair Work shall be calculated as follows:
- 13.3.1 to the extent that the rates set out in the Additional Vehicle Services Rate Card are applicable, the incremental costs which will reasonably be incurred by the Operator in performing such Exceptional Repair Work, such costs to be calculated in accordance with the Additional Vehicle Services Rate Card;
- plus**
- 13.3.2 to the extent that the rates set out in the Additional Vehicle Services Rate Card are not applicable, the reasonable direct incremental costs (including Tax but excluding Income Tax as defined in the Income Tax Act 2007) which will properly be incurred by the Operator in performing such Exceptional Repair Work;
- plus**
- 13.3.3 to the extent that the costs referred to in paragraph 13.3.2 relate to supplies, works or services provided to the Operator by a third party on reasonable commercial Arm's Length Terms, the applicable margin on such costs as set out in the Additional Vehicle Services Rate Card.
- 13.4 The Operator shall only complete Exceptional Repair Work if GWRC has (acting reasonably) agreed in writing to meet the cost of the Exceptional Repair Work and has approved in writing the scope of the Exceptional Repair Work (including the proposed timetable for completion of the Exceptional Repair Work and the proposed payment schedule), which approval must not be unreasonably withheld if:
- 13.4.1 the undertaking of the Exceptional Repair Work is required in regard to Vehicles that are reasonably capable of repair, and the fault or damage that gives rise to the works has not arisen in circumstances where a Vehicle is lost, destroyed or damaged beyond economic repair;
- 13.4.2 GWRC has determined that it chooses to pay for the Exceptional Repair Work in accordance with the proposed payment schedule;
- 13.4.3 the Exceptional Repair Work will be completed in accordance with the Matangi Fleet Maintenance Plan, the Carriage Fleet Maintenance Plan,

- the Electric Shunt Manual and the relevant requirements set out in those plans;
- 13.4.4 the undertaking of the Exceptional Repair Work will not void, breach or have an adverse effect on any supplier's or manufacturer's warranty or guarantee given in relation to the EMUs or the Carriages by a supplier or manufacturer and the Operator has provided written confirmation from the relevant supplier or manufacturer to that effect;
- 13.4.5 the undertaking of the Exceptional Repair Work is not likely to have a material adverse impact on the condition, value or whole of life cost of the EMUs or the Carriages or on their safe and lawful operation;
- 13.4.6 the undertaking of the Exceptional Repair Work is not likely to give rise to an Excusing Event; and
- 13.4.7 the undertaking of the Exceptional Repair Work is required to enable the Operator to continue to provide Scheduled Services and Special Event Services in accordance with this Partnering Contract.
- 13.5 The Operator shall complete all Exceptional Repair Work approved by GWRC pursuant to paragraph 13.4 in accordance with:
- 13.5.1 the Matangi Fleet Maintenance Plan;
- 13.5.2 the Carriage Fleet Maintenance Plan;
- 13.5.3 the Electric Shunt Manual;
- 13.5.4 the timetable approved by GWRC pursuant to paragraph 13.4; and
- 13.5.5 Good Industry Practice.
- 13.6 To the extent that GWRC has agreed in writing to meet the cost of the Exceptional Repair Work (calculated in accordance with paragraph 13.3) pursuant to paragraph 13.4, GWRC shall make payment(s) to the Operator in accordance with the payment schedule approved by GWRC subject to:
- 13.6.1 the Operator providing such evidence to GWRC as GWRC reasonably requires to determine the status of the Exceptional Repair Work, the extent to which such Exceptional Repair Work has been undertaken in accordance with the requirements of this Partnering Contract and the extent to which any milestones against which payment is to be made have been achieved;
- 13.6.2 the Operator demonstrating to GWRC's reasonable satisfaction on an Open Book Basis that it has incurred or will incur the costs to which the payment relates in the performance of the Exceptional Repair Work; and
- 13.6.3 the Operator including such amount in the relevant payment claim submitted pursuant to this Partnering Contract.

14 Heavy Maintenance Services

Development of Heavy Maintenance Plans and Budget

14.1 Prior to the beginning of the second and each subsequent Year, the Operator shall, in accordance with the timing requirements set out in paragraph 14.2, submit to GWRC:

14.1.1 a revised annual heavy maintenance plan containing:

- (a) the Operator's proposals in respect of the Heavy Maintenance Services to be undertaken by it in the following Year, clearly identifying and detailing:
 - (i) the number of Vehicles on which such Heavy Maintenance Services will be provided;
 - (ii) the nature of the Heavy Maintenance Services to be performed;
 - (iii) any proposed deviations or changes to the Heavy Maintenance Services and other activities described in the Overarching Heavy Maintenance Plan or the current version of the Three Year Heavy Maintenance Plan that are contemplated by that revised annual heavy maintenance plan, such changes to be effected through paragraph 17;
 - (iv) any proposed deviations or changes to the requirements set out in the Carriage Fleet Maintenance Plan, the Matangi Fleet Maintenance Plan or the Electric Shunt Manual that are contemplated by that revised annual heavy maintenance plan;
 - (v) the methodology and processes that will be implemented by the Operator in providing the proposed Heavy Maintenance Services;
 - (vi) any other information that the Operator considers is necessary to enable GWRC to properly review and approve the revised annual heavy maintenance plan; and
 - (vii) any other information that GWRC has reasonably requested be included by the Operator in such revised annual heavy maintenance plan; and
- (b) an itemised budget for the provision of such Heavy Maintenance Services, calculated in accordance with the Heavy Maintenance Rate Card and within the annual and aggregate limits set out in the Overall Heavy Maintenance Budget; and

- 14.1.2 a revised three year heavy maintenance plan containing:
- (a) the Operator's proposals in respect of the Heavy Maintenance Services to be undertaken by it in the following three Years, clearly identifying and detailing:
 - (i) the number of Vehicles on which such Heavy Maintenance Services will be provided;
 - (ii) the nature of the Heavy Maintenance Services to be performed;
 - (iii) any proposed deviations or changes to the Heavy Maintenance Services and other activities described in the Overarching Heavy Maintenance Plan or the current version of the Three Year Heavy Maintenance Plan that are contemplated by that revised three year heavy maintenance plan;
 - (iv) any proposed deviations or changes to the requirements set out in the Carriage Fleet Maintenance Plan, the Matangi Fleet Maintenance Plan or the Electric Shunt Manual that are contemplated by that revised three year heavy maintenance plan, such changes to be effected through paragraph 17;
 - (v) the methodology and processes that will be implemented by the Operator in providing the proposed Heavy Maintenance Services;
 - (vi) any other information that the Operator considers is necessary to enable GWRC to properly review and approve the revised three year heavy maintenance plan; and
 - (vii) any other information that GWRC has reasonably requested be included by the Operator in such revised three year heavy maintenance plan; and
 - (b) an itemised budget for the provision of such Heavy Maintenance Services, calculated in accordance with the Heavy Maintenance Rate Card and within the annual and aggregate limits set out in the Overall Heavy Maintenance Budget.

14.2 The Operator shall submit each revised plan pursuant to paragraph 14.1:

- 14.2.1 prior to provision of the draft financial forecast under paragraph 2.13 of Schedule 5 (*Planning, Reporting and Meetings*) and otherwise in sufficient time before the first day of the relevant Year so as to enable GWRC to

- review and approve the revised plans in accordance with paragraph 14.4 prior to the commencement of that Year; and
- 14.2.2 taking full account of the required lead times for the systems, components and parts that are contemplated by the revised plans.
- 14.3 The Operator shall ensure that each revised annual heavy maintenance plan and each revised three year heavy maintenance plan submitted by it shall:
- 14.3.1 be consistent and in accordance with the Overarching Heavy Maintenance Plan; and
- 14.3.2 be consistent and in accordance with the then current Three Year Heavy Maintenance Plan.
- 14.4 Within 20 Business Days of receipt by GWRC of a revised annual heavy maintenance plan or a revised three year heavy maintenance plan pursuant to paragraph 14.1, GWRC shall (acting reasonably) either:
- 14.4.1 approve such plan (including the proposed budget contained therein) in writing; or
- 14.4.2 provide written comments on such plan (which may include comments in relation to the proposed budget contained therein), in which case:
- (a) the Operator shall promptly amend the relevant plan to incorporate such comments and resubmit the plan for approval by GWRC;
 - (b) this paragraph 14.4 shall reapply until the relevant plan is approved in writing by GWRC; and
 - (c) any amendments made pursuant to this paragraph 14.4.2 shall not constitute a Contract Variation.

Performance of Heavy Maintenance Services

- 14.5 The Operator shall provide the Heavy Maintenance Services in accordance with (and shall implement and comply with):
- 14.5.1 the Overarching Heavy Maintenance Plan;
- 14.5.2 the applicable Three Year Heavy Maintenance Plan; and
- 14.5.3 the applicable Annual Heavy Maintenance Plan.
- 14.6 Any changes to or deviations from the Overarching Heavy Maintenance Plan or from any Three Year Heavy Maintenance Plan or Annual Heavy Maintenance Plan which has previously been approved by GWRC pursuant to this paragraph 14 (including any changes to the timing of performance of any Heavy Maintenance Service and any deferral of Heavy Maintenance Services) shall require the prior written approval of GWRC (which may be given or withheld in GWRC's sole discretion). Any such changes shall not constitute a Contract Variation.

Payment in respect of Heavy Maintenance Services

- 14.7 Subject to paragraphs 14.10 and 14.11, following completion of any Heavy Maintenance Check the Operator shall be entitled to include the costs incurred by it in providing such Heavy Maintenance Service within the Services Fee set out in the next payment claim submitted by it pursuant to clause 44.3 (*Payment Claims*), provided that:
- 14.7.1 such costs shall be calculated in accordance with the Heavy Maintenance Rate Card;
 - 14.7.2 the relevant Heavy Maintenance Service has been completed to the reasonable satisfaction of GWRC and has otherwise been performed in accordance with the Heavy Maintenance Plans and any other applicable provisions of this Partnering Contract;
 - 14.7.3 the Operator has provided such information to GWRC as GWRC reasonably requires to determine:
 - (a) the status of completion of the Heavy Maintenance Service in accordance with the Heavy Maintenance Plans and this Partnering Contract;
 - (b) the extent to which such Heavy Maintenance Service has been undertaken in accordance with the requirements of this Partnering Contract and the Heavy Maintenance Plans;
 - (c) the extent to which the amount claimed by GWRC is in accordance with the rates set out in the Heavy Maintenance Rate Card and the costs set out in the applicable Annual Heavy Maintenance Budget; and
 - (d) the extent to which any milestones recorded in the Annual Heavy Maintenance Budget against which payment in respect of that Heavy Maintenance Service is to be made have been achieved.

Budget

- 14.8 Within 20 Business Days following the end of each Year, the Operator shall provide a written report to GWRC setting out:
- 14.8.1 the Annual Heavy Maintenance Budget in respect of that Year;
 - 14.8.2 the total amount paid to date by GWRC in respect of Heavy Maintenance Services provided in that Year; and
 - 14.8.3 any other amounts which are or will become payable by GWRC in respect of Heavy Maintenance Services provided in that Year.
- 14.9 If the aggregate of:
- 14.9.1 the total amount paid by GWRC; and

- 14.9.2 any amounts which are or will become payable by GWRC, in each case in respect of Heavy Maintenance Services provided in any Year is less than the Annual Heavy Maintenance Budget for that Year, an amount equal to the Underspend shall be added to the Annual Heavy Maintenance Budget for the following Year.
- 14.10 The maximum amount which the Operator is entitled to claim (and which GWRC is liable to pay) in relation to Heavy Maintenance Services performed in any Year shall not exceed the Annual Heavy Maintenance Budget for that Year.
- 14.11 The maximum amount which the Operator is entitled to claim (and which GWRC is liable to pay) in relation to Heavy Maintenance Services performed during the Term shall not exceed the aggregate amounts shown for the relevant period in the Overall Heavy Maintenance Budget.
- 14.12 If at any time during the Term, an NFI Event occurs, and either GWRC or the Operator (acting reasonably) considers that such occurrence (when aggregated with the effects of the other NFI Events which have occurred during the Term) will, by reference to the Forecast Vehicle Kilometres Table, result in the number of Vehicle Kilometres required to be travelled in the performance of the Operator's obligations under this Partnering Contract being increased by more than 500,000 or decreased by more than 500,000 from the total Vehicle Kilometres anticipated in the Forecast Vehicle Kilometres Table, then that Party may by written notice to the other within 20 Business Days of such occurrence request a variation to the Overall Heavy Maintenance Budget giving a detailed breakdown as to its rationale for that variation and calculating such variation by reference to the amounts, times and distances referred to in the Heavy Maintenance Rate Card.
- 14.13 Following service of any notice under paragraph 14.12, GWRC and the Operator shall use reasonable endeavours to agree through the meetings referred to in paragraph 2.13 (*Process for preparation of financial forecasts for subsequent Annual Business Plans*) of Schedule 5 (*Planning, Reporting and Meetings*) whether such occurrence will, by reference to the Forecast Vehicle Kilometres Table, result in the number of Vehicle Kilometres required to be travelled in the performance of the Operator's obligations under this Partnering Contract being increased by more than 500,000 or decreased by more than 500,000 from the total Vehicle Kilometres anticipated in the Forecast Vehicle Kilometres Table and, if so, whether any variation to the Overall Heavy Maintenance Budget is reasonably required with effect from the next Year as a result. If, by the date on which the next Annual Business Plan following service of such notice under paragraph 14.12 is approved by GWRC pursuant to Schedule 5 (*Planning Reporting and Meetings*), GWRC and the Operator have not reached such agreement, either of them may refer the matter to the Expert for determination under the Dispute Resolution Procedure.

Operator's rights and responsibilities

- 14.14 The Operator shall bear all risks associated with the pricing of the Heavy Maintenance Services, including the risk that its actual costs incurred in providing the Heavy Maintenance Services exceed the applicable Annual Heavy Maintenance Budget, the Overall Heavy Maintenance Budget or the relevant amount specified in the Heavy Maintenance Rate Card.
- 14.15 The Operator shall bear the risk of adequacy of the Heavy Maintenance Plans, including the risk of ensuring that performance of the Heavy Maintenance Services in accordance with the Heavy Maintenance Plans will enable it to meet the Hand Back Standards and to comply with its other relevant obligations under this Partnering Contract.
- 14.16 For the avoidance of doubt, if the aggregate of GWRC's expenditure on Heavy Maintenance Services during the Term is less than the aggregate amount shown in the Overall Heavy Maintenance Budget in respect of the relevant period, the Operator shall not be entitled to any further payment in respect of Heavy Maintenance Services.
- 14.17 The Operator acknowledges and agrees that its costs related to RS1 are already included in the Annual Heavy Maintenance Budget and the Overall Heavy Maintenance Budget. The Operator shall not be entitled to amend the Annual Heavy Maintenance Budget, the Overall Heavy Maintenance Budget or the amounts specified in the Heavy Maintenance Rate Card as a consequence of RS1.

15 GWRC funded Additional Modification Services

- 15.1 Without prejudice to the obligations of the Operator under this Partnering Contract either GWRC or the Operator may propose that the Operator shall provide GWRC funded Additional Modification Services to enhance or modify the Vehicles and/or the EMU Depot Plant and Equipment, but only if:
- 15.1.1 a business case (including a safety case) has been prepared by the person proposing such GWRC funded Additional Modification Services which clearly identifies the benefits that will be achieved by the Additional Modification Services;
 - 15.1.2 GWRC and the Operator have agreed in writing (each acting reasonably and in good faith) the scope of the Additional Modification Services;
 - 15.1.3 the Operator has provided (on an Open Book Basis) an estimate of the expected cost of the Additional Modification Services based on the rates set out in the Additional Vehicle Services Rate Card (including a detailed breakdown of how those costs are made up), provided that the Operator shall use all reasonable endeavours to mitigate such costs;
 - 15.1.4 the Operator has provided a time table for completion of the works;

- 15.1.5 the Operator has provided written confirmation as to whether or not the Additional Modification Services will give rise to (or is likely to give rise to) the unavailability of a Vehicle which in turn would entitle the Operator to claim an Excusing Event, and any such confirmation shall include the Operator's reasonable estimate of the likely period of unavailability of the Vehicle (if any);
- 15.1.6 GWRC has (in its sole discretion) agreed in writing to meet the cost of the Additional Modification Services (such costs to be calculated in accordance with paragraph 15.3) and has approved in writing the proposed schedule for payments to the Operator in respect of costs incurred by it in performing the Additional Modification Services; and
- 15.1.7 GWRC has approved the Additional Modification Services in writing (including the proposed timetable for completion of the works), which approval must not be unreasonably withheld if:
- (a) the undertaking of the Additional Modification Services and use or operation of the enhancement or modification when completed, is not likely to adversely affect the Operator's ability to:
 - (i) achieve the Vehicle Services Objectives and Outcomes or the Vehicle Use in Service Outputs;
 - (ii) ensure the Vehicles meet the Hand Back Standards;
 - (iii) comply with its obligations under this Partnering Contract;
 - (iv) meet the requirements of the Reliability KPI and the Punctuality KPI; and
 - (v) achieve the PI Achieve Benchmarks applying to the Performance Indicators;
 - (b) the enhancement or modification when completed is for the purpose permitted under clause 13 of this Partnering Contract (*Use of Vehicles, assets and systems for proper purpose*);
 - (c) the undertaking of the Additional Modification Services is not likely to have a material adverse impact on the condition, value, or whole of life cost of the Matangi Fleet, the Carriage Fleet or the EMU Depot Plant and Equipment (as applicable) or on their safe and lawful operation;
 - (d) the undertaking of the Additional Modification Services is not likely to give rise to an Excusing Event;
 - (e) the undertaking of the Additional Modification Services, or use or operation of the enhancement or modification will be

completed in accordance with the Matangi Fleet Maintenance Plan, the Carriage Fleet Maintenance Plan, the Electric Shunt Manual and/or the EMU Depot Plant and Equipment Manual (as applicable) and the relevant requirements set out therein;

- (f) the undertaking of the Additional Modification Services, or use or operation of the enhancement or modification will not void, breach or have an adverse effect on any supplier's or manufacturer's warranty or guarantee given in relation to the EMUs, Carriages or EMU Depot Plant and Equipment (as applicable) and the Operator has provided written confirmation from the relevant supplier or manufacturer to that effect; and
- (g) any proposed change to the Matangi Fleet Maintenance Plan, Carriage Fleet Maintenance Plan, the Electric Shunt Manual or EMU Depot Plant and Equipment Manual required to include or accommodate the enhancement or modification has been notified to GWRC in accordance with paragraph 17 (*Changes to Vehicle maintenance, EMU Depot Plant and Equipment Manual or Electric Shunt Manual*) and the Operator is permitted to proceed with the proposed change pursuant to paragraph 17.3.

15.2 For the avoidance of doubt the Operator shall not undertake (and shall not permit any Operator Associate to undertake) Additional Modification Services unless the Operator has satisfied the requirements at paragraph 15.1 and GWRC has confirmed its approval in writing prior to the work commencing. Subject to receipt by the Operator of such written approval from GWRC, the Operator shall undertake the Additional Modification Services (including any work in connection to the Additional Modification Services) in accordance with the proposal as approved by GWRC under paragraph 15.1.7 (including the approved timetable).

15.3 The cost to complete Additional Modification Services shall be calculated as follows:

15.3.1 to the extent that the rates set out in the Additional Vehicle Services Rate Card are applicable, the incremental costs which will reasonably be incurred by the Operator in performing such Additional Modification Services, such costs to be calculated in accordance with the Additional Vehicle Services Rate Card;

plus

15.3.2 to the extent that the rates set out in the Additional Vehicle Services Rate Card are not applicable, the reasonable incremental costs (including Tax but excluding Income Tax as defined in the Income Tax Act 2007) which will properly be incurred by the Operator in performing such Additional Modification Services;

plus

- 15.3.3 to the extent that the costs referred to in paragraph 15.3.2 relate to supplies, works or services provided to the Operator by a third party on reasonable commercial Arm's Length Terms, the applicable margin on such costs as set out in the Additional Vehicle Services Rate Card.
- 15.4 If the Operator carries out Additional Modification Services in accordance with paragraph 15.2, GWRC shall make payments to the Operator in accordance with the schedule of payments approved by GWRC under paragraph 15.1.6, subject to:
- 15.4.1 the Operator providing such evidence to GWRC as GWRC reasonably requires to determine the status of the works, the extent to which such works have been undertaken in accordance with the requirements of this Partnering Contract and the extent to which any milestones against which payment is to be made have been achieved;
- 15.4.2 the Operator demonstrating to GWRC's reasonable satisfaction on an Open Book Basis that it has incurred or will incur the costs to which the payment relates in the performance of the Additional Modification Services; and
- 15.4.3 the Operator including such amount in the relevant payment claim submitted pursuant to clause 44.3 (*Payment Claims*).

15A Carriage Fleet Refurbishment

- 15A.1 The Parties acknowledge and agree that GWRC may, but is not obliged to, carry out the Carriage Fleet Refurbishment including the following works:
- 15A.1.1 (**Interior**): replace or fully overhaul all seats and tables, replace curtains (including fitting curtains to the "SE Passenger Carriages"), replace floor coverings and conduct a review of the interior lining condition;
- 15A.1.2 (**Exterior**): remove any structural corrosion, paint, and refurbish heating, ventilation and airconditioning; and
- 15A.1.3 (**Compatibility**): review and take reasonable steps to resolve the incompatibility between "SE Passenger Carriages" and "SW Passenger Carriages".
- 15A.2 Without limiting the Operator's rights under paragraph (o) of the definition of Excusing Event, the Operator acknowledges and agrees that:
- 15A.2.1 GWRC is not obliged to undertake the Carriage Fleet Refurbishment; and
- 15A.2.2 any decision by GWRC not to proceed with the Carriage Fleet Refurbishment shall be deemed not to be an act or omission by GWRC (including a breach of contract) under or in connection with this

Partnering Contract and shall not entitle the Operator to make any Claim against GWRC.

- 15A.3 Except to the extent otherwise required by applicable Law, GWRC:
- 15A.3.1 does not give any representation, warranty or undertaking; and
 - 15A.3.2 shall not have any liability to the Operator,
- in respect of the condition or quality of the Carriage Fleet Refurbishment or its fitness for use by the Operator in the provision of the Services or for any other purpose.
- 15A.4 The cost of the Carriage Fleet Refurbishment shall be borne by GWRC, except where GWRC determines (acting reasonably) that any works carried out under clause 15A.1 were required as a result of a failure of the Operator or any Operator Associate to comply with the Carriage Fleet Maintenance Plan, the provisions of this Partnering Contract, or other reasonable directions of GWRC in which case such costs shall be a debt immediately due and payable by the Operator to GWRC.

15B Matangi Fleet Refurbishment

- 15B.1 The Parties acknowledge and agree that GWRC may, but is not obliged to, carry out the Matangi Fleet Refurbishment including the following works:
- 15B.1.1 **(Interior)**: replace or fully overhaul all seats, replace floor coverings and conduct a review of the interior lining condition;
 - 15B.1.2 **(Exterior)**: remove any structural corrosion on non-stainless steel elements; and
 - 15B.1.3 **(Systems)**: conduct a review of the system upgrades.
- 15B.2 The Operator acknowledges and agrees that:
- 15B.2.1 GWRC is not obliged to undertake the Matangi Fleet Refurbishment; and
 - 15B.2.2 any decision by GWRC not to proceed with the Matangi Fleet Refurbishment shall be deemed not to be an act or omission by GWRC (including a breach of contract) under or in connection with this Partnering Contract and shall not entitle the Operator to make any Claim against GWRC.
- 15B.3 Except to the extent otherwise required by applicable Law, GWRC:
- 15B.3.1 does not give any representation, warranty or undertaking; and
 - 15B.3.2 shall not have any liability to the Operator,
- in respect of the condition or quality of the Matangi Fleet Refurbishment or its fitness for use by the Operator in the provision of the Services or for any other purpose.

- 15B.4 The cost of the Matangi Fleet Refurbishment shall be borne by GWRC, except where GWRC determines (acting reasonably) that any works carried out under clause 15B.1 were required as a result of a failure of the Operator or any Operator Associate to comply with the Matangi Fleet Maintenance Plan, the provisions of this Partnering Contract, or other reasonable directions of GWRC in which case such costs shall be a debt immediately due and payable by the Operator to GWRC.

16 Minimum Vehicle Operating Standards

- 16.1 The Operator shall adopt, implement and comply with (and ensure that the Vehicles comply with) the Minimum Vehicle Operating Standards in the manner required by Annexure 5 (*Minimum Vehicle Operating Standards*).

16A Technical support services

Configuration management

- 16A.1 The Operator shall maintain, update and report (as reasonably required by GWRC) the configuration details of each EMU.

Change management

- 16A.2 The Operator shall plan, document and manage the complete change process for all Approved Modification Services, Additional Modification Services and Contract Variations.

Documentation

- 16A.3 The Operator shall:
- 16A.3.1 in accordance with paragraph 17 (*Changes to Vehicle maintenance, EMU Depot Plant and Equipment Manual or Electric Shunt Manual*) undertake all updates to the Matangi Fleet Maintenance Plan and Carriage Fleet Maintenance Plan documentation to ensure that it remains current and representative of the Vehicles' configuration; and
 - 16A.3.2 manage, co-ordinate and control the receipt of documentation issued by the OEMs of the Maintained Assets (including as built drawings, the Matangi Fleet Maintenance Plan, Carriage Fleet Maintenance Plan, EMU Plant and Equipment Manual and Electric Shunt Manual).

17 Changes to Vehicle maintenance, EMU Depot Plant and Equipment Manual or Electric Shunt Manual

- 17.1 If the Operator wishes to change any of the Matangi Fleet Maintenance Plan, the Carriage Fleet Maintenance Plan, the EMU Depot Plant and Equipment Manual or the Electric Shunt Manual (including any proposed change to a requirement contained therein or any change to any Spares, Rotable Items, Special Tools, General Tools or EMU Depot Plant and Equipment referred to in such documents), such change shall be an Operator initiated Contract Variation and the Operator

shall serve a notice in accordance with paragraph 8.2 of Schedule 16 (*Change Events and Net Financial Impact*).

17.2 In addition to the information required to be included by paragraph 8.2 of Schedule 16 (*Change Events and Net Financial Impact*), the notice served by the Operator under that paragraph 8.2 shall also:

17.2.1 include full details about the proposed change, including drafting changes;

17.2.2 include an explanation as to the reasons for the proposed change and how the proposed change will achieve the same or a better result in relation to the maintenance of the Vehicles or the EMU Depot Plant and Equipment;

17.2.3 include a signed statement from the Operator that the proposed change:

- (a) complies with the Approved Engineering Process; and
- (b) will not have a material adverse effect on the Operator's ability to:
 - (i) achieve the Vehicle Services Objectives and Outcomes or the Vehicle Use in Service Outputs;
 - (ii) ensure the Vehicles meet the Hand Back Standards;
 - (iii) comply with its obligations under this Partnering Contract;
 - (iv) meet the requirements of the Reliability KPI and the Punctuality KPI; or
 - (i) achieve the PI Achieve Benchmarks applying to the Performance Indicators;
- (c) will not have a material adverse impact on the condition, value, or whole of life cost of the Vehicles or the EMU Depot Plant and Equipment or on any of their safe or lawful operation;

17.2.4 be accompanied by any consultants' reports or internal reports prepared by or on behalf of the Operator in relation to the proposed change; and

17.2.5 be accompanied by written confirmation from the relevant supplier or manufacturer confirming that the proposed change will not void, breach or have an adverse effect on any supplier's or manufacturer's warranty or guarantee given in relation to the Vehicles or the EMU Depot Plant and Equipment (as applicable) by that supplier or manufacturer.

17.3 The Operator may only proceed with the proposed change if GWRC issues a Variation Order in connection with such change pursuant to paragraph 8 of Schedule 16 (*Change Events and Net Financial Impact*), in which event paragraph

8.9 (If GWRC approves the proposed Contract Variation) of Schedule 16 shall apply.

18 Audit and inspection rights

18.1 Without prejudice to any other rights and remedies of GWRC or GWRL, the Operator shall, and shall procure that the Vehicle Services Subcontractor shall, permit GWRC, GWRL and its agents and representatives to inspect, investigate, audit, obtain and retain records in respect of:

- 18.1.1 the Vehicles;
- 18.1.2 the Spares, Rotable Items, Special Tools and General Tools;
- 18.1.3 the EMU Depot;
- 18.1.4 the EMU Depot Plant and Equipment;
- 18.1.5 the Carriage Depot;
- 18.1.6 the MMIS;
- 18.1.7 the FRACAS; and
- 18.1.8 the work performed by the Operator and the Vehicle Services Subcontractor in the delivery of the Vehicle Services, including:
 - (a) work in progress and completed work; and
 - (b) the method and process of completing the work,

to enable GWRC, GWRL and its agents and representatives to: (i) audit and monitor compliance by the Operator with its obligations under this Partnering Contract or any other Transaction Document; (ii) assess a safety issue; (iii) complete an asset condition assessment, an End of Term Inspection or any other matter specified in Part Ten (*Obligations associated with change of Operator*); (iv) inspect damage, equipment failures or defects; or (v) observe maintenance or repair processes.

18.2 GWRC and its agents and representatives may complete an inspection pursuant to paragraph 18.1 at any time.

18.3 If any inspection undertaken pursuant to paragraph 18.1 identifies that the Operator is in breach of this Partnering Contract or any other Transaction Document:

- 18.3.1 the Operator shall pay the costs incurred by GWRC in connection with such inspection within 5 Business Days of written demand therefor; and
- 18.3.2 GWRC may (without prejudice to any other right or remedy available to it) by notice to the Operator:
 - (a) increase the level of its monitoring of the Operator's activities that are relevant to or affected by such breach until such time as the Operator shall have demonstrated to the reasonable

satisfaction of GWRC that it is capable of performing and will perform all its obligations under this Partnering Contract and/or the relevant Transaction Document (as applicable), in which case the Operator shall compensate GWRC for any additional costs incurred by GWRC as a result of such increased monitoring within 5 Business Days of written demand therefor; and/or

- (b) require the Operator, at the Operator's cost, to undertake such steps as GWRC, acting reasonably, considers necessary to ensure compliance with this Partnering Contract and the other Transaction Documents.

19 Performance Indicators (PIs)

19.1 The Operator shall, without prejudice to its other obligations under this Partnering Contract, at all times:

19.1.1 ensure that it achieves the PI Achieve Benchmark in respect of each of the following PIs; and

19.1.2 for the purpose of reporting its performance in the delivery of the Vehicle Services, record data and calculate its performance against each of the following PIs.

19.2 Paragraph 14 of Schedule 6 (*Financial and Performance Regime*) shall apply in respect of determining the Operator's performance against each Performance Indicator.

19.3 Each Performance Indicator is structured as follows:

19.3.1 Purpose: this provides a general overview of the Performance Indicator and is for information purposes only;

19.3.2 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;

19.3.3 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;

19.3.4 Worked example: sample facts and figures have been provided in order to illustrate the calculation methodology and the application of the PI Achieve Benchmark;

19.3.5 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; and

- 19.3.6 **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.
- 19.4 For the purposes of the Performance Indicators in this Schedule 4:
- 19.4.1 **"Defect"** means any fault or defect in a Vehicle which results in the Operator incurring a Performance Deduction due to a failure to meet the Punctuality KPI or the Reliability KPI;
- 19.4.2 **"Peak a.m. Services"** means any Train travelling towards Wellington Station scheduled in the Rail Unit Timetable to arrive at its Destination between 06:30 and 09:30 on a Business Day; and
- 19.4.3 **"Peak p.m. Services"** means any Train travelling away from Wellington Station scheduled in the Rail Unit Timetable to depart Wellington Station between 15:30 and 18:30 on a Business Day.

PI #1	Vehicle Reliability
Purpose	To demonstrate the Operator's performance of the Planned Maintenance Services and Unplanned Maintenance Services and the resulting impacts on the Operator's ability to achieve the Reliability KPI.
Measurement / calculation methodology	<p>For each Business Day in a Relevant Month, calculate X and Y where:</p> $X = (A-B) + (C-D)$ <p>and</p> <p>A = the number of EMUs required for Peak a.m. Services on that Business Day (as indicated in the Working Timetable);</p> <p>B = the number of EMUs available for use on Peak a.m. Services on that Business Day, provided that B will not exceed A;</p> <p>C = the number of Carriages required for Peak a.m. Services on that Business Day (as indicated in the Working Timetable);</p> <p>D = the number of Carriages available for use on Peak a.m. Services on that Business Day, provided that D will not exceed C. If D is less than C as a result of a generator carriage not being available for use on such Peak a.m. Services, subtract 5 from D in respect of each such generator carriage not available.</p> $Y = (E-F) + (G-H)$ <p>and</p> <p>E = the number of EMUs required for Peak p.m. Services on that Business Day (as indicated in the Working Timetable);</p> <p>F = the number of EMUs available for use on Peak p.m. Services on that Business Day, provided that F will not exceed E;</p> <p>G = the number of Carriages required for Peak p.m. Services on that Business Day (as indicated in the Working Timetable);</p> <p>H = the number of Carriages available for use on Peak p.m. Services on that Business Day, provided that H will not</p>

PI #1	Vehicle Reliability
	<p>exceed G. If H is less than G as a result of a generator carriage not being available for use on such Peak p.m. Services, subtract 5 from H in respect of each such generator carriage not available.</p>
Data source	<p>For A, C, E & G: Working Timetable; and For B, D, F & H: Maintenance Management Information System (MMIS).</p>
Worked Example	<p>On a Monday 1 March (which is a Business Day), to calculate X and Y:</p> <p>A = 62 EMUs are required for Peak a.m. Services on that day (as indicated in the Working Timetable); B = 62 EMUs are available for use on Peak a.m. Services on that day;</p> <p>C = 20 Carriages are required for Peak a.m. Services on that day (as indicated in the Working Timetable); D = 18 Carriages are available for use on Peak a.m. Services on that day.</p> <p>$X = (62-62) + (20-18) = 2$</p> <p>E = 63 EMUs are required for Peak p.m. Services on that day (as indicated in the Working Timetable); F = 63 EMUs are available for use on Peak p.m. Services on that day;</p> <p>G = 20 Carriages are required for Peak p.m. Services on that day (as indicated in the Working Timetable); H = 20 Carriages are available for use on Peak p.m. Services on that day.</p> <p>$Y = (63-63) + (20-20) = 0$</p> <p>The Operator's performance in March measured against this Performance Indicator #1 would not achieve the PI Achieve Benchmark because X exceeds one, regardless of the results for X and Y for all other Business Days in March.</p>
Reporting frequency	<p>The Monthly Operational Report shall include performance during the Relevant Month on a day by day basis and the Year to date against this Performance Indicator and a graph showing the monthly totals for previous 12 months.</p> <p>The Daily Operational Reports shall include performance during the relevant day against this Performance Indicator and</p>

PI #1	Vehicle Reliability
	such other information as GWRC reasonably requires.
PI Achieve Benchmark	<p>In any Relevant Month:</p> <ul style="list-style-type: none"> (i) $X \leq 1$; and (ii) $Y \leq 1$, <p>for all Business Days in that Relevant Month.</p>

PI #2	Number of Vehicles Operating at Minimum Vehicle Operating Standard Limits	
Purpose	To demonstrate the Operator's performance of its obligations to repair faults so that the "Limits" referred to in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>) are not met or exceeded.	
Measurement / calculation methodology	<p>(I) - "Limits" on Peak Services</p> <p>For each Business Day in a Relevant Month, calculate A to H:</p> <p>A = total number of EMUs used in Peak a.m. Services on that Business Day that have reached any "Limits" which are classified as "Operationally Restricted (R)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>B = total number of EMUs used in Peak p.m. Services on that Business Day that have reached any "Limits" which are classified as "Operationally Restricted (R)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>C = total number of EMUs used in Peak a.m. Services on that Business Day that have reached any "Limits" which are classified as "Presentation Defect (D)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>D = total number of EMUs used in Peak p.m. Services on that Business Day that have reached any "Limits" which are classified as "Presentation Defect (D)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>E = total number of Carriages used in Peak a.m. Services on that Business Day that have reached any "Limits" which are classified as "Operationally Restricted (R)", as set out in Annexure 5 (<i>Minimum</i></p>	<p>(II) - EMUs and Carriages reaching "Limits"</p> <p>For a Relevant Month, calculate W, X, Y and Z:</p> <p>W = the number of EMUs which are unavailable for Scheduled Services or Special Event Services for more than 30 days awaiting Unplanned Maintenance Services, unless the Operator has obtained GWRC's prior written approval;</p> <p>X = number of EMUs which have been used to provide Scheduled Services or Special Event Services in circumstances where a "Limit" has been reached in respect of that Vehicle and the "Concession Period" has expired without the defect being repaired, as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>Y = the number of Carriages which are unavailable for Scheduled Services or Special Event Services for more than 30 days awaiting Unplanned Maintenance Services, unless the Operator has obtained GWRC's prior written approval;</p> <p>Z = number of Carriages which have been used to provide Scheduled Services or Special Event Services in circumstances where a "Limit" has been reached in respect of that Vehicle and the "Concession Period" has expired without the defect being repaired, as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>).</p>

PI #2	Number of Vehicles Operating at Minimum Vehicle Operating Standard Limits	
	<p><i>Vehicle Operating Standards</i>);</p> <p>F = total number of Carriages used in Peak p.m. Services on that Business Day that have reached any "Limits" which are classified as "Operationally Restricted (R)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>G = total number of Carriages used in Peak a.m. Services on that Business Day that have reached any "Limits" which are classified as "Presentation Defect (D)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>);</p> <p>H = total number of Carriages used in Peak p.m. Services on that Business Day that have reached any "Limits" which are classified as "Presentation Defect (D)", as set out in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>).</p> <p>In calculating A to H above, if a Carriage or EMU is used more than once in Peak a.m. Services or Peak p.m. Services (as applicable), it should be included in the calculation each time it used during those Peak a.m. Services or Peak p.m. Services (as applicable).</p>	
Data source	Maintenance Management Information System (MMIS).	
Worked example	<p>(I) - "Limits" on Peak Services</p> <p>On Monday 1st March:</p> <p>A = 2 EMUs were used in Peak a.m. Services on that Business Day that have reached "Limits" which are classified as "Operationally Restricted (R)";</p> <p>B = 2 EMUs were used in Peak p.m. Services on that</p>	<p>(II) - EMUs and Carriages reaching "Limits"</p> <p>In March:</p> <p>W = an EMU was withdrawn from providing Scheduled Services and Special Event Services on 1 February due to the "Limit" in respect of smoke alarms being exceeded and the relevant defect was</p>

PI #2	Number of Vehicles Operating at Minimum Vehicle Operating Standard Limits	
	<p>Business Day that have reached "Limits" which are classified as "Operationally Restricted (R)";</p> <p>C = 1 EMU was used in Peak a.m. Services on that Business Day that has reached "Limits" which are classified as "Presentation Defect (D)";</p> <p>D = 1 EMU was used in Peak p.m. Services on that Business Day that has reached "Limits" which are classified as "Presentation Defect (D)";</p> <p>E = 2 Carriages was used in Peak a.m. Services on that Business Day that have reached "Limits" which are classified as "Operationally Restricted (R)";</p> <p>F = 1 Carriage was used in Peak p.m. Services on that Business Day that has reached "Limits" which are classified as "Operationally Restricted (R)";</p> <p>G = 0 Carriages used in Peak a.m. Services on that Business Day that have reached any "Limits" which are classified as "Presentation Defect (D)";</p> <p>H = 1 Carriage was used in Peak p.m. Services on that Business Day that has reached any "Limits" which are classified as "Presentation Defect (D)".</p> <p>Given that E is greater than 1, the Operator's performance for Monday 1st March would not achieve the PI Achieve Benchmark.</p>	<p>repaired on 5 March and the EMU was returned to service. The period during which the EMU was not operational was greater than 30 days and so W = 1.</p> <p>X = 0 EMUs have been used to provide Scheduled Services or Special Event Services in circumstances where a "Limit" has been reached in respect of that Vehicle and the "Concession Period" has expired without the defect being repaired.</p> <p>Y = 0 Carriages are unavailable for Scheduled Services or Special Event Services for more than 30 days awaiting Unplanned Maintenance Services.</p> <p>Z = 0 Carriages have been used to provide Scheduled Services or Special Event Services in circumstances where a "Limit" has been reached in respect of that Vehicle and the "Concession Period" has expired without the defect being repaired.</p> <p>Given that W is 1, the Operator's performance for March would not achieve the PI Achieve Benchmark.</p>
	<p>The Operator's performance for March measured against this Performance Indicator #2 would not achieve the PI Achieve Benchmark, due to the result for E on Monday 1st March and the result for W during March. In order to achieve the PI Achieve Benchmark, the Operator's performance must achieve the requirements of the PI Achieve Benchmark for both (I) - "Limits" on Peak Services and (II) - EMUs and Carriages reaching "Limits".</p>	

PI #2	Number of Vehicles Operating at Minimum Vehicle Operating Standard Limits			
Reporting frequency	<p>The Daily Operational Report shall include information about any Vehicles not available for service or which may only be operated in restricted running, along with the duration of such unavailability and restrictions.</p> <p>The Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the Operator's performance against this Performance Indicator for the Relevant Month; (ii) the number of EMUs and Carriages operated at the "Limits" for each day of the Relevant Month; (iii) the average daily figure for paragraph (i) below for the Relevant Month; (iv) a trend summary for each month over the past 12 month period in respect of the information in paragraphs (i) and (ii); (v) any failure to comply with paragraph 2.1.3(b)(i) of Schedule 4 (<i>Vehicle Services</i>) or the requirements of Annexure 5 (<i>Minimum Vehicle Operating Standard</i>); and (vi) such other information as GWRC reasonably requires. <p>The details provided in paragraphs (i), (ii) and (iii) above shall be sub-divided by:</p> <ul style="list-style-type: none"> (i) Matangi Fleet "Operationally Restricted (R)" (ii) Matangi Fleet with "Presentation Defect (D)" (iii) Carriage Fleet "Operationally Restricted (R)" (iv) Carriage Fleet with "Presentation Defect (D)" 			
PI Achieve Benchmark	<p>In the Relevant Month, both (I) and (II):</p> <table border="1" data-bbox="510 1257 1993 1370"> <tr> <td data-bbox="510 1257 1256 1370">(I) - "Limits" on Peak Services In any Relevant Month, on all Business Day during that</td> <td data-bbox="1256 1257 1993 1370">(II) - EMUs and Carriages reaching "Limits" In a Relevant Month:</td> </tr> </table>		(I) - "Limits" on Peak Services In any Relevant Month, on all Business Day during that	(II) - EMUs and Carriages reaching "Limits" In a Relevant Month:
(I) - "Limits" on Peak Services In any Relevant Month, on all Business Day during that	(II) - EMUs and Carriages reaching "Limits" In a Relevant Month:			

PI #2	Number of Vehicles Operating at Minimum Vehicle Operating Standard Limits	
	Relevant Month: (i) $A \leq 2$; (ii) $B \leq 2$; (iii) $C \leq 2$; (iv) $D \leq 2$; (v) $E \leq 1$; (vi) $F \leq 1$; (vii) $G \leq 2$; and (viii) $H \leq 2$.	(i) $W = 0$; (ii) $X = 0$; (iii) $Y = 0$; and (iv) $Z = 0$.

PI #3	Rail Vehicle utilisation
Purpose	To demonstrate that the Operator is evenly utilising Vehicles in each of the Matangi Fleet and the Carriage Fleet.
Measurement / calculation methodology	<p>In each Relevant Month, calculate X%, Y% and Z% where:</p> $X = \frac{(A - B)}{A} \times 100$ <p>and</p> <p>A = the Vehicle Kilometres of the EMU which has travelled the greatest Vehicle Kilometres in that Relevant Month and the preceding 11 months;</p> <p>B = the Vehicle Kilometres of the EMU which has travelled the least Vehicle Kilometres in that Relevant Month and the preceding 11 months.</p> $Y = \frac{(C - D)}{C} \times 100$ <p>and</p> <p>C = the Vehicle Kilometres of the "SE Passenger Carriage" which has travelled the greatest Vehicle Kilometres in that Relevant Month and the preceding 11 months;</p> <p>D = the Vehicle Kilometres of the "SE Passenger Carriage" which has travelled the least Vehicle Kilometres in that Relevant Month and the preceding 11 months.</p> $Z = \frac{(E - F)}{E} \times 100$ <p>and</p> <p>E = the Vehicle Kilometres of the "SW Passenger Carriage" which has travelled the greatest Vehicle Kilometres in that Relevant Month and the preceding 11 months;</p> <p>F = the Vehicle Kilometres of the "SW Passenger Carriage" which has travelled the least Vehicle Kilometres in that Relevant Month and the preceding 11 months.</p> <p>For each of the calculations above, exclude Vehicles which are not operational due to the carrying out of Exceptional</p>

PI #3	Rail Vehicle utilisation
	Repair Work for more than 30 days.
Data source	MMIS.
Worked example:	<p>For March, to calculate X:</p> <p style="padding-left: 40px;">A = the EMU which has travelled the greatest Vehicle Kilometres in March and the preceding 11 months travelled 5,000 Vehicle Kilometres in that period;</p> <p style="padding-left: 40px;">B = the EMU which has travelled the least Vehicle Kilometres in March and the preceding 11 months travelled 4,500 Vehicle Kilometres in that period.</p> <p>$X = \frac{(5,000-4,500)}{5,000} \times 100 = 10\%$</p> <p>In March, Y is 8% and Z is 9%.</p> <p>The Operator's performance for March measured against this Performance Indicator #3 would not achieve the PI Achieve Benchmark as X is not less than 10% (regardless of the fact that Y and Z are both below 10%).</p>
Reporting frequency	<p>Each Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the Operator's performance against this Performance Indicator; (ii) the total Vehicle Kilometres travelled for each Vehicle over the previous 12 months; (iii) utilisation forecasts for the following 12 months for each Vehicle to enable the early identification of disparate usage and detail appropriate mitigation measures to ensure that this Performance Indicator is achieved; and (iv) such other information as GWRC reasonably requires.
PI Achieve Benchmark	<p>In any Relevant Month:</p> <ul style="list-style-type: none"> (i) $X < 10\%$;

PI #3	Rail Vehicle utilisation
	(ii) Y < 10%; and (iii) Z < 10%.

PI #4	Reliability - Mean Distance Between Failures (MDBF)
Purpose	Determine the reliability of each of the Matangi Fleet and the Carriage Fleet and establish how maintenance services impact on the Operator's compliance with the Punctuality KPI and the Reliability KPI.
Measurement / calculation methodology	<p><u>For each week of a Relevant Month</u> (covering the period from and including Monday to and including Sunday), calculate:</p> $\frac{A}{B}$ <p>where:</p> <p>A = aggregate Vehicle Kilometres travelled by EMUs during that week; B = the number of Defects which arose during that week in respect of the EMUs.</p> $\frac{C}{D}$ <p>where:</p> <p>C = aggregate Vehicle Kilometres travelled by Carriages during that week; D = the number of Defects which arose during that week in respect of the Carriages.</p> <p><u>For each Relevant Month</u>, calculate X and Y where:</p> $X = \frac{E}{F}$ <p>and</p> <p>E = aggregate Vehicle Kilometres travelled by EMUs in that fleet during the Relevant Month; F = the number of Defects which arose during that Relevant Month in respect of the EMUs.</p> $Y = \frac{G}{H}$ <p>and</p>

PI #4	Reliability - Mean Distance Between Failures (MDBF)
	<p>G = aggregate Vehicle Kilometres travelled by Carriages during the Relevant Month; H = the number of Defects which arose during that Relevant Month in respect of the Carriages.</p> <p>If there are no Defects during that week or month, the result will be the aggregate Vehicle Kilometres travelled by all EMUs or Carriages (as applicable) during that week or month.</p>
Data source	<p>For B, D, F & H: Operator's records (delay attribution outcomes); and For A to H: Maintenance Management Information System (MMIS).</p>
Worked example	<p>In the week beginning 1 February: A = 100,000 Vehicle Kilometres B = 2 Defects in the EMUs</p> <p>MDBF for that week for EMUs $(100,000/2) = 50,000$ km</p> <p>In February, to calculate X: E = 400,000 Vehicle Kilometres F = 8 Defects in EMUs</p> <p>$X = (400,000 / 8) = 50,000$ km</p> <p>The Operator's performance in February measured against this Performance Indicator #4 would achieve the PI Achieve Benchmark (as $X > 40,000$ kilometres) provided that for February $Y \geq 80,000$ kilometres.</p>
Reporting frequency	<p>The Weekly Operational Report (showing the results for the relevant week) and Monthly Operational Report shall include the Operator's performance against this Performance Indicator.</p> <p>The calculation above shall be presented for each of the Matangi Fleet and the Carriage Fleet in the Weekly Operational Report and in the Monthly Operational Report.</p>

PI #4	Reliability - Mean Distance Between Failures (MDBF)
	The Monthly Operational Report shall present trends for the previous 12 months for each of the Matangi Fleet and the Carriage Fleet and such other information as GWRC reasonably requires.
PI Achieve Benchmark	In any Relevant Month: (i) $X \geq 40,000$ kilometres; and (ii) $Y \geq 80,000$ kilometres.

PI #5	Total Delay Time due to Defects	
Purpose	Identifies the impact that Vehicle faults have on passengers and establishes how maintenance services impact on the Operator's compliance with the Punctuality KPI and the Reliability KPI.	
Measurement / calculation methodology	<p>(I) Direct Impact of Defects -</p> <p>For each Relevant Month, calculate X where:</p> $X = \frac{(A + B)}{3}$ <p>and</p> <p>A = the total delay time to Scheduled Services caused by Defects in an EMU being used for that Scheduled Service. Exclude from this calculation any delays caused to other Scheduled Services (i.e. Scheduled Services which were not being delivered using the Vehicle with the fault);</p> <p>B = the sum of the result for A for the previous two months.</p> <p>For each Relevant Month, calculate Y where:</p> $Y = \frac{(C + D)}{3}$ <p>and</p> <p>C = the total delay time to Scheduled Services caused by Defects in a Carriage being used for that Scheduled Service. Exclude from this calculation any delays caused to other Scheduled Services (i.e. Scheduled Services which were not being delivered using the Vehicle with the fault);</p> <p>D = the sum of the result for C for the previous two</p>	<p>(II) Direct and Indirect Impact of Defects -</p> <p>For each Relevant Month, calculate X where:</p> $X = \frac{(A + B)}{3}$ <p>and</p> <p>A = the total delay time to Scheduled Services caused by Defects in an EMU being used for that Scheduled Service. Include in this calculation all delays caused to other Scheduled Services (i.e. Scheduled Services which were not being delivered using the Vehicle with the fault);</p> <p>B = the sum of the result for A for the previous two months.</p> <p>For each Relevant Month, calculate Y where:</p> $Y = \frac{(C + D)}{3}$ <p>and</p> <p>C = the total delay time to Scheduled Services caused by Defects in a Carriage being used for that Scheduled Service. Include in this calculation all delays caused to other Scheduled Services (i.e. Scheduled Services which were not being delivered using the Vehicle with the fault);</p> <p>D = the sum of the result for C for the previous two</p>

PI #5	Total Delay Time due to Defects	
	months.	months.
	<p>In order to calculate the three month rolling average, for the first month after the Commencement Date, the result achieved for A and C is deemed to be the result for the previous 2 months. For the first month after the Commencement Date only, the Operator shall not be required to report whether the result for that month fell within the PI Achieve Benchmark (given that it will not be possible to compare that month's result against the previous month's result) but shall be required to report the results of the calculations above.</p> <p>For the second month after the Commencement Date, the result for A and C applying for that month is deemed to be the result applying for 1 of the 2 previous months (the actual results for A and C for the previous month can be used for that month), and so on.</p>	
Data source	Matangi Telemetry System in respect of those Vehicles comprising the Matangi Fleet and the RTPI System in respect of those Vehicles comprising the Carriage Fleet.	
Worked Example	<p>(I) Direct Impact of Defects -</p> <p>In March 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 100 minutes of delay time;</p> <p style="padding-left: 40px;">B = 190 minutes of delay time (100 minutes for January 2018 and 90 minutes for February 2018)</p> <p>$X = \frac{(100 + 190)}{3} = 96.67$ minutes</p> <p>In March 2018, to calculate Y:</p> <p style="padding-left: 40px;">C = 50 minutes of delay time;</p> <p style="padding-left: 40px;">D = 120 minutes of delay time (60 minutes for January 2018 and 60 minutes for February 2018).</p> <p>$Y = \frac{(50 + 120)}{3} = 56.67$ minutes</p>	<p>(II) Direct and Indirect Impact of Defects -</p> <p>In March 2018, to calculate X:</p> <p style="padding-left: 40px;">A = 200 minutes of delay time;</p> <p style="padding-left: 40px;">B = 350 minutes of delay time (200 minutes for January 2018 and 150 minutes for February 2018)</p> <p>$X = \frac{(200 + 350)}{3} = 183.33$ minutes</p> <p>In March 2018, to calculate Y:</p> <p style="padding-left: 40px;">C = 100 minutes of delay time;</p> <p style="padding-left: 40px;">D = 190 minutes of delay time (100 minutes for January 2018 and 90 minutes for February 2018).</p> <p>$Y = \frac{(100 + 190)}{3} = 97.67$ minutes</p>

PI #5	Total Delay Time due to Defects					
	<p>In February 2018, X was 100 minutes and in March 2017 X was 180 minutes. X for March 2018 would achieve the PI Achieve Benchmark given that X is 75% or less of the result for X for the month falling 12 months prior.</p> <p>In February 2018, Y was 58 minutes and in March 2017 Y was 56 minutes. Y for March 2018 would achieve the PI Achieve Benchmark given that the result is less than for February 2018.</p>	<p>In February 2018, X was 170 minutes and in March 2017 X was 190 minutes. X for March 2018 would not achieve the PI Achieve Benchmark given that X is more than the result for X for February 2018 and more than 75% of the result for X for the month falling 12 months prior.</p> <p>In February 2018, Y was 98 minutes and in March 2017 Y was 101 minutes. Y for March 2018 would achieve the PI Achieve Benchmark given that the result is less than for February 2018.</p>				
	<p>The Operator's performance for March 2018 measured against this Performance Indicator #5 would not achieve the PI Achieve Benchmark because of the result for X for (II) Direct and Indirect Impact of Defects.</p>					
Reporting frequency	<p>The Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the Operator's performance for the Relevant Month against this Performance Indicator for each of the Matangi Fleet and the Carriage Fleet; (ii) average monthly delays for the previous 12 months to demonstrate trends; and (iii) and such other information as GWRC reasonably requires. 					
PI Achieve Benchmark	<p>In any Relevant Month, both (I) and (II):</p> <table border="1" data-bbox="510 1134 1984 1358"> <thead> <tr> <th data-bbox="510 1134 1256 1198">(I) Direct Impact of Defects -</th> <th data-bbox="1256 1134 1984 1198">(II) Direct and Indirect Impact of Defects -</th> </tr> </thead> <tbody> <tr> <td data-bbox="510 1198 1256 1358"> <ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or </td> <td data-bbox="1256 1198 1984 1358"> <ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or </td> </tr> </tbody> </table>		(I) Direct Impact of Defects -	(II) Direct and Indirect Impact of Defects -	<ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or 	<ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or
(I) Direct Impact of Defects -	(II) Direct and Indirect Impact of Defects -					
<ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or 	<ul style="list-style-type: none"> (i) X is: <ul style="list-style-type: none"> 1) less than the result for X for the previous month; or 					

PI #5	Total Delay Time due to Defects			
	<p>2) 75% or less of the result for X for the month falling 12 months prior;</p> <p>and</p> <p>(ii) Y is:</p> <p>1) less than the result for Y for the previous month; or</p> <p>2) 75% or less of the result for Y for the month falling 12 months prior.</p>	<p>2) 75% or less of the result for X for the month falling 12 months prior;</p> <p>and</p> <p>(ii) Y is:</p> <p>1) less than the result for Y for the previous month; or</p> <p>2) 75% or less of the result for Y for the month falling 12 months prior.</p>		

PI #6	Number of Planned Maintenance and Heavy Maintenance Checks Undertaken	
Purpose	To demonstrate the Operator's compliance with its obligations with respect to Planned Maintenance Services and Heavy Maintenance Services.	
Measurement / calculation methodology	<p>(I) Planned Maintenance Services</p> <p>For each Relevant Month, calculate X% and Y% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of "checks" carried out as part of the Planned Maintenance Services during the Relevant Month;</p> <p>B = the total number of "checks" that the Operator had planned to complete during the Relevant Month as detailed in the MMIS at the start of the Relevant Month; and</p> <p>Y = the number of Vehicles for which "checks" have not been completed by the "Limit of Inspection Interval" referred to in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>) or were completed after the "Limit of Inspection Interval" in that Relevant Month.</p> <p>For the purposes of Part (I) (Planned Maintenance Services) of this PI #6, "checks" means A & B checks and electrical warrant of fitness check for the Matangi Fleet, and A, B & C checks and electrical warrant of fitness check for the Carriage Fleet. Descriptions of these checks are provided in the Carriage Fleet Maintenance Plan and the Matangi Fleet Maintenance Plan.</p>	<p>(II) Heavy Maintenance Services</p> <p>For each Relevant Month, calculate X% and Y% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A = the total number of Heavy Maintenance Checks carried out as part of the Heavy Maintenance Services during the Relevant Month and the previous 5 months;</p> <p>B = the total number of Heavy Maintenance Checks that the Operator had planned to complete during the Relevant Month and the previous 5 months as detailed in the MMIS at the beginning of that period; and</p> <p>Y = the number of Vehicles for which Heavy Maintenance Checks have not been completed by the "Limit of Inspection Interval" referred to in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>) or were completed after the "Limit of Inspection Interval" in that Relevant Month.</p>

PI #6	Number of Planned Maintenance and Heavy Maintenance Checks Undertaken	
Data source	(i) Matangi Fleet Maintenance Plan; (ii) Carriage Fleet Maintenance Plan; and (iii) MMIS.	
Worked Example	<p>(I) Planned Maintenance Services In March 2018, to calculate X and Y:</p> <p>A = 150 "checks" were carried out as part of the Planned Maintenance Services during March;</p> <p>B = the Operator had planned to complete 160 "checks" during March as detailed in the MMIS at the start of March; and</p> <p>Y = 1, as there was one Vehicle for which "checks" were not completed by the "Limit of Inspection Interval" referred to in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>) and no Vehicles had "checks" completed after the "Limit of Inspection Interval" in March.</p> $X = \frac{150}{160} \times 100 = 93.75\%$ <p>For March 2018, the Operator would not achieve the PI Achieve Benchmark as Y is not less than 1.</p>	<p>(II) Heavy Maintenance Services In March 2018, to calculate X and Y:</p> <p>A = 100 Heavy Maintenance Checks were carried out as part of the Heavy Maintenance Services during March and the previous 5 months;</p> <p>B = the Operator had planned to complete 105 Heavy Maintenance Checks during March and the previous 5 months as detailed in the MMIS at the beginning of that period; and</p> <p>Y = 0, as there were no Vehicles for which Heavy Maintenance Checks have not been completed by the "Limit of Inspection Interval" referred to in Annexure 5 (<i>Minimum Vehicle Operating Standards</i>) or were completed after the "Limit of Inspection Interval" in March.</p> $X = \frac{100}{105} \times 100 = 95.24\%$ <p>For March 2018, the Operator would achieve the PI Achieve Benchmark as X is greater than 75% and Y is less than 1.</p>
The Operator's performance for March 2018 measured against Performance Indicator #6 would not fall within the PI		

PI #6	Number of Planned Maintenance and Heavy Maintenance Checks Undertaken	
	Achieve Benchmark due to the result for Y in (I) Planned Maintenance Services.	
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 any Relevant Month, both (I) and (II):	
	(I) Planned Maintenance Services: (i) $X \geq 90\%$; and (ii) $Y < 1$.	(II) Heavy Maintenance Services: (i) $X \geq 75\%$; and (ii) $Y < 1$.

PI #7	Number of All Notifications Opened / Closed / Remain Open
Purpose	To measure the effectiveness of the Operator in identifying Vehicle faults or defects, and then completing the necessary corrective action.
Measurement / calculation methodology	<p>For each Relevant Month, calculate W, X%, Y% and Z separately for each of the Matangi Fleet and the Carriage Fleet where:</p> <p>W = total number of faults on the MMIS which were logged on the MMIS on the Commencement Date as "open" or "remain open" and 6 months after the Commencement Date have not been logged as "closed" on the MMIS, for the Matangi Fleet or the Carriage Fleet (as applicable). For the avoidance of doubt, during the first 6 months after the Commencement Date W will be zero.</p> $X = \frac{(C + D)}{E} \times 100$ <p>and:</p> <p>C = total number of faults referred to in E which have been logged as "closed" within 60 days of being logged on the MMIS for the Matangi Fleet or the Carriage Fleet (as applicable); D = total number of faults referred to in E which have been logged during the previous 60 days and have not yet been logged as "closed" on the MMIS for the Matangi Fleet or the Carriage Fleet (as applicable); E = total number of faults which have been logged on the MMIS during the previous 180 days for the Matangi Fleet or the Carriage Fleet (as applicable), excluding faults referred to in W;</p> $Y = \frac{(F + G)}{E} \times 100$ <p>and:</p> <p>F = total number of faults referred to in E which have been logged as "closed" within 120 days of being logged on the MMIS for the Matangi Fleet or the Carriage Fleet (as applicable); G = total number of faults referred to in E which have been logged during the previous 120 days and have not yet been logged as "closed" on the MMIS for the Matangi Fleet or the Carriage Fleet (as applicable);</p> <p>Z = total number of faults on the MMIS at the end of the Relevant Month which are logged as "open" or "remain open" 180 days after being logged on the MMIS, excluding faults referred to in W.</p>

PI #7	Number of All Notifications Opened / Closed / Remain Open
Data source	Maintenance Management Information System (MMIS).
Worked Example	<p>For the end of March 2019, for the Matangi Fleet:</p> <p>W = 0 for the Matangi Fleet.</p> <p>C = 1290 fault notifications where logged as "closed" within 60 days of opening between 2 October 2018 and 31 March 2019 (180 day period) for the Matangi Fleet;</p> <p>D = 412 fault notifications where "opened" but not yet "closed" between 30 January 2019 and 31 March 2019 (60 day period) for the Matangi Fleet;</p> <p>E = 1934 fault notifications where logged between 2 October 2018 and 31 March 2019 (180 day period) on the Matangi Fleet.</p> <p>$X = \frac{(1290 + 412)}{1934} = 88\%$</p> <p>F = 1378 fault notifications where logged as "closed" within 120 days of opening between 2 October 2018 and 31 March 2019 (180 day period) for the Matangi Fleet;</p> <p>G = 498 fault notifications where opened but not yet "closed" between 1 December 2018 and 31 March 2019 (120 day period) for the Matangi Fleet;</p> <p>$Y = \frac{(1378 + 498)}{1934} = 97\%$</p> <p>Z = 15 fault notifications that remain "open", which were logged prior to 2 October 2018 (180 days).</p> <p>The Operator's performance for March 2019 in respect of the Matangi Fleet measured against PI #7 would not fall within the PI Achieve Benchmark due to X falling below 95% and Y falling below 99%. In order to fall within the PI Achieve Benchmark, the Operator would have to meet the parameters set out below for both the Matangi Fleet and the Carriage Fleet.</p>
Reporting frequency	<p>The Monthly Operational Report shall detail:</p> <p>(i) the Operator's performance against PI #7 for the Relevant Month and trends over preceding months; and</p>

PI #7	Number of All Notifications Opened / Closed / Remain Open
	(ii) such other information as GWRC reasonably requires.
PI Achieve Benchmark	<p>In any Relevant Month:</p> <p>(i) for the Matangi Fleet:</p> <ol style="list-style-type: none"> 1) $W < 1$; 2) $X \geq 95\%$; 3) $Y \geq 99\%$; and 4) $Z \leq 20$, and <p>(ii) for the Carriage Fleet:</p> <ol style="list-style-type: none"> 1) $W < 1$; 2) $X \geq 95\%$; 3) $Y \geq 98\%$; and 4) $Z \leq 5$.

PI #8	% Faults found during Planned Maintenance checks
Purpose	<p>To demonstrate the effectiveness of the Operator in carrying out the Planned Maintenance Services.</p> <p>The result of the Operator's compliance with this Performance Indicator is likely to form the basis of any optimised maintenance strategies to be developed in accordance with Schedule 5 (<i>Planning, Reporting and Meetings</i>).</p>
Measurement / calculation methodology	<p>For each Relevant Month, calculate X% and Y% where:</p> $X = \frac{A}{B} \times 100$ <p>and</p> <p>A= total number of new faults and defects found on the EMUs during all checks performed as part of the Planned Maintenance Services during that Relevant Month and the previous two months;</p> <p>B = total number of new faults and defects found on the EMUs during that Relevant Month and the previous two months;</p> $Y = \frac{C}{D} \times 100$ <p>and</p> <p>C = total number of new faults and defects found on the Carriages during all checks performed as part of the Planned Maintenance Services during that Relevant Month and the previous two months;</p> <p>D = total number of new faults and defects found on the Carriages during that Relevant Month and the previous two months.</p> <p>For the first month after the Commencement Date, the number of faults for that month is deemed to be the number of faults for the previous 2 months for the purposes of calculating X and Y and paragraphs (i)1) and (ii)1) in the PI Achieve Benchmark shall not apply.</p> <p>For the second month after the Commencement Date, the number applying for that month is deemed to be the number applying for 1 of the 2 previous months (the actual number for the previous month can be used for that month), and so on.</p>

PI #8	% Faults found during Planned Maintenance checks
Data source	Maintenance Management Information System (MMIS).
Worked example	<p>In January 2018:</p> <p>A = 120 new faults found on the EMUs during all checks performed as part of the Planned Maintenance Services during November, December 2017 and January 2018;</p> <p>B = 200 new faults logged on the MMIS on the EMUs during that period;</p> <p>C = 60 new faults found on the Carriages during all checks performed as part of the Planned Maintenance Services during November, December 2017 and January 2018;</p> <p>D = 70 new faults logged on the MMIS on the Carriages during that period.</p> <p>$X = \frac{120}{200} \times 100 = 60\%$</p> <p>$Y = \frac{60}{70} \times 100 = 85.71\%$</p> <p>In December 2017, X = 61% and Y = 84%. Even though Y would fall within the PI Achieve Benchmark (because Y is greater than 80% and greater than the result for Y for December 2017), the Operator's performance measured against this Performance Indicator #8 for January 2018 would not achieve the PI Achieve Benchmark as X is less than 80% and less than the result for December 2017.</p>
Reporting frequency	<p>Every Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the calculations referred to above for the relevant three month period and for the Relevant Month to which the report applies; (i) a trend graph in respect of the preceding 12 months; and (ii) such other information as GWRC reasonably requires.

PI #8	% Faults found during Planned Maintenance checks
PI Achieve Benchmark	In any Relevant Month, <ul style="list-style-type: none">(i) X is either greater than:<ul style="list-style-type: none">1) the result for X for the previous month; or2) 80%; and(ii) Y is either greater than:<ul style="list-style-type: none">1) the result for Y for the previous month; or2) 80%.

PI #9	Critical Business and Supplementary Systems
Purpose	To demonstrate that the Operator is actively implementing business and engineering procedures and processes which form the basis of a robust Quality Management System.
Measurement / calculation methodology	<p>GWRC or its nominee may undertake audits and inspections in accordance with clause 31 (<i>Audit and inspection rights</i>) every three months in order to determine the extent to which the Operator is complying with its obligations in the following specific areas:</p> <ol style="list-style-type: none"> 1. Spares Inventory Services; 2. Certification & calibration - special and general tools & equipment; 3. MMIS - data input and accuracy; 4. Certification, calibration, servicing & condition of EMU Depot Plant and Equipment; 5. Vehicle condition; 6. Vehicle and Asset Cleaning Services – cleaning of the Vehicles shall conform to the requirements specifically detailed in the Matangi Fleet Maintenance Plan, Carriage Fleet Maintenance Plan and Electric Shunt Manual; 7. Vehicle and Asset Security Services; 8. Compliance with Matangi Fleet Maintenance Plan, Carriage Fleet Maintenance Plan and Electric Shunt Manual; 9. FRACAS and Warranty Management Services; 10. Minimum Vehicle Operating Standards; and 11. Changes to Vehicle maintenance and EMU Depot Plant and Equipment Manual. <p>The results of the audits and inspections referred to above, including a list of all "Minor Non-Conformances" and "Major Non-Conformances", shall be provided by GWRC to the Operator.</p> <p>The Operator shall promptly produce a corrective action plan to address any "Minor Non-Conformances" and "Major Non-</p>

PI #9	Critical Business and Supplementary Systems
	<p>Conformances" and shall promptly implement that plan in order to rectify the non-conformance to GWRC's satisfaction (acting reasonably).</p> <p>For the purposes of this Performance Indicator,</p> <p>A "Minor Non-Conformance" is a non-conformance with the requirements of the Partnering Contract which is not a Major Non-Conformance.</p> <p>A "Major Non-Conformance" is a non-conformance or a series of non-conformances with the requirements of the Partnering Contract which:</p> <ul style="list-style-type: none"> (i) poses, or is likely to pose, a material risk to the health or safety of persons or property; (ii) materially reduces, or is likely to materially reduce, the quality of the Services or any assets used in providing the Services; or (iii) has, or may have, a material adverse effect on the Operator's ability to achieve any of the PI Achieve Benchmarks or meet the Reliability KPI or the Punctuality KPI.
Data source	The reports and findings from the audits and inspections referred to above.
Worked example	At the end of March 2018 there are twelve outstanding Minor Non-Conformances. Seven of these Minor Non-Conformances were notified to the Operator in November 2017 and the other five were notified to the Operator in March 2018. The Operator's performance for March 2018 measured against this Performance Indicator #9 would not achieve the PI Achieve Benchmark as there are seven outstanding Minor Non-Conformances which were notified to the Operator more than 3 months prior to March 2018.
Reporting frequency	<p>Each Monthly Operational Report shall detail:</p> <ul style="list-style-type: none"> (i) all "Minor Non-Conformances" and "Major Non-Conformances" identified by GWRC and notified to the Operator, and the Operator's progress in correcting each; and (ii) such other information as GWRC reasonably requires.
PI Achieve Benchmark	<p>In any Relevant Month, there are:</p> <ul style="list-style-type: none"> (i) five or less outstanding "Minor Non-Conformances"; and

PI #9	Critical Business and Supplementary Systems
	(ii) one or less outstanding "Major Non-Conformance", which have not been rectified by the Operator to GWRC's satisfaction (acting reasonably) and such non-conformances were notified to the Operator more than 3 months prior.

PI #10	Unlawful and Wilful Damage
Purpose	To demonstrate the Operator's performance in respect of carrying out the Vehicle and Asset Security Services.
Measurement / calculation methodology	<p>In each Relevant Month, calculate Z as follows where:</p> $Z = \frac{(X + Y)}{3}$ <p>and</p> <p>A = number of incidents of graffiti and wilful damage to Vehicles which the Operator has identified during the Relevant Month; and</p> <p>B = number of incidents of graffiti and wilful damage to Sites which the Operator has notified to GWRC in accordance with paragraph 7.6.13 of Annexure 4 (<i>Security Service Specification</i>) during the Relevant Month.</p> <p>X = A + B</p> <p>Y = the sum of the figure for X for the two months preceding the Relevant Month.</p> <p>In order to calculate Y, for the first month after the Commencement Date, X for that month is deemed to be the result for the previous 2 months. For the first month after the Commencement Date only, the Operator shall not be required to report whether Z for that month fell within the PI Achieve Benchmark (given that it will not be possible to compare that month's result against the previous month's result) but shall be required to report the results of the calculations above.</p> <p>For the second month after the Commencement Date, X for that month is deemed to be the result applying for 1 of the 2 previous months (the actual result for the previous month can be used for that month), and so on.</p>
Data source	<p>For A: Maintenance Management Information System (MMIS); and</p> <p>For B: Maintenance Management Information System (MMIS).</p>
Worked example	<p>In March 2018, to calculate Z:</p> <p>A = 30 incidents of graffiti and wilful damage to Vehicles were identified by the Operator; and</p>

PI #10	Unlawful and Wilful Damage
	<p>B = 50 incidents of graffiti and wilful damage to Sites were notified by the Operator to GWRC in accordance with paragraph 7.6.13 of Annexure 4 (<i>Security Service Specification</i>).</p> <p>$X = 30 + 50 = 80$</p> <p>Y = In February 2018, X was 70 and January 2018, X was 85.</p> <p>$Z = \frac{(80+70+85)}{3} = 78.33$</p> <p>In February 2018, Z was 75. The Operator's performance for March 2018 measured against this Performance Indicator #10 would not achieve the PI Achieve Benchmark because Z is higher in March than it was in February.</p>
Reporting frequency	<p>Reported in accordance with requirements in Annexure 4 (<i>Security Service Specification</i>).</p> <p>Each Monthly Operational Report shall include:</p> <ul style="list-style-type: none"> (i) the calculations referred to above; (ii) a trend graph in respect of the preceding 12 months; and (iii) such other information as GWRC reasonably requires.
PI Achieve Benchmark	<p>In any Relevant Month, Z is equal to or lower than the result for Z in the previous month.</p>

Appendix 1 - Forecast Vehicle Kilometres Table

Period	EMU Vehicle Kms	SE Passenger Carriages Vehicle Kms	SW Passenger Carriages Vehicle Kms
1 July 2016 to 30 June 2017 (2016/17)	6,341,100	630,000	1,215,000
1 July 2017 to 30 June 2018 (2017/18)	6,535,100	630,000	1,215,000
1 July 2018 to 30 June 2019 (2018/19)	6,535,100	630,000	1,215,000
1 July 2019 to 30 June 2020 (2019/20)	6,535,100	630,000	1,215,000
1 July 2020 to 30 June 2021 (2020/21)	6,535,100	630,000	1,215,000
1 July 2021 to 30 June 2022 (2021/22)	6,586,600	630,000	1,405,000
1 July 2022 to 30 June 2023 (2022/23)	6,586,600	630,000	1,405,000
1 July 2023 to 30 June 2024 (2023/24)	6,586,600	630,000	1,405,000
1 July 2024 to 30 June 2025 (2024/25)	6,638,100	630,000	1,405,000
1 July 2025 to 30 June 2026 (2025/26)	6,638,100	630,000	1,405,000
1 July 2026 to 30 June 2027 (2026/27)	6,638,100	630,000	1,405,000
1 July 2027 to 30 June 2028 (2027/28)	6,679,300	630,000	1,405,000
1 July 2028 to 30 June 2029 (2028/29)	6,679,300	630,000	1,405,000
1 July 2029 to 30 June 2030 (2029/30)	6,679,300	630,000	1,405,000
1 July 2030 to 30 June 2031 (2030/31)	6,720,500	630,000	1,405,000
1 July 2031 to 30 June 2032 (2031/32)	6,720,500	630,000	1,405,000

Appendix 2 - MMIS technical specification provided by Operator



Appendix 3 - Matangi 2 EMU Testing and Commissioning Services

Performance of obligations

- 1.1 The Operator shall perform its obligations under this Appendix 3 in accordance with the standards required by this Partnering Contract so that:
 - 1.1.1 the Remaining New Units operated by the Operator may operate on the Wellington Network in accordance with the requirements of applicable law;
 - 1.1.2 all professional industry standards and codes of conduct applicable to those obligations are met; and
 - 1.1.3 the Service Outcomes described below are achieved.

Professional Engineering Services

- 1.2 The Operator shall provide professional engineering expertise and experience to GWRL and GWRC (and the Vehicle Supplier via GWRL) so that all operational and/or maintenance issues arising at or around the introduction to service of the Remaining New Units and the Electric Shunts may be proactively managed. The activities to be undertaken by the Operator are:
 - 1.2.1 carrying out necessary overview of the production (particularly testing and commissioning undertaken in New Zealand) of the Remaining New Units and Electric Shunts;
 - 1.2.2 carrying out design review, which will include updated engineering change proposals documentation (due to either variations and/or warranty issues); and
 - 1.2.3 carrying out consultations with staff of the Operator and Vehicle Services Subcontractor to identify and manage any concerns that those staff may have regarding the operation or maintenance of the Remaining New Units or Electric Shunts.
- 1.3 These professional engineering services will be considered to have been successful if the entry into service of the Remaining New Units and Electric Shunts occurs smoothly and without any significant disruption to the Operator or Vehicle Services Subcontractor, to passengers, or to the delivery programme developed under schedule 7 of the Matangi 2 Supply Agreement (**Service Outcome**).

Regulatory Services

- 1.4 The Operator shall provide regulatory compliance support to GWRC and GWRL so that:
 - 1.4.1 the Remaining New Units and Electric Shunts meet the requirements of the Operator's Interim Licence or Licence; and

- 1.4.2 GWRL and GWRC are advised as early as possible of any emerging issues which may impact on the compliance of the Remaining New Units or Electric Shunts with all applicable safety requirements.
- 1.5 The activities to be undertaken by the Operator are:
 - 1.5.1 identifying and advising GWRC and GWRL as early as possible of any safety issues that must be resolved;
 - 1.5.2 providing assurance to GWRC and GWRL that the Remaining New Units and Electric Shunts (and their interfaces) will remain within the requirements of the Operator's Licence or Interim Licence; and
 - 1.5.3 providing professional engineering input required by the Transport Agency, GWRC or GWRL for any other EMU related or Electric Shunt related safety matters.
- 1.6 These regulatory services will be considered to have been successful if the introduction into service of the Remaining New Units and Electric Shunts occurs smoothly and without any avoidable delay due to non-compliance with any applicable safety requirements (**Service Outcome**). This assumes that each Remaining New Unit and Electric Shunt is built to the specifications of the Operator's Licence or Interim Licence and all applicable safety requirements (as advised by the Operator) when performing the professional engineering services referred to above.

Commissioning Services

- 1.7 The Operator shall provide commissioning services for the Remaining New Units and Electric Shunts to GWRC and GWRL so that all the Remaining New Units and Electric Shunts are introduced into service promptly after the date on which they arrive in Wellington. The activities to be undertaken by the Operator are:
 - 1.7.1 providing support to establish the accreditation process and provide appropriate input throughout the commissioning period;
 - 1.7.2 arranging wharf to depot movement of each Remaining New Unit and the Electric Shunts following arrival at Centre Port in Wellington;
 - 1.7.3 liaising with the EMU Depot manager to secure the availability of 3 Unit slots in the EMU Depot, and access for the Vehicle Supplier's personnel to the EMU Depot between at least 0700 and 2100 on Business Days and 0730 and 1500 on Saturdays;
 - 1.7.4 liaising with the EMU Depot and the Operator's relevant staff to facilitate the Vehicle Supplier being able to move trains as required to meet its obligations under the Matangi 2 Supply Agreement;
 - 1.7.5 undertaking witnessing of static commissioning testing, to sufficient capacity to meet the objective of 4 Remaining New Units commissioned

- for service per month (i.e. one full time static commissioning inspector minimum);
- 1.7.6 undertaking dynamic commissioning testing on the Wellington Network to meet the objective of 4 Remaining New Units commissioned for service per month (i.e. a single full time dynamic test crew operating between 8:30 am and 3:30 pm). (Note, a second dynamic test crew may be required for half days per week);
- 1.7.7 providing Operator signoff for each Remaining New Unit and the Electric Shunts to confirm that the Remaining New Units and Electric Shunts are fit for operational service;
- 1.7.8 providing sufficient project management and quality control resources to ensure:
- (a) the timely commissioning of the Remaining New Units and Electric Shunts is achieved; and
 - (b) as far as reasonably practicable, it is not necessary for the Operator to submit a proposal to GWRC under paragraph 15 (*GWRC funded Additional Modification Services*) of this Schedule 4 in respect of any Outsourced Element; and
- 1.7.9 providing clear communication to GWRC and GWRL regarding issues which are preventing (or risking preventing) the Operator from meeting its obligations under this Partnering Contract.
- 1.8 These commissioning services will be considered to have been successful if:
- 1.8.1 the commissioning of the Remaining New Units and Electric Shunts occurs in a timely manner and, as far as reasonably practicable, without the Operator having submitted a proposal to GWRC under paragraph 15 (*GWRC funded Additional Modification Services*) of this Schedule 4 in respect of any Outsourced Element; and
- 1.8.2 the introduction into service of the Remaining New Units and Electric Shunts occurs safely, smoothly and without any significant disruption to the Operator or Vehicle Services Subcontractor, to passengers, or to the delivery programme developed under schedule 7 of the Matangi 2 Supply Agreement,
- (together, the **Service Outcome**).

Appendix 4 - Carriage Fleet Maintenance Plan

Maintenance documentation	Current documentation version			
Carriage Fleet Maintenance Plan	ROLST-10-24		Issue 1	
Check classification	SW carriage	Revision	SE carriage	Revision
A Check	Loco 482A	A	Loco 557	5
B Check	Loco 482B	A	Loco 558	5
C Check	Loco 482C	A	Loco 559	5
Daily	Loco 651 & 652	1	Loco 556	4
Servicing	Loco 651 & 652	1	Loco 556	4
Electrical warrant of fitness	M9377	2	M9377	2
Generator servicing	Loco 441	6	Loco 441	6
D1 Check	D1	1	D1	1
D2 Check	D2	1	D2	1
	Document Number		Revision/Issue	
SW & SE Coolzone HVAC system, commissioning, testing and maintenance instructions.	M9354		9	
SW Bogie Manual	M9311		4	
SW Bogie structural and general inspection	M9363		2	
SE S-Ride bogie Maintenance manual CRC CW720	M9396-00		3	
SE S-Ride Mounting and inspection of SKF Bearing unit Maintenance Manual	M9396-01		3	
SE S-Ride XPD 12XXL Tread Brake Unit Operating manual	M9396-02		2	
SE S-Ride XPD 12XXL Tread Brake Unit Maintenance manual	M9396-03		2	
SE S-Ride Damper Maintenance Manual	M9396-04		2	
SE S-Ride Bogie Leveling Valve Maintenance manual	M9396-05		2	
SE S-Ride Bogie Pressure differential Valve Maintenance manual	M9396-06		2	
SE S-Ride Bogie Torsion Bar Maintenance manual	M9396-07		2	
SE S-Ride Bogie Air spring Maintenance Manual	M9396-08		2	
SE S-Ride Bogie Primary spring Maintenance Manual	M9396-09		2	
SW & SE Train Door inspection & Test procedure5	M9378		5	
PID software user Manual	M9391		1	
Toilet unit manual	M93128		1	
SES disabled access toilet door power unit OEM manual.	M93154		1	
Ricon S-Series Wheelchair and standee lift operator Manufacturers documents	Loco 561		1	
Inspection, Test and setup procedure for Buckeye coupler	M9381		1	
Drop head Buckeye coupler overhaul	M9385		1	
Generating Set Operators Manual	PWP01 - GB		Issue 03/05	
Generating Set Technical Operation and Maintenance Manual	PWTM1 - GB		Issue 01/05	
Perkins 1300 Series Edi	TPD 1352		Issue 3	
SW Brakes	M9352 & M9305		9	
SE Brake code for S-Ride bogies	M9393		5	
Faiveley Type AL2B maintenance manual	Loco 560		1	
SE Bogie setup and car levelling procedure	M93142		3	
SW & SE Train Management System commissioning and test manual	M9379		4	
SW & SE CCTV Manual	M9380		3	
SW Operational Manual	M9383		2	
SE Operational Manual	M9398		2	
GWRL carriage cleaning plan	ROLST-10-28		A	

Appendix 5 - EMU Depot Plant and Equipment Manual

Equipment	Document Title	Document Number	Revision /Date
15 Ton Gantry Crane	Operating and Maintenance manual	Job Number 8854/27450	1
EMU wheel drop hoist	Operation Manual	NA	NA
EMU wash	Wellington EMU Depot Light rail Car Wash System Operation and Maintenance Manual	M93108	1
Train Jacks	Wellington EMU Depot Windhoff Lifting Jacks Operation and Maintenance Manual	M93109	1
Scissor lift table	EMU rail Trolley : Operation Manual	NA	NA
Wheel Lathe	Wheel lathe Folder 1 General Information	101 560 en	Mar-10
Wheel Lathe	Wheel lathe folder 1 Declaration of conformity_en.	102 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 2 Operation	103 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 3 Maintenance	104 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 4.1-4.2 Plans-Drawings	105 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 4.3 Fluid plans	106 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 5 Hardware	107 560 en	Mar-10
Wheel Lathe	Wheel lathe Folder 6 Supplier's documentation	108 560 en	Mar-10
2 Ton Mono crane	2 ton nitchi monorail electric chain hoist	NA	NA

Appendix 6 - Matangi Fleet Maintenance Plan

	Document Title	Document Number	Issue Date	Revision	Latest Update Date
	Unit Maintenance Plan	REDC100370	41513	26	
	Appendix 1. Maintenance Sessions	ROLST-10-25	30/04/2015	1	
	Appendix 2 Checklist sample_100517_by SW				
	Appendix 3 - Maintenance Activity start chart	M93110-3	24/07/2012	I	
	Appendix 5 - Target man-hour				
	Appendix 8- Bill of material				
O&M Manual			First Formal Issue Date	Latest Revision No.	Latest Update Date
Volume	Part	Chapter			
Volume 1: Technical Manual	Part A. Matangi EMU Vehicles Overview	N/A	12-05-2011	A	02-09-2014
	Part B. Technical Description of Vehicle System	Carbody		A	02-09-2014
		Driving Cab		B	02-09-2014
		Bogie		B	15-09-2011
		Pantograph		B	02-09-2014
		Traction		A	27/03/2015
		Braking		B	02-09-2014
		Pneumatic		B	02-09-2014
		HVAC		B	02-09-2014
		PAPIS		B	30-05-2014
		CCTV & APC		B	02-09-2014
		Train Radio		B	25-11-2011
		TMS		B	30-05-2014
		Tranzlog		A	12-05-2011
		Bodyside Door		C	02-09-2014
		APU		A	30-05-2014
		Battery System		A	12-05-2011
		Lighting		A	02-09-2014
		Coupler		B	30-05-2014
		Gangway		B	07-12-2011
Electrical Connections	A	12-05-2011			

O&M Manual			First Formal Issue Date	Latest Revision No.	Latest Update Date
Volume	Part	Chapter			
Volume 2: Train Crew Manual	Part A. Vehicle System Description	N/A	15-04-2011	C	02-09-2014
	Part B. Operating Procedures	N/A		D	02-09-2014
	Part C. Troubleshooting on Vehicle System	N/A		B	29-09-2011
	Part D. Emergency Operating Procedures	N/A		C	29-09-2011

O&M Manual			First Formal Issue Date	Latest Revision No.	Latest Update Date
Volume	Part	Chapter			
Volume 3: Maintenance Manual	Part A. Maintenance Schedules and Checklists	Maintenance activity stachart	25-01-2012	E	27/03/2027
		Maintenance Checklists		Refer to the checklist revision control table	
		Cleaning		B	20/03/2015
	Part B. Maintenance Work Instruction	Safety Task procedures		B	2/09/2014
		Carbody		C	27/03/2015
		Driving Cab		C	02-09-2014
		Bogie		F	27/03/2015
		Pantograph		B	30-05-2014
		Traction		D	27/03/2015
		Braking		C	02-09-2014
		Pneumatic		C	02-09-2014
		HVAC		C	27/03/2015
		PAPIS		A	02-09-2014
		CCTV & APC		A	02-09-2014
		Train Radio		A	27-08-2013
		TMS		B	30-05-2014
		Tranzlog		B	27-08-2013
		Bodyside Door		C	02-09-2014
		APU		A	30-05-2014
		Battery System		A	27-08-2013
		Lighting		A	02-09-2014
Coupler	B	02-09-2014			
Gangway	A	22-11-2011			
Electrical Connections	A	27-08-2013			

O&M Manual			First Formal Issue Date	Latest Revision No.	Latest Update Date
Volume	Part	Chapter			
Volume 4: Diagnostics & Fault Finding Manual	Part A. Troubleshooting and Diagnostics on Train Monitoring System	N/A	22-12-2011	B	30-05-2014
	Part B. Troubleshooting and Diagnostics on Vehicle System	Carbody		A	07-12-2011
		Driving Cab		A	07-12-2011
		Bogie		A	07-12-2011
		Pantograph		A	07-12-2011
		Traction		A	27/03/2015
		Braking		A	27-08-2013
		Pneumatic		A	07-12-2011
		HVAC		A	07-12-2011
		PAPIS		A	07-12-2011
		CCTV & APC		A	07-12-2011
		Train Radio		A	07-12-2011
		TMS		A	30-05-2014
		Tranzlog		A	07-12-2011
		Bodyside Door		A	02-09-2014
		APU		A	07-12-2011
		Battery System		A	07-12-2011
		Lighting		A	02-09-2014
		Coupler		A	07-12-2011
		Gangway		A	07-12-2011
	Electrical Connections	A		07-12-2011	

O&M Manual			First Formal Issue Date	Latest Revision No.	Latest Update Date
Volume	Part	Chapter			
Volume 5: Illustrated Parts Catalogue Manual	Part A. Car System Breakdown	N/A	06-02-2012	A	02-09-2014
	Part B. Parts Lists and Illustrations	Carbody		A	02-09-2014
		Driving Cab		A	02-09-2014
		Bogie		B	30-05-2014
		Pantograph		A	30-05-2014
		Traction		A	27/03/2015
		Braking		A	02-09-2014
		Pneumatic		A	02-09-2014
		HVAC		A	25-01-2012
		PAPIS		B	20-03-2012
		CCTV & APC		A	25-01-2012
		Train Radio		A	25-01-2012
		TMS		A	25-01-2012
		Tranzlog		A	25-01-2012
		Bodyside Door		B	30-05-2014
		APU		A	30-05-2014
		Battery System		A	30-05-2014
		Lighting		A	02-09-2014
		Coupler		A	30-05-2014
	Gangway	A		25-01-2012	
Electrical Connections	A	17/07/2015			

Checklist Revision control table			
Type	Document Number	Revision	Latest Update Date
After Run-in	1 month	B	20/02/2012
Check	3 month	B	20/02/2012
A Check	Loco650-A1	G	18/08/2015
	Loco650-A2	G	18/08/2015
B Check	Loco650-B1	L	17/12/2015
	Loco650-B2	K	17/12/2015
	Loco650-B3	J	17/12/2015
	Loco650-B4	K	17/12/2015
	Loco650-B5	K	17/12/2015
	Loco650-B6	K	17/12/2015
C Check	Loco650-C1	G	5/12/2015
	Loco650-C2	F	17/07/2015
	Loco650-C3	E	17/07/2015
	Loco650-C4	E	17/07/2015
	Loco650-C5	E	17/07/2015
	Loco650-C6	C	17/07/2015

Schedule 5

Planning, Reporting and Meetings

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1 Introduction

- 1.1 This Schedule sets out the Parties' obligations in regard to:
- 1.1.1 the process for preparation and agreement of the joint Annual Business Plan;
 - 1.1.2 an outline of the content and the required templates for the reports to be provided by the Operator;
 - 1.1.3 scheduled meetings and discussions relating to (amongst other things) the Services, the performance by the Operator of its obligations under this Partnering Contract and the provision of public transport on the Wellington Public Transport Network generally; and
 - 1.1.4 updating the Plans for each forthcoming Year.
- 1.2 In complying with the terms of this Schedule 5, the Parties shall seek to develop and continue a spirit of partnership between the Operator and GWRC in order to provide a safe, efficient, reliable and integrated passenger rail service in the Wellington region which also supports and facilitates the implementation of the GWRC Long Term Plan, the Wellington Regional Public Transport Plan and related strategies and policies of GWRC.
- 1.3 The participation by GWRC and its representatives in the development of the Annual Business Plan and the updates to the Plans pursuant to this Schedule 5 (including any opinions, comments, endorsements or approvals (or similar) given by GWRC or its representatives in connection therewith) shall not:
- 1.3.1 give rise to any liability on the part of GWRC or GWRL and neither of them shall owe any duty of care or other obligation to the Operator to identify any defects, errors, omissions or non-compliances with the Transaction Documents in respect of any Annual Business Plan or any Plan;
 - 1.3.2 relieve the Operator from any of its obligations under this Partnering Contract or any other Transaction Document or limit or affect the Operator's liabilities under or in connection with this Partnering Contract or any other Transaction Document;
 - 1.3.3 prejudice any rights or remedies of GWRC or GWRL under or in connection with the Transaction Documents;
 - 1.3.4 evidence or constitute confirmation or a representation by GWRC or GWRL that:
 - (a) the terms of the Annual Business Plan or updated Plans are fit for purpose, consistent with the Operator's obligations under the Transaction Documents or otherwise compliant with the requirements of this Partnering Contract; or

- (b) implementation of the Annual Business Plan or updated Plan will be sufficient to discharge the Operator's relevant obligations under the Transaction Documents and will not cause the Operator to be in breach thereof; or
- (c) any part of the Services has or will be provided in accordance with the Transaction Documents.

1.4 The Parties acknowledge and agree that the development and approval of the Annual Business Plan and the updating of the Plans pursuant to this Schedule 5 shall not of itself constitute or otherwise give rise to a Contract Variation or any other NFI Event.

2 Annual Business Plan

Objectives of Annual Business Plan

2.1 The Parties acknowledge and agree that under PTOM, the goal of the annual business planning process is to provide a mechanism for GWRC and the Operator to:

- 2.1.1 identify opportunities to grow patronage and increase Farebox Revenue;
- 2.1.2 identify opportunities for the continuous improvement of the Services and to improve the performance of the obligations of the Operator;
- 2.1.3 identify opportunities to improve the performance of obligations and activities provided by GWRC;
- 2.1.4 identify opportunities to improve the performance of Vehicle Services and to reasonably reduce the whole of life cost of maintenance services (having due regard to safety issues) over the estimated useful life of the Vehicles; and
- 2.1.5 identify any safety issues or other matters relevant to providing a safe, integrated and reliable Wellington Public Transport Network,

although the Parties acknowledge that this should not prevent them from discussing such opportunities, issues and matters with one another on a more frequent basis outside of the business planning process should they consider this appropriate.

2.2 The objective of each Annual Business Plan is to:

- 2.2.1 record the agreed actions to be taken to implement opportunities and address issues relevant to the Rail Unit that are identified by GWRC and the Operator in strategic meetings and through the Wellington Regional Public Transport Forum;
- 2.2.2 provide a basis against which GWRC and the Operator can annually review the performance of the Parties' respective obligations under this Partnering Contract; and

- 2.2.3 provide a mechanism under which the Operator may propose (and GWRC may consider) initiatives with the objective of increasing Actual Patronage, including the FIM adjustment mechanism, as contemplated by paragraph 10.7 (*Operator Initiatives*) of Schedule 6.

Development of Annual Business Plan

- 2.3 GWRC and the Operator shall work together acting reasonably and in good faith to collaboratively develop and finalise each Annual Business Plan.
- 2.4 Each Annual Business Plan shall:
- 2.4.1 consist of:
- (a) an implementation plan for agreed initiatives, as described at paragraph 2.5 below;
 - (b) the annual meeting plan referred to in paragraph 2.6 below;
 - (c) the financial forecasts referred to in paragraph 2.7 below; and
 - (d) the Plans referred to in paragraph 2.8 below; and
- 2.4.2 except in the case of the Initial Annual Business Plan, include an appropriate level of detail to enable GWRC to consider and approve the Annual Business Plan for the forthcoming Year by 30 April in the current Year.
- 2.5 Part one of the Annual Business Plan shall be prepared jointly by GWRC and the Operator and shall incorporate agreed initiatives to be implemented by the Parties to achieve each of the goals described at paragraph 2.1, including any supplementary or amended questions that the Operator and GWRC (each acting reasonably) agree to include in a Customer Satisfaction Survey and any agreed Additional PT Network Project.
- 2.6 Part two of the Annual Business Plan shall be prepared jointly by GWRC and the Operator and shall include an annual meeting plan made up of:
- 2.6.1 a programme setting out the dates and times of all scheduled meetings for the forthcoming Year, including those referred to at paragraph 4 of this Schedule 5; and
- 2.6.2 a template agenda for each of the programmed meetings which are to be held in the forthcoming Year.
- 2.7 Part three of the Annual Business Plan shall include a financial forecast as described at Appendix 2 which shall be prepared by the Operator in the format attached at Appendix 3 and shall be Indexed for the forthcoming Year. The financial forecast shall be consistent with and reflect the agreed initiatives and Additional PT Network Projects set out in Part One of the Annual Business Plan and the agreed Plans set out in Part Four of the Annual Business Plan. Once agreed by GWRC in accordance with this Schedule 5, this financial forecast relating to the

forthcoming Year will form the budget for the forthcoming Year for the purposes of preparing the Monthly Financial Report and Full Year Financial Report.

- 2.8 Part four of the Annual Business Plan shall include each of the Plans specified in Appendix 1 (Plans) to this Schedule, which shall be prepared by the Operator in accordance with the requirements of Appendix 1 (Plans).

Initial Annual Business Plan

- 2.9 The Parties acknowledge and agree that the Initial Annual Business Plan shall apply and shall be the Annual Business Plan for the Rail Unit for the period specified in clause 26.1 of the Partnering Contract. Any references in the foregoing provisions of this paragraph 2 to the "forthcoming Year" shall be deemed to mean each Year or part Year falling within such period.
- 2.10 Notwithstanding anything to the contrary, the provisions of paragraphs 2.11 to 2.17 shall not apply to the Initial Annual Business Plan.

Process for preparation of subsequent Annual Business Plans

- 2.11 In developing each Annual Business Plan, GWRC and the Operator shall consider the extent of the performance to date by the Parties of their respective obligations under the then current Annual Business Plan (including in respect of progress in implementing the Operator's Proposals) and the extent to which the then current Annual Business Plan has met the goals and objectives set out in paragraphs 2.1 and 2.2. GWRC and the Operator shall have due regard to such matters when developing the next draft Annual Business Plan.
- 2.12 Part one and part two of each Annual Business Plan shall be prepared in accordance with the following process:
- 2.12.1 GWRC and the Operator shall meet before the end of March in each Year to discuss and agree (acting reasonably and in good faith) the matters to be included in part one and part two of the Annual Business Plan for the forthcoming Year and to allocate responsibilities for preparation of any supporting material;
 - 2.12.2 the Operator shall ensure that the meeting referred to in paragraph 2.12.1 is attended by such of the Operator Associates as may reasonably be required by GWRC; and
 - 2.12.3 GWRC and the Operator shall complete any tasks assigned to them at the meeting referred to in paragraph 2.12.1 as soon as reasonably practicable thereafter and in any event within the timeframe agreed at such meeting.

Process for preparation of financial forecasts for subsequent Annual Business Plans

- 2.13 The financial forecasts to form part three of each Annual Business Plan shall be prepared in accordance with the following process:

- 2.13.1 GWRC and the Operator shall meet in August each Year to discuss the matters to be included in the financial forecasts to form part of the Annual Business Plan for the forthcoming Year;
- 2.13.2 the Operator shall prepare the first draft of the financial forecasts in accordance with:
 - (a) the requirements set out at Appendix 2; and
 - (b) the outcome of the discussions referred to in paragraph 2.13.1,

in the format attached at Appendix 3 and the Operator shall provide a copy thereof to GWRC for review by 30 September in each Year;
- 2.13.3 GWRC and the Operator shall meet by the end of March of each Year to consider and discuss the draft financial forecasts and any supporting material that has been prepared;
- 2.13.4 the Operator shall ensure that the financial forecasts are consistent with and reflect any agreed initiatives and Additional PT Network Projects which are to be set out in Part One of the Annual Business Plan and the agreed Plans to be set out in Part Four of the Annual Business Plan; and
- 2.13.5 the Operator shall ensure that the meetings referred to in paragraph 2.13.1 and paragraph 2.13.3 are attended by such of the Operator Associates as may reasonably be required by GWRC.
- 2.14 If requested to do so by GWRC at any time, the Operator shall promptly provide:
 - 2.14.1 an enforceable warranty to the effect that the implementation of any proposals relating to the provision by the Operator of additional revenue generating services or facilities which are reflected in the financial forecasts forming part of the draft Annual Business Plan (as referred to in paragraph 1.1.4 of Appendix 2) will not adversely affect any of the matters referred to in paragraph 1.1.4(c) of Appendix 2;
 - 2.14.2 an enforceable warranty to the effect that the implementation of any initiatives relating to increasing Actual Patronage contemplated in the financial forecasts forming part of the draft Annual Business Plan (as referred to in paragraph 1.1.5 of Appendix 2) will not adversely affect any of the matters referred to in paragraph 1.1.5(f) of Appendix 2; and
 - 2.14.3 any other information and supporting documentation that GWRC requires in connection with any matter referred to in the draft financial forecasts forming part of the draft Annual Business Plan.
- 2.15 The Operator shall prepare and provide the final draft Annual Business Plan (incorporating all parts) to GWRC by the end of April in each Year, reflecting the outcome of the discussions and comments referred to in paragraphs 2.12 and 2.13 and otherwise in accordance with the requirements of paragraphs 2.5 to 2.7.

GWRC to approve

- 2.16 GWRC shall consider such draft and shall:
- 2.16.1 approve the draft Annual Business Plan in its entirety in writing, in which case it shall become the Annual Business Plan with effect from and including, and shall apply from and including, the first day of the Year to which it relates (in place of any previous Annual Business Plan); or
 - 2.16.2 modify those parts of the draft Annual Business Plan which GWRC requires to be amended, in which case the amended draft shall become the Annual Business Plan with effect from and including, and shall apply from and including, the first day of the Year to which it relates (in place of any previous Annual Business Plan); or
 - 2.16.3 require the Operator to provide amended drafts of those parts of the draft Annual Business Plan with which GWRC is not satisfied, in which case the Operator shall promptly prepare an amended draft of those parts reflecting GWRC's reasonable comments and provide the amended draft to GWRC for approval, in which case this paragraph 2.16 shall reapply; or
 - 2.16.4 by written notice to the Operator, reject the draft Annual Business Plan in its entirety, in which case GWRC and the Operator shall each prepare fresh drafts of the parts of the Annual Business Plan for which they are responsible as described in paragraphs 2.5 to 2.7, and the Operator must resubmit those parts it is preparing to GWRC for confirmation under this paragraph, within the timeframe specified by GWRC in the notice.
- 2.17 In developing the draft Annual Business Plan, considering the draft Annual Business Plan and determining whether to approve it pursuant to paragraph 2.16, the GWRC and the Operator shall:
- 2.17.1 act in a fair and reasonable manner; and
 - 2.17.2 have due regard to any budgetary constraints of GWRC and GWRL.

3 Reports

Reports to be provided by Operator

- 3.1 The Operator shall provide the following reports to GWRC's Authorised Representative, each of which must:
- 3.1.1 include the relevant content described below, and any further information reasonably requested by GWRC or expressly contemplated by the Partnering Contract to be provided or to be included in a particular report;
 - 3.1.2 be provided by the Operator within the relevant timeframe specified in paragraph 3.2; and
 - 3.1.3 be in the relevant form agreed with GWRC.

3.1.4 **Immediate Report:** In respect of:

- (a) any Unplanned Disruption involving an indefinite suspension of Scheduled Services or Special Event Services or a suspension that has lasted or is likely to last more than 45 minutes;
- (b) health or safety incidents affecting any part of the Services (including any Notifiable Events); and
- (c) major Vehicle or asset failures;

setting out the following information:

- (i) details of the nature of and reason for the event;
- (ii) the estimated duration of the event;
- (iii) the Lines or routes that will be affected;
- (iv) in the case of Vehicle or asset failures, the relevant Vehicles and other assets affected;
- (v) the Scheduled Services and Special Event Services that will be affected; and
- (vi) any alternative transport arrangements that will be provided by or on behalf of the Operator

3.1.5 **Daily Operational Report:**

- (a) a copy of the daily report provided by the Operator to the Access Provider pursuant to clause 7.3 of the Wellington Network Agreement, containing the information required under clause 7.3 of the Wellington Network Agreement;
- (b) information about Unplanned Disruptions as required by paragraph 3.12.4 of Schedule 3, including the initial attribution as to the cause of the Unplanned Disruption;
- (c) information about any Vehicles not available for service or which may only be operated in restricted running (including the information required to be provided by paragraph 4.7 of Annexure 5 (*Minimum Vehicle Operating Standards*));
- (d) details of any Notifiable Events that occurred during the relevant day and details of any Correction Notices received during the relevant day (including details of any investigations undertaken (or to be undertaken) or corrective actions taken (or to be taken) in connection therewith);
- (e) performance for the day against each Performance Indicator that, in accordance with Schedule 3 (*Passenger Services*) or Schedule 4 (*Vehicle Services*) (as applicable), is required to

be measured and reported against on a daily basis, and other information that is required to be reported in the Daily Operational Report by paragraph 7 of Schedule 3 (*Passenger Services*) and paragraph 19 of Schedule 4 (*Vehicle Services*);

3.1.6 **Daily Farebox Report:**

- (a) number of tickets sold during that day (and all previous days for which a Daily Farebox Report has not been provided) (including tickets sold by Ticket Agents where Farebox Revenue has been received by the Operator) by ticket description and type;
- (b) aggregate face value of tickets sold during that day (and all previous days for which a Daily Farebox Report has not been provided) (**Face Value of Tickets Sold**) and a breakdown of this amount by ticket description and type (including tickets sold by Ticket Agents where Farebox Revenue has been received by the Operator);
- (c) aggregate amount of refunds provided (if any) during that day (and all previous days for which a Daily Farebox Report has not been provided) in accordance with the terms of the Annexure 6 (*Fares, Ticketing and Enforcement Requirements*) (including refunds provided by Ticket Agents that have not been previously reported in a Daily Farebox Report) (**Refunds Provided**);
- (d) any tickets unaccounted for (lost, stolen, etc.) and the aggregate face value of such tickets (to the extent not included in a previous Daily Farebox Report) (**Face Value of Tickets Unaccounted For**);
- (e) total value of ticket sales to be transferred from the Farebox Account (**Total Value**), being:
$$\text{Total Value} = A + B - C$$

Where:

A = Face Value of Tickets Sold;

B = Face Value of Tickets Unaccounted For;

C = Refunds Provided.
- (f) any other information required by GWRC for accounting or GST purposes,

provided that the Operator shall not be required to provide any such Daily Farebox Report in relation to the period after the ETS Implementation Date;

3.1.7 **Weekly Operational Report (covering the period from and including Monday to and including Sunday):**

- (a) performance for the week against:
 - (i) each Performance Indicator that, in accordance with Schedule 3 (*Passenger Services*) or Schedule 4 (*Vehicle Services*) (as applicable), is required to be measured and reported against on a weekly basis, and other information that is required to be reported in the Weekly Operational Report by paragraph 7 of Schedule 3 (*Passenger Services*) and paragraph 19 of Schedule 4 (*Vehicle Services*);
 - (ii) the Reliability KPI; and
 - (iii) the Punctuality KPI,
including reasons for cancellations and delays, percentage of total delays and minutes during the week and during the Year to date;
- (b) details of any Notifiable Events that occurred during the relevant week and details of any Correction Notices received during the relevant week (including details of any investigations undertaken (or to be undertaken) or corrective actions taken (or to be taken) in connection therewith);
- (c) details of the provision of any alternative transport arrangements during the week, including whether such alternative transport relates to a Planned Disruption or an Unplanned Disruption and details of the relevant Scheduled Services or Special Event Services affected;
- (d) details of forthcoming Planned Disruptions; and
- (e) details of customer queries, compliments and Complaints, which relates to the Services, (whether provided verbally or in writing) received during the relevant week.

3.1.8 **Monthly Performance Report**, divided into the following sections:

- (a) **Monthly Strategic Report:**
 - (i) a description of the extent to which the Operator has undertaken the initiatives and other tasks ascribed to it in Part one of the Annual Business Plan during the Relevant Month and the Year to date, performance during the Relevant Month and the Year to date against

any other Annual Business Plan criteria and future plans in respect of those initiatives and tasks;

- (ii) an outline of the activities undertaken by the Operator during the Relevant Month in the performance of the Operator's obligations under clause 25.4 (*Continuous improvement*), an explanation as to how those activities have resulted in ongoing and sustainable improvements in the performance of the Operator's obligations under this Partnering Contract and the matters set out at clause 25.4 (*Continuous improvement*), and details of future plans in respect of those activities;
- (iii) details of key risks and opportunities encountered in the Relevant Month and forecast going forward;
- (iv) details of any Notifiable Events occurring and any Correction Notices received during the Relevant Month, including details of any investigations undertaken (or to be undertaken) or corrective actions taken (or to be taken) in connection therewith; and
- (v) a written report detailing the general health and safety performance of the Operator and the Operator Associates in connection with the Services during the Relevant Month, including the information contemplated by clause 42.7.3;

(b) **Monthly Operational Report:**

- (i) performance during the Relevant Month and the Year to date against each Performance Indicator, the Reliability KPI and the Punctuality KPI (dashboard executive summary, plus detailed trend analysis), with explanations;
- (ii) other information that is required to be reported in the Monthly Operational Report by paragraph 7 of Schedule 3 (*Passenger Services*) or paragraph 19 of Schedule 4 (*Vehicle Services*);
- (iii) details required by paragraph 7.6.13 of Annexure 4 (*Security Service Specification*);
- (iv) details of key risks and opportunities encountered in the Relevant Month and forecast going forward;

- (v) summary of Complaints, which relates to the Services, received during the Relevant Month – by Line and reason;
 - (vi) notices of Planned Disruptions in accordance with paragraph 3.9.2 of Schedule 3;
 - (vii) details required by paragraph 4.8 of Annexure 5 (*Minimum Vehicle Operating Standards*);
 - (viii) notification of any intention to propose a change to the Timetable or the Rail Unit Timetable as referred to in paragraph 6 of the Timetable Change Process; and
 - (ix) for each Special Event Service operated in the Relevant Month, a comparison of the Special Event Services Fee payable by GWRC to the Operator in respect of that Special Event Service against the additional patronage and additional Farebox Revenue attributable to the Special Event Service;
- (c) **Monthly Financial Report:**
- (i) the Services Fee payable for that Relevant Month comparing the actual Services Fee payable in respect of that Relevant Month as against the budget provided in respect of that Relevant Month at part three of the relevant Annual Business Plan and showing the resulting variance;
 - (ii) the Services Fee payable for the Year to date comparing the actual Services Fee payable in respect of the Year to date as against the budget provided in respect of the Year to date at part three of the relevant Annual Business Plan and showing the resulting variance;
 - (iii) a forecast of the Services Fee payable for the full Year comparing the forecast Services Fee payable in respect of the full Year as against the budget provided in respect of the full Year at part three of the relevant Annual Business Plan and showing the resulting variance; and
 - (iv) explanation of variances referred to in the sub-paragraphs above;
- (d) **Monthly Patronage Report:**

- (i) in respect of the Relevant Month and the Year to date, the total number of passengers travelling on the Scheduled Services and the Special Event Services during the Relevant Month and the Year to date, shown on each of the following basis:
- total number of passengers across all Lines and all services;
 - total number of passengers by Line;
 - total number of passengers travelling on Peak Services by Line; and
 - total number of passengers travelling on Off Peak Services by Line;
- (ii) in respect of the Relevant Month and the Year to date, the total number of kilometres travelled by all passengers ('passenger kilometres') during the Relevant Month and the Year to date, shown on each of the following basis:
- total passenger kilometres across all Lines and all services;
 - total passenger kilometres by Line;
 - total passenger kilometres in respect of all Peak Services by Line; and
 - total passenger kilometres in respect of all Off Peak Services by Line;
- (iii) the average fare paid by passengers travelling on the Scheduled Services and the Special Event Services during the Relevant Month, calculated by dividing the total Farebox Revenue received by the Operator and the Operator Associates during that Relevant Month (as detailed in the Monthly Farebox Report for that Relevant Month) by the total number of passengers travelling on Scheduled Services or Special Event Services during the Relevant Month (as detailed in the Monthly Patronage Report for that Relevant Month);
- (iv) the average fare paid by passengers travelling on the Scheduled Services and the Special Event Services during the Year to date, calculated by dividing the total Farebox Revenue received by the Operator and the Operator Associates in that period (as detailed in the

Monthly Farebox Reports provided or to be provided by the Operator in respect of that period) by the total number of passengers travelling on Scheduled Services or Special Event Services during that period (as detailed in the Monthly Patronage Reports provided or to be provided by the Operator in respect of that period); and

- (v) with effect from the ETS Implementation Date, in respect of the Relevant Month and the Year to date, the percentage of passengers travelling on the Scheduled Services and Special Event Services during that period who committed a Ticket Offence;

(e) **Monthly Revenue Protection Report:**

- (i) issues or problems identified with revenue protection activities in the Relevant Month and options for how they were or will be dealt with;
- (ii) non-compliances with the Revenue Protection Plan in the Relevant Month; and
- (iii) a description of the Operator's performance against any other criteria set out in the Revenue Protection Plan in respect of the Relevant Month and the Year to date; and

(f) **A draft of the Monthly Summary Performance Report for publication and display in accordance with clause 30.3:**

- (i) the Operator's actual performance levels in respect of the Services provided during the Relevant Month as against:
- the Customer Service Commitment;
 - the Customer Service Standards;
 - the Reliability KPI and the Punctuality KPI;
 - the Nominated Performance Indicators; and
 - any other requirements of this Partnering Contract relating to reliability or punctuality of the Scheduled Services or Special Event Services; and
- (ii) in the case of every Monthly Summary Performance Report other than the first Monthly Summary Performance Report, a comparison of each of the

performance levels referred to in that Monthly Summary Performance Report as against the equivalent information contained in the previous Monthly Summary Performance Report; and

- (iii) in the case of the next Monthly Summary Performance Report to be prepared by the Operator after the Surveying Organisation has provided a summary of the results of a Customer Satisfaction Survey, that summary as provided by the Surveying Organisation;

3.1.9 **Monthly Farebox Report:**

- (a) aggregate data from each Daily Farebox Report for the Relevant Month;
- (b) aggregate face value of tickets sold by Ticket Agents during that Relevant Month and a breakdown of this amount by ticket description and type;
- (c) "SuperGold" passenger journeys for the Relevant Month;
- (d) value of accrual required for tickets sold in advance as at the first day of the Relevant Month but not yet used;
- (e) value of accrual required for tickets sold by Ticket Agents but not yet received by the Operator; and
- (f) the value of tickets provided by the Operator in order to comply with its obligations in respect of free staff travel under clause 48.3.5,

provided that the Operator shall not be required to provide any such Monthly Farebox Report in relation to the period beginning after the Relevant Month in which the ETS Implementation Date falls;

3.1.10 **Full Year Performance Report**, in respect of each Year, divided into the following sections:

- (a) **Full Year Operational Report:**
 - (i) aggregate data from each Monthly Operational Report in respect of the Relevant Months within that Year;
 - (ii) the Operator's performance as against the Vehicle Use in Service Outputs;
 - (iii) the Operator's progress in respect of the implementation of the Operator's Proposals; and
 - (iv) such other information as GWRC may reasonably request from time to time;
- (b) **Full Year Financial Report:**

- (i) the Services Fee payable for that Year, comparing the actual Services Fee payable in respect of that Year as against the budget provided in respect of that Year at part three of the relevant Annual Business Plan for that Year and showing the resulting variance;
 - (ii) the Services Fee payable for that Year, comparing the actual Services Fee payable in respect of that Year as against the Services Fee payable in respect of the prior Year and showing the resulting variance; and
 - (iii) explanation of variances referred to in the sub-paragraphs above;
- (c) **Full Year Strategic Report:**
- (i) a description of the extent to which the Operator has undertaken the initiatives and other tasks ascribed to it in Part one of the Annual Business Plan during that Year, annual performance during that Year against any other Annual Business Plan criteria and future plans for such initiatives and tasks;

3.1.11 **Additional Planning or Financial Reports:** to be provided by the Operator in accordance with:

- (a) any requirement to provide such reports set out in the Annual Business Plan; or
- (b) any reasonable request by GWRC or GWRL from time to time.

Timeframes for reports

3.2 The Operator shall ensure that the reports described in paragraph 3.1 are provided by the Operator to GWRC’s Authorised Representative within the following timeframes:

Report	Time frame required
Immediate Report	At the earliest opportunity and in any event within 5 hours of the relevant event occurring
Daily Operational Report	By 4pm on the next Business Day
Daily Farebox Report	By 10am on the next Business Day Any tickets unaccounted for (lost, stolen, etc): In the next Daily Farebox Report following the issue being identified (This can be delivered in an excel file

	attached to email)
Weekly Operational Report (Monday to Sunday)	By 4pm on Tuesday the following week
Monthly Performance Report for each Relevant Month, divided into the following sections: <ul style="list-style-type: none"> • Monthly Operational Report • Monthly Financial Report • Monthly Strategic Report • Monthly Patronage Report • Monthly Revenue Protection Report • Draft Monthly Summary Performance Report 	On or before the 10 th Business Day of the month after the Relevant Month to which the report relates
Monthly Farebox Report	On or before the 5 th Business Day of the month after the Relevant Month to which the report relates
Full Year Performance Report (for each Year), divided into the following sections: <ul style="list-style-type: none"> • Full Year Strategic Report • Full Year Operational Report • Full Year Financial Report 	On or before the 15th of August after the end of the relevant Year
Additional Planning or Financial Reports pursuant to paragraph 3.1.11	Within the timeframes specified in the Annual Business Plan or as reasonably required by GWRC or GWRL

Reports provided by GWRC

3.3 On and from the ETS Implementation Date, GWRC may provide a report (**GWRC Farebox Report**) to the Operator on each Business Day detailing:

- 3.3.1 number of tickets sold during that day (and all previous days for which a GWRC Farebox Report has not been provided) by ticket description and type;
- 3.3.2 aggregate value of tickets sold by the Operator as a cash or cheque transaction during that day (and all previous days for which a GWRC

Farebox Report has not been provided) and a breakdown of this amount by ticket description and type;

- 3.3.3 aggregate amount of refunds provided (if any) as a cash transaction during that day (and all previous days for which a GWRC Farebox Report has not been provided) in accordance with Annexure 6 (*Fares, Ticketing and Enforcement Requirements*); and
- 3.3.4 total value of ticket sales to be transferred from the Farebox Account, being:
 - (a) the aggregate value referred to in paragraph 3.3.2; less
 - (b) the aggregate amount of refunds referred to in paragraph 3.3.3.

4 Meetings

Scheduled meetings

- 4.1 **(Wellington Network Agreement meetings):** The Operator shall arrange daily meetings, weekly operations meetings and monthly meetings of the Operator and the Access Provider for the purposes of, and in accordance with, clause 7.22 of the Wellington Network Agreement. The Operator shall ensure that each such meeting is attended by appropriate representatives of the Operator who have reasonable knowledge of the matters which are to be considered at that meeting. At the request of GWRC, the Operator shall promptly provide details of the timing and location for any such meeting and representatives of GWRC may (but are not obliged) to attend such meetings. Promptly following each such meeting, the Operator shall provide GWRC with a copy of the minutes, actions and other key points arising from that meeting.
- 4.2 GWRC shall be responsible for arranging the meetings agreed in the annual meeting plan in the current Year's Annual Business Plan as referred to in paragraph 2.6.
- 4.3 The Wellington Regional Public Transport Forum shall be convened and facilitated by GWRC in accordance with the provisions set out in the Regional Agreement. Each Party shall ensure that each Wellington Regional Public Transport Forum is attended by appropriate individuals nominated by that Party's Authorised Representative who have reasonable knowledge of the matters which are to be considered at that meeting.

Performance review meetings

- 4.4 GWRC may request performance review meetings with the Operator from time to time for the purpose of enabling GWRC to conduct periodic reviews of:
 - 4.4.1 the operational performance of the Scheduled Services;
 - 4.4.2 the operational performance of any aspect of the Passenger Services;

- 4.4.3 the operational performance of any aspect of the Vehicle Services;
 - 4.4.4 any matter referred to in Schedule 6 (*Financial and Performance Regime*); or
 - 4.4.5 any other obligation of the Operator under this Partnering Contract or any other Transaction Document.
- 4.5 Provided that GWRC has given not less than 3 Business Days' notice of any meeting to be held pursuant to paragraph 4.4, the Operator shall ensure that it is represented at each such meeting in accordance with the requirements of paragraph 4.6.
- 4.6 Both the Operator and GWRC shall ensure that the persons attending any performance review meetings requested by GWRC under paragraph 4.4 are of appropriate seniority and responsibility and include those senior managers or such other individuals in governance roles that are reasonably requested by each of the Parties to be in attendance at such meetings.
- 4.7 If requested to do so by GWRC, the Operator shall prepare and present reports at the performance review meetings in respect of those aspects of its performance reasonably requested by GWRC.

Minutes of meetings

- 4.8 Minutes of the actions and other key points arising from the meetings (including teleconferences and video conferences) described at paragraphs 4.1 to 4.4 shall be:
- 4.8.1 prepared by the nominated chairperson of each meeting; and
 - 4.8.2 provided to each of the individuals attending the meetings and to each of the Authorised Representatives as soon as reasonably practicable following the conclusion of the meeting.

5 Plans

Compliance and implementation

- 5.1 The Operator shall perform its obligations under and give effect to, and procure that the Vehicle Services Subcontractor complies with and gives effect to, each of the Plans during the Year to which that Plan relates.

Updating the Plans

- 5.2 The Parties acknowledge that the initial versions of the Plans are to be included in the Initial Annual Business Plan. Subsequent versions of the Plans shall be prepared in accordance with this paragraph 5 and shall form part four of the Annual Business Plan.
- 5.3 On or before 1 February in each Year, the Operator shall provide to GWRC updated drafts of the Plans that the Operator proposes shall apply during the forthcoming Year, highlighting any material changes to the Plans which applied during the previous Year.

- 5.4 The Operator shall ensure that each draft Plan provided by it pursuant to this paragraph 5 shall:
- 5.4.1 comply with and be prepared in accordance with the relevant paragraph of Appendix 1 (*Plans*);
 - 5.4.2 be consistent with and have due regard to the other parts of the draft Annual Business Plan which the GWRC and the Operator are in the process of developing and approving for the forthcoming Year (including any financial forecast prepared by the Operator and contained therein);
 - 5.4.3 include the contribution of the Vehicle Services Subcontractor to the extent relevant; and
 - 5.4.4 include a brief explanation as to why any material changes have been proposed to the Plans which applied during the previous Year.
- 5.5 The Operator shall promptly provide such information as GWRC may reasonably require in connection with any draft Plan submitted by the Operator under paragraph 5.3.

Review and confirmation by GWRC

- 5.6 Within 30 Business Days of receipt by GWRC of the updated draft Plans, GWRC may either:
- 5.6.1 acting reasonably, provide written comments to the Operator in respect of the updated draft Plans; or
 - 5.6.2 notify the Operator that it has no comments on the draft Plan.
- 5.7 If GWRC provides comments on any of the draft Plans pursuant to paragraph 5.6.1, the Operator shall promptly amend the relevant draft Plans to reflect such comments and resubmit the amended draft copy to GWRC, in which event paragraphs 5.6 to 5.8 shall reapply.
- 5.8 If GWRC has not provided any comments within 30 Business Days of receipt by GWRC of the updated draft Plans in accordance with paragraph 5.6 (including after the draft Plan has been resubmitted under paragraph 5.7), GWRC shall be deemed to have notified the Operator that it has no comments on the draft Plan.
- 5.9 If GWRC has notified the Operator in accordance with paragraph 5.6.2, or is deemed to have so notified the Operator pursuant to paragraph 5.8, the Plan shall be considered the final Plan for inclusion in the Annual Business Plan for the forthcoming Year.

Changes only effective if process followed

- 5.10 Any changes to a Plan shall only be effective if:
- 5.10.1 the Operator has followed and completed the process set out in paragraphs 5.6 to 5.9 above; or

- 5.10.2 a Plan has been updated, amended or replaced in accordance with any other express provision of this Partnering Contract relating thereto.
- 5.11 Except to the extent that changes to a Plan are effected in accordance with paragraph 5.10, the Operator shall not otherwise implement such changes (and the changed or new document shall not constitute a "Plan" for the purposes of this Partnering Contract).

Appendix 1 – Plans

- 1.1 The Operator shall prepare each of the Plans in accordance with the applicable requirements of this Appendix 1.
- 1.2 The initial versions of the Plans are to be set out in part four of the Initial Annual Business Plan. For the purposes of interpreting this Appendix 1 in the context of the Plans contained in the Initial Annual Business Plan, references in this Appendix 1 to the "forthcoming Year" shall be deemed to mean each Year or part Year falling within the period during which the Initial Business Plan is to apply (as contemplated by clause 26.1).
- 1.3 The Plans shall comprise:
- 1.3.1 **(Special Events Plan)**: the Special Events Plan for the forthcoming Year;
 - 1.3.2 **(Alternative Transport Plan)**: a plan setting out how the Operator will provide or procure alternative transport arrangements in the forthcoming Year to replace Scheduled Services or Special Event Services which are disrupted by Planned Disruptions or Unplanned Disruptions in accordance with the Operator's obligations under Schedule 3 (*Passenger Services*);
 - 1.3.3 **(Vehicle, Depot Facilities and Related Asset Management Plan)**: a plan setting out how the Operator shall deliver the Vehicle Services and maintain the Maintained Assets, which plan shall include, as a minimum, the following:
 - (a) for the forthcoming Year:
 - (i) details of any key reliability improvement initiatives to be undertaken by the Operator;
 - (ii) details of any key maintenance improvement initiatives to be undertaken by the Operator; and
 - (iii) details of the planned overhaul or refurbishment activities to be undertaken by the Operator in the forthcoming Year in respect of the Maintained Assets (excluding the Vehicles); and
 - (b) for the next ten Years, an outline indication from the Operator's perspective of the likely timing of any Capital Expenditure required to be incurred by GWRC or GWRL in respect of the Vehicles, Depot Facilities or EMU Depot Plant and Equipment and the reason why such Capital Expenditure is necessary (including Capital Expenditure related to mid-life refurbishment, life extension, replacements or acquisition of new or additional assets), in each case to the extent that the activities associated with such Capital Expenditure fall

outside the scope of the Operator's obligations under this Partnering Contract;

- 1.3.4 **(Security Management Plan)**: a plan setting out the Operator's proposals in respect of security management for the forthcoming Year, which plan shall include, as a minimum, those matters specified in paragraph 7.4 of Annexure 4 (*Security Service Specification*);
- 1.3.5 **(Health and Safety Management Plan)**: a health and safety management plan specific to the Services in respect of the forthcoming Year, in a format agreed by the Operator and GWRC and which includes the matters set out at clause 42.6;
- 1.3.6 **(Risk Management Plan)**: a risk management plan comprising as a minimum:
- (a) a plan setting out the Operator's risk management processes for managing all types of risk, including:
 - (i) risk management governance structures, including escalation and notification to relevant third parties and authorities;
 - (ii) recording, classification and monitoring of risk; and
 - (iii) processes and timetables for reviewing, updating and disseminating risk registers; and
 - (b) a completed risk register which:
 - (i) adheres to a methodology which is at least as comprehensive as that detailed in NRSS 4 (as updated from time to time);
 - (ii) complies with Safety Law;
 - (iii) is prepared in accordance with Good Industry Practice; and
 - (iv) covers the following types of risk as a minimum:
 - strategic risk
 - public safety risk;
 - operational risk;
 - reputational risk;
 - financial risk; and
 - commercial risk;
- 1.3.7 **(Staff Training Plan)**: a plan setting out how the Operator shall ensure that all staff of the Operator or any Operator Associate involved in the

provision of any part of the Services are appropriately trained and qualified during the forthcoming Year, including as a minimum:

- (a) outline of systems and process used to:
 - (i) train new staff, including:
 - outline key competencies / training requirements for each key staff discipline (i.e. drivers, on board staff, maintenance staff, etc.);
 - detail how these competencies are to be obtained;
 - timeframes to achieve competencies;
 - assessment criteria;
 - people responsible for the delivering and/or assessment of each competency; and
 - (ii) train existing staff, including:
 - process to assess, monitor and develop staff key competencies for each key staff discipline;
 - process for carrying out a training needs analysis;
 - assessment criteria and method;
 - people responsible for the delivering and/or assessment of each competency;
- (b) outline of process to maintain training records, and illustrate currency of certification and illustrate skills gaps; and
- (c) outline of significant training needs for forthcoming Year;

1.3.8 **(Emergency Management and Incident Response Plan)**: a plan setting out how the Operator will manage and respond to emergencies and incidents affecting the Services or the Wellington Rail Network in the forthcoming Year, such plan to address the requirements of NRSS 5 (*Occurrence Management*) (as updated from time to time) and to include as a minimum:

- (a) identification of the types of emergencies and incidents that may arise, including in respect of each:
 - (i) an impact assessment;
 - (ii) details of warning systems that will be implemented and actions that will be taken by the Operator to mitigate the impact of that emergency or incident;

- (iii) the emergency management and incident response team, including the "Incident Controller" under NRSS 5 (as updated from time to time);
 - (iv) key response tasks;
 - (v) responsibilities of each team member;
 - (vi) contact details for team members (for both during and out of office hours);
 - (vii) the communications plan that will be implemented by the Operator (internally and externally including in respect of customers); and
 - (viii) the customer response plan that will be implemented by the Operator;
- (b) the arrangements for publication and awareness of the plan;
- (c) the Operator's emergency and incident governance and management structures, including:
- (i) responsibilities of team members;
 - (ii) descriptions of key functions and skills; and
 - (iii) coordination with others affected, including the respective roles and responsibilities of the Operator, GWRC, KiwiRail, the Transport Accident Investigation Commission (TAIC), the New Zealand Fire Service, the Wellington Region Emergency Management Group (WREMO), the New Zealand Police and any other relevant emergency services in the Wellington region;
- (d) details of emergency supplies and first aid equipment held by the Operator, including:
- (i) nature of equipment and supplies;
 - (ii) storage location; and
 - (iii) arrangements for keeping such equipment and supplies fully stocked and up to date;
- (e) description of interface with the Business Continuity Plan;
- (f) staff response plan;
- (g) post emergency/incident assessment; and
- (h) process for reviewing and updating the plan (including timeframes);

- 1.3.9 **(Quality Assurance Plan)**: a quality assurance plan detailing the quality assurance procedures that shall be implemented by the Operator in respect of the Services in the forthcoming Year in accordance with Good Industry Practice and the Quality Management System (including details of the activities that the Operator shall undertake to ensure continuous improvement in relation to quality assurance and any internal or external audits that will be undertaken in relation to quality assurance matters);
- 1.3.10 **(Environmental Management Plan)**: a plan detailing the environmental management procedures that shall be implemented by the Operator in respect of the Services in the forthcoming Year in accordance with Good Industry Practice and the Environmental Management System (including details of the activities that the Operator shall undertake to ensure continuous improvement in relation to environmental management and any internal or external audits that will be undertaken in relation to environmental management matters);
- 1.3.11 **(Business Continuity Plan)**: a plan setting out the business continuity processes that shall be implemented by the Operator in the forthcoming Year in accordance with Good Industry Practice in the event of incidents affecting the Operator's business or the performance of the Services;
- 1.3.12 **(Revenue Protection Plan)**: a plan detailing the revenue protection procedures that shall be implemented by the Operator in respect of the Scheduled Services and Special Event Services in the forthcoming Year in order to reduce the number of Ticket Offences, such plan to:
- (a) be in accordance with Good Industry Practice;
 - (b) in respect of IFT Phase Two only, reflect and be consistent with the GWRC Revenue Protection Strategy; and
 - (c) include as a minimum:
 - (i) proposed number of revenue protection officers;
 - (ii) revenue protection staff deployment strategy;
 - (iii) minimum number of ticket inspections to be carried out in the period;
 - (iv) proposed actions to be taken to address specific revenue protection issues; and
 - (v) on and from the ETS Implementation Date, the proposed manner of using the Operator IFT System Equipment to undertake revenue protection activities; and

- 1.3.13 (**Workplace Management Plan**): a plan detailing the workplace relations management practices and procedures that shall be implemented by the Operator in the forthcoming Year, such plan to:
- (a) be in accordance with Good Industry Practice; and
 - (b) include as a minimum:
 - (i) details of the organisational structure and governance arrangements of the Operator and the Vehicle Services Subcontractor and the interface between them; and
 - (ii) details of the Operator's and Vehicle Services Subcontractor's approach to managing their relationship with employees and relevant unions.

Appendix 2 - Financial forecasts

1 Financial forecasts to be prepared by the Operator

1.1 The Operator shall prepare:

1.1.1 a financial forecast for the forthcoming Year (prepared on a monthly and an annual basis) and a financial forecast for each subsequent Year of the Term including the Extension Period (prepared on an annual basis) in the format attached at Appendix 3 (*Financial Forecast Template*), in each case broken down by:

- (a) the forecast Passenger Services Fee;
- (b) the forecast Vehicle Services Fee;
- (c) the forecast Additional Vehicle Services Fee broken down into each component referred to in paragraph 4 (*Calculation of Additional Vehicle Services Fee*) of Schedule 6 (*Financial and Performance Regime*) in regard to Exceptional Repair Work, Heavy Maintenance Services and GWRC funded Additional Modification Services and which shall, in the case of payments in respect of the Heavy Maintenance Services, be in accordance with the applicable Annual Heavy Maintenance Budget and the Overall Heavy Maintenance Budget;
- (d) the forecast Special Event Services Fee (which shall be consistent with the applicable Special Events Plan);
- (e) the forecast Vehicle Availability Payment;
- (f) the forecast Alternative Transport Fee, which shall include additional information to show:
 - (i) the total forecast costs that the Operator expects to incur in the relevant period in the provision or procurement of alternative transport arrangements in accordance with paragraph 3.12 of Schedule 3 to replace Scheduled Services or Special Event Services disrupted by Unplanned Disruptions;
 - (ii) subject and without prejudice to the provisions of Schedule 3 and to satisfaction of the relevant conditions set out in paragraph 12 (*Calculation of Alternative Transport Fee*) of Schedule 6, the amount of such total forecast costs that the Operator expects to invoice to GWRC as the Alternative Transport Fee calculated in accordance with paragraph 12 of Schedule 6; and

- (iii) the amount of such total forecast costs that the Operator expects to meet itself: (1) due to Unplanned Disruptions that are attributable to the fault of the Operator or an Operator Associate; or (2) otherwise in accordance with paragraph 3.22.2 of Schedule 3;
 - (g) the forecast Locomotive Services Fee;
 - (h) the forecast Performance Deductions;
 - (i) the forecast Reporting Failure Deductions;
 - (j) the forecast Customer Satisfaction Payment;
 - (k) the forecast Performance Payments;
 - (l) the forecast FIM Adjustment; and
 - (m) to the extent known or reasonably likely and reasonably capable of calculation, the forecast payments to be made by GWRC in respect of NFI Events in accordance with Schedule 16 or any forecast increase or decrease to the Services Fee in respect of NFI Events in accordance with Schedule 16;
- 1.1.2 subject and without prejudice to paragraphs 3.15 and 3.16 of Schedule 3, a financial forecast for the forthcoming Year (prepared on a monthly and an annual basis) and a financial forecast for each subsequent Year of the Term including the Extension Period (prepared on an annual basis), setting out the total costs the Operator estimates that it will reasonably incur in the relevant period in the provision or procurement of alternative transport arrangements in accordance with paragraph 3.11 of Schedule 3 to replace Scheduled Services or Special Event Services disrupted by Planned Disruptions, such forecasts to be prepared in accordance with paragraphs 3.18 and 3.19 of Schedule 3 and broken down to show:
- (a) the amount of such forecast costs that the Operator will be entitled to recover from the Access Provider in accordance with the Wellington Network Agreement (as contemplated by paragraph 3.20 of Schedule 3); and
 - (b) the amount of such forecast costs that the Access Provider will be entitled to recover in accordance with the Wellington Network Agreement from:
 - (i) GWRC (under the Wellington Network Agreement as part of the GWRC Budget);
 - (ii) the Crown or any other Governmental Entity in connection with Catch-up Renewal Services (as defined in the Wellington Network Agreement) as contemplated by clauses 6.9 and 6.10 of the

Wellington Network Agreement or otherwise under the Wellington Network Budget; and

- (iii) other rail operators;
- 1.1.3 a description of the assumptions and the key risks underpinning each of the forecasts provided under paragraphs 1.1.1 and 1.1.2;
- 1.1.4 details of any additional revenue generating services or facilities (if any) which the Operator proposes to provide in connection with the Services, setting out:
- (a) a full description of the proposed services or facilities;
 - (b) details of any modifications or alterations to the Vehicles which will be necessary to implement the proposal, including:
 - (i) the estimated costs of such modifications or alterations;
 - (ii) confirmation as to whether the Operator will fund such modifications and alterations itself in accordance with paragraph 5 (*Operator funded Approved Modification Services*) of Schedule 4 or whether the Operator will require GWRC to fund such modifications and alterations pursuant to paragraph 15 (*GWRC funded Additional Modification Services*) of Schedule 4; and
 - (iii) any further information in respect of such modifications and alterations required pursuant to paragraph 5 (*Operator funded Approved Modification Services*) of Schedule 4 or paragraph 15 (*GWRC funded Additional Modification Services*) of Schedule 4 (as applicable);
 - (c) the effect (if any) that implementation of the proposal will have on:
 - (i) the Operator's ability to achieve or meet the requirements of the Reliability KPI or the Punctuality KPI or to achieve the PI Achieve Benchmarks;
 - (ii) the Operator's ability to perform its obligations in accordance with the Transaction Documents;
 - (iii) the safe and lawful operation of passenger services on the Wellington Rail Network; or
 - (iv) any warranty or guarantee (including any claim thereunder) given by a supplier or manufacturer in relation to any Vehicle, GWRC System, GWRC Asset, GWRC System, Spare, Rotable Item, Special Tool,

General Tool, EMU Depot Plant and Equipment or any of the other assets or systems described at clause 12.1 (to the extent that the terms of such warranty or guarantee have been provided to the Operator by any person) or on any other obligations or liabilities of such supplier or manufacturer (to the extent that the Operator has been made aware of the same);

- (d) the Operator's proposals in respect of the charges that will be payable by users of the proposed services or facilities;
- (e) the Operator's reasonable estimate of the income that will be received by the Operator or any Operator Associate during the remainder of the Term from charges paid by users of the proposed services or facilities;
- (f) the Operator's reasonable estimate of the costs that will be incurred by it in providing the relevant services or facilities for the remainder of the Term; and
- (g) the Operator's proposals in respect of the times at which it shall calculate the Aggregate Approved Revenue Service Profit Amount and make payments to GWRC pursuant to clause 48.28, including its proposed definition of Relevant Period for these purposes; and

1.1.5 details of any initiatives which the Operator wishes to propose with the objective of increasing Actual Patronage (including any associated temporary increase in the Shadow Fare or other associated changes to the FIM), to the extent that the Operator is entitled to propose such initiatives pursuant to paragraph 10.8 (*Operator Initiatives*) of Schedule 6, including:

- (a) the estimated aggregate costs that will be incurred and funded by the Operator in connection with the implementation of such initiative;
- (b) the estimated aggregate costs that will be incurred and funded by GWRC in connection with the implementation of such initiative;
- (c) the estimated increase in Actual Patronage that will arise as a result of the implementation of the initiative;
- (d) the estimated net effect of the implementation of the initiative on Farebox Revenue and any other income streams accruing to the Operator, GWRC or GWRL;

- (e) the estimated effect that the implementation of the initiative will have on the operation of the FIM (including the amount of the FIM Adjustment); and
- (f) the effect (if any) that implementation of the proposal will have on:
 - (i) the Operator's ability to achieve or meet the requirements of the Reliability KPI or the Punctuality KPI or to achieve the PI Achieve Benchmarks;
 - (ii) the Operator's ability to perform its obligations in accordance with the Transaction Documents;
 - (iii) the safe and lawful operation of passenger services on the Wellington Rail Network; or
 - (iv) any warranty or guarantee (including any claim thereunder) given by a supplier or manufacturer in relation to any Vehicle, GWRC System, GWRC Asset, GWRL System, Spare, Rotable Item, Special Tool, General Tool, EMU Depot Plant and Equipment or any of the other assets or systems described at clause 12.1 (to the extent that the terms of such warranty or guarantee have been provided to the Operator by any person) or on any other obligations or liabilities of such supplier or manufacturer (to the extent that the Operator has been made aware of the same).

Appendix 3 - Financial Forecast Template

Annual Business Plan - Financial Forecast Template (see Appendix 3 of Schedule 5 to Draft Contract)

As at DD MMM YYYY

All figures to be expressed in \$000's

	Next Financial Year												Financial Year																
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Current year	Next year	+2	+3	+4	+5	+6	+7	+8	+9	+10	+11	+12	+13	+14	+15	
GWRC Services Fee																													
<u>Operational Fee's</u>																													
Passenger Services Fee																													
Rail Unit Timetable Changes																													
Special Event Services Fee																													
Alternative Transport Fee																													
Subtotal																													
<u>Performance Deductions</u>																													
Performance Deductions - Reliability KPI																													
Performance Deductions - Punctuality KPI																													
Reporting Failure Deductions																													
Subtotal																													
<u>Performance Payments</u>																													
Customer Satisfaction Payment																													
Performance Payment																													
Subtotal																													
<u>FIM</u>																													
FIMA																													
FIMD																													
Subtotal																													
<u>Availability Payment</u>																													
Vehicle Availability Payment																													
Subtotal																													
<u>Vehicle Fee's</u>																													
Vehicle Services Fee																													
Exceptional Repair Work																													
Heavy Maintenance Services																													
GWRC Funded Additional Modification Services																													
Subtotal																													
<u>Locomotive Services Fee</u>																													
[Locomotives]																													
[Locomotive special events]																													
[Diesel]																													
[Shunt services]																													
Subtotal																													
Total ex-GST																													
GST																													
Total incl-GST																													

Alternative transport recovery

Unplanned

Operators share

Recovered from Access Provider

Recovered from GWRC

Subtotal

Planned

Operators share

Recovered from Access Provider

Subtotal

Total ex-GST

GST

Total incl-GST

Notes;

Sufficient detail must be provided by the Operator to understand what is driving each line

Assumptions used by the operator need to be stated

Forecast to be provided through to the end of the contract term + extension. No forecasting is required beyond the contract term

All figures to be in next financial year \$ values (ie not indexed for future years)

Schedule 6

Financial and Performance Regime

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1 Services Fee

1.1 The Services Fee comprises:

1.1.1 the following monthly amounts:

- (a) the Passenger Services Fee;
- (b) the Vehicle Services Fee;
- (c) the Additional Vehicle Services Fee;
- (d) the Special Event Services Fee;
- (e) the Vehicle Availability Payment;
- (f) the Alternative Transport Fee;
- (g) the Locomotive Services Fee;

less (subject to clause 45.1 (*GWRC's and GWRL's rights of set off*)):

- (h) Performance Deductions in relation to the Reliability KPI and the Punctuality KPI;
- (i) Reporting Failure Deductions;

1.1.2 the following half yearly amounts:

- (a) the Customer Satisfaction Payment; and
- (b) the Performance Payment; and

1.1.3 the FIM Adjustment annually.

1.2 The formula for calculating the Services Fee for each Relevant Month (*rm*) during the Term is as follows:

$$\text{Services Fee}_{rm} = PSF_{rm} + VSF_{rm} + AVSF_{rm} + SESF_{rm} + VAP_{rm} + ATF_{rm} + LSF_{rm} - PD_{rm} - RFD_{rm} + CSP_{rm} + PP_{rm} + FIMA - FIMD$$

Where:

- 1.2.1 PSF_{rm} is the Passenger Services Fee in respect of the Relevant Month, calculated in accordance with paragraph 2 (*Calculation of the Passenger Services Fee*);
- 1.2.2 VSF_{rm} is the Vehicle Services Fee payable in respect of the Relevant Month calculated in accordance with paragraph 3 (*Calculation of the Vehicle Services Fee*);
- 1.2.3 $AVSF_{rm}$ is the Additional Vehicle Services Fee (if any) payable in respect of the Relevant Month calculated in accordance with paragraph 4 (*Calculation of the Additional Services Fee*);

- 1.2.4 $SESF_{rm}$ is the Special Event Services Fee (if any) in respect of the Relevant Month, calculated in accordance with paragraph 5 (*Calculation of Special Event Services Fee*);
- 1.2.5 VAP_{rm} is the Vehicle Availability Payment in respect of the Relevant Month, calculated in accordance with paragraph 11 (*Calculation of Vehicle Availability Payment*);
- 1.2.6 ATF_{rm} is the Alternative Transport Fee in respect of the Relevant Month, calculated in accordance with paragraph 12 (*Calculation of Alternative Transport Fee*);
- 1.2.7 LSF_{rm} is the Locomotive Services Fee in respect of the Relevant Month, calculated in accordance with paragraph 13 (*Calculation of Locomotive Services Fee*);
- 1.2.8 PD_{rm} is the aggregate of all Performance Deductions incurred in respect of Scheduled Services during the Relevant Month, calculated in accordance with paragraph 6 (*Calculation of Performance Deductions*);
- 1.2.9 RFD_{rm} is the aggregate of any Reporting Failure Deductions to be deducted from the relevant payment in accordance with paragraph 7.4 (*Calculation of Reporting Failure Deductions*);
- 1.2.10 CSP_{rm} is the Customer Satisfaction Payment which:
- (a) in respect of each Relevant Month falling after the month in which the Surveying Organisation provides the results of a Customer Satisfaction Survey (excluding the Base Customer Satisfaction Surveys) pursuant to Annexure 9 (*Customer Satisfaction Survey*) is the amount (if any) payable in accordance with paragraph 8.2 (*Customer Satisfaction Payments*) in respect of that Customer Satisfaction Survey; and
 - (b) otherwise, is zero;
- 1.2.11 PP_{rm} is the Performance Payment which:
- (a) in relation to the last Relevant Month falling in any Half Year, is the aggregate amount (if any) to which the Operator is entitled under paragraph 9.5 (*Operator's entitlement to payment*); and
 - (b) in relation to all other Relevant Months, is zero.
- 1.2.12 $FIMA$ is the FIM Adjustment in respect of any FIM Calculation Year in respect of which there is a Patronage Excess which:
- (a) in relation to the Relevant Month falling after the Relevant Month in which notice is served under paragraph 10.2 (*Notice of Actual Patronage*) where there has been a Patronage Excess in the relevant FIM Calculation Year, is the amount of any FIM

Adjustment to which the Operator is entitled under paragraph 10.5 (*Payment*); and

(b) in relation to all other Relevant Months, is zero; and

1.2.13 *FIMD* is the FIM Adjustment in respect of any FIM Calculation Year in respect of which there is a Patronage Shortfall which:

(a) in relation to the Relevant Month falling after the Relevant Month in which notice is served under paragraph 10.2 (*Notice of Actual Patronage*) where there has been a Patronage Shortfall in the relevant FIM Calculation Year, is the amount of any FIM Adjustment to be set off from the Services Fee under paragraph 10.6.2 (*Payment*); and

(b) in relation to all other Relevant Months, is zero.

2 Calculation of the Passenger Services Fee

2.1 The Passenger Services Fee in respect of a Relevant Month (PSF_{rm}) (excluding the Relevant Month in which the ETS Implementation Date or the RS1 Project Phase Three Commencement Date occurs) shall be calculated as follows:

$$PSF_{rm} = PSF_p \times \frac{PR}{12}$$

Where:

2.1.1 PSF_p is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 2.2 below; and

2.1.2 $PR = 1$ unless the Relevant Month is less than a full calendar month in which case $PR = \frac{NDRM}{NDRP}$

Where:

2.1.3 $NDRM$ is the number of days in the Relevant Month; and

2.1.4 $NDRP$ is the number of days in that calendar month.

2.2 For the purposes of paragraph 2.1, the relevant columns of the Services Fees Table shall be:

2.2.1 at any time up to (but excluding) the occurrence of either the ETS Implementation Date or the RS1 Project Phase Three Commencement Date, the column of the Services Fees Table headed "Initial Passenger Services Fee";

2.2.2 if the ETS Implementation Date occurs prior to the RS1 Project Phase Three Commencement Date, in the period from and including the ETS

Implementation Date up to but excluding the RS1 Project Phase Three Commencement Date, the column of the Services Fees Table headed "Passenger Services Fee - IFT Programme Pre Priced Option";

2.2.3 if the RS1 Project Phase Three Commencement Date occurs prior to the ETS Implementation Date, in the period from and including the RS1 Project Phase Three Commencement Date up to but excluding the ETS Implementation Date, the column of the Services Fees Table headed "Passenger Services Fee - RS1 Project Pre Priced Option"; and

2.2.4 if both the RS1 Project Phase Three Commencement Date and the ETS Implementation Date have occurred, with effect from and including the last of the RS1 Project Phase Three Commencement Date and the ETS Implementation Date, the column of the Services Fees Table headed "Passenger Services Fee - Both Pre Priced Options".

2.3 The Passenger Services Fee in respect of a Relevant Month (PSF_{rm}) in which the ETS Implementation Date or the RS1 Project Phase Three Commencement Date occurs shall be calculated as follows:

$$PSF_{rm} = (PSF_a \times \frac{PR_a}{12}) + (PSF_b \times \frac{PR_b}{12})$$

Where:

2.3.1 PSF_a is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 2.2 above for the period prior to the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and

2.3.2 $PR_a = \frac{NDRM_a}{NDRP}$

2.3.3 PSF_b is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 2.2 above for the period from and including the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and

2.3.4 $PR_b = \frac{NDRM_b}{NDRP}$

Where:

2.3.5 $NDRM_a$ is the number of days in the Relevant Month before the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires);

- 2.3.6 $NDRM_b$ is the number of days in the Relevant Month from and including the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and
- 2.3.7 $NDRP$ is the number of days in that calendar month.

3 Calculation of the Vehicle Services Fee

- 3.1 The Vehicle Services Fee in respect of a Relevant Month (VSF_{rm}) (excluding the Relevant Month in which the ETS Implementation Date or the RS1 Project Phase Three Commencement Date occurs) shall be calculated as follows:

$$VSF_{rm} = VSF_p \times \frac{PR}{12}$$

Where:

- 3.1.1 VSF_p is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 3.2 below; and
- 3.1.2 $PR = 1$ unless the Relevant Month is less than a full calendar month in which case $PR = \frac{NDRM}{NDRP}$

Where:

- 3.1.3 $NDRM$ is the number of days in the Relevant Month; and
- 3.1.4 $NDRP$ is the number of days in that calendar month.
- 3.2 For the purposes of paragraph 3.1, the relevant columns of the Services Fees Table shall be:
- 3.2.1 at any time up to (but excluding) the occurrence of either the ETS Implementation Date or the RS1 Project Phase Three Commencement Date, the column of the Services Fees Table headed "Initial Vehicle Services Fee";
- 3.2.2 if the ETS Implementation Date occurs prior to the RS1 Project Phase Three Commencement Date, in the period from and including the ETS Implementation Date up to but excluding the RS1 Project Phase Three Commencement Date, the column of the Services Fees Table headed "Vehicle Services Fee - IFT Programme Pre Priced Option";
- 3.2.3 if the RS1 Project Phase Three Commencement Date occurs prior to the ETS Implementation Date, in the period from and including the RS1 Project Phase Three Commencement Date up to but excluding the ETS Implementation Date, the column of the Services Fees Table headed "Vehicle Services Fee - RS1 Project Pre Priced Option"; and

3.2.4 if both the RS1 Project Phase Three Commencement Date and the ETS Implementation Date have occurred, with effect from and including the last of the RS1 Project Phase Three Commencement Date and the ETS Implementation Date, the column of the Services Fees Table headed "Vehicle Services Fee - Both Pre Priced Options".

3.3 The Vehicle Services Fee in respect of a Relevant Month (VSF_{rm}) in which the ETS Implementation Date or the RS1 Project Phase Three Commencement Date occurs shall be calculated as follows:

$$VSF_{rm} = (VSF_a \times \frac{PR_a}{12}) + (VSF_b \times \frac{PR_b}{12})$$

Where:

3.3.1 VSF_a is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 3.2 above for the period prior to the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and

$$3.3.2 \quad PR_a = \frac{NDRM_a}{NDRP}$$

3.3.3 VSF_b is (subject to Schedule 16 (*Change Events and Net Financial Impact*)) the amount specified in respect of the Period in which the Relevant Month falls, as set out in the relevant column of the Services Fees Table determined in accordance with paragraph 3.2 above for the period from and including the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and

$$3.3.4 \quad PR_b = \frac{NDRM_b}{NDRP}$$

Where:

3.3.5 $NDRM_a$ is the number of days in the Relevant Month before the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires);

3.3.6 $NDRM_b$ is the number of days in the Relevant Month from and including the ETS Implementation Date or the RS1 Project Phase Three Commencement Date (as the context requires); and

3.3.7 $NDRP$ is the number of days in that calendar month.

4 Calculation of the Additional Vehicle Services Fee

4.1 The Additional Vehicle Services Fee in respect of a Relevant Month ($AVSF_{rm}$) is the aggregate of the amounts (if any) payable in respect of the Relevant Month pursuant to:

- 4.1.1 paragraph 13.6 (*Exceptional Repair Work*) of Schedule 4 (*Vehicle Services*);
- 4.1.2 paragraph 14.7 (*Payment in respect of Heavy Maintenance Services*) of Schedule 4 (*Vehicle Services*); and
- 4.1.3 paragraph 15.4 (*GWRC funded Additional Modification Services*) of Schedule 4 (*Vehicle Services*).

5 Calculation of Special Event Services Fee

5.1 Where in a Relevant Month the Operator has provided Special Event Services in accordance with the requirements of paragraph 3.27 (*Special Event Services*) of Schedule 3 (*Passenger Services*), the Special Event Services Fee payable in respect of each such Special Event Service shall, subject to paragraph 3.42 (*Special Event Services Fee - supporting documentation*) of Schedule 3 (*Passenger Services*) be:

$$(RKM \times Rate) + Security Cost$$

Where:

RKM is the aggregate number of additional Revenue Service Kilometres travelled by each Train in order to provide the Special Event Service(s);

Rate is the applicable rate per Revenue Service Kilometre in the table set out in Appendix 2 (*Special Event Services Rates*) of Schedule 6 (*Financial and Performance Regime*); and

Security Cost is, to the extent additional security services are approved by GWRC for the Special Event Service under Schedule 3 (*Passenger Services*) or as part of the Annual Business Plan, the number of person hours for which security personnel are deployed for the Special Event Service multiplied by the rate per hour set out in the table set out in Appendix 2 (*Special Event Services Rates*) of Schedule 6 (*Financial and Performance Regime*).

6 Calculation of Performance Deductions

Introduction and definitions

6.1 The Performance Deductions in respect of a Relevant Month (PD_{rm}) shall be calculated in accordance with this paragraph 6.

6.2 In this Partnering Contract, the following definitions apply unless the context otherwise requires:

Destination	means, in respect of a Scheduled Service, the Station at which that Scheduled Service is to terminate, as indicated in the Rail Unit Timetable.
Intermediate Station	means: (a) in respect of services on the Wairarapa Line, Featherston, Upper Hutt and Waterloo; (b) in respect of services on the Hutt Valley Line, Waterloo; and (c) in respect of services on the Kapiti Line, Porirua.
Off Peak Service	means a Scheduled Service that is not a Peak Service.
Origin	means, in respect of a Scheduled Service, the first Station from which that Scheduled Service is to depart, as indicated in the Rail Unit Timetable.
Peak Service	means a Scheduled Service which: (a) in the case of a Train travelling towards Wellington Station, is scheduled in the Rail Unit Timetable to arrive at its Destination between 06:30 and 09:30 on a Business Day; and (b) in the case of a Train travelling away from Wellington Station, is scheduled in the Rail Unit Timetable to depart Wellington Station between 15:30 and 18:30 on a Business Day.

Reliability KPI

6.3 The Operator shall ensure that:

6.3.1 each Scheduled Service shall:

- (a) depart from its Origin and each Intermediate Station and do so no earlier than 30 seconds before the scheduled time for such departure set out in the Rail Unit Timetable;
- (b) meet the consist size for that Scheduled Service contemplated by the Working Timetable; and
- (c) stop at all Stations at which such Scheduled Service is scheduled to stop, as indicated in the Rail Unit Timetable; or

6.3.2 if a Scheduled Service is replaced by alternative transport arrangements, ensure that such alternative transport:

- (a) departs from the Origin of the replaced Scheduled Service no later than 30 minutes after the scheduled time for the departure

of the replaced Scheduled Service set out in the Rail Unit Timetable;

- (b) provides sufficient capacity to carry all passengers who might reasonably be expected to desire to use such alternative transport in place of the replaced Scheduled Service;
- (c) stop as close as is lawful, safe and reasonably practicable to all Stations at which such Scheduled Service is scheduled to stop, as indicated in the Rail Unit Timetable; and
- (d) complies with the requirements of Schedule 3 (*Passenger Services*) and that the Operator complies with its obligations under Schedule 3 (*Passenger Services*) in respect of the relevant Planned Disruption or Unplanned Disruption.

6.4 The extent to which a Scheduled Service complies with the requirements of the Reliability KPI will be measured by the utilisation of the on-board data system installed on the relevant Vehicles (being the Matangi Telemetry System in respect of those Vehicles comprising the Matangi Fleet and the RTPI System in respect of those Vehicles comprising the Carriage Fleet) or any other on or off-board replacement system nominated from time to time by GWRC or, in the case of alternative transport arrangements, any other available information source, provided that, if the relevant data system does not record the required data in respect of a Scheduled Service as a result of a breach by the Operator of this Partnering Contract or any other act or omission of the Operator or any Operator Associate, then such Scheduled Service shall be deemed not to have met the Reliability KPI.

6.5 Subject to paragraph 6.6 and paragraph 14 (*Excusing Events and Deemed Performance*), unless a Scheduled Service complies with all of the applicable requirements of the Reliability KPI, a Performance Deduction will be incurred in respect of that Scheduled Service, calculated in accordance with the table below:

Line on which relevant Scheduled Service operates	Performance Deduction amount in respect of Peak Service	Performance Deduction amount in respect of Off Peak Service
Johnsonville line		
Kapiti line		
Melling line		
Hutt Valley line		
Wairarapa line		



6.6 In the event that a Scheduled Service has met all of the requirements of the Reliability KPI other than the requirement relating to consist size set out in

paragraph 6.3.1(b), then the Performance Deduction incurred in respect of the Reliability KPI in relation to that Scheduled Service shall be pro-rated down to reflect the extent to which the Scheduled Service did meet such requirements. Such reduction in such Performance Deduction shall be consistent with the examples given below:

- 6.6.1 if compliance with paragraph 6.3.1(b) would have required the Scheduled Service to be operated using three EMUs, but that Scheduled Service was in fact operated using a two EMUs (such that the Scheduled Service was two thirds compliant with the requirement) the Performance Deduction shall be one third of the relevant amount set out in the table at paragraph 6.5; and
- 6.6.2 if compliance with paragraph 6.3.1(b) would have required the Scheduled Service to be operated using two Carriages, but that Scheduled Service was in fact operated using one Carriage (such that the Scheduled Service was half compliant with the requirement), the Performance Deduction shall be one half of the relevant amount set out in the table at paragraph 6.5.

Punctuality KPI

- 6.7 The Operator shall ensure that each Scheduled Service shall arrive at the Destination and each Intermediate Station for that Scheduled Service no later than 5 minutes after the time scheduled in the Rail Unit Timetable for such arrival.
- 6.8 The extent to which a Scheduled Service complies with the requirements of the Punctuality KPI will be measured by the utilisation of the on-board data system installed on the relevant Vehicles (being the Matangi Telemetry System in respect of those Vehicles comprising the Matangi Fleet and the RTPI System in respect of those Vehicles comprising the Carriage Fleet) or any other on or off-board replacement system nominated from time to time by GWRC provided that, if the relevant data system does not record the required data in respect of a Scheduled Service as a result of a breach by the Operator of this Partnering Contract or any other act or omission of the Operator or any Operator Associate, then such Scheduled Service shall be deemed not to have met the Punctuality KPI.
- 6.9 Subject to paragraphs 6.10, 6.11 (*Rules where a Scheduled Service fails to meet more than one requirement*), 6.13A and 6.13B (*Initial relief from Punctuality KPI*) and 14 (*Excusing Events and Deemed Performance*), unless a Scheduled Service complies with all of the requirements of the Punctuality KPI, a Performance Deduction will be incurred in respect of that Scheduled Service, calculated in accordance with the table below:

Difference between scheduled time of arrival of Scheduled Service at Destination or Intermediate Station (as set out in the Rail Unit Timetable) and actual time of such arrival	Performance Deduction amount in respect of Peak Service	Performance Deduction amount in respect of Off Peak Service
≤ 5 minutes		
>5 minutes but ≤ 7 minutes		
> 7 minutes but ≤ 15 minutes		
> 15 minutes		



6.10 Where a Scheduled Service is replaced by the Operator with alternative transport arrangements, then provided the Operator complies with the requirements of Schedule 3 (*Passenger Services*) in respect of such alternative transport and the relevant Planned Disruption or Unplanned Disruption no Performance Deduction will be incurred in respect of any failure by that Scheduled Service to meet the Punctuality KPI.

Rules where a Scheduled Service fails to meet more than one requirement

6.11 Subject to paragraph 6.12, if a Scheduled Service fails to meet a requirement of the Reliability KPI and also fails to meet a requirement of the Punctuality KPI, a Performance Deduction in respect of that Scheduled Service shall be incurred under paragraph 6.5 (*Reliability KPI*) only.

6.12 If a Scheduled Service:

6.12.1 meets all the requirements of the Reliability KPI except the requirement relating to consist size set out in paragraph 6.3.1(b); and

6.12.2 fails to meet a requirement of the Punctuality KPI,
Performance Deductions in respect of that Scheduled Service shall be incurred under both paragraphs 6.6 (*Reliability KPI*) and 6.9 (*Punctuality KPI*).

6.13 If a Scheduled Service fails to meet the Punctuality KPI at more than one Intermediate Station or at its Destination and an Intermediate Station, the Performance Deduction under 6.9 (*Punctuality KPI*) shall be calculated by using the greatest of the differences between the scheduled time of arrival of that Scheduled Service at the relevant station and the actual time of arrival.

Initial relief from Punctuality KPI

6.13A In respect of each Relevant Month from (and including) the first Relevant Month until (and including) the twelfth Relevant Month, a Performance Deduction will not be incurred under paragraph 6.9 (*Punctuality KPI*) in respect of the first x Late Trains in that Relevant Month where:

Late Trains means all Scheduled Services operated during the Relevant Month that meet all the requirements of the Reliability KPI but fail to meet the requirements of the Punctuality KPI;

$$x = \frac{\text{Trains Run}}{10}$$

Trains Run means all Scheduled Services operated during the Relevant Month that meet all the requirements of the Reliability KPI.

6.13B In respect of each Relevant Month from (and including) the thirteenth Relevant Month until (and including) the twenty-fourth Relevant Month, a Performance Deduction will not be incurred under paragraph 6.9 (*Punctuality KPI*) in respect of the first y Late Trains in that Relevant Month where:

Late Trains means all Scheduled Services operated during the Relevant Month that meet all the requirements of the Reliability KPI but fail to meet the requirements of the Punctuality KPI;

$$y = \frac{\text{Trains Run}}{20}$$

Trains Run means all Scheduled Services operated during the Relevant Month that meet all the requirements of the Reliability KPI.

References to a failure to achieve the Reliability KPI or the Punctuality KPI

6.14 References in this Partnering Contract to a failure to achieve the Reliability KPI or the Punctuality KPI (or similar terminology) shall mean a failure by the Scheduled Service to comply with the applicable requirements set out in paragraph 6.3 or paragraph 6.7 (as applicable). For the avoidance of doubt, a failure to comply with a single requirement in either paragraph 6.3 or paragraph 6.7 (as applicable) will be treated as a failure to achieve the Reliability KPI or the Punctuality KPI respectively.


7 Calculation of Reporting Failure Deductions

7.1 Where a Reporting Error is identified by a Party, that Party shall notify the other Parties as soon as reasonably practicable.

7.2 Where a Reporting Error affects the value of the Services Fee, such Reporting Error shall be deemed to be a "**Financial Reporting Error**".

7.3 Where there has been a Financial Reporting Error, then the Operator and GWRC shall promptly seek to resolve the Financial Reporting Error and determine the correct value for the affected Services Fee payment. Within 10 Business Days

following the determination of the correct value for the affected Services Fee payment:




- 7.3.1 if the Financial Reporting Error has resulted in the Operator receiving an overpayment, the Operator shall pay to GWRC an amount equal to the amount by which the Operator has been overpaid; or
 - 7.3.2 if the Financial Reporting Error has resulted in the Operator suffering an underpayment, GWRC shall pay an amount to the Operator equal to the amount by which the Operator has been underpaid.
- 7.4 For each Financial Reporting Error that occurs and results in the Operator receiving an overpayment, GWRC shall be entitled to deduct the sum of [REDACTED] from the next instalment of the Services Fee payable by GWRC. 

8 Customer Satisfaction Payments

Customer Satisfaction Surveys

- 8.1 GWRC shall procure that Customer Satisfaction Surveys shall be carried out by a Surveying Organisation in accordance with Annexure 9 (*Customer Satisfaction Survey*).


Customer Satisfaction Payments

- 8.2 Subject to paragraph 8.3, if the results of any Customer Satisfaction Survey undertaken after the Base Customer Satisfaction Surveys as reported by the Surveying Organisation under paragraph 6.5 of Annexure 9 (*Customer Satisfaction Survey*) demonstrate that the average response (expressed as a percentage to two decimal points) to the questions contained in the Customer Satisfaction Survey:
- 8.2.1 exceeds the then current Customer Satisfaction Threshold but not the average response (expressed as a percentage to two decimal points) to the questions contained in the preceding Customer Satisfaction Survey, the Operator shall be entitled to payment of [REDACTED]; or 
 - 8.2.2 either:
 - (a) is more than 95%; or
 - (b) exceeds the then current Customer Satisfaction Threshold and the average response (expressed as a percentage to two decimal points) to the questions contained in the preceding Customer Satisfaction Survey:
the Operator shall be entitled to payment of [REDACTED] 
- 8.3 The maximum payment which the Operator shall be entitled to (and which GWRC shall be liable for) pursuant to paragraph 8.2 shall not exceed [REDACTED] in any Year. 

9 Calculation of Performance Payments

Definitions

9.1 In this Partnering Contract, the following definitions apply unless the context otherwise requires:

<p>Half Year</p>	<p>means, in respect of each Performance Payment Period, each of the following periods:</p> <p>(a) the period commencing on the first day of the first Relevant Month in that Performance Payment Period and expiring on the last day of the sixth Relevant Month in that Performance Payment Period; or</p> <p>(b) each subsequent period of six Relevant Months in that Performance Payment Period, provided that:</p> <p>(i) in respect of the first Performance Payment Period, the first Half Year shall commence on the Commencement Date and shall expire on 31 December 2016; and</p> <p>(ii) in respect of the last Performance Payment Period, the last Half Year shall end on the Termination Date.</p>
<p>Maximum Half Year Performance Payment Amount</p>	<p>means [REDACTED] multiplied by <i>PR</i></p> <p>where: </p> <p>$PR = 1$ except that in respect of the first Half Year and the last Half Year $PR = \frac{NDRHY}{NDHY}$</p> <p>where:</p> <p><i>NDRHY</i> = the number of days in the relevant Half Year; and</p> <p><i>NDHY</i> = (a) in the case of the first Half Year, the number of days from 1 July to the end of that Half Year and (b) in the case of the last Half Year, the number of days from the day after the end of the previous Half Year to the date falling six calendar months later.</p>
<p>Nominated Performance Indicator</p>	<p>means:</p> <p>(a) in respect of the first Performance Payment Period, those Performance Indicators specified in paragraph 9.4; and</p> <p>(b) in respect of each other Performance Payment Period, the relevant Performance</p>

	Indicators notified by GWRC to the Operator pursuant to paragraph 9.2.
Nominated Performance Payment Amount	<p>means in respect of each Nominated Performance Indicator:</p> <p>(a) during the first Performance Payment Period, the relevant amount specified for that Nominated Performance Indicator in paragraph 9.4; and</p> <p>(b) during each other Performance Payment Period, the relevant amount notified by GWRC to the Operator pursuant to paragraph 9.2.2 as being the maximum Performance Payment payable in connection with that Nominated Performance Indicator.</p>
Performance Payment Period	<p>means each of the following:</p> <p>(a) the period commencing on and including the Commencement Date until and including 30 June 2017; and</p> <p>(b) each subsequent period of 12 months, provided that the last Performance Payment Period shall end on (and including) the Termination Date.</p>

Nominated Performance Indicators and Nominated Performance Payment Amount


9.2 Prior to the start of each Performance Payment Period, GWRC shall notify the Operator in writing of:


9.2.1 up to three Performance Indicators (chosen at the sole discretion of GWRC) which will be the Nominated Performance Indicators for that Performance Payment Period; and

9.2.2 subject to paragraph 9.3, the amount that will be payable by GWRC in accordance with paragraph 9.5 in respect of a Nominated Performance Indicator for each Half Year falling within the relevant Performance Payment Period provided that the conditions in paragraph 9.5 are met.

9.3 The aggregate amount of the Performance Payments available to the Operator in respect of any Half Year shall be the Maximum Half Year Performance Payment Amount. For the avoidance of doubt, the aggregate amount of the Performance Payments payable by GWRC to the Operator in respect of any Half Year shall not exceed the Maximum Half Year Performance Payment Amount.

9.4 Subject to paragraph 9.3, the Nominated Performance Indicators and Nominated Performance Payment Amounts in respect of the first Performance Payment Period are as follows:

9.4.1 Performance Indicator #10 (*Passenger Load Factor - Peak a.m. Service*(set out in Schedule 3 (*Passenger Services*)) with a Nominated Performance Payment Amount of [REDACTED]; 

9.4.2 Performance Indicator #6 (*Number of Planned Maintenance and Heavy Maintenance Checks Undertaken*) (set out in Schedule 4 (*Vehicle Services*)) with a Nominated Performance Payment Amount of [REDACTED]; 

9.4.3 Performance Indicator #9 (*Critical Business and Supplementary Systems*) (set out in Schedule 4 (*Vehicle Services*)) with a Nominated Performance Payment Amount of [REDACTED]. 

Operator's entitlement to payment

9.5 Subject to paragraph 9.3 and paragraph 14 (*Excusing Events and Deemed Performance*), if in each Relevant Month falling within a Half Year the Operator has achieved the PI Achieve Benchmark in respect of a Nominated Performance Indicator, the Operator shall be entitled to payment of the Nominated Performance Payment Amount for that Half Year applicable to that Nominated Performance Indicator.

10 Calculation of the FIM Adjustment

Definitions


10.1 In this paragraph 10, the following definitions apply unless the context otherwise requires:

Actual Patronage	means: (a) in respect of any period falling prior to the ETS Implementation Date, the total number of assumed passenger trips calculated, for each ticket type in the first column of the Assumed Trips Table, by taking the number of tickets of that type sold in that period and multiplying it by the number of trips per ticket specified in the second column of that table for that ticket type; and (b) in respect of any period on or after the ETS Implementation Date, the aggregate of: (i) the total number of assumed passenger trips calculated in respect of all paper tickets sold in that period in accordance with
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	<p>paragraph (a) above to the extent not taken into account under paragraph (ii) below; and</p> <p>(ii) the total number of Valid Trips taken during that period.</p>
Adjusted Actual Patronage	<p>means:</p> <p>a) in all FIM Calculation Years prior to the year in which the ETS Implementation Date occurs $AAP(n) = AP(n) \times AdjFactor$</p> <p>b) in the FIM Calculation Year in which the ETS implementation occurs $AAP(n) = [AP_{BeforeETS} \times AdjFactor] + AP_{AfterETS}$</p> <p>where;</p> <p>$AAP$ = Adjusted Actual Patronage in respect of a FIM Calculation Year;</p> <p>$AdjFactor = [AP_{12MthsAfter} / AP_{12MthsBefore}] / [AP(n-1) / AP(n-4)]^{(1/3)}$;</p> <p>$AP$ = Actual Patronage in respect of a FIM Calculation Year;</p> <p>n = a FIM Calculation Year;</p> <p>$AP_{12MthsAfter}$ = Actual Patronage in respect of the 12 month period immediately after and including the ETS Implementation Date;</p> <p>$AP_{12MthsBefore}$ = Actual Patronage in respect of the 12 month period immediately preceding the ETS Implementation Date;</p> <p>$AP_{BeforeETS}$ = Actual Patronage in the fraction of the FIM Calculation Year prior to the ETS Implementation Date; and</p> <p>$AP_{AfterETS}$ = Actual Patronage in the fraction of the FIM Calculation Year after and including the ETS Implementation Date.</p>
Assumed Trips Table	<p>means the table set out in Appendix 4 to this Schedule 6, as updated from time to time by GWRC pursuant to paragraph 10.3 (<i>Changes to ticket types</i>) of this Schedule 6.</p>
ETS Patronage Measurement	<p>means that the ETS Implementation Date has occurred and in the 12 month period following the ETS</p>

<p>Adjustment</p>	<p>Implementation Date, Actual Patronage is more than 103% or less than 97% of the Actual Patronage recorded in the prior 12 months;</p>
<p>FIM Adjustment</p>	<p>means:</p> <p>(a) in respect of any FIM Calculation Year where there is a Patronage Excess, the product of the following calculation:</p> <p style="text-align: center;"><i>FIM Adjustment = Patronage Excess x Shadow Fare;</i> and</p> <p>(b) in respect of any FIM Calculation Year where there is a Patronage Shortfall, the product of the following calculation:</p> <p style="text-align: center;"><i>FIM Adjustment = Patronage Shortfall x Shadow Fare.</i></p>
<p>FIM Cap</p>	<p>means:</p> <p>(a) in respect of the FIM Calculation Year in which the Commencement Date occurs, [REDACTED] multiplied by:</p> $\frac{d}{365}$ <p>where <i>d</i> equals the number of days from and including the Commencement Date until and including the last day of that FIM Calculation Year;</p> <p>(b) in respect of the FIM Calculation Year in which the Termination Date occurs, [REDACTED] multiplied by:</p> $\frac{d}{365}$ <p>where <i>d</i> equals the number of days from and including the first day of that FIM Calculation Year until and including the Termination Date; and</p> <p>(c) in respect of each other FIM Calculation Year, [REDACTED].</p>
<p>FIM Collar</p>	<p>means:</p> <p>(a) in respect of the FIM Calculation Year in which the Commencement Date occurs, [REDACTED] multiplied by:</p> $\frac{d}{365}$ <p>where <i>d</i> equals the number of days from and including the Commencement Date until and including the last day of that FIM Calculation Year;</p> <p>(b) in respect of the FIM Calculation Year in which</p>

	<p>the Termination Date occurs, [REDACTED] multiplied by:</p> $\frac{d}{365}$ <p>where d equals the number of days from and including the first day of that FIM Calculation Year until and including the Termination Date; and</p> <p>(b) in respect of each other FIM Calculation Year, [REDACTED]</p>
<p>FIM Calculation Year</p>	<p>means:</p> <p>(a) the one year period ending on 30 June 2016 and each prior one year period; and</p> <p>(b) each period of one year commencing on (and including) 1 July 2016 or any anniversary thereof.</p>
<p>FIM Objectives</p>	<p>means the provision of a mechanism which:</p> <p>(a) incentivises GWRC and the Operator to collaborate to grow patronage on and fare revenue from the Wellington Rail Network;</p> <p>(b) takes account of the characteristics particular to the Services and the Wellington Rail Network;</p> <p>(c) is simple to apply and administer; and</p> <p>(d) contributes to value for money.</p>
<p>Patronage Excess</p>	<p>means, in respect of any FIM Calculation Year, the amount (if any) by which the Actual Patronage exceeds the Patronage Projection.</p>
<p>Patronage Projection</p>	<p>means, subject to paragraph 10.4 (<i>ETS Patronage Measurement Adjustment</i>) of this Schedule 6 (Financial and Performance Regime):</p> <p>(a) for the FIM Calculation Year in which the Commencement Date falls or the FIM Calculation Year after the ETS Implementation Date falls:</p> $PP(n) = AP(n-1) \times [AP(n-1)/AP(n-4)]^{1/3}$ <p>(b) for each other FIM Calculation Year, the number calculated in accordance with the formula below:</p>

	$PP(n) = PP(n-1) \times [AP(n-1)/AP(n-4)]^{1/3}$ <p>where:</p> <p><i>PP</i> = the Patronage Projection;</p> <p><i>n</i> = a FIM Calculation Year; and</p> <p><i>AP</i> = the Actual Patronage in respect of a FIM Calculation Year, provided that if the ETS Patronage Measurement Adjustment occurs this shall be adjusted in accordance with paragraph 10.4.</p>
Patronage Shortfall	means, in respect of any FIM Calculation Year, the amount (if any) by which the Actual Patronage falls below the Patronage Projection.
Shadow Fare	means, subject to paragraph 10.9 (<i>Operator Initiatives</i>), [REDACTED]. 
Valid Trip	means each trip made by a passenger (excluding Operator and Operator Associate staff travel) on the Wellington Rail Network using the IFT System as evidenced by that passenger having tagged on at a Station.

Notice of Actual Patronage

10.2 Within 60 days following the last day of each FIM Calculation Year where part of that FIM Calculation Year falls within the Term, GWRC shall serve on the Operator a notice (certified by GWRC's Authorised Representative as being true, accurate and complete to the best of his or her knowledge) containing details for that FIM Calculation Year of the Actual Patronage and a calculation of the Patronage Shortfall or Patronage Excess.

Changes to ticket types

10.3 If GWRC:

10.3.1 makes any change to any of the ticket types specified in the first column of the Assumed Trips Table such that the number of trips which a passenger holding such a ticket is permitted to make with that ticket increases or decreases; or

10.3.2 GWRC introduces a new ticket type not specified in the Assumed Trips Table and not part of the IFT System,

then GWRC shall (acting reasonably) issue to the Operator an updated table specifying the number of trips it reasonably estimates to be applicable for the new or amended ticket type. That updated table will become the Assumed Trips Table

for the purposes of this Partnering Contract from the date of its provision to the Operator in accordance with this paragraph 10.3.

ETS Patronage Measurement Adjustment

10.4 If the ETS Patronage Measurement Adjustment occurs, then with effect from the FIM Calculation Year after the FIM Calculation Year in which the ETS Implementation Date occurs:

10.4.1 GWRC shall notify the Operator of the Adjusted Actual Patronage; and

10.4.2 for the purposes of calculating the Patronage Projection, the Actual Patronage for all periods prior to and including the FIM Calculation Year in which the ETS Implementation Date occurs shall be deemed to be the Adjusted Actual Patronage.

Payment

10.5 If in any FIM Calculation Year where part of that FIM Calculation Year falls within the Term, there is a Patronage Excess, then the Operator shall be entitled to an amount equal to the FIM Adjustment provided that the amount payable by GWRC under this paragraph 10.5 in respect of any single FIM Calculation Year shall not exceed the FIM Cap.

10.6 If in any FIM Calculation Year where part of that FIM Calculation Year falls within the Term, there is a Patronage Shortfall, then, at GWRC's option, either:

10.6.1 the Operator shall pay to GWRC within 90 days of the end of such FIM Calculation Year; or

10.6.2 GWRC shall set off from the next payment of the Service Fee falling due following the date of service of the notice pursuant to paragraph 10.2, an amount equal to the FIM Adjustment provided that the amount to be paid by the Operator or set off by GWRC under this paragraph 10.6 in respect of any single FIM Calculation Year shall not exceed the FIM Collar.

Operator Initiatives

10.7 GWRC and the Operator agree to work together collaboratively with a view to achieving the FIM Objectives. The Operator may at any time during the Term propose to GWRC by notice in writing:

10.7.1 an initiative to be implemented by it with the objective of increasing Actual Patronage; and

10.7.2 a temporary increase in the Shadow Fare to encourage the Operator in and reward it for the successful implementation of such initiative.

10.8 If GWRC (in its sole discretion despite anything to the contrary in this Partnering Contract) indicates that it is open to considering such initiative, the Operator shall document the proposal in detail in the next draft of the plans and financial forecasts

to be submitted by it under the relevant provisions of paragraph 2 (*Annual Business Plan*) of Schedule 5 (*Planning, Reporting and Meetings*).

- 10.9 If GWRC (in its sole discretion despite anything to the contrary in this Partnering Contract) expressly approves such initiative and temporary increase in the Shadow Fare in its notice of approval under paragraph 2.16 (*GWRC to approve*) of Schedule 5 (*Planning, Reporting and Meetings*), the Operator shall diligently implement such initiative and the Shadow Fare shall be increased by the amount and for the period specified in GWRC's notice.

Review Meeting

- 10.10 If at any time, either GWRC or the Operator considers that the operation of the mechanism in this paragraph 10 is not achieving the FIM Objectives, it may serve notice on the other requiring a meeting to review the operation of this paragraph 10 against the FIM Objectives.
- 10.11 As soon as reasonably practicable following service of a notice under paragraph 10.10, GWRC and the Operator shall meet and seek to agree such changes to this paragraph 10 as are reasonably necessary to align it more closely with the FIM Objectives. If GWRC and the Operator reach such agreement, the parties shall as soon as reasonably practicable document such changes by way of a deed of variation and such changes shall come into effect in accordance with that deed of variation if and when that deed of variation comes fully and unconditionally into effect. If GWRC and the Operator do not reach such agreement, then the matter may not be referred to the Dispute Resolution Procedure and this paragraph 10 will continue in effect without amendment.

11 Calculation of Vehicle Availability Payment

- 11.1 The Vehicle Availability Payment in respect of each Relevant Month (AP_{rm}) shall be calculated as follows:

$$VAP_{rm} = \$500,000$$

12 Calculation of Alternative Transport Fee

- 12.1 Where in a Relevant Month:
- 12.1.1 the Operator has provided or procured alternative transport arrangements to replace a Scheduled Service or Special Event Service disrupted by an Unplanned Disruption;
 - 12.1.2 the Operator has complied with its obligations under paragraphs 3.10, 3.12 to 3.17 (inclusive) and 3.21 to 3.24 (inclusive) of Schedule 3 (*Passenger Services*) in respect of such Unplanned Disruption and alternative transport; and

12.1.3 the relevant Unplanned Disruption was not attributable to the fault of any of the Operator or any Operator Associate;

the Operator shall, subject to paragraphs 3.15 and 3.16 (*Costs relating to alternative transport arrangements*) of Schedule 3 (*Passenger Services*), be entitled to the Alternative Transport Fee, being an amount equal to 80% of its actual reasonable external costs of so providing or procuring such alternative transport.

13 Calculation of Locomotive Services Fee

13.1 The Locomotive Services Fee in respect of a Relevant Month (LSF_{rm}) shall be calculated as follows:

$$LSF_{rm} = MSFCLCSA_{rm} - SPTC_{rm}$$

Where:

- 13.1.1 $MSFCLCSA_{rm}$ is the amount of the Monthly Services Fee (as defined in the CLCSA) payable by the Operator to KiwiRail under the CLCSA in respect of the Relevant Month; and
- 13.1.2 $SPTC_{rm}$ is the amount of the Shunt Personnel Training Cost (as defined in the CLCSA) payable by the Operator to KiwiRail under the CLCSA in respect of the Relevant Month.

14 Excusing Events and Deemed Performance

Excusing Events

14.1 A Performance Deduction shall not be deducted from the Services Fee provided that:

- 14.1.1 such Performance Deduction is directly attributable to an Excusing Event;
- 14.1.2 the Operator has used all reasonable endeavours to mitigate the effect of the Excusing Event on the provision of the Services; and
- 14.1.3 the Operator has otherwise complied with any express obligation imposed on the Operator under this Partnering Contract in respect of such Excusing Event (including in respect of alternative transport under Schedule 3 (*Passenger Services*)).

14.2 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 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:

- 14.2.1 such failure is directly attributable to an Excusing Event;
- 14.2.2 the Operator has used all reasonable endeavours to mitigate the effect of the Excusing Event on the provision of the Services; and
- 14.2.3 the Operator has otherwise complied with any express obligation imposed on the Operator under this Partnering Contract in respect of such Excusing Event (including in respect of alternative transport under Schedule 3 (*Passenger Services*)).

Operator's responsibility

- 14.3 It shall be the responsibility of the Operator to demonstrate that an Excusing Event has occurred and that it is entitled to relief under paragraph 14.1 or 14.2 (as applicable).
- 14.4 The Operator shall promptly provide any information reasonably required by GWRC in connection with an Excusing Event and its effects (including any information reasonably required to demonstrate that the conditions in paragraph 14.1.1 to paragraph 14.1.3 or paragraph 14.2.1 to paragraph 14.2.3 (as applicable) have been met).

Additional rolling stock

- 14.5 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 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:
 - 14.5.1 achieving such a PI Achieve Benchmark would require the Operator to acquire any rolling stock in addition to the Vehicles; and
 - 14.5.2 the requirement to acquire such additional rolling stock has not been caused or contributed to by any failure by the Operator to operate and maintain the Vehicles in accordance with this Partnering Contract.
- 14.6 It shall be the responsibility of the Operator to demonstrate that it is entitled to relief under paragraph 14.5.

Deemed Performance

- 14.7 To the extent only that:
 - 14.7.1 any GWRC System or any data held or generated by a GWRC System is required in order to measure the extent to which the Operator has met the requirements of the Reliability KPI or the Punctuality KPI for the purposes of calculating a Performance Deduction;
 - 14.7.2 such GWRC System or data is, at the relevant time, unavailable or materially inaccurate (except to the extent caused or contributed to by any act or omission of the Operator or any Operator Associate); and

14.7.3 as a result of the circumstances referred to in paragraph 14.7.2, it is not possible to accurately measure the extent to which the Operator has met the requirements of the Reliability KPI or the Punctuality KPI,

then, for the purposes of calculating the relevant Performance Deduction and the extent to which the Operator has complied with its obligations under this Partnering Contract in respect of the Reliability KPI or the Punctuality KPI (as applicable), the Operator shall be deemed to have met the requirements of Reliability KPI or the Punctuality KPI (as applicable).

Appendix 1 - Services Fees Table

Period ¹	Initial Passenger Services Fee \$	Initial Vehicle Services Fee \$	Passenger Services Fee - IFT Programme Pre Priced Option \$	Vehicle Services Fee - IFT Programme Pre Priced Option \$	Passenger Services Fee - RS1 Project Pre Priced Option \$	Vehicle Services Fee - RS1 Project Pre Priced Option \$	Passenger Services Fee - Both Pre Priced Options \$	Vehicle Services Fee - Both Pre Priced Options \$
1 July 2016 to 30 June 2017 (2016/17)								
1 July 2017 to 30 June 2018 (2017/18)								
1 July 2018 to 30 June 2019 (2018/19)								
1 July 2019 to 30 June 2020 (2019/20)								
1 July 2020 to 30 June 2021 (2020/21)								
1 July 2021 to 30 June 2022 (2021/22)								
1 July 2022 to 30 June 2023 (2022/23)								
1 July 2023 to 30 June 2024 (2023/24)								
1 July 2024 to 30 June 2025 (2024/25)								
1 July 2025 to 30 June 2026 (2025/26)								
1 July 2026 to 30 June 2027 (2026/27)								
1 July 2027 to 30 June 2028 (2027/28)								
1 July 2028 to 30 June 2029 (2028/29)								
1 July 2029 to 30 June 2030 (2029/30)								
1 July 2030 to 30 June 2031 (2030/31)								
1 July 2031 to 30 June 2032 (2031/32)								



¹ The dollar amounts for each period are to be pro-rated in accordance with paragraphs 2.1 and 3.1.

Appendix 2 - Special Event Services Rates



EMU Trains	Applicable Rate Per Revenue Service Kilometre
First EMU of a Train providing Special Event Services	██████
Second and each subsequent EMU comprising a Train providing Special Event Services	<p>██████ until the day before the date falling three calendar months after the ETS Implementation Date.</p> <p>██████ from the date falling three calendar months after the ETS Implementation Date.</p>
Carriage Trains	Applicable Rate Per Revenue Service Kilometre
Locomotive and first Carriage of a Train providing Special Event Services	██████
Second and each subsequent Carriage of a Train providing Special Event Services	██████
Security Personnel	Applicable Rate per person hour
Security personnel deployed for the Special Event Service	<p>██████ on Public Holidays</p> <p>██████ on all other days</p>

Appendix 3 - Rail Unit Timetable Change Rates



EMU Trains	Applicable Rate Per Revenue Service Kilometre
First EMU of a Train providing passenger services differing from the Scheduled Services	Weekdays: █████ Saturday: █████ Sunday & Public Holidays: █████
Second and each subsequent EMU comprising a Train providing passenger services differing from the Scheduled Services	Until the day before the date falling three calendar months after the ETS Implementation Date; Weekdays: █████ Saturday: █████ Sunday & Public Holidays: █████ From the date falling three calendar months after the ETS Implementation Date; Weekdays: █████ Saturday: █████ Sunday & Public Holidays: █████
Carriage Trains	Applicable Rate Per Revenue Service Kilometre
Locomotive and first Carriage of a Train providing passenger services differing from the Scheduled Services	Weekdays: █████ Saturday: █████ Sunday & Public holidays: █████
Second and each subsequent Carriage of a Train providing passenger services differing from the Scheduled Services	Until the day before the date falling three calendar months after the ETS Implementation Date; Weekdays: █████ Saturday: █████ Sunday & Public Holidays: █████ From the date falling three calendar months after the ETS Implementation Date; Weekdays: █████ Saturday: █████ Sunday & Public Holidays: █████

Appendix 4 - Assumed Trips Table

Ticket Type	Trips per Ticket
3 Day Weekend Rover	4
Adult 10 Trip	10
Adult Single	1
Child 10 Trip	10
Child Monthly	35
Child Single	1
Day Rover	2
Gold Pass	1
Group Rover	5
Metlink Explorer	2
Monthly	35
Off Peak	1
Priv 10 Trip	10
Priv Monthly	35
Priv Return	2
School Term	100
Stadium Tickets	2
Staff Travel	0
Strip Tickets	1
Trentham Races	2
Wairarapa Day Ex	2

Appendix 5 - Overall Heavy Maintenance Budget



Year	Initial Matangi C check budget \$	Initial SE Passenger Carriages D check budget \$	Initial SW Passenger Carriages D check budget \$	Total \$
1 July 2016 to 30 June 2017 (2016/17)				
1 July 2017 to 30 June 2018 (2017/18)				
1 July 2018 to 30 June 2019 (2018/19)				
1 July 2019 to 30 June 2020 (2019/20)				
1 July 2020 to 30 June 2021 (2020/21)				
1 July 2021 to 30 June 2022 (2021/22)				
1 July 2022 to 30 June 2023 (2022/23)				
1 July 2023 to 30 June 2024 (2023/24)				
1 July 2024 to 30 June 2025 (2024/25)				
1 July 2025 to 30 June 2026 (2025/26)				
1 July 2026 to 30 June 2027 (2026/27)				
1 July 2027 to 30 June 2028 (2027/28)				
1 July 2028 to 30 June 2029 (2028/29)				
1 July 2029 to 30 June 2030 (2029/30)				
1 July 2030 to 30 June 2031 (2030/31)				
1 July 2031 to 30 June 2032 (2031/32)				

Under paragraph 14.17 (*Operator's Rights and Responsibilities*) of Schedule 4 (*Vehicle Services*), the Operator acknowledges and agrees that its costs related to RS1 are already included in the Annual Heavy Maintenance Budget and the Overall Heavy Maintenance Budget. The Operator shall not be entitled to amend the Annual Heavy Maintenance Budget, the Overall Heavy Maintenance Budget or the amounts specified in the Heavy Maintenance Rate Card as a consequence of RS1.

Appendix 6 - Heavy Maintenance Rate Card

Fee per Matangi C Check

Check	Time	Distance	Fee
C1 Check	3 years	270,000km	
C2 Check	6 years	540,000km	
C3 Check	9 years	810,000km	
C4 Check	12 years	1,080,000km	
C5 Check	15 years	1,350,000km	
C6 Check	18 years	1,620,000km	



Fee Per SE Passenger Carriages D Check

Check	Frequency	Distance	Fee
D1 Check		300,000km to 400,000km	
D2 Check		600,000km to 800,000km	
D3 Check	25,000 hrs to 30,000 hrs		




Fee per SW Passenger Carriages D Check

Check	Frequency	Distance	Fee
D1 Check		300,000km to 400,000km	
D2 Check		600,000km to 800,000km	
D3 Check	25,000 hrs to 30,000 hrs		




Appendix 7 - Additional Vehicle Services Rate Card

Rates for Exceptional Repair Work

Requirement	Unit	Rate	
Tradesman	Per Person Hour		
Professional Engineer	Per Person Hour		
Parts	Margin %		
Outsourcing	Margin %		

Rates for Additional Modification Services

Requirement	Unit	Rate	
Tradesman	Per Person Hour		
Professional Engineer	Per Person Hour		
Parts	Margin %		
Outsourcing	Margin %		

Appendix 8 - NFI Event Rate Card

Rates for NFI Event

Requirement	Unit	Rate
Tradesman	Per Person Hour	
Professional Engineer	Per Person Hour	
All other reasonable direct incremental costs properly incurred (see paragraphs 13.1.2 and 13.1.3 of Schedule 16 (<i>Change Events and Net Financial Impact</i>))	Margin %	



Schedule 7

Operator Insurance requirement

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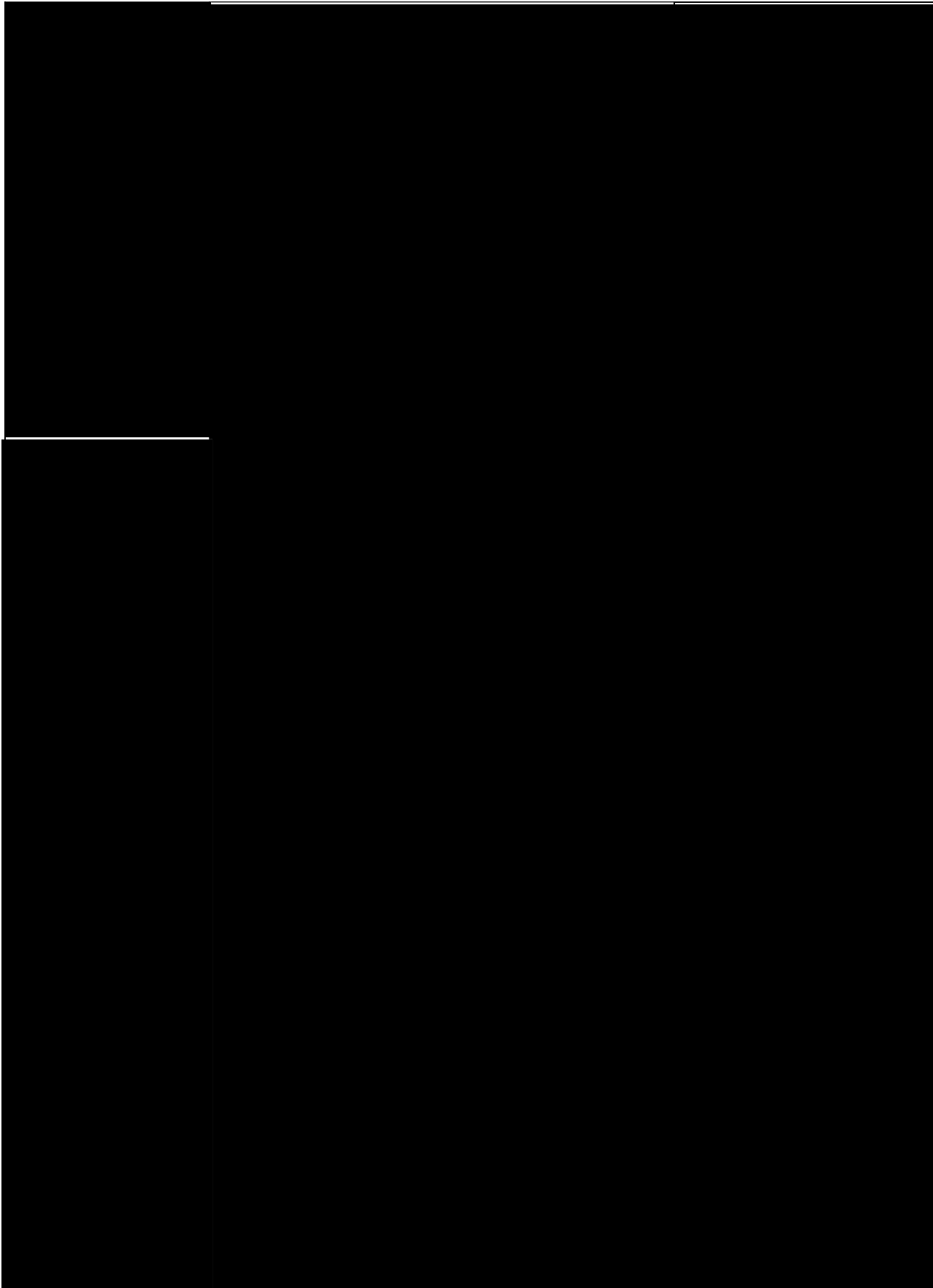
1 Introduction

- 1.1 This Schedule sets out details of the following insurance policies that the Operator is required to take out and maintain, being:
- 1.1.1 the Material Damage Policy; and
- 1.1.2 the Public Liability Policy.
- 1.2 The Operator shall take out and maintain the Material Damage Policy and the Public Liability Policy in accordance with the key terms described at paragraphs 2 and 3 of this Schedule and the provisions at clause 50 (*Insurance*).
- 1.3 All references to dollars and \$ are to New Zealand currency.
- 1.4 The Parties acknowledge and agree that the terms of the Public Liability Policy and Material Damage Policy (including declared values and limits of liability provided for in paragraph 2) may be adjusted in accordance with the provisions of the Partnering Contract relating to Contract Variations.

2 Material Damage Policy

The Insured:	Operator Greater Wellington Regional Council (GWRC); and Greater Wellington Rail Limited (GWRL), for their respective rights, obligations and interests.
The Business:	Operation and maintenance of rolling stock and all other activities incidental thereto or permitted under the terms of the Partnering Contract or any Transaction Document.
The Situation:	Primarily in Wellington but including anywhere in New Zealand.
Period of Insurance:	From and including 3.00 am on the Commencement Date. To and including 2.00 am on the date of termination or expiry of the Partnering Contract (whichever is the earlier), subject to the renewal of this insurance cover on an annual basis.
Insured Property:	The Vehicles described in the Partnering Contract (and the attached underwriting schedule) and any other rolling stock or vehicles which may from time to time be provided to the Operator by GWRC or GWRL under the Partnering Contract. The EMU Depot and the EMU Depot Plant and Equipment and any other plant and equipment which may from time to time be provided to the Operator by GWRC or GWRL under the Partnering Contract. The Spares, Rotable Items, Special Tools and General Tools (located at

	<p>EMU Depot, the Carriage Depot and at Lower Hutt) transferred to the Operator on the Commencement Date (as part of the Initial Transferring Assets) and any replacement or addition from time to time thereof which may be transferred or provided to the Operator by GWRC or GWRL under the Partnering Contract.</p>
<p>Declared Values as at the date of the Partnering Contract:</p>	<p>Vehicles \$411,500,000 (as per the attached underwriting schedules)</p> <p>Spares, Rotable Items, Special Tools and General Tools \$11,000,000</p> <p>EMU Depot \$22,170,400</p> <p>EMU Depot Plant and Equipment \$9,015,100</p>
<p>Coverage:</p>	<p>Comprehensive first party property damage cover in respect of the Insured Property</p>
<p>Limit of Liability as at the date of the Partnering Contract:</p>	<p>Vehicles, Spares, Rotable Items, Special Tools and General Tools [REDACTED]  each and every loss or series of losses arising out of any one event in excess of policy deductibles.</p> <p>EMU Depot [REDACTED]  each and every loss or series of losses arising out of any one event</p> <p>EMU Depot Plant and Equipment [REDACTED] </p>
	



Key terms for Material Damage Policy

2.1 The Material Damage Policy shall contain the following terms, or terms to the same effect.

Interests of other parties

2.2 This policy extends to indemnify each insured party and any other party having a pecuniary or economic interest in the Insured Property.

2.3 Where the insured consists of more than one legal entity that is named on the schedule:

2.3.1 each shall be considered as a separate entity and the word “insured” shall apply to each as if a separate policy had been issued to each. Nothing contained in this condition shall result in an increase of the insurer’s liability in respect of any occurrence or period of insurance;

2.3.2 any act, error, omission, neglect or breach of this policy of or by an individual party will not prejudice the rights of the remaining party/parties; and

2.3.3 the insurer shall not impute to any insured any knowledge or intention or state of mind possessed or allegedly possessed by any other insured.

Subrogation waiver

2.4 The insurers irrevocably and unconditionally agree to waive any rights and remedies or relief to which they may become entitled by subrogation against:

2.4.1 any insured named or described by this policy (including its directors, partners, officers, employees or servants);

2.4.2 any corporation or organisation (including its directors, officers, partners, employees or servants) owned or controlled by any insured named herein or subsidiary to any insured named herein or any co-owner of the Insured Property;

2.4.3 any party referred to in memoranda entitled ‘Interests of other parties’ (or as amended), (and the insurer agrees that any agreement(s) that the insured may have between any or all such parties will not affect the validity of this endorsement); and

2.4.4 any railroad, other transportation corporation or company, local authority or Government or Government agency or other statutory authority, lessor, property owner, contractor or person whenever the insured has agreed to release such party from liability arising from any peril insured under this policy.

Testing and commissioning

2.5 This policy extends to cover Insured Property during the course of, and as a result of its use following, processing and/or testing and commissioning.

Other terms

2.6 The policy shall:

2.6.1 be governed by New Zealand law and subject to New Zealand jurisdiction;

2.6.2 require the insurer to promptly notify each insured party:

- (a) if the premium is unpaid by the date it is due, and giving each insured party 20 Business Days to pay the amount outstanding;
- (b) if the insurer considers any party is in breach of the policy; and
- (c) if the insurer proposes to make any payment under the policies, 5 Business Days prior to the insurer making any such payment; and

2.6.3 require the insurer to:

- (a) pay all amounts payable under the policy into the Joint Insurance Account;
- (b) provide GWRC and GWRL not less than 20 Business Days prior written notice of the cancellation, expiry, termination or amendment of the policy; and
- (c) not contain any average clause.

UNDERWRITING SCHEDULES FOR MATERIAL DAMAGE POLICY

VALUES FOR INSURANCE PURPOSES

30 JUNE 2016 - 30 JUNE 2017

Matangi Fleet EMU value

Vehicle Type No.	Vehicle Serial No.	Vehicle Type Description	Estimated Matangi Fleet value
EMU		83 2 car sets	\$377,057,131
		Total	\$377,057,131

Carriage Fleet - SE Carriage value

Vehicle Type No.	Vehicle Serial No.	Vehicle Type Description	Estimated SE Carriage value
SE1	SE3380	Standard passenger coach	\$1,385,911

SE2	SE3311	Standard passenger coach	\$1,385,911
SE3	SE3324	Standard passenger coach	\$1,385,911
SE4	SE3288	Standard passenger coach	\$1,385,911
SES1	SES3327	Passenger coach with wheelchair hoist	\$1,385,911
SEG1	SEG3430	Passenger coach with generator	\$1,385,911
Total			\$8,315,466

Carriage Fleet - SW Carriage value

Vehicle Type No.	Vehicle Serial No.	Vehicle Type Description	Estimated SW Carriage value
SW1	SW5837	Standard passenger coach	\$1,426,222
SWS1	SWS5660	Passenger coach with wheelchair hoist	\$1,426,222
SWG1	SWG3365	Passenger coach with generator	\$1,426,222
SW2	SW5820	Standard passenger coach	\$1,426,222
SW3	SW3376	Standard passenger coach	\$1,426,222
SW4	SW3339	Standard passenger coach	\$1,426,222
SW5	SW3394	Standard passenger coach	\$1,426,222
SWS2	SWS5723		\$1,426,222
SWG2	SWG5671	Passenger coach with generator	\$1,426,222
SW6	SW5658	Standard passenger coach	\$1,426,222
SW7	SW5646	Standard passenger coach	\$1,426,222
SW8	SW3294	Standard passenger coach	\$1,426,222
SWS3	SWS3298	Passenger coach with wheelchair hoist	\$1,426,222
SWG3	SWG3422	Passenger coach with generator	\$1,426,222
SW9	SW3355	Standard passenger coach	\$1,426,222
SW10	SW3349	Standard passenger coach	\$1,426,222
SW11	SW3404	Standard passenger coach	\$1,426,222
SW12	SW3282	Standard passenger coach	\$1,426,222
AG Van	AG222	Spare Generator and luggage Van	\$376,685
Total			\$26,048,681

3 Public Liability Policy

The Insured:	Operator	
The Business:	Operation and maintenance of rolling stock and all other activities incidental thereto or permitted under the terms of the Partnering Contract or any Transaction Document.	
Period of Insurance	From and including 3.00 am on the Commencement Date To and including 2.00 am on the date of termination or expiry of the Partnering Contract (whichever is the earlier), subject to the renewal of this insurance cover on an annual basis.	
Minimum Limit of Liability: (to apply in excess of any relevant policy deductible)	[REDACTED] any one occurrence.	
Maximum policy deductible:	[REDACTED] any one occurrence.	
Required policy extensions:	Forest & Rural Fires Act liability Exemplary & Punitive Damages	[REDACTED] [REDACTED]
Territorial Limits:	Worldwide.	
Policy to include:	Extension in respect of the vicarious liability of GWRC/GWRL arising out of the performance of the Operator	

Key terms for Public Liability Policy

3.1 The Public Liability Policy shall contain the following terms, or terms to the same effect.

Contractual agreement

3.2 The insurer agrees that the Operator's entry into the Partnering Contract or any of the Transaction Documents does not breach any policy exclusion for liability assumed by agreement.

Other terms

- 3.3 The Operator shall or shall procure that its insurance broker shall provide GWRC and GWRL not less than 20 Business Days prior written notice of the cancellation, expiry, termination or amendment of the policy.

Schedule 8


Warranties and Representations

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1 Operator Representations and Warranties





Prohibited Act

- 1.1 None of the Operator, the  or any Operator Associate or anyone employed by any of them or acting on behalf of any of them have committed any Prohibited Act.

Information provided

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




Corporate

- 1.3 The Operator is a corporation duly incorporated in New Zealand and is validly existing under the Companies Act .
- 1.4 The Operator and the  each has the power to enter into and perform its obligations under the Transaction Documents to which it is a party, to carry out the transactions contemplated by those documents and to carry on its business as now conducted or contemplated.
- 1.5 The Operator's constitution produced to GWRC at the date of this Partnering Contract and signed by its solicitors for the purposes of identification is its full constitution including all resolutions affecting it.
- 1.6 In entering  into the Transaction Documents to which it is party, neither the  nor the Operator is acting as responsible entity or trustee of any trust or settlement or as an agent on behalf of another entity.

Tax status

- 1.7 At the date of this Partnering Contract and throughout the Term, the Operator is and will remain registered as a single entity under the Income Tax Act and the GST Act.

Transaction Documents

- 1.8 The Operator and the  have each taken all necessary corporate action to authorise the entry into and performance of the Transaction Documents to which it is a party and to carry out the transactions contemplated by those documents.
- 1.9 Each Transaction Document to which the Operator or the  are a party creates valid and binding obligations and is enforceable in accordance with its terms, subject to any necessary stamping and registration, laws generally affecting creditors' rights and general principles of equity.
- 1.10 The execution and performance by the Operator or the  of the Transaction Documents to which it is a party and each transaction contemplated under those documents did not and will not violate in any respect a provision of:

- 1.10.1 any Law;
- 1.10.2 its constitution or other constituent documents; or
- 1.10.3 any other document or agreement that is binding on it or its assets.

Legal proceedings and insolvency

- 1.11 No litigation, arbitration or other proceedings are current, pending or to the Operator's knowledge, threatened, which, if adversely determined, would or could have a material adverse effect upon the Operator, the [REDACTED], the Vehicle Services Subcontractor or their ability to perform their respective obligations under the Transaction Documents.
- 1.12 There has been no material change in the financial condition of the Operator, the [REDACTED] or the Operator Associates (since the date of their last audited accounts provided by the Operator to GWRC) which would prejudice the ability of the Operator, the Vehicle Services Subcontractor or the [REDACTED] to perform its respective obligations under the Transaction Documents.
- 1.13 No Insolvency Event has occurred in relation to the Operator, the Vehicle Services Subcontractor or the [REDACTED].
- 1.14 There is no unsatisfied judgment against the Operator or the [REDACTED].

Authorisations

- 1.15 Each authorisation that is required in relation to:
 - 1.15.1 the execution, delivery and performance by the Operator or the [REDACTED] of the Transaction Documents to which it is a party and the transactions contemplated by those documents;
 - 1.15.2 the validity and enforceability of the Transaction Documents to which the Operator or the [REDACTED] are party; and
 - 1.15.3 the Operator's and [REDACTED] business as now conducted or contemplated,has been obtained or effected and remains in full force and effect, the Operator and the [REDACTED] are in compliance with them and have paid all applicable fees in respect of them.

Title and security

- 1.16 None of the Operator's property is subject to any Security Interest (other than a Permitted Security Interest).
- 1.17 The Operator does not hold any assets as the trustee or responsible entity of any trust.

Other

- 1.18 The Operator is not aware of any facts or circumstances that have not been disclosed to GWRC in writing that would, if disclosed, be likely to materially

adversely affect the decision of a prudent and reasonable public sector entity considering whether or not to enter into this Partnering Contract with the Operator.

Schedule 9

Stations and Depot Facilities

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1 Introduction

1.1 This Schedule sets out:

- 1.1.1 the Ancillary Access Rights that are granted to the Operator by GWRL in respect of the Stations, the EMU Depot and the Carriage Depot, and the terms on which those Ancillary Access Rights are granted; and
- 1.1.2 the Ancillary Access Rights that are granted to the Operator by GWRC in respect of certain parts of Wellington Station and the Waterloo Quay Carparks, and the terms on which those Ancillary Access Rights are granted.

2 Stations (excluding Wellington Station)

2.1 **Station Lease:** The Station Lease sets out the terms on which land on which the Station buildings (with the exception of Wellington Station) are located is made available by KiwiRail Limited to GWRL for the purposes of “Wellington metro passenger rail services” including all ancillary uses (commercial and non-commercial) which support and enhance the use of the “Wellington Metro Passenger Rail Service”.

2.2 **Access granted to the Operator:** Pursuant to its rights as lessee under the Station Lease, and in its capacity as owner of the Station buildings, GWRL grants to the Operator and any Operator Associate, from the Commencement Date for the Term of this Partnering Contract, and for the purpose of carrying out the Services, a right of access (“**Station Ancillary Access Right**”) in respect of:

- 2.2.1 the "Land" as defined in the Station Lease for all Stations (excluding Wellington Station); and
- 2.2.2 those areas of those Stations shown in the Plans attached in Appendix 3 *Station Access Areas Plans (excluding Wellington Station)* marked “Operator” and shaded orange;

(collectively “**Station Access Areas**”), on the terms set out in this paragraph 2.

2.3 **Status of Right:** The Station Ancillary Access Right:

- 2.3.1 is an ancillary right to the Operator's obligations to GWRL and GWRC under this Partnering Contract;
- 2.3.2 does not create any legal interest in the Station Access Areas; and
- 2.3.3 is subject to the Operator’s acknowledgments, acceptance and agreement in this paragraph 2.

2.4 **Cleaning:** The Operator shall be responsible for arranging, overseeing and meeting the cost of cleaning those parts of the Station Access Areas described in the table at paragraph 7.1 where the Operator is shown as the party responsible, to the relevant corresponding standard indicated in that table.

- 2.5 **Security:** The Operator shall to the extent reasonably necessary and prudent in connection with the provision of the Services, make secure those parts of the Station buildings forming part of the Station Access Areas which are deemed capable of being made secure by GWRL in accordance with the Security Service Specification and the Security Management Plan.
- 2.6 **Outgoings:** Subject to the cleaning obligations described at paragraph 2.4 and the security obligations described at paragraph 2.5, the Operator shall not be required to pay any outgoings or utility costs incurred by GWRL as lessee of the relevant land and as building owner of the Station buildings (excluding Wellington Station) in regard to the Station Access Areas.
- 2.7 **No alterations or additions:** The Operator shall not be permitted to make any alterations or additions to the Station buildings without the prior written approval of GWRL.
- 2.8 **Operator Acknowledgements:** The Operator acknowledges, accepts and agrees that:
- 2.8.1 the Station Ancillary Access Right is subject to:
- (a) the interests and rights of both Clear Communications Limited and KiwiRail under the Fibre Optic Cable Agreement referred to in clause 15.1 of the Station Lease;
 - (b) a specific limitation on access over a certain 2 metre strip centred on the fibre optic cable which is the subject of the Fibre Optic Cable Agreement referred to in clause 15.1 of the Station Lease;
 - (c) use of the Paraparaumu and Waikanae Stations for KiwiRail's long distance and Capital Connection services; and
 - (d) any third party rights granted by KiwiRail Limited provided for or referred to in the Station Lease, the terms of any easements affecting or relating to the land, and such rights as KiwiRail Limited has reserved to itself under the Station Lease;
- 2.8.2 the Operator and any Operator Associate may only access the Station Access Areas in the manner pre-approved by KiwiRail Limited;
- 2.8.3 the Operator and any Operator Associate access and use the Station Access Areas entirely at their own risk;
- 2.8.4 the Operator shall work co-operatively with any other tenants or occupiers at any of the Stations;
- 2.8.5 GWRL reserves the right of inspection at all times to assess compliance with the terms of the grant of the Station Ancillary Access Right; and
- 2.8.6 the Operator shall and shall procure that the Operator Associates shall exercise the Station Ancillary Access Right at all times in accordance

with GWRL's obligations as lessee under the Station Lease, and such reasonable directions as GWRL or GWRC may from time to time give to the Operator; and

2.8.7 the Operator shall not, and shall procure that the Operator Associates shall not, do anything which would put GWRL in breach of GWRL's obligations under the Station Lease or cause or contribute to an event which does or may entitle the lessor to terminate the Station Lease.

2.9 **Suitability:** No warranty or representation expressed or implied has been or is made by GWRL or GWRC including by any person on their behalf that:

2.9.1 the Station Access Areas are now suitable or will remain suitable or adequate for access to and associated use by the Operator or any Operator Associate, for the provision of the Services; or

2.9.2 that any access and associated use by the Operator or any Operator Associate of the Station Access Areas will comply with the relevant by-laws or ordinances or other requirements of any authority having jurisdiction.

GWRL's obligations regarding Stations

2.10 Without prejudice to the Operator's obligations under this Schedule 9, GWRL in its capacity as the owner of the buildings (excluding Wellington Station) shall be responsible for:

2.10.1 maintenance, refurbishment or replacement of those buildings;

2.10.2 asset management in regard to those buildings;

2.10.3 in regard to all parts of the Station buildings (excluding Wellington Station and the areas marked "Operator" and shaded orange on the Station Plans attached at Appendix 3 (*Station Access Areas Plans (excluding Wellington Station)*)) of this Schedule):

(a) the management and use of those parts of the buildings;

(b) management of all third party tenancies in regard to those parts or the buildings; and

(c) security of those parts of the buildings,

and GWRL shall be able to deal freely at GWRL's discretion with all other areas in the Station buildings (excluding the "Operator" areas referred to above), including but not limited to making decisions with regard to tenancy mix.

3 Wellington Station

- 3.1 **Wellington Station Lease:** The Wellington Station Lease sets out the terms on which certain parts of the land and buildings comprising Wellington Station are made available to GWRC as lessee from the Commencement Date until 30 June 2021 for the purpose of Wellington metro passenger rail services including all ancillary uses which support and enhance the use and operation of the Wellington metro passenger rail services.
- 3.2 **Access granted to the Operator until 30 June 2021:** Pursuant to its rights as lessee under the Wellington Station Lease, GWRC grants to the Operator and any Operator Associate, from the Commencement Date until 30 June 2021, and for the purpose of carrying out the Services, a right of access (**Wellington Station Ancillary Access Right**) in respect of those parts of Wellington Station shown in the Plan attached in Appendix 1 (*Wellington Station Access Areas Plan*) marked:
- 3.2.1 “Metro” shaded brown;
 - 3.2.2 “Bike Parks” shaded green; and
 - 3.2.3 "Server Room" shaded blue,
- (together “**Wellington Station Access Areas**”), on the terms set out in this paragraph 3.
- 3.3 **Status of Right:** The Wellington Station Ancillary Access Right:
- 3.3.1 is an ancillary right to the Operator’s obligations to GWRL and GWRC under this Partnering Contract;
 - 3.3.2 does not create any legal interest in the Wellington Station Access Areas; and
 - 3.3.3 is subject to the Operator’s acknowledgments, acceptance and agreement in this paragraph 3.
- 3.4 **Cleaning:** The Operator shall be responsible for arranging, overseeing and meeting the cost of cleaning of those parts of the Wellington Station Access Areas described in the table at paragraph 7.1 where the Operator is shown as the party responsible, to the relevant corresponding standard indicated in that table.
- 3.5 **Security:** The Operator shall to the extent reasonably necessary and prudent in connection with the provision of the Services, make secure those parts of the Wellington Station Access Areas which are deemed capable of being made secure by GWRC and/or GWRL in accordance with the Security Service Specification and the Security Management Plan.
- 3.6 **Outgoings:** Subject to the cleaning obligations described at paragraph 3.4 and the security obligations described at paragraph 3.5 the Operator shall not be required to pay any outgoings or utility costs incurred by GWRC as lessee under the Wellington Station Lease in regard to the Wellington Station Access Areas.

- 3.7 **No alterations or additions:** The Operator shall not be permitted to make any alterations or additions to or in the Wellington Station Access Areas without the prior written approval of both GWRC, and KiwiRail Holdings Limited.
- 3.8 **Operator Acknowledgements:** The Operator acknowledges, accepts and agrees that
- 3.8.1 the Wellington Station Ancillary Access Right is subject to:
- (a) the interests and rights of both Vodafone and KiwiRail Holdings Limited under the Fibre Optic Cable Agreement referred to in the Wellington Station Lease;
 - (b) a specific limitation on access over a certain 2 metre strip centred on the fibre optic cable which is the subject of the Fibre Optic Cable Agreement referred to in the Wellington Station Lease;
 - (c) the use of Wellington Station for KiwiRail's long distance and Capital Connection services;
 - (d) any third party rights granted by KiwiRail Holdings Limited provided for or referred to in the Wellington Station Lease, the terms of any easements affecting or relating to the Wellington Station Access Areas, and such rights as KiwiRail Holdings Limited has reserved to itself under that lease;
- 3.8.2 the Operator and any Operator Associate may only access the Wellington Station Access Areas in the manner pre-approved by KiwiRail Holdings Limited;
- 3.8.3 the Operator and any Operator Associate access and use the Wellington Station Access Areas entirely at their own risk;
- 3.8.4 GWRC reserves the right of inspection at all times to assess compliance with the terms of the grant of the Wellington Station Ancillary Access Right;
- 3.8.5 the Operator shall and shall procure that the Operator Associates shall exercise the Wellington Station Ancillary Access Right in accordance with GWRC's obligations as lessee, under the Wellington Station Lease and such reasonable directions as GWRC may from time to time give to the Operator;
- 3.8.6 from 1 July 2021 and for the balance of the Term, the Operator shall and shall procure that the Operator Associates shall access and use the Wellington Station Access Areas (or any relocated areas within Wellington Station) consistently with the rights and obligations of GWRC under the Wellington Station Framework Agreement (including any arrangement pursuant to that agreement which GWRC provides to

- the Operator), and in accordance with the relevant terms referred to in paragraph 3.12;
- 3.8.7 the Operator shall work co-operatively with any other tenants or occupiers at Wellington Station;
- 3.8.8 the Operator shall not, and shall procure that the Operator Associates shall not, do anything which would put GWRC in breach of GWRC's obligations under the Wellington Station Lease or the Wellington Station Framework Agreement (including any arrangement pursuant to that agreement which GWRC provides to the Operator) or cause or contribute to an event which does or may entitle any party to terminate the Wellington Station Lease or Wellington Station Framework Agreement (including any arrangement pursuant to that agreement which GWRC provides to the Operator); and
- 3.8.9 the location and position of the Wellington Station Access Areas may change over time pursuant to the rights which KiwiRail Holdings Limited has to relocate these areas under the Wellington Station Lease.
- 3.9 **Relocation Costs:** In the event of any relocation of the Wellington Station Access Areas under the Wellington Station Lease required by KiwiRail Holdings Limited, GWRC will meet the reasonable relocation costs of fitting out the alternative relocated space to a standard and extent of fitout which is commensurate with the standard and extent of fitout in the relevant part or parts of the Wellington Station Access Areas relocated, prior to that relocation.
- 3.10 **Suitability:** No warranty or representation expressed or implied has been or is made by GWRL or GWRC or any person on their behalf that:
- 3.10.1 the Wellington Station Access Areas are now suitable or will remain suitable or adequate for access to and associated use by the Operator or any Operator Associate, for the provision of the Services; or
- 3.10.2 any access and associated use by the Operator or any Operator Associate of the Wellington Station Access Areas will comply with the relevant by-laws or ordinances or other requirements of any authority having jurisdiction; or
- 3.10.3 the Wellington Station Access Areas will remain in the same position or location which they are in as at the Commencement Date.
- 3.11 **Wellington Station Framework Agreement:** the Wellington Station Framework Agreement is intended to set out the terms and basis upon which certain areas at Wellington Station are made available to GWRC beyond 30 June 2021 and for the Term for the purposes of Wellington metro passenger rail services.
- 3.12 **Access granted to the Operator from 1 July 2021:** Through the rights which it obtains under the Wellington Station Framework Agreement, including any arrangement pursuant to that agreement, GWRC grants or will procure the granting

of ongoing access to the Operator and any Operator Associates for the purpose of providing the Services, as from 1 July 2021 and for the remainder of the Term, to those areas made available to GWRC within Wellington Station , upon such terms and conditions as:

- 3.12.1 are consistent with the terms upon which the Wellington Station Ancillary Access Right is granted;
- 3.12.2 are consistent with the terms of the rights granted to GWRC under the Wellington Station Framework Agreement (including any arrangement pursuant to that agreement which GWRC provides to the Operator); and
- 3.12.3 GWRC may otherwise reasonably require in the circumstances, provided however the Operator shall not be required to meet any outgoings or other costs of access beyond those set out in this paragraph 3.

GWRC's obligations regarding Wellington Station

3.13 Without prejudice to the Operator's obligations under this Schedule 9, GWRC in its capacity as lessee under the Wellington Station Lease and as party to the Wellington Station Framework Agreement, shall ensure that:

- 3.13.1 all rent, outgoings and any other moneys payable to KiwiRail Holdings Limited under the Wellington Station Lease or Wellington Station Framework Agreement are paid; and
- 3.13.2 GWRC performs all of its other rights and obligations as lessee in accordance with the terms and conditions set out in the Wellington Station Lease or as party to the Wellington Station Framework Agreement, including but not limited to:
 - (a) maintaining public risk insurance in accordance with the Wellington Station Lease;
 - (b) seeking and obtaining KiwiRail's prior approval (and any other approvals required by the Wellington Station Lease) in regard to any alterations to the buildings, construction of new buildings or any other works on the land;
 - (c) the erection of any commercial signs on the land or buildings; and
 - (d) complying with the lessee's covenants, agreements and limitation of access in respect of the fibre optic system located on the land in accordance with the provisions of the Wellington Station Lease,

provided that GWRC shall not be in breach of this paragraph 3.13 to the extent that a breach by GWRC of the terms and conditions of the Wellington Station Lease or Wellington Station Framework Agreement arises out of or in connection with any

breach by the Operator or Operator Associate of this Schedule or the terms of the grant of the Wellington Station Ancillary Access Right.

4 **Waterloo Quay Carparks**

4.1 **Waterloo Quay Carparks Licence:** The Waterloo Quay Carparks Licence sets out the terms on which those 70 carparks adjoining Wellington Station situated at Waterloo Quay Wellington and shown marked “Metro Parking” and cross-hatched in red on the Waterloo Quay Carparks Plan in Appendix 2 (*Waterloo Quay Carparks Licence*) attached (“**Waterloo Quay Carparks**”) are made available to GWRC, for car parking purposes associated with the provision of the Services.

4.2 **Access granted to the Operator pursuant to Waterloo Quay Carparks Licence:** Pursuant to its rights under the Waterloo Quay Carparks Licence, GWRC grants to the Operator and any Operator Associate, from the Commencement Date until such date as GWRC may notify to the Operator (“**Waterloo Quay Carparks Licence Termination Date**”), and for the purpose of car parking associated with carrying out the Services from Wellington Station, a right of access in respect of the Waterloo Quay Carparks (“**Waterloo Quay Carparks Ancillary Access Right**”) on the terms set out in this paragraph 4.

4.3 **Status of Right:** The Waterloo Quay Carparks Ancillary Access Right:

4.3.1 is an ancillary right to the Operator's obligations to GWRL and GWRC under this Partnering Contract;

4.3.2 does not create any legal interest in the Waterloo Quay Carparks; and

4.3.3 is subject to the Operator’s acknowledgments, acceptance and agreement in this paragraph 4.

4.4 **Outgoings:** Except as provided in paragraphs 4.5 and 4.6, the Operator shall not be required to meet any outgoings in respect of the Waterloo Quay Carparks.

4.5 **Oil spillage and damage:** The Operator shall be required to make good at its own cost any oil spillage, soiling, or other damage which it causes or creates to the Waterloo Quay Carparks and any adjoining land or carparks which may be affected by the same.

4.6 **Replacement Access cards:** The Operator shall be responsible for replacing security cards or keys made available to the Operator (if any) which are lost or damaged by the Operator or any Operator Associate.

4.7 **Operator Acknowledgements:** The Operator acknowledges, accepts and agrees that:

4.7.1 the Waterloo Quay Carparks Ancillary Access Right granted to the Operator is subject to:

(a) the interests and rights of both Vodafone and KiwiRail under the Fibre Optic Cable Agreement referred to in the Waterloo Quay Carparks Licence;

(b) a specific limitation on access over a certain 2 metre strip centred on the fibre optic cable which is the subject of the Fibre

Optic Cable Agreement referred to in the Waterloo Quay Carparks Licence; and

- (c) any third party rights granted by KiwiRail Limited provided for or referred to in the Waterloo Quay Carparks Licence, the terms of any easements affecting or relating to the relevant land, and such rights as KiwiRail Limited has reserved to itself under that licence;

- 4.7.2 the Operator and any Operator Associate may only access the Waterloo Quay Carparks in the manner pre-approved by KiwiRail Limited;
- 4.7.3 the Operator and any Operator Associate access and use the Waterloo Quay Carparks entirely at their own risk;
- 4.7.4 the Operator shall work co-operatively with any other tenants, occupiers or users of any carparks adjoining the Waterloo Quay Carparks;
- 4.7.5 GWRC has no responsibility to the Operator or any Operator Associate for any loss of and/or damage to any vehicle using or accessing the Waterloo Quay Carparks;
- 4.7.6 GWRC reserves the right of inspection at all times to assess compliance with the terms of the grant of the Waterloo Quay Carparks Ancillary Access Right;
- 4.7.7 the Operator shall and shall procure that the Operator Associates shall exercise the Waterloo Carparks Ancillary Access Right at all times in accordance with GWRC's obligations as licensee under the Waterloo Quay Carparks Licence, and such reasonable directions as GWRC may from time to time give to the Operator;
- 4.7.8 the Operator shall not, and shall procure that the Operator Associates shall not, do anything which would put GWRC in breach of GWRC's obligations under the Waterloo Quay Carparks Licence or cause or contribute to an event which does or may entitle the licensor to terminate the Waterloo Quay Carparks Licence; and
- 4.7.9 the location and position of the Waterloo Quay Carparks may change over time pursuant to the rights which KiwiRail Limited has to relocate these carparks under the Waterloo Quay Carparks Licence.

4.8 **Suitability:** No warranty or representation expressed or implied has been or is made by GWRL or GWRC or any person on their behalf that:

- 4.8.1 the Waterloo Quay Carparks are now suitable or will remain suitable or adequate for access to and associated use by the Operator or any Operator Associate, for the provision of car parking associated with the provision of the Services; or

- 4.8.2 any access and associated use by the Operator or any Operator Associate of the Waterloo Quay Carparks will comply with the relevant by-laws or ordinances or other requirements of any authority having jurisdiction; or
- 4.8.3 the Waterloo Quay Carparks will remain in the same position or location which they are in as at the Commencement Date.

4.9 **Access to Carparks after the Waterloo Quay Carparks Licence Termination**

Date: Following the Waterloo Carparks Licence Termination Date for the remainder of the Term, GWRC shall whether through its rights under the Wellington Station Framework Agreement or otherwise, continue to provide or procure the provision of access to the Operator and any Operator Associates, to 70 carparks either adjoining Wellington Station or within a reasonable proximity of Wellington Station for use by the Operator and any Operator Associates in connection with the provision of the Services, subject to the following:

- 4.9.1 the Operator and any Operator Associates complying with such terms, acknowledgments and agreements as GWRC may (acting reasonably) specify provided that:
 - (a) they shall be consistent with those terms applying to the Waterloo Quay Carparks Ancillary Access Right; and
 - (b) GWRC shall continue to meet the rental or licence fee payable for such carparks.

5 EMU Depot

5.1 **EMU Depot Lease:** The EMU Depot Lease sets out the terms on which the EMU Depot, land and related carparks described in the EMU Depot Lease are provided by KiwiRail Limited to GWRL for the purposes of “maintenance and repair purposes associated with the provision of Wellington metro passenger rail services and for the carparking land, carparking”.

5.2 **Access granted to the Operator:** Pursuant to its rights as lessee under the EMU Depot Lease, and in its capacity as owner of the EMU Depot (including all improvements to the EMU Depot and the EMU Depot Plant and Equipment), GWRL grants to the Operator and any Operator Associate, from the Commencement Date for the Term of this Partnering Contract, and for the purpose of carrying out the Services, subject to compliance with the purpose under the EMU Depot Lease referred to in paragraph 5.1, a right of access (“**EMU Depot Ancillary Access Right**”) in respect of:

5.2.1 the “Land”, ”Common Areas, and “Carpark Land” as defined in the EMU Depot Lease; and

5.2.2 those areas of the EMU Depot shown in the Plans attached in Appendix 4 (*EMU Depot Access Areas Plan*) marked “Operator” and shaded orange, (collectively the **EMU Depot Access Areas**”), on the terms set out in this paragraph 5.

5.3 **Status of Right:** The EMU Depot Ancillary Access Right:

5.3.1 is an ancillary right to the Operator's obligations to GWRL and GWRC under this Partnering Contract;

5.3.2 does not create any legal interest in the EMU Depot Access Areas; and

5.3.3 is subject to the Operator's acknowledgments, acceptance and agreement in this paragraph 5.

5.4 **Cleaning:** The Operator shall be responsible for arranging, overseeing and meeting the cost of cleaning those parts of the EMU Depot Access Areas described in the table at paragraph 7.1 where the Operator is shown as the party responsible, to the relevant corresponding standard indicated in that table.

5.5 **Security:** The Operator shall to the extent reasonably necessary and prudent in connection with the provision of the Services, make secure those parts of the EMU Depot Access Areas which are deemed capable of being made secure by GWRL in accordance with the Security Service Specification and the Security Management Plan.

5.6 **Outgoings:** The Operator shall reimburse GWRL for the cost of any outgoings associated with the Operator's access and use of the EMU Depot and the EMU Depot Access Areas including outgoings incurred by GWRL under the EMU Depot

Lease including but not limited to all utility costs, but excluding Rates which GWRL shall be responsible for.

- 5.7 **No alterations or additions:** The Operator shall not be permitted to make any alterations or additions to the EMU Depot without the prior written approval of GWRL.
- 5.8 **Operator Acknowledgements:** The Operator acknowledges, accepts and agrees that:
- 5.8.1 the EMU Depot Ancillary Access Right granted to the Operator is subject to:
- (a) the interests and rights of both Clear Communications Limited and KiwiRail under the Fibre Optic Cable Agreement referred to in the EMU Depot Lease;
 - (b) a specific limitation on access over a certain 2 metre strip centred on the fibre optic cable which is the subject of the Fibre Optic Cable Agreement referred to in the EMU Depot Lease;
 - (c) any requirements which GWRL or GWRC has from time to time for itself and others nominated by GWRL or GWRC, to use and occupy the EMU Depot Project Space (being the area shaded green and marked "GWRC" on the relevant Plan attached in Appendix 4 ((*EMU Depot Access Areas Plan*)) in connection with projects including those regarding Vehicles or EMU Depot Plant and Equipment; and
 - (d) any third party rights granted by KiwiRail Limited provided for or referred to in the EMU Depot Lease, the terms of any easements affecting or relating to the relevant land, and such other rights as KiwiRail Limited has reserved to itself under that lease;
- 5.8.2 the Operator and any Operator Associate may only access the EMU Depot Access Areas in the manner pre-approved by KiwiRail Limited;
- 5.8.3 the Operator shall and shall procure that the Operator Associates shall use the EMU Depot (including the EMU Depot Plant and Equipment and GWRL improvements forming part of the EMU Depot) solely for the purpose of carrying out the Services, subject to the permitted use under the EMU Depot Lease referred to in paragraph 5.1 of this Schedule;
- 5.8.4 the Operator and any Operator Associate access the EMU Depot Access Areas entirely at their own risk;
- 5.8.5 GWRL reserves a right of inspection at all times to assess compliance with the terms of the grant of the EMU Depot Ancillary Access Right;

- 5.8.6 the Operator shall and shall procure that the Operator Associates shall exercise the EMU Depot Ancillary Access Right at all times in accordance with GWRL's obligations as lessee under the EMU Depot Lease and such reasonable directions as GWRL may from time to time give to the Operator; and
- 5.8.7 the Operator shall not, and shall procure that the Operator Associates shall not, do anything which would put GWRL in breach of GWRL's obligations under the EMU Depot Lease or cause or contribute to an event which does or may entitle the lessor to terminate the EMU Depot Lease.
- 5.9 **Suitability:** No warranty or representation expressed or implied has been or is made by GWRL or GWRC or any person on their behalf that:
- 5.9.1 the EMU Depot (including the EMU Depot Plant and Equipment and GWRL improvements forming part of the EMU Depot) are now suitable or will remain suitable or adequate for access to and associated use by the Operator or any Operator Associate, for the provision of the Services; or
- 5.9.2 any access and associated use by the Operator or any Operator Associate of the EMU Depot (including the EMU Depot Plant and Equipment and GWRL improvements forming part of the EMU Depot) will comply with the relevant by-laws or ordinances or other requirements of any authority having jurisdiction.

Operator's obligations regarding use of EMU Depot and EMU Depot Plant and Equipment

- 5.10 The Operator shall at all times during the Term:
- 5.10.1 provide the EMU Depot Plant and Equipment Management Services described at Schedule 4 (*Vehicle Services*); and
- 5.10.2 provide security monitoring services and other services in regard to the EMU Depot and the EMU Depot Plant and Equipment in accordance with the Operator's obligations set out at Annexure 4 (*Security Service Specification*), Good Industry Practice and the Security Management Plan.

GWRL's obligations regarding the EMU Depot

- 5.11 Without prejudice to the Operator's obligations under this Schedule 9, GWRL in its capacity as the owner of the EMU Depot buildings shall be responsible for maintenance, refurbishment or replacement of the EMU Depot subject to the provisions at clause 51 (*Reinstatement*).
- 5.12 Without prejudice to the Operator's obligations under this Schedule 9, GWRL in its capacity as lessee under the EMU Depot Lease, shall ensure that:

- 5.12.1 all rent, outgoings and any other moneys payable to KiwiRail Limited under the EMU Depot Lease is paid; and
- 5.12.2 subject to paragraph 5.13, GWRL performs all of its other rights and obligations as lessee in accordance with the terms and conditions set out in the EMU Depot Lease, including but not limited to:
- (a) maintaining public risk insurance in accordance with clause 10.3 of the EMU Depot Lease;
 - (b) seeking and obtaining KiwiRail Limited's prior approval (and any other approvals required by the EMU Depot Lease) in regard to any alterations to the buildings, construction of new buildings or any other works on the land; and
 - (c) the erection of any commercial signs on the land or buildings,

provided that GWRL shall not be in breach of this paragraph 5.12 to the extent that a breach by GWRL of the terms and conditions of the EMU Depot Lease arises out of or in connection with any breach by the Operator or any Operator Associate of this Schedule 9.

- 5.13 Without prejudice to any rights or remedies which GWRC or GWRL may have against the Operator in connection with such failure, as between the Parties GWRL shall not be required to insure the EMU Depot under clause 10.1 of the EMU Depot Lease or otherwise.

6 Carriage Depot

- 6.1 **Carriage Depot Licence:** The Carriage Depot Licence sets out the terms on which access to the Carriage Depot is provided to GWRL for the purpose of “maintenance and repair purposes associated with the provision of the Wellington metro passenger rail and associated uses”.
- 6.2 **Access granted to the Operator:** Pursuant to its rights as licensee under the Carriage Depot Licence, GWRL grants to the Operator and any Operator Associate from the Commencement Date and for the Term of the Partnering Contract, and for the purpose of carrying out the Services, subject to compliance with the purpose under the Carriage Depot Licence referred to in paragraph 6.1, a right of access (“**Carriage Depot Ancillary Access Right**”) in respect of the “Licensed Area” as defined in the Carriage Depot Licence and shown shaded orange on the Plans attached in Appendix 5 (*Carriage Depot Access Areas Plan*), (collectively “**Carriage Depot Access Areas**”) on the terms set out in this paragraph 6.
- 6.3 **Status of Right:** The Carriage Depot Ancillary Access Right:
- 6.3.1 is an ancillary right to the Operator's obligations to GWRL and GWRC under this Partnering Contract;
 - 6.3.2 does not create any legal interest in the Carriage Depot Access Areas; and
 - 6.3.3 is subject to the Operator's acknowledgments, acceptance and agreement in this paragraph 6.
- 6.4 **Cleaning:** The Operator shall be responsible for arranging, overseeing and meeting the cost of cleaning those parts of the Carriage Depot Access Areas as described in the table at paragraph 7.1 where the Operator is shown as the party responsible, to the relevant corresponding standard indicated in that table.
- 6.5 **Security:** The Operator shall to the extent reasonably necessary and prudent in connection with the provision of the Services, make secure those parts of the Carriage Depot Access Areas which are deemed capable of being made secure by GWRL.
- 6.6 **Outgoings:** The Operator shall reimburse GWRL for the cost of any outgoings (excluding Rates) associated with the Operator's access and use of the Carriage Depot and the Carriage Depot Access Areas including outgoings incurred by GWRL under the Carriage Depot Licence including but not limited to all utility costs.
- 6.7 **No alterations or additions:** The Operator shall not be permitted to make any alterations or additions to the Carriage Depot without the prior written approval of GWRL.
- 6.8 **Operator Acknowledgements:** The Operator acknowledges, accepts and agrees that:

- 6.8.1 the Carriage Depot Ancillary Access Right granted to the Operator is subject to any third party rights granted by KiwiRail over the “Licensed Area” under the Carriage Depot Licence;
 - 6.8.2 the Operator and any Operator Associate access the Carriage Depot Access Areas entirely at their own risk;
 - 6.8.3 the Operator and any Operator Associate may only access the Carriage Depot Access Areas in the manner pre-approved by KiwiRail Limited;
 - 6.8.4 the Operator shall work co-operatively with any other tenants or occupiers at the Carriage Depot;
 - 6.8.5 the Operator shall and shall procure that any Operator Associate shall use the Carriage Depot Access Areas solely for the purpose of carrying out the Services, subject to the permitted use under the Carriage Depot Licence referred to in paragraph 6.1;
 - 6.8.6 GWRL reserves a right of inspection at all times to assess compliance with the terms of the grant of the Carriage Depot Ancillary Access Right;
 - 6.8.7 the Operator shall and shall procure that any Operator Associate shall exercise the Carriage Depot Licence Ancillary Right at all times in accordance with GWRL’s obligations as licensee under the Carriage Depot Licence and such reasonable directions as GWRL may from time to time give to the Operator; and
 - 6.8.8 the Operator shall not, and shall procure that any Operator Associate shall not, do anything which would put GWRL in breach of GWRL’s obligations under the Carriage Depot Licence or cause or contribute to an event which does or may entitle the licensor to terminate the Carriage Depot Licence.
- 6.9 **Suitability:** No warranty or representation expressed or implied has been or is made by GWRL or GWRC including by any person acting on their behalf that:
- 6.9.1 the Carriage Depot Access Areas are now suitable or will remain suitable or adequate for access to and associated use by the Operator or any Operator Associate, for the provision of the Services; or
 - 6.9.2 that any access and associated use by the Operator or any Operator Associate of the Carriage Depot Access Areas will comply with the relevant by-laws or ordinances or other requirements of any authority having jurisdiction.

7 Cleaning obligations

7.1 The Parties acknowledge and agree that the following parties shall be responsible for arranging, overseeing and meeting the cost of cleaning the identified areas within the Stations, EMU Depot and the Carriage Depot as set out in the following table:

Station / Depot Facility	Area	Party responsible	Cleaning standard to be met (if applicable)
Wellington Station	Common areas (including platforms)	KiwiRail as lessor of the Wellington Station Lease (cost to be passed on and paid by GWRC as lessee)	The standard specified in KiwiRail's relevant cleaning contract
	"Metro" areas shown shaded brown on the Wellington Station Plan attached at Appendix 1 (<i>Wellington Station Access Areas Plan</i>).	KiwiRail as lessor of the Wellington Station Lease (cost to be passed on and paid by GWRC as lessee)	The standard specified in KiwiRail's relevant cleaning contract
	IFT devices (during IFT Phase 2)	Operator	Good Industry Practice and standard satisfactory to GWRC
	Bike parks shaded green on the Wellington Station Plan attached at Appendix 1 (<i>Wellington Station Access Areas Plan</i>).	KiwiRail as lessor of the Wellington Station Lease (cost to be passed on and paid by GWRC as lessee)	The standard specified in KiwiRail's relevant cleaning contract
	Server Room shaded blue on the Wellington Station Plan attached at Appendix 1 (<i>Wellington Station Access Areas Plan</i>).	KiwiRail as lessor of the Wellington Station Lease (cost to be passed on and paid by GWRC as lessee)	The standard specified in KiwiRail's relevant cleaning contract

Stations (excluding Wellington Station)	Common areas (including platforms)	GWRL	The standard specified in GWRL's relevant cleaning contract
	"Operator" areas shaded orange on Appendix 3 (<i>Station Access Areas Plans (excluding Wellington Station)</i>).	GWRL	The standard specified in GWRL's relevant cleaning contract
	"GWRC" areas shaded green on Appendix 3 (<i>Station Access Areas Plans (excluding Wellington Station)</i>).	GWRL	The standard specified in GWRL's relevant cleaning contract
	Access Provider areas marked "Networks" and shaded blue on Appendix 3 (<i>Station Access Areas Plans (excluding Wellington Station)</i>).	Access Provider	The standard specified in the Access Provider's relevant cleaning contract
	IFT devices (during IFT Phase 2)	Operator	Good Industry Practice and standard satisfactory to GWRL
EMU Depot	"Operator" areas shaded orange on Appendix 4 (<i>EMU Depot Access Areas Plan</i>).	Operator	Good Industry Practice and standard satisfactory to GWRL
	GWRL "Project Space" shaded green on Appendix 4 (<i>EMU Depot Access Areas Plan</i>)	Operator	Good Industry Practice and standard satisfactory to GWRL
Carriage Depot	Carriage Depot Access Areas	Operator (unless a separate cleaning arrangement is agreed in writing between the	In a manner and to a standard that ensures that GWRL as

		Operator and KiwiRail)	licensee is not in breach of the obligations at clause 7.16 of the Carriage Licence
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7.2 The Parties acknowledge and agree that any person undertaking the cleaning obligations as set out in paragraph 7.1 shall not be allowed to enter the Ticket Offices without one of the Operator's employees being present at all times.

List of Appendices to this Schedule

Appendix 1 – Plan showing **Wellington Station Access Areas** initially made available to the Operator shaded brown and marked "Metro", shaded green and marked "Bike Parks" and shaded blue and marked "Server Room".

Appendix 2 – Plan showing **Waterloo Quay Carparks** initially made available to the Operator cross-hatched red and marked "Metro Parking".

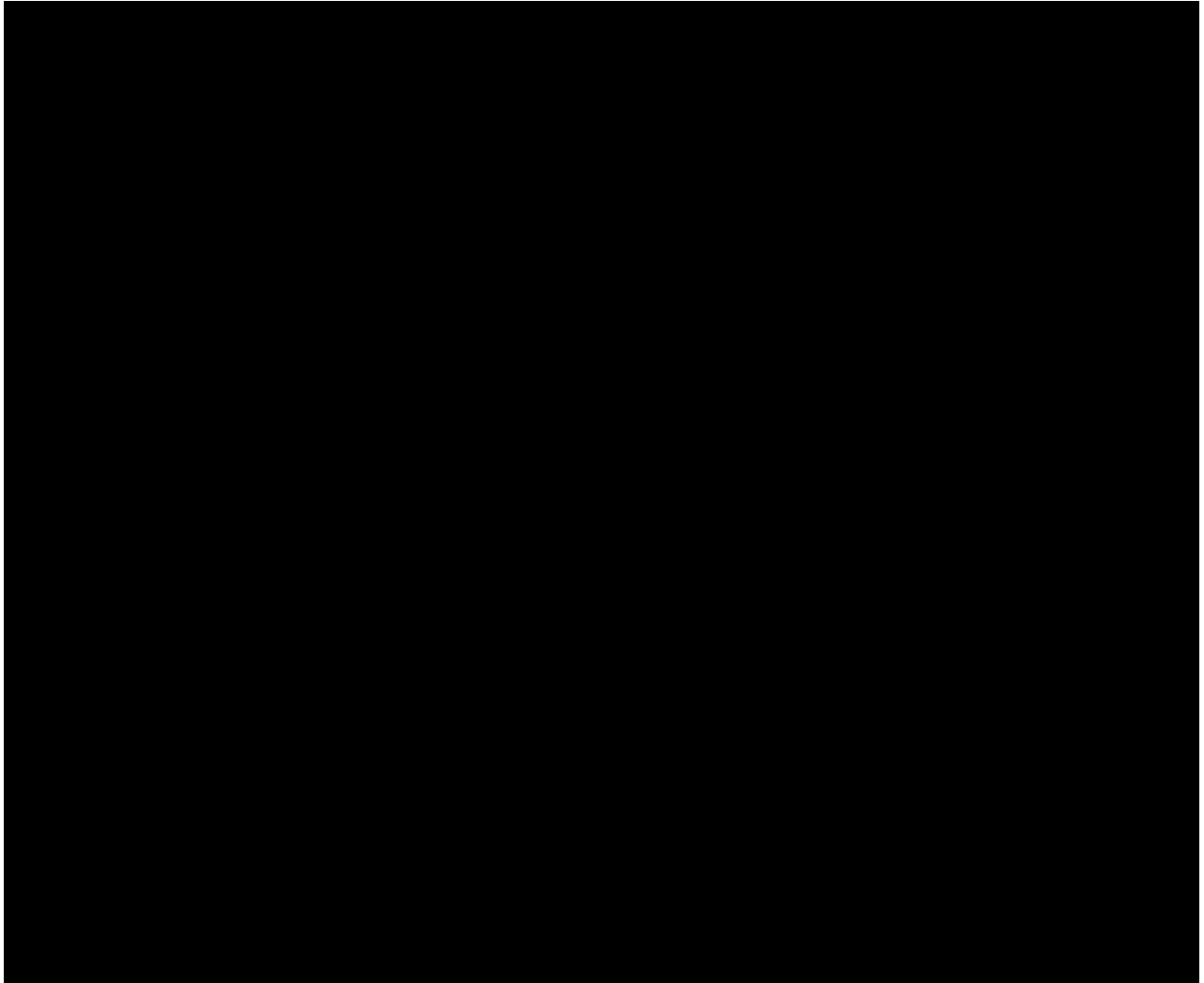
Appendix 3 – Plans showing those **Station Access Areas** made available to the Operator marked "Operator" and shaded orange as follows:

- (1) Porirua Station
- (2) Paekakariki Station
- (3) Paraparaumu Station (2 plans)
- (4) Petone Station
- (5) Waterloo Station
- (6) Featherston Station
- (7) Masterton Station
- (8) Upper Hutt
- (9) Waikanae

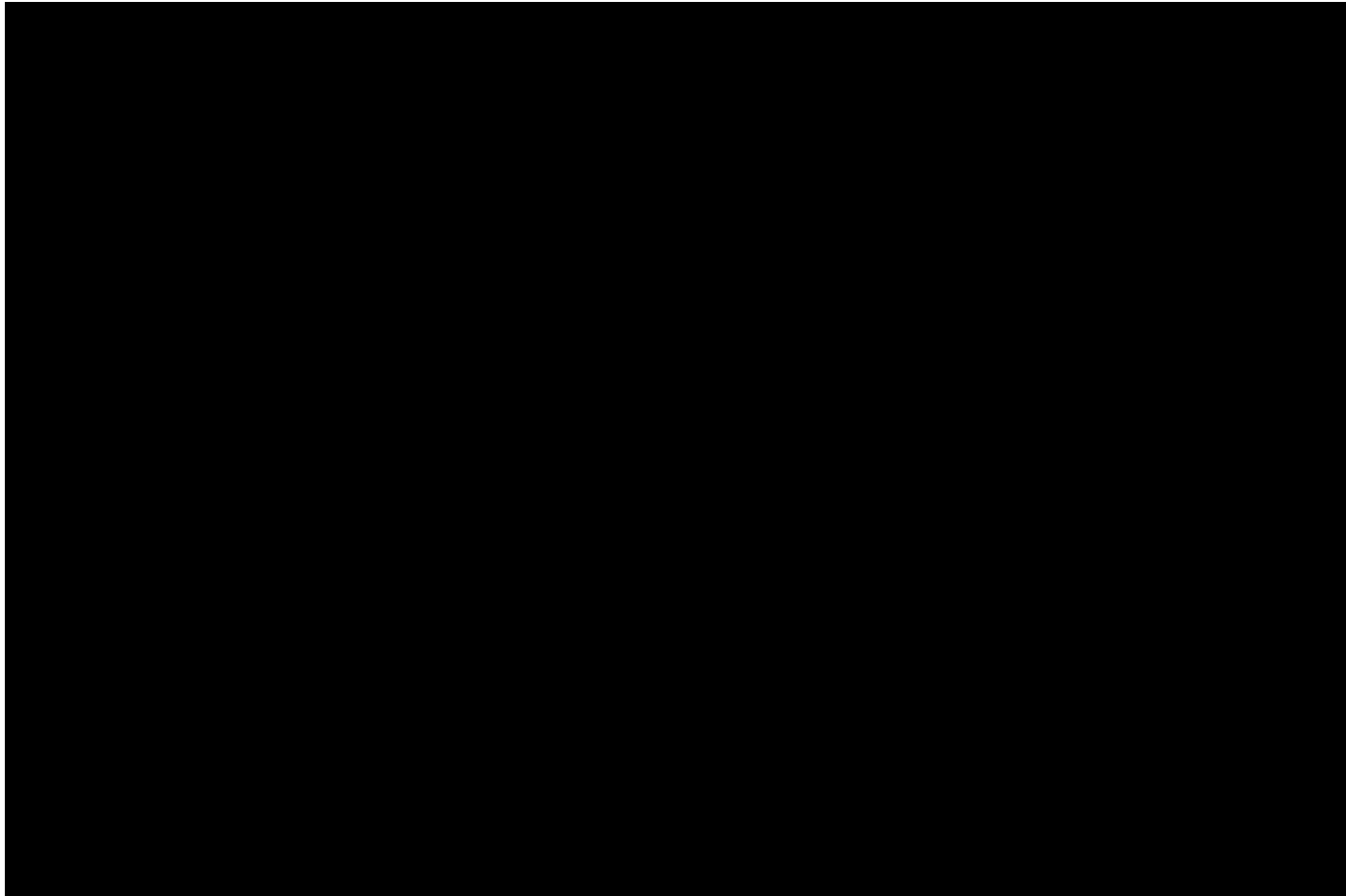
Appendix 4 – Plan showing **EMU Depot Access Areas** made available to the Operator marked "Operator" and shaded orange.

Appendix 5 – Plan showing **Carriage Depot Access Areas** made available to the Operator marked "Licenced Area" and shaded orange.

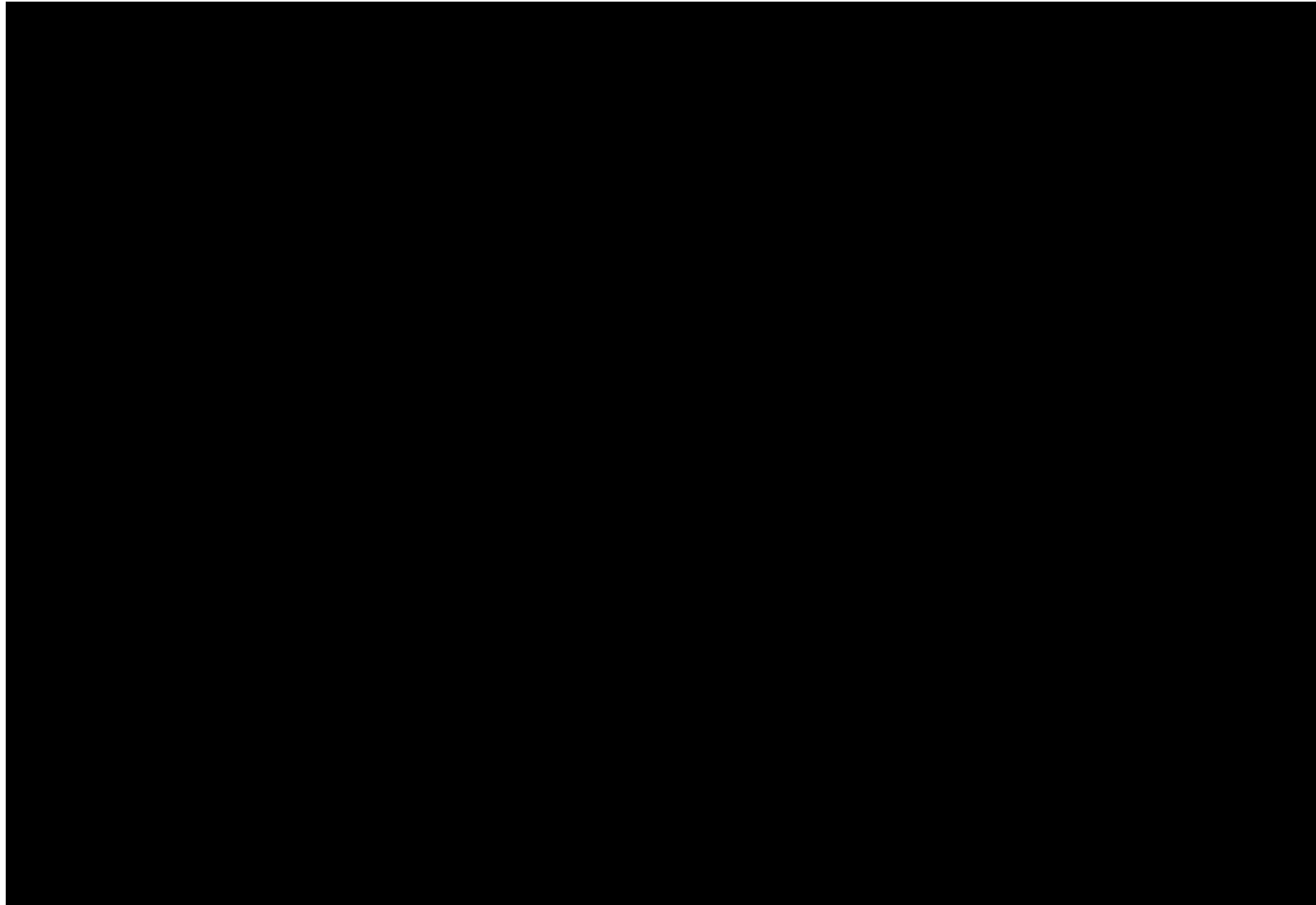
Appendix 1 – Wellington Station Access Areas Plan

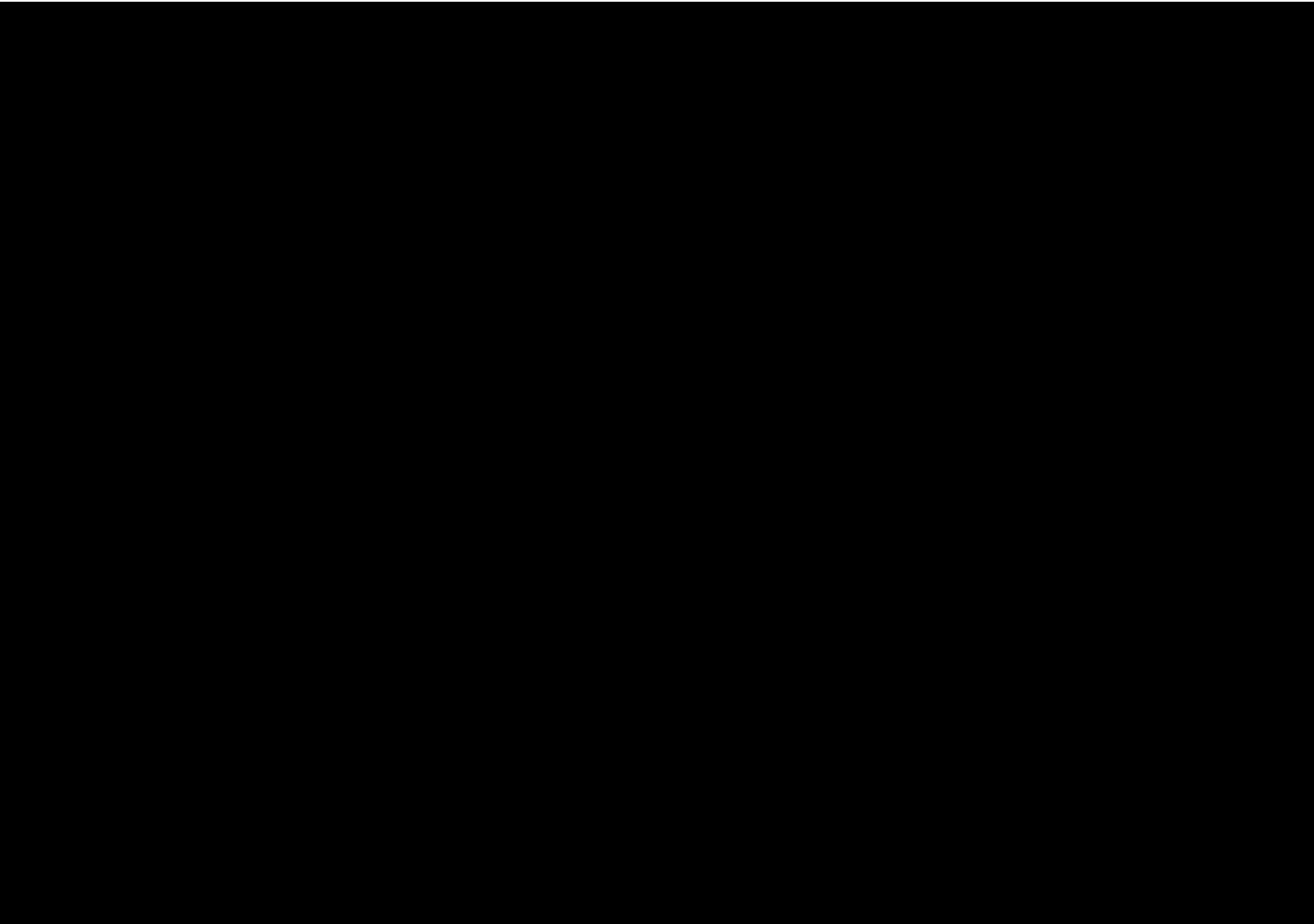


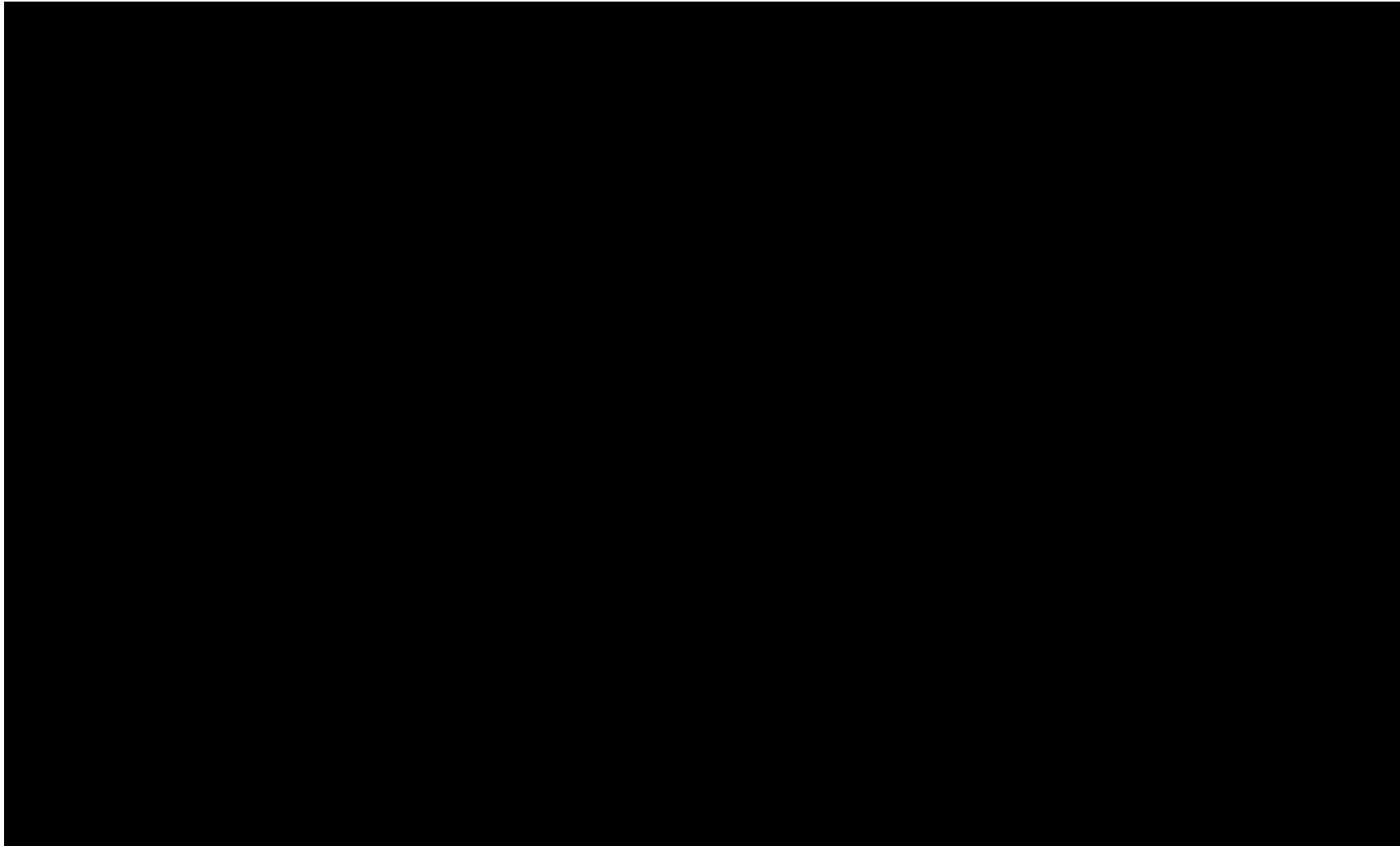
Appendix 2 – Waterloo Quay Carparks Plan

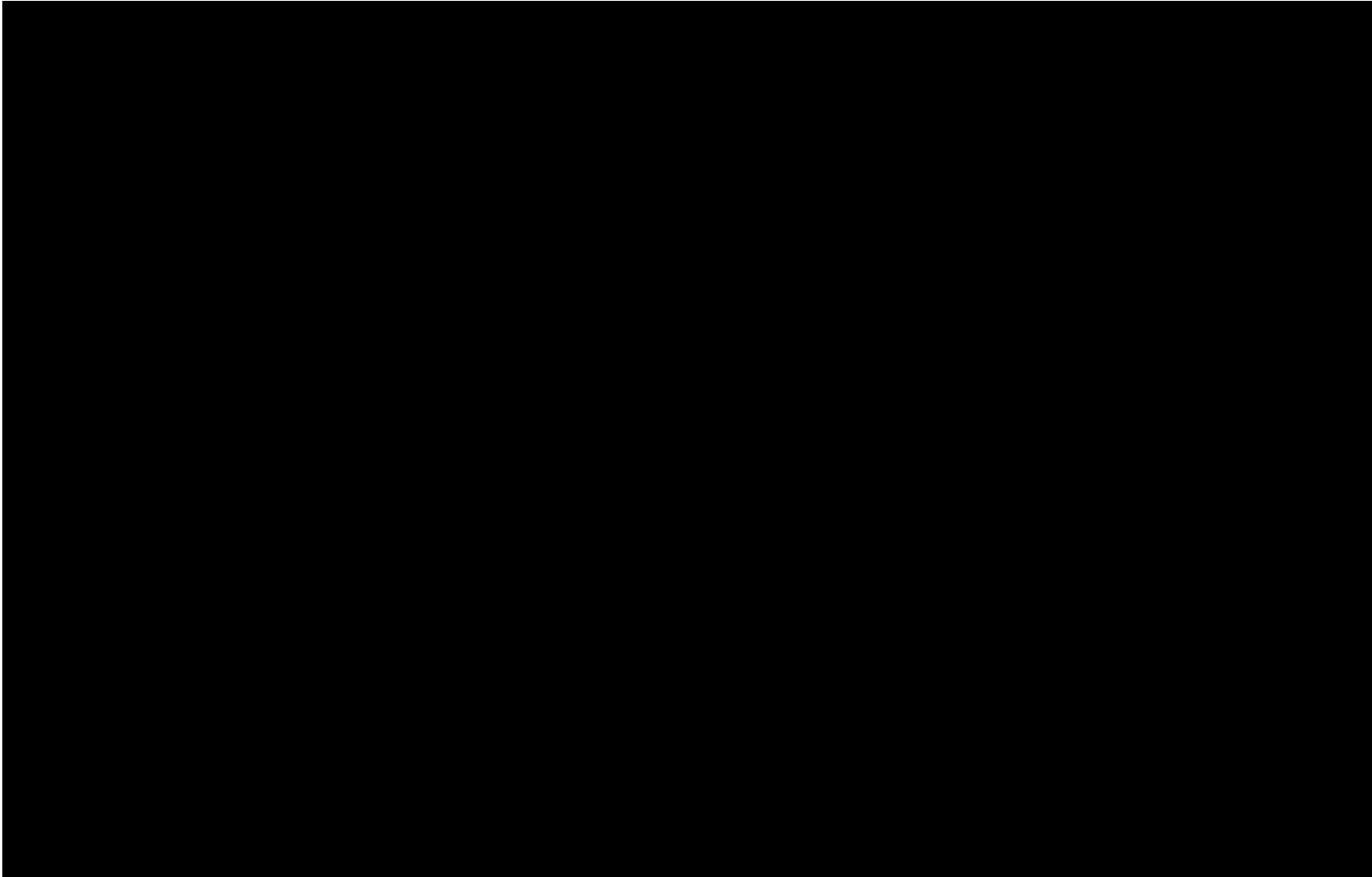


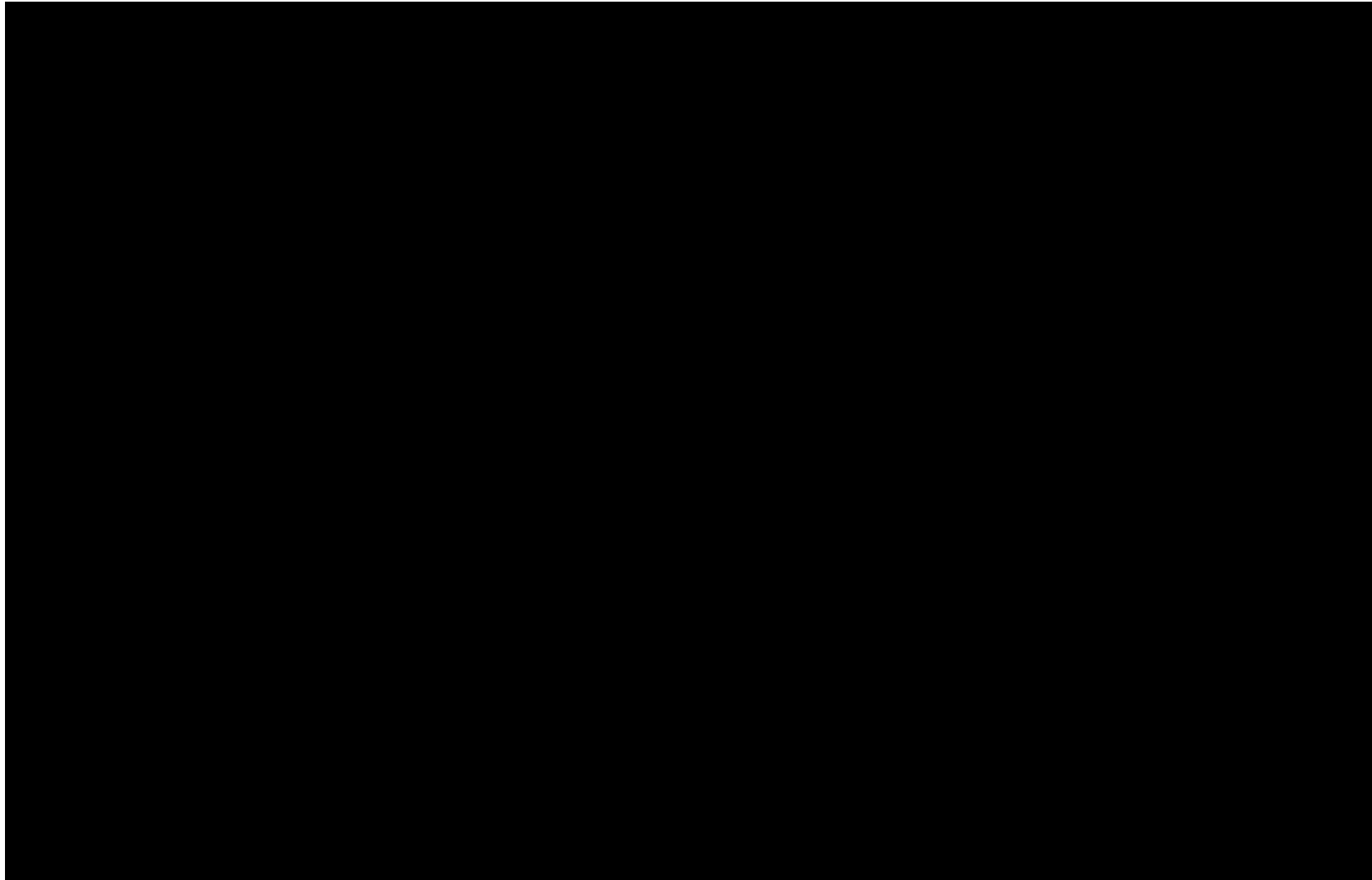
Appendix 3 – Station Access Areas Plans (excluding Wellington Station)

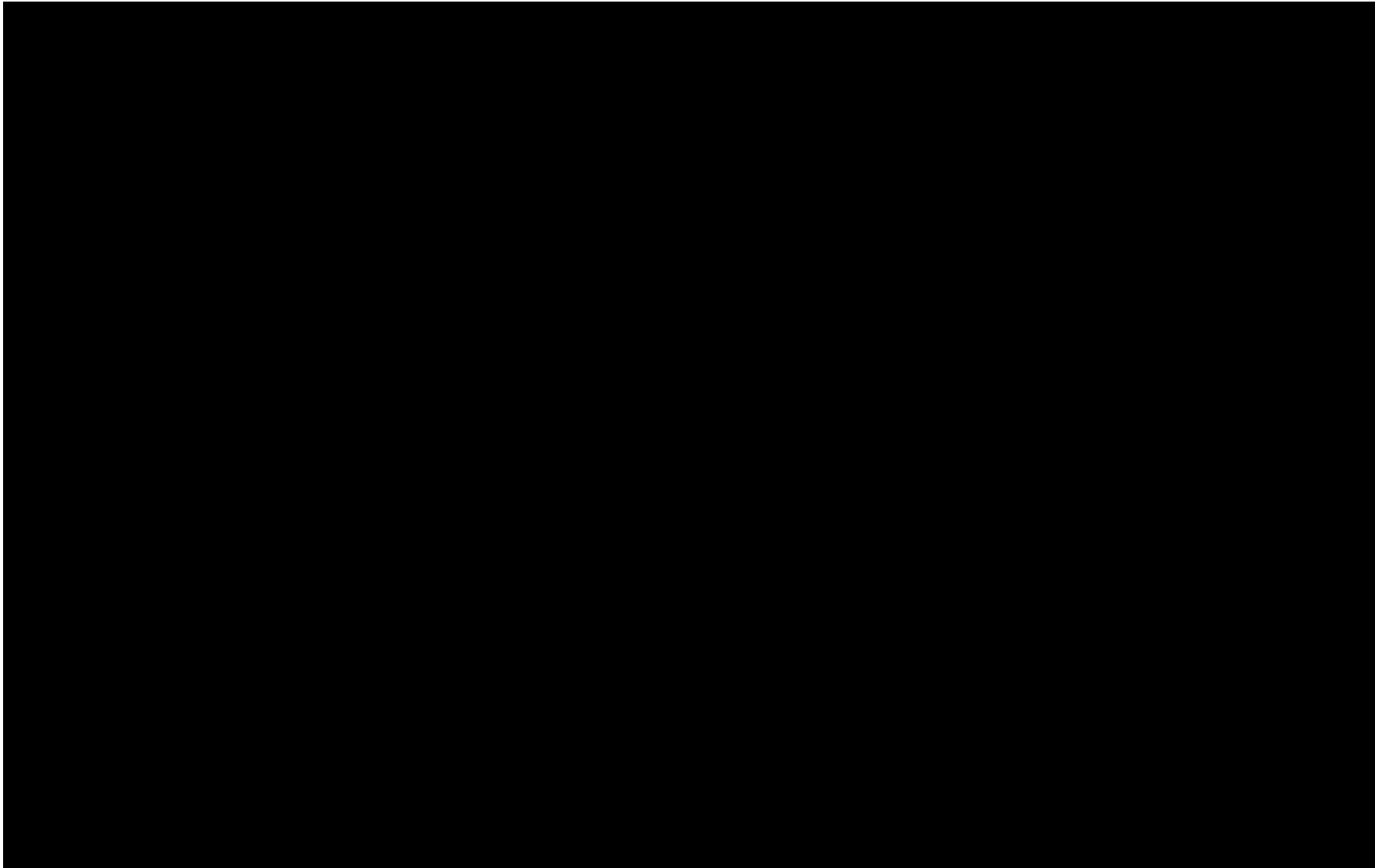


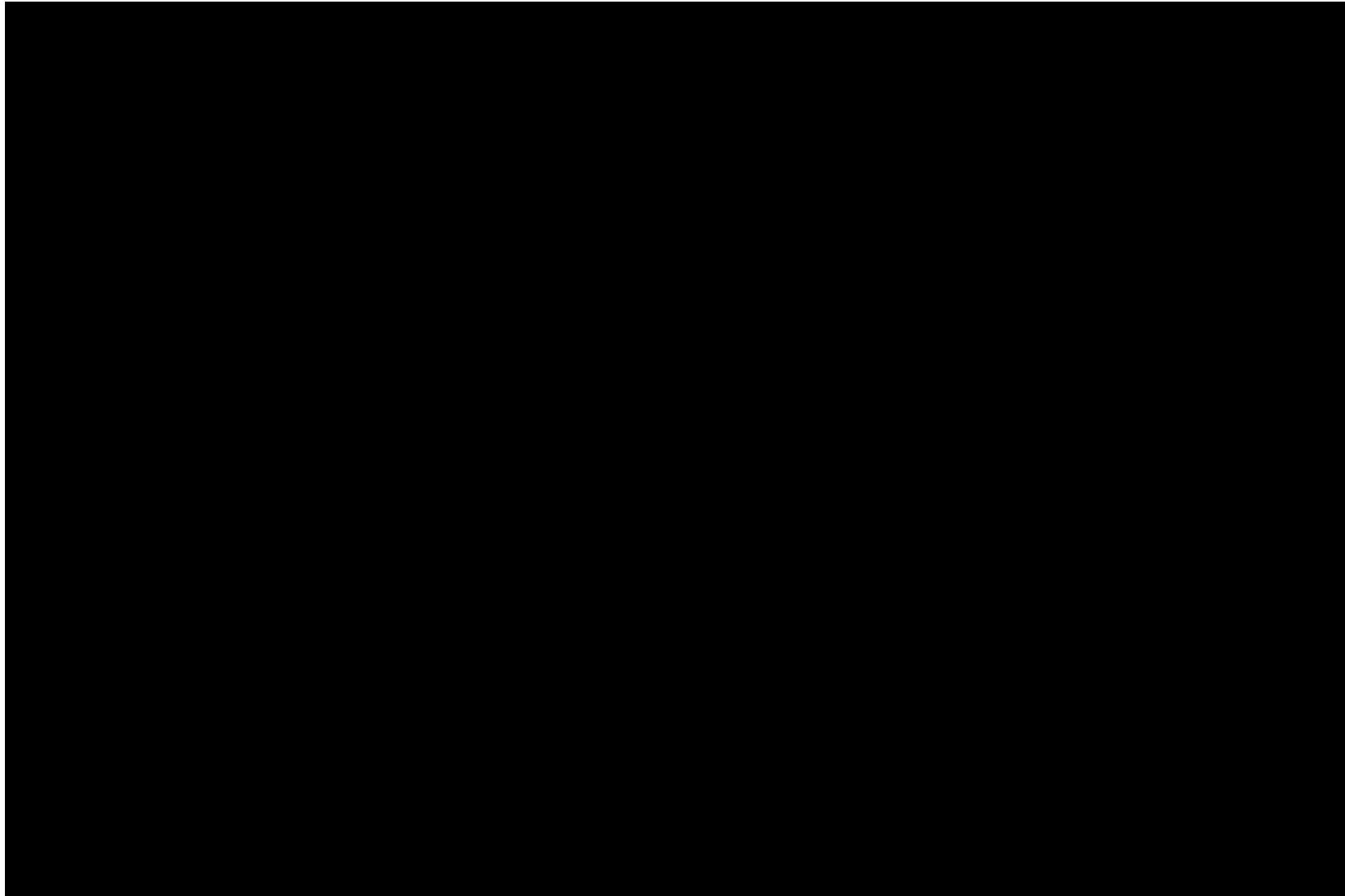


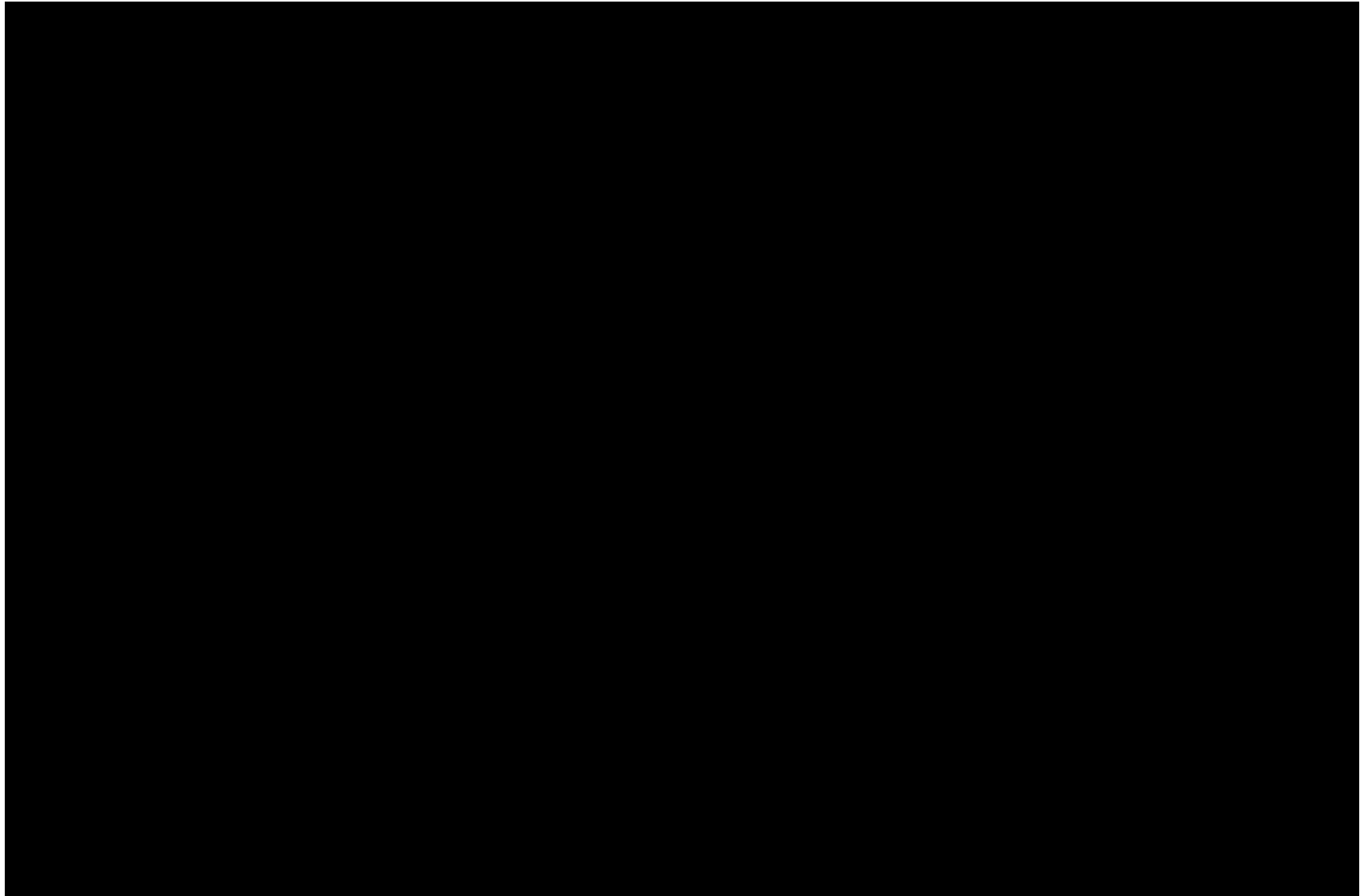


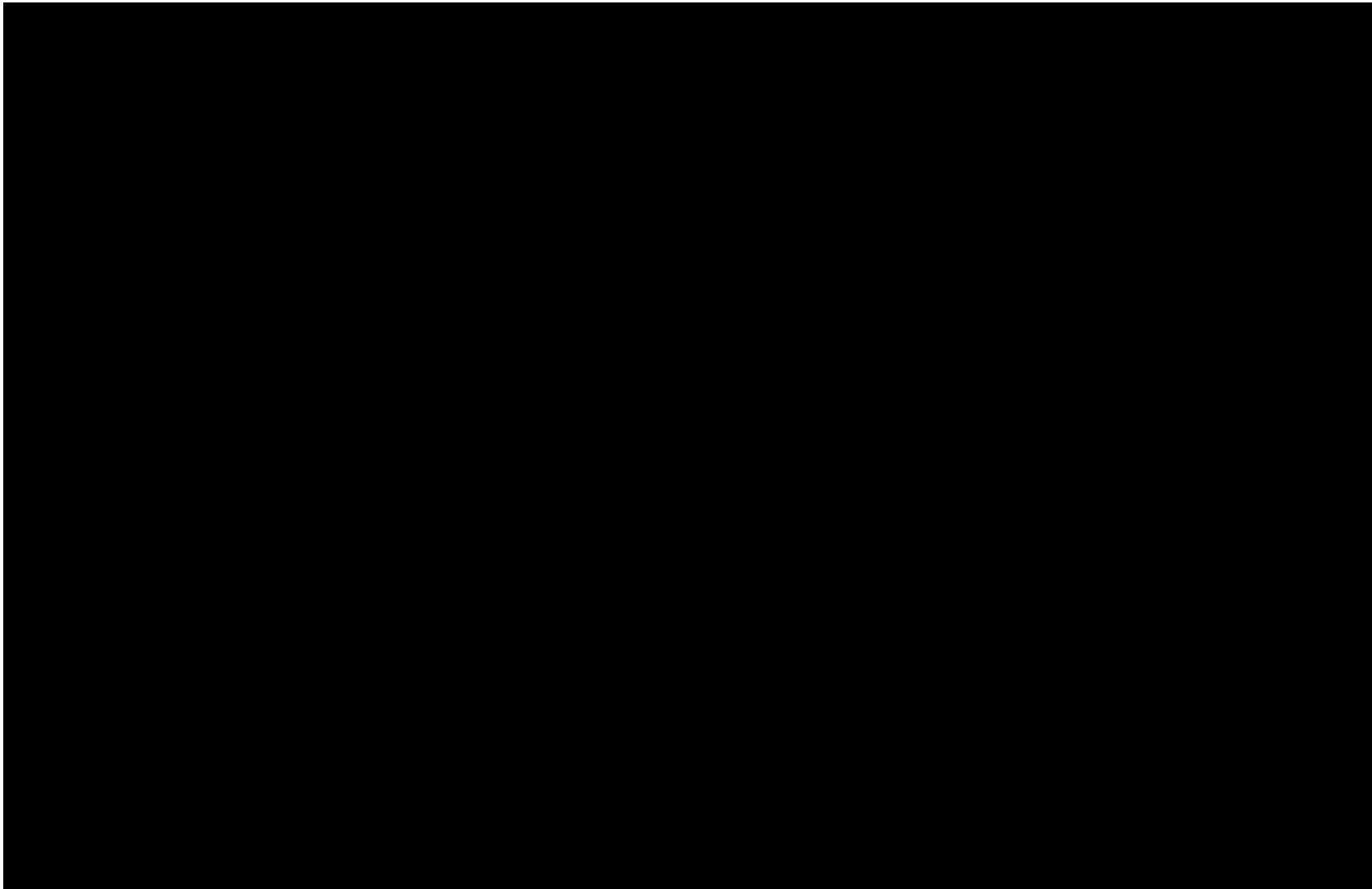


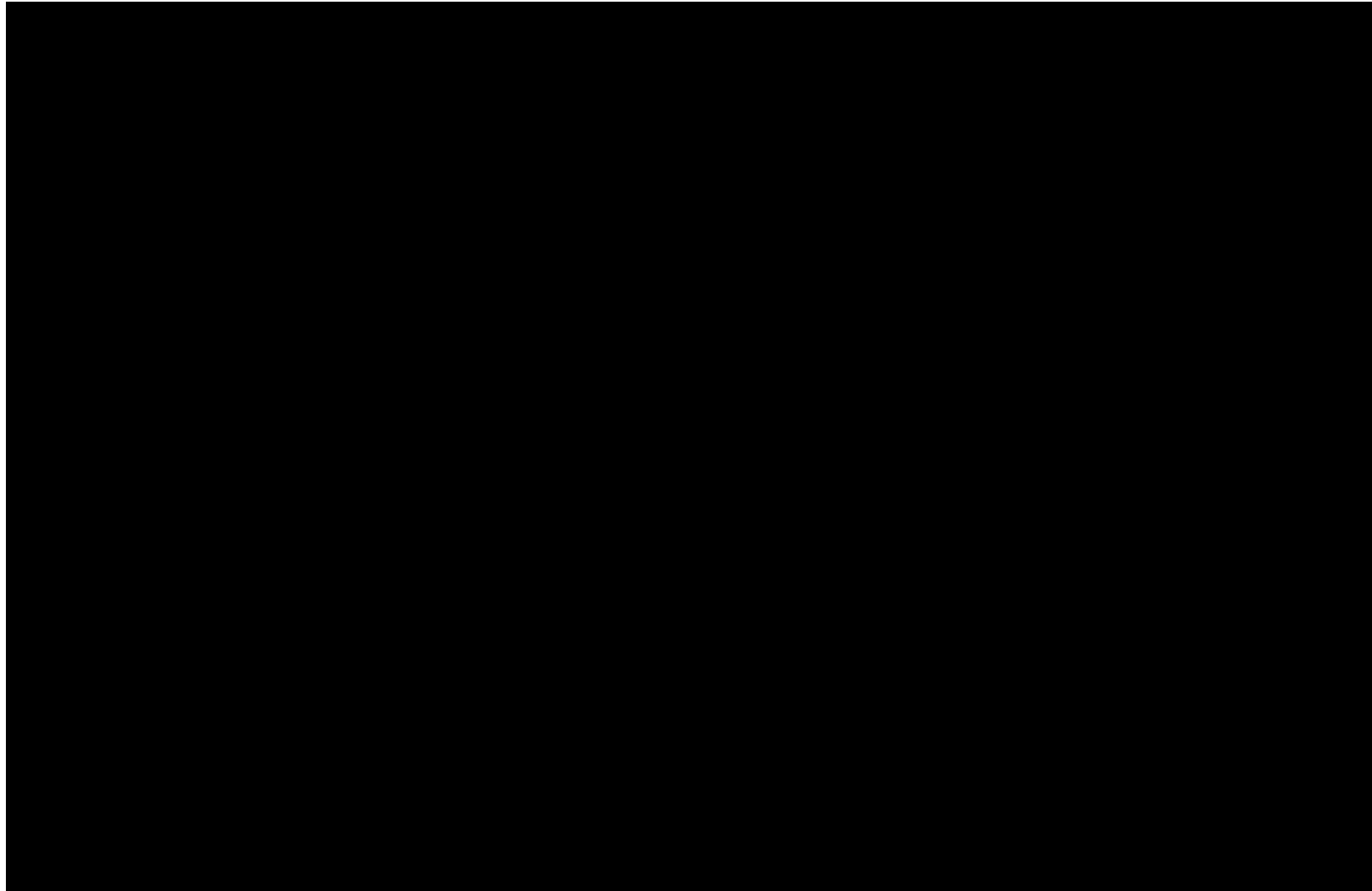




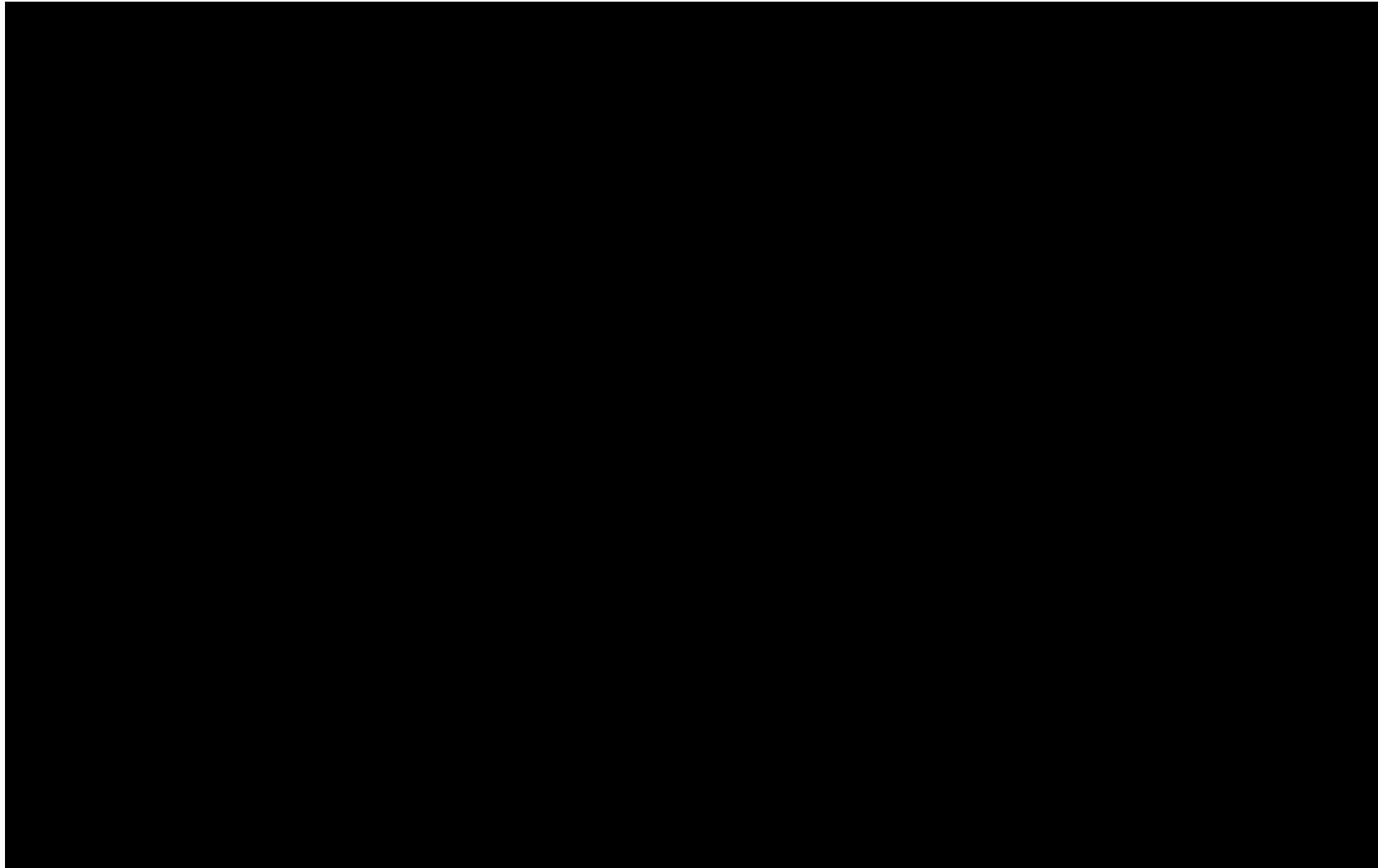


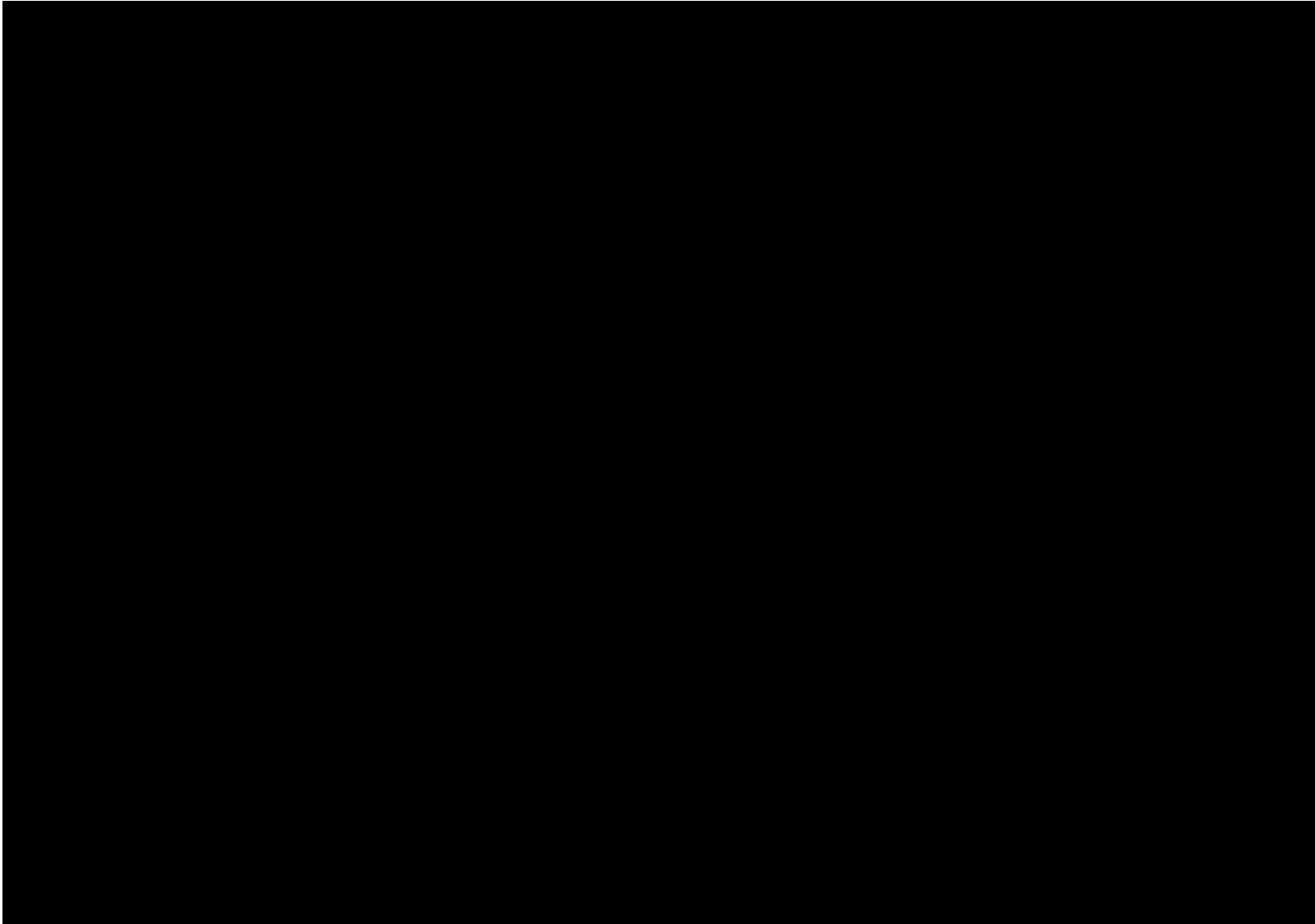


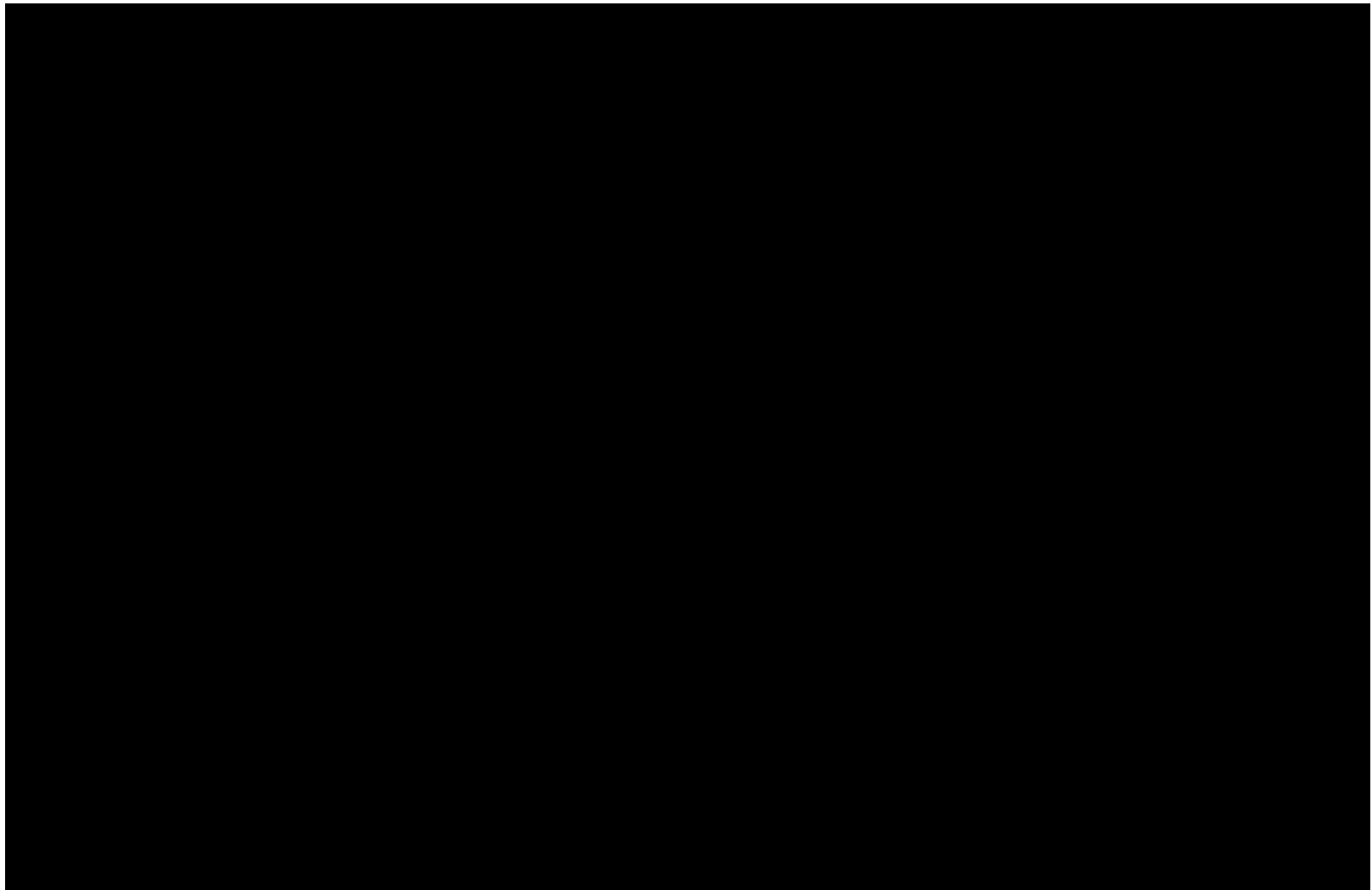


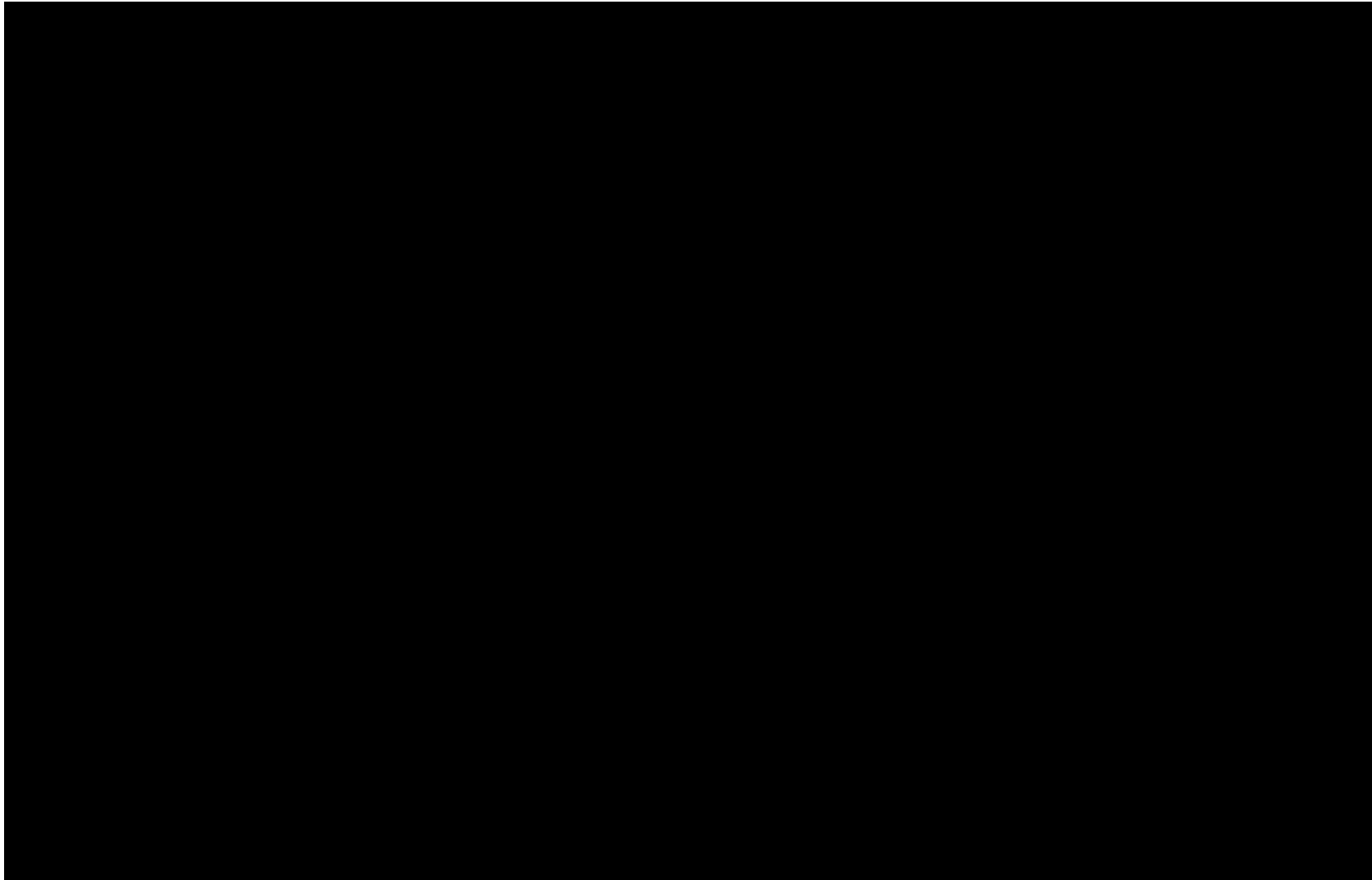


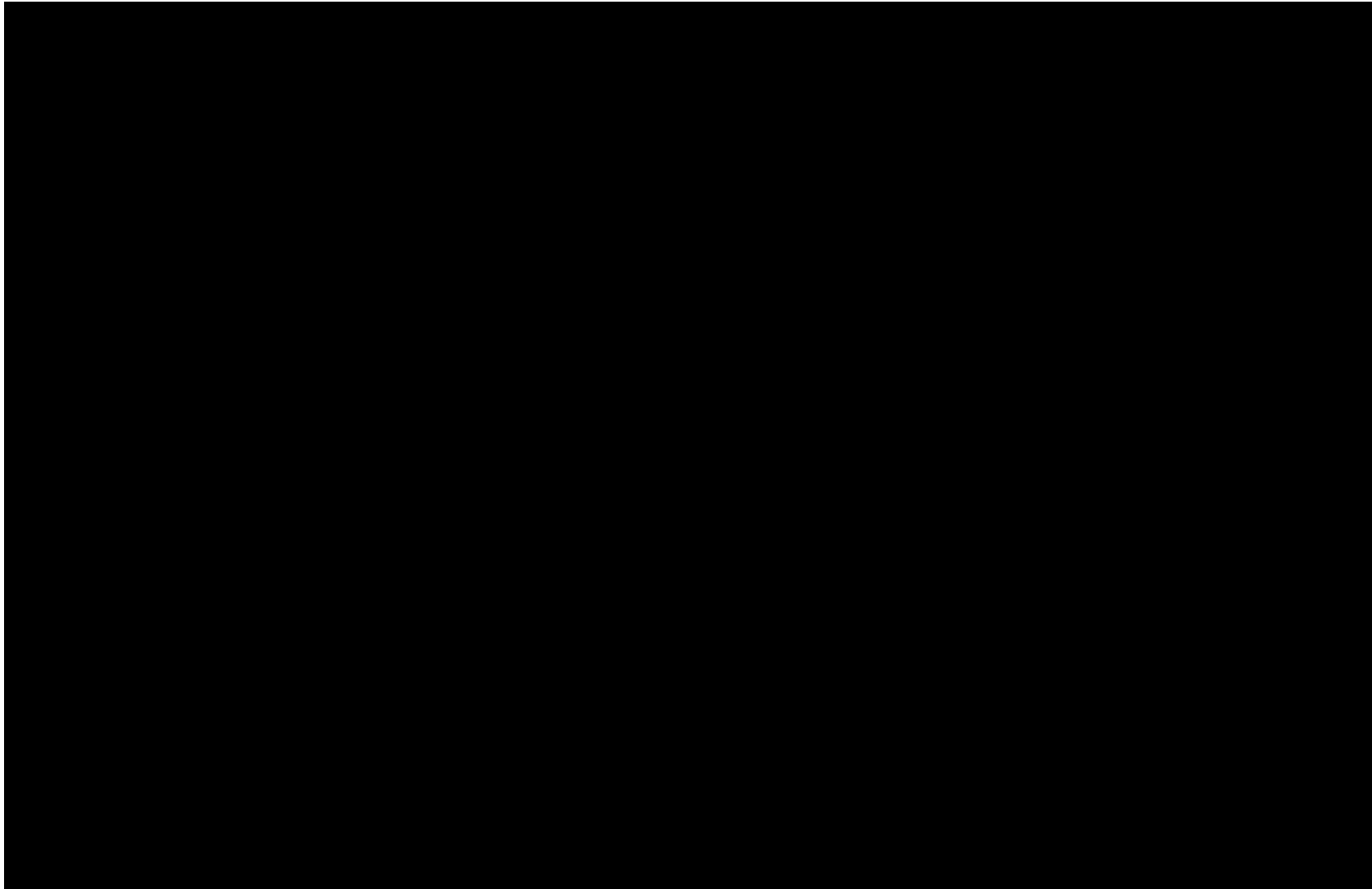
Appendix 4 – EMU Depot Access Areas Plan



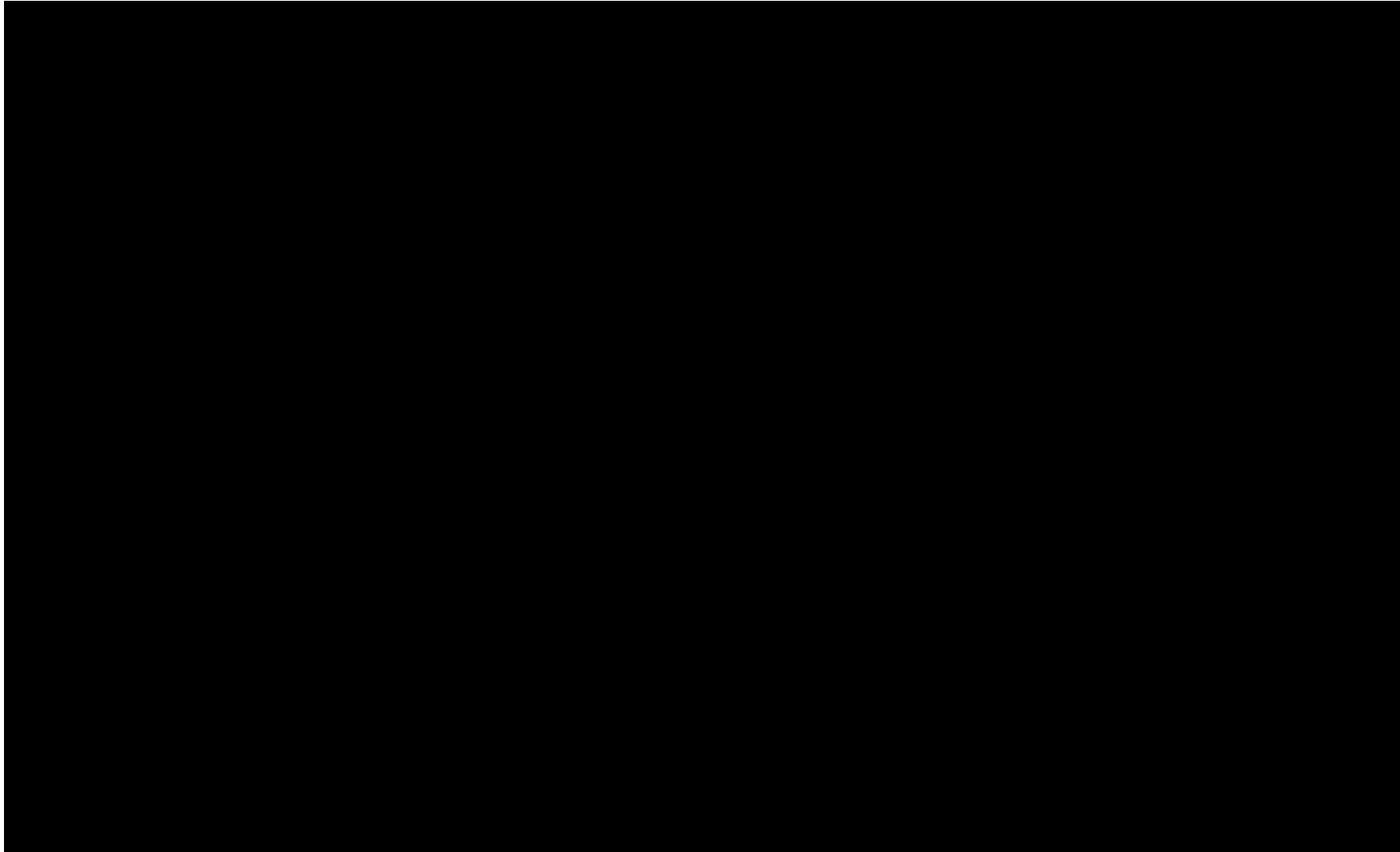


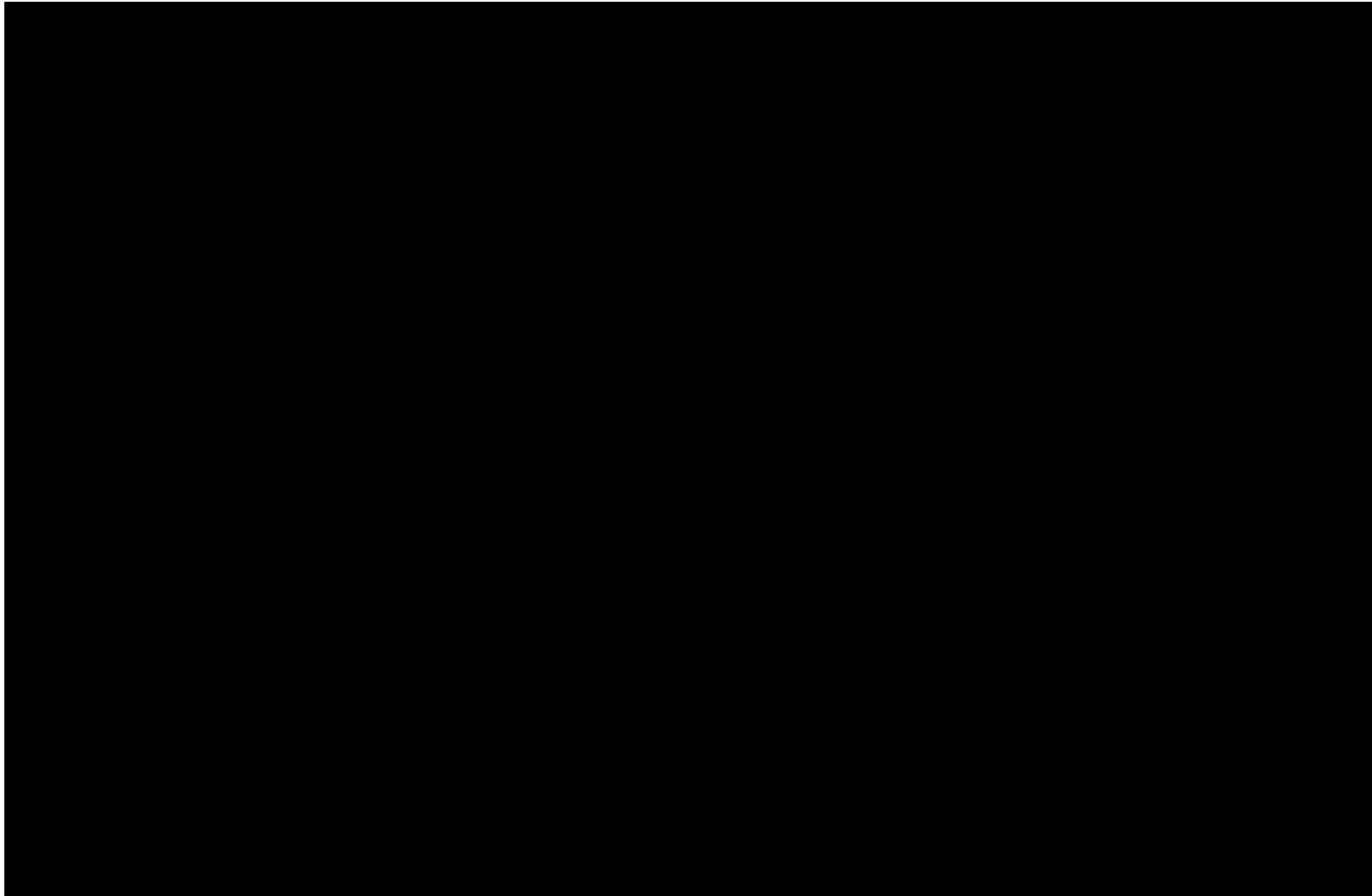


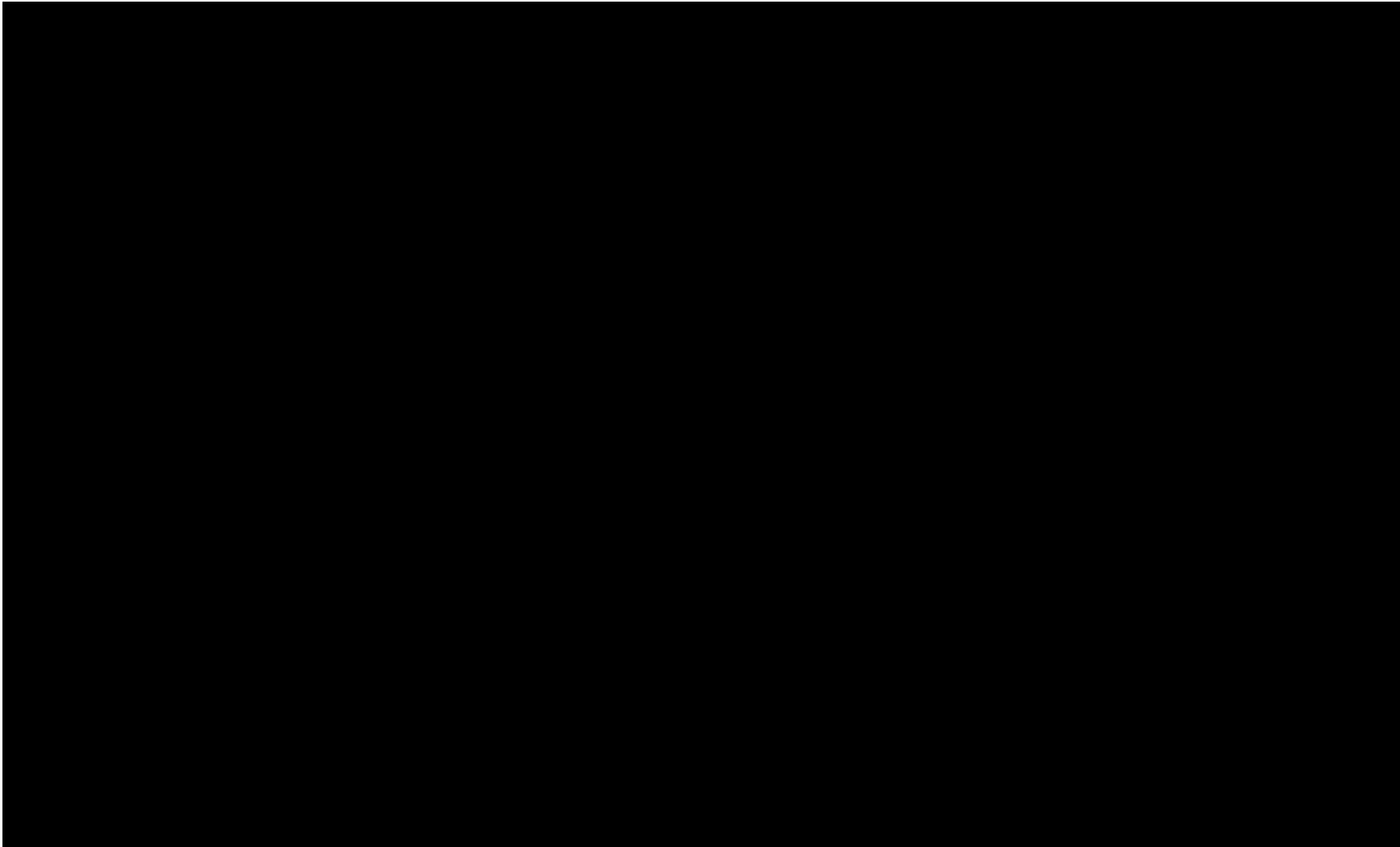


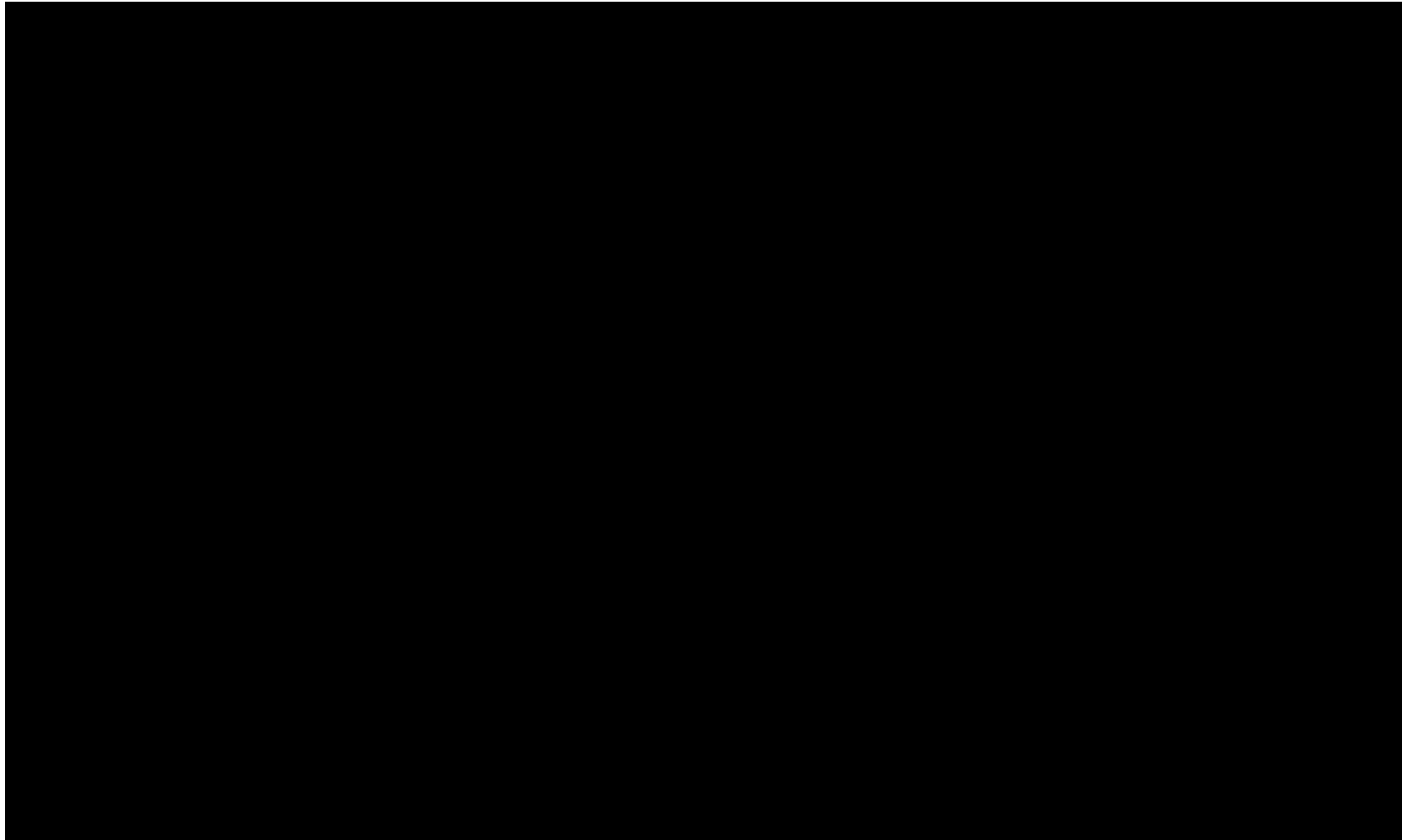


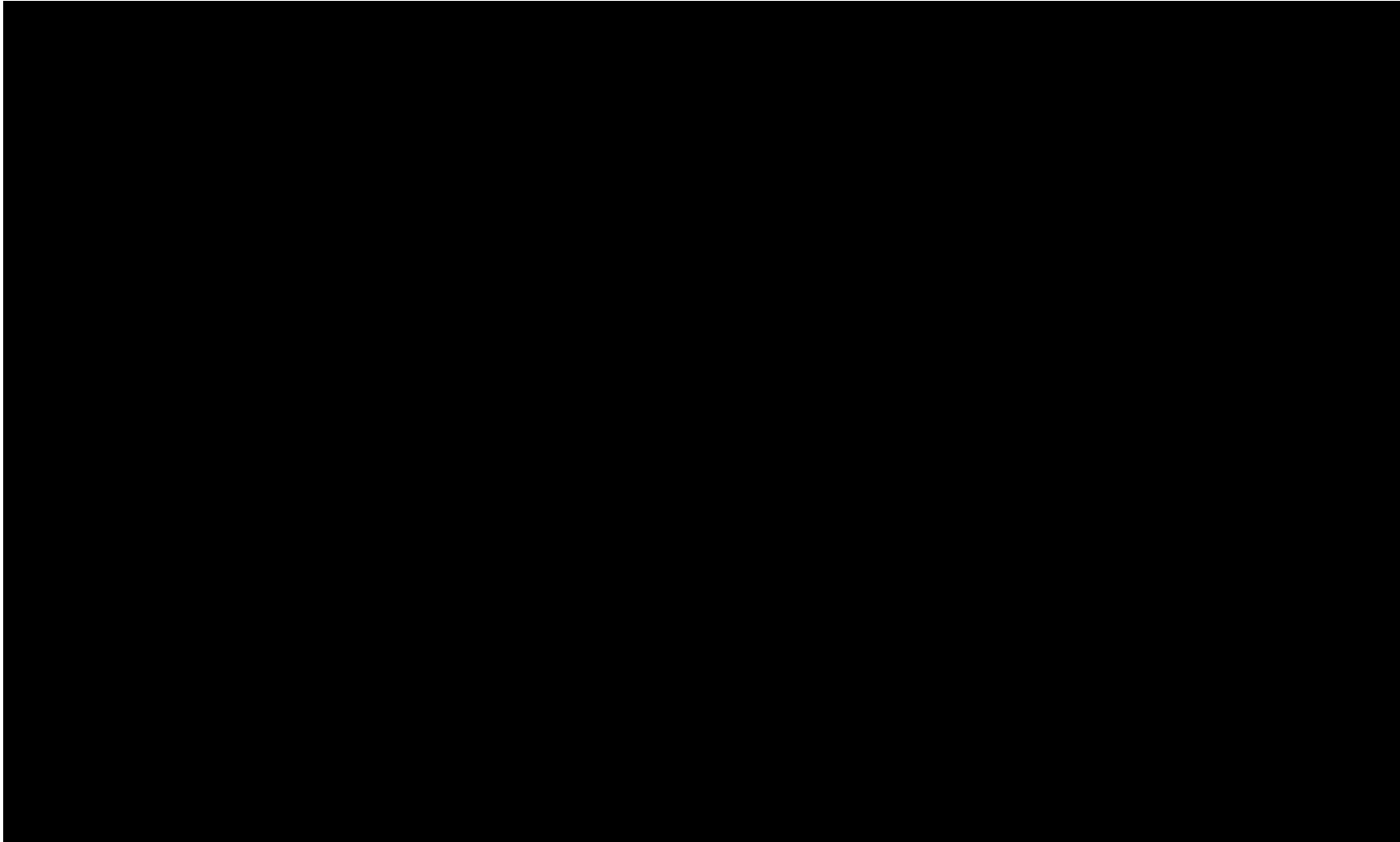
Appendix 5 – Carriage Depot Access Areas Plan











Schedule 10

Operating Lease

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1 Introduction and definitions

1.1 This Schedule sets out the terms on which GWRL shall lease the Vehicles to the Operator.

1.2 In this Schedule, the following definitions apply unless the context otherwise requires:

Adapter Couplers	means those adapter couplers identified in Appendix 1 to this Schedule and which are located at the sites identified in Appendix 2 to this Schedule.
Monthly Rental Amount	means \$500,000.
Operating Lease Permitted Use	has the meaning given in paragraph 2.
Vehicles	means: (a) the Simulator; (b) the vehicles described in Appendix 1 to this Schedule (being the rolling stock vehicles, other vehicles and Adapter Couplers owned by GWRL and provided for use by the Operator in accordance with this Schedule); and (c) the Electric Shunts, and in each case includes all assets, items and systems installed or located thereon.

2 Grant of lease

2.1 Subject to the following provisions of this Schedule 10, GWRL hereby leases the Vehicles to the Operator for the term specified in paragraph 3 for the following purposes:

- 2.1.1 the operation of the Vehicles (excluding the Simulator) to provide the Scheduled Services and Special Event Services on the Wellington Rail Network in accordance with this Partnering Contract (including any necessary Ancillary Movements of the Vehicles in connection therewith);
- 2.1.2 the maintenance of the Vehicles and the provision by or on behalf of the Operator of the Vehicle Services, in each case in accordance with this Partnering Contract;
- 2.1.3 in the case of the Simulator only, the provision of driver training in accordance with clause 15 (*Training Requirements*); and

2.1.4 the use of the Vehicles to the extent otherwise required to enable the Operator to perform its obligations under this Partnering Contract, (together the **Operating Lease Permitted Use**).

3 Term of Operating Lease

- 3.1 Subject to paragraph 3.2 and without prejudice to any accrued rights or obligations, the term of the lease referred to in paragraph 2.1 shall commence at the Transfer Time and shall terminate at the relevant Nominated Time on the Termination Date.
- 3.2 Notwithstanding anything to the contrary in this Partnering Contract, GWRL shall not be obliged to lease the Simulator (or otherwise provide the Simulator) to the Operator until such date as GWRL may notify the Operator in writing from time to time.
- 3.3 For the avoidance of doubt, the Operator's obligations under paragraph 4 shall survive the termination of the lease.

4 Rental payments

- 4.1 Within 5 Business Days after the end of each Relevant Month, GWRL shall submit a valid tax invoice to the Operator for the Monthly Rental Amount.
- 4.2 In consideration of GWRL leasing the Vehicles to the Operator pursuant to this Schedule 10 (*Operating Lease*), the Operator shall pay or procure the payment of the Monthly Rental Amount (without set-off, counterclaim, withholding or deduction) to GWRL on or before the 20th day of the month following the end of the Relevant Month (or if such day is not a Business Day, on the next Business Day).
- 4.3 The Monthly Rental Amount is exclusive of GST, which shall be payable by the Operator in accordance with clause 47 (*GST, rates, taxation, utilities and accounting principles*).

5 Obligations of the Operator

- 5.1 The Operator shall:
- 5.1.1 use the Vehicles solely for the Operating Lease Permitted Use and shall not use any of the Vehicles (or permit any of the Vehicles to be used) for any other purpose;
 - 5.1.2 ensure that the Vehicles are operated and maintained in accordance with the provisions of this Partnering Contract;
 - 5.1.3 ensure that the Vehicles are safely and securely stored when not in use and otherwise provide security in regard to the Vehicles in accordance

with the Vehicle and Asset Security Services described at Schedule 4 (*Vehicle Services*) and the Security Service Specification;

- 5.1.4 at all times during the Term, keep the Vehicles (excluding the Simulator):
- (a) on the Wellington Rail Network; or
 - (b) at the Depot Facilities; or
 - (c) at the Vehicle Stabling Facilities,
- and the Operator shall not permit the Vehicles (excluding the Simulator) to be located at or moved to any other premises or location without the prior written consent of GWRL;
- 5.1.5 at all times during the Term, keep the Simulator and the Operator shall not permit the Simulator to be located at or moved to any other premises or location without the prior written consent of GWRL;
- 5.1.6 take out and maintain insurance in accordance with the requirements of clause 50 (*Insurance*) of this Partnering Contract and reinstate the Insured Property in accordance with clause 51 (*Reinstatement*) of this Partnering Contract;
- 5.1.7 make physical possession of the Vehicles available to GWRC, GWRL or GWRC's nominee on the Operator Asset Transfer Date in accordance with clause 63.14 (*General provisions relating to transfer*); and
- 5.1.8 not make any alteration or modification to the Vehicles except to the extent that it is obliged to do so under this Partnering Contract.

6 Rights of GWRL and GWRC

This Schedule 10 and the rights granted to the Operator hereunder shall be subject and without prejudice to any rights which GWRL or GWRC may have in relation to the Vehicles under any other provision of this Partnering Contract (including any rights under this Partnering Contract to access, use or inspect the Vehicles).

7 Ownership

- 7.1 The Operator acknowledges and agrees that the Vehicles shall at all times remain the property of GWRL and that the Operator shall have no right, title or interest in or to the Vehicles (except the right to possession and use of the Vehicles subject to the terms of this Schedule 10).
- 7.2 The Operator shall ensure that at all times each of the Vehicles remains identifiable as being GWRL's property.
- 7.3 Without prejudice to the Operator's obligations under clause 71.1 (*Assignment by Operator*), the Operator shall not:

- 7.3.1 do or permit to be done any act or thing which will or may jeopardise the rights, title and/or interest of GWRL in the Vehicles; or
- 7.3.2 suffer or permit any of the Vehicles to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if any of the Vehicles are so confiscated, seized or taken, the Operator shall:
 - (a) at its sole expense, procure an immediate release and return of the Vehicles; and
 - (b) indemnify GWRL and GWRC on demand (and keep them so indemnified) from and against all Losses suffered as a result of such confiscation, seizure or taking of the relevant Vehicles.

8 No warranty

8.1 Except to the extent otherwise required by applicable Law, neither GWRC nor GWRL:

8.1.1 give any representation, warranty or undertaking; or

8.1.2 shall have any liability to the Operator,

in respect of the condition or quality of the Vehicles or their fitness for use by the Operator in the provision of the Services or for any other purpose. The Operator acknowledges and agrees that it has undertaken its own due diligence in this regard.

9 Miscellaneous

9.1 For the avoidance of doubt, the terms of this Operating Lease form part of this Partnering Contract and any reference to this Partnering Contract shall include this Operating Lease.

9.2 The Parties acknowledge and agree that this Operating Lease is intended to be, and shall be, treated by the Parties as an operating lease and not a finance lease. If this Operating Lease is deemed to be a finance lease for income tax purposes, GWRL and the Operator agree that:

9.2.1 they will each make the adjustment required under section FA 11 of the Income Tax Act 2007;

9.2.2 the "consideration" for the purposes of calculating the amount of the loan for both GWRL as lessor and the Operator as lessee (in terms of sections FA 6 and FA 7 of the Income Tax Act 2007) will be an amount no greater than the aggregate of all Monthly Rental Amounts payable, being the lowest price that GWRL and the Operator would have agreed on for the Vehicles on the date on which this Operating Lease became effective, if

payment had been required in full at the time that the first right in the Vehicles was transferred; and

9.2.3 the value of cost for tax depreciation purposes shall be based on the amount described in paragraph 9.2.2.

9.3 GWRL and the Operator shall each:

9.3.1 file income tax returns consistent with paragraph 9.2; and

9.3.2 account for GST and adopt a GST filing position consistent with the position referred to in paragraph 9.2.

Appendix 1 - Vehicles

Matangi Fleet

Item No.	Vehicle Description	Vehicle Type	Vehicle No.	Date Owned by GWRL	Line of Services	Remark	Current Status	
1	Matangi EMU	EMU (Motor car)	FP4103	23-Dec-10	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
2	Matangi EMU	EMU (Trailer car)	FT4103	23-Dec-10	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
3	Matangi EMU	EMU (Motor car)	FP4132	31-Mar-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
4	Matangi EMU	EMU (Trailer car)	FT4132	31-Mar-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
5	Matangi EMU	EMU (Motor car)	FP4149	8-Apr-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
6	Matangi EMU	EMU (Trailer car)	FT4149	8-Apr-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
7	Matangi EMU	EMU (Motor car)	FP4155	15-Apr-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
8	Matangi EMU	EMU (Trailer car)	FT4155	16-Apr-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
9	Matangi EMU	EMU (Motor car)	FP4161	12-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
10	Matangi EMU	EMU (Trailer car)	FT4161	12-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
11	Matangi EMU	EMU (Motor car)	FP4178	19-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
12	Matangi EMU	EMU (Trailer car)	FT4178	19-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
13	Matangi EMU	EMU (Motor car)	FP4190	19-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
14	Matangi EMU	EMU (Trailer car)	FT4190	19-May-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
15	Matangi EMU	EMU (Motor car)	FP4126	5-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
16	Matangi EMU	EMU (Trailer car)	FT4126	5-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
17	Matangi EMU	EMU (Motor car)	FP4339	22-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
18	Matangi EMU	EMU (Trailer car)	FT4339	22-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
19	Matangi EMU	EMU (Motor car)	FP4201	14-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	
20	Matangi EMU	EMU (Trailer car)	FT4201	14-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	
21	Matangi EMU	EMU (Motor car)	FP4345	29-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	
22	Matangi EMU	EMU (Trailer car)	FT4345	29-Jul-11	NIMT/HVL/JVL	2-cars unit	In service	
23	Matangi EMU	EMU (Motor car)	FP4184	16-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
24	Matangi EMU	EMU (Trailer car)	FT4184	16-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication
25	Matangi EMU	EMU (Motor car)	FP4351	16-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	
26	Matangi EMU	EMU (Trailer car)	FT4351	16-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	
27	Matangi EMU	EMU (Motor car)	FP4368	26-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	
28	Matangi EMU	EMU (Trailer car)	FT4368	26-Aug-11	NIMT/HVL/JVL	2-cars unit	In service	
29	Matangi EMU	EMU (Motor car)	FP4218	19-Sep-11	NIMT/HVL/JVL	2-cars unit	In service	
30	Matangi EMU	EMU (Trailer car)	FT4218	19-Sep-11	NIMT/HVL/JVL	2-cars unit	In service	
31	Matangi EMU	EMU (Motor car)	FP4230	29-Sep-11	NIMT/HVL/JVL	2-cars unit	In service	
32	Matangi EMU	EMU (Trailer car)	FT4230	29-Sep-11	NIMT/HVL/JVL	2-cars unit	In service	
33	Matangi EMU	EMU (Motor car)	FP4224	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
34	Matangi EMU	EMU (Trailer car)	FT4224	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
35	Matangi EMU	EMU (Motor car)	FP4397	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
36	Matangi EMU	EMU (Trailer car)	FT4397	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
37	Matangi EMU	EMU (Motor car)	FP4247	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
38	Matangi EMU	EMU (Trailer car)	FT4247	21-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
39	Matangi EMU	EMU (Motor car)	FP4408	25-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
40	Matangi EMU	EMU (Trailer car)	FT4408	25-Nov-11	NIMT/HVL/JVL	2-cars unit	In service	
41	Matangi EMU	EMU (Motor car)	FP4489	8-Dec-11	NIMT/HVL/JVL	2-cars unit	In service	
42	Matangi EMU	EMU (Trailer car)	FT4489	8-Dec-11	NIMT/HVL/JVL	2-cars unit	In service	
43	Matangi EMU	EMU (Motor car)	FP4380	22-Dec-11	NIMT/HVL/JVL	2-cars unit	In service	
44	Matangi EMU	EMU (Trailer car)	FT4380	22-Dec-11	NIMT/HVL/JVL	2-cars unit	In service	
45	Matangi EMU	EMU (Motor car)	FP4414	2-Mar-12	NIMT/HVL/JVL	2-cars unit	In service	
46	Matangi EMU	EMU (Trailer car)	FT4414	2-Mar-12	NIMT/HVL/JVL	2-cars unit	In service	

Matangi Fleet

Item No.	Vehicle Description	Vehicle Type	Vehicle No.	Date Owned by GWRL	Line of Services	Remark	Current Status
47	Matangi EMU	EMU (Motor car)	FP4506	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
48	Matangi EMU	EMU (Trailer car)	FT4506	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
49	Matangi EMU	EMU (Motor car)	FP4472	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
50	Matangi EMU	EMU (Trailer car)	FT4472	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
51	Matangi EMU	EMU (Motor car)	FP4529	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
52	Matangi EMU	EMU (Trailer car)	FT4529	15-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
53	Matangi EMU	EMU (Motor car)	FP4512	16-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
54	Matangi EMU	EMU (Trailer car)	FT4512	16-Mar-12	NIMT/HVL/JVL	2-cars unit	In service
55	Matangi EMU	EMU (Motor car)	FP4374	2-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
56	Matangi EMU	EMU (Trailer car)	FT4374	2-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
57	Matangi EMU	EMU (Motor car)	FP4541	2-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
58	Matangi EMU	EMU (Trailer car)	FT4541	2-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
59	Matangi EMU	EMU (Motor car)	FP4564	17-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
60	Matangi EMU	EMU (Trailer car)	FT4564	17-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
61	Matangi EMU	EMU (Motor car)	FP4558	17-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
62	Matangi EMU	EMU (Trailer car)	FT4558	17-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
63	Matangi EMU	EMU (Motor car)	FP4253	26-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
64	Matangi EMU	EMU (Trailer car)	FT4253	26-Apr-12	NIMT/HVL/JVL	2-cars unit	In service
65	Matangi EMU	EMU (Motor car)	FP4535	8-May-12	NIMT/HVL/JVL	2-cars unit	In service
66	Matangi EMU	EMU (Trailer car)	FT4535	8-May-12	NIMT/HVL/JVL	2-cars unit	In service
67	Matangi EMU	EMU (Motor car)	FP4276	25-May-12	NIMT/HVL/JVL	2-cars unit	In service
68	Matangi EMU	EMU (Trailer car)	FT4276	25-May-12	NIMT/HVL/JVL	2-cars unit	In service
69	Matangi EMU	EMU (Motor car)	FP4299	19-Jun-12	NIMT/HVL/JVL	2-cars unit	In service
70	Matangi EMU	EMU (Trailer car)	FT4299	19-Jun-12	NIMT/HVL/JVL	2-cars unit	In service
71	Matangi EMU	EMU (Motor car)	FP4570	29-Jun-12	NIMT/HVL/JVL	2-cars unit	In service
72	Matangi EMU	EMU (Trailer car)	FT4570	29-Jun-12	NIMT/HVL/JVL	2-cars unit	In service
73	Matangi EMU	EMU (Motor car)	FP4282	13-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
74	Matangi EMU	EMU (Trailer car)	FT4282	13-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
75	Matangi EMU	EMU (Motor car)	FP4316	30-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
76	Matangi EMU	EMU (Trailer car)	FT4316	30-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
77	Matangi EMU	EMU (Motor car)	FP4322	30-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
78	Matangi EMU	EMU (Trailer car)	FT4322	30-Jul-12	NIMT/HVL/JVL	2-cars unit	In service
79	Matangi EMU	EMU (Motor car)	FP4587	15-Aug-12	NIMT/HVL/JVL	2-cars unit	In service
80	Matangi EMU	EMU (Trailer car)	FT4587	15-Aug-12	NIMT/HVL/JVL	2-cars unit	In service
81	Matangi EMU	EMU (Motor car)	FP4466	4-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
82	Matangi EMU	EMU (Trailer car)	FT4466	4-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
83	Matangi EMU	EMU (Motor car)	FP4443	11-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
84	Matangi EMU	EMU (Trailer car)	FT4443	11-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
85	Matangi EMU	EMU (Motor car)	FP4437	26-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
86	Matangi EMU	EMU (Trailer car)	FT4437	26-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
87	Matangi EMU	EMU (Motor car)	FP4495	27-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
88	Matangi EMU	EMU (Trailer car)	FT4495	27-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
89	Matangi EMU	EMU (Motor car)	FP4420	15-Oct-12	NIMT/HVL/JVL	2-cars unit	In service
90	Matangi EMU	EMU (Trailer car)	FT4420	15-Oct-12	NIMT/HVL/JVL	2-cars unit	In service
91	Matangi EMU	EMU (Motor car)	FP4604	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service
92	Matangi EMU	EMU (Trailer car)	FT4604	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service

Matangi Fleet

Item No.	Vehicle Description	Vehicle Type	Vehicle No.	Date Owned by GWRL	Line of Services	Remark	Current Status	
93	Matangi EMU	EMU (Motor car)	FP4610	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service	
94	Matangi EMU	EMU (Trailer car)	FT4610	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service	
95	Matangi EMU	EMU (Motor car)	FP4593	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service	
96	Matangi EMU	EMU (Trailer car)	FT4593	10-Sep-12	NIMT/HVL/JVL	2-cars unit	In service	
1	Matangi 2 EMU	EMU (Motor car)	FP5010	5-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
2	Matangi 2 EMU	EMU (Trailer car)	FT5010	5-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
3	Matangi 2 EMU	EMU (Motor car)	FP5027	5-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
4	Matangi 2 EMU	EMU (Trailer car)	FT5027	5-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
5	Matangi 2 EMU	EMU (Motor car)	FP5033	27-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
6	Matangi 2 EMU	EMU (Trailer car)	FT5033	27-Aug-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
7	Matangi 2 EMU	EMU (Motor car)	FP5056	1-Sep-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
8	Matangi 2 EMU	EMU (Trailer car)	FT5056	1-Sep-15	NIMT/HVL/JVL	2-cars unit	In service	Flange lubrication - TBC
9	Matangi 2 EMU	EMU (Motor car)	FP5062	24-Sep-05	NIMT/HVL/JVL	2-cars unit	In service	
10	Matangi 2 EMU	EMU (Trailer car)	FT5062	24-Sep-05	NIMT/HVL/JVL	2-cars unit	In service	
11	Matangi 2 EMU	EMU (Motor car)	FP5079	24-Nov-15	NIMT/HVL/JVL	2-cars unit	In service	
12	Matangi 2 EMU	EMU (Trailer car)	FT5079	24-Nov-15	NIMT/HVL/JVL	2-cars unit	In service	
13	Matangi 2 EMU	EMU (Motor car)	FP5085	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned	
14	Matangi 2 EMU	EMU (Trailer car)	FT5085	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned	
15	Matangi 2 EMU	EMU (Motor car)	FP5091	25-Sep-15	NIMT/HVL/JVL	2-cars unit	In service	
16	Matangi 2 EMU	EMU (Trailer car)	FT5091	25-Sep-15	NIMT/HVL/JVL	2-cars unit	In service	
17	Matangi 2 EMU	EMU (Motor car)	FP5102	23-Oct-15	NIMT/HVL/JVL	2-cars unit	In service	
18	Matangi 2 EMU	EMU (Trailer car)	FT5102	23-Oct-15	NIMT/HVL/JVL	2-cars unit	In service	
19	Matangi 2 EMU	EMU (Motor car)	FP5119	23-Oct-15	NIMT/HVL/JVL	2-cars unit	In service	
20	Matangi 2 EMU	EMU (Trailer car)	FT5119	23-Oct-15	NIMT/HVL/JVL	2-cars unit	In service	
21	Matangi 2 EMU	EMU (Motor car)	FP5125	5-Nov-15	NIMT/HVL/JVL	2-cars unit	In service	
22	Matangi 2 EMU	EMU (Trailer car)	FT5125	5-Nov-15	NIMT/HVL/JVL	2-cars unit	In service	
23	Matangi 2 EMU	EMU (Motor car)	FP5131	9-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
24	Matangi 2 EMU	EMU (Trailer car)	FT5131	9-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
25	Matangi 2 EMU	EMU (Motor car)	FP5148	17-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
26	Matangi 2 EMU	EMU (Trailer car)	FT5148	17-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
27	Matangi 2 EMU	EMU (Motor car)	FP5154	9-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
28	Matangi 2 EMU	EMU (Trailer car)	FT5154	9-Dec-15	NIMT/HVL/JVL	2-cars unit	In service	
29	Matangi 2 EMU	EMU (Motor car)	FP5160	29-Jan-16	NIMT/HVL/JVL	2-cars unit	In service	
30	Matangi 2 EMU	EMU (Trailer car)	FT5160	29-Jan-16	NIMT/HVL/JVL	2-cars unit	In service	
31	Matangi 2 EMU	EMU (Motor car)	FP5177	21-Jan-16	NIMT/HVL/JVL	2-cars unit	In service	
32	Matangi 2 EMU	EMU (Trailer car)	FT5177	21-Jan-16	NIMT/HVL/JVL	2-cars unit	In service	
33	Matangi 2 EMU	EMU (Motor car)	FP5183	1-Feb-16	NIMT/HVL/JVL	2-cars unit	In service	
34	Matangi 2 EMU	EMU (Trailer car)	FT5183	1-Feb-16	NIMT/HVL/JVL	2-cars unit	In service	
35	Matangi 2 EMU	EMU (Motor car)	FP5200	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned	
36	Matangi 2 EMU	EMU (Trailer car)	FT5200	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned	
37	Matangi 2 EMU	EMU (Motor car)	FP5217	10-Feb-16	NIMT/HVL/JVL	2-cars unit	In service	
38	Matangi 2 EMU	EMU (Trailer car)	FT5217	10-Feb-16	NIMT/HVL/JVL	2-cars unit	In service	

Matangi Fleet

Item No.	Vehicle Description	Vehicle Type	Vehicle No.	Date Owned by GWRL	Line of Services	Remark	Current Status
39	Matangi 2 EMU	EMU (Motor car)	FP5223	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
40	Matangi 2 EMU	EMU (Trailer car)	FT5223	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
41	Matangi 2 EMU	EMU (Motor car)	FP5246	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
42	Matangi 2 EMU	EMU (Trailer car)	FT5246	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
43	Matangi 2 EMU	EMU (Motor car)	FP5252	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
44	Matangi 2 EMU	EMU (Trailer car)	FT5252	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
45	Matangi 2 EMU	EMU (Motor car)	FP5269	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
46	Matangi 2 EMU	EMU (Trailer car)	FT5269	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
47	Matangi 2 EMU	EMU (Motor car)	FP5275	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
48	Matangi 2 EMU	EMU (Trailer car)	FT5275	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
49	Matangi 2 EMU	EMU (Motor car)	FP5281	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
50	Matangi 2 EMU	EMU (Trailer car)	FT5281	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
51	Matangi 2 EMU	EMU (Motor car)	FP5298	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
52	Matangi 2 EMU	EMU (Trailer car)	FT5298	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
53	Matangi 2 EMU	EMU (Motor car)	FP5309	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
54	Matangi 2 EMU	EMU (Trailer car)	FT5309	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
55	Matangi 2 EMU	EMU (Motor car)	FP5315	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
56	Matangi 2 EMU	EMU (Trailer car)	FT5315	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
57	Matangi 2 EMU	EMU (Motor car)	FP5321	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
58	Matangi 2 EMU	EMU (Trailer car)	FT5321	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
59	Matangi 2 EMU	EMU (Motor car)	FP5338	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
60	Matangi 2 EMU	EMU (Trailer car)	FT5338	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
61	Matangi 2 EMU	EMU (Motor car)	FP5344	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
62	Matangi 2 EMU	EMU (Trailer car)	FT5344	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
63	Matangi 2 EMU	EMU (Motor car)	FP5350	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
64	Matangi 2 EMU	EMU (Trailer car)	FT5350	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
65	Matangi 2 EMU	EMU (Motor car)	FP5367	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
66	Matangi 2 EMU	EMU (Trailer car)	FT5367	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
67	Matangi 2 EMU	EMU (Motor car)	FP5373	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
68	Matangi 2 EMU	EMU (Trailer car)	FT5373	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
69	Matangi 2 EMU	EMU (Motor car)	FP5396	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned
70	Matangi 2 EMU	EMU (Trailer car)	FT5396	Est. prior to Oct 2016	NIMT/HVL/JVL	2-cars unit	Yet to be commissioned

Legend

- EMU Electric Multiple Unit
- North Island Main
- NIMT Trunk
- HVL Hutt Valley Line
- JVL Johnsonville Line
- TBC To be confirmed
- NA Not Applicable

Carriage Fleet

Item No.	Vehicle Description	Vehicle Type	Vehicle No.	Owned by GWRL	Line of Services	Remark	Current Status	
1	SE Standard Car	Passenger carriage	SE3380	2-Dec-08	Wairarapa Line		In service	Toilet Fitted
2	SE Standard Car	Passenger carriage	SE3311	2-Dec-08	Wairarapa Line		In service	
3	SE Standard Car	Passenger carriage	SE3324	2-Dec-08	Wairarapa Line		In service	
4	SE Standard Car	Passenger carriage	SE3288	2-Dec-08	Wairarapa Line		In service	Toilet Fitted
5	SE Generator Car	Passenger carriage	SEG3430	2-Dec-08	Wairarapa Line		In service	
6	SE Wheelchair Hoist Car	Passenger carriage	SES3327	2-Dec-08	Wairarapa Line		In service	disabled toilet fitted
7	SW Standard Car	Passenger carriage	SW5837	11-May-07	Wairarapa Line		In service	Toilet Fitted
8	SW Servery Car	Passenger carriage	SWS5660	11-May-07	Wairarapa Line		In service	disabled toilet fitted
9	SW Generator Car	Passenger carriage	SWG3365	11-May-07	Wairarapa Line		In service	
10	SW Standard Car	Passenger carriage	SW5820	11-May-07	Wairarapa Line		In service	Toilet Fitted
11	SW Standard Car	Passenger carriage	SW3376	19-Jun-07	Wairarapa Line		In service	Toilet Fitted
12	SW Standard Car	Passenger carriage	SW3339	19-Jun-07	Wairarapa Line		In service	Toilet Fitted
13	SW Standard Car	Passenger carriage	SW3394	19-Jun-07	Wairarapa Line		In service	Toilet Fitted
14	SW Servery Car	Passenger carriage	SWS5723	23-Jul-07	Wairarapa Line		In service	disabled toilet fitted
15	SW Generator Car	Passenger carriage	SWG5671	23-Jul-07	Wairarapa Line		In service	
16	SW Standard Car	Passenger carriage	SW5658	2-Aug-07	Wairarapa Line		In service	Toilet Fitted
17	SW Standard Car	Passenger carriage	SW5646	29-Aug-07	Wairarapa Line		In service	Toilet Fitted
18	SW Standard Car	Passenger carriage	SW3294	29-Aug-07	Wairarapa Line		In service	Toilet Fitted
19	SW Servery Car	Passenger carriage	SWS3298	11-Oct-07	Wairarapa Line		In service	disabled toilet fitted
20	SW Generator Car	Passenger carriage	SWG3422	11-Oct-07	Wairarapa Line		In service	
21	SW Standard Car	Passenger carriage	SW3355	11-Oct-07	Wairarapa Line		In service	Toilet Fitted
22	SW Standard Car	Passenger carriage	SW3349	11-Oct-07	Wairarapa Line		In service	Toilet Fitted
23	SW Standard Car	Passenger carriage	SW3404	19-Oct-07	Wairarapa Line		In service	Toilet Fitted
24	SW Standard Car	Passenger carriage	SW3282	26-Oct-07	Wairarapa Line		In service	Toilet Fitted
25	Spare generator and luggage van	Wagon	AG222	6-Sep-07	Wairarapa Line		In service	

SD10 Adapter Couplers

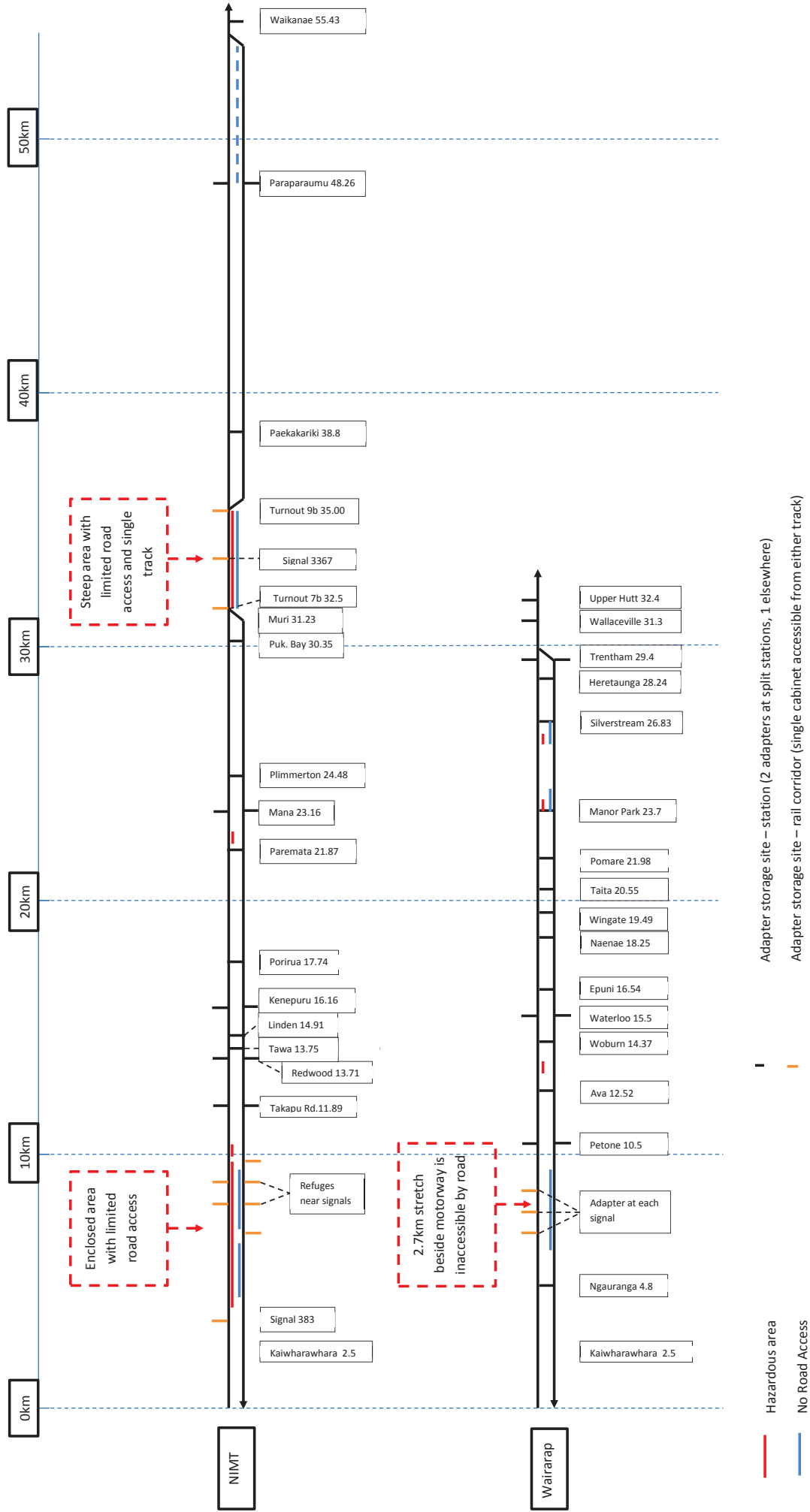
Location	# Required
Kapiti Line	
Waikanae	1
Paraparaumu	2
Paekakariki	1
Turnout 9b - North Junction (Network based)	1
Signal 3367 North/South Junction (Network based)	1
Turnout 7b - South Junction (Network based)	1
Pukerua Bay	1
Plimmerton	1
Mana	2
Paremata	1
Porirua	1
Kenepuru	2
Linden	1
Tawa	1
Redwood N	1
Redwood S	1
Takapu Rd	2
Tunnel 2 North Portal (Network based)	1
Tunnel 2 refuges (Network based)	4
Tunnel 2 South Portal (Network based)	1
Signal 383 (Network based)	1
Hutt Line	
Upper Hutt	1
Wallaceville	1
Trentham	2
Heretaunga	1
Silverstream	1
Manor Park	1
Pomare	1
Taita	1
Wingate	1
Naenae	1
Epuni	1
Waterloo	2
Woburn	1
Ava	1
Petone	2
Petone foreshore signals (Network Based)	3
Ngauranga	1
Other Locations	
Wellington Station Platform 1	1
Kaiwhara KiwiRail I&E Depot	1
Wellington shunts	2
EMU depot	1
LE Team Lead Vehicle	1
Training Team	1

Total

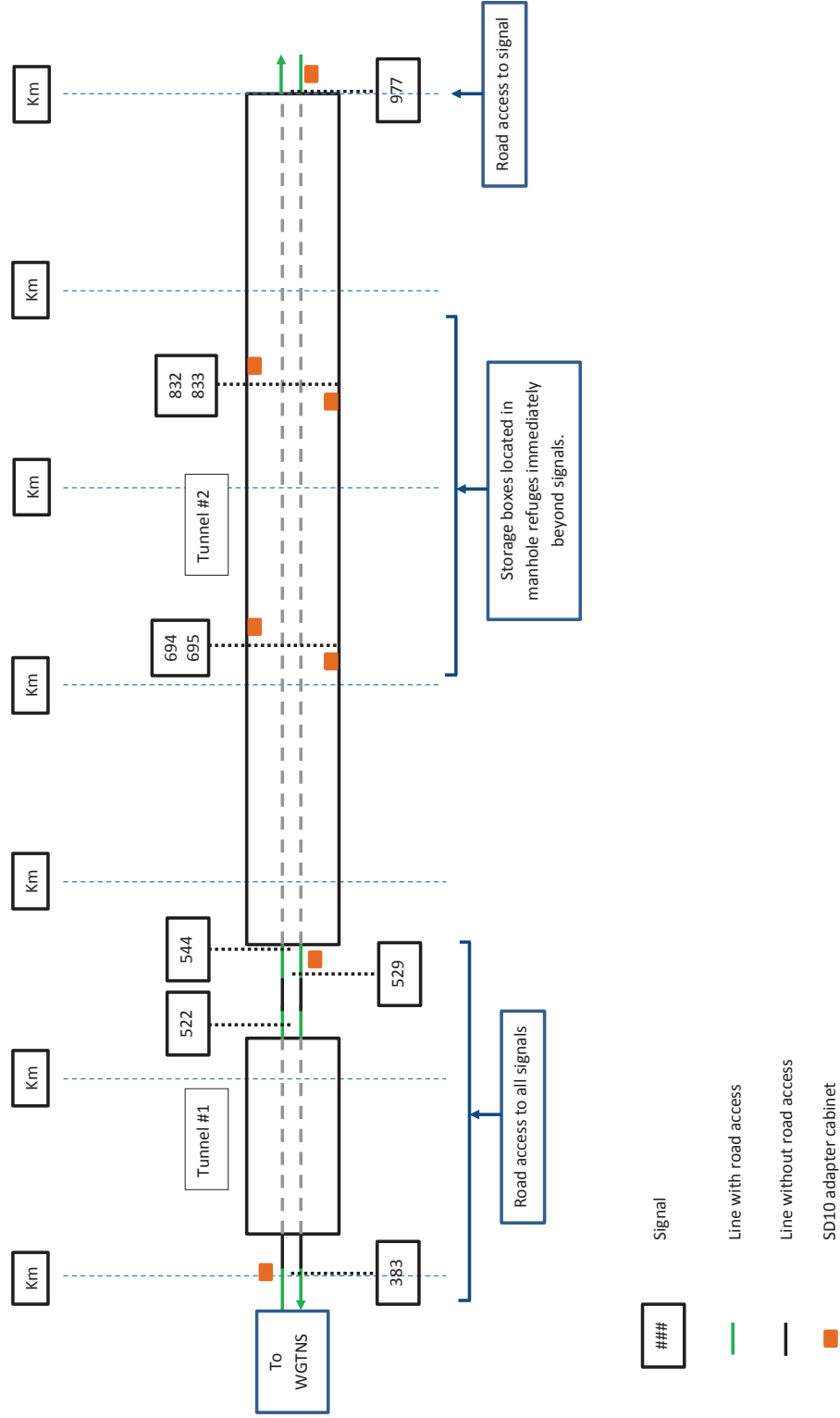
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Appendix 2 - Adapter Coupler Storage Locations

Appendix A – Cabinet Location Overview



Appendix B - Cabinet Locations Tunnel #2



Schedule 11

Regional Agreement

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Date [insert date on which GWRC executes this document]

Parties

- 1 Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002 (**GWRC**); and
- 2 Each PTOM Operator that from time to time becomes a Party in accordance with paragraph 3.1.

1 Introduction

- 1.1 This Regional Agreement records the common rights and obligations of GWRC and PTOM Operators in regard to the delivery of Scheduled Services on the Wellington Public Transport Network.

2 Definitions and interpretation

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

Access Provider	means KiwiRail Holdings Limited (together with its successors and permitted assigns).
Annual Business Plan	means the annual business plan for a PTOM Unit which is to be prepared and approved in accordance with the applicable provisions of the relevant Partnering Contract.
Authorised Representative	means in relation to a Party, the individual that is nominated by that Party from time to time to perform this role under and in accordance with the relevant Partnering Contract.
Bus Partnering Contract	means a Partnering Contract between GWRC and a PTOM Operator in respect of a bus PTOM Unit.
Business Day	means a day (other than a Saturday, Sunday or Public Holiday) on which banks are generally open for business in Wellington.
Commencement Date	has the meaning given to it in the relevant Partnering Contract.
Conditions of Carriage	has the meaning given to it in the relevant Partnering Contract.
Confidential Information	means all information, documents and materials provided from time to time by one Party to another

	Party under or in connection with this Regional Agreement where the Party providing such information has (acting reasonably) notified the recipient Party in writing that such information, document or material is confidential.
Contract Variation	has the meaning given to it in the relevant Partnering Contract.
Customer Service Standards	means the GWRC document entitled “Customer Service Standards” as updated from time to time in accordance with the change process for PT Network Documents set out in this Regional Agreement.
Customer Communication and Information Systems	means the GWRC document entitled “Customer Communication and Information Systems” as updated from time to time in accordance with the change process for PT Network Documents set out in this Regional Agreement.
CVIU	means the Commercial Vehicle Inspection Unit of the New Zealand Police (including its successors).
Deed of Accession to the Regional Agreement	means the deed of accession to this Regional Agreement in the form set out in Annexure 1 (<i>Form of Deed of Accession</i>).
Fares, Ticketing and Enforcement Requirements	means the GWRC document entitled “Fares, Ticketing and Enforcement Requirements” as updated from time to time in accordance with the change process for PT Network Documents set out in this Regional Agreement.
Ferry Partnering Contract	means a Partnering Contract between GWRC and a PTOM Operator in respect of a ferry PTOM Unit.
Governmental Entity	means the Sovereign in right of New Zealand and any government, or any governmental or semi-governmental entity, person or authority, body politic (but excluding any political party), government department, local government authority or statutory authority and includes (unless the context otherwise requires), GWRC, the New Zealand Police, the CVIU and the Transport Agency.
Handover Package	has the meaning given to it in the relevant Partnering Contract.
Key Subcontract	has the meaning given to it in the relevant Partnering Contract.

LGOIMA	means the Local Government Official Information and Meetings Act 1987.
LTMA	means the Land Transport Management Act 2003.
Minor Contract Variation	has the meaning given to it in the relevant Partnering Contract.
Notice to Proceed	has the meaning given to it in the relevant Partnering Contract.
Parties	means the persons who from time to time are parties to this Regional Agreement in accordance with paragraph 3.1, and "Party" shall be construed accordingly.
Partnering Contract	means the contract entered into by GWRC and a PTOM Operator in connection with the provision of services in respect of a PTOM Unit.
Partnering Principles	means the principles and methods of working together described at paragraph 3.9 (<i>Partnering Principles</i>).
PT Network Document Change Proposal	means the summary of a proposed change to a PT Network Document prepared by GWRC pursuant to paragraph 3.22.1.
PT Network Documents	means those documents referred to in paragraph 3.19.
PTOM Operator	means a public transport operator that has entered into a contract with GWRC to provide "public transport services" (as defined in the LTMA) in relation to a "unit" (as defined in the LTMA).
PTOM Unit	means a unit (as defined in section 5(1) of the LTMA) specified in the Wellington Regional Public Transport Plan.
Public Holiday	means a day which is a public holiday in Wellington in accordance with the Holidays Act 2003.
Rail Partnering Contract	means the contract entered into between GWRC and Transdev Wellington Limited (company number 5164521) on or around 10 March 2016 as amended, supplemented, novated or replaced from time to time.
Related Company	means a "related company" as defined in the Companies Act 1993 provided that each reference to "company" in that definition shall be deemed to also include any other body corporate.

Scheduled Services	in regard to each PTOM Operator, has the meaning set out in the relevant Partnering Contract.
Services	in regard to each PTOM Operator, has the meaning given in the relevant Partnering Contract.
Timetable Change Process	means the GWRC document entitled “Timetable Change Process” as updated from time to time in accordance with the change process for PT Network Documents set out in this Regional Agreement.
TPTD	has the meaning given to it in the relevant Partnering Contract.
Transaction Document	has the meaning given to it in the relevant Partnering Contract.
Transport Agency	means the New Zealand Transport Agency established under section 93 of the LTMA.
Unit	has the meaning given in section 5(1) of the LTMA.
Unit Timetable	means a Bus Unit Timetable, Ferry Unit Timetable or Rail Unit Timetable (each as defined in a Partnering Contract).
Variation Order	has the meaning given to it in the relevant Partnering Contract.
Wellington Public Transport Network	means the PTOM Units that make up the public transport network managed by GWRC.
Wellington Regional Public Transport Forum	means the forum described at paragraph 3.14 (<i>Wellington Regional Public Transport Forum</i>).
Wellington Regional Public Transport Plan	means the regional public transport plan for Wellington adopted under the LTMA (as amended, updated, supplemented or replaced from time to time).
Year	means each period of 12 months from 1 July to 30 June.

2.2 The following rules apply to this Regional Agreement unless the context requires otherwise:

- 2.2.1 headings are for convenience only and do not affect interpretation;
- 2.2.2 the singular includes the plural and conversely;
- 2.2.3 a gender includes all genders;

- 2.2.4 if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- 2.2.5 a reference to a person, corporation, trust, partnership, unincorporated body, organisation or other entity includes any of them;
- 2.2.6 a reference to a paragraph or Annexure is a reference to a paragraph of, or Annexure to, this Regional Agreement;
- 2.2.7 a reference to an agreement or document (including a reference to this Regional Agreement) is to the agreement or document as amended, varied or supplemented, novated or replaced, except to the extent prohibited by this Regional Agreement or that other agreement or document;
- 2.2.8 a reference to a person includes that person's successors, permitted substitutes and permitted assigns (and, where applicable, that person's legal personal representatives);
- 2.2.9 a reference to legislation or a rule or to a provision of legislation or rule includes a modification or re-enactment of it, a legislative provision or rule substituted for it and a regulation or statutory instrument issued under it;
- 2.2.10 a reference to conduct includes an act, omission, statement and undertaking, whether or not in writing;
- 2.2.11 a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;
- 2.2.12 a reference to dollars and \$ is to New Zealand currency;
- 2.2.13 a reference to month or to a year is to a calendar month or a calendar year;
- 2.2.14 a reference to a right or an obligation of any two or more persons confers that right, or imposes that obligation as the case may be, on each of them severally and each two or more of them jointly;
- 2.2.15 a reference to a Party is a reference to each of those persons separately;
- 2.2.16 a reference to writing includes an email and any other means of reproducing words in a tangible and permanently visible form;
- 2.2.17 a reference to an asset includes any real or personal, present or future, tangible or intangible, property or asset (including intellectual property rights) and any right, interest, revenue or benefit in, under or derived from, the property or asset;

- 2.2.18 a reference to any governmental department, professional body, committee, council, local authority, council controlled organisation or other body includes the successors to that body or any relevant activity or function of that body;
- 2.2.19 a reference to a liability includes any obligation whether present or future or actual or contingent or as a principal, surety or otherwise;
- 2.2.20 a reference to includes or including or other similar words should be construed without limitation;
- 2.2.21 where the time for performing an obligation or exercising a right is expressed by reference to a period of one or more months before or after a specified date (the **reference date**) that time period will be determined by calculating the number of months specified from the reference date, with the period expiring on the date which is the equivalent date to the reference date, or if there is no such date in the final month, the last day of that final month;
- 2.2.22 where the time for performing an obligation or exercising a right is expressed as being "immediately" following or after an event or circumstance occurring, it means as soon as reasonably practicable but no later than 24 hours following or after that event or circumstance occurring; and
- 2.2.23 a reference to obligations includes indemnities, warranties, representations and undertakings and a reference to breach or breach of obligations includes breach of any indemnities, warranties, representations and undertakings.

3 Regional Agreement

Parties

- 3.1 The Parties to this Regional Agreement are GWRC and each PTOM Operator that has executed a Partnering Contract and a Deed of Accession to the Regional Agreement.
- 3.2 GWRC shall keep all PTOM Operators informed as to the Parties to the Regional Agreement from time to time:
 - 3.2.1 by providing written notice to each PTOM Operator as soon as practicable after a new PTOM Operator becomes a Party;
 - 3.2.2 by providing written notice to each PTOM Operator as soon as practicable after a PTOM Operator ceases to be a Party; and
 - 3.2.3 by keeping all PTOM Operators informed about the name and contact details of each PTOM Operator including the name and contact details of each PTOM Operator's Authorised Representative (as provided by

that PTOM Operator under the terms of the relevant Partnering Contract).

Term

- 3.3 The rights, obligations and liabilities of a PTOM Operator under this Regional Agreement shall commence on the later of:
- 3.3.1 the date of the Deed of Accession to the Regional Agreement signed by GWRC and the PTOM Operator; and
 - 3.3.2 the Commencement Date.
- 3.4 Without prejudice to any accrued rights, obligations or liabilities and subject to paragraphs 3.5 and 3.7, the rights, obligations and liabilities of a PTOM Operator under this Regional Agreement shall end on the date on which all Partnering Contracts to which that PTOM Operator is a party have expired or terminated.
- 3.5 Each PTOM Operator shall continue to be bound by, and shall continue to comply with, paragraph 4 (*Confidentiality*) notwithstanding paragraph 3.4 or the expiry or termination of any or all Partnering Contracts to which that PTOM Operator is a party.
- 3.6 GWRC may at any time terminate this Regional Agreement where doing so is consistent with, or necessary to give effect to, a policy change. In order to so terminate this Regional Agreement, GWRC shall serve a written notice on each PTOM Operator who at that time is party to a Partnering Contract which is in force and effect. Such termination shall be:
- 3.6.1 effective from the date specified in the notice served by GWRC;
 - 3.6.2 subject to paragraph 3.7; and
 - 3.6.3 without prejudice to any accrued rights, obligations or liabilities of the Parties as at the date of termination.
- 3.7 Expiry or termination of this Agreement (or any rights, obligations and liabilities of a PTOM Operator as provided for in paragraph 3.4) shall not affect the continuation in full force and effect of:
- 3.7.1 paragraph 2 (*Definitions and interpretation*);
 - 3.7.2 paragraph 3.6;
 - 3.7.3 this paragraph 3.7;
 - 3.7.4 paragraphs 4 (*Confidentiality*) to 16 (*Counterparts*) inclusive;
 - 3.7.5 any other provision of this Regional Agreement which by implication from its nature is intended to survive expiry or termination; or
 - 3.7.6 any Partnering Contract,
- or the respective rights, obligations and liabilities of the Parties thereunder.

Purpose

- 3.8 This Regional Agreement records the Parties' agreement in regard to:
- 3.8.1 the Partnering Principles;
 - 3.8.2 the common objectives for the Wellington Public Transport Network;
 - 3.8.3 the process for planning, convening, conducting and recording the outcomes of the Wellington Regional Public Transport Forum; and
 - 3.8.4 the process by which changes to the PT Network Documents shall occur.

Partnering Principles

- 3.9 Each Party agrees to be guided by and give effect to the following principles in connection with the exercise and performance of their respective rights and obligations under the relevant Partnering Contract(s) and this Regional Agreement:
- 3.9.1 to the extent relevant, the principles set out at section 115(1) of the LTMA and copied below:
 - (a) regional councils and public transport operators should work in partnership and collaborate with territorial authorities to deliver the regional public transport services and infrastructure necessary to meet the needs of passengers;
 - (b) the provision of public transport services should be coordinated with the aim of achieving the levels of integration, reliability, frequency and coverage necessary to encourage passenger growth;
 - (c) competitors should have access to regional public transport markets to increase confidence that public transport services are priced efficiently;
 - (d) incentives should exist to reduce reliance on public subsidies to cover the cost of providing public transport services; and
 - (e) the planning and procurement of public transport services should be transparent; and
 - 3.9.2 the following methods of working together collectively:
 - (a) interdependence: meaning that the Parties are mutually dependant and no one Party will be wholly successful if individual success is to the detriment of others;
 - (b) individual imperatives: meaning that the Parties will share common goals and work together to achieve them, while recognising that each has their own business objectives. The extent to which each Party acknowledges and accommodates

each other Party's individual imperatives will be a clear demonstration of the maturity of the partnering relationship;

- (c) integrity: meaning that the Parties will act with integrity and in a manner that promotes trust and confidence in each other;
- (d) mutual accountability: meaning that the Parties shall be accountable for their respective roles in delivering safe, reliable, punctual and efficient Scheduled Services for customers;
- (e) openness and transparency: meaning that the Parties will, to the extent reasonably required, share information on a full and open basis and in a timely way so that surprises do not occur;
- (f) collaboration: meaning that mutual success will be best achieved by working collaboratively and cooperatively rather than in an adversarial manner;
- (g) domain expertise, trust and definition of roles: meaning that the Parties will bring unique knowledge and domain expertise to their respective obligations and mutual objectives and trust each other to apply their knowledge and domain expertise for the achievement of their mutual objectives;
- (h) responsiveness: meaning that the Parties will be available and accessible to each other to the extent reasonably required and will, to the extent reasonably required, provide information, make decisions and complete actions in a prompt and efficient manner so that transaction costs of doing business are minimised to the extent reasonably practicable. Responsiveness will depend on a high degree of communication and cooperation across and within the various parts of GWRC and each PTOM Operator's organisation;
- (i) alignment of incentives: meaning that the Parties will acknowledge that it is in the interests of all Parties to share in rewards gained by improvements in efficiency, effectiveness and customer service, and it is intended that the performance management regime set out in each Partnering Contract will encourage such improvements; and
- (j) unified public image: meaning that the Parties will, to the extent reasonably practicable, present a unified and cooperative image to the public so that collectively the Parties achieve and maintain public confidence and trust.

3.10 Subject to paragraph 3.11 for the purpose of implementing and giving effect to the Partnering Principles:

- 3.10.1 GWRC shall use best endeavours to deal fairly and co-operatively with all PTOM Operators;
 - 3.10.2 each PTOM Operator shall use best endeavours to deal fairly and co-operatively with GWRC; and
 - 3.10.3 subject to its own commercial interests, each PTOM Operator shall co-operate fairly with each other PTOM Operator for the purpose of assisting GWRC and the other PTOM Operators to achieve their common objectives in regard to the Wellington Public Transport Network.
- 3.11 The obligations set out at paragraph 3.10 do not restrict either GWRC or a PTOM Operator from exercising their respective rights and remedies under or in connection with a Partnering Contract and are without prejudice to the respective obligations of GWRC or a PTOM Operator under a Partnering Contract.

Common objectives for Wellington Public Transport Network

- 3.12 The Parties acknowledge and agree that their common objectives for the Wellington Public Transport Network are:
- 3.12.1 to ensure the safe operation of the Wellington Public Transport Network;
 - 3.12.2 to grow patronage and revenue including through reliability, punctuality, integration, quality of Services and any other initiatives included in an Annual Business Plan; and
 - 3.12.3 to maximise efficiency and improve value for money of the Wellington Public Transport Network.
- 3.13 GWRC and the PTOM Operators acknowledge that together the common objectives set out at paragraph 3.12 are intended to reduce GWRC's reliance on public subsidies to cover the cost of providing Scheduled Services on the Wellington Public Transport Network.

Wellington Regional Public Transport Forum

- 3.14 GWRC shall be responsible for convening and facilitating forums every six months for the purpose of GWRC, the PTOM Operators, the Transport Agency, the Access Provider and territorial authorities in the region working together with the aim of:
- 3.14.1 achieving the levels of integration, reliability, frequency and coverage necessary to grow patronage on the Wellington Public Transport Network; and
 - 3.14.2 enabling the Parties to achieve the common objectives for the Wellington Public Transport Network described at paragraph 3.12.

- 3.15 GWRC shall ensure that a minimum of two Wellington Regional Public Transport Forums are convened each Year.
- 3.16 GWRC shall provide reasonable notice of the date, time, venue and proposed agenda for each Wellington Regional Public Transport Forum to all other Parties.
- 3.17 GWRC shall ensure that any additional organisations relevant to matters included on the proposed agenda are invited to attend each Wellington Regional Public Transport Forum by providing reasonable notice of the date, time, venue and a copy of the proposed agenda to those organisations.
- 3.18 GWRC shall be responsible for:
- 3.18.1 appointing an appropriate person to chair each Wellington Regional Public Transport Forum; and
 - 3.18.2 ensuring that minutes summarising the actions and decisions (including, if applicable, the outcome of any PT Network Document Change Proposal) are provided to each of the Parties and any other organisations invited to the relevant Wellington Regional Public Transport Forum.

Change process for PT Network Documents

- 3.19 The following documents set out obligations and responsibilities of GWRC and all PTOM Operators in regard to the Wellington Public Transport Network:
- 3.19.1 the Timetable Change Process;
 - 3.19.2 the Customer Service Standards;
 - 3.19.3 the Customer Communication and Information Systems;
 - 3.19.4 the Fares, Ticketing and Enforcement Requirements;
 - 3.19.5 the Annexure in the Partnering Contracts which relates to the Conditions of Carriage; and
 - 3.19.6 this Regional Agreement.
- 3.20 The Parties acknowledge and agree that:
- 3.20.1 subject to paragraph 3.20.2, notwithstanding anything to the contrary in the relevant Partnering Contract, changes to any of the PT Network Documents may only be made in accordance with the process set out in paragraphs 3.21 to 3.24; and
 - 3.20.2 no PTOM Operator shall be entitled to make any claim in respect of such amendment or replacement of any of the PT Network Documents referred to under paragraph 3.20.2.
- 3.21 Subject to paragraph 3.20.2, a change to a PT Network Document may be:
- 3.21.1 proposed at any time by GWRC or by GWRC on behalf of a PTOM Operator; or

3.21.2 proposed by a PTOM Operator to GWRC to the extent that such change is required to introduce a new initiative agreed by GWRC and that PTOM Operator as part of the development of an Annual Business Plan, in which event the PTOM Operator shall provide such information as is reasonably requested by GWRC to enable GWRC to prepare a PT Network Document Change Proposal.

3.22 If GWRC wishes to propose a change to a PT Network Document pursuant to paragraph 3.21.1 or agrees (acting reasonably) that a change proposed by a PTOM Operator pursuant to paragraph 3.21.2 is required in order to introduce a new initiative agreed as part of the development of an Annual Business Plan, the following process shall apply:

3.22.1 GWRC shall prepare a summary of the proposed change to the relevant PT Network Document which shall include:

- (a) the name and version reference of the PT Network Document that requires change;
- (b) the reasons for the proposed change;
- (c) the marked up version of the current PT Network Document showing the proposed change;
- (d) details of the PTOM Operators affected by the proposed change;
- (e) any estimated financial implications (if known) arising from the proposed change for either GWRC or any of the affected PTOM Operators;
- (f) the proposed timetable for implementation of the proposed change;
- (g) a summary of any change or variation to the Services arising from the proposed change which may constitute a Contract Variation or Minor Contract Variation, including the proposed timetable to complete any required Contract Variations or Minor Contract Variations;
- (h) details of any other approvals or consents required to implement the proposed change and the proposed timetable to obtain such approvals or consents; and
- (i) any other matter that GWRC considers to be relevant to the consideration of the proposed change.

3.22.2 GWRC shall provide the PT Network Document Change Proposal to each PTOM Operator and shall provide each PTOM Operator with a reasonable period within which to provide feedback on the PT Network Document Change Proposal;

- 3.22.3 each of the PTOM Operators shall (acting reasonably and in good faith):
- (a) consider the PT Network Document Change Proposal;
 - (b) provide written notice to GWRC setting out any feedback on the PT Network Document Change Proposal as soon as reasonably practicable and in any event within 15 Business Days following receipt of that PT Network Document Change Proposal; and
 - (c) promptly provide such other information as GWRC may reasonably request in connection with the PT Network Document Change Proposal;
- 3.22.4 GWRC shall (at its sole discretion) decide whether a PT Network Document Change Proposal should be included on the agenda for discussion at a Wellington Regional Public Transport Forum; and
- 3.22.5 GWRC shall consider all feedback received from the PTOM Operators (including where relevant any feedback received at a Wellington Regional Public Transport Forum) in regard to each PT Network Document Change Proposal and (in its sole discretion) make a final decision about the outcome of the each PT Network Document Change Proposal.
- 3.23 To the extent that any proposed change to a PT Network Document constitutes or will give rise to a Contract Variation or Minor Contract Variation under a Partnering Contract:
- 3.23.1 the process set out above shall be in addition to (and not in place of) the relevant variation process contained in the relevant Partnering Contract and GWRC and the relevant PTOM Operator shall comply with their respective obligations under such process; and
 - 3.23.2 the PTOM Operator that is party to such Partnering Contract shall only be required to adopt, implement and comply with the updated PT Network Document if GWRC has issued a Variation Order or Notice to Proceed to that PTOM Operator in connection therewith.
- 3.24 GWRC shall ensure that the outcome of each PT Network Document Change Proposal is communicated in writing to the Authorised Representative of each PTOM Operator by:
- 3.24.1 written notification that the proposed change will not be implemented;
or
 - 3.24.2 written notification that the proposed change will be implemented, in which case:

- (a) GWRC shall provide a copy of the amended PT Network Document to the Authorised Representative of each PTOM Operator;
- (b) GWRC shall confirm the effective date upon which the amended PT Network Document will apply; and
- (c) subject to paragraph 3.23, GWRC and each PTOM Operator shall adopt, implement and comply with the updated PT Network Document from the applicable effective date referred to in paragraph 3.24.2(b).

4 Confidentiality

General Obligations

- 4.1 Subject to paragraph 4.2, each Party shall keep confidential and not make or cause any disclosure of any Confidential Information of another Party without the prior written consent of that other Party (which consent may be given or withheld, in that other Party's sole discretion).

Exceptions

- 4.2 The Parties' obligations in paragraph 4.1 do not apply to disclosure to the extent that the disclosure is:
- 4.2.1 made by one Party to another Party;
 - 4.2.2 by a Party to its financiers, subcontractors, legal or other professional advisers, auditors or other consultants or employees of that Party or a shareholder or Related Company of that Party, in each case for the purpose of enabling that Party to perform its obligations or exercise its rights in relation to this Regional Agreement, a Partnering Contract, a TPTD or any Transaction Document (or the transactions contemplated thereunder) or for the purpose of advising that Party in relation thereto, provided that the Party disclosing the Confidential Information shall ensure that the recipient:
 - (a) is made aware of this paragraph 4; and
 - (b) shall keep such information confidential on the same terms as this paragraph 4;
 - 4.2.3 of information which is at the time lawfully in the possession of the disclosing Party through sources other than another Party, provided that the disclosing Party has no reason to believe that such source is itself bound by an obligation of confidence to the person that disclosed that information or is otherwise prohibited by law from disclosing such information;

- 4.2.4 required by applicable law or by a lawful requirement of any judicial authority, Governmental Entity or recognised stock exchange having jurisdiction over a Party or its Related Company provided that, where the disclosing Party is a PTOM Operator, that PTOM Operator provides written notice to GWRC of the required disclosure promptly on receipt of notice of the required disclosure (if it is permitted to do so by applicable law);
- 4.2.5 required in connection with legal proceedings, arbitration, mediation or expert determination relating to this Regional Agreement, any Transaction Document or any Key Subcontract or for the purpose of advising a Party in relation thereto;
- 4.2.6 of the Handover Package by GWRC in accordance with its rights to disclose such Handover Package under the relevant Partnering Contract;
- 4.2.7 by GWRC of, or in connection with, the "commerciality ratio" of a bus unit in accordance with its rights to disclose such information under the relevant Partnering Contract; or
- 4.2.8 made by GWRC in circumstances where such disclosure is permitted under the terms of the Partnering Contract to which the relevant PTOM Operator is party.

LGOIMA

- 4.3 As between GWRC and each PTOM Operator, the provisions of the relevant Partnering Contract relating to LGOIMA shall apply as if set out herein.

5 Assignment

Assignment by PTOM Operator

- 5.1 A PTOM Operator shall only be entitled to assign its rights under this Regional Agreement to a person to whom that PTOM Operator assigns its rights under and in accordance with the relevant Partnering Contract.
- 5.2 In the event that a PTOM Operator novates or otherwise transfers any of its obligations under a Partnering Contract to another person in accordance with that Partnering Contract or as agreed in writing by GWRC, the PTOM Operator shall novate or otherwise transfer its relevant obligations under this Regional Agreement to that person (such novation or transfer to become effective at the same time as the transfer or novation of the obligations under the Partnering Contract becomes effective).
- 5.3 A PTOM Operator shall not be entitled to novate or otherwise transfer any of its obligations under this Regional Agreement other than as provided for in paragraphs 5.1 and 5.2.

Assignment by GWRC

5.4 GWRC may assign, novate, transfer or otherwise dispose of any right or obligation under this Regional Agreement to any local authority or council controlled organisation of a local authority (each as defined in the Local Government Act 2002) or to any other Governmental Entity and each PTOM Operator hereby consents to the same. Each PTOM Operator shall promptly execute any such documents as GWRC may reasonably require to give effect to such transaction.

6 Notices

6.1 Any notice required to be given in relation to this Regional Agreement will, except where otherwise expressly provided, be in writing and in English and delivered to the relevant Party's Authorised Representative.

6.2 This paragraph 6.2 is subject to paragraph 6.4. A notice may be:

6.2.1 personally delivered, in which case it will be deemed to be given upon delivery at the relevant address; or

6.2.2 if sent from and to places within New Zealand, sent by fast pre- paid post, in which case it will be deemed to have been given 2 Business Days after the date of posting; or

6.2.3 if sent from or to any place outside New Zealand, sent by pre-paid priority airmail, in which case it will be deemed to have been given 10 Business Days after the date of posting; or

6.2.4 sent by email, in which case it will be deemed to have been given at the time at which it arrives in the recipient's information system, provided that if there is any dispute as to when an email has been received, the email shall be deemed to have been received at the time at which the email was sent as evidenced by a printed copy of the email provided by the sender which evidences that the email was sent to the correct email address of the recipient; or

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

6.3 The postal or email address for the purposes of serving notices pursuant to this Regional Agreement shall be:

6.3.1 in the case of a notice served by GWRC on a PTOM Operator, such address given by that PTOM Operator to GWRC from time to time under the relevant Partnering Contract for the purposes of service of notices under that Partnering Contract;

6.3.2 in the case of a notice served by a PTOM Operator on GWRC, such address given by GWRC to that PTOM Operator from time to time under the relevant Partnering Contract for the purposes of service of notices under that Partnering Contract; and

6.3.3 in the case of a notice served by a PTOM Operator on another PTOM Operator, such address as may be notified from time to time by GWRC to the PTOM Operator serving the notice, in accordance with paragraph 3.2.3.

6.4 Where any notice is deemed given pursuant to paragraph 6.2:

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

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

then such notice will be deemed given at 9.00 am (local time) on the next day at the place of receipt which is not a Saturday, Sunday or public holiday. For the purposes of this paragraph 6.4, the place of receipt of a notice is the applicable postal address for the receiving Party in accordance with paragraph 6.3, irrespective of whether the notice is communicated by email or otherwise.

7 Relationship between Parties

7.1 Notwithstanding the use of the word "partnering" or "partnership", nothing in this Regional Agreement or any Annual Business Plan is to be construed or interpreted as constituting the relationship between any of the Parties as a partnership, quasi-partnership, association or any other relationship in which a Party may (except as expressly provided for in this Regional Agreement) be liable for the acts or omissions of any other Party.

7.2 Except as expressly provided in this Regional Agreement, nothing in this Regional Agreement shall be construed to authorise any Party to act as an agent for any other Party for any purpose.

8 Entire agreement and amendments

8.1 Without prejudice to any Partnering Contract or any other Transaction Document to which the relevant Parties are party, this Regional Agreement contains the entire agreement between the Parties with respect to its subject matter and supersedes any earlier agreements or understandings between the Parties in connection with its subject matter.

8.2 Except as contemplated by paragraphs 3.20 to 3.24 (*Change process for PT Network Documents*), this Regional Agreement may only be amended by way of a written agreement duly executed by each of the Parties.

9 No waiver

- 9.1 No waiver of any breach of, or failure to enforce any provision of, this Regional Agreement nor any delay in exercising any right, power or remedy by a Party in any way affects, limits or waives the right of such Party thereafter to enforce and compel strict compliance with the provision of this Regional Agreement. 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.
- 9.2 No waiver by a Party of any part of this Regional Agreement is binding unless it is made in writing by the Party granting that waiver.

10 Rights cumulative

- 10.1 Subject to any express provision in this Regional Agreement to the contrary, the rights, powers and remedies of a Party under this Regional Agreement are cumulative and are in addition to (and do not exclude or limit) any right, power or remedy provided by applicable law or equity or by any agreement.

11 Further assurances

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

12 No merger

- 12.1 The rights and obligations of the Parties shall not merge on the completion of any transaction contemplated by this Regional Agreement. 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.

13 Severability of provisions

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

14 Governing law

- 14.1 This Regional Agreement and the transactions contemplated by this Regional Agreement are governed by and are to be construed in accordance with New Zealand law and the Parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand.

15 GWRC action

15.1 Each PTOM 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 Regional Agreement, nothing in this Regional Agreement:

15.1.1 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

15.1.2 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.

16 Counterparts

16.1 This Regional Agreement may be executed in one or more counterparts, all of which when taken together shall constitute one and the same instrument.

Execution

Executed as a Deed

Date:

Wellington Regional Council
by

Witnessed by

Signature of authorised person

Signature of witness

Name of authorised person

Name of witness

Title of authorised person

Occupation of witness

Address of witness

Annexure 1 - Form of Deed of Accession

This Deed of Accession to the Regional Agreement is made on [insert date]

by:

- (1) Wellington Regional Council, a public statutory body constituted under the Local Government Act 2002 (**GWRC**); and
- (2) [PTOM Operator name] (company number [insert]) (**Acceding PTOM Operator**).

1 Introduction, definitions and interpretation

- 1.1 This Deed of Accession relates to the "Regional Agreement" dated [insert date of Regional Agreement] to which GWRC is a party, as such document is amended, modified, supplemented, novated or substituted from time to time in accordance with its terms (**Regional Agreement**).
- 1.2 In this Deed of Accession, capitalised terms which are not defined herein shall have the meaning given to them in the Regional Agreement, unless the context otherwise requires.
- 1.3 Paragraph 2.2 (*Definitions and interpretation*) of the Regional Agreement shall apply to this Deed of Accession as if expressly set out herein, with such changes as are necessary to give effect thereto.

2 Accession

- 2.1 With effect from and including the date of this Deed of Accession, for the benefit of GWRC and each other Party to the Regional Agreement, the Acceding PTOM Operator hereby:
 - 2.1.1 confirms and agrees that it is a PTOM Operator and a Party for the purposes of the Regional Agreement; and
 - 2.1.2 agrees to assume and perform the rights and obligations of a PTOM Operator under, and to be bound by, the terms of the Regional Agreement.
- 2.2 For the purposes of the Contracts (Privity) Act 1982, the Acceding PTOM Operator acknowledges and agrees that its obligations under this Deed of Accession constitute promises intended to confer benefits enforceable by GWRC and each other PTOM Operator that is a Party to the Regional Agreement and that such obligations may be enforced by any of them under the Contracts (Privity) Act 1982.

3 General Provisions

Further assurances

- 3.1 The Acceding PTOM Operator agrees to promptly execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed of Accession.

Severability of provisions

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

Governing Law

- 3.3 This Deed of Accession is governed by and is to be construed in accordance with New Zealand law and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand.

Counterparts

- 3.4 This Deed of Accession may be executed in one or more counterparts.

Execution

Executed as a Deed

Date:

Wellington Regional Council
by

Witnessed by

Signature of authorised person

Signature of witness

Name of authorised person

Name of witness

Title of authorised person

Occupation of witness

Address of witness

[Acceding PTOM Operator]
Company Number [insert] by

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Title of authorised person

Title of authorised person

Note - Acceding PTOM Operator to confirm the above execution block]

Schedule 12

Handover Package

Contents

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1 Purpose of this Schedule

- 1.1 This Schedule sets out the minimum information to be included in the Operator's Handover Package.

2 Handover Package contents

Premises

- 2.1 A list of the premises owned, leased, licensed or operated by the Operator or Vehicle Services Subcontractor for the purposes of providing the Services, showing the location, address, telephone number, facsimile number, responsible manager and use of each and the contact name, address, telephone number and facsimile number for the organisation which provides security services for those premises.

Contracts, documents and suppliers

- 2.2 A list of all permits, licences, consents and approvals which are material to the provision of the Services.
- 2.3 A list of all subcontracts or other agreements which are material to the provision of the Services or which have a value in excess of \$25,000, showing (as appropriate) for each such subcontract or agreement the name and contact details of the counterparties, the subject matter of the subcontract or agreement, the contract price and the term.
- 2.4 A copy of each of those documents referred to in paragraphs 2.2 and 2.3.
- 2.5 To the extent not included in the list referred to in paragraph 2.3, a list of all current suppliers of plant, equipment and materials used in the provision of the Services.
- 2.5A A copy of all records and documents referred to in paragraph 16A (*Technical support services*) of Schedule 4 (*Vehicle Services*).

Systems

- 2.6 A list of systems (computer and otherwise) used in the provision of the Services, together with a description of the systems and master passwords where applicable.

Assets

- 2.7 One hard copy and one electronic copy of all data contained within or related to the MMIS and the FRACAS.
- 2.8 Except to the extent already included pursuant to paragraph 2.7, a list of all Operator Assets which have a value in excess of \$10,000 or which are otherwise key to the provision of the Services.
- 2.9 One hard copy and one electronic copy of all manuals, records, logs, drawings, datasheets, specifications, calculations and other documents relating to the

provision of the Services and the Maintained Assets (including maintenance history logs relating to the Vehicles and details of any modifications made by or on behalf of the Operator to any Vehicle).

Insurances

- 2.10 The names and addresses of all insurers providing the insurances which are required to be effected and maintained by the Operator under this Partnering Contract, along with the applicable policy numbers.

Organisational Structure

- 2.11 A detailed diagrammatical representation of the organisational structure of the Operator or Vehicle Services Subcontractor and its Related Companies to front-line management level.

Employees

- 2.12 A list of all Services Employees by position together with the following information in respect of each Services Employee:
- 2.12.1 job title, role and relevant qualifications;
 - 2.12.2 the identity of the person employing or otherwise engaging such individual;
 - 2.12.3 the employment agreement under which the employee is employed and letter of engagement under which the individual is engaged;
 - 2.12.4 details of the basis on which such individual is employed or engaged (e.g. full time employee, part time employee, fixed term employee etc) including details of the average number of hours per month in which the individual is engaged in the provision of the Services;
 - 2.12.5 date of commencement of employment or engagement;
 - 2.12.6 relevant contractual notice periods and any other terms relating to termination of their employment or engagement (including redundancy procedures and contractual redundancy payment schemes);
 - 2.12.7 the wages, salaries, profit sharing, incentive and bonus arrangements applicable to the individual;
 - 2.12.8 details of other employment related benefits applicable to the employee, including (without limitation) medical insurance, life assurance, pension, other retirement benefit schemes, superannuation and/or KiwiSaver schemes, share option schemes, company car schemes and any free travel benefits;
 - 2.12.9 details of any changes to the terms and conditions of employment promised to, or agreed with, that individual which have not yet taken effect;

- 2.12.10 existing or pending employment litigation including ongoing issues and/or investigations in the workplace, personal grievances and disputes;
 - 2.12.11 details of any such individual who is on long term sick leave or parental leave; and
 - 2.12.12 copies of all relevant documents and materials relating to such information, including copies of relevant employment agreements, other letters of engagement, relevant contractual documentation, share agreements, superannuation deeds and KiwiSaver account details.
- 2.13 Copies of all agreements or arrangements (whether legally enforceable or not) relating to any Services Employees entered into between the Operator, any Operator Associate and any trade union or association of trade unions or organisation or body of employees including elected representatives including any collective agreement.
- 2.14 A list of key personnel whose work is critical to the ongoing provision of the Services.
- 2.15 Details of the gross value, frequency and timing of payroll and amount and frequency of superannuation and/or KiwiSaver Employer and Employee contributions in respect of the Services Employees.
- 2.16 The current staff roster.

Safety

- 2.17 Names and locations of all safety manuals and procedures used for the provision of the Services.
- 2.18 Where available, electronic copies of safety manuals and procedures.
- 2.19 A copy of the most recent safety audit.

Intellectual Property Rights

- 2.20 A copy of the IP Register.

Cleaning services - vulnerable employees

- 2.21 Any contract to which the Operator or an Operator Associate is party covering the provision of cleaning services, the employment agreements applying to the cleaning staff employed by the Operator and Operator Associates to carry out cleaning, the number of cleaning staff so employed, their fortnightly wages and fortnightly hours.

Schedule 13

IFT Programme

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1 Introduction

- 1.1 This Schedule sets out the scope of the Operator's role and obligations in regard to the IFT Programme for the purpose of:
- 1.1.1 describing the expected phases of the IFT Programme;
 - 1.1.2 describing the Operator's role and obligations during each phase; and
 - 1.1.3 providing information to allow the Operator to price the cost of its Services during each phase.
- 1.2 The scope of the Operator's role and obligations in regard to the IFT Programme described in this Schedule is also relevant to the Operator's obligations set out at:
- 1.2.1 Clauses 12.4 (*IFT System Equipment*), 15 (*Training requirements*), 31 (*Audit and inspection rights*), 48 (*Farebox Revenue and other Revenue*) and 70.5 (*IFT System data protection*) of this Partnering Contract;
 - 1.2.2 Schedule 3 (*Passenger Services*);
 - 1.2.3 Schedule 5 (*Planning, Reporting and Meetings*);
 - 1.2.4 Annexure 3 (*Customer Communication and Information Systems*); and
 - 1.2.5 Annexure 6 (*Fares, Ticketing and Enforcement Requirements*).

2 Background and indicative dates

- 2.1 The 2014 Regional Public Transport Plan identifies the introduction of a new fares and ticketing system across the Wellington Public Transport Network as a major initiative.
- 2.2 The IFT Programme comprises the following:
- 2.2.1 fare structure review and simplification;
 - 2.2.2 planning, procurement, development, testing and implementation of a new fares and ticketing system using smart ticketing technology (the IFT System) for use on all Scheduled Services and Special Event Services that will be:
 - 2.2.2.1 implemented on all PTOM Units; and
 - 2.2.2.2 integrated across the Wellington Public Transport Network.
- 2.3 GWRC is responsible for completing the fare structure review and simplification and for the planning, procurement and funding of the IFT System.
- 2.4 The Operator shall:
- 2.4.1 co-operate with GWRC in relation to the implementation of the IFT Programme;

- 2.4.2 provide reasonable support and assistance to GWRC; and
 - 2.4.3 comply with its obligations set out in this Schedule 13,
- to ensure that the IFT Programme delivers GWRC’s objectives set out at paragraph 2.5.

2.5 GWRC’s objectives for the IFT Programme are:

- 2.5.1 that customers using the Wellington Public Transport Network will:
 - 2.5.1.1 experience a modern, effective and efficient integrated public transport network that contributes to sustainable economic growth, increased productivity and provides for the social needs of the community;
 - 2.5.1.2 use integrated fares and ticketing across all PTOM Units;
 - 2.5.1.3 pay one fare and use consistent fare media (e.g. a smartcard) for a customer journey irrespective of whether the journey involves more than one PTOM Unit;
 - 2.5.1.4 use standardised but more flexible fare products;
 - 2.5.1.5 use simpler and more effective fares designed to make free transfer between PTOM Units easier without fare transfer penalties;
 - 2.5.1.6 experience a quicker boarding of some services; and
 - 2.5.1.7 experience improved operational efficiency;
- 2.5.2 that in regard to the Rail Unit, GWRC and the Operator will experience:
 - 2.5.2.1 improved revenue collection;
 - 2.5.2.2 increased patronage; and
 - 2.5.2.3 improved data collection to assist the monitoring of revenue collection, patronage, and the customer travel experience.

2.6 The indicative key dates that GWRC is working to in regard to the IFT Programme are set out in the table below. Each of these dates is indicative only and remains subject to change at the discretion of GWRC.

Phase	Task	Indicative dates for IFT Programme
IFT Phase One	Fare structure review process commences	July 2017
	IFT System planning commences	January 2018

Phase	Task	Indicative dates for IFT Programme
	IFT System request for tender issued	July 2018
	IFT System Provider procurement and evaluation	September 2018 to January 2019
	IFT System Provider appointed	February to March 2019
	IFT System design, build and customisation commences	April 2019
	IFT System Equipment installed	June to December 2019
	Testing and commissioning of IFT System and IFT System Equipment	January to July 2020
IFT Phase Two	IFT System goes live for Scheduled Services on Rail Unit (ETS Implementation Date)	July 2020
	IFT System integration / bedding in across all modes commences	July to October 2020
	IFT System integration / bedding in across all modes ends	November 2020
	IFT System goes live across all modes	December 2020

3 IFT Programme phases

3.1 The Operator's role in regard to the IFT Programme will be separated into the following two phases:

3.1.1 **IFT Phase One**: covering the period from the date of this Partnering Contract until the earlier of the IFT System going live for Scheduled Services on the Rail Unit (the IFT Programme Phase One Expiry Date) and the Termination Date; and

3.1.2 **IFT Phase Two**: covering the period from and including the ETS Implementation Date until the Termination Date.

- 3.2 The indicative date for the end of IFT Phase One and the commencement of IFT Phase Two is currently July 2020 although this remains subject to change at GWRC's discretion.

4 Scope of Operator's role in regard to IFT Programme

- 4.1 The tables in the Appendices to this Schedule 13 set out the scope of the Operator's role broken down by the different activities required during each of the two phases of the IFT Programme. The Operator shall comply with the requirements set out in the columns entitled "Scope of Operator's role" in:

- 4.1.1 Appendix A (*IFT Phase One*) during IFT Phase One;
- 4.1.2 Appendix B (*IFT Phase Two*) only if GWRC issues an order pursuant to paragraph 4.1 (*Implementation of Pre Priced Options*) of Schedule 16 (*Change Events and Net Financial Impact*) in respect of the IFT Programme Pre Priced Option.

- 4.2 The Parties acknowledge and agree that:

- 4.2.1 payments in respect of the activities and the scope of the Operator's role during IFT Phase One shall form part of the Initial Passenger Services Fee and Initial Vehicle Services Fee and the Operator shall not be entitled to any additional payment in respect of the performance of such activities and role;
- 4.2.2 the activities and scope of the Operator's role during IFT Phase Two form part of the IFT Programme Pre Priced Option and the Passenger Services Fee and Vehicle Services Fee payable in connection therewith shall be calculated in accordance with paragraph 1 of Schedule 6;
- 4.2.3 for the avoidance of doubt, the Operator's obligations in clauses 12.4 (*IFT System Equipment*), 15 (*Training requirements*), 31 (*Audit and inspection rights*), 48 (*Farebox Revenue and other Revenue*), 70.5 (*IFT System data protection*), Schedule 3 (*Passenger Services*), the table in Appendix B of this Schedule 13, Schedule 5 (*Planning, Reporting and Meetings*), Annexure 3 (*Customer Communication and Information Systems*) and Annexure 6 (*Fares, Ticketing and Enforcement Requirements*) which are expressed as applying post the ETS Implementation Date or during IFT Phase Two only shall form part of the IFT Programme Pre Priced Option and the Operator shall not be required to comply with these clauses unless GWRC issues an order pursuant to paragraph 4.1 (*Implementation of Pre Priced Options*) of Schedule 16 (*Change Events and Net Financial Impact*);
- 4.2.4 GWRC is not obliged to implement the IFT Programme or the IFT System, and GWRC's decision not to proceed with the IFT Programme or the IFT System (or any other replacement) or to elect to not

implement the IFT Programme Pre Priced Option shall be deemed not to be an act or omission by GWRC (including a breach of contract) under or in connection with this Partnering Contract and shall not entitle the Operator to make any Claim against GWRC; and

- 4.2.5 if GWRC requires the scope of the Operator's role to change substantively from that set out in Appendix A (*IFT Phase One*) or Appendix B (*IFT Phase Two*) during either IFT Phase One or IFT Phase Two, GWRC shall treat the change as a GWRC initiated Contract Variation in accordance with the provisions at paragraph 6 (*GWRC initiated Contract Variations*) of Schedule 16 or a Minor Contract Variation in accordance with the provisions at paragraph 5 (*Minor Contract Variations*) of Schedule 16 (as applicable).

Appendix A - IFT Phase One

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
IFT System planning	<ol style="list-style-type: none"> 1. Ensure that the Operator participates in all IFT System planning meetings from the date of this Partnering Contract (subject to reasonable prior notice of such meetings being given by GWRC); 2. Ensure that the Operator and the relevant Operator Associates provide their views in regard to the specification for the IFT System applicable to the Rail Unit, the planned procurement of the IFT System and all matters relevant to IFT System planning and promptly conveys such views to GWRC; 3. contribute to formulating transition arrangements to IFT Phase Two; 4. ensure that the Operator promptly provides such information and advice as GWRC may reasonably require in connection with the IFT System, the procurement process relating to the IFT System and the terms of the contract that GWRC will enter into for the supply of the IFT System; 5. provide details of any operational impacts of each types of ticketing system considered by GWRC; 6. provide details of any systems or equipment of the Operator which will be required to interface with the IFT System; 7. share operational knowledge and data from the Operator's experience, 	<ol style="list-style-type: none"> 1. Plan the IFT Programme and coordinating input from all stakeholders, including the Operator; 2. run workshops with the Operator to review and define operational and financial reports for use in planning, provision of services, revenue collection and other purposes; and 3. develop a transition plan to be implemented for IFT Phase Two.

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<p>if any, of working with other integrated and electronic ticketing systems;</p> <p>8. provide details of consequences on this Partnering Contract of each option considered as part of the IFT Programme, including but not limited to different methods of fare collection and enforcement;</p> <p>9. develop in consultation with GWRC, and consistent with GWRC's transition plan in respect of the IFT Programme, a plan for transition to IFT Phase Two to cover all operational impacts of IFT Phase Two; and</p> <p>10. take part in workshops with GWRC to review and define operational and financial reports for use in planning, provision of services, revenue collection and other purposes.</p>	
Procurement of IFT System	<p>1. Ensure that the Operator contributes effectively and reasonably to the preparation, review and finalisation of the IFT System request for tender documents prior to release;</p> <p>2. if required by GWRC, ensure that an appropriately qualified Operator Associate assists with the evaluation of tenders for the IFT System;</p> <p>3. provide operational data on the Rail Unit to GWRC in accordance with Schedule 5 (<i>Planning, Reporting and Meetings</i>) to assist tenderers for the IFT System to assess, price and submit a bid for the IFT System;</p>	<p>1. Draft the request for tender, the specification, the contract and other ancillary documents for the procurement of an IFT System Provider;</p> <p>2. evaluate tenders for the IFT System; and</p> <p>3. award the contract for the IFT System and enter into a contract with the IFT System Provider.</p>

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<ol style="list-style-type: none"> 4. ensure that the Operator attends any market briefing days for the IFT Programme and provides reasonable input; and 5. assist with providing input on the iterative changes to the specification of the IFT System and the overall IFT Programme scope during the procurement process. 	
Design and build the IFT System	<ol style="list-style-type: none"> 1. Ensure that the Operator provides any comments if requested by GWRC on each iterative design of the IFT System, including from the perspective of ensuring efficient functioning of the Rail Unit, ease of use and access for customers and ability to enforce ticket revenue collection; and 2. provide input on any operational issues with the proposed physical location or functioning of the IFT System Equipment. 	Enter into contract with the IFT System Provider to design, build, install, commission and test the IFT System.
Install, commission and test the IFT System Equipment	<ol style="list-style-type: none"> 1. Permit the IFT System Provider to access the Operator's premises to install, commission, test and monitor the IFT System Equipment and provide electricity and data connections for this purpose; 2. promptly provide details of any faults with the IFT System during installation, commissioning and testing; 3. integrate all equipment of the Operator and the Operator Associates with the IFT System only in accordance with clause 12.4.3 of 	Enter into a contract with the IFT System Provider to design, build, install, commission and test the IFT System.

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<p>this Partnering Contract;</p> <p>4. take part in any testing and commissioning of the ticketing and revenue protection functions of IFT System requested by GWRC; and</p> <p>7. ensure that the Operator is involved in and co-ordinates the required Operator contribution to the management of the contract that GWRC will enter into for the supply of the IFT System, including in regard to installation at Stations, testing and commissioning of all aspects of the IFT System and assisting GWRC in the management of the support obligations of the IFT System.</p>	
Operator staff training	<p>Provide training and all relevant information to its employees responsible for selling, issuing and checking tickets to enable them to implement the provisions of this Schedule 13 (<i>IFT Programme</i>) and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>) in accordance with clause 15 (<i>Training Requirements</i>) of this Partnering Contract.</p>	<p>Provide the Operator with relevant information to undertake staff training.</p>
Fare structure	<p>1. Provide input into the annual fare review process;</p> <p>2. implement all iterative changes to the fare structure and sell only those fare products referred to in Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>3. provide training and all relevant information to its employees</p>	<p>1. Carry out an assessment of all fare structure and fare products available;</p> <p>2. decide and approve the changes required to the fare structure and fare products;</p> <p>3. provide all relevant information to the Operator required to enable the fare</p>

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<p>responsible for selling, issuing and checking tickets to enable them to understand the fare structure and fare products, and any changes;</p> <p>4. support GWRC in the rationalisation of current rail tickets and fare products, including assisting in the planning and implementation of programmes for the phased withdrawal of fare products (which will be replaced by fare products defined under the IFT Programme);</p> <p>5. contribute to the finalisation of and implement the GWRC Fare Media Transition Plan;</p> <p>6. actively engage in communicating fares and fare product information to customers throughout the fare transition associated with the IFT Programme in accordance with the requirements of the GWRC Fare Media Transition Plan and Annexure 3 (<i>Customer Communications and Information Systems</i>); and</p> <p>7. promptly provide to GWRC feedback received from customers on the fare structure and fare products.</p>	<p>structure to be implemented, including any changes to Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>4. develop and lead the GWRC Fare Media Transition Plan; and</p> <p>5. provide Operator with relevant information to undertake staff training where required.</p>
Ticketing	<p>1. Sell tickets and collect Farebox Revenue on behalf of GWRC in accordance with clause 48 (<i>Farebox Revenue and other Revenue</i>) of this Partnering Contract and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>2. manage the procurement and stocks</p>	<p>1. Undertake the rationalisation of rail tickets and fare products towards the phased withdrawal of products;</p> <p>2. provide to the Operator any updates to Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>)</p>

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<p>of current rail tickets in accordance with GWRC's requirements;</p> <ol style="list-style-type: none"> 3. provide and manage staff in Ticket Offices to undertake ticket sales and customer service; and 4. contract with Ticket Agents for sale of tickets in accordance with clause 48.23. 	<p>relating to ticketing changes;</p> <ol style="list-style-type: none"> 3. operate the Metlink website which provides for ticketing and customer service; and 4. operate the Metlink call centre which provides for ticketing and customer service.
Revenue collection and payment to GWRC	<ol style="list-style-type: none"> 1. Comply with the Operator's obligations in clause 48 (<i>Farebox Revenue and other Revenue</i>) of this Partnering Contract; 2. provide farebox reports in accordance with Schedule 5 (<i>Planning, Reporting and Meetings</i>); and 3. support GWRC in the planning and implementation of the programme for the phased withdrawal of existing revenue collection activities (which will be replaced under the IFT Programme) and in the planning for revised revenue collection roles. 	
Enforcement	<ol style="list-style-type: none"> 1. Comply with the Operator's revenue protection and enforcement obligations in paragraphs 3.58 to 3.60 and paragraph 3.63 of Schedule 3 (<i>Passenger Services</i>) and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>); 2. comply with the Revenue Protection Plan referred to in paragraph 1.3.12 of Appendix 1 of Schedule 5 (<i>Planning, Reporting and Meetings</i>); 3. provide the Monthly Revenue 	<ol style="list-style-type: none"> 1. Provide to the Operator any updates to Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>), including protection and enforcement updates resulting from changes to the legislative framework for protection and enforcement; and 2. approve the plan for staff transition to revised IFT Phase Two roles, at GWRC's

IFT Phase One		
Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and the Initial Vehicle Services Fee)	Scope of GWRC's role
	<p>Protection Report referred to in paragraph 3.1.8(e) of Schedule 5 (<i>Planning, Reporting and Meetings</i>);</p> <ol style="list-style-type: none"> 4. support GWRC's input to seeking legislative changes to enable the enhancement of revenue protection and enforcement powers, and amend revenue protection and enforcement functions and plans to fully exploit enhanced powers as they become available; 5. provide feedback on the relative success and outcomes of each method of ticket revenue protection and enforcement, including any suggested improvements to the system to allow greater collection of ticket revenue and efficiency of the service; 6. ensure that all revenue enforcement staff are adequately trained and wear proper uniforms in accordance with clauses 15 (<i>Training requirements</i>) and 16 (<i>Branding, uniforms and livery</i>) of this Partnering Contract; and 7. produce a plan for GWRC's approval for staff transition to revised revenue and protection enforcement roles and include these details in the Revenue Protection Plan in accordance with the procedure in Schedule 5 (<i>Planning, Reporting and Meetings</i>). 	discretion.

Appendix B - IFT Phase Two

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
IFT Programme operations and planning	<ol style="list-style-type: none"> 1. Continue to comply with its IFT Phase One obligations in respect of IFT System planning, including ensuring that the Operator participates in all IFT System planning meetings and contributes effectively to the overall IFT Programme planning and implementation; 2. ensure that the Operator seeks the views of the Operator and the relevant Operator Associates in regard to the operation of the IFT System and all matters relevant to overall IFT Programme planning and promptly conveys such views to GWRC; 3. without prejudice to the foregoing, ensure that the Operator promptly provides such information and advice as GWRC may reasonably require in connection with the IFT System, including its operation and faults; 4. provide details of any operational impacts of any ticketing, fare and enforcement changes being considered by GWRC; 5. assist with providing input on the iterative changes to the specification of the IFT System and the IFT Programme; 6. provide details of cost and other consequences on this Partnering Contract of each option considered as part of the IFT Programme, 	Implement and operate the IFT Programme and IFT System.

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p>including but not limited to different methods of fare collection and enforcement; and</p> <p>7. implement the transition arrangements developed during IFT Phase One.</p>	
Branding of the IFT System	Comply with the IFT System brand guidelines communicated to the Operator by GWRC.	<p>1. Responsible for all aspects of the IFT System brand including design, procurement, distribution, print, communication with customers and training requirements; and</p> <p>2. provide the Operator with relevant information to undertake staff training.</p>
Marketing of IFT System	<p>1. Comply with the requirements of Annexure 3 (<i>Customer Communication and Information Systems</i>); and</p> <p>2. comply with GWRC's media policy.</p>	<p>1. Lead and coordinate all IFT marketing and communication activities;</p> <p>2. provide Operator with relevant information to undertake staff training; and</p> <p>3. develop a media policy.</p>
Operator staff training	<p>1. Provide training and all relevant information to its employees responsible for selling, issuing and checking tickets to enable them to implement the provisions of this Schedule 13 (<i>IFT Programme</i>) and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>) in accordance with clause 15 (<i>Training Requirements</i>) of this Partnering Contract;</p> <p>2. undertake staff training for staff on IFT devices before staff are in a</p>	<p>1. Provide the Operator with relevant information to undertake staff training; and</p> <p>2. fund and provide training to identified trainers employed by the Operator (ie: 'train the trainer') in accordance with clause 15 (<i>Training Requirements</i>) of this Partnering Contract.</p>

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p>customer facing environment; and</p> <p>3. ensure that staff are trained in several functions of the rail operations in order to allow the staff to be redeployed, for example from selling tickets to enforcement.</p>	
Fare structure	<p>1. Provide input into the annual fare review process;</p> <p>2. implement all iterative changes to the fare structure and sell only those fare products referred to in Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>3. provide training and all relevant information to its employees responsible for selling, issuing and checking tickets to enable them to understand the fare structure and fare products, and any changes;</p> <p>4. support GWRC in the rationalisation of current rail tickets and fare products, including assisting in the planning and implementation of programmes for the phased withdrawal of products (which will be replaced by fare products defined under the IFT Programme);</p> <p>5. implement the GWRC Fare Media Transition Plan;</p> <p>6. actively engage in communicating fare structure and fare product information to customers throughout the fare transition associated with the IFT Programme, in accordance with the requirements of the GWRC Fare Media Transition Plan and Annexure 3 (<i>Customer Communications and</i></p>	<p>1. Carry out regular assessments of all types of fares available;</p> <p>2. assess new options for fare structure and type;</p> <p>3. determine changes required to fare structure and types;</p> <p>4. develop and lead the GWRC Fare Media Transition Plan; and</p> <p>5. provide all relevant information to the Operator required to enable the updated fare structure to be implemented, including any updates to Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>) and any information required by the Operator to train staff.</p>

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p><i>Information Systems</i>); and</p> <p>7. promptly provide to GWRC feedback received from customers on the fare structure and fare products.</p>	
Ticketing	<p>1. Sell tickets and collect Farebox Revenue on behalf of GWRC in accordance with clause 48 (<i>Farebox Revenue and other Revenue</i>) of this Partnering Contract and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>2. provide and manage staff in Ticket Offices to undertake ticket sales and customer service for the IFT System in accordance with Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>); and</p> <p>3. obtain from GWRC paper ticket rolls and maintain supply levels of other consumables used by the Operator in relation to the IFT System.</p>	<p>1. Responsible for all IFT System Equipment (other than the Operator IFT System Equipment for which the Operator retains responsibility under clause 12.4 (<i>IFT System Equipment</i>));</p> <p>2. contract with retail outlets for sale of tickets / other fare media;</p> <p>3. manage and provide all IFT System Equipment and online facilities for top-ups and fare media management;</p> <p>4. procure, warehouse and distribute branded ticketing media and sales collateral;</p> <p>5. undertake the rationalisation of rail tickets and fare products towards the phased withdrawal of products;</p> <p>6. provide to the Operator any updates to Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>) relating to ticketing changes;</p> <p>7. operate the Metlink website which provides for ticketing and customer service; and</p> <p>8. operate the Metlink call centre which provides for</p>

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
		ticketing and customer service.
Revenue collection and payment to GWRC	Comply with the Operator's obligations in clause 48 (<i>Farebox Revenue and other Revenue</i>) of this Partnering Contract.	Generate a daily report of ticket sales and top-ups as required by Schedule 5 (<i>Planning, Reporting and Meetings</i>).
IFT System Equipment support	<ol style="list-style-type: none"> 1. Ensure that IFT System Equipment monitoring, reporting and response activities are carried out in accordance with clause 12.4 (<i>IFT System Equipment</i>) of this Partnering Contract, to ensure that the IFT System Equipment is maintained in an optimal operational condition; 2. comply with the Operator's obligations in clause 12.4 (<i>IFT System Equipment</i>) of this Partnering Contract in respect of the IFT System; 3. ensure that the Operator IFT System Equipment has sufficient cash floats and all Farebox Revenue is collected, recorded and transferred to GWRC in accordance with clause 48 (<i>Farebox Revenue and other Revenue</i>) of this Partnering Contract; 4. promptly provide feedback received from customers in respect of the IFT System, including the methods of purchasing and validating tickets; 5. provide assistance to customers to allow them to effectively use the IFT System Equipment, including to purchase and validate tickets; 6. obtain paper ticket rolls and 	<ol style="list-style-type: none"> 1. Provide the Operator IFT System Equipment and undertake repairs in accordance with clauses 12 (<i>Wellington Network, Vehicles, assets and systems used in provision of Services</i>) and 20 (<i>GWRC Provision of Wellington Station, GWRC Assets and GWRC Systems</i>) of this Partnering Contract; 2. develop real time system generated service failure alert/reporting for all IFT System Equipment; 3. provide appropriate training to Operator maintenance staff in accordance with clause 15 (<i>Training Requirements</i>) to allow the Operator to fulfil its maintenance responsibilities; 4. develop procedures for the Operator to follow in respect of first line maintenance and operation of the Operator IFT System Equipment; and 5. carry out independent audits of the IFT System and provide the results, to the extent relevant, to the

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p>maintain supply levels of other consumables used by the Operator in relation to the Operator IFT Equipment;</p> <p>7. comply with the Operator's data protection obligation in clause 70.5 (<i>IFT System data protection</i>) of this Partnering Contract;</p> <p>8. provide live electricity and data connections for the Operator IFT System Equipment; and</p> <p>9. decommission and remove the existing ticketing system used by the Operator, upon request from GWRC.</p>	<p>Operator in accordance with clause 31 (<i>Audit and inspection rights</i>) of this Partnering Contract.</p>
Financial and Performance Regime	<p>Please see Schedule 6 (<i>Financial and Performance Regime</i>) for an explanation as to how the regime will apply during IFT Phase Two.</p>	<p>Comply with Schedule 6 (<i>Financial and Performance Regime</i>).</p>
Enforcement	<p>1. Comply with the Operator's revenue protection and enforcement obligations in paragraph 3.58 to 3.63 of Schedule 3 (<i>Passenger Services</i>) and Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>);</p> <p>2. ensure that the targets for revenue enforcement referred to in Schedule 3 (<i>Passenger Services</i>) are achieved;</p> <p>3. comply with the Revenue Protection Plan referred to in paragraph 1.3.12 of Appendix 1 of Schedule 5 (<i>Planning, Reporting and Meetings</i>);</p> <p>4. provide the Monthly Revenue Protection Report referred to in</p>	<p>Develop the GWRC Revenue Protection Strategy and incorporate revenue protection and enforcement functions in Annexure 6 (<i>Fares, Ticketing and Enforcement Requirements</i>).</p>

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p>paragraph 3.1.8(e) of Schedule 5 (<i>Planning, Reporting and Meetings</i>);</p> <p>5. provide revenue protection and enforcement functions by implementing GWRC's Revenue Protection Strategy. The Operator's Revenue Protection Plan must reflect and be consistent with the GWRC Revenue Protection Strategy;</p> <p>6. support GWRC's input to seeking legislative changes to enable the enhancement of revenue protection and enforcement powers, and amend revenue protection and enforcement functions to fully exploit enhanced powers as they become available;</p> <p>7. ensure that all revenue enforcement staff are adequately trained and wear proper uniforms in accordance with clauses 15 (<i>Training requirements</i>) and 16 (<i>Branding, uniforms and livery</i>) of this Partnering Contract; and</p> <p>8. redeploy and train staff to revenue protection duties by implementing the plan agreed during IFT Phase One for staff transition to revised revenue and protection enforcement roles.</p>	
IFT System enhancements	<p>1. Provide information on the operational impact of the IFT System;</p> <p>2. contribute to future IFT System enhancements with suggestions, and</p>	Follow the procedure set out in Schedule 16 (<i>Change Events and Net Financial Impact</i>) in respect of any Contract Variations resulting from IFT System

IFT Phase Two		
Nature of activity	Scope of Operator's role (included within the IFT Programme Pre Priced Option)	Scope of GWRC's role
	<p>participate in options development and selection through the provision of relevant operational experience and data inputs;</p> <p>3. follow the procedure set out in Schedule 16 (<i>Change Events and Net Financial Impact</i>) in respect of any Contract Variations resulting from IFT System enhancements; and</p> <p>4. provide resources for testing and commissioning of IFT System enhancements prior to any enhancements going live.</p>	enhancements.
Privacy and data	<p>The Operator shall:</p> <p>1. comply with GWRC's privacy policy and protocols;</p> <p>2. comply with GWRC's media management policy;</p> <p>3. comply with its obligations under clause 70 (<i>Privacy and Data Protection</i>) of this Partnering Contract; and</p> <p>4. comply with GWRC's reasonable ICT security requirements in relation to requests for and access to IFT System data.</p>	<p>1. Manage user data and meet all privacy compliance requirements in respect of such data;</p> <p>2. formulate IFT System privacy policy and protocols;</p> <p>3. provide Operator with relevant information to undertake staff training where required; and</p> <p>4. provide the Operator with access to the IFT System data, providing the Operator complies with paragraph 4 of the adjacent column.</p>

Schedule 14

RS1 Project

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1 Introduction

- 1.1 This Schedule sets out the scope of the Operator's role and obligations in regard to the RS1 Project for the purpose of:
- 1.1.1 describing the phases of the RS1 Project;
 - 1.1.2 describing the Operator's role and obligations during each phase;
 - 1.1.3 providing information to allow the Operator to price the cost of its Services during each phase; and
 - 1.1.4 setting out the Operator's obligations regarding the Initial Operator Concept of Operations for RS1 and preparation of the Final Operator Concept of Operations for RS1.
- 1.2 The scope of the Operator's role and obligations in regard to the RS1 Project described in this Schedule is also relevant to the Operator's obligations set out at:
- 1.2.1 Schedule 3 (*Passenger Services*);
 - 1.2.2 Annexure 1 (*Timetable Change Process*); and
 - 1.2.3 Annexure 3 (*Customer Communication and Information Systems*).

2 Background

- 2.1 The Wellington Regional Public Transport Plan identifies the introduction of RS1 as a major initiative. In February 2009 the Regional Transport Committee endorsed the Wellington Regional Rail Plan 2010 – 2035: A Better Rail Experience (the **2010 RRP**).
- 2.2 The 2010 RRP set out a pathway for the long term development of the Wellington Rail Network.
- 2.3 In 2013 a revision of the 2010 RRP confirmed that RS1 should remain the next stage in the development of the Wellington Rail Network, but made changes to how RS1 would be delivered.
- 2.4 RS1 involves the re-configuration of Scheduled Services in order to optimise the use of the Trains during the morning peak period through effectively matching capacity and frequency to peak demand.
- 2.5 The desired outcomes for RS1 include:
- 2.5.1 a new regularised (clock face) Rail Unit Timetable with an enhanced morning peak- hour service;
 - 2.5.2 new service patterns based on metro style services originating from Porirua, Taita and Johnsonville Stations (the inner network) and traditional suburban style services originating from Waikanae, Upper Hutt and Masterton Stations (the outer network), designed to provide greater efficiency throughout the 'peak' periods;

- 2.5.3 network hubs at Waterloo and Porirua Stations with more services starting and stopping at these hubs (up to five Scheduled Services per hour) during the morning peak period;
 - 2.5.4 more Scheduled Services in the peak period to provide customers with more flexible travel options; and
 - 2.5.5 more express and limited stop Scheduled Services from Stations on the outer network.
- 2.6 There are a range of Infrastructure projects that are required before RS1 can be fully implemented, including:
- 2.6.1 double tracking from Trentham to Upper Hutt;
 - 2.6.2 installation of a third platform at Porirua;
 - 2.6.3 upgrade of the turn back facility at Plimmerton;
 - 2.6.4 signalling and track upgrades through the Tawa basin; and
 - 2.6.5 safety improvements at level crossings.
- 2.7 GWRC is responsible for the planning, procurement and funding (in conjunction with the Access Provider) of the Infrastructure projects described at paragraph 2.6. It is acknowledged that some of the Infrastructure projects described at paragraph 2.6 will form part of the “Catch-up Renewal Services” provided by the Access Provider and described at clauses 6.9 and 6.10 of the Wellington Network Agreement, being renewal projects that the Crown has agreed to fund.
- 2.8 The Parties acknowledge and agree that as at the date of this Partnering Contract, the delivery method for the implementation of the Infrastructure projects described at paragraph 2.6 may not be fully defined. Without prejudice to any other obligations of the Operator, the Operator shall take all steps reasonably required to assist GWRC in the procurement and implementation of the Infrastructure projects. The Operator shall work collaboratively and cooperatively with GWRC and the Access Provider to ensure that the RS1 Project (including the implementation of the required Infrastructure projects) delivers the desired outcomes and goals described at paragraphs 2.5 and 2.9.
- 2.9 GWRC's outcomes and desired goals for the RS1 Project (in addition to the desired outcomes set out at paragraph 2.5) are:
- 2.9.1 increased seat capacity on all Lines (excluding the Upper Hutt to Masterton segment), as a result of:
 - (a) more frequent Scheduled Services; and
 - (b) where necessary, an increase in consist size of the EMU Vehicles;
 - 2.9.2 increased Wellington Rail Network capacity, as a result of the elimination of network and operational constraints;

- 2.9.3 increased reliability of Scheduled Services (due in part to improved Infrastructure);
- 2.9.4 increased Scheduled Service frequency on all Lines (excluding the Upper Hutt to Masterton segment) throughout the peak periods;
- 2.9.5 ability to stimulate patronage growth;
- 2.9.6 delivering a safer environment for passengers both on-board Trains and at Stations;
- 2.9.7 Infrastructure improvements allowing faster freight transport on the Wellington Rail Network;
- 2.9.8 simplified journey experience, through the implementation of a 'clock face' timetable;
- 2.9.9 increasing the opportunity for intensified urban development that aligns with the Wellington Regional Growth Strategy (**WRGS**);
- 2.9.10 decongestion of the Wellington road network as a result of new public passenger transport users, resulting in wider regional economic benefits, additional environmental benefits and reduced road accidents;
- 2.9.11 providing two primary rapid transit corridors that are integrated within the Wellington Public Transport Network; and
- 2.9.12 environmental improvements, such as better local air quality, from reduction in emissions generated from car usage.

3 **RS1 Project phases**

3.1 The Operator's role in regard to the RS1 Project will be separated into the following phases:

- 3.1.1 **RS1 Project Phase One - Infrastructure implementation**: covering the period from the Commencement Date until the date that GWRC confirms in writing that the Infrastructure upgrades are substantially completed;
- 3.1.2 **RS1 Project Phase Two - Operational planning**: covering the period from the commencement of planning for disruptions (resulting from the implementation of Infrastructure upgrades) through to Day 1 of RS1 Operations; and
- 3.1.3 **RS1 Project Phase Three - Operational delivery**: covering the period from Day 1 of RS1 Operations until the earlier of:
 - (a) the date on which the Operator is required to implement a Contract Variation in respect of the implementation of one or more of the additional pathways set out in the 2010 RRP (or any updated or revised version of the 2010 RRP); or
 - (b) the Termination Date.

3.2 The proposed date for Day 1 of RS1 Operations and commencement of RS1 Project Phase Three is 1 July 2021.

4 Scope of Operator's and GWRC's roles in regard to RS1 Project

4.1 The tables below set out the scope of the Operator’s and GWRC's respective roles in relation to the RS1 Project, broken down by the different activities required during each of the three phases.

4.2 The Operator and GWRC shall each perform their respective roles in accordance with the tables set out below, so as to ensure that they have completed their respective roles and activities by the relevant date set out in the tables.

4.3 The Parties acknowledge and agree that:

4.3.1 payments in respect of the activities to be performed by the Operator and the scope of the Operator’s role during RS1 Project Phase One and RS1 Project Phase Two shall form part of the Initial Passenger Services Fee and the Initial Vehicle Services Fee and the Operator shall not be entitled to any additional payment in respect of the performance of such activities and role;

4.3.2 the activities to be performed by the Operator and the scope of the activities to be performed by the Operator during RS1 Project Phase Three shall comprise the RS1 Project Pre Priced Option, and the Passenger Services Fee and Vehicle Services Fee payable in connection therewith shall be calculated in accordance with paragraphs 2 and 3 of Schedule 6; and

4.3.3 if GWRC requires the activities to be performed by the Operator and/or the scope of the Operator's role during either RS1 Project Phase One or RS1 Project Phase Two to be substantively changed from those envisaged by the tables below, GWRC shall treat the change as a GWRC initiated Contract Variation in accordance with the provisions at paragraph 6 (*GWRC initiated Contract Variations*) of Schedule 16 or a Minor Contract Variation in accordance with the provisions at paragraph 5 (*Minor Contract Variations*) of Schedule 16 (as applicable).

RS1 Project Phase One – Infrastructure implementation

Nature of activity	Scope of Operator’s role (included within the Initial Passenger Services Fee and Initial Vehicle Services Fee)	Scope of GWRC's role	Relevant dates (Indicative only)
Planning for disruptions	The Operator shall complete the initial operational planning required to accommodate the	GWRC participation (as required) in the Wellington Network	FY16 to FY21

Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and Initial Vehicle Services Fee)	Scope of GWRC's role	Relevant dates (Indicative only)
	Track Possessions and Planned Disruptions needed to accommodate the implementation of Infrastructure works required to implement RS1.	Timetable Committee and the Track Possessions Subcommittee.	
Communication and information	The Operator shall provide information about Planned Disruptions required for the Infrastructure work required to implement RS1 in accordance with the Operator's obligations set out in the Customer Communication and Information Systems.	GWRC shall provide information about Planned Disruptions required for the Infrastructure work required to implement RS1 in accordance with GWRC's obligations set out in the Customer Communication and Information Systems.	FY17 to FY21
Familiarisation/driver training	The Operator shall ensure that all drivers of Trains receive the appropriate training and complete the required familiarisation necessary to accommodate the temporary changes arising from the Planned Disruptions needed for the Infrastructure work required to implement RS1.	N/A	FY 17 to FY21
Infrastructure works	The Operator shall provide reasonable assistance to GWRC with the procurement and implementation of the Infrastructure upgrade works referred to in paragraph 2.6.	Procurement and implementation of the Infrastructure upgrade works referred to in paragraph 2.6.	commencing early FY17 completed by 30 June 2021

RS1 Project Phase Two – Operational planning

Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and Initial Vehicle Services Fee)	Scope of GWRC's role	Relevant dates (Indicative only)
Finalising the Operator Concept of Operations for RS1	The Operator shall complete the review of the Initial Operator Concept of Operations for RS1 and develop and provide the draft Final Operator Concept of Operations for RS1 to GWRC in accordance with paragraphs 5.3 to 5.5.	GWRC shall consider, comment on and (when applicable) approve the Final Operator Concept of Operations for RS1 in accordance with paragraph 5.6.	Submission by Operator of draft Final Operator Concept of Operations by 30 June 2017
Development of Working Timetable to apply during RS1 Project Phase Three	The Operator shall complete the planning and all other actions required to develop and make the required changes to the Working Timetable to implement RS1 Project Phase Three.	N/A	FY18
Development of Matangi Fleet Post RS1 Assignment Plan to apply during RS1 Project Phase Three	The Operator shall complete the planning and all other actions required to develop the Matangi Fleet Post RS1 Assignment Plan The Operator shall provide a copy of the Matangi Fleet Post RS1 Assignment Plan to GWRC.	N/A	FY18
Development of Rail Unit Timetable to apply during RS1 Project Phase Three	The Operator shall, in accordance with the Timetable Change Process, complete the required planning and all other actions (including development of supporting material and preparation and issue of the Timetable Change Proposal) required to introduce the proposed changes to the Rail Unit Timetable and the Timetable	Preparation (as required) to perform GWRC's role under the Timetable Change Process.	FY19

Nature of activity	Scope of Operator's role (included within the Initial Passenger Services Fee and Initial Vehicle Services Fee)	Scope of GWRC's role	Relevant dates (Indicative only)
	required to implement RS1.		
Timetable Change Process	The Operator shall actively participate in the Timetable Change Process in order to introduce and promote the proposed changes to the Rail Unit Timetable and the Timetable required to implement RS1.	Participation in the Timetable Change Process.	FY19 to FY21
Communication and information	The Operator shall provide information about the updated Rail Unit Timetable (including any changes to the Timetable) in accordance with the Operator's obligations set out in the Customer Communication and Information Systems.	GWRC shall provide information about the updated Rail Unit Timetable (including any changes to the Timetable) in accordance with GWRC's obligations set out in the Customer Communication and Information Systems.	As soon as reasonably practicable following completion of the Timetable Change Process
Familiarisation/d river training	The Operator shall ensure that all drivers of Trains receive the appropriate training and complete the required familiarisation in respect of the changes to the Rail Unit Timetable.	N/A	FY 19 to FY21

RS1 Project Phase Three – Operational delivery

Nature of activity	Scope of Operator’s role (forming part of RS1 Project Pre Priced Option)	Scope of GWRC's role	Relevant dates (Indicative only)
Communication and information	The Operator shall provide ongoing information about the updated Rail Unit Timetable in accordance with the Operator's obligations set out in the Customer Communication and Information Systems.	GWRC shall provide information about the updated Rail Unit Timetable in accordance with the GWRC's obligations set out in the Customer Communication and Information Systems.	FY22
Implementation of Scheduled Services in accordance with new Rail Unit Timetable and new Working Timetable	With effect from Day 1 of RS1 Operations, the Operator shall: (a) implement all Scheduled Services in accordance with the updated Rail Unit Timetable; and (b) implement and comply with the revised Working Timetable.	N/A	From Day 1 of RS1 Operations, which is expected to be 1 July 2021
Compliance with Matangi Fleet Post RS1 Assignment Plan	The Operator shall provide the Scheduled Services using those EMU Vehicles identified in the Matangi Fleet Post RS1 Assignment Plan.		From Day 1 of RS1 Operations

5 Operator Concept of Operations for RS1

Initial Operator Concept of Operations for RS1

- 5.1 The Parties acknowledge that the Initial Operator Concept of Operations for RS1 set out in Appendix 1 to this Schedule 14 was prepared by the Operator and finalised prior to the date of this Partnering Contract.
- 5.2 The Operator shall implement, comply with and give effect to the Initial Operator Concept of Operations for RS1 until it is replaced by the Final Operator Concept of Operations for RS1 in accordance with paragraph 5.7.

Final Operator Concept of Operations for RS1

- 5.3 During RS1 Project Phase Two, the Operator shall further develop and update the Initial Operator Concept of Operations for RS1 (such developed and updated document being the "**Final Operator Concept of Operations for RS1**").
- 5.4 The Operator shall ensure that the "Final Operator Concept of Operations for RS1" includes:
- 5.4.1 further detail to update and confirm the material set out in the Initial Operator Concept of Operations for RS1;
 - 5.4.2 the Matangi Fleet Post RS1 Assignment Plan;
 - 5.4.3 identification of any key changes to the Initial Operator Concept of Operations for RS1 together with an explanation of the rationale for those changes;
 - 5.4.4 identification of any significant change to the proposed implementation plan for RS1, including any proposed change to the anticipated date for Day 1 of RS1 Operations or any other date referred to in paragraph 4;
 - 5.4.5 identification of any additional Planned Disruptions which are likely to arise in connection with the implementation of RS1, including the proposed timeframes for those disruptions; and
 - 5.4.6 identification of any implications for the procurement and implementation of the Infrastructure upgrades referred to in paragraph 2.6.
- 5.5 On or before the relevant date specified in the table headed "RS1 Project Phase Two – Operational planning" set out at paragraph 4 above, the Operator shall provide the draft Final Operator Concept of Operations for RS1 to GWRC.
- 5.6 Within 20 Business Days of receipt by GWRC of the draft Final Operator Concept of Operations for RS1, GWRC shall (acting reasonably) either:
- 5.6.1 approve the draft Final Operator Concept of Operations for RS1 in writing; or
 - 5.6.2 provide written comments on the draft Final Operator Concept of Operations for RS1, in which case:
 - (a) the Operator shall promptly amend the draft Final Operator Concept of Operations for RS1 to incorporate such comments and resubmit the document for approval by GWRC;
 - (b) this paragraph 5.6 shall reapply until the draft Final Operator Concept of Operations for RS1 is approved in writing by GWRC; and
 - (c) any amendments made to the draft Final Operator Concept of Operations for RS1 pursuant to this paragraph 5.6 shall not constitute a Contract Variation.

- 5.7 With effect from the date of approval by GWRC of the Final Operator Concept of Operations for RS1 in accordance with paragraph 5.6:
- 5.7.1 the Final Operator Concept of Operations for RS1 (as approved by GWRC) shall replace the Initial Operator Concept of Operations for RS1; and
 - 5.7.2 the Operator shall implement, comply with and give effect to the Final Operator Concept of Operations for RS1 (as approved by GWRC).
- 5.8 The Parties acknowledge and agree that the development and implementation of the Final Operator Concept of Operations for RS1 and the Operator's obligations to comply with and give effect to the Final Operator Concept of Operations for RS1 pursuant to the foregoing provisions shall not constitute or give rise to a Contract Variation.

Appendix 1 - Initial Operator Concept of Operations for RS1



Schedule 15

Transition Plan

Schedule 16

Change Events and Net Financial Impact

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Part A - Introduction, definitions, Pre Priced Options and NFI Events

1 Introduction

- 1.1 Part A of this Schedule sets out the Parties' respective rights and obligations in respect of:
- 1.1.1 Compensation Events (see paragraph 3 of this Part A);
 - 1.1.2 Pre Priced Options (see paragraph 4 of this Part A);
 - 1.1.3 Minor Contract Variations (see paragraph 5 of this Part A);
 - 1.1.4 GWRC initiated Contract Variations (see paragraph 6 of this Part A);
 - 1.1.5 Operator initiated Contract Variations (see paragraph 8 of this Part A);
and
 - 1.1.6 certain changes to the Rail Unit Timetable (see paragraph 10 of this Part A).
- 1.2 Part B of this Schedule contains provisions specifying how the Net Financial Impact of any NFI Event shall be determined.
- 1.3 The foregoing provisions of this paragraph 1 are intended to provide a high level road-map of some of the key contents of this Schedule only and by their nature do not list all provisions contained herein.

2 Definitions

- 2.1 In this Schedule, the following definitions apply unless the context otherwise requires:

Compensation Event Notice	has the meaning given in paragraph 3.3.1 below (<i>Claim for relief or compensation</i>).
Minor Contract Variation Notice	has the meaning given in paragraph 5.2.
Minor Contract Variation Quote	has the meaning given in paragraph 5.3.
Net Financial Impact	means the net financial impact of an NFI Event calculated in accordance with Part B of this Schedule.
NFI Event	means any: <ul style="list-style-type: none"> (a) Compensation Event; (b) Contract Variation; (c) Minor Contract Variation; (d) change to the Rail Unit Timetable made in

	<p>accordance with the Timetable Change Process, excluding any such change which arises from or in connection with the implementation of a Pre Priced Option; and</p> <p>(e) other event or circumstance in respect of which this Partnering Contract expressly refers to the payment or calculation of the Net Financial Impact.</p> <p>For the avoidance of doubt, a Pre Priced Option or the implementation of a Pre Priced Option are not NFI Events.</p>
NFI Indexed	has the meaning given in paragraph 12.7.
Notice to Proceed	means a notice given by GWRC under paragraph 6.24 (<i>GWRC may issue Notice to Proceed</i>), requiring the Operator to carry out a Contract Variation.
Payment Schedule	means a payment schedule reflecting the timing and amount of expenditure to be incurred by the Operator in connection with the relevant NFI Event, as agreed by the Operator and GWRC (or, in the event that they are unable to reach agreement, as determined by way of Expert determination in accordance with clauses 53.9 to 53.15 (<i>Expert Determination</i>)).
Variation Order	means a notice issued by GWRC which is substantially in the form set out in Part C (<i>Form of Variation Order</i>) of Annexure 19 (<i>Variation Forms</i>) or such other form as the Parties may agree in writing from time to time to replace the forms in that Part C.
Variation Proposal	has the meaning given in paragraph 6.2.
Variation Response	has the meaning given in paragraph 6.4.
Withdrawn Contract Variation	means a Variation Proposal issued by GWRC in relation to which GWRC does not subsequently issue a Variation Order or a Notice to Proceed in accordance with the relevant provisions of this Schedule 16 in circumstances where GWRC's decision not to issue such Variation Order or Notice to Proceed is not caused or contributed to by a failure by the Operator to comply with its relevant obligations under paragraph 6 (<i>GWRC initiated Contract Variations</i>).
Withdrawn Contract Variation Costs	means any external costs reasonably, properly and demonstrably incurred by the Operator in connection with the preparation of a Variation Response in accordance with this Schedule 16 in respect of a

	Withdrawn Contract Variation, but excluding any such external costs to the extent that the Operator has received a payment in respect of such external costs pursuant to paragraph 7.7.2 or is entitled or will become entitled to a payment in respect of such external costs pursuant to paragraph 7.7.2.
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3 Compensation Events

Compensation Events

- 3.1 If and to the extent that a Compensation Event:
- 3.1.1 materially adversely affects the ability of the Operator to comply with any of its obligations or exercise any of its rights under this Partnering Contract; or
 - 3.1.2 causes the Operator in the performance of the Services to incur additional or increased costs or lose revenue,
- then, other than to the extent that the Compensation Event (or its effect):
- 3.1.3 occurs or arises (directly or indirectly) in whole or in part as a result of or in connection with any act or omission (other than any act or omission expressly permitted by this Partnering Contract) by the Operator or any Operator Associate; or
 - 3.1.4 is or ought reasonably to have been within the control of the Operator or the Operator Associates,

the Operator is entitled to apply for relief from its obligations under this Partnering Contract or claim compensation under this Partnering Contract (or both) in accordance with the provisions of this paragraph 3 (*Compensation Events*).

Mitigation

- 3.2 The Operator shall:
- 3.2.1 take all reasonable steps to reduce, mitigate, prevent or eliminate the effects of any Compensation Event (including by putting in place temporary measures reasonably acceptable to GWRC); and
 - 3.2.2 use all reasonable endeavours to continue to perform its obligations despite the occurrence of a Compensation Event.

Claim for relief or compensation

- 3.3 In order to obtain relief or claim compensation in respect of a Compensation Event, the Operator shall:
- 3.3.1 as soon as practicable, and in any event within 10 Business Days after it first becomes aware that the Compensation Event has or is likely to cause any of the consequences referred to in paragraph 3.1.1 or 3.1.2, give to GWRC a notice (**Compensation Event Notice**) setting out:

- (a) full details of the Compensation Event;
- (b) the date of the Compensation Event's occurrence;
- (c) the estimated duration of the Compensation Event and its effects;
- (d) the extent to which the Compensation Event or its effects are covered by insurance; and
- (e) whether the Operator intends to claim relief from its obligations under this Partnering Contract and/or compensation, in each case in accordance with this paragraph 3 (*Compensation Events*); and

3.3.2 within 5 Business Days of giving the Compensation Event Notice, give GWRC full details (including supporting documentation) of:

- (a) any relief from obligations under this Partnering Contract and any Net Financial Impact claimed; and
- (b) the steps which the Operator has taken to reduce, mitigate, prevent or eliminate the effects of the relevant Compensation Event; and

3.3.3 comply with its obligations under clauses 3.2 (*Mitigation*) to 3.7 (*Compensable Change in Law or Compensable Change in Standards - Tender Process*).

Continuing Compensation Events

3.4 If the Compensation Event (or its effects) are continuing, the Operator shall:

- 3.4.1 continue to give GWRC the information required by paragraph 3.3.1 and 3.3.2 every six months after the Compensation Event Notice was first provided to GWRC until after the Compensation Event (and its effects) have ceased; and
- 3.4.2 provide a final notice containing the information referred to in paragraph 3.3.2 within 5 Business Days after the Compensation Event (and its effects) have ceased.

Request for information

3.5 At any time after receipt of a notice from the Operator under paragraph 3.3 or 3.4, GWRC may request from the Operator further information which GWRC requires to assess any claim for relief or compensation under this paragraph 3 (*Compensation Events*). The Operator shall promptly comply with each such request.

Compensable Change in Law or Compensable Change in Standards - Tender Process

3.6 If the Compensation Event is a Compensable Change in Law or a Compensable Change in Standards and compliance with such Compensable Change in Law or Compensable Change in Standards is reasonably likely to involve Capital

Expenditure being incurred by the Operator in relation to any works, supplies or services and such Capital Expenditure is reasonably likely to exceed \$100,000 (which amount shall not be Indexed), GWRC may at any time require that the Operator conduct a tender process in respect of such works, supplies or services.

- 3.7 If GWRC elects to require the Operator to carry out a tender process as contemplated by paragraph 3.6, the Operator shall carry out such tender process promptly, in accordance with GWRC's reasonable requirements and in accordance with the process set out in paragraph 17 (*Tender Process*) of this Schedule. The Operator shall be entitled to any direct costs reasonably, properly and demonstrably incurred by it in carrying out any such tender process.
- 3.8 If the Operator is required to carry out such tender process, any time periods specified in this paragraph 3 shall be extended by such period as is reasonably required in order to conduct the tender process.
- 3.9 Following completion of the tender process, the Net Financial Impact in respect of the Compensable Change in Law or Compensable Change in Standards (as applicable) shall be adjusted to reflect the outcome of the tender process (including the relevant tender price if a contractor is selected as a result of the tender process).

Net Financial Impact and other relief

- 3.10 Subject to paragraph 3.11 (*Delay in notification or failure to comply*), GWRC shall as soon as reasonably practicable and in any event within 20 Business Days after receipt of the Operator's notice under paragraph 3.3.2, notify the Operator as to whether it is satisfied (acting reasonably) that a Compensation Event has occurred and, as soon as reasonably practicable and in any event within 20 Business Days after receipt of the Operator's notice under paragraph 3.3 or 3.4, whether it is satisfied (acting reasonably) of the matters claimed in the Operator's notices under paragraph 3.3 or 3.4, and provided that the Operator has complied with paragraphs 3.2 to 3.7:
- 3.10.1 GWRC shall grant the Operator such relief from its obligations under the Partnering Contract (and from the consequences under clauses 55 (*Events of Default, Cure Plan and Persistent Breach*) and 56 (*Termination for Termination Events*) of not performing those obligations) as is reasonable for such Compensation Event, taking into account any notices given under paragraph 3.3 or 3.4; and
- 3.10.2 if the Net Financial Impact is positive, GWRC shall pay the Operator the amount of the Net Financial Impact in accordance with the Payment Schedule; or
- 3.10.3 if the Net Financial Impact is negative, then the Services Fee shall be decreased by the amount (expressed as a positive figure) by which the Net Financial Impact is less than zero.

Delay in notification or failure to comply

3.11 If, in respect of a Compensation Event the Operator fails to comply with any of its obligations under paragraphs 3.2 to 3.7, the Operator shall not be entitled to any relief from its obligations under this Partnering Contract or any compensation in respect of that Compensation Event (including its effects).

Disputes

3.12 If the Operator applies for any relief or compensation under this paragraph 3 and:

3.12.1 there is a dispute as to the amount of the Net Financial Impact or the relief from the Operator's obligations under this Partnering Contract arising from a Compensation Event; or

3.12.2 GWRC disagrees that a Compensation Event has occurred,
the matter will be determined by the Expert in accordance with clauses 53.9 to 53.15 (*Expert Determination*).

Step-in Rights

3.13 The Operator's right to relief under this paragraph 3 does not affect the exercise by GWRC of the Step-in Rights. The Parties acknowledge and agree that a Compensation Event (or its effects) may also constitute a Step-in Event.

Sole remedy

3.14 The Operator's sole rights, remedies and entitlement in connection with a Compensation Event (and its effects) shall be relief from its obligations under this Partnering Contract and compensation, in each case in accordance with this paragraph 3.

3.15 The Operator hereby irrevocably waives any other rights, remedies and entitlement it may otherwise have in connection with a Compensation Event (and its effects) howsoever arising (including in negligence).

4 Pre Priced Options

Implementation of Pre Priced Options

4.1 At any time during the Term, GWRC may (but is not obliged to) issue a written order to the Operator requiring the Operator to implement a Pre Priced Option with effect from the relevant date(s) specified in such order. In the case of:

4.1.1 the RS1 Project Pre Priced Option, such order shall specify the RS1 Project Phase Three Commencement Date and the date for Day 1 of RS1 Operations, which dates shall be not earlier than 3 months after the date of such order; and

4.1.2 the IFT Programme Pre Priced Option, such order shall specify the required date for the implementation of IFT Phase Two referred to in Schedule 13 (*IFT Programme*) and the proposed ETS Implementation

Date, which dates shall not be earlier than 3 months after the date of such order.

- 4.2 The Operator shall promptly comply with any order issued pursuant to paragraph 4.1 and, with effect from the relevant date(s) specified in such order, shall implement the relevant Pre Priced Option (including performing the activities, role and obligations ascribed to the Operator in respect of that Pre Priced Option in Schedule 13 (*IFT Programme*) or Schedule 14 (*RS1 Project*) (as applicable)).

Payment of Pre Priced Option implementation fees

- 4.3 In the event that GWRC issues a written order pursuant to paragraph 4.1 in relation to the implementation of the RS1 Project Pre Priced Option, GWRC shall pay to the Operator the RS1 Project Implementation Fee on the next Business Day falling after Day 1 of RS1 Operations, provided that:

- 4.3.1 the Operator has submitted a valid tax invoice in respect of the RS1 Project Implementation Fee; and
- 4.3.2 the Operator has complied with its obligations under paragraph 4.2 in respect of the implementation of the RS1 Project Pre Priced Option.

- 4.4 In the event that GWRC issues a written order pursuant to paragraph 4.1 in relation to the implementation of the IFT Programme Pre Priced Option, GWRC shall pay to the Operator the IFT Programme Implementation Fee on the next Business Day falling after the ETS Implementation Date, provided that:

- 4.4.1 the Operator has submitted a valid tax invoice in respect of the IFT Programme Implementation Fee; and
- 4.4.2 the Operator has complied with its obligations under paragraph 4.2 in respect of the implementation of the IFT Programme Pre Priced Option.

Miscellaneous provisions relating to Pre Priced Options

- 4.5 The Parties acknowledge and agree that, in circumstances where GWRC has given the Operator an order to implement a Pre Priced Option pursuant to paragraph 4.1:
- 4.5.1 such order and the implementation of that Pre Priced Option (including any consequential amendments to the Rail Unit Timetable, the Timetable, the Working Timetable, the Conditions of Carriage or any provision of this Partnering Contract) shall not constitute or give rise to a Contract Variation or an NFI Event;
- 4.5.2 paragraphs 2 and 3 of Schedule 6 (*Financial and Performance Regime*) specify how the Passenger Services Fee and Vehicle Services Fee are to be calculated in the event that GWRC issues one or more orders pursuant to paragraph 4.1;
- 4.5.3 notwithstanding anything to the contrary in this Partnering Contract, the Operator's only entitlement to payment in connection with the

implementation of the Pre Priced Option (including any consequential amendments to the Rail Unit Timetable, the Timetable, the Working Timetable, the Conditions of Carriage or any provision of this Partnering Contract) shall be:

- (a) the adjustment to the Passenger Services Fee and Vehicle Services Fee as referred to in paragraph 4.5.2;
- (b) the payment of the RS1 Project Implementation Fee in accordance with paragraph 4.3 or the payment of the IFT Programme Implementation Fee in accordance with paragraph 4.4 (as applicable); and
- (c) where applicable, any variation to the Overall Heavy Maintenance Budget agreed or determined pursuant to paragraphs 14.12 and 14.13 (*Budget*) of Schedule 4 (*Vehicle Services*); and

4.5.4 the Operator shall not be entitled to any relief from its obligations under this Partnering Contract or any other Transaction Document in connection with the implementation of that Pre Priced Option.

4.6 GWRC is not obliged at any time to issue an order pursuant to paragraph 4.1 in relation to a Pre Priced Option. Neither GWRC nor GWRL shall have any liability to the Operator in connection with GWRC electing not to issue any such order.

5 Minor Contract Variations

Purpose and overriding principle

5.1 This paragraph 5 sets out the process whereby GWRC may require the Operator to implement a Minor Contract Variation. The Operator shall not implement any Minor Contract Variation unless and until GWRC issues a Variation Order in respect of that Minor Contract Variation pursuant to paragraph 5.5 below.

GWRC may issue Minor Contract Variation Notice

5.2 GWRC may at any time notify the Operator of a proposed Minor Contract Variation by serving a notice (**Minor Contract Variation Notice**) on the Operator setting out:

- 5.2.1 details of the Minor Contract Variation;
- 5.2.2 the date by which the Minor Contract Variation must be implemented by the Operator;
- 5.2.3 the methodology and process by which the Operator must implement the Minor Contract Variation;
- 5.2.4 the extent to which GWRC (acting reasonably) considers that the Operator will require relief from its obligations under this Partnering

Contract as a result of the implementation of the Minor Contract Variation; and

- 5.2.5 such further information regarding the Minor Contract Variation as GWRC wishes to provide.

Operator to provide Quote

- 5.3 Within 3 Business Days of receipt of a Minor Contract Variation Notice, the Operator shall provide a quote (**Minor Contract Variation Quote**) to GWRC setting out:

5.3.1 the Operator's estimate of the Net Financial Impact of implementing the proposed Minor Contract Variation in accordance with the Minor Contract Variation Notice, calculated in accordance with Part B of this Schedule 16 and with such estimate provided on an Open Book Basis and accompanied by all working papers and other documentation required to support that estimate; and

5.3.2 any other particulars required by GWRC in the Minor Contract Variation Notice.

- 5.4 If GWRC disputes any part of the Minor Contract Variation Quote, GWRC may refer the matter directly for resolution by way of Expert determination in accordance with the provisions of clauses 53.9 to 53.15 (*Expert Determination*).

GWRC may direct Minor Contract Variation

- 5.5 At any time within 30 Business Days following the later of:

5.5.1 receipt by GWRC of a Minor Contract Variation Quote; or

5.5.2 where GWRC has disputed any part of the Minor Contract Variation Quote in accordance with paragraph 5.4, the date of determination of such dispute by the Expert,

GWRC may direct the Operator to implement the Minor Contract Variation by issuing a Variation Order which shall confirm the Net Financial Impact as set out in the Minor Contract Variation Quote or otherwise as determined by the Expert pursuant to paragraph 5.4 (as applicable).

- 5.6 If GWRC issues a Variation Order pursuant to paragraph 5.5:

5.6.1 the Operator shall carry out the Minor Contract Variation in accordance with the Minor Contract Variation Notice;

5.6.2 the Operator shall be relieved of its obligations under this Partnering Contract to the extent specified in the Minor Contract Variation Notice; and

5.6.3 to the extent that the Net Financial Impact arising from the Minor Contract Variation (as set out in the Variation Order) is positive, GWRC

shall pay the Operator the amount of that Net Financial Impact in accordance with the Payment Schedule; or

- 5.6.4 to the extent that the Net Financial Impact arising from the Minor Contract Variation (as set out in the Variation Order) is negative, then the Services Fee shall be decreased by the amount (expressed as a positive figure) by which that Net Financial Impact is less than zero.

If GWRC does not direct Minor Contract Variation

5.7 Unless and until GWRC issues a Variation Order pursuant to paragraph 5.5 in respect of a Minor Contract Variation:

- 5.7.1 the Operator shall not carry out the proposed Minor Contract Variation;
- 5.7.2 the Operator shall have no rights or entitlement in connection with the proposed Minor Contract Variation, the Minor Contract Variation Notice or the Minor Contract Variation Quote (including rights to additional payment, compensation or relief from its obligations); and
- 5.7.3 GWRC may (in its sole discretion):
- (a) implement the Minor Contract Variation itself in whole or in part or appoint GWRL or a third party to implement the Minor Contract Variation in whole or in part, and in either case the Operator shall co-operate fully with GWRC, GWRL or the third party (as applicable) and shall provide such assistance as is reasonably required by GWRC, GWRL or the third party (as applicable) to enable it to implement the Minor Contract Variation as soon as reasonably practicable (including, if relevant, providing access to the Vehicles and the Depot Facilities on reasonable prior notice); and/or
 - (b) subsequently issue a further Minor Contract Variation Notice or a Variation Proposal, in each case containing any or all of the matters previously contemplated by the original Minor Contract Variation Notice.

6 GWRC initiated Contract Variations

Purpose and overriding principle

- 6.1 This paragraph 6 sets out the process whereby GWRC may require the Operator to implement a GWRC initiated Contract Variation (excluding Minor Contract Variations, which are dealt with separately under paragraph 5 above). The Operator shall not implement any GWRC initiated Contract Variation unless and until GWRC issues a Variation Order in respect of that Contract Variation pursuant to paragraph 6.17, 6.19, 6.21 or 6.24 (as applicable).

Issue of Variation Proposal

- 6.2 GWRC may at any time issue to the Operator a notice (**Variation Proposal**) setting out the details of a proposed Contract Variation which GWRC is considering.

Contents of the Variation Proposal

- 6.3 GWRC shall ensure that each Variation Proposal is substantially in the form set out in Part A (*Form of Variation Proposal*) of Annexure 19 (*Variation Forms*) (or such other form as the Parties may agree in writing from time to time to replace the forms in that Part A) and shall contain all of the information referred to therein.

Variation Response

- 6.4 Within 10 Business Days of receipt of a Variation Proposal from GWRC (or such longer time as GWRC may reasonably permit having regard to the size and complexity of the proposed Contract Variation), the Operator must submit a written response (**Variation Response**) to that Variation Proposal to GWRC.
- 6.5 The Operator shall ensure that each Variation Response shall be substantially in the form set out in Part B (*Form of Variation Response*) of Annexure 19 (*Variation Forms*) (or such other form as the Parties may agree in writing from time to time to replace the forms in that Part B) and shall contain all of the information referred to therein.
- 6.6 The Operator shall ensure that its estimate of the Net Financial Impact contained within the Variation Response is calculated in accordance with Part B of this Schedule 16. The Operator shall provide each such estimate on an Open Book Basis and shall ensure that the Variation Response is accompanied by all working papers and other documentation required to support that estimate.
- 6.7 The Operator shall ensure that any timeframe set out in the Variation Response for the implementation of the proposed Contract Variation shall be consistent with any timeframe proposed by GWRC in the relevant Variation Proposal.
- 6.8 The Operator shall prepare each Variation Response:
- 6.8.1 acting reasonably and in good faith;
 - 6.8.2 on the basis that it is a willing, efficient and competent provider of the matters contained within, or contemplated by, the proposed Contract Variation in an efficient and competitive market;
 - 6.8.3 so as to ensure that implementation of the proposed Contract Variation in accordance with the Variation Response will minimise any disruption to the provision of the Services arising from the implementation of the proposed Contract Variation to the extent reasonably practicable;
 - 6.8.4 so as to avoid any adverse safety impacts arising from the implementation of the proposed Contract Variation; and

- 6.8.5 so as to ensure that the implementation of the proposed Contract Variation will be in accordance with all applicable Law.

Consultation and further information

- 6.9 To the extent reasonably required by GWRC, the Operator shall promptly:

6.9.1 procure that appropriate personnel meet with GWRC to discuss and explain the contents of the Variation Response and the Variation Proposal; and

6.9.2 provide GWRC with further details and information in connection with the proposed Contract Variation and the Variation Response.

GWRC not obliged to proceed

- 6.10 GWRC will not be obliged to proceed with any Contract Variation proposed in a Variation Proposal or which is the subject of a Variation Response.

Contract Variation Tender process

6.11 If the implementation of a proposed Contract Variation is reasonably likely to involve Capital Expenditure being incurred by the Operator in relation to any works, supplies or services and such Capital Expenditure is reasonably likely to exceed \$100,000 (which amount shall not be Indexed), GWRC may at any time require that the Operator conduct a tender process in respect of such works, supplies or services.

6.12 If GWRC elects to require the Operator to carry out a tender process as contemplated by paragraph 6.11, the Operator shall carry out such tender process promptly, in accordance with GWRC's reasonable requirements and in accordance with the process set out in paragraph 17 (*Tender Process*) of this Schedule. The Operator shall be entitled to any direct costs reasonably, properly and demonstrably incurred by it in carrying out any such tender process.

6.13 Following completion of the tender process, the Operator shall either:

6.13.1 if it has not previously submitted a Variation Response in respect of the proposed Contract Variation, prepare and submit the Variation Response in accordance with paragraphs 6.4 to 6.8, reflecting the outcome of the tender process (including the relevant tender price if a tenderer is selected in accordance with the tender process); or

6.13.2 if it has previously submitted a Variation Response in respect of the proposed Contract Variation, promptly update the Variation Response to reflect the outcome of the tender process (including the relevant tender price if a tenderer is selected in accordance with the tender process).

6.14 Following completion of the tender process, the Net Financial Impact in respect of the Contract Variation shall be adjusted to reflect the outcome of the tender process (including the relevant tender price if a contractor is selected as a result of the tender process).

- 6.15 If the Operator is required to conduct a tender process pursuant to paragraph 6.11, the date by which the Operator is required to provide a Variation Response under paragraph 6.4 shall be extended by such period as is reasonably required in order to conduct the tender process.

GWRC to accept or reject Variation Response

- 6.16 Within 15 Business Days (or such longer period as GWRC reasonably requires, having regard to the size and complexity of the proposed Contract Variation) after receipt by GWRC of a Variation Response or an updated Variation Response provided under paragraph 6.13.2 (as applicable), GWRC shall by written notice to the Operator:

- 6.16.1 accept the Variation Response;
- 6.16.2 reject the Variation Response (in whole or in part); or
- 6.16.3 withdraw the Variation Proposal.

If GWRC accepts Variation Response

- 6.17 If GWRC accepts the Variation Response in accordance with paragraph 6.16.1:
- 6.17.1 GWRC shall issue a Variation Order confirming the Net Financial Impact of the Contract Variation as being that set out in the Variation Response (as updated in accordance with paragraph 6.13 if applicable);
 - 6.17.2 the Operator shall carry out the Contract Variation on the basis of the Variation Response (as accepted by GWRC); and
 - 6.17.3 the Operator shall be relieved of its obligations under this Partnering Contract, to the extent specified in the Variation Response (as accepted by GWRC).

If GWRC rejects Variation Response

- 6.18 If GWRC rejects the Variation Response (in whole or in part) in accordance with paragraph 6.16.2, then if requested to do so by GWRC, the Operator and GWRC shall promptly consult in good faith and use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Variation Response which are in dispute.
- 6.19 If GWRC and the Operator reach agreement on the disputed matters, GWRC may (but is not obliged to) direct the Operator to implement the Contract Variation by issuing a Variation Order confirming the Net Financial Impact of the Contract Variation as being that set out in the Variation Response (as updated in accordance with paragraph 6.13 if applicable) or as otherwise agreed by GWRC and the Operator pursuant to paragraph 6.18, in which case:
- 6.19.1 the Operator shall carry out the Contract Variation on the basis of the Variation Response, as varied by the Operator's and GWRC's agreement on the disputed matters (such agreement to be recorded in the Variation Order); and

- 6.19.2 the Operator shall be relieved of its obligations under this Partnering Contract to the extent specified in the Variation Response, as varied by the Operator's and GWRC's agreement on the disputed matters (such agreement to be recorded in the Variation Order).
- 6.20 If GWRC and the Operator fail to reach agreement on the disputed matters in the Variation Response within 15 Business Days after GWRC has rejected the Variation Response pursuant to paragraph 6.16.2, GWRC may (in its sole discretion):
- 6.20.1 refer the matter directly for resolution by way of Expert determination in accordance with the provisions of clauses 53.9 to 53.15 (*Expert Determination*); and/or
- 6.20.2 implement the Contract Variation itself in whole or in part or appoint GWRL or a third party to implement the Contract Variation in whole or in part, and in either case the Operator shall co-operate fully with GWRC, GWRL or the third party (as applicable) and shall provide such assistance as is reasonably required by GWRC, GWRL or the third party (as applicable) to enable it to implement the Contract Variation as soon as reasonably practicable (including, if relevant, providing access to the Vehicles and the Depot Facilities on reasonable prior notice).
- 6.21 Following determination of any dispute referred to Expert determination in accordance with paragraph 6.20, GWRC may, if it has not already exercised its rights under paragraph 6.24 (*GWRC may issue Notice to Proceed*), elect to either:
- 6.21.1 require the Operator to implement the Contract Variation in accordance with the Variation Response (as varied by the Expert determination) by issuing a Variation Order confirming the Net Financial Impact of the Contract Variation as being that set out in the Variation Response (as updated in accordance with paragraph 6.13 if applicable) or as otherwise determined by the Expert, in which case paragraph 6.22 shall apply; or
- 6.21.2 withdraw the Variation Proposal, in which case paragraph 6.23 shall apply.
- 6.22 If GWRC issues a Variation Order pursuant to paragraph 6.21.1:
- 6.22.1 the Operator shall carry out the Contract Variation on the basis of the Variation Response (as varied by the Expert determination, once made); and
- 6.22.2 the Operator shall be relieved of its obligations under this Partnering Contract, to the extent specified in the Variation Response (as varied by the Expert determination, once made).

If GWRC withdraws Variation Proposal

- 6.23 If GWRC withdraws a Variation Proposal in accordance with paragraph 6.16.3 or paragraph 6.21.2:

- 6.23.1 the Operator shall not carry out the proposed Contract Variation;
- 6.23.2 except as expressly provided for in paragraph 7 (*Costs relating to preparation of Variation Responses*), the Operator shall have no rights or entitlement in connection with the proposed Contract Variation, the Variation Proposal or the Variation Response (including rights to additional payment, compensation or relief from its obligations); and
- 6.23.3 GWRC may (in its sole discretion):
- (a) implement the Contract Variation itself in whole or in part or appoint GWRL or a third party to implement the Contract Variation in whole or in part, and in either case the Operator shall co-operate fully with GWRC, GWRL or the third party (as applicable) and shall provide such assistance as is reasonably required by GWRC, GWRL or the third party (as applicable) to enable it to implement the Contract Variation as soon as reasonably practicable (including, if relevant, providing access to the Vehicles and the Depot Facilities on reasonable prior notice); and/or
 - (b) subsequently issue a further Variation Proposal or (if applicable) a Minor Contract Variation Notice, in each case containing any or all of the matters previously contemplated by the Variation Proposal which it has withdrawn.

GWRC may issue Notice to Proceed

- 6.24 If:
- 6.24.1 the Operator fails to prepare and provide a Variation Response in accordance with paragraphs 6.4 to 6.8 or otherwise fails to comply with its obligations under this paragraph 6; or
- 6.24.2 GWRC refers any matter for Expert determination in accordance with paragraph 6.20,
- GWRC may also direct the Operator to implement the Contract Variation by issuing a Notice to Proceed, together with a Variation Order (whether or not any matters in dispute have at that time been determined by the Expert).
- 6.25 If GWRC issues a Notice to Proceed and a Variation Order pursuant to paragraph 6.24:
- 6.25.1 any disputed matters (including in respect of the Net Financial Impact) shall, until GWRC and the Operator otherwise agree or an Expert determination is made in respect of those matters in accordance with clauses 53.9 to 53.15 (*Expert Determination*), be determined by GWRC (acting reasonably);

- 6.25.2 the Operator shall proceed to implement the Contract Variation on the basis determined by GWRC (notwithstanding that any matters in dispute have not at that time been agreed or determined by the Expert);
- 6.25.3 the Operator shall be relieved of its obligations under this Partnering Contract to the extent reasonably specified by GWRC in the Notice to Proceed; and
- 6.25.4 any necessary adjustment will be made following the determination of a dispute (if applicable).

Net Financial Impact

- 6.26 If GWRC issues a Variation Order directing the Operator to carry out a Contract Variation under this paragraph 6, then to the extent that the Net Financial Impact arising from the Contract Variation (as set out in the Variation Order in accordance with the foregoing provisions):
 - 6.26.1 is positive, GWRC shall pay the Operator the amount of the Net Financial Impact set out in the Variation Order in accordance with the Payment Schedule; or
 - 6.26.2 is negative, then the Services Fee shall be decreased by the amount (expressed as a positive figure) by which the Net Financial Impact set out in the Variation Order is less than zero.

7 Costs relating to preparation of Variation Responses

Purpose and overriding principle

- 7.1 This paragraph 7 applies only to costs relating to Variation Proposals and Variations Responses under paragraph 6 (*GWRC initiated Contract Variations*). It does not apply to any costs relating to Minor Contract Variation Notices or Minor Contract Variation Quotes under paragraph 5 or to costs relating to Contract Variations initiated by the Operator under paragraph 8.

Operator to provide notification and quote

- 7.2 If:
 - 7.2.1 GWRC issues a Variation Proposal under paragraph 6 (*GWRC initiated Contract Variations*); and
 - 7.2.2 the external costs that will be reasonably and properly incurred by the Operator in preparing the Variation Response in accordance with this Schedule 16, either alone or when aggregated with any Withdrawn Contract Variation Costs previously reasonably incurred by the Operator in that Year, exceed \$50,000 (which amount shall not be Indexed),the Operator shall within 3 Business Days of receipt of the relevant Variation Proposal:
 - 7.2.3 notify GWRC in writing that this is the case; and

7.2.4 provide a quote to GWRC setting out the reasonable external costs which the Operator (acting reasonably) estimates will be properly incurred by it in preparing the relevant Variation Response in accordance with this Schedule 16 (such quote to be accompanied by documentation supporting the Operator's estimate).

7.3 The Operator shall promptly provide such information as GWRC may reasonably request in connection with the notification or the quote provided by the Operator pursuant to paragraph 7.2, including evidence of any Withdrawn Contract Variation Costs incurred by the Operator.

If the notification or quote is provided

7.4 If the Operator has provided the notification or quote in accordance with paragraph 7.2, it shall not incur any costs in connection with the preparation of the relevant Variation Response unless and until GWRC has provided a written notice under paragraph 7.6.3. The Operator shall have no entitlement to any payment in respect of any costs incurred by it in breach of this paragraph 7.4 and such costs shall not constitute Withdrawn Contract Variation Costs.

If the notification or quote is not provided

7.5 If the Operator fails to provide the notification or quote in accordance with paragraph 7.2 and GWRC subsequently does not issue a Variation Order or Notice to Proceed in connection with the relevant Variation Proposal:

7.5.1 the Operator shall have no entitlement to payment of (and neither GWRC nor GWRL shall have any liability for) any costs incurred by the Operator in connection with the relevant Variation Proposal; and

7.5.2 any such costs incurred by the Operator in connection with the relevant Variation Proposal shall not constitute, or be included within any calculation of, Withdrawn Contract Variation Costs.

GWRC to respond

7.6 Within 3 Business Days following the later of receipt by GWRC of:

7.6.1 a quote under paragraph 7.2.4; and

7.6.2 all information requested by GWRC pursuant to paragraph 7.3,

GWRC shall either:

7.6.3 issue a written notice requiring the Operator to prepare the relevant Variation Response, in which case paragraph 7.7 shall apply; or

7.6.4 issue a written notice stating that GWRC does not require the Operator to prepare the relevant Variation Response, in which case paragraph 7.9 shall apply.

If GWRC requires the Operator to prepare the relevant Variation Response

7.7 If GWRC issues a notice under paragraph 7.6.3 stating that GWRC requires the Operator to prepare the relevant Variation Response:

7.7.1 the Operator shall, subject to paragraph 7.7.3, prepare such Variation Response in accordance with the requirements of this Schedule 16 and the provisions of paragraph 6 (*GWRC initiated Contract Variations*) shall apply;

7.7.2 subject to paragraph 7.8, if GWRC subsequently withdraws the relevant Variation Proposal prior to issuing a Variation Order or Notice to Proceed in connection therewith, GWRC shall pay to the Operator the reasonable external costs properly and demonstrably incurred by the Operator in preparing the relevant Variation Response in accordance with this Schedule 16, provided that:

- (a) the Operator has complied with its obligations under paragraph 6 in relation to the relevant Variation Proposal;
- (b) GWRC shall only be obliged to pay such external costs (and the Operator shall only be entitled to payment in respect of such external costs) to the extent that such external costs either alone or when aggregated with any Withdrawn Contract Variation Costs previously incurred by the Operator in that Year exceed \$50,000 (which amount shall not be Indexed); and
- (c) without prejudice to paragraph 7.7.2(b), GWRC shall not be liable for (and the Operator shall have no entitlement in respect of) any external costs in excess of the estimated costs set out in the quote given by the Operator pursuant to paragraph 7.2.4; and

7.7.3 the time periods in which the Operator must submit the Variation Response pursuant to paragraph 6.4 shall commence from the date of receipt by the Operator of the notice given by GWRC under paragraph 7.6.3, rather than from the date of receipt by the Operator of the relevant Variation Proposal.

7.8 GWRC shall not be obliged to make any payment under paragraph 7.7.2 to the extent that GWRC does not issue a Variation Order or Notice to Proceed in relation to the relevant Variation Proposal as a result of a failure by the Operator to comply with its applicable obligations under paragraph 6 or this paragraph 7.

If GWRC does not require the Operator to prepare the relevant Variation Response

7.9 If GWRC issues a notice under paragraph 7.6.4 stating that GWRC does not require the Operator to prepare the relevant Variation Response:

7.9.1 the relevant Variation Proposal shall be deemed to have been withdrawn;

- 7.9.2 the Operator shall not be required to prepare a Variation Response in connection with such Variation Proposal; and
- 7.9.3 the Operator shall bear all costs incurred by it in connection with the relevant Variation Proposal and such costs shall not, for the avoidance of doubt, constitute Withdrawn Contract Variation Costs.

8 Operator initiated Contract Variations

Purpose and overriding principle

- 8.1 This paragraph 8 sets out the process whereby the Operator may propose a Contract Variation to GWRC. The Operator shall not implement any Operator initiated Contract Variation unless and until GWRC issues a Variation Order in respect of that Contract Variation pursuant to paragraph 8.4.1.

Operator may propose Contract Variation

- 8.2 The Operator may propose a Contract Variation by giving written notice to GWRC setting out full details of:
 - 8.2.1 the proposed Contract Variation;
 - 8.2.2 the reason for the proposed Contract Variation;
 - 8.2.3 the Operator's estimate of the Net Financial Impact arising from the proposed Contract Variation, calculated in accordance with Part B of this Schedule 16 and on an Open Book Basis and supported by working papers and other documentation supporting that estimate;
 - 8.2.4 the timeframe within which the proposed Contract Variation will be implemented;
 - 8.2.5 the methodology and process by which the Operator proposes to implement the proposed Contract Variation;
 - 8.2.6 the effect (if any) that the proposed Contract Variation will have on the Operator's ability to meet the requirements of, or achieve, (as applicable) the Reliability KPI, the Punctuality KPI or the PI Achieve Benchmarks, the Vehicle Services Objectives and Outcomes, the Passenger Services Objectives and Outcomes, the Vehicle Use in Service Outputs and the Hand Back Standards;
 - 8.2.7 the effects which the proposed Contract Variation will have on:
 - (a) the Operator's ability to perform its obligations in accordance with the Transaction Documents;
 - (b) the safe and lawful operation of passenger services on the Wellington Rail Network;

- (c) the condition, value, or whole of life cost of any GWRL System, GWRL Asset, GWRC Asset, GWRC System or Maintained Asset or on the safe and lawful use of any of the foregoing; and
- (d) any warranty or guarantee (including any claim thereunder) given by a supplier or manufacturer in relation to any GWRL System, GWRL Asset, GWRC Asset, GWRC System or Maintained Asset or any of the other assets or systems described at clause 12.1 (to the extent that the terms of such warranty or guarantee have been provided to the Operator by any person) or on any other obligations or liabilities of such supplier or manufacturer (to the extent that the Operator has been made aware of the same); and

8.2.8 the value for money for GWRC arising from the proposed Contract Variation.

Operator to provide additional information

8.3 If requested to do so by GWRC, the Operator shall promptly provide:

8.3.1 an enforceable warranty to the effect that the implementation of the proposed Contract Variation will not adversely affect any of the matters referred to in paragraph 8.2.7 ; and

8.3.2 any other information and supporting documentation that GWRC requires in connection with the proposed Contract Variation.

GWRC may approve or reject proposed Contract Variation

8.4 Subject to paragraph 8.6, GWRC may in its sole discretion:

8.4.1 approve (with or without conditions) the proposed Contract Variation by issuing a Variation Order to the Operator; or

8.4.2 reject the proposed Contract Variation by written notice to the Operator.

8.5 Subject to paragraph 8.6, GWRC will be under no obligation to consider or approve the proposed Contract Variation.

8.6 Without prejudice to paragraph 8.3 or to GWRC's rights to refer a matter for Expert determination in accordance with paragraph 8.7, GWRC shall not reject a Contract Variation proposed by the Operator to the extent such Contract Variation is necessary in order for the Operator to implement and comply with any applicable Change in Law or any applicable Change in Standards.

Right to refer to dispute resolution

8.7 If GWRC and the Operator are unable to reach agreement on any matter set out in a notice issued by the Operator pursuant to paragraph 8.2 or otherwise in connection with a Contract Variation proposed by the Operator, GWRC shall be entitled (but not obliged) to refer that matter for Expert determination in accordance with clauses 53.9 to 53.15 (*Expert Determination*).

Operator to pay costs

8.8 Within 10 Business Days following a demand therefor, the Operator shall pay all costs reasonably incurred by GWRC in connection with any Contract Variation proposed by the Operator.

If GWRC approves the proposed Contract Variation

8.9 If GWRC approves (with or without conditions) the proposed Contract Variation in accordance with paragraph 8.4.1:

8.9.1 the Operator shall implement the Contract Variation on the basis set out in the Variation Order;

8.9.2 the Operator shall be relieved of its obligations under this Partnering Contract to the extent specified by GWRC in the Variation Order (acting reasonably);

8.9.3 the Operator shall bear all costs and risks associated with the Contract Variation and, except as provided for in paragraph 8.9.2, shall not be entitled to make any claim against GWRC or GWRL arising out of, or in any way in connection with, the Contract Variation; and

8.9.4 if the Net Financial Impact arising in connection with the Contract Variation is negative, the Services Fee shall be reduced by an amount equal to 50% of the amount (expressed as a positive figure) by which the Net Financial Impact is less than zero.

If GWRC rejects the proposed Contract Variation

8.10 GWRC shall have no liability to the Operator in connection with its rejection pursuant to paragraph 8.4.2 of any Contract Variation proposed by the Operator.

9 General Provisions relating to Contract Variations

Operator's notice of potential Contract Variation

9.1 If in the Operator's opinion, any direction given by GWRC to the Operator (other than in a Variation Order or a Notice to Proceed) constitutes or involves a Contract Variation, the Operator shall provide notice to this effect to GWRC within 3 Business Days of receipt of the direction.

9.2 Within 3 Business Days receipt of a notice from the Operator pursuant to paragraph 9.1, GWRC shall notify the Operator in writing that:

9.2.1 it agrees that the direction constitutes or involves a Contract Variation, in which case GWRC shall issue a Variation Proposal or Minor Contract Variation Notice (as applicable) in respect of that Contract Variation (and the Operator will not be required to comply with the direction until a Variation Order or Notice to Proceed is issued by GWRC in relation thereto); or

- 9.2.2 it disagrees that the direction constitutes or involves a Contract Variation, in which case either GWRC or the Operator may refer the matter for resolution in accordance with the Dispute Resolution Procedure; or
 - 9.2.3 it withdraws the direction.
- 9.3 If the Operator does not provide a notice in accordance with paragraph 9.1, the Operator shall:
- 9.3.1 not be entitled to claim that the direction constitutes or involves a Contract Variation;
 - 9.3.2 comply with the direction in accordance with its terms; and
 - 9.3.3 have no entitlement to any relief, additional payment or other compensation in connection therewith.

No liability unless Variation Order or Notice to Proceed is issued

- 9.4 The Operator shall not carry out a Contract Variation and shall not be entitled to make any claim against GWRC or GWRL arising out of, or in any way in connection with, a Contract Variation unless and until a Variation Order or Notice to Proceed has been issued by GWRC in relation to that Contract Variation.

Operator acknowledgement

- 9.5 The Operator acknowledges and agrees that the implementation of any Contract Variation shall not relieve it from any of its obligations under this Partnering Contract and the other Transaction Documents except to the extent expressly provided for in this Partnering Contract.

10 Rail Unit Timetable changes

- 10.1 Subject to paragraphs 10.2 and 10.3, the Net Financial Impact of a change to the Rail Unit Timetable made pursuant to the Timetable Change Process and the consequential adjustment to the Services Fee shall be calculated and made in accordance with paragraph 15 (*Rail Unit Timetable changes*) below.
- 10.2 The foregoing provisions of this paragraph 10 and paragraph 15 shall not apply to any change to the Rail Unit Timetable to the extent that such change is a consequence of or arises in connection with:
- 10.2.1 the provision by or on behalf of the Operator of any Special Event Service; or
 - 10.2.2 the implementation of a Pre Priced Option.
- 10.3 The Operator acknowledges and agrees that it shall not be entitled to the payment of any Net Financial Impact in connection with a change to the Rail Unit Timetable which is a consequence of or arises in connection with an event referred to in

paragraph 10.2.1 or 10.2.2. The Operator acknowledges and agrees that its entitlement to payment in respect of such matters is:

- 10.3.1 the payment of the Special Event Services Fee (in the case of changes to the Rail Unit Timetable which are a consequence of or arise in connection with the events referred to in paragraph 10.2.1); or
- 10.3.2 an adjustment to the Passenger Services Fee and/or Vehicle Services Fee in accordance with paragraphs 2 and 3 of Schedule 6 (*Financial and Performance Regime*) and payment of the RS1 Project Implementation Fee or the IFT Programme Implementation Fee as applicable (in the case of changes to the Rail Unit Timetable which are a consequence of or arise in connection with the events referred to in paragraph 10.2.2).

11 Not Used.

Part B - Calculation of the Net Financial Impact

12 Purpose, provision of information and indexation of Net Financial Impact

Purpose

- 12.1 The purpose of this Part B is to provide a methodology for ensuring that the Net Financial Impact is fair, reasonable, provides value for money to GWRC and is calculated openly and transparently.

Provision of information

- 12.2 The Operator shall provide any calculation of the Net Financial Impact (and any supporting information) on an Open Book Basis.
- 12.3 Without prejudice to paragraph 12.2, promptly following a request from GWRC, the Operator shall (and shall procure its relevant actual or proposed subcontractors (of all tiers) shall):
- 12.3.1 provide GWRC (and its representatives) with full access to internal cost estimation, programming, contingency information, risk information and other information and documentation, in each case to the extent reasonably required to enable GWRC to assess and calculate the Net Financial Impact;
 - 12.3.2 meet with GWRC and its representatives to discuss any component of the calculation of the Net Financial Impact; and
 - 12.3.3 permit and enable GWRC (and its representatives) to undertake such audits as GWRC reasonably considers necessary to calculate the Net Financial Impact, verify any information provided by the Operator or the Operator Associates in connection with the Net Financial Impact or otherwise to verify compliance by the Operator with its obligations under this Schedule and the Operator shall promptly provide all information and documentation reasonably requested by GWRC in connection therewith.
- 12.4 Notwithstanding anything to the contrary in this Partnering Contract, GWRC shall not be obliged to make any payment to the Operator in connection with an NFI Event if the Operator has not complied with paragraphs 12.2 and 12.3.

Indexation of Net Financial Impact

- 12.5 The Net Financial Impact of an NFI Event shall be agreed or determined in real dollars on the date on which the Net Financial Impact is agreed or determined or, in the case of a Minor Contract Variation or a Contract Variation, on the date of the relevant Variation Order. The Parties acknowledge and agree that clause 43.2 (*Amounts to be Indexed*) shall not apply to the amount of the Net Financial Impact arising in connection with any NFI Event.

- 12.6 To the extent that this Schedule 16:
- 12.6.1 obliges GWRC to pay the amount of the Net Financial Impact to the Operator (whether by way of an increase to the Services Fee, any component of the Services Fee, payments in accordance with a Payment Schedule or otherwise); or
- 12.6.2 obliges the Operator to pay the amount of the Net Financial Impact to GWRC or otherwise contemplates the Services Fee or any component of the Services Fee being decreased by the amount of the Net Financial Impact,

for the purposes of calculating the amount of each such payment, increase or decrease, the amount of the Net Financial Impact shall be NFI Indexed.

- 12.7 NFI Indexed means the relevant amount multiplied with effect from each 1 July until the following 30 June during the Term (or, in the case of lump sum payments, until the date on which the relevant payment is made) by:

$$\frac{\text{Index}_1}{\text{Index}_2}$$

Where:

- Index₁ is the value of CPI published for the December prior to that 1 July; and
- Index₂ is the value of CPI published for the December prior to the Year in which the Net Financial Impact is agreed or determined or, in the case of a Minor Contract Variation or a Contract Variation, prior to the Year of the relevant Variation Order.

13 Calculation of Net Financial Impact

Calculation of costs

- 13.1 Subject to paragraphs 14, 15 and 16, the costs associated with the relevant NFI Event shall be calculated as follows (without double counting):
- 13.1.1 to the extent that the rates set out in the NFI Event Rate Card are applicable, the incremental costs which will reasonably be incurred by the Operator in the performance of its obligations under this Partnering Contract and which are the direct result of the relevant NFI Event or its effects, such costs to be calculated in accordance with the NFI Event Rate Card;
- plus**
- 13.1.2 to the extent that the rates set out in the NFI Event Rate Card are not applicable, the reasonable direct incremental costs (including Tax but excluding Income Tax as defined in the Income Tax Act 2007) which will properly be incurred by the Operator in the performance of its

obligations under this Partnering Contract and which are the direct result of the relevant NFI Event or its effects;

plus

13.1.3 in the case of the costs referred to in paragraph 13.1.2 only, a margin on such costs at the applicable rate specified in the NFI Event Rate Card;

plus

13.1.4 in the case of a Contract Variation which omits or reduces a substantial part of the Services, any redundancy costs reasonably and properly incurred by the Operator as a result of such Contract Variation;

plus

13.1.5 in the case of a Contract Variation which omits or reduces Services, if:

- (a) the omitted or reduced Services comprise all or substantially all of the scope of a subcontract entered into on reasonable commercial Arm's Length Terms by the Operator and a subcontractor; and
- (b) it is necessary to terminate or amend such subcontract to remove those omitted or reduced Services as a result of the Contract Variation,

any costs reasonably and properly incurred by the Operator under that subcontract as a direct result of such termination or amendment.

13.2 The Operator shall take all reasonable steps to mitigate the costs referred to in paragraph 13.1.

Calculation of savings and income

13.3 Subject to paragraphs 14 and 15, the savings and income associated with the relevant NFI Event shall be calculated as follows (without double counting):

13.3.1 any insurance proceeds, damages or other compensation or amount that the Operator is reasonably able to recover as a result of the occurrence of the relevant NFI Event (or would have reasonably been able to recover had it complied with its obligations under this Partnering Contract);

plus

13.3.2 any cost avoided (including any: Tax other than Income Tax as defined in the Income Tax Act 2007; or financing costs; or other benefits associated with deferred expenditure) made by or accruing to the Operator as a result of the occurrence of the relevant NFI Event or its effects, provided that:

- (a) to the extent that the rates set out in the NFI Event Rate Card are applicable, such costs shall be calculated in accordance with the NFI Event Rate Card; and

- (b) to the extent that the rates set out in the NFI Event Rate Card are not applicable, such costs shall be calculated on the basis of the actual cost avoided plus a margin thereon at the applicable rate specified in the NFI Event Rate Card;

plus

- 13.3.3 any other amounts received or receivable by the Operator or any Operator Associate pursuant to this Partnering Contract or otherwise arising from or in connection with the occurrence of the event(s) which gave rise to, caused or constituted the NFI Event or its effects.
- 13.4 The Operator shall take all reasonable steps to maximise the cost savings and income referred to in paragraph 13.3.

Amounts to be disregarded

- 13.5 For the avoidance of doubt, where this Partnering Contract obliges:
- 13.5.1 GWRC to pay an amount equal to the Net Financial Impact to the Operator as a result of an NFI Event or otherwise provides for the Services Fee to be increased by reference to the Net Financial Impact; or
- 13.5.2 the Operator to pay an amount equal to the Net Financial Impact to GWRC as a result of an NFI Event or otherwise provides for the Services Fee to be decreased by reference to the Net Financial Impact,
- such amounts shall be disregarded for the purposes of paragraphs 13.1 and 13.3.

Determination of Net Financial Impact

- 13.6 Subject to paragraphs 13.2, 13.4, 13.5, 14, 15 and 16, the Net Financial Impact will be the sum of the amounts referred to in paragraph 13.1 (*Calculation of costs*) less the sum of the amounts referred to in paragraph 13.3 (*Calculation of savings and income*), provided that there shall be no double counting.

14 Compensable Change in Law

- 14.1 If the NFI Event is a Compensable Change in Law that is a General Change in Law, the costs incurred or to be incurred by the Operator in connection with such General Change in Law shall only be taken into account in the calculation of the costs referred to in paragraph 13.1 (*Calculation of costs*) to the extent that such costs constitute (or will when incurred constitute) Capital Expenditure.

15 Rail Unit Timetable Changes

- 15.1 Subject to paragraphs 10.2 and 10.3, if the NFI Event is a change to the Rail Unit Timetable made in accordance with the Timetable Change Process, the Net Financial Impact shall be calculated in accordance with this paragraph 15 and paragraph 13 shall not apply.

- 15.2 Subject to paragraph 10.2 and 10.3, if the NFI Event is a change to the Rail Unit Timetable made in accordance with the Timetable Change Process and such change involves the addition of one or more Scheduled Services to the Rail Unit Timetable, the Net Financial Impact shall be calculated as follows:

$$\text{Net Financial Impact} = RKM \times \text{Rate}$$

Where:

RKM is the aggregate number of additional Revenue Service Kilometres travelled by each Train in order to provide the additional Scheduled Service(s); and

Rate is the applicable rate in the table set out in Appendix 3 (*Rail Unit Timetable Change Rates*) of Schedule 6 (*Financial and Performance Regime*).

- 15.3 Where paragraph 15.2 applies, the Passenger Services Fee shall be increased (with effect from the date on which the Operator is required to commence operation of Scheduled Services in accordance with the revised Rail Unit Timetable) by the amount of the Net Financial Impact calculated in accordance with paragraph 15.2.

- 15.4 Subject to paragraph 10.2 and 10.3, if the NFI Event is a change to the Rail Unit Timetable made in accordance with the Timetable Change Process and such change involves the removal of one or more of the Scheduled Services from the Rail Unit Timetable, the Net Financial Impact shall be calculated as follows:

$$\text{Net Financial Impact} = RKM \times \text{Rate}$$

Where:

RKM is the aggregate number of Revenue Service Kilometres that each Train would have travelled had such Scheduled Service(s) not been removed from the Rail Unit Timetable; and

Rate is the applicable rate in the table set out in Appendix 3 (*Rail Unit Timetable Change Rates*) of Schedule 6 (*Financial and Performance Regime*).

- 15.5 Where paragraph 15.4 applies, the Passenger Services Fee shall be decreased (with effect from the date on which the Operator is required to commence operation of Scheduled Services in accordance with the revised Rail Unit Timetable) by the amount of the Net Financial Impact calculated in accordance with paragraph 15.4.

- 15.6 Either GWRC or the Operator may refer any dispute relating to the calculation of the Net Financial Impact arising from a change to the Rail Unit Timetable to the Expert for determination in accordance with clauses 53.9 to 53.15 (*Expert Determination*).

16 Heavy Maintenance costs

16.1 Notwithstanding anything to the contrary in this Partnering Contract but without prejudice to the Parties' right to request a variation to the Overall Heavy Maintenance Budget under paragraph 14.12 (*Budget*) of Schedule 4 (*Vehicle Services*), the impact of an NFI Event on the Operator's costs of performing the Heavy Maintenance Services shall not be taken into account in calculating the Net Financial Impact of an NFI Event.

17 Tender process

17.1 If GWRC requires the Operator to carry out a tender process in accordance with paragraph 3.6 (*Compensable Change in Law or Compensable Change in Standards - Tender Process*) or paragraph 6.11 (*Contract Variation Tender Process*), the Operator shall:

- 17.1.1 undertake a tender process which complies with Good Industry Practice and which is otherwise competitive, reasonable, fair and transparent;
- 17.1.2 ensure that such tender process is concluded as soon as reasonably practicable;
- 17.1.3 as part of such tender process, obtain separate quotes from at least three experienced and capable contractors (each of whom are reasonably acceptable to GWRC) to carry out any work or provide supplies in connection with the relevant NFI Event;
- 17.1.4 promptly provide to GWRC:
 - (a) all materials provided to tenderers in connection with the tender process;
 - (b) all materials submitted by tenderers in connection with the tender process; and
 - (c) any other information that GWRC reasonably requires in connection with such tender process;
- 17.1.5 properly evaluate all tenders received and promptly following the conclusion of such evaluation, inform GWRC of the identity of the contractor which the Operator proposes to select and engage;
- 17.1.6 demonstrate to the reasonable satisfaction of GWRC that the contractor that the Operator intends to select and engage is the best choice having regard to:
 - (a) the price quoted in the prevailing market conditions;
 - (b) the experience and capability of that contractor in the context of the relevant NFI Event; and

- (c) the ability of the contractor to carry out the works or provide the supplies or services in respect of the relevant NFI Event in the manner required by this Partnering Contract if the works, services or supplies are subcontracted to that contractor; and

17.1.7 demonstrate to the reasonable satisfaction of GWRC that the contractor it intends to select and engage meets the requirements of clause 18.5 (*Requirements in respect of all subcontractors and suppliers*) and either:

- (a) select a contractor from this process in consultation with GWRC and promptly appoint such contractor on Arm's Length Terms; or
- (b) if requested to do so by GWRC, decline all tenders received as part of this tender process.

18 Negotiations with subcontractors

- 18.1 The Operator acknowledges and agrees that GWRC reserves the right to negotiate directly with any of the Operator's subcontractors (of any tier) engaged in relation to the Services in relation to any NFI Event.
- 18.2 The Operator shall provide any reasonable assistance to GWRC as is required by GWRC in negotiating with any subcontractor engaged in relation to the Services.

Schedule 17

Employee Transfer

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1 Introduction

1.1 This Schedule sets out the Parties' respective rights and obligations relating to the Existing Employees.

2 Definitions

2.1 In this Schedule, the following definitions apply unless the context otherwise requires:

Affiliate	has the meaning given in the TPTA.
Collective Agreement	means an agreement that is binding on: (a) 1 or more unions; (b) 1 or more employers; and (c) 2 or more employees.
ERA	means the Employment Relations Act 2000.
IEA	means the individual employment agreement under which certain Existing Employees are employed by KiwiRail.
KiwiRail Collective Agreement	means the multi-employer collective agreement effective 1 July 2014-30 June 2016 between KiwiRail and the RMTU applicable to certain of the Existing Employees.
RMTU	means the Rail & Maritime Transport Union.

3 Operator to make offers of employment to Existing Employees

3.1 The Operator shall (and in relation to the Existing Employees who are employed to assist with services similar to the Vehicle Services, shall procure the Vehicle Services Subcontractor to) within one month of the date of this Partnering Contract, offer employment to the Existing Employees:

3.1.1 for those under the KiwiRail Collective Agreement either:

- (a) on terms and conditions that are the same or more favourable than the employees' existing terms and conditions with KiwiRail and agrees to treat the employees' service as continuous; or
- (b) on such terms and conditions the Operator, the Vehicle Services Subcontractor (as applicable), the RMTU and the relevant employees can agree to,

and in either case, the Operator shall (and in relation to the Existing Employees who are employed to assist with services similar to the Vehicle Services, shall procure the Vehicle Services Subcontractor to) specify that it is willing to offer a Collective Agreement; and

- 3.1.2 for those employed under the IEAs either:
- (a) on the same or similar terms as the employees' existing terms and conditions in the same city or wider regional area and with comparable duties or responsibilities and agrees to treat the employees' service as continuous; or
 - (b) on such terms and conditions the Operator, the Vehicle Services Subcontractor (as applicable) and the relevant employees can agree to.

3.2 The Operator shall ensure that the terms of employment offered by the Operator or the Vehicle Services Subcontractor (as applicable) to the Existing Employees shall be on the basis of the employment becoming effective on the Commencement Date.

4 Collective Agreement

4.1 The Operator shall (and shall procure the Vehicle Services Subcontractor to), in regard to the Existing Employees employed under terms of the KiwiRail Collective Agreement:

- 4.1.1 negotiate the terms and conditions of a Collective Agreement with the RMTU to apply from such date agreed between the Operator, the Vehicle Services Subcontractor and the RMTU or if the Operator or the Vehicle Services Subcontractor has an existing Collective Agreement that covers the Existing Employees, then the Operator (and the Vehicle Services Subcontractor (as applicable)) shall offer that Collective Agreement with any necessary additional terms and conditions;
- 4.1.2 in consultation with the relevant employees use its best endeavours to have the employees accept the offers of employment made by the Operator or the Vehicle Services Subcontractor (as applicable) in accordance with clause 3.1.1; and
- 4.1.3 subject to clause 6.1 (*Liabilities*) indemnify KiwiRail from the Commencement Date for the following liabilities (excluding accrued liabilities and entitlements owed to such Existing Employees) that arise after the Commencement Date in regard to Existing Employees employed under the terms of the existing KiwiRail Collective Agreement, and including:
- (a) ordinary remuneration;
 - (b) holiday leave entitlements;

- (c) sick leave entitlements;
- (d) long service leave entitlements;
- (e) retirement entitlements;
- (f) medical retirement entitlements;
- (g) superannuation and/or KiwiSaver employer contributions;
- (h) ACC liabilities;
- (i) personal grievances or claims, except in regard to any personal grievance or claims that rely on alleged events or omissions arising before the Commencement Date; and
- (j) all reasonable direct costs related to establishing the extent of such liabilities (excluding accrued liabilities).

The indemnity provided by the Operator under this paragraph 4.1.3 is enforceable by KiwiRail under the Contracts (Privity) Act 1982.

5 IEAs

- 5.1 The Operator shall (and shall procure the Vehicle Services Subcontractor to), in regard to the Existing Employees employed under the Terms of IEAs:
- 5.1.1 in consultation with the relevant employees use its best endeavours to have the employees accept the offers of employment made by the Operator or the Vehicle Services Subcontractor (as applicable) in accordance with clause 3.1.2; and
 - 5.1.2 subject to clause 6.1 (*Liabilities*) indemnify KiwiRail from the Commencement Date for the following liabilities (excluding accrued liabilities and entitlements owed to such Existing Employees) that arise after the Commencement Date in regard to Existing Employees employed under the terms of the IEAs, and including:
 - (a) ordinary remuneration;
 - (b) holiday leave entitlements;
 - (c) sick leave entitlements;
 - (d) long service leave entitlements;
 - (e) retirement entitlements;
 - (f) medical retirement entitlements;
 - (g) superannuation and/or KiwiSaver employer contributions;
 - (h) ACC liabilities;

- (i) personal grievances or claims, except in regard to any personal grievance or claims that rely on alleged events or omissions arising before the Commencement Date; and
- (j) all reasonable direct costs related to establishing the extent of such liabilities (excluding accrued liabilities).

The indemnity provided by the Operator under this paragraph 5.1.2 is enforceable by KiwiRail under the Contracts (Privity) Act 1982.

6 Liabilities

- 6.1 To the extent that the Existing Employees accept an offer of employment from the Operator or the Vehicle Services Subcontractor (as applicable), the Operator or the Vehicle Services Subcontractor (as applicable) shall assume the outstanding obligations of KiwiRail (or its relevant Affiliates) on the following basis:
- 6.1.1 GWRC shall procure that KiwiRail shall pay, or procure its relevant Affiliates to pay, ordinary remuneration (and any over time, employer KiwiSaver contribution/ super contribution) up to the end of the final fortnightly pay period after the Commencement Date provided that the Operator shall, or shall procure the Vehicle Services Subcontractor to, reimburse such amounts to GWRC within 5 Business Days of a written demand therefor;
 - 6.1.2 the Operator shall, or shall procure the Vehicle Services Subcontractor to, pay ordinary remuneration (and any overtime, employer KiwiSaver contribution and superannuation contribution) to the Existing Employees from the first day of the following fortnightly pay period after the Commencement Date; and
 - 6.1.3 GWRC shall pay or procure that KiwiRail shall pay, or shall procure its relevant Affiliates to pay, to the Operator or the Vehicle Services Subcontractor (as applicable), within 30 days of the Commencement Date, the full amount necessary to enable the Operator or the Vehicle Services Subcontractor (as applicable) to meet the costs of providing the following:
 - (a) accrued holiday entitlements as at the Commencement Date; and
 - (b) accrued long service entitlements and days in lieu as at the Commencement Date.
- 6.2 The Operator shall indemnify GWRC and GWRL (and keep them so indemnified) on demand from and against any Loss (including any redundancy compensation and liability to KiwiRail under the TPTA) they may incur as a result of or in connection with any breach by the Operator or the Vehicle Services Subcontractor of any provision of this Schedule 17.
- 6.3 The Operator shall indemnify GWRC, GWRL and KiwiRail for any liability for redundancy compensation for Existing Employees on the KiwiRail Collective

Agreement or Existing Employees on IEAs and reasonable and actual related costs, that arise as a result of any failure by the Operator or the Vehicle Services Subcontractor (as applicable) to make offers of employment to those Existing Employees in accordance with paragraphs 3.1.1(a) (Collective) and 3.1.2(a) (IEAs). The indemnity provided by the Operator under this paragraph 6.3 and paragraph 6.4.2 is enforceable by KiwiRail under the Contracts (Privity) Act 1982.

6.4 For the avoidance of doubt:

6.4.1 the Parties acknowledge that KiwiRail shall be responsible for redundancy compensation payable to those Existing Employees on the Collective Agreement and IEAs where there is no failure of the Operator or the Vehicle Services Subcontractor (as applicable) to make offers of employment to those Existing Employees in accordance with paragraphs 3.1.1(a) (Collective) and 3.1.2(a) (IEAs); and

6.4.2 should the Operator or the Vehicle Services Subcontractor (as applicable) make offers of employment to Existing Employees in accordance with paragraphs 3.1.1(b) and 3.1.2(b), and a redundancy compensation liability arises, then the indemnity in paragraph 6.3 shall apply.

6.5 GWRC shall procure that KiwiRail shall (and shall procure that KiwiRail's relevant Affiliates shall):

6.5.1 cooperate with the Operator or the Vehicle Services Subcontractor (as applicable) in good faith and otherwise provide such assistance as is reasonably required to enable the Operator or the Vehicle Services Subcontractor (as applicable) to make offers of employment to the Existing Employees in accordance with paragraph 3.1; and

6.5.2 take all reasonable steps to facilitate consultation between the Existing Employees, the RMTU, the Operator and the Vehicle Services Subcontractor at such times reasonably requested by the Operator or GWRC or as required by law. In the event that any Existing Employee wishes to accept an offer of employment from the Operator or the Vehicle Services Subcontractor, GWRC shall procure that KiwiRail shall (and shall procure that KiwiRail's relevant Affiliates shall) release that Existing Employee from employment with KiwiRail or its Affiliates with effect from the Commencement Date (or such earlier date as may be agreed by KiwiRail (or its relevant Affiliates) and the Existing Employee).

6.6 If the Operator (with GWRC's prior approval and in so doing accepting the indemnity at paragraph 6.3 and agreeing to indemnify GWRC, GWRL and KiwiRail and keep them indemnified on demand from and against all Losses they may incur as a result thereof or in connection therewith (including any liability to KiwiRail under the TPTA)) identifies Existing Employees that will not be offered employment by the Operator or the Vehicle Services Subcontractor:

- 6.6.1 the Operator shall provide details of those employees to GWRC, GWRL and KiwiRail no later than 6 May 2016; and
 - 6.6.2 GWRC shall procure that KiwiRail shall ensure that the required consultation and notice is provided to such employees in order to comply with the requirements of the relevant notice provisions in the KiwiRail Collective Agreement, the IEAs, the ERA and all applicable law including requirements as to consultation (including redeployment).
- 6.7 The Operator is responsible (and indemnifies GWRC and GWRL and shall keep them indemnified on demand) from and against any redundancy compensation liability arising following the Commencement Date:
- 6.7.1 in relation to any restructuring the Operator, the Vehicle Services Subcontractor or the Operator Associates may undertake at any time thereafter; or
 - 6.7.2 in connection with the expiry or termination of this Partnering Contract or the Vehicle Services Subcontract.

7 No poaching by Operator

- 7.1 The Operator shall not (and shall procure that the Vehicle Services Subcontractor and Operator Associates shall not) at any time prior to the Commencement Date offer employment to any:
- 7.1.1 KiwiRail employees other than the Existing Employees; or
 - 7.1.2 the Existing Employees except in accordance with the foregoing provisions of this Schedule 17.

8 Operator shall ensure legal obligations met in relation to 'vulnerable employees' of KiwiRail's cleaning contractor: Part 6A Employment Relations Act (ERA)

- 8.1 The Operator shall ensure the legal obligations arising under Part 6A ERA (Continuity of employment if employees' work affected by restructuring) are met and fully discharged either by itself or by any relevant cleaning contractor it chooses to use in connection with the performance of the Services.

Appendix 1 - List of Existing Employees 

Schedule 18

Operator's Proposals

Schedule 19 - Minimum Initial Transferring Assets

Spares

Material	Material Description	To be provided to Operator as part of the Initial Transferring Assets	To be made available by Operator for the purposes of clause 6.2
1101053	BOGIE,REF,X28020,CLASS SW CARRIAGE	2	2
115469	WHEELSET,REFUR,X28020 BOGIE,SOLID DISC	9	4
151126	SW PID Control Unit	1	1
151395	AIR CON UNIT TYPE 979UW, SW CAR REFURB	1	1
151680	BOGIE.S-RIDE.CW720.COMPLETE	2	2
151867	AXLE BOX,BOGIE,CW720,SA	1	1
151868	BAR,ANTI-ROLL,BOGIE,CW720,SA	3	2
151870	ACTUATOR,BRAKE,L/H,XFD-1,CW720,SA	2	1
151871	ACTUATOR,BRAKE,R/H,XFD-1,CW720,SA	2	1
151872	ACTUATOR,BRAKE,PARK,L/H,XFD-2,CW720,SA	1	1
151873	ACTUATOR,BRAKE,PARK,R/H,XFD-2,CW720,SA	2	1
151876	SPRING,AIR,BOGIE,CW720	6	4
176886	CREW CAB MASK, 11B000, MATANGI	1	1
176891	GANGWAY, COMP, 1E2000, MATANGI	2	1
177215	Double corrugated bellows, comp, Matangi	2	1
177062	Battery Control Box (TC), Matangi	1	1
177072	Pocket Electric Operator Sys, Matangi (Door)	6	4
177225	Tranzlog event recorder unit	1	1
1102093	Auxiliary Power Unit	3	3
177064	APU Control Unit, Matangi	6	4
177304	Cock, Trip	2	2
1101569	PWM Encoder (C5)	2	2
1101580	Brake Frame Module - Motor Car	3	3
1101581	Brake Frame Module - Trailer Car	3	3
1101582	Combined Power/Brake Controller and Direction Selector (Master Controller)	6	6
1100768	Brake Caliper Ass'y(Disc Brake Actuator with SPB + Caliper, Type C3)	2	2
1101591	Brake Caliper Ass'y (Disc Brake Actuator + Caliper, Type C3)	2	2
1100657	Tread Brake Unit (BFC) type 1 without Brake Blocks	2	2
1100656	Tread Brake Unit (BFC) type 2 without Brake Blocks	2	2
1100658	Tread Brake Unit with SPB (BFCF) without Brake Blocks	2	2
1101580	Electronic brake control unit inc. WSP for MC	6	4
1101581	Electronic brake control unit inc. WSP for TC	2	2
TBC	Integrated Relay Valves (IRV)- 2 Chamber-Bogie 1 for MC	2	2
TBC	Integrated Relay Valves (IRV)- 2 Chamber-Bogie 2 for TC	2	2
1101674	Crew Cab HVAC Unit	4	4
1101675	HVAC controller PLC	4	4
1101677	Passenger Saloon HVAC Unit	4	4
1102062	HVAC compressor saloon	2	2
1101968	HVAC emergency inverter	2	2
1102120	HVAC control panel	1	1
1101680	Compressor Module	2	2
1101681	Auxiliary Compressor	2	2
1102050	Traction Motor	6	6
1101696	VVVF Inverter, complete	3	3
1101687	High Speed Circuit Breaker : HSCB	2	2
177104	Main Switch (MDS), Matangi	4	4
177107	Filter Reactor, Matangi	4	4
177108	Line Breaker : LB, Matangi	2	2
177197	VVVF Control Unit	9	6
177820	Bogie, Trailer Car, Cab End, Matangi	3	3

177821	Bogie, Trailer Car, Non-Cab End, Matangi	2	2
177822	Bogie, Motor Car, Cab End, Matangi	3	3
177823	Bogie, Motor Car, Non-Cab End, Matangi	2	2
1101688	Wheel set assembly (A) including gearbox	2	2
1101689	Wheel set assembly (B) including gearbox	4	4
1101690	Wheel set assembly (C) including gearbox	2	2
1101691	Wheel set assembly (D)	2	2
1101692	Wheel set assembly (E)	4	4
1101693	Wheel set assembly (F)	2	2
177080	Air Spring, Matangi	10	8
1101564	Primary Suspension Assembly (MC)	4	4
1102036	Primary Suspension Assembly (TC)	8	4
1100668	DU (Display Unit) - TMS	6	4
TBC	TC (Train Computer TMS)	2	2
1102106	Cab end Automatic Coupler Assembly - MC	3	3
1102107	Cab end Automatic Coupler Assembly - TC	3	3
TBC	SD10 Coupler Head (MC)	1	1
1101721	Semipermanent coupler, cpl.	6	6
1102030	Detrainment Ramp Assembly	1	1
1102071	Hearing loop Amplifier	2	2
171962	AK & Matangi Car Security 15" monitor	6	4
177208	AVAU Complete	4	3

Other Assets

Those items to be added pursuant to paragraph 16.3 of Schedule 15 (Transition Plan).