

6.3 Performance Benchmarks

- (a) For the purposes of Clause 6.2, the Operator must achieve the following performance benchmarks at the end of the fourth Contract Year (**Performance Benchmarks**):
- (i) during the second, third and fourth Contract Years the Operator has not:
 - (A) breached two or more Class 1 Key Performance Indicators, or a Class 1 Key Performance Indicator on more than one occasion during any six month period; or
 - (B) breached three or more Class 1 Key Performance Indicators, or a Class 1 Key Performance Indicator on more than three occasions during any 12 month period;
 - (ii) there is no Non-Compliance Event under this Contract that has not been remedied or waived, or in respect of which the Operator is not diligently pursuing a cure, in accordance with the requirements of this Contract to the satisfaction of TfNSW; and
 - (iii) TfNSW has received written advice from RMS that, in the opinion of RMS there have been no material concerns regarding the Operator's safety record during the first four Contract Years.
- (b) TfNSW may waive any of the Performance Benchmarks or any non compliance with them.

6.4 No entitlement to new contract or extension of contract

- (a) Nothing in this Contract shall be construed as affording the Operator a right or expectation of any renewal or extension of this Contract or to provide, or be invited to provide the Operator Activities after the Term or any new Public Passenger Service during the Term.
- (b) A reference in this Contract to TfNSW's rights to conduct a procurement process for the performance of the Operator Activities on termination or expiry of this Contract includes the right to conduct a limited or open tender, engage in bilateral negotiation or award a service contract on any other basis and conditions whatsoever.

7. Performance Bonds

7.1 Performance Bonds

- (a) The Operator must, prior to the Planned Service Commencement Date, procure the issue to TfNSW of one or more performance bonds each of which:
- (i) is in the form of Attachment B;
 - (ii) is issued by an Issuer with the Required Rating and approved by TfNSW (which approval must not be unreasonably withheld);
 - (iii) has a face amount which, when aggregated with the face amount of any other performance bond provided under this Clause 7.1(a) (or any replacement provided under Clauses 7.2, 7.3 or 7.4), is no less than the General Performance Bond Amount;
 - (iv) is unconditional and irrevocable;
 - (v) expires no earlier than:
 - (A) 12 months after the end of the Term; or
 - (B) two years after the date it is issued to TfNSW; and
 - (vi) is issued, and available to be drawn at, an office of the Issuer in Sydney.
- (b) The Operator must, at least six months prior to the Expiry Date provide to TfNSW a performance bond for the amount referred to in Clause 48.1(c)(iv) (**Estimated Amount**) that complies with the requirements of Clauses 7.1(a)(i), (ii), (iv), (v) and (vi) (**Handback Security Bond**).