

Bank Guarantee

To: **Transport for NSW**, a corporation constituted under the *Transport Administration Act 1988* (NSW), on behalf of the State of New South Wales (**TfNSW**) of 18 Lee Street, CHIPPENDALE NSW 2008

1 In this undertaking:

Business Day means any day other than a Saturday, Sunday or a public holiday; and

Governmental Agency means any government or governmental, semi-governmental, administrative, statutory, municipal, fiscal or judicial body, department, commission, authority, tribunal, person, agency or entity (wherever created or located).

2 **[insert name of Issuer]** (the **Issuer**) issues this undertaking in consideration of TfNSW agreeing to accept this undertaking in connection with the Sydney Metropolitan Bus Service Contract dated **[insert date of Sydney Metropolitan Bus Service Contract]** (**SMBSC**) between TfNSW and **[insert name of Operator]** (**Operator**) at the request of the Issuer.

3 The Issuer unconditionally undertakes to pay to TfNSW on demand any sum or sums which may from time to time be demanded under this Bank Guarantee by TfNSW in accordance with clause 4 up to a maximum amount of \$**[specify amount]** (the **Amount**).

4 Payment by the Issuer under this Bank Guarantee will be made within 2 Business Days of receipt by the Issuer of a written demand for payment:

- (a) presented at **[specify Issuer's address details]** no later than **[specify time]** (Sydney time) on the Expiry Date (as defined in clause 6 below);
- (b) stating that it is made under this Bank Guarantee;
- (c) purporting to be signed by or on behalf of TfNSW;
- (d) demanding payment of the whole or any part of the Amount to TfNSW; and
- (e) accompanied by a statutory declaration complying with clause 5.

5 A statutory declaration accompanying a demand made under this Bank Guarantee must state that:

- (a) the declarant is TfNSW or an officer making the declaration on behalf of TfNSW;
- (b) in the case of an officer, that the declarant has authority to make the declaration on behalf of TfNSW;
- (c) the declaration is made under this Bank Guarantee; and
- (d) the amount claimed is not more than the Amount available under this Bank Guarantee.

6 This Bank Guarantee continues in force until the first to occur of:

- (a) **[specify time]** (Sydney time) on **[specify date]** (the **Expiry Date**);
- (b) payment to TfNSW by the Issuer of the whole of the Amount; or
- (c) return of this Bank Guarantee to the Issuer at **[specify address details]**,

when all liability of the Issuer under this Bank Guarantee will cease.

7 Payment of the Amount will be made by the Issuer to TfNSW:

- (a) without reference by the Issuer to the Operator;

- (b) despite any notice to the Issuer by the Operator not to pay any money payable under this undertaking; and
 - (c) irrespective of the performance or non-performance by the Operator or TfNSW of the terms of the SMBSC.
- 8 TfNSW may assign its rights under this Bank Guarantee to any Governmental Agency or otherwise with the prior written consent of the Issuer.
- 9 If TfNSW assigns its rights under this undertaking in accordance with clause 8 then, unless the context requires otherwise, “TfNSW” includes each assignee.
- 10 This undertaking is governed by the laws of New South Wales.

Dated: [specify date]

[Execution by Issuer]