



Transport
State Transit

STATE TRANSIT AUTHORITY OF NEW SOUTH WALES

CNG CYLINDER MAINTENANCE

STA 2015/04

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PART A FORMAL INSTRUMENT OF AGREEMENT

This Contract is dated the 19th day of July 2016

BETWEEN:

STATE TRANSIT AUTHORITY OF NEW SOUTH WALES (ABN 51 750 635 629) of Level 4, Bourke Rd, Mascot, New South Wales, 2020 a statutory authority established under the Transport Administration Act 1988 (NSW) ("**State Transit**")

AND:

RFD (Australia) Pty Ltd (ABN 55 050 242 601), of Unit F, 75 St Hillier's Road, Auburn, NSW 2144 (the "**Contractor**")

WHEREAS:

- A. State Transit requires the Cylinder Maintenance and associated tasks undertaken in CNG fuelled buses across its operating areas.
- B. On 4 August 2015 a draft contract was issued to the Contractor following a public Request for Information (RFI) process.
- C. Following negotiations, resubmissions were issued dated 10 November 2015 and 11 January 2016.
- D. The requirement for a Parent Company Guarantee was removed from the draft contract in May 2016.
- E. The Commencement Date of this Contract is 1 July 2016.
- F. The Parties agree that the Contractor will undertake CNG Cylinder Maintenance Services in accordance with this Contract.

THE PARTIES AGREE AS FOLLOWS:**A1 CONTRACT DOCUMENTS**

A1.1 It is agreed that the following documents form the Contract:

- (A) Part A- Formal Instrument of Agreement;
- (B) Part B – Conditions of Contract;
- (C) Part C – Service Specification; and
- (D) Part D – Schedules.

A2 CONTRACTOR ACKNOWLEDGEMENTS

The Contractor agrees and acknowledges that it has complied with the NSW Government Procurement Policy 2013 in respect of its participation in this procurement activity and will continue to comply with NSW Government

Procurement Policy 2013 and any other NSW Government procurement policies during the Contract.

A3 DISCLAIMER

A3.1 Information provided to the Contractor in the RFI, any statement as to any proposed course of action by State Transit and any other information provided by State Transit is for the purpose of general background information only. State Transit does not warrant, guarantee, make any representation or assume any duty of care with respect to the completeness, accuracy or adequacy of any information provided to the Contractor in the RFI, in the Contract or otherwise.

A3.2 The Contractor warrants that:

- (A) it has not placed any reliance upon the completeness, accuracy or adequacy of any information provided to the Contractor in the RFI, in the Contract or otherwise;
- (B) it enters into the Contract based on its own investigations, interpretations, deductions, information and determinations;

and the Contractor acknowledges that it is aware that:

- (C) State Transit has entered into the Contract relying upon the warranties in this clause A3.2; and
- (D) State Transit would not have entered into the Contract but for those warranties.

A3.3 State Transit will not be liable upon any claim by the Contractor whether under the Contract or otherwise at law or in equity (including for negligence or under statute) arising out of or in connection with:

- (A) any error in or omission in the RFI or any other documents relating to this procurement activity; or
- (B) State Transit adopting a course of action different to that which may have been indicated in the RFI or other documents relating to this procurement activity.

EXECUTED AS AN AGREEMENT

by **STATE TRANSIT AUTHORITY OF
NEW SOUTH WALES** in the presence
of:

GIPA Act s.14, Table 3(a)

Signature

GIPA Act s.14, Table 3(a)

Print Name

GIPA Act s.14, Table 3(a)

Signature of Witness

GIPA Act s.14, Table 3(a)

Print Name of Witness

by **RFD (Australia) Pty Ltd.**
affixing its **COMMON SEAL**
ABN 55 050 242 601
in accordance with its Constitution
in the presence of:

GIPA Act s.14, Table 3(a)

Signature of Authorised Person

GIPA Act s.14, Table 3(a)

Print Name of Authorised Person

GIPA Act s.14, Table 3(a)

Office Held

GIPA Act s.14, Table 3(a)

Signature of Authorised Person

GIPA Act s.14, Table 3(a)

Print Name of Authorised Person

GIPA Act s.14, Table 3(a)

Office Held

PART B CONDITIONS OF CONTRACT

B1 DEFINITIONS

B1.1 In these Conditions of Contract and the Contract to which these conditions apply, the following terms have the following meanings:

"Commencement Date" – means the date that the Contract is to commence as specified in the Letter of Acceptance.

"Confidential Information" – means information in relation to each party that:

- (b) is by its nature confidential;
- (c) is designated by the relevant party as confidential; and
- (d) the receiving party knows or ought to know is confidential; but
- (e) does not include information which:
 - (i) is or becomes public knowledge other than by breach of this Contract,
 - (ii) is in the possession of the party without restriction in relation to disclosure before the date of receipt from the disclosing party, or
 - (iii) have been independently developed or acquired by the relevant party.

"Contract" – means the contract constituted by State Transit's Letter of Acceptance (including any written communications, clarifications and agreements between the parties to the Contract as specified in the Letter of Acceptance), these Conditions of Contract, the Service Specification, Schedules duly completed by the Contractor, and any written agreement entered into by the parties.

"Contract Manager" – means the person appointed by State Transit Representative in accordance with clause B7.1(d).

"Contract Material" – means all material brought or required to be brought into existence as part of, or for the purpose of, performing the Services, including but not limited to documents, reports, drawings, information and data stored by any means.

"Contract Plan" means the plan developed by the Contractor and approved by State Transit in accordance with the Contract.

"Contract Term" – means the duration of the Contract as specified in clause B4.

"Contractor" – means RFD (Australia) Pty Ltd (trading as Survitec Group), ABN 55 050 242 601 and includes all its Personnel and its successors and assigns.

"Contractor's Representative" – means the person appointed by the Contractor as its representative pursuant to clause B7.1(a).

"Equipment" – means all plant, equipment, consumables and devices used by the Contractor in performing the Services.

"Force Majeure Delay" – means any delay by a party in carrying out its obligations under this Contract resulting directly from:

- (a) any act of God;
- (b) war or other civil commotion; or
- (c) strikes, lockouts, stoppages or restraints of labour not directed at or caused or contributed to by the Contractor.

"Goods" – means all the products and materials to be supplied by the Contractor pursuant to the Contract.

"GST" – means the tax imposed pursuant to A New Tax System (Goods & Services Tax) Act 1999 (Cth).

"Intellectual Property Rights" – Includes copyright, trade mark, design, patent, semiconductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia whether credited before or after the commencement of this Contract.

"Letter of Acceptance" – means the letter from State Transit to the Contractor accepting the Contractor's offer.

"Month" – means a calendar month.

"Personnel" – means the officers, employees, agents, consultants and Subcontractors of the Contractor or other persons for whom the Contractor is responsible at law or otherwise.

"Program of Services" – means the program developed by the Contractor and agreed by State Transit for delivery of the Services.

"Price" – means the prices, rates, charges and fees for the Services inclusive of all associated costs of performing the Services, and set out in the Price Schedule.

"Price Schedule" – means Part D – Schedule 1 completed by the Contractor which sets out the prices, rates and fees for the provision of Goods and Services to be provided by the Contractor.

"Purchase Order" – means the purchase order issued by State Transit for the provision of Services under this Contract.

"Response" – means the submission by the Contractor in response to this Draft Contract issued by State Transit and includes any future responses until the Letter of Acceptance is issued.

"Schedules" – means all of the Schedules forming the Contract.

"Services" – means the services to be provided by the Contractor pursuant to this Contract and all ancillary or other services whether or not mentioned in the Contract necessary for the Contractor to fully meet the requirements of this Contract.

"Service Specifications" – means the service specifications, being Part C and includes the attachments.

"Site" – means any place or places including the bus depots at which the

Services are provided.

"Site Contact" – means the person appointed by State Transit Representative in accordance with clause B7.1(e).

"State Transit" – means the State Transit Authority of New South Wales, a statutory authority constituted under the Transport Administration Act 1988 and where necessary includes its appointed representatives, employees, successors and assigns.

"State Transit Representative" – means the person appointed by State Transit as its representative pursuant to clause B7.1(c).

"Subcontractor" – means the person or persons or the entity that undertake the Services to the Contractor either directly, or through another Subcontractor, for use by the Contractor to provide Services to State Transit under the Contract.

"Transfer" – includes to assign, sub-contract, sublet, mortgage, charge or encumber.

"Variation" – means a change to the Services which results in a material alteration to the scope or extent of the Services to be provided under the Contract provided always that the following will not constitute variations:

- (a) directions or instructions issued by State Transit in relation to deficiencies in the Services or the performance of the Services to be provided under the Contract;
- (b) the supply of Services obviously to be inferred from the terms of the Contract;
- (c) compliance by the Contractor with the requirements of authorities, statutory requirements or relevant Australian legislation or Australian Standards;
- (d) the correction or completion of any defect, error, omission or deficiency in the Services or in the performance by the Contractor of the Services.

"Working Hours" – means 6:00am to 6:00pm on weekdays except Public Holidays.

B2 INTERPRETATION

B2.1 In these Conditions unless the context otherwise requires:

- (a) a reference to a particular Act, regulation, proclamation, by-law, standard, code or similar publication includes any amendments, revisions, re-enactment or replacement thereof;
- (b) monetary references are references to Australian currency;
- (c) cross reference to a clause number is a reference to all of its clauses and sub clauses;
- (d) headings and underlining are for convenience only and do not affect the interpretation of this Contract;
- (e) words importing gender includes all genders, and the singular includes the plural and vice versa;
- (f) a reference to a party to a document includes that party's successors and permitted assigns;

- (g) a reference to a person includes a company, corporation, partnership, joint venture, association, other body corporate and any governmental agency; and
- (h) all obligations and costs shall be at the Contractor's sole responsibility and cost.

B3 CONTRACT DOCUMENTS

The several documents forming the Contract are to be taken as mutually explanatory of one another. Should there be any inconsistency or ambiguity, the following order of precedence shall apply:

- (a) a formal written Contract, if executed.
- (b) the Letter of Acceptance, if issued, including attachments.
- (c) Part B - Conditions of Contract, including attachments.
- (d) Part C – Service Specification.
- (e) Part D – Schedules.

B4 CONTRACT TERM

The Contract shall operate for an Initial Contract Period of three (3) years from the Commencement Date with options for further extension of two (2) one (1) year periods at the sole discretion of State Transit.

The Contract Term includes any extension granted pursuant to the exercise of an option by State Transit, in accordance with these Conditions of Contract.

B5 CONTRACTOR'S OBLIGATIONS

B5.1 Provision of Services

- (a) The Contractor warrants that it will be in a position to commence the Services on the Commencement Date. The Commencement Date will be specified in the Letter of Acceptance.
- (b) The Contractor agrees to perform the Services in accordance with this Contract.
- (c) The Contractor must perform the Services in a diligent and conscientious manner and to the standard of skill and care expected of a Contractor experienced in the provision of the type of Services required by State Transit in accordance with this Contract.
- (d) Notwithstanding any other provision of this Contract, no authorisation, approval, certificate, agreement or any other acceptance of documentation given by State Transit or any other authority, either pursuant to the Contract or otherwise, shall relieve or reduce the Contractor's liability in respect of the Services or this Contract.

B5.2 Knowledge of Requirements of State Transit

- (a) The Contractor must use all reasonable efforts to inform itself of the requirements of State Transit and must regularly consult with State Transit during the performance of the Services.
- (b) In the course of providing Services to State Transit under the Contract, the Contractor shall provide State Transit with expertise and advice in relation to the effective, safe and efficient provision of

Services under the Contract.

- (c) In the course of providing the Services to State Transit, the Contractor shall report on any Site specific deficiencies and promptly confirm any verbal advice provided in a written notice given to State Transit.

B5.3 Personnel

- (a) The Contractor must ensure that all Personnel engaged by it in connection with the Services are appropriately trained, qualified, licensed, competent and experienced in the provision of the type of Services required by State Transit.
- (b) The Contractor must use its best endeavours to ensure that the Personnel named in Part D, Schedule 4 (or alternates agreed by State Transit) are engaged by the Contractor to undertake the Services. The Contractor shall secure the services of Personnel with equivalent qualifications, licenses, training and experience should the Personnel be unavailable to provide the Services.
- (c) The Contractor shall be liable to State Transit for the acts, defaults and neglects of any Personnel as if they were the acts, defaults or neglects of the Contractor.
- (d) The Contractor shall be responsible for ensuring the suitability of all Personnel and for ensuring that the Services provided by the Personnel meets the requirements of this Contract.
- (e) The Contractor shall ensure that all Personnel are aware of all the terms of this Contract relevant to the Personnel's part in the provision of the Services under this Contract.
- (f) When on State Transit's premises or while undertaking Services under this Contract the Contractor must ensure that its Personnel:
- (g) report to the State Transit Representative or the nominated delegate upon arrival at the Depot or the location of Service provision, prior to commencing the Services;
- (h) maintain good and proper conduct and discipline;
- (i) do not bring, be under the influence or consume alcoholic beverage or illegal drugs;
- (j) comply with all of State Transit's policies and procedures, including with respect to drug and alcohol prohibition of transport safety workers (where relevant) and all legislation including any directive given by the State Transit Representative; and
- (k) comply with all of State Transit's Site requirements for Contractors, included as Attachment 1, as amended from time to time.
- (l) The State Transit Representative may direct the Contractor to withdraw from the provision of the Services any Personnel, who, in the reasonable opinion of the State Transit Representative, are incompetent, negligent, infringe any policy or safety regulation or misconduct themselves.
- (m) For the purposes of ensuring that the Contractor complies with the provisions of this clause B5.3, State Transit may require the

Contractor to produce references and any other documents or records to State Transit in order to verify the knowledge, experience and suitability of the Personnel.

B5.4 Quality Assurance

- (a) All Services provided under this Contract shall be subject to the quality management standards detailed in AS/NZS ISO9001:2008.
- (b) The Contractor shall maintain effective control of all work and shall provide all test facilities and perform all tests and examinations to demonstrate conformance of the Services to State Transit's requirements.
- (c) State Transit reserves the right to perform any examinations or tests to ensure that the Services conform to the requirements of this Contract. The Contractor shall provide to State Transit access to the Contractor's premises and pertinent records, data and plans for the purposes of ensuring compliance with the requirements of this Contract and shall also provide all other reasonable co-operative assistance as may be required by State Transit.

B5.5 Work Health and Safety and Security

- (a) The Contractor acknowledges that State Transit is obligated to provide and maintain, so far as is practicable, a working environment for its employees and members of the public, that is safe and without risk out to health.
- (b) The Contractor shall comply with the Work Health and Safety Act 2011, the agreed Occupational Health and Safety Management System Review set out in Schedule 6, and all other legislation, regulation, rules, standards and codes of practice relating to occupational health and safety in the workplace.
- (c) The Contractor shall ensure its Safety Management System is aligned to and meets the requirements of a Safety Management System (e.g. AS/NZS4801:2001) for the duration of the Contract (requirements included in Schedule). A failure by the Contractor to ensure its Safety Management System is aligned and meets the requirements (e.g. AS/NZS4801:2001) will constitute a Material breach of the Contract for the purposes of clause B18.2 (a) of Contract.
- (d) The Contractor must at all times identify and exercise (and ensure that each of its subcontractors identify and exercise) all necessary precautions for the health and safety of all persons including Contractor's Personnel, State Transit and members of the public who may be affected by the performance of the work under the Contract.
- (e) All Personnel while on State Transit Sites must carry and display an identity card provided by the Contractor. The Contractor must instruct all its Personnel to wear and present their identity cards, upon request, to the State Transit personnel at the Sites.
- (f) The Contractor must immediately notify State Transit of any accident, incident, property or environmental damage which occurs during the carrying out of the Services under the Contract. All lost time incidents

shall be immediately notified to State Transit. The Contractor must within 3 days of any such incident also provide a report giving complete details of the incident, including results of investigations into the cause, details of any witnesses and any recommendation or strategies for prevention in the future.

B5.6 Drug and Alcohol Testing

- (a) State Transit has a duty under Section 9(C) of the Passenger Transport Act (1990) to prepare and implement a drug and alcohol program to ensure that all transport safety employees employed, or contracted, to perform transport safety work are not under the influence of alcohol or any other drug when carrying out transport safety work. This includes an employee or a contractor of State Transit who conducts work relating to the repair, maintenance or upgrading of buses, bus terminals or bus maintenance facilities.
- (b) The Contractor is to ensure that Personnel are made fully aware of their obligations under Section 9(C) of the Passenger Transport Act (1990).
- (c) In order to ensure compliance, State Transit has in place a program that includes the testing of employees and Contractors undertaking transport safety work for the use of alcohol and other drugs. Contractor's Personnel will have to submit to this testing program and anyone found with alcohol or drugs outside the acceptable limits will be dismissed from State Transit Site immediately. State Transit is also obligated to notify Transport for NSW regarding positive tests recorded as a result of the alcohol and other drugs program.

B5.7 Environmental Management

- (a) The Contractor shall have in place such environmental management systems, programs and controls as required to protect the environment and prevent pollution from its activities, products or services, under its control, in order to achieve legal compliance as a minimum and in order to minimise the negative or adverse impacts of these activities, products or services on the environment.
- (b) The Contractor shall adopt the principles of sustainability and sustainable development in its environmental or business management policies and procedures, having regard to the social, economic and environmental impacts of its decisions, in relation to intergenerational equity and the precautionary principle.
- (c) The Contractor shall adopt a life cycle management approach to its activities, products and services, having regard to the whole of life (upstream and downstream impacts) so that these impacts can be minimised or adequately controlled.
- (d) The Contractor is required to identify all environmental risks associated with its activities, products or services, and to assess and control these risks via an accepted hierarchy of controls that can include the provision of management plans that outlines how these risks will be adequately controlled during the course of the contract.

B5.8 Discrepancies in Information

If the Contractor considers that information, documents and other particulars made available to it are inadequate or contain errors or ambiguities, the Contractor must give written notice as soon as practicable to State Transit detailing the errors or ambiguities.

B5.9 Timely Provision of Services

The Contractor must perform the Services expeditiously in accordance with Part C - Service Specification.

B5.10 Delay

As soon as practicable after becoming aware of any matter which is likely to change or which has changed the scope or timing of the Services, the Contractor must give written notice to State Transit detailing the circumstances and extent or likely extent of the change or delay.

B5.11 Alterations to Approved Documents

The Contractor must not make any substantial alteration to, addition to or omission from any documentation or other material previously approved, without the prior written approval of State Transit.

B5.12 State Transit's Materials and Equipment

The Contractor must protect and keep safe and secure, and maintain in working order, all Equipment provided by State Transit to the Contractor. Upon discharge of the Contract by expiration or termination, the Contractor must promptly return to State Transit, or destroy as requested, any Contract Material and Equipment in the Contractor's possession or control.

B5.13 Co-operation by the Contractor

The Contractor must liaise, co-operate and confer with others as directed by State Transit.

B5.14 Obtain All Necessary Approvals

The Contractor must obtain all approvals, authorities, licences and permits which are required from governmental, municipal or other responsible authorities for the lawful implementation and completion of the Services wherever required.

B5.15 Contractor's Relationship with State Transit

- (a) The Contractor must not act outside the scope of the authority conferred on it by the Contract and must not bind State Transit in any way or hold itself out as having any authority to do so, except where authorised under the Contract.
- (b) Neither the Contractor nor its Personnel are agents or employees of State Transit by virtue of this Contract.
- (c) The Contractor acknowledges it has sole responsibility in relation to payment, if any, of superannuation, workers' compensation and taxes incidental to employment in respect of its own Personnel. The Contractor further acknowledges that neither it nor its Personnel have, pursuant to this agreement, any entitlement from State Transit in relation to any form of employment or related benefit.

B5.16 Representation

The Contractor and its Personnel must not, without the prior written consent of State Transit, at any time issue any statement or communication or make any representation directly or indirectly in connection with the Services or the Contract to any person or entity not a party to the Contract other than as necessary to perform the Services.

B5.17 Confidentiality

The parties acknowledge that it may receive Confidential Information during the term of the Contract. The parties will treat any Confidential Information as subject to a duty of confidence and will only use Confidential Information for the purposes of the Contract. In particular the parties will:

- (a) except as permitted specifically under this clause, not in any other way use Confidential Information without the other parties prior written consent;
- (b) only disclose Confidential Information on a 'need to know' basis to its Personnel;
- (c) advise each person to whom Confidential Information is disclosed that it is subject to a duty of confidence, and that Confidential Information is not to be used for any purpose other than as set out in this Contract;
- (d) take all reasonable steps that the disclosing party may advise to enforce the duty of confidence against any person to whom Confidential Information has been disclosed and who is in breach of that duty;
- (e) keep a list of all persons to whom any Confidential Information is disclosed and will provide a copy of the list to the disclosing party, if requested to do so; and
- (f) clearly mark all Confidential Information in its possession as being subject to this Contract, such marking to state that it is contrary to this Contract to disclose or use the Confidential Information without the prior written consent of the disclosing party unless such disclosure or use is in accordance with the terms of this Contract.

This clause B5.17 shall survive the termination of the Contract.

B5.18 Subcontracting and Assignment

- (a) The Contractor shall not assign or sub-contract any part of the Services, other than as described in Part D – Schedule 4, without the prior written approval of State Transit.
- (b) State Transit shall not be obliged to approve of any assignment and whether or not such assignment is approved, the Contractor shall reimburse all costs incurred by State Transit in considering, rejecting or approving a request to assign.
- (c) An approval given by State Transit permitting the Contractor to sub-contract any portion of the Services does not relieve the Contractor from its obligations and liabilities pursuant to the Contract.
- (d) The Contractor shall not remove from the Contract any suppliers or

Subcontractors listed in Part D – Schedule 3 (or any suppliers or Subcontractors approved by State Transit in writing) without the prior written consent of State Transit. Such approval will not be unreasonably withheld.

- (e) The Contractor agrees that State Transit may assign some or all of its rights and obligations under this Contract to another Government agency or any other organisation at its sole discretion.
- (f) State Transit shall provide the Contractor with 1 month's prior written notice of any assignment in accordance with clause B5.18.

B5.19 Statutory Requirements

The Contractor must ensure that all work done in connection with the Services complies with the requirements of all applicable legislation, codes and authorities' requirements and all relevant Australian standards applicable to the Services.

B5.20 Fitness for Purpose

Unless, or to the extent that it is clear from the description of the Services that State Transit does not rely upon the skill and knowledge of the Contractor in providing the Services:

- (a) the Contractor must ensure that all Services performed and Goods provided by it are suitable in all respects for the purposes required by the Contract, and
- (b) State Transit relies upon the skill and knowledge of the Contractor in providing the Services.

B5.21 Warranties

The Contractor warrants that:

- (a) the Services performed and Goods provided by the Contractor are free from any defects in materials and workmanship for the Contract Term.
- (b) it will comply at all times with all its obligations under the Contract;
- (c) it has the resources, skill, competence, expertise, experience, knowledge and ability necessary to perform the Services in accordance with the Contract;
- (d) it will consult with, and keep State Transit informed about, all aspects of the Services as appropriate and as required by State Transit, including providing recommendations and advice in relation to circumstances which arise during the performance of the Services;
- (e) it will carry out the Services promptly, punctually and efficiently and will complete the Services within the time periods as specified in this Contract;
- (f) where the Contractor is required to use equipment, such equipment will be suitable for the work and be maintained by the Contractor in good and safe working condition; and
- (g) the Personnel engaged in the performance of the Services are duly qualified and trained, and will perform the Services in a careful, skilful and diligent manner.

The parties acknowledge that the warranties referred to in this clause will be read cumulatively and in addition to any other right, remedy or entitlement State Transit may have at any time and will continue to operate notwithstanding any payment for the Services or the termination in whole or in part of this Contract.

B5.22 Conflict of Interest

The Contractor warrants that no conflict of interest exists in respect of the provision of the Services at the Commencement Date. The Contractor must immediately inform State Transit, in writing, upon becoming aware of the existence of a conflict of interest or potential conflict of interest in respect of the provision of the Services during the Contract Term.

B5.23 Access to Contractor's Premises

The Contractor must, at all reasonable times and upon reasonable notice, permit State Transit access to the Contractor's premises in order for State Transit to inspect, assess, discuss and audit Contract Material in relation to the Services.

B5.24 Performance Reporting

The Contractor will participate in regular performance monitoring processes with State Transit as set out in Part C Service Specification.

B5.25 Contract Review

- (a) A Contract review (Contract Review) will take place periodically including towards the end of the third and/ or fourth year of the Contract.
- (b) The purpose of the Contract Review will be to determine whether the Contractor's performance justifies the exercise of an additional one year Contract option.
- (c) As part of the Contract Review, State Transit may consider any information considered relevant by State Transit in carrying out the assessment.
- (d) In the event the Contract Review:
 - (e) confirms acceptable performance, State Transit may advise the Contractor that the Contract will be extended for an additional one year period, or
 - (f) confirms unacceptable performance, State Transit may advise the Contractor that the Contract will not be extended for an additional one year period.
- (g) Where the provisions of clause B5.25(d)(i) apply, at the completion of the first or only additional one year period, the Contract Review process described above will be repeated towards the end of the fourth year, and any subsequent years of the Contract.

B5.26 Compliance with Industrial Relations Regulations

The Contractor is required to comply with all relevant awards, determinations or agreements applicable (or as may from time-to-time become applicable) under the contract in relations to the payment of remuneration, conditions of

employment and the keeping of relevant records.

B6 STATE TRANSIT'S OBLIGATIONS

To engage the Contractor in the performance of the Services, State Transit will:

- (a) provide to the Contractor all relevant instructions, information, documents, specifications, and any other material and particulars; and
- (b) answer queries made by the Contractor, relating to State Transit's requirements in connection with the Contract.

B7 CONTRACT REPRESENTATIVES

B7.1 Appointment

- (a) Within seven (7) days of the Commencement Date, the Contractor must appoint and notify State Transit of the name and contact details of the Contractor's Representative if not nominated in the Response.
- (b) The Contractor's Representative must be available to State Transit on a daily basis, and may be required to attend State Transit offices and Depots on a frequent basis to effectively manage the Contract.
- (c) Within seven (7) days of the Commencement Date, State Transit must appoint a State Transit Representative, who will have overall responsibility of the Contract, and must notify the Contractor of the name and contact details of the State Transit Representative.
- (d) The State Transit Representative may appoint a person to act as the State Transit Contract Manager who will be responsible for overseeing the technical aspects, day-to-day management and implementation of the Contract. The State Transit Representative must notify the Contractor, in writing, of any person so appointed and the limitations on the extent of the powers, duties and discretions exercisable by the appointee (if any).
- (e) The State Transit Representative may from time to time also appoint a person to act as the Site Contact at each Site to whom the Contractor's Personnel must report in the delivery of the Services.
- (f) The Contractor must comply with any direction of the State Transit Representative, Contract Manager or the Site Contact given under a provision of the Contract.

B7.2 Powers of Representatives

The State Transit Representative and the Contractor's Representative will:

- (a) in fulfilling their functions and powers under the Contract act as the agent of State Transit and the Contractor respectively;
- (b) be lawfully entitled to exercise, for the purposes of the Contract, the powers, duties, discretions and authorities for their respective principals;
- (c) bind their respective principals by their decisions and acts or omissions; and
- (d) administer the Contract and, on behalf of their respective principals,

issue directions concerning any matters in respect of the Services.

B8 PAYMENT

B8.1 Payment

- (a) In consideration of the provision of the Services State Transit will pay to the Contractor the Price calculated in accordance with Part D, Schedule 1, within 30 days of receipt of a correctly rendered tax invoice.
- (b) All requests for payment must be in the form of a correctly rendered tax invoice accompanied by sufficient supporting documentation including but not limited to delivery notices, timesheets, receipts and records to enable State Transit to verify the amount claimed, for Services provided in the preceding month, less amounts State Transit is entitled to deduct.
- (c) All invoices must be submitted electronically to the email address:
GIPA Act s.14, Table 3(a)
- (d) All approved payments will be made by Electronics Funds Transfer (EFT) direct into the Contractor's nominated bank account.

B8.2 Right of Set-off

State Transit may deduct from amounts otherwise payable to the Contractor any amount due from the Contractor to State Transit in connection with the Services.

B8.3 Effect of Payment

Payment, in part or in total, does not constitute an acceptance by State Transit of the Services and does not amount to a waiver of any right or action which State Transit may have at any time against the Contractor.

B8.4 Conditions Precedent

The Contractor is not entitled to any payment for Services performed under the Contract until it has submitted proof of insurance and workers compensation statement in accordance with clause B15.

B9 PRICE ADJUSTMENTS

The Contractor may request in writing an adjustment to the Prices no earlier than 30 days before the first anniversary of the Commencement Date and thereafter on each anniversary of that date ("Review Date") where:

$$PV = (C2/C1) \times P1$$

where:

PV = revised Charges;

P1 = the Charges applicable as at Contract commencement;

C1 = The March 2016 Consumer Price Index (Australian Bureau of Statistics CPI, Table 1, All Groups, Sydney, base reference year 2011-2012) which is 108.7; and

C2 = The Consumer Price Index applicable on Review Date (Australian Bureau of Statistics CPI, Table 1, All Groups, Sydney, base reference year 2011-2012) for each

subsequent year.

A claim for price adjustment by the Contractor must be made in writing no later than 60 days from the Review Date and once approved in writing by State Transit, will take effect from the Review Date.

The Contractor will be liable for interest using the market interest rate published at <http://www.osr.nsw.gov.au/taxes/other/taa/rates/> for any error by the Contractor in:

- (a) calculation of the Price in accordance with the formula in clause B9.1, resulting in submission of an incorrect invoice (s); and
- (b) submitting invoices in general, resulting in an overcharge;

until any amount due to State Transit under clause B9 is fully refunded (not withstanding clause B8.2) and this clause B9.3 will survive the termination or expiration of the Contract.

State Transit will be liable for interest calculated using the market interest rate published at <http://www.osr.nsw.gov.au/taxes/other/taa/rates/> for non-payment of any correctly rendered and electronically submitted invoice by the Contractor within 30 days of receipt.

B10 PAYMENT OF WAGES AND ALLOWANCES

B10.1 Before payment of moneys to the Contractor by State Transit under the Contract, State Transit may require from the Contractor reasonable evidence that all employees of the Contractor engaged in the provision of Services under the Contract have been paid in full all amounts due to them as wages and allowances of every kind required to be paid under an industrial award or industrial agreement or an award of a Court.

B10.2 If the Contractor fails to or omits to pay the wages or allowances of an employee, and upon reasonable evidence of a judgement of a Court of competent jurisdiction in favour of the employee in relation thereto State Transit may pay the amount of such judgement to the employee concerned and the amount so paid may be recovered as a debt due to State Transit by the Contractor.

B11 VARIATION TO SERVICES

B11.1 State Transit may direct, in writing, a Variation to any part of the Services without affecting the continued operation of the Contract. The Contractor must submit to State Transit a detailed written quotation within fourteen (14) days of receipt of such a direction. If State Transit accepts the quotation it must notify the Contractor who must implement the Variation in the time required by State Transit and in accordance with the quotation.

B11.2 If the Contractor and State Transit fail to agree on the value of any Variation, State Transit will determine the value, as it considers reasonable.

B11.3 If the Contractor disputes the value of a Variation determined by State Transit, the dispute resolution provisions of clause B19 will apply, but the Contractor will nevertheless be obliged to implement the Variation pending resolution of the dispute.

B12 FORCE MAJEURE

B12.1 A party that is affected by a Force Majeure Delay must use its best endeavours to remedy or overcome the effect of the Force Majeure Delay and comply with its obligations under this Contract.

B12.2 If a party is prevented from carrying out any part of its obligations under this Contract by reason of a Force Majeure Delay, that party must give to the other party a notice of the occurrence of the Force Majeure Delay and the obligations of the party affected by the Force Majeure Delay will be suspended during the continuation of the Force Majeure Delay.

B13 INTELLECTUAL PROPERTY**B13.1 Vesting**

- (a) Subject to clause B13.1(c) title to and Intellectual Property Rights in all Contract Material created pursuant to the Contract, shall on its creation be transferred and assigned to State Transit without further need for assurance.
- (b) The Contractor must, upon request by State Transit, do all things necessary for the purposes of giving effect to this clause.
- (c) If Intellectual Property Rights in, or in relation to Contract Material cannot be vested in State Transit by the Contractor under this clause B13.1 because the Contractor itself does not own, and is unable at a reasonable cost to obtain ownership of, that Intellectual Property the Contractor shall ensure that any relevant third parties grant to State Transit a non-exclusive, non-transferrable, royalty free licence to use, reproduce and adapt for its own use, all those Intellectual Property Rights.

B13.2 Limitations

The Contractor must ensure the Contract Material is used, copied, supplied or reproduced only for the purposes of the Contract unless it has obtained the prior written approval of State Transit to do otherwise. While State Transit will not unreasonably withhold approval, it may attach any terms and conditions it considers appropriate.

B14 INDEMNITY

B14.1 the Contractor will indemnify and keep indemnified State Transit from and against all losses, claims, costs, demands, liabilities, damages and expenses incurred by State Transit or for which State Transit may be held liable directly as a result or arising out of:

- (a) personal injury or death of any person;
- (b) loss of, damage to or loss of use of any property;
- (c) any actual or alleged infringement of any Intellectual Property Rights;
- (d) a breach of this Contract by the Contractor; and
- (e) any negligent or wilful act or omission of the Contractor or others for whom it is at law responsible,

in connection with this Contract, except to the extent that State Transit is proportionately liable.

B14.2 To the extent permitted by law, the maximum amount recoverable by State Transit for any claim brought by it against the contractor under clause B14.1(d) will be **GIPA Act s.14, Table 4**

B15 INSURANCE

B15.1 Type, Level and Duration of Cover

The Contractor shall, within two weeks of the Commencement Date, produce to State Transit evidence of currency for the insurance policies detailed below ("the Relevant Insurance Policies") in relation to the provision of the Services.

TYPE OF COVER	LEVEL OF COVER	DURATION OF COVER
Public/ Product Liability	GIPA Act s.14, Table 4	
Workers Compensat ion		

B15.2 General Obligations in Relation to the Relevant Insurance Policies

The Contractor must:

- (a) take out and maintain the Relevant Insurance Policies with a reputable and substantial insurer reasonably approved by State Transit;
- (b) punctually pay all premiums and charges payable in relation to the Relevant Insurance Policies;
- (c) upon request, provide State Transit with satisfactory evidence of the existence and currency of the Relevant Insurance Policies;
- (d) do all things, and provide all documents, evidence and information necessary to enable State Transit to collect or recover any monies due or to become due in respect of any Relevant Insurance Policy;
- (e) not do anything or fail to do anything that gives rise to the cancellation of, or a material change or reduction in, any Relevant Insurance Policy;
- (f) where State Transit considers that additional insurance may be necessary to cover liabilities that may arise during the performance of the Services, State Transit and the Contractor shall consult about these matters, including, in particular, about the level of premium payable; and
- (g) where, after consulting with the Contractor, State Transit requires the Contractor to take out a particular policy of insurance (in addition to the policies of insurance already held by the Contractor), or to increase the level of cover under an existing policy, the Contractor

shall do all things necessary to obtain that additional policy, or to take out that additional cover, as the case may be, in accordance with State Transit requirements.

- (h) where State Transit requires the Contractor to take out additional insurance in accordance with clause B15.2(g), State Transit will reimburse the additional premium cost payable for this increased insurance cover.

B15.3 Workers Compensation Insurance Statement

Prior to commencing the Services, the Contractor shall provide to State Transit a statement regarding its workers compensation insurance in the form set out in Attachment 2. The Contractor will provide to State Transit a new statement regarding its workers compensation insurance for each subsequent period on or before the expiry of each insurance policy year throughout the term of the Contract.

B16 INSPECTION OF RECORDS

B16.1 Right to Audit

- (a) The Contractor will have and maintain all records in relation to the Services in accordance with the State Records Act 1998 NSW.
- (b) State Transit may appoint auditors to audit the Contract. State Transit will pay for the cost of these audits.
- (c) State Transit shall notify the Contractor of the identity of any auditor and the auditor's representative. Audits will be both pro-active (ordered by State Transit as part of ongoing best practice and administration strategy) and reactive (ordered by State Transit following a specific event) and be in the following broad categories:
 - (i) safety;
 - (ii) environment;
 - (iii) quality;
 - (iv) finance;
 - (v) general management;
 - (vi) contract management; and
 - (vii) statutory requirements.

B16.2 Access to Records and Personnel

- (a) The Contractor shall co-operate with any appointed auditor to allow the auditor to perform its functions and any matter that the appointed auditor deems reasonably necessary.
- (b) The Contractor shall give any appointed auditor access to all files, records, documents, data and all items relevant to the carrying out of the Contract and the Services.

B16.3 Audit Reports and Action

- (a) The auditor shall apply quality assurance principles, including appropriate ISO 9000 series principles, in performing the audit.
- (b) The auditor shall prepare an audit report as requested by State Transit. The Contractor shall have access to that report, for the

purpose of attending to any items identified by the auditor as requiring attention, with the exception of any item which in the opinion of State Transit is not required for the Contractor.

- (c) The Contractor is required to attend to the items identified in accordance with clause B16.3(b) necessary to fulfil its contract obligations as directed by State Transit.

B17 [NOT USED]

B18 TERMINATION

B18.1 Termination for Change in Status of Contractor

- (a) State Transit may by notice in writing terminate the Contract immediately if the Contractor:
- (i) ceases or proposes to cease carrying on business;
 - (ii) is unable or is deemed pursuant to the Corporations Act (Cth) to be unable to pay its debts as and when they fall due;
 - (iii) disposes or intends to dispose of the whole or any part of its business;
 - (iv) resolves that it be wound up;
 - (v) has a change in ownership of major shareholders;
 - (vi) has a liquidator or provisional liquidator appointed;
 - (vii) enters into a scheme of arrangement or composition with its creditors;
 - (viii) passes a resolution at a meeting of creditors to place it under official management;
 - (ix) is placed under official management;
 - (x) has a receiver or a receiver and manager appointed in relation to the whole or any part of its property;
 - (xi) takes any steps to obtain protection or is granted protection from its creditors, under any applicable legislation;
 - (xii) has an application made to a court for an order to be wound up;
 - (xiii) is wound up; or
 - (xiv) is subject to any other form of insolvency administration.

B18.2 Termination for Material Breach

- (a) State Transit will be entitled to terminate this Contract by giving the Contractor seven (7) days notice in writing if:
- (i) the Contractor commits a material breach of this Contract; and
 - (ii) the breach is not remedied or, where a rectification plan has been agreed, the agreed rectification plan is not implemented to the satisfaction of State Transit within fourteen (14) days of State Transit giving the Contractor a notice requiring the breach to be remedied.
- (b) Without limiting the provisions of clause B18.2(a), the following will be deemed to be material breaches of this Contract by the Contractor (unless as a direct consequence of a Force Majeure Delay described in clause B12):

- (i) a failure to perform the Services;
- (ii) a failure to comply with the Contract in any material respect;
- (iii) a failure to perform the Services in compliance with the Service Specification or the Program of Services;
- (iv) a failure to perform the Services in the opinion of the State Transit Representative, with due diligence and competence;
- (v) a failure to comply with the warranties set out in this Contract;
- (vi) a failure to comply with the obligations of confidentiality in accordance with clause B5.17;
- (vii) a failure to comply with the statutory requirements specified in clause B5.19, and/or
- (viii) a failure to take out and maintain all or any policies of insurance referred to in clause B15.

Consequences of Termination

- (c) Termination of this Contract will be without prejudice to any rights or obligations or causes of action which have accrued or arisen prior to the date of termination.
- (d) Termination of this Contract does not relieve either party from complying with any duties or obligations with which they must comply consequent upon termination of this Contract.

B18.3 Contractor's obligations on termination for any reason

Upon termination of this Contract by State Transit the Contractor must:

- (a) comply with any obligations consequent upon termination;
- (b) cease to perform the Services immediately or at a time nominated by State Transit and remove all Equipment which is the property or responsibility of the Contractor;
- (c) vacate the Site at the direction of State Transit where the Site is the property of, or under the control of, State Transit;
- (d) provide reasonable assistance to State Transit in transferring the Services to a new contractor if required by State Transit;
- (e) pay State Transit any money due to State Transit;
- (f) cease to hold itself out as the person who is performing the Services for State Transit;
- (g) return to State Transit any documents, information, equipment, materials, or any other thing the property of State Transit or to which State Transit is entitled;
- (h) assign to State Transit without charge, the benefit of any business name, trade name, design, patent, trade mark or copyright in any product, development or information to which State Transit may be entitled pursuant to this Contract and which is necessary for ongoing performance of the Services.
- (i) comply with all reasonable requests and directions given by State Transit; and
- (j) sign all documents and do all other things necessary as is reasonable and agreed to in writing to give effect to this clause B18.

B18.4 Termination for Convenience

- (a) In addition to any other rights it has under the Contract, State Transit may terminate the Contract, in whole or in part, by giving 30 days notice in writing to the Contractor that the Contract or a specified part of it shall terminate on the date specified in the notice, and where State Transit terminates the Contract in part it may give to the Contractor such directions as it thinks fit in relation to subsequent performance of the Contract.
- (b) **Contractor's Obligations**
The Contractor shall upon receiving a notice from State Transit terminating the Contract for convenience:
- (i) comply with any directions given to the Contractor under clause C18.4(a);
 - (ii) do everything possible to mitigate all losses, costs (including the costs of its compliance with any such directions) and expenses of termination of the Contract including any losses, costs and expenses in connection with any affected subcontracts; and
 - (iii) terminate all relevant subcontracts.
- (c) **State Transit's Requirements**
In the event of notice of termination for convenience being given under clause B18.4(a),
- (i) State Transit may, at its election:
 - (A) either take over from the Contractor, at a fair and reasonable price (assessed on a proportional basis of any prices contained in the Contract for completed Services) any Equipment owned by and in the possession of the Contractor at the expiration of the notice and properly held by the Contractor for performance of the Contract; or
 - (B) require the Contractor to sell or otherwise dispose of and account for the Equipment or any items of the Equipment for an amount not less than a fair and reasonable market price; and
 - (ii) State Transit shall indemnify the Contractor against any commitments, liabilities or expenditure which are reasonably and properly incurred by the Contractor in connection with the Contract and affected subcontractors after taking into account moneys paid under the Contract to the extent to which the commitments, liabilities or expenditure represent an unavoidable loss by the Contractor as a result of the termination, and not otherwise. This indemnity shall not extend to anticipated profit.

B18.5 Profit

The Contractor shall not be entitled to profit anticipated on any part of the Contract terminated.

B18.6 Subcontracts

The Contractor, in each subcontract of a value in excess of \$20,000 shall secure the right of termination and provisions for compensation functionally

equivalent to that of State Transit under this clause B18.

B19 DISPUTE RESOLUTION

B19.1 If a dispute or difference arises between the Contractor and State Transit in respect of any fact, matter or thing arising out of, or in any way in connection with the Services or the Contract, or either party's conduct before the Contract, the dispute or difference must be determined in accordance with the procedure in this clause B19.

B19.2 Where such a dispute or difference arises, either party may give a notice in writing to the other party specifying:

- (a) the nature of the dispute or difference;
- (b) the particulars of the party's reasons for being dissatisfied; and
- (c) the position which the party believes is correct.

B19.3 On receipt of the notice specified in clause B19.2 the parties to the dispute must seek to resolve the dispute.

B19.4 If the dispute or difference is not resolved within 7 days after receipt of the notice under B19.2 or such further period as the parties agree, the dispute or difference will be referred to the Australian Commercial Disputes Centre ("ACDC") for mediation.

B19.5 To the extent they are not inconsistent with the Contract the ACDC's Commercial Mediation Guidelines will apply to the mediation.

B19.6 In the event the dispute or difference is not settled within 35 days after receipt of the notice specified in clause B19.2 or such further period as the parties agree the dispute or difference will be referred to arbitration.

B19.7 The arbitration will be conducted in Sydney before a person to be:

- (a) agreed between the parties; or
- (b) failing agreement within 63 days after receipt of the notice specified in clause B19.2 or such further period as the parties agree, appointed by the President for the time being of the Institute of Arbitrators and Mediators Australia.

B19.8 To the extent that they are not inconsistent with the Contract, the arbitration will be conducted in accordance with the Rules for the Conduct of Commercial Arbitration of the Chartered Institute of Arbitrators (Australia Branch).

B19.9 The seat of the arbitration will be Sydney, Australia.

B19.10 The arbitrator will have power to determine any question in relation to the validity or existence of the Contract and to grant all legal, equitable and statutory remedies.

B19.11 This clause B19 will survive the rescission, termination or expiration of the Contract.

B19.12 Despite the existence of a dispute or difference between the parties the Contractor must:

- (a) continue to carry out the work under the Contract; and
- (b) otherwise comply with its obligations under the Contract.

B20 NOTICES

B20.1 Any notice, demand, consent or other communication under the Contract:

- (a) must be in writing addressed to the parties as follows:
 - (i) State Transit Representative
Contract **STA 2015/04**
State Transit Authority
Fleet Operations and Infrastructure Division
Corner William and Derbyshire Streets
NSW 2040
 - (ii) Contractor: The name or the person and address specified in Part A Formal Instrument of Agreement as the address for service of notices.
- (b) will be deemed to be duly received by or served on the addressee:
 - (i) if by delivery in person, one hour after delivery is effected,
 - (ii) if by post, five (5) business days from and including the date of postage,
 - (iii) if by facsimile transmission or transmitted electronically, shall be deemed to have been given when the machine on which the notice is sent reports in writing that the notice has been transmitted satisfactorily.
- (c) Any party may, by giving the other fourteen (14) days written notice, amend the provisions of clause B20.1(a) by nominating an alternative person, address, telephone or facsimile number. Upon service of that notice, the amended provisions will be deemed to be substituted for the then existing provisions.

B21 WAIVER

B21.1 No forbearance, delay or indulgence by a party in enforcing the provisions of the Contract will prejudice or restrict the rights of that party nor will any waiver of those rights operate as a waiver of any subsequent breach.

B21.2 No right under this Contract shall be deemed to be waived except by notice in writing signed by both parties.

B22 GOODS AND SERVICES TAX

B22.1 Pursuant to this Contract, the Contractor may, in accordance with the A New Tax System (Goods & Services Tax) Act 1999 (Cth) recover from State Transit the GST in respect of the provision to State Transit of the Services.

B22.2 In the event that the Contractor's costs increase or decrease as a result of variation of the GST, the Contractor and/or State Transit shall be entitled to adjust the amounts payable by State Transit by any amount proportionate to the increase or decrease in GST.

B23 SEVERABILITY

B23.1 Should any part of the Contract be or become invalid that part will be severed from the Contract and that validity will not affect the validity of the

remaining provisions of the Contract.

B24 ELECTRONIC INTERFACE

B24.1 The Contractor agrees to work with State Transit to implement electronic data interfaces in line with NSW Government policies on electronic business. Such interface includes but are not limited to provision of electronic reports, exchange of information electronically, and electronic invoicing.

B25 ENTIRE AGREEMENT

B25.1 All prior statements, representations and agreements with respect to the subject matter of the Contract and not contained in the Contract are superseded by the Contract.

B26 GOVERNING LAW

B26.1 The Contract shall be governed by, and be construed in accordance with, the law of the State of New South Wales and the Commonwealth of Australia.

B26.2 Each party submits to the jurisdiction of the Courts of New South Wales and the Commonwealth of Australia.

B27 EXCHANGE OF INFORMATION BETWEEN NSW GOVERNMENT AGENCIES

B27.1 The Contractor authorises State Transit to make information concerning the Contractor available to other NSW government agencies. Such information may include any information provided by the Contractor to State Transit and any information relating to the Contractor's performance under the Contract.

B27.2 The Contractor agrees that the communication of such information as set out above to any NSW government agency is a communication falling within section 22(i) of the Defamation Act 1974 (NSW).

B27.3 The Contractor agrees that the contract entered into between State Transit and the Contractor will be disclosed on State Transit's website.

B28 CONSULTATION WITH THE CONTRACTOR FOR APPLICATIONS UNDER THE GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 ('GIPA Act')

B28.1 State Transit will take reasonably practicable steps to consult with the Contractor before providing any person with access to information relating to the Contract, in response to an access application under the GIPA Act if it appears that:

- (a) the information:
 - (i) includes personal information about the Contractor or its employees;
 - (ii) concerns the Contractor's business, commercial, professional or financial interests; or
 - (iii) concerns research that has been, is being, or is intended to be, carried out by or on behalf of the Contractor; or

- (iv) concerns the affairs of a government of the Commonwealth or another State (and the Contractor is that government);
 - (b) the Contractor may reasonably be expected to have concerns about the disclosure of the information; and
 - (c) those concerns may reasonably be expected to be relevant to the question of whether there is a public interest consideration against disclosure of the information.
- B28.2** If, following consultation between State Transit and the Contractor, the Contractor objects to disclosure of some or all of the information, the Contractor must provide details of any such objection (including the information objected to and the reasons for any such objection) within 5 days of the conclusion of the consultation process.
- B28.3** In determining whether there is an overriding public interest against disclosure of government information, State Transit will take into account any objection received by the Contractor.
- B28.4** If the Contractor objects to the disclosure of some or all of the information but State Transit nonetheless decides to release the information, State Transit must not provide access until it has given the Contractor notice of State Transit's decision and notice of the Contractor's right to have that decision reviewed.
- B28.5** Where State Transit has given notice to the Contractor in accordance with sub-clause B28.4 State Transit must not provide access to the information:
 - (a) before the period for applying for review of the decision under Part 5 of the GIPA Act has expired; or
 - (b) where any review of the decision duly applied for is pending.
- B28.6** The reference in sub-clause B28.5(a) to the period for applying for review of the decision under Part 5 of the GIPA Act does not include the period that may be available by way of extension of time to apply for review.
- B29** [NOT USED]
- B30** ACCESS TO CONTRACT
- B30.1** The Contractor acknowledges that other NSW public sector service agencies (as defined in the Government Sector Employment Act 2013), where agreed by State Transit and where the Services are being purchased in similar circumstances, may be requested to negotiate for the supply to other agencies.
- B30.2** Any resulting contract would be solely between the Contractor and the third party public sector service agency and any claims for payment under that agreement would be directed to the agency purchasing the Services.

ATTACHMENT 1 SITE WHS REQUIREMENTS FOR CONTRACTORS

State Transit Location:

To: (Contractor/Company)

In relation to the following work

Under the Work Health and Safety Act 2011 and the Protection of the Environment Operations Act 1997 you, the Contractor, (which includes your employees, sub-contractors and agents) have primary responsibility for ensuring the health and safety of your employees. However, State Transit is accountable for the actions of contractors performing work on its premises. Consequently, you and any of your employees, sub-contractors or agents are expected to abide by the following minimum requirements:

1. The Contractor must report to the designated State Transit supervisor prior to commencement, and on completion, of the work.
2. The Contractor must give reasonable prior notice to the designated State Transit supervisor of who will be on site, at what times and, doing what work. The Contractor must keep a current daily attendance register of persons working on site and ensure that all persons working on the site have been inducted in accordance with State Transit's contractor induction procedure.
3. The Contractor must only carry out work for which it is licensed. The Contractor must make available competency certificates or relevant licenses for inspection by the designated State Transit supervisor on request. The Contractor must ensure that all personnel engaged by it in connection with the Services are appropriately qualified, licenced, competent and experienced in the provision of the type of Services required by State Transit.
4. The Contractor must, on request, produce evidence of satisfactory insurance cover for Workers Compensation, Public Liability, Third Party Property Damage, Industrial Special Risks/Works, Comprehensive Motor Vehicle, and Motor Vehicle CTP as appropriate.
5. Whilst working on site the Contractor's primary responsibility at all times is the safety of its personnel, State Transit staff and visitors. All decisions regarding the works must take into account this primary responsibility. The Contractor must exercise due diligence in fulfilling their duty of care under WHS legislation to ensure that any danger as a result of the work is eliminated or at least minimised through the use of appropriate hazard controls to the satisfaction of the designated State Transit supervisor *[A formal process of hazard identification, risk assessment and control is to be used, documented and available to State Transit if requested]* and must carry out all work in accordance with WHS and related legislation as amended from time to time.
6. The Contractor must not, without the prior approval of the designated State Transit supervisor, bring onto State Transit premises any hazardous chemicals. (Approval will only be given on the understanding that all chemicals have a Safety Data Sheet available on site AND all dangerous goods will be transported, handled and stored in the accordance with the Dangerous Goods legislation and any relevant Standards).
7. The Contractor must not without prior approval from the designated State Transit supervisor undertake any work requiring a Permit to Work.
8. The Contractor must not allow any contaminated water or other trade waste to enter stormwater drains, sewerage lines or watercourses.
9. The Contractor must report immediately to the designated State Transit supervisor any accident, hazard, leak, spill or fire or other WorkCover reportable incident and provide copies of the relevant reports to State Transit.
10. The Contractor must establish and maintain a mechanism for your employees to regularly discuss and resolve WHS problems and to relay this information to State Transit site management and Health and Safety Representatives.
11. The Contractor will be responsible for the good and proper conduct of its personnel while on State Transit premises. The Contractor must maintain good order and discipline amongst its Personnel particularly while on State Transit premises. The Contractor will ensure that no Personnel under the influence of alcohol or drugs are permitted on State Transit premises. The Contractor shall ensure that no alcohol for consumption or illegal drugs are brought onto or consumed while on State Transit premises by the Contractor's Personnel in the course of performing the Services. Smoking of any substance will not be permitted in State Transit's

ATTACHMENT 1 TO PART B

buildings, vehicles or ferries. Smoking on State Transit's premises will only be permitted in designated smoking areas.

12. The Contractor understands and will communicate to its personnel, that personnel performing work on State Transit Property or Vehicles are classified as Transport Safety Workers. As a Transport Safety Worker they may be subject to random Alcohol and Drug testing. Under the provisions of the Passenger Transport (Drug and Alcohol Testing) Regulation 2010 - all Transport Safety Workers are expected to have a zero alcohol content (regarded as less than 0.02 mg/ml).
13. State Transit work locations provide First Aid facilities for its employees. By prior agreement with the designated State Transit supervisor small contractors may rely upon these facilities. Larger contractors (especially those undertaking particularly hazardous work) will have to provide their own First Aid facilities in conformance with the provisions of WHS legislation.
14. Work locations have specific WHS requirements, which must be adhered to at all times. In particular, the Contractor should be familiar with Site Traffic Operating and Site Emergency procedures. The Contractor must not use hand-held mobile phones (including with ear pieces) while driving State Transit vehicles or any vehicle within State Transit site. The Contractor must comply with all agreed conditions associated with the work (including undertaking work according to established safe work methods and use of agreed personal protective equipment. In addition, The Contractor must comply with any other reasonable safety instructions given by a State Transit employee.
15. State Transit sites have areas with restricted access, including fuel storage and vehicle refuelling facilities. The Contractor will not, unless specifically authorised to do so, carry out any work near or enter any restricted area, in particular any fuel storage or refuelling facility.
16. Unless authorised by State Transit contractors are not permitted to use or interfere with State Transit plant, equipment etc.
17. Where works are carried out over more than one (1) day, the Contractor must at the conclusion of work each day secure the works in a safe manner and such that the works are protected.
18. The Contractor must ensure any waste resulting from the work performed on site is removed. State Transit waste receptacles are not available for this purpose.
19. On completion of the work, the Contractor must report to the designated State Transit supervisor to have the site inspected to confirm the Contractor has restored the site to the satisfaction of State Transit.
20. The Contractor shall also take all required precautions so as not to damage any of State Transit's property. If any damage is caused to State Transit's property such damage shall be reported to the designated State Transit supervisor.
21. Failure to comply with any of the above may result in State Transit directing the Contractor to cease work or remove employees from the site.
22. The Contractor must receive a site induction; provide task specific induction [both consummate with the risks of the services provided] and a copy of these requirements to all of its employees, sub-contractors and agents prior to commencement of work.

I understand and agree to abide by the above requirements. I will ensure that all employees and subcontractors required to work on site are informed and follow these requirements. I understand and acknowledge that these requirements are a precondition for permission to work and failure to comply may result in termination of the contract.

NAME / POSITION OF CONTRACTOR: _____
(Must be an Authorised Officer - if Contractor a Company)

SIGNATURE: _____ DATE: ____/____/____

COMPANY NAME : _____ (if applicable)

AUTHORISATION TO COMMENCE WORK (State Transit use only)

Supervisor's signature: _____ Date: ____/____/____

Supervisor's Name & Position: _____

**ATTACHMENT 2 SUBCONTRACTOR'S STATEMENT REGARDING
WORKER'S COMPENSATION, PAYROLL TAX AND REMUNERATION
(Note1 – see back of form)**

For the purposes of this Statement a "subcontractor" is a person (or other legal entity) that has entered into a contract with a "principal contractor" to carry out work.

This Statement must be signed by a "subcontractor" (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007*, and s127 *Industrial Relations Act 1996* where the "subcontractor" has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

SUBCONTRACTOR'S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.)

Subcontractor: ABN:.....

of

has entered into a contract with ABN:

(Note 2)

Contract number/identifier

(Note 3)

This Statement applies for work between:...../...../..... and/...../..... inclusive, (Note 4)

subject of the payment claim dated:/...../..... (Note 5)

I, a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

- (a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [] and only complete (f) and (g) below. You must tick one box.(Note 6)
- (b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated/...../..... (Note 7)
- (c) All remuneration payable to relevant employees for work under the contract for the above period has been paid. (Note 8)
- (d) Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. (Note 9)
- (e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. (Note 10)

(f) Signature Full name

(g) Position/Title Date/...../.....

NOTE: Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987.

Notes

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007* and section 127 of the *Industrial Relation Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called *the subcontractor*) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.
2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the *Industrial Relations Act 1996* defines remuneration '*as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.*'

Section 127(11) of the *Industrial Relations Act 1996* states '*to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.*'
5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

- (a) the person is the subcontractor;
- (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
- (c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

For more information, visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

PART C SERVICE SPECIFICATION**C1 GENERAL**

- C1.1** The Contractor must be suitably qualified, accredited, licensed and registered to provide the Services for State Transit's CNG buses. Currently it operates 299 Mercedes Benz 0405nh buses, 254 Mercedes Benz OC500le buses and 100 Scania L113CRB Natural Gas fuelled buses; Attachment 1 (to this Part C) includes detailed information on depots, bus types and cylinder numbers.
- C1.2** The Contractor will undertake the Services including inspection and certification of CNG systems in 653 Mercedes Benz and Scania buses, the fitted CNG cylinders together with any other similar equipment in the system including components fitted by State Transit during the term of the Contract.
- C1.3** The Contractor must provide the broad Services including;
- (a) Providing the Program of Services;
 - (b) Inspection, Testing and Maintenance;
 - (c) Certification of cylinders and bus gas system;
 - (d) Hydro-static recertification;
 - (e) De-commissioning of buses as directed by State Transit;
 - (f) Providing the Services in accordance with all applicable standards to ensure each bus is roadworthy; and
 - (g) Reporting, including detailed documentation (and weekly summaries) of cylinder serial number, and bus fleet number after each Service, test and/ or repair.
- C1.4** The Contractor will be required to drive State Transit buses to and from the depot of origin to undertake the Services as directed therefore must have appropriate licensing.
- C1.5** The Contractor will return fully roadworthy buses in respect of all requirements in accordance with the Contract ready for normal passenger transport services once taken away to its licensed premises for the Services.
- C1.6** The Contractor must attend nominated State Transit depot(s) between:
- (a) 12:00pm and 6:00pm of the same day for any calls made prior to 12:00pm; and
 - (b) 6:00am and 9:00am next working day for any calls made after 12:00pm, to undertake the Services detailed in this Part C and its attachments 1 to 3.
- C1.7** The Contractor must implement and maintain a flexible Program of Services for each quarter which will be delivered to State Transit's Contract Manager a month in advance and after approval to each Depot Site Contact two weeks in advance.
- C1.8** State Transit will issue a Purchase Order for the relevant quarter after agreement to the Program of Services ensuring maximum bus utilisation.
- C1.9** In accordance with clauses B5.21 and C1.7, the Contractor must ensure that the cylinders, its components and systems operate reliably without failure

between programmed Services and must work with State Transit to deliver a program to achieve the desired reliability.

C1.10 The Services including the below must only be undertaken after the receipt of a Purchase Order from State Transit.

- (a) Attend Sites in accordance with State Transit's schedule/ Program of Services provided by the Contractor and attendance times at days requested by the Site Contact (after internal co-ordination).
- (b) Undertake the Services to comply with standards for certification, including with the manufacturer's instructions and in the order of priority (for each bus) as directed by the Site Contact.
- (c) Provide Goods (as required) to undertake the Services as set out in clause C2 and Attachments 1 to 3 of Part C.
- (d) Test all Services undertaken in accordance with clause C1.16.
- (e) Complete and maintain records and reports; and
- (f) Provide Contract Materials including digital documentation in clause C2.2 (d).

C1.11 The CNG fuelled bus numbers in Attachment 1 may vary during the Contract Term due to operational/ TfNSW requirements. The Contractor will be notified of any changes.

C1.12 Non-Scheduled Services

- (a) When the Contractor identifies:
 - (i) certain items need repair, replacement or adjustment over and above the Services allocated as part of the Repairs; and
 - (ii) Services (including inspections and servicing) are due on a bus as it has not been performed within the last year;the Contractor will notify State Transit's Contract Manager by way of a condition report based on the template in Attachment 2 to Part C.
- (b) Any Services identified in the condition report shall be reviewed by State Transit's Contract Manager/ Site Contact and categorised as warranty/ non-warranty Services for correct allocation.
- (c) The Contractor must obtain prior approval (i.e. with a Purchase Order) to proceed with such Services.

C1.13 Changes affecting the Services and Multi-disciplinary activities

- (a) State Transit may at any time during the Contract Term:
 - (i) vary the number of gas cylinders in Mercedes buses scheduled for Hydrostatic re-qualification or discontinue Mercedes Hydrostatic re-qualification;
 - (ii) alter the frequency of the Mercedes 6 monthly inspection and 12 monthly Mercedes certification;
 - (iii) de-commission buses at the request of State Transit;
 - (iv) may change the Services and then communicate the change to the Contractor within a week after internal approval for such changes.
- (b) The Contractor must inform State Transit's Contract Manager within a

week of any change (as soon as it is brought to the attention of the Contractor) of any aspect that affects the original design, operation or delivery of the Services (e.g. Goods including new manufacture or change of manufacturer's location).

- (c) The Contractor may be requested to provide technical assistance with modifications in accordance with C1.13(b) above including any future design improvements to adhere to the industry standards adopted or in concurrence with State Transit to source/ manufacture replacement certified gas components.
- (d) The Services may, from time to time also incorporate multi-disciplinary activities such as in clauses C1.13(b) and (c) above, which may require the Contractor to engage and manage the services of various sub-contractors, or other contractors engaged by State Transit. The Contractor will be required to source and manage any sub-contractors or contractors as required to perform the Services required. However the use of all sub-contractors is subject to the approval of State Transit.
- (e) The Contractor will de-commission buses including by removing and storing all nominated gas componentry including cylinders and equipment as nominated.
- (f) The Contractor will store the serviceable items removed in accordance with clause C1.13(e) above at its premises for future use on State Transit fleet;
- (g) State Transit will require a fixed Price quotation from the Contractor if requested. The fixed Price (and times applicable) will be based on the information submitted in Part D Schedule 1 'Repair and Replacement Times' and 'Firm Prices'.
- (h) Any additional information required for request for quotations in accordance with clause C1.13(g) above will be outlined in the request for quotation.

C1.14 Attendance and Sequence of the Services

- (a) State Transit's Site Contact will direct the Contractor as to the sequence in which the Services will be undertaken at the Site (the order to undertake the Services based on bus registration numbers) in accordance with clauses C1.8 and C1.10.
- (b) The Services must be undertaken during Working Hours in accordance with C1.6 unless directed otherwise by State Transit's Site Contact.
- (c) Access times to State Transit depots will vary, and notwithstanding clause C1.14(b) above, the Contractor must make arrangements with the Contract Manager and/ or the Site Contact as to the hours of attendance to carry out the Services.
- (d) The Contractor must sign-in upon arrival at each Site.
- (e) The Contractor must report to the Site Contact after arrival at the respective Depot and prior to commencing any Services;
- (f) The Contractor must obtain approval from the Site Contact for any additional work not stated in the Purchase Order prior to commencing such Services.
- (g) The Contractor may be requested to attend for Services after hours if

the Contractor fails to provide the Services at the times as directed by State Transit's Site Contact or as set out in the Program.

C1.15 Spares and Parts Supply

- (a) Most of the spares and parts required to undertake the Services will be provided by State Transit.
- (b) The Contractor may be requested to re-engineer (i.e. modify) and maintain certain parts, details of which will be communicated by the Contract Manager during the Contract Term.

C1.16 Testing

- (a) The Contractor must ensure all tasks completed are tested after the Services for:
 - (i) accurate performance;
 - (ii) correct operation in accordance with the original equipment manufacturer's specifications, Australian standards and/ or to a standard to obtain re-certification; and
- (b) The Contractor must include the test results stated in clause C1.16(a) in the quarterly report submitted in accordance with clause C2.2 (a).

C1.17 The Contractor will be responsible for completing all the Services within budget and time constraints.

C1.18 The Contractor must clearly articulate any value engineering aspects proposed in Schedule 4.

C2 SERVICE SPECIFICATIONS

C2.1 Inspections, re-qualifications and certifications

- (a) The Contractor will be required to provide three main inspections as below:
 - (i) Each Mercedes bus will require a 6 monthly inspection.
 - (ii) In addition to (a) above, each Mercedes bus will require a 12 monthly certification to New South Wales Fair Trading/ the appropriate Australian/ Manufacturers' standards at the time of the second bus inspection (i.e. every 12 months).
 - (iii) Each Scania bus and 10 nominated Mercedes buses will require cylinder requalification in accordance with Australian Standards and the manufacturers' recommendations.
 - (iv) The Contractor must provide a smoke test during 6 or 12 month inspections on each bus to ensure the integrity of the engine bay and fill point enclosure and the passenger compartment is free from gas ingress.
- (b) The Contractor must at the request of State Transit provide the 12 monthly bus and cylinder certification at the Contractor's licensed premises.
- (c) The Contractor must provide any additional/ alternate inspection at the depot of origin at the direction of State Transit.
- (d) State Transit may direct the Contractor to provide additional tasks (within the scope of the Services) as may be deemed necessary.

- (e) The Contractor must provide detailed documentation of each inspection in the inspection report and this documentation must be readily available to State Transit and auditable to meet State Transit's management systems and documentation standards as described in clause 2.1(f).
- (f) The Contractor must issue a certificate of inspection and certification for each bus showing:
 - (i) the serial number and/or the unique identifier of the particular item of equipment;
 - (ii) description of the equipment;
 - (iii) associated bus fleet number;
 - (iv) date of the inspection and certification;
 - (v) inspection results;
 - (vi) the due date for the next inspection and certification procedure as required by regulations;
 - (vii) reference to relevant inspection standards (including RMS); and
 - (viii) any repairable items considered necessary or carried out at the time of inspection,which must be sent to State Transit monthly.
- (g) All equipment should be labelled by the Contractor once initially inspected and certified. This label must have the details in clauses C2.1(f) (i), 2.1(f) (iv) and 2.1(f)(vi).
- (h) The Contractor must affix the inspection label to the bulkhead behind the driver's seat, below the existing emergency shut off label and certification plate to be affixed inside the refuelling compartment.
- (i) All documents sent to State Transit in relation to inspections and certifications in clause C2.1(f) above must be signed by a representative of the Contractor suitably qualified to attest to the accuracy of the documents.
- (j) The Contractor must provide copies of all relevant documentation including approval certificates in accordance with clause C2.1(f) to:
 - (i) State Transit's Contract Manager (in addition to a weekly summary) of all Services performed; and
 - (ii) To the Site Contact of the depot of origin, after return of the bus (i.e. to its depot of origin).

C2.2 Testing and Maintenance

- (a) At the end of each quarter after the Services, the Contractor must supply (in a condition report) State Transit's Contract Manager with a complete list of all gas cylinders fitted to buses and their locations in the form of a consolidated report (incorporating each month's reports).
- (b) The Contractor must include the following information in the list in clause C2.2(a) above:
 - (i) bus fleet number;
 - (ii) gas cylinder serial numbers;
 - (iii) any corrosion monitoring for a cylinder (identified by the cylinder

- serial number);
 - (iv) gas cylinder layout;
 - (v) gas cylinder end of life date;
 - (vi) last inspection date;
 - (vii) tests undertaken in accordance with clause C1.16(a) and the results;
 - (viii) next due date for inspection; and
 - (ix) the list of Personnel who carried out the Services in each bus.
- (c) The Contractor must implement and maintain a corrosion treatment and monitoring programme for cylinders and cradles identified with corrosion which must be included in the Program of Services.
- (d) The Contractor must record by digital video or digital photograph, utilising photo macrographic scale, any irregularities or faults to:
- (i) any gas cylinders and connected or associated fittings; and
 - (ii) pipework.
- (e) The Contractor must include documentation relating to (d) above in the quarterly report in clause C2.2 (a) as photographs.
- (f) Any accident damage to gas cylinders will be the responsibility of State Transit, unless the CNG bus and/ or gas cylinder is under the Contractor's control.

C3 CONTRACTOR'S STAFF

- C3.1** The Contractor must maintain adequate number of experienced and licensed Personnel to undertake the Services without impediments to the Program of Services.

C4 CONTRACTOR'S FACILITIES

- C4.1** The Contractor must have a facility licensed by NSW FairTrading on behalf of the Motor Vehicle Repair Industry Authority for undertaking services as a Natural Gas Mechanic in Sydney for performing the Services, storage of State Transit supplied items (i.e. cylinders) and other Goods required for the Services.
- C4.2** The Contractor must clearly label and maintain all State Transit property including cylinders it stores for the Services for prompt identification and return when required.
- C4.3** State Transit may inspect the Contractor's facilities to ensure the capability of the Contractor to perform the Services.
- C4.4** Any inspection requested under clause C4.2 will be during business hours and the Contractor will be provided with a three (3) days notice of any such visit which the Contractor must comply with.

C5 RECORDS AND REPORTS

- (a) A quarterly condition report based on clause C2.2(a) must be delivered to Contract Manager within five (5) business days of the end of the quarter (for the Services undertaken during the quarter) in a format agreed with State Transit and must include:

- (i) the signed condition report (including the Contractor's works order) of each bus Serviced with related Purchase Order numbers, Prices for scheduled and any un-scheduled Services etc. in a tabulated form; and
- (ii) any induction/ training undertaken by Personnel for that quarter.
- (b) In addition to clause C5(a) above, the Contractor must assist in the preparation of ad-hoc reports including responses to management or Ministerial questions in relation to issues arising from provision of the Services as and when required.
- (c) All records and reports must be sent to State Transit in an electronic format.
- (d) All reports applicable to a quarter must be brought to each meeting (in clause C7.2) with State Transit.

C6 CONTRACT PLANS

C6.1 The Contractor will within 30 days of the Commencement Date, submit for review by State Transit a draft Contract Plan showing details of how the Contract will operate, including as a minimum, the following:

- (a) The process for undertaking the Services as set out in Schedule 4 Service Specification;
- (b) Operational structure, Personnel who are responsible for carrying out the Services and their reporting lines;
- (c) Key responsibilities, including the name and contact details (direct phone, fax, email address, mobile number etc.) of Contractor's Representative and alternative contacts (when the officer is not available);
- (d) Communication Protocol, detailing conditions when and who to contact from State Transit and the Contractor;
- (e) A listing of all procedures and work instructions pertaining to this Contract including the method for identifying risks and its communication; and
- (f) A list of all personnel that have attended State Transit Site induction for Contractors in accordance with clause C8.

C6.2 Review of Contract Plan:

The State Transit Representative will:

- (a) Within 28 days of receipt of the draft Contract Plan, review the Contract Plan prepared and submitted by the Contractor pursuant to clause B6.1; and
 - (i) where the Contract Plan is acceptable, accept the Contract Plan, or
 - (ii) where the Contract Plan is unacceptable, direct revision to the Contract Plan if, in State Transit's reasonable opinion, the Contract Plan does not comply with the requirements of the Contract.
- (b) If any Contract Plan is revised, the Contractor must submit amended Contract Plan to the State Transit Representative, in which case the

process in this clause will be reapplied to the amended Contract Plan.

- (c) No review of, comments upon, or failure to review or comment upon any Contract Material prepared by the Contractor or any other direction by the State Transit Representative about the Contract Material will:
 - (i) relieve the Contractor from, or alter or affect, the Contractor's liability or responsibilities whether under the Contract or otherwise according to law; or
 - (ii) prejudice State Transit's rights against the Contractor whether under the Contract or otherwise according to law.

C7 CONTRACT ADMINISTRATION AND MANAGEMENT

C7.1 State Transit will undertake ongoing administration and management of the Contract in accordance with the key result areas (KRAs) below and in accordance with the key performance indicators (KPIs) in Attachment 3 to Part C:

- (a) Response times;
- (b) Information collection for reporting; and
- (c) Accuracy of invoices including recording accurate bus registration numbers against the Services.

C7.2 The Contractor's Representative must attend performance management meetings (at State Transit premises) at least on a quarterly basis in addition to any ad-hoc meetings requested by State Transit.

C7.3 The quarterly meetings in accordance with clause C7.2 must take place within a fortnight of the end date of each quarter.

C7.4 Annual Performance reviews of the Contractor will be conducted to ensure that the provision of the Services meets budget and performance standards. Contractor will be required to attend a meeting to discuss any unsatisfactory performance. A copy of the performance review checklist and the template for measuring Contractor performance is in Attachment 4 to Part C.

C7.5 Contractors will be able to seek feedback as to their performance of Services undertaken.

C8 INDUCTION AND TRAINING FOR CONTRACTOR'S PERSONNEL

C8.1 The Contractor must create training records for all its Personnel in accordance with clause B5.3 and ensure they are maintained during the Contract Term in accordance with clause C3 and C5(a)(ii).

C8.2 Any related induction (including Site Induction in accordance with Attachment 1 to Part B) and training provided by a third party must also be recorded in accordance with clause C8.1 and made available to State Transit upon request.

C9 ENVIRONMENTAL REQUIREMENTS

C9.1 The Contractor must comply with the Waste Avoidance and Resource Recovery Act 2001 and all relevant environmental legislation, regulations and State Transit requirements in accordance with the Contract.

C9.2 The Services must be carried out in such a manner to avoid nuisance and/ or damage to the environment and non compliance with legislation.

C10 WORK HEALTH AND SAFETY

C10.1 Safety Management System (SMS) Review

- (a) The Contractor must implement a comprehensive Work Health and Safety Plan which ensures compliance with all duties of an employer and "principal contractor" as specified in the relevant Work Health and Safety (WHS) legislation for the duration of the Contract.
- (b) The Contractor shall, three (3) weeks before the Commencement Date for Services submit for review a draft SMS Plan. The SMS Plan shall include:
 - (i) Statement of Services to be undertaken by the Contractor;
 - (ii) The Contractor's Health and Safety policy, organisation and arrangements for safety including persons responsible for monitoring and reporting the Contractor's safety performance;
 - (iii) Safety procedures including management of hazardous substances and dangerous goods, safety of the Site and adjacent properties etc.;
 - (iv) A broad risk assessment for the Services to be performed under the Contract accompanied by specific Safe Work Method Statements which outline processes to be undertaken in carrying out the Services which should be based on Contract requirements including identifying new risks and Site inspection where required;
 - (v) Contract induction and WHS training/ competencies including licence requirements;
 - (vi) Hazard reporting and workplace inspection schedule;
 - (vii) Consultation procedures to be followed;
 - (viii) Incident recording and investigation procedures to be in place;
 - (ix) Emergency procedures to be followed; and
 - (x) WHS performance monitoring arrangements to be implemented.
- (c) The SMS Plan must be Contract specific and must adequately address all WHS issues in relation to this Contract.
- (d) Within one week of receiving the Contractor's draft SMS Plan, State Transit will review the plan and inform the Contractor of any changes it requires to be made.
- (e) Within one week of receiving State Transit's information under clause C10.1(d) above, the Contractor shall incorporate State Transit's required changes and forward a final SMS Plan.

C10.2 The Contractor must, when requested by State Transit, provide evidence of ongoing performance of their SMS Review. Without limiting this obligation, the

Contractor shall provide to State Transit the following information on a monthly basis, in the form of a Contractor WHS performance report:

- (a) Number of lost time injuries;
- (b) Working days lost due to injury;
- (c) Number of hazard reports/ inspections for the month based on the risk assessments undertaken for Services on the fleet in accordance with clause C10.1(b)(iv);
- (d) Current status of any injured personnel, damaged property, environmental damage or pollution;
- (e) Status of the implementation and outcomes of corrective actions undertaken as a result of WHS inspections, hazard reports, incidents and Safe Work Method Statement.

C10.3 The Contractor shall when requested by State Transit provide reports on WHS performance monitoring, WHS inspections, checks or assessments undertaken during the performance of the Services under the Contract.

C10.4 The Contractor will be able to seek feedback as to their performance as and when required, to assist with continuous improvement of the Services.

C11 PROVISION OF SERVICES AFTER CONTRACT TERM

C11.1 If the Contractor continues to provide the Services to State Transit after the expiry of the Contract Term at the request of State Transit, the terms of the Contract will continue to apply in respect of those Services until the continued provision of the Services is terminated by either party giving reasonable written notice to the other or as provided in the Contract.

C12 HANDOVER PERIOD

C12.1 To assist in the continuity of the Services, upon expiration of the Contract Term the Contractor will be required to transfer, in confidence, all relevant data, documentation, findings and reports pertaining to the Contract as nominated by State Transit.

ATTACHMENT 1**CNG Bus Details as at July 2015**

Table 1: CNG bus numbers per location by model

Depot	Bus Type			Total
	Mercedes O405nh	Mercedes OC500le	Scania L113crb	
Leichhardt	47	69	50	166
Port Botany	132	46	0	178
Ryde	70	83	24	177
Waverley	50	56	26	132
Total Fleet	299	254	100	653

Table 2: STA Gas Cylinder by Location

Depot	Bus Type			Total
	Mercedes O405nh	Mercedes OC500le	Scania L113crb	
Leichhardt	293	483	400	4452
Port Botany	833	322	0	
Ryde	419	581	192	
Waverley	329	392	208	
Total Fleet	1874	1778	800	

Each Mercedes bus is fitted with 6 or 7 roof mounted Mannesmann type II CNG Cylinders and Each Scania bus is fitted with 8 Faber type II Cylinders, mounted under chassis.

Table 3 STA Buses fitted with Mannesmann Cylinders

Depot	Number of Buses	165litre Cylinder	115litre Cylinder	
Leichhardt	116	545	231	776
Port Botany	178	814	341	1155
Ryde	153	709	291	1000
Waverley	106	512	209	721
Total Fleet	553	2580	1072	3652

Table 4 STA Buses fitted with Faber Cylinders

Depot	Number of Buses	100litre Cylinder	Cylinders per Bus
Leichhardt	50	400	8
Port Botany	0	0	0
Ryde	24	192	8
Waverley	26	208	8
Total Fleet	100	800	

ATTACHMENT 2
Sample Templates - Quarterly Condition Report

STA Depot	Bus Fleet Number	Scheduled Services Due Date	Actual Service Date	Purchase Order & Work Order Numbers	Gas Cylinder Serial Numbers	Gas Cylinder end of life date	Last Inspection Date	Next due date for inspection	Name of personnel who carried out the Services	Invoice Number for the Services	Comments
Port Botany											(i.e. any irregularities/corrosion monitoring identified by the serial number)

Scheduled Services



ATTACHMENT 3

Key Performance Indicators (KPIs)

KRAs	KPIs	Measurement		
		Year1	Year2	Year3
Timeliness of reports	Submit all reports on time in accordance with and including clause C5	Submit all reports on time 95% of the time in accordance with and including clause C5	Submit all reports on time 96% of the time in accordance with and including clause C5	Submit all reports on time 97% of the time in accordance with and including clause C5
Accuracy of data submitted and reports provided to State Transit	Accuracy of reports and accurate collection of data for reports	95% of the information collected and reported in the first year of the Contract is accurate	96% of the information collected and reported in the second year of the Contract is accurate	97% of the information collected and reported in the third year of the Contract are accurate
Accuracy of invoices	Submission of correct invoices (in accordance with clause B 8.1(b))	95% of invoices submitted in the first year are accurate	96% of invoices submitted in the second year are accurate	97% of invoices submitted in the third year are accurate



ATTACHMENT 4 to PART C
Contractor Performance Report

Report No.	[Insert report no.]
Reporting Period	From: XX/XX/XXXX To: XX/XX/XXXX
Contract Completion Final Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
Report By + Date	[Insert name + XX/XX/XXXX]
Contract No. / Title	[insert Contract no. + title]
Contract Principle	<input type="checkbox"/> STA <input type="checkbox"/> Other: _____ If contract principle is other NSW government agency such as OFS, TfNSW, complete this table and attach performance measures documentation as defined in the Head Agreement in-lieu of the table below.
Contract Type	<input type="checkbox"/> Goods <input type="checkbox"/> Services <input type="checkbox"/> Works
Contractor Name	[Insert Contractor's name]
Contractor's Representative + Title	[Insert name + title]
Contract Award Date	XX/XX/XXXX
Contract Expiration Date	XX/XX/XXXX

Note:

[THE FOLLOWING TABLE SHOULD BE UPDATED FOR EACH CONTRACT TO REFLECT AND INCLUDE THE AGREED KEY PERFORMANCE INDICATORS AND PERFORMANCE MEASURES E.G. FORM 292 FOR CONTRACTS THAT WERE THE RESULT OF A TENDER PROCESS]

Ratings

Summarise contractor performance and *tick* the description which corresponds to the rating for each rating category.

Superior = Standard often exceeds the anticipated goods or services or level of performance required by the contract.

Acceptable = Standard often meets the required level of performance required by the contract.

Marginal = Mostly meets required level of performance by the contract but has some scope for improvement.

Unsatisfactory = Well below the required standard – does not meet the level of performance required by the contract.

Quality & Compliance to Specification	<input checked="" type="checkbox"/> Rating
Comments:	Superior
	Acceptable
	Marginal
	Unsatisfactory
Delivery – On Time	<input checked="" type="checkbox"/> Rating
Comments:	Superior
	Acceptable
	Marginal
	Unsatisfactory
Delivery – Correct Quantities	<input checked="" type="checkbox"/> Rating
Comments:	Superior
	Acceptable
	Marginal



	<input type="checkbox"/>	Unsatisfactory
Invoicing & Financial Performance	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Service from After Sales Team	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Documentation	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Response Time – Emergency	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Response Time – General	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
WHS Compliance (Ref: PROC 50.26)	<input checked="" type="checkbox"/>	Rating
Please consider:		Superior
<ul style="list-style-type: none"> • Has adequate consultation occurred between the Contractor and STA? • Has the Contractor provided all delivery documentation to STA? • Are all the Site WHS documents provided so far adequate and complete? • Has the Contractor complied with all site delivery requirements? • Have any serious safety issues been identified during the contract period? • Has the Contractor rectified identified safety issues? 		Acceptable
		Marginal
Comments:		Unsatisfactory
Environmental Compliance	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Account Management	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory
Commercial Compliance	<input checked="" type="checkbox"/>	Rating
Comments:		Superior
		Acceptable
		Marginal
		Unsatisfactory



Overall Comment

Is the contract considered to be delivering value-for-money?		YES	NO
If this is the Final Report, would you recommend selection of this Contractor again?		YES	NO
Overall Performance			

Communication with Supplier/ Contractor

Were assessments fully explained and additional information provided if requested?		YES	NO
Comments (attach meeting minutes, file note of discussion etc):			
Contractor's feedback on State Transit's performance / contribution to the contract:			
Agreed Actions:	Responsible Person	Due Date	
1.			
2.			
3.			
4.			
5.			

Contract Manager

Contract Manager			
Signature		Date	



Transport
State Transit

Part D Schedule 1

Rates in accordance with clauses B4, C1 and C2

Item	Description	Rate (per Hr) for a 3 yr Initial Contract Period	Rate (per Hr) for a 4 yr Initial Contract Period	Assumptions and comments made in calculations (Rate per hour for the first year of the contract)
1	Services in accordance with clauses C1 and C2 during normal working hours	GIPA Act s.14, Table 4		
2	Services in accordance with clauses C1 and C2 out of normal working hours			
3	Labour Rate for any variations			
4	Technical assistance with any future design features as per clause C1.13(b)			

GIPA Act s.14, Table 3(a)



Part D Schedule 1

Repair and Replacement Times in accordance with clauses C1 and C2		
Item	Part Description Mercedes	Time (minutes)
1	Cylinder (165wc or 115wc)	GIPA Act s.14, Table 4
2	High Pressure Regulator	
3	Lock off Valve	
4	Fill Valve	
5	Injector Block (replace injectors)	
6	Pressure Relief Valve	
7	Hose Idle Valve to Mixer	
8	Shut-off Cable	
9	CNG Tags on Number Plate	
10	Canopy Bonnet Hook	
11	Hose H.P. Regulator to Idle Valve	
12	Impco Pipe	
13	Intermediate Pipe at HP "T" connection to Impco Pipe Joint	
14	Cylinder Clamp Rubber inserts	
15	Helicoil	
16	R10 Nuts (0500)	
17	Smoke leaks - Repairs	
18	Cylinder Valve	
19	Battery 150 switch	
20	Corrosion Removal & Monitoring	
21	R&R Morse Cable	

GIPA Act s.14, Table 3(a)



Part D Schedule 1

Firm Prices in accordance with clauses B4, C1 and C2 for Services

Item	Initial Contract Period and Service Arrangements	Annual Rate per bus for Services during Working Hours for the first year (Lump Sum Price per bus)	Assumptions and comments made in calculations
1	6 Monthly Bus Inspection	GIPA Act s.14, Table 4	
2	12 Monthly Bus and Cylinder Certification (at Contractor premises)		
3	Smoke Test 6 and 12 month (per test)		
4	12 Monthly Bus and Cylinder Certification (at State Transit)		
5	Hydrostatic Test per Cylinder		
6	Cylinder Hydrostatic Tests Mercedes O405nh & OC500le per bus with R&R Cradle (7 cylinders)		
7	Cylinder Hydrostatic Tests Mercedes O405nh & OC500le per bus with R&R Cradle (6 cylinders)		
8	Cylinder Hydrostatic Tests Scania per bus with R&R Cradle		
9	Cylinder destruction & disposal (per cylinder)		
10	Pick up and return bus to depot		
11	Decommissioning a Mercedes O405nh Bus		

GIPA Act s.14, Table 3(a)



Prices for Spare Parts in accordance with clauses C1.15

Item	Description	Part Number	Price Each
1	10mm Manifold Pipe		
2	12mm Manifold Pipe		
3	12mm "T" to Manifold		
4	0500 Fil Valve Pipe		
5	Engine Supple Pipe - Impco		
6	Impco Pipe thru B/Head		
7	0405NH "S" Pipe		
8	0500LE "Z" Pipe		
9	Bonnet Hook (per hook)		
10	Step down Pipe #6		
11	Step down Pipe #7		
12	16mm T Union		
13	Manifold Pipe - Modified		
14	Adaptor - Cylinder Valve		
15	Elbo to stepped motor		
16	0500 Shut Off Valve		
17	0405NH 1/4 Turn Valve		
18	Kit for A 1/4 Turn Isolation		
19	Cylinder Clamp STA Bus		
20	Cylinder Clamp STA Bus		
21	Scania Isolation Valve		

GIPA Act s.14, Table 4

GIPA Act s.14, Table 3(a)

SCHEDULE 2 – CONTRACTOR’S ORGANISATION

A. COMPANY AND FINANCIAL INFORMATION

(a)

GIPA Act s.14, Table 4

(b)

(c)

(d)

B. INSURANCE

(a) The Contractor will maintain the following types of insurance and the limits during the Contract Term:

(i)

Type of Insurance	Public/Product Liability Insurance
Name of Insurer	GIPA Act s.14, Table 4
Policy Number	
Limit of Liability	
Insurance validity (expiry)	
Compliance	

(ii)

Type of Insurance	Workers Compensation Insurance
Name of Insurer	GIPA Act s.14, Table 4
Policy Number	
Limit of Liability	
Insurance validity (expiry)	
Compliance	

C. PRICE ADJUSTMENT

a) The Contractor has confirmed compliance with clause B9 of the Conditions of Contract regarding price adjustment.

SCHEDULE 3 – ENVIRONMENTAL MANAGEMENT, INDUSTRIAL RELATIONS, QUALITY MANAGEMENT AND SAFETY MANAGEMENT SYSTEM

The Contractor must provide details of its policies, procedures and manuals and state compliance with the requirements of the Contract and legislation if any information relating to the following submitted on 24 August 2015 changes during the Contract Term:

A. ENVIRONMENTAL MANAGEMENT

- Recycled material content
- Waste avoidance
- Elimination of virgin materials
- Product re-useability
- Recyclability
- Energy and efficiency
- Nature and amount of emissions to air and water, and solid waste to landfill
- Use of environmentally preferred product

B. ENVIRONMENTAL MANAGEMENT AND SUSTAINABILITY

Question

GIPA Act s.14, Table 4

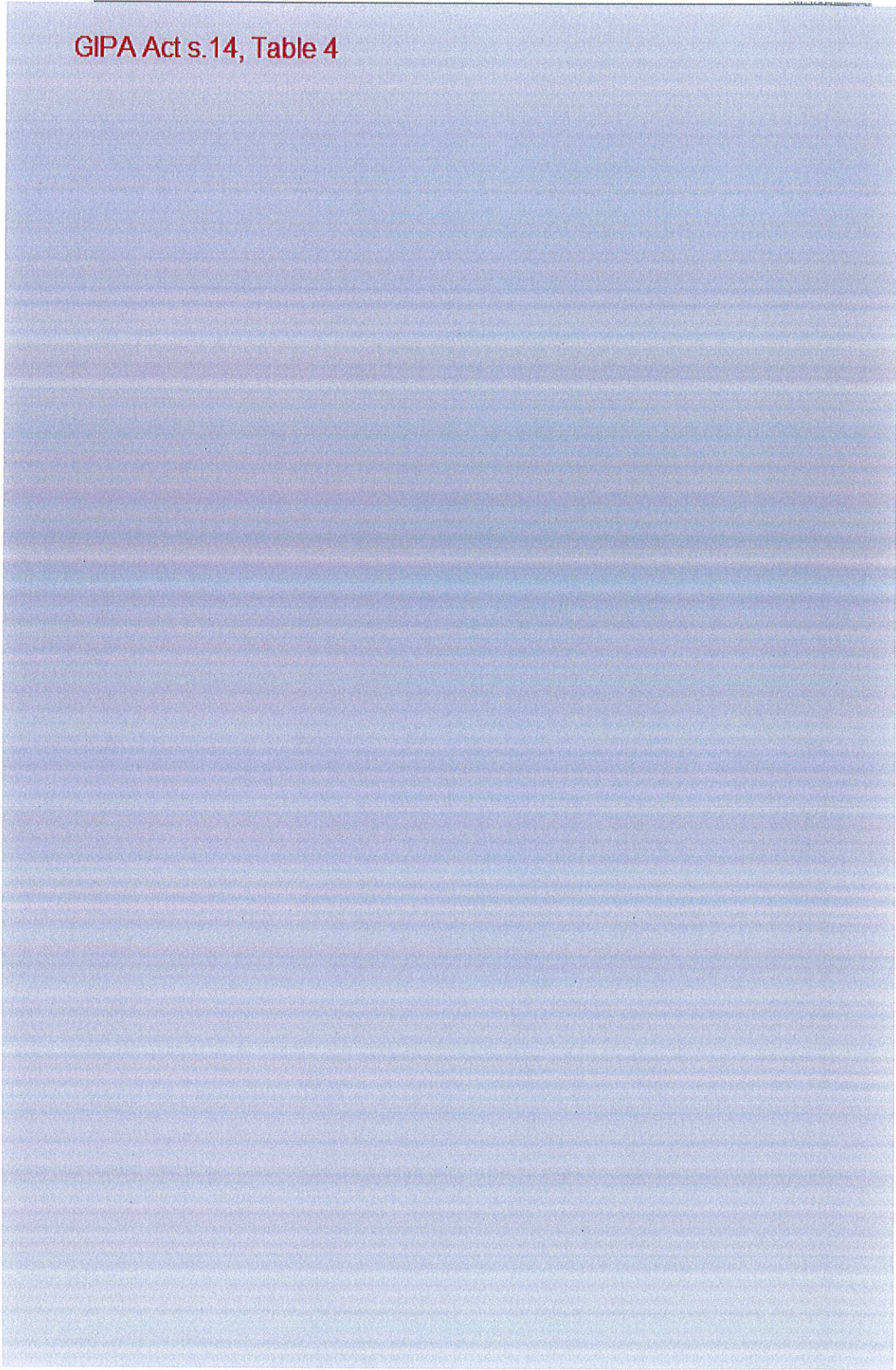
GIPA Act s.14, Table 4

Provide comments as appropriate.

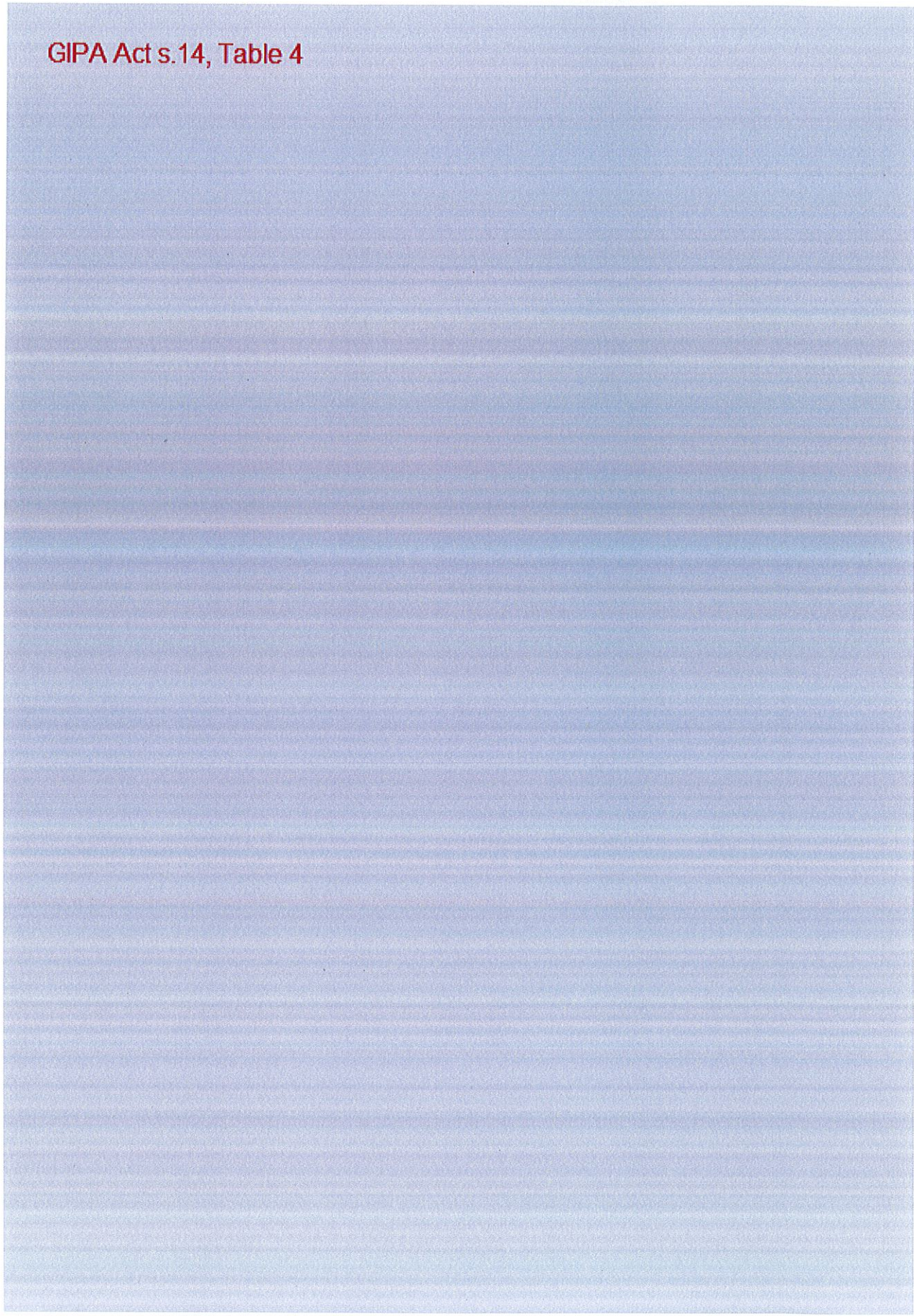
GIPA Act s.14, Table 3(a)

GIPA Act s.14, Table 4

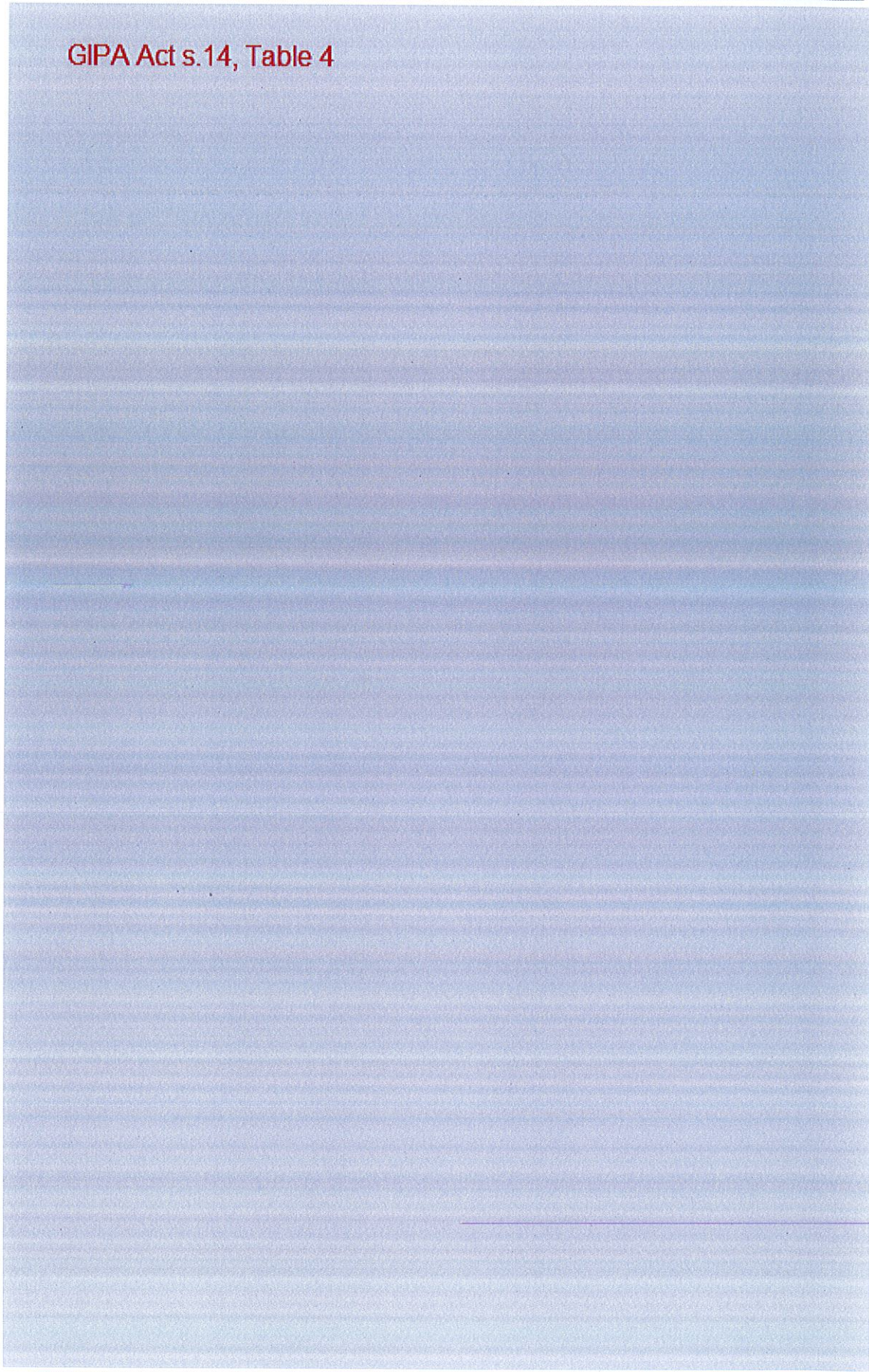
GIPA Act s.14, Table 4



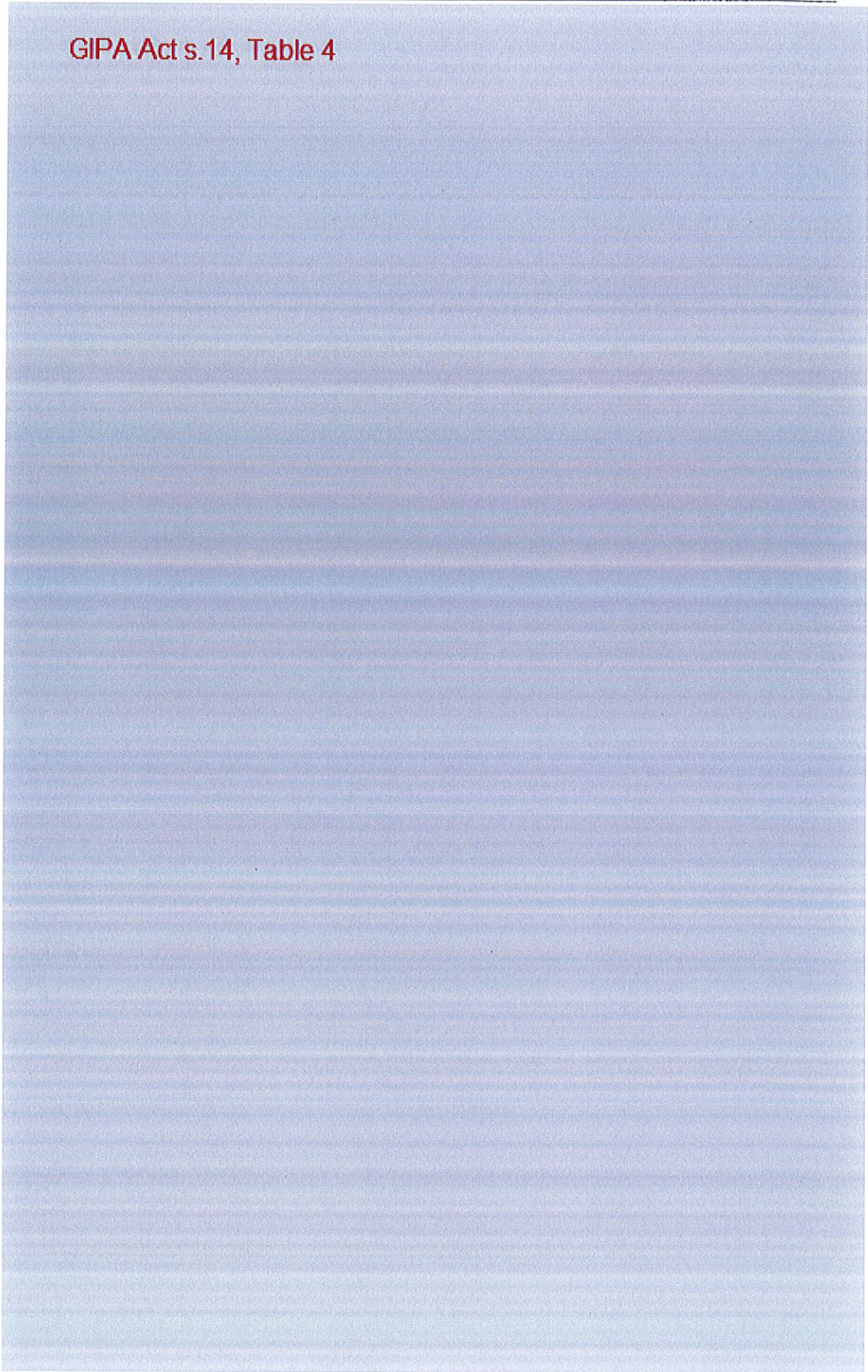
GIPA Act s.14, Table 4



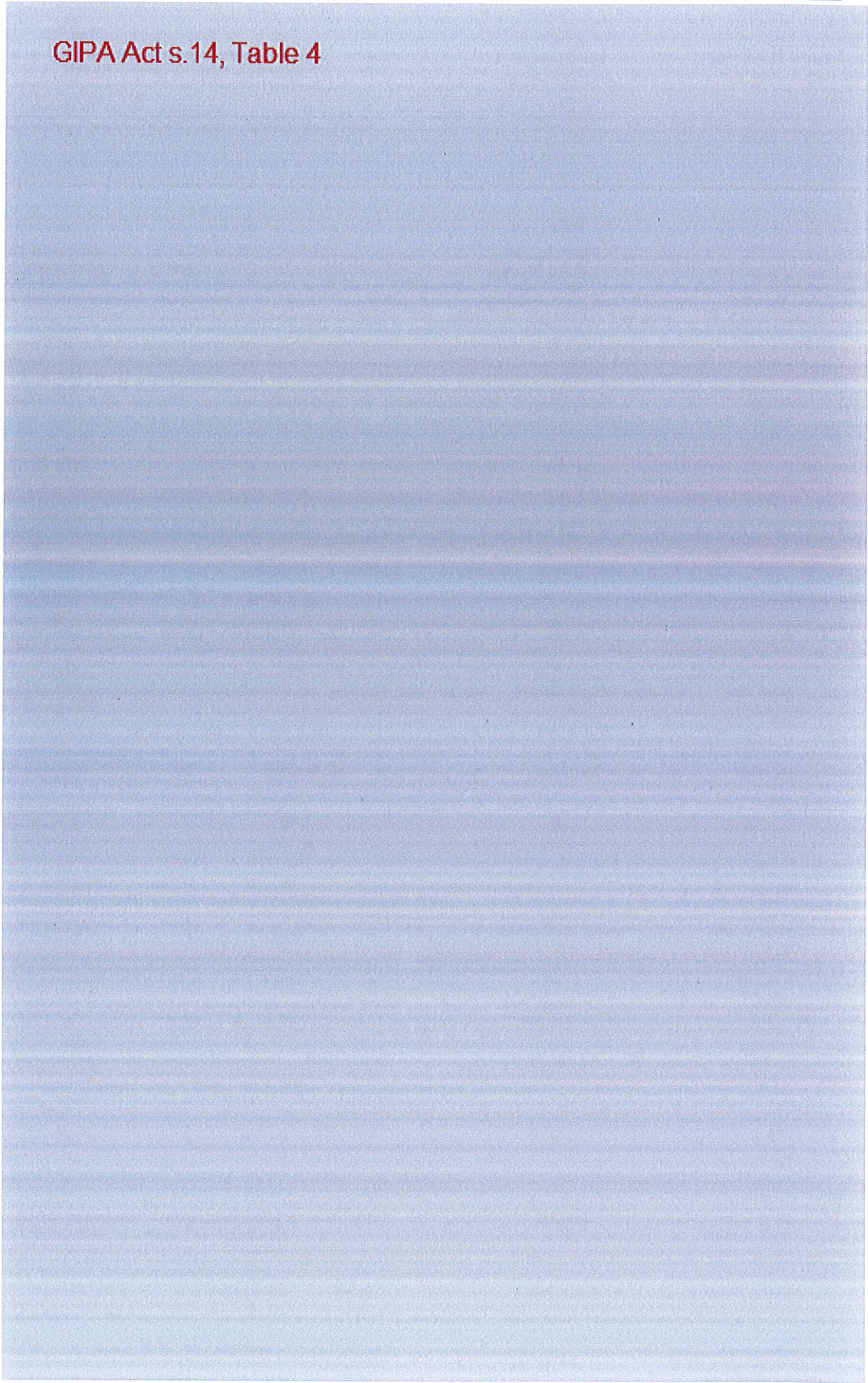
GIPA Act s.14, Table 4



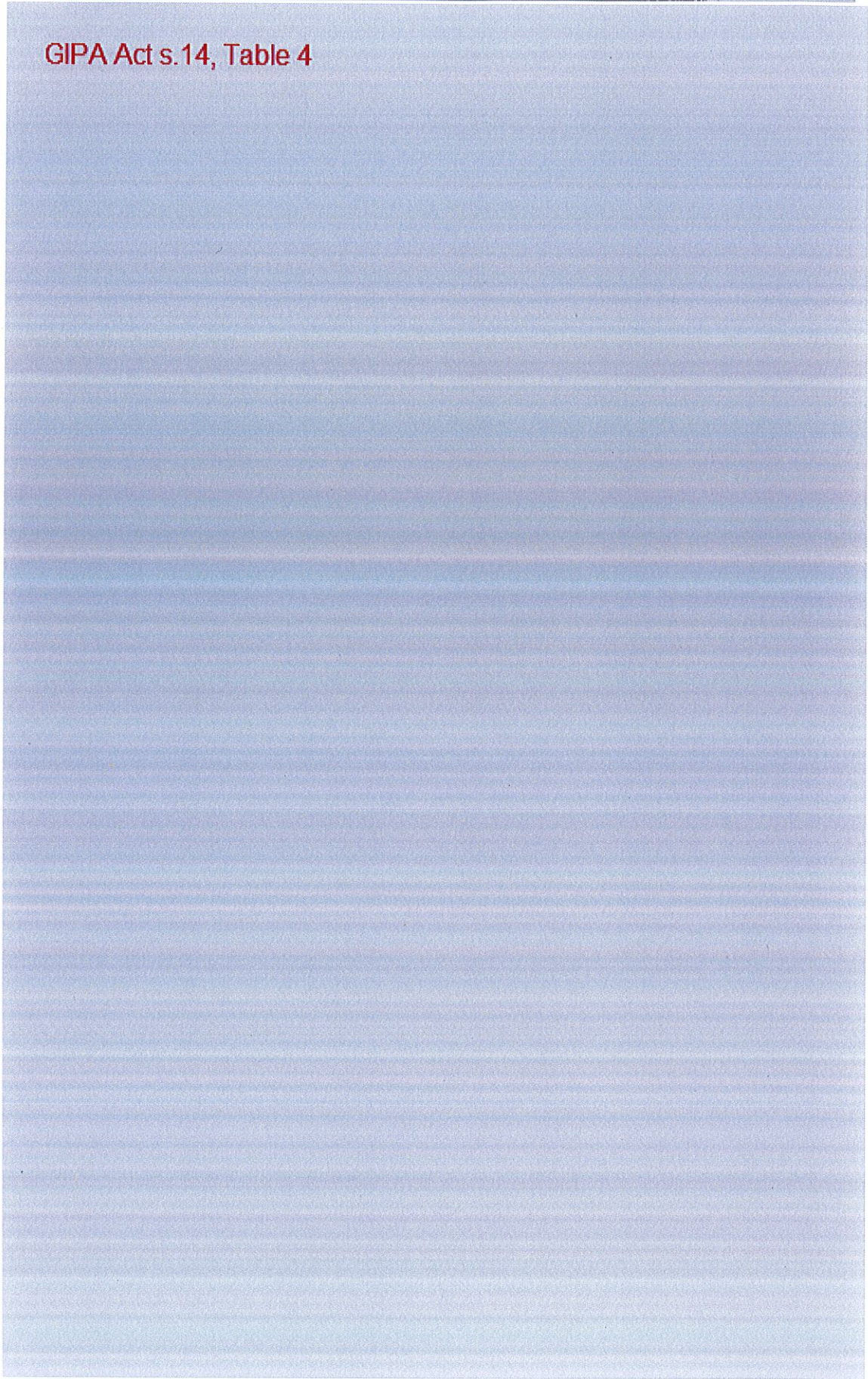
GIPA Act s.14, Table 4



GIPA Act s.14, Table 4



GIPA Act s.14, Table 4



GIPA Act s.14, Table 4

GIPA Act s.14, Table 4

