

Memorandum of Understanding

relating to

Airbus Express Service

Auckland Transport

and

Auckland Airbus Limited

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- between** (1) **Auckland Transport** of 6 Henderson Valley Road, Henderson, Auckland (“AT”)
- and** (2) **Auckland Airbus Limited** of Level 11, 191 Queen Street, Auckland 1010 (Company Number: 2446353) (“AAL”)

Introduction

- A. AT is a council controlled organisation established under section 38 of the Local Government (Auckland Council) Act 2009. AT’s purpose is to contribute to an effective and efficient land transport system to support Auckland’s social, economic, environmental and cultural well-being.
- B. AAL operates the “Airbus Express Service”, a service which was registered as a commercial public transport service under the Public Transport Management Act 2008. This public transport service is deemed to an exempt service under section 153 of the Land Transport Management Act 2003.
- C. The Airbus Express Service provides a connection service between Auckland Airport and Auckland CBD operating 7 days a week.
- D. Under this Memorandum, AT will provide AAL access to certain services including the use of AT’s real time passenger information system (RTPI System), the Auckland Integrated Fares System and Integrated Ticketing System (AIFS) and marketing assistance for the Airbus Express Service. AT will also provide a bus stop at or around the Auckland Ferry Building or other similar high profile central location, as agreed between the parties.
- E. AAL will participate in the RTPI System and AIFS, provide the Airbus Express Service and otherwise comply with its obligations under this Memorandum.
- F. The Airbus Express Service currently operates from the Ferry Building, with both parties acknowledging that Britomart is currently at capacity.

It is agreed

1. Definitions and interpretation

1.1 Definitions

In this Memorandum, unless the context otherwise requires:

Airbus Express Service means the airbus service, and any route variation under clause 4.2, currently provided by AAL (and registered to AAL under an exempt service registration under the LTMA) from the Ferry Building Stop to the Airport Stop;

Airport Area means the area under the direct control of Auckland International Airport Limited;

Airport Stop means the bus stops located at Auckland International Airport next to its Domestic and International Terminals or such other stop within the Airport Area as may be

determined, for the collection and disembarking of passengers for the Airbus Express Service;

AIFS means the Auckland Integrated Fares System owned and operated by AT which allows travel using a prepay smartcard to purchase a ticket for public transport services in the Auckland public transport network;

Britomart means the Britomart Transport Centre;

Britomart Surrounds means the area bounded by Customs Street, Commerce Street, Quay Street and Lower Albert Street;

Commencement Date means the date this Memorandum becomes unconditional in accordance with clause 2.1;

Customer Feedback System means AT's preferred customer feedback management system under licence to AT;

Event of Default in relation to AT or AAL (**either party**) means when:

- (a) any one of the directors of either party are disqualified under section 383 of the Companies Act 1993;
- (b) either party goes into receivership or has a receiver, trustee and manager (or either of them) (including a Statutory Manager) appointed in respect of all or any of its property; or
- (c) either party suspends payment of its debts generally;
- (d) either party is or becomes unable to pay its debts when they are due or is or becomes unable to pay its debts or is presumed to be unable to pay its debts as they fall due, in terms of section 287 of the Companies Act 1993;
- (e) either party enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of its creditors or any class of them;
- (f) either party ceases to carry on business or threatens to cease to carry on business; or
- (g) any resolution is passed or any proceeding is commenced for the winding up or liquidation of either party (whether on a voluntary or involuntary basis), otherwise than for the purpose of an amalgamation or reconstruction that has the prior written consent of the other party;

Ferry Building Stop means the bus terminus located at the Auckland Ferry Building, 99 Quay Street or other location determined by AT in consultation with AAL;

LTMA means the Land Transport Management Act 2003;

Memorandum means this memorandum of understanding;

Reporting Obligations means the reporting standards and obligations set out in schedule 1 or such other standards and obligations as may be agreed between the parties ;

RTPI System means a real time passenger information system, owned and operated by AT, used to enable public transport service vehicles to communicate their position to a city's traffic signals system; and

Route means the route and timetable, to be used from the Commencement Date, set out in schedule 2, for the Airbus Express Service.

1.2 Interpretation

In this Memorandum, unless the context otherwise requires:

- (a) a law includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure, in each case of any relevant jurisdiction (and lawful and unlawful shall be construed accordingly);
- (b) a party referred to in this Memorandum includes any individual natural person, company, corporation, partnership, joint venture, association (whether corporate or unincorporated), trust, organisation, Government department, Minister of the Crown, state or agency of a state (in each case, whether or not having separate legal personality), and includes that party's executors, administrators, successors and permitted assigns;
- (c) headings to clauses are for reference only and are not an aid in interpretation.
- (d) references to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.
- (e) references to clauses or schedules are to clauses of or schedules to this Memorandum, and any schedules referred to form part of this Memorandum.
- (f) words importing the plural include the singular and vice versa.
- (g) any obligation not to do something will be deemed to include an obligation not to suffer, permit or cause that thing to be done.

2. Term

- 2.1 Subject to clause 2.1, this Memorandum shall commence on the Commencement Date and shall, expire on 30 June 2016 (unless terminated earlier in accordance with clause 6).

3. AAL's obligations

3.1 AAL will:

- (a) comply with the Reporting Obligations. In complying with the Reporting Obligations, AAL is not required to provide AT with access to AAL's information technology systems, other than access to any other automated reporting agreed between the parties;
- (b) use the AT contact centre for customer enquires about the Airbus Express Service, and pay the relevant charges to AT in accordance with schedule 3. AAL will retain the opportunity to regularly update KBase information held by AT;
- (c) use the Customer Feedback System on the Airbus Express Service. AT will (at its cost) enable the use of its Customer Feedback System for the term of this Memorandum;

- (d) operate the Airbus Express Service using vehicles that comply with the Vehicle Quality Standards specified by AT from time to time; and
- (e) notify AT as soon as reasonably practicable if any accident or event that has caused harm or serious harm to any property or person (including any AAL or AT personnel), or is likely to attract media attention. AAL will provide to AT a report within 5 working days of the date of the relevant accident or event notifying:
 - (i) the circumstances relating to, and reason for the accident or event; and
 - (ii) steps taken AAL to mitigate to avoid similar accidents or events occurring in the future.
- (f) in order to facilitate its participation in AIFS, comply with schedules 4 (AIFS participation) and 5 (Bus Solution lease).

4. **AT's obligations**

- 4.1 AT will allocate availability to AAL at a joint agreed high profile central city Stop from the Commencement Date for the purpose of operating the Airbus Express Service, for so long as AAL complies with its obligations under this Memorandum.
- 4.2 AT reserves the right on 90 days prior written notice to AAL to move Stop within the central city from time to time. If the location of the stop is changed (other than short-term changes of bus stop location arising from special events or service disruptions), then AAL will give notice of a variation to the route of the Airbus Express Service under section 133 of the LTMA.
- 4.3 AT will, for so long as AAL complies with its obligations under this Memorandum:
 - (a) allow AAL to participate in the RTPi System for the Airbus Express Service; and
 - (b) comply with schedules 4 (AIFS participation) and 5 (Bus Solution lease).

AT will provide access (as available to contracted public transport service operators) to AAL to be able to view information from the RTPi System as well as providing access to data contained in the AT Data Warehouse relating to AAL performance. AT will ensure that any data relating to AAL will be kept confidential, not disclosed (unless required by law or any regulatory authority) to any other AT supplier, customer or public forum. Such data will be used for performance reporting and network planning.
- 4.4 AT has incorporated the Airbus Express Service into the AT Regional Public Transport Plan, and customer information, communications and marketing plans including AT's internet based regional journey planner as agreed in schedule 3.
- 4.5 AT shall have royalty free use of AAL's trade marks (if any) in relation to the Airbus Express Service for the purposes of this Memorandum. Other than standard service operations, AT will require written approval from AAL prior to publication of content relating to AAL or its services.

5. Marketing and branding

- 5.1 The parties agree to work together, as reasonably required to co-operate in good faith to introduce suitable marketing and ticketing promotions.
- 5.2 AT and AAL agree to co-operate in good faith to market and promote the Airbus Express Service and AIFS within the framework of the functions and responsibilities of AT.
- 5.3 Both parties will collaborate to develop and deliver a joint annual marketing plan within three months from the Commencement Date that includes:
- (a) the customer information, communications and marketing information specified in schedule 3;
 - (b) AT's growth and other targets for public transport;
 - (c) joint projects; and
 - (d) any other annual initiatives that are agreed between the parties.
- 5.4 AAL will commit an annual budget up to \$20,000 to support planned joint projects under the joint annual marketing plan. AT will commit an annual budget of up to \$30,000 (with a minimum commitment of \$10,000) to support joint projects under the annual marketing plan. Where appropriate, AT will include AAL in its marketing and communication channels used to promote Auckland public transport and will facilitate cross-marketing of Airbus on other PT services and facilities.
- 5.5 AAL agrees to incorporate the AT branding methodology onto the livery of its bus fleet. As a commercial service operating a niche route, AAL will retain differentiated colouring and its own logo identity. The sizing and placement of the livery will be subject to AAL's existing external agreements.

6. Termination

- 6.1 Without restricting clause 6.2, AT may terminate this Memorandum, without compensation payable to AAL, if:
- (a) AAL proposes any change to the Airbus Express Service that AT considers, either separately or together with other changes or proposed changes, is or is likely to result in, a reduction in the quality of service, including in relation to timetabled services, real or perceived journey length, inconvenience to the travelling public and reliability as at the date of this Memorandum; or
 - (b) AAL fails to act reasonably and in good faith in co-operating in respect of the matters referred to in clause 3; or
 - (c) AAL is unable or unwilling to accept any change in service standard or frequency reasonably required by AT. As necessary, AT and AAL will negotiate commercial changes that may arise from an increase in service or frequency – should AAL require a subsidy to run an increased service or frequency this Memorandum will be terminated and replaced by the standard AT Contract in force at the time. For the sake of clarity, AAL would have first right of refusal should AT increase standards or frequency in this existing MoU, subject to the requirements of the LTMA if applicable.
- 6.2 Without restricting clause 6.3, AAL may terminate this Memorandum if:

- (a) AT identifies the Route from the Auckland City to the Airport Stop as integral to the public transport network requiring the relevant service to be provided under contract for a unit (as defined in the LTMA) and AAL withdraws the Airbus Express Service in accordance with section 139 of the LTMA; or
- (b) another operator registers an exempt service under section 133 of the LTMA that operates on a route which is the same or substantially similar to the Route.

6.3 Either party may terminate this Memorandum without compensation if:

- (a) there is a breach by the other party of this Memorandum which is not remedied (if capable of remedy) within 20 working days of the receipt by that party specifying the breach and requiring remedy; or
- (b) an Event of Default occurs in relation to the other party.

6.4 If, subject to clause 6.5, AAL fails to meet the service performance standards set out in schedule 1 for any three consecutive months (or five out of any twelve consecutive month period) AT may terminate this Memorandum without compensation payable to AAL.

6.5 Clause 6.4 is subject to the following:

- (a) AT may not terminate the Memorandum under clause 6.4 unless, within 20 days after the end of the second month of the period of the three consecutive months referred to in clause 6.4, AT gives notice to AAL to the effect that it is considering terminating this Memorandum under clause 6.4; and
- (b) clause 6.4 does not apply if the failure by AAL to meet the service performance standards is caused or contributed to by circumstances beyond the reasonable control of AAL.

7. Dispute Resolution

7.1 Where any question, dispute or difference arises between the parties concerning or in any way arising out of this Memorandum or the performance of either party of this Memorandum, or of the circumstances, representations, and conduct giving rise thereto, no party may commence any court or arbitration proceedings relating to any question, dispute or difference unless that party has complied with the procedures set out in this clause.

- (a) The party initiating the question, dispute or difference (the **First Party**) must provide written notice of the same to the other party (the **Other Party**) and nominate in that notice the First Party's representative for the negotiations. The Other Party must within 5 working days give written notice to the First Party naming the Other Party's representative for the negotiations. Each representative nominated will have authority to settle or resolve the question, dispute or difference.
- (b) If the parties are unable to resolve the question, dispute or difference by discussion and negotiation within 5 working days of receipt of the written notice from the First Party, then the parties must immediately refer the question, dispute or difference to the respective executive officers.
- (c) If both parties are still unable to resolve the question, dispute or difference by discussion and negotiation within 5 working days of referral to the Chief Executive Officers, then the parties must immediately refer the question, dispute or difference to mediation.

- (d) The mediation must be conducted in terms of the LEADR New Zealand Inc. Standard Mediation Deed. The mediation must be conducted by a mediator and at a fee agreed by the parties. Failing agreement between the parties, the mediator will be selected and his/her fee determined by the Chair for the time being of LEADR New Zealand Inc.
- (e) If the dispute remains unresolved after the mediation, then the dispute must be submitted to the arbitration of a single arbitrator agreed on between the parties, or if the parties cannot agree then an arbitrator to be nominated by the President of the New Zealand Law Society. The arbitration will be conducted in accordance with the Arbitration Act 1996 and the provisions of the Second Schedule of that Act will apply. The parties reserve the right to appeal to the High Court on any question of law arising out of an award.

7.2 Nothing in clause 7.1 will prevent any party from taking immediate steps to seek urgent interlocutory relief before an appropriate court.

8. **Costs**

Each party will pay that party's own costs including the costs of legal advisers, valuers and consultants for professional services provided to that party relating to the negotiation, preparation, execution and carrying out of the provisions of this Memorandum.

9. **General**

9.1 Nothing contained in this Memorandum will be deemed or construed to constitute any party to be a partner, joint venture, agent or representative of any other party, or to create any trust or commercial partnership.

9.2 AAL may not transfer its rights and obligations under this Memorandum without the prior written consent of AT to any assignee, including anything which changes (or which AT reasonably believes changes):

- (a) the beneficial ownership of 50%, or more, of AAL's shares; or
- (b) the effective control of AAL;

with either of the above being deemed an assignment. Notwithstanding this, neither party may unreasonably withhold their consent and AT may, without consent, transfer its rights to any third party that is a Local Authority, Territorial Authority (as defined by the Local Government Act 2002) or any other authority or body created under any act or regulation.

9.3 If any provision of this Memorandum or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of this Memorandum and its application will not be affected and will remain enforceable to the greatest extent permitted by law.

9.4 This Memorandum contains all of the terms, representations and warranties made between the parties and supersedes all prior discussions, agreements and memoranda covering the subject matter of this Memorandum.

9.5 Each party must sign, execute and do all deeds, schedules, acts, documents and things as may be reasonably required by any other party effectively to cover out and give effect to the terms and intentions of this Memorandum.

- 9.6 No amendment to this Memorandum will be effective unless it is in writing and signed by all the parties.
- 9.7 No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.
- 9.8 Each party will use all reasonable endeavours to keep the other party informed of any issues that may have a bearing on the matters dealt with in this Memorandum.
- 9.9 The execution of this Memorandum by the parties creates binding legal obligations on the parties. The parties expressly record the fact that none of the matters dealt with in this Memorandum shall be of any legal effect unless and until this Memorandum has been executed by all parties.
- 9.10 In the event of any inconsistency between this Memorandum and any of the documents or agreements referred to in or required by this Memorandum the provisions of this Memorandum shall prevail.
- 9.11 None of the parties will make any public statement regarding this Memorandum or the status of the discussions between any of them. All terms of this Memorandum shall, so far as the law permits, remain confidential to each of the parties other than as is required to be disclosed by any act or regulation. AAL may not make any public statement in relation to this Memorandum or its relationship with AT, without prior consent of AT.
- 9.12 Nothing in this Memorandum shall in any way fetter or otherwise constrain AT in the proper exercise of any of its regulatory or legislative functions.
- 9.13 No party shall be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind suffered by another party arising directly or indirectly for any breach of a party's obligations under or in connection with this Memorandum or from any cancellation of this Memorandum or from any negligence, misrepresentation or other act or omission on the part of a party, its employees, agents or contractors.

Execution

Executed as an agreement

SIGNED for **Auckland Transport**
by:

Authorised Signatory

Print Name / and Date

Witness to signature

Print Name

Occupation

Address

SIGNED for **Auckland Airbus Limited**
by

Director

Print Name / and Date

Director/Authorised Signatory

Print Name / and Date

Witness to both signatures
(if not signed by two directors)

Print Name

Occupation

Address

Schedule 1: Reporting Obligations and Service Performance Standards

1. Service Performance Standards

1.1 The service performance standards for the Airbus Express Service are:

- (a) Punctuality: 95% of all scheduled trips operate from the first Stop within less than one minute early and less than five minutes late during normal traffic conditions;
- (b) Reliability: 99% of all scheduled trips operate from the first Stop within less than one minute early and less than ten minutes late during normal traffic conditions;
- (c) RAPID Registration Rates (using GPS tracking, not timing data):
 - (i) first stop: 90% or greater;
 - (ii) at any point: 99% or greater;
- (d) Customer satisfaction: 85% or greater as measured by the biennial customer satisfaction survey conducted through AT; and
- (e) Customer feedback and close out rates: 90% of customer feedback is resolved with 4 working days.

1.2 AAL's compliance with the service performance standards will be assessed on a monthly basis, with the results of each standard averaged over each day in that month.

1.3 Delivery against these standards will be discussed at an operational level each month and any failures will be noted against an action plan to be implemented. If a failure arises for a month, and continues for a second month, then that failure will be identified and escalated to an executive level for resolution.

2. Reporting Obligations

2.1 Reporting Obligations will be based on AT's Statement of Intent patronage growth in relation to AT's growth strategy (or as agreed between the parties).

2.2 All reporting of targets will be provided through the AT Data Warehouse.

Schedule 2: Route and Timetable

1. ROUTE DESCRIPTION

CITY TO AIRPORT:	
VIA MT EDEN RD:	VIA DOMINION RD:
<p>Depart Downtown Ferry Terminal (#7300), Queen Street, Karangahape Rd, Symonds Street Mt Eden Rd</p> <p><i>For the connection between Mt Eden Rd and SH20, Drivers alternate the route according to traffic conditions.</i></p> <ol style="list-style-type: none"> 1) Mount Albert Road, Hillsborough Rd 2) Warren Ave, Hayr Rd, Haughey Ave or Carr Rd, Hillsborough Rd <p>SH20 / South Western Motorway SH20A / George Bolt Memorial Drive Airport business precinct (TBC) Domestic Terminal International Terminal (#2008)</p>	<p>Depart Downtown Ferry Terminal (#7300), Queen Street, Karangahape Rd, Symonds Street New North Rd Dominion Road SH20 / South Western Motorway SH20A / George Bolt Memorial Drive Airport business precinct (TBC) Domestic Terminal International Terminal (#2008)</p>
AIRPORT TO CITY:	
VIA MT EDEN RD:	VIA DOMINION RD:
<p>Departing International Terminal (#2200) Domestic Terminal Airport business precinct (TBC) SH20A / George Bolt Memorial Drive SH20 / South Western Motorway</p> <p><i>To connect to Mt Eden Rd from SH20 Drivers alternate the route according to traffic conditions:</i></p> <p>Exit on Hillsborough Road,</p> <ol style="list-style-type: none"> 1) Mount Albert Rd 2) Carr Road, Hayr Rd, Warren Ave, <p>Mt Eden Road Symonds Street Wellesley Street East Queen Street Terminate at Downtown Ferry Terminal (#7300)</p>	<p>Departing International Terminal (#2200) Domestic Terminal Airport business precinct (TBC) SH20A / George Bolt Memorial Drive SH20 / South Western Motorway Exit on Dominion Rd Ian McKinnon Drive Upper Queen Street Queen Street Terminate at Downtown Ferry Terminal (#7300)</p>

2. TIMETABLE: AIRPORT TO CITY

Departure times from the Airport Stop to the Ferry Terminal Stop as follows:

AIRPORT TO CITY TIMETABLE*							
Monday to Friday				Saturday, Sunday plus Public Holidays			
via Mt Eden Road*		via Dominion Road*		via Mt Eden Road*		via Dominion Road*	
AM	PM	AM	PM	AM	PM	AM	PM
0:15	12:00	0:45	12:10	0:15	12:00	0:45	12:15
1:15	12:20	1:45	12:30	1:15	12:30	1:45	12:45
2:15	12:40	2:45	12:50	2:15	13:00	2:45	13:15
3:15	13:00	3:45	13:10	3:15	13:30	3:45	13:45
4:15	13:20	4:45	13:30	4:15	14:00	4:45	14:15
5:15	13:40	5:30	13:50	5:15	14:30	5:30	14:45
5:45	14:00	6:10	14:10	5:45	15:00	6:15	15:15
6:00	14:20	6:30	14:30	6:00	15:30	6:45	15:45
6:20	14:40	6:50	14:50	6:30	16:00	7:15	16:15
6:40	15:00	7:10	15:10	7:00	16:30	7:45	16:45
7:00	15:20	7:30	15:30	7:30	17:00	8:15	17:15
7:20	15:40	7:50	15:50	8:00	17:30	8:45	17:45
7:40	16:00	8:10	16:10	8:30	18:00	9:15	18:15
8:00	16:20	8:30	16:30	9:00	18:30	9:45	18:45
8:20	16:40	8:50	16:50	9:30	19:00	10:15	19:20
8:40	17:00	9:10	17:10	10:00	19:40	10:45	20:00
9:00	17:20	9:30	17:30	10:30	20:20	11:15	20:40
9:20	17:40	9:50	17:50	11:00	21:00	11:45	21:20
9:40	18:00	10:10	18:10	11:30	21:40		22:00
10:00	18:20	10:30	18:30		22:20		22:45
10:20	18:40	10:50	18:50		23:15		23:45
10:40	19:00	11:10	19:20				
11:00	19:40	11:30	20:00				
11:20	20:20	11:50	20:40				
11:40	21:00		21:20				
	21:40		22:00				
	22:20		22:45				
	23:15		23:45				

3. TIMETABLE: CITY TO AIRPORT

Departure times from the Ferry Terminal Stop to the Airport Stop as follows:

Timetable departing from Auckland City							
Monday to Friday				Saturday, Sunday plus Public Holidays			
via Mt Eden Road*		via Dominion Road*		via Mt Eden Road*		via Dominion Road*	
AM	PM	AM	PM	AM	PM	AM	PM
0:00	12:20	0:30	12:10	0:00	12:20	0:30	12:05
1:00	12:40	1:30	12:30	1:00	12:50	1:30	12:35
2:00	13:00	2:30	12:50	2:00	13:20	2:30	13:05
3:00	13:20	3:30	13:10	3:00	13:50	3:30	13:35
4:00	13:40	4:30	13:30	4:00	14:20	4:30	14:05
5:00	14:00	5:30	13:50	5:00	14:50	5:30	14:35
6:00	14:20	6:30	14:10	6:05	15:20	6:35	15:05
6:15	14:40	7:00	14:30	6:20	15:50	7:05	15:35
6:45	15:00	7:30	14:50	6:50	16:20	7:35	16:05
7:15	15:20	7:50	15:10	7:20	16:50	8:05	16:35
7:40	15:40	8:10	15:30	7:50	17:20	8:35	17:05
8:00	16:00	8:30	15:50	8:20	17:50	9:05	17:35
8:20	16:20	8:50	16:10	8:50	18:20	9:35	18:05
8:40	16:40	9:10	16:30	9:20	18:50	10:05	18:35
9:00	17:00	9:30	16:50	9:50	19:20	10:35	19:05
9:20	17:20	9:50	17:10	10:20	19:50	11:05	19:35
9:40	17:40	10:10	17:30	10:50	20:30	11:35	20:10
10:00	18:00	10:30	17:50	11:20	21:10		20:50
10:20	18:20	10:50	18:10	11:50	21:50		21:30
10:40	18:40	11:10	18:30		22:30		22:05
11:00	19:00	11:30	18:50		23:10		22:50
11:20	19:20	11:50	19:10				23:30
11:40	19:40		19:30				
12:00	20:00		19:50				
	20:30		20:10				
	21:10		20:50				
	21:50		21:30				
	22:30		22:10				
	23:10		22:50				
			23:35				

*Services may vary from timetabled services due to traffic, road conditions and other unplanned circumstances.

Schedule 3: Customer Information, Communications and Marketing (CICM)

1. Annual joint marketing plan

The joint annual marketing plan to be developed in accordance with clause 6.3 will include the following customer information, communications and marketing information:

- (a) joint marketing and budget plans;
- (b) annual growth targets;
- (c) planned disruption planning;
- (d) joint funded activities;
- (e) retail and technology planning; and
- (f) printing and information dissemination within the AT communication circuit.

2. Customer Service

2.1 AT will manage and fund the development, generation and distribution of customer service information. As required, AT will develop information including, but not limited to:

- (a) AT timetable brochures and pamphlets;
- (b) AT timetables for display at bus stops;
- (c) additional printed service information, for example regional guides and targeted location-based public transport information;
- (d) website information and maintenance for public transport services; and
- (e) notifications of disruptions, special events, timetable changes and fare changes.

All communications or activities related to the Auckland Express Service are subject to consultation with AAL.

3. AT Contact Centre

3.1 AT will be responsible for managing customer facing customer service enquiries and customer contacts. AT will manage:

- (a) AT contact centre; and
- (b) email and social media enquiries and responses directed via AT contact channels.

3.2 The AT contact centre manages all passenger and service related queries on behalf of AT. In relation to the Airport Express Service, the relevant activities undertaken by AT contact centre will include:

- (a) receiving and resolving complaints independently or in collaboration with AAL as the case may be;
 - (b) co-ordinating and disseminating relevant operational network information and communication in collaboration with AAL including:
 - (i) service disruptions;
 - (ii) temporary changes to timetables;
 - (iii) route information / changes;
 - (iv) fares and ticketing;
 - (v) special events; and
 - (vi) activities associated with crisis management;
 - (c) providing planned notifications to the public, retail outlets and posting and distributing on all forms of media;
 - (d) co-ordinating the printing and distribution of AT timetables and publications on AT managed websites;
 - (e) escalating matters to appropriate parties from time to time.
- 3.3 Customer complaints relating to AAL will be referred to AAL for resolution. AAL will be required to resolve the complaint and report back to AT within 4 working days, as specified in paragraph 1.1(e) of schedule 1.
- 3.4 AT will communicate the resolution to the customer and close the complaint case.
- 3.5 For some issues, such as lost property, AT may require customers to be referred to AAL for resolution.
- 4. AT contact centre charges**
- 4.1 AAL will contribute to the costs associated with the AT contact centre services, including telephone calls and social media enquiries (including website and email enquiries).
- 4.2 The costs of the AT contact centre will be apportioned among all passenger transport operators by the proportionate volume of calls and social media enquiries relating to the services of each operator. Call volume is calculated by multiplying the number of calls by the length of the call. Each social media enquiry will be calculated based on an agreed fee for each social media issue; at the commencement of this Agreement the fee for social media management is \$0 but both parties agree that the fee may be reviewed annually if the burden of managing social media increases.
- 4.3 AT will invoice AAL with the contact centre contribution due under this Memorandum. A copy of the month's statistics will be attached by AT.
- 4.4 AAL acknowledges that the costs payable for website and social media may change. AAL will pay any increased charges demonstrated by AT to AAL's reasonable satisfaction.
- 4.5 Calls associated with the operation of HOP Cards will be borne by AT.
- 5. CommsCentral**

- 5.1 AT's centralised communications team (**CommsCentral**) will be responsible for all customer information that has a direct impact on customers. CommsCentral's primary role will be the prompt dissemination of day-to-day operational information that will include service disruptions, timetables, route information, ticketing and crisis management.
- 5.2 CommsCentral will advise the public of:
- (a) trip delays;
 - (b) AT HOP queries;
 - (c) route cancellations (planned);
 - (d) route cancellations (unplanned e.g. sickness, breakdown);
 - (e) unplanned disruptions;
 - (f) route changes (planned and unplanned);
 - (g) service not completed (e.g. breakdown);
 - (h) bus breakdowns;
 - (i) on board equipment breakdown;
 - (j) cannot use GUI;
 - (k) radio communications failure;
 - (l) GPS signal failure;
 - (m) GUI at depot malfunction;
 - (n) serious incidents;
 - (o) bus failure to register trip;
 - (p) technology issues (e.g. clock time differences);
 - (q) network failures;
 - (r) vehicle damage;
 - (s) PID / stop damaged; and
 - (t) non provision or disrupted provision of services due to union meetings, safety exercises.
- 5.3 AAL must provide all relevant notifications relating to delays, cancellations or other impacts to the CommsCentral team, which will assess the relevance of the information, and disseminate the information in an appropriate way to the necessary audience.
- 5.4 Channels that CommsCentral will use to disseminate customer information will include:
- (a) AT website updates;
 - (b) VPID / PID updates;

- (c) physical notifications (posters, signage etc.);
- (d) AT printed collateral (timetables / guides);
- (e) eDM;
- (f) AT social media;
- (g) AT text messaging;
- (h) AT mobile applications;
- (i) customer service briefings;
- (j) data management;
- (k) core systems – ticketing / IVU / RAPID;
- (l) Metlink website; and
- (m) Google transit feed.

6. **Marketing**

- 6.1 AT will generally manage and fund marketing and customer information strategy and dissemination for public transport.
- 6.2 AT's marketing activity to drive public transport patronage will fall into two main categories:
 - (a) category (or brand) campaigns. The focus of this marketing activity is to sell the benefits of public transport overall using our key propositions in order to drive patronage.
 - (b) tactical (localised, unit or mode specific). As specific opportunities or potential growth opportunities are identified.
- 6.3 It is envisioned that a combination of category and tactical activity may be in the market at any time.
- 6.4 Participation of AAL in such campaigns is to be agreed upon within the joint annual marketing plan, or at other times as deemed fit by all parties.
- 6.5 AAL must obtain AT approval prior to any marketing that involves HOP.

Schedule 4: AIFS participation

1. Interpretation

1.1 Definitions

In this schedule, unless the context requires otherwise:

AIFS Application means the payment application developed by AT for the AIFS;

AIFS Business Operating Model means the AIFS Business Operating Model issued by AT from time to time, including any documentation or other requirement incorporated by reference into such AIFS Business Operating Model, being as at the date of this Memorandum the document entitled "AIFS Business Operating Model" as provided by AT to AAL;

AIFS Core Implementation Period means the period from the conclusion of the AIFS second stage limited functionality pilot (as notified by AT to AAL, with such conclusion expected to be no later than 31 March 2014) until the AIFS is fully implemented (as determined by AT);

Availability Date means the date notified as the availability date by AT to AAL being not earlier than 16 February 2014;

Bus Solution means the AIFS on-board and depot hardware, wireless LAN network and related software solution specified by AT, excluding for the avoidance of doubt AAL's on-board cabling installed under Schedule 5;

HOP Card means the smartcard issued by AT carrying the AIFS Application;

Lease Commencement Date means, in relation to an Airbus Express Service vehicle, the date on which AT notifies AAL in writing that installation and commissioning of the Bus Solution has been completed for all of the Airbus Express Service vehicles providing the Airport Express Service on the relevant Route as specified in schedule 2 (Route and Timetable) (as may be amended from time to time with the prior written approval of AT) and the Bus Solution is operational and that AAL agrees at the final go-live meeting that it is operational and agrees to transfer onto AIFS.;

Lease Term means 60 months, unless terminated earlier by mutual agreement, or by AAL in the case where the MOU is terminated;

Monthly Rent means \$310 (plus GST) per month for each Airbus Express Service vehicle;

NITIS means the National Integrated Ticketing Interoperability Standard issued by NZTA from time to time; and

NZTA means the New Zealand Transport Agency.

2. Depot and vehicle availability

2.1 AAL will, subject to paragraph 2.2, make available to AT (including any contractor to AT) each depot (and related IT systems, if required) and Airbus Express Service vehicle used in the provision of the Airport Express Service for:

(a) the installation, testing, commissioning and acceptance of the Bus Solution;

- (b) maintenance (which may include replacement or modification) of the Bus Solution;
- (c) remediation (which may include replacement or modification) of any defect in the Bus Solution.

2.2 AAL will make available each depot and Airbus Express Service vehicle on and from the Availability Date (or such earlier date notified by AT by at least 10 working days' prior written notice) at a time (and for Airbus Express Service vehicles, at a depot location or test service) reasonably required by AT (AT having taken into account the objective of minimising disruptions to services and otherwise minimising disruption to depot operations). AT and any contractor of AT will comply with AAL's depot security and health and safety rules while undertaking such work at a depot.

2.3 AT is not liable for any loss or damage resulting from such activities except to the extent caused by the default of AT or its contractor.

2.4 AT records its intention to exercise its rights against the supplier of the Bus Solution in order to ensure that the Bus Solution does not have any defects which would have a material adverse effect on AAL.

3. **Fares**

AAL will set its own fares which AT will not subsidise. AAL will advise fare changes to AT in sufficient time for AT to make the necessary adjustments to EOD.

4. **AIFS participation**

4.1 AT and AAL will comply with the AIFS Business Operating Model, so far as it is consistent with this MOU and AAL's status as an exempt service. AAL will, in a manner consistent with AT's rollout of the AIFS:

- (a) participate in AIFS from the Availability Date and will complete its deployment of the Bus Solution by 31 March 2014;
- (b) facilitate the installation of the Bus Solution;
- (c) accept payment by HOP Cards for agreed fares; and
- (d) ensure that the HOP Card brand appears in a visible position on all Vehicle equipment

4.2 AT will:

- (a) allow AAL to be involved as an observer in the interface testing of the Bus Solution to the extent appropriate for AAL's participation in AIFS;
- (b) host and operate an AIFS website to support AIFS passenger interactions, including smartcard reload, smartcard registration and passenger information, and which will be available from the commencement of AIFS Core Implementation; and
- (c) manage an AIFS call centre which will be available from the commencement of AIFS Core Implementation Period.
- (d) take all necessary measures to ensure systems and access policies are in place to protect commercially sensitive data associated to AAL's business.

- 4.3 The parties acknowledge that modifications (including equipment repair and replacement) may be made to AIFS (by AT) and NITIS (by NZTA) from time to time by notice to AAL without affecting the obligations of AAL under this schedule. AAL will not use any aspect of the Bus Solution that AT notifies is not compliant with AIFS or NITIS.
- 4.4 AT and AAL acknowledge that the Bus Solution and AAL's IT systems are separate systems. AT and AAL will take reasonable steps to ensure that their respective systems do not compromise the security or integrity of the other party's systems.
- 4.5 For the avoidance of doubt, the availability to AAL of reports and other information, and system interface, is specified in the AIFS Business Operating Model. AT will ensure appropriate initial training and on-going technical support for the AIFS Reporting Platform is available to AAL personnel during integration onto AIFS.

Schedule 5: Bus solution lease

1. Ownership

The Bus Solution (including for the avoidance of doubt, any intellectual property which is part of or used in the Bus Solution, even if developed or acquired by AAL) remains the property of AT. AAL has no interest in, or right to, the Bus Solution other than as bailee. AT will not disclose any data, reports, analytics and other internal report documentation produced by AAL using the Bus Solution where AAL demonstrates to the reasonable satisfaction of AT that such information should be withheld under the Local Government Official Information and Meetings Act 1987.

AT may not use or disclosure any commercial information relating to AALs business with external parties without written approval from AAL in which AT will clearly stipulate the content, the purpose and the recipients for which the information is to be shared.

2. General undertakings

2.1 AAL will provide to AT as soon as reasonably practicable:

- (a) notice of any incidents involving loss of or material damage to any Bus Solution;
- (b) notice of the occurrence of any event which is reasonably likely to adversely affect the ability of AAL to perform any of its obligations under this Memorandum;
- (c) all information which AT requests regarding the Bus Solution, for the purpose of replying to enquiries made by NZTA or any other regulatory authority. AT will provide AAL with details of the information request, and where practical, collate any data in such a way as to protect the confidentiality of the information as contemplated in paragraph 1 of this schedule.

2.2 AT will, or will procure its contractors or the Bus Solution supplier to, provide to AAL training on the Bus Solution during implementation of the Bus Solution to the relevant staff of AAL on a “train-the-trainer” basis. AAL will make such staff members available for training at times and locations reasonably required by AT. If required by AAL, AT will arrange additional training at the cost of AAL.

2.3 AAL acknowledges and accepts that it is responsible for the payment of any cost or expense relating to the operation or use of the Bus Solution (other than any cost or expense that is expressed to be the responsibility of AT under this Memorandum), including depot WIFI and AT WAN, cabling and installation for the Bus Solution, depot IT hardware, consumables (such as printer paper and ticket papers), training and training equipment and hand-held revenue protection devices.

2.4 AAL will:

- (a) use the Bus Solution in accordance with the requirements of the manufacturer and any reasonable requirements of AT;
- (b) not remove from any Airbus Express Service vehicle or depot (as the case may be) or modify or undertake any work on the Bus Solution, except that AAL may take temporary practical steps (such as swapping a malfunctioning unit) to work around day-to-day issues arising with a malfunctioning Bus Solution if such steps are notified to AT promptly;

- (c) not access, copy or reverse engineer any software or intellectual property comprised in or otherwise relating to the Bus Solution.

2.5 AAL will allow AT to manage complaints in relation to the Bus Solution at no cost to AAL. AT will continue to manage complaints regarding the Airport Express Service in accordance with schedule 3.

3. Rent

3.1 AAL will pay to AT the Monthly Rent for the Bus Solution monthly in advance, with the first payment paid on the Lease Commencement Date.

3.2 The Monthly Rent will be paid without deduction (other than imposed by law), set off or counterclaim by electronic transfer to the bank account specified by AT

3.3 AT will issue to AAL a valid GST tax invoice for any amount payable by AAL under this Memorandum in relation to each calendar month no later than 5 Business Days after the end of the relevant month.

3.4 Where a payment to be made under this Memorandum is due on a day which is not a working day the due date will be the next working day (unless the next working day falls in the next month, in which case the due date will be the previous working day).

3.5 If GST is chargeable on any supply made by AT to AAL under this Memorandum, AAL will pay to AT an amount equal to the GST chargeable on that supply in addition to, at the same time and in the same manner as, the consideration otherwise payable under this Memorandum for that supply.

3.6 AT may set-off or deduct the amount of any unpaid Monthly Rent or other amount payable by AAL under this schedule from any amount payable by AT under the Memorandum.

4. Loss and damage

4.1 If a Bus Solution unit is lost, stolen, damaged or destroyed (including vandalism), then AAL will immediately notify AT of such occurrence and:

(a) either:

- (i) AT will replace the Bus Solution unit on payment of the amount specified in subparagraph (a)(ii) or effect repairs on the Bus Solution in accordance with subparagraph (a)(iii);
- (ii) AAL will pay to AT no later than 30 days after such occurrence an amount equal to the total Monthly Rent (less depreciation) payable for the relevant Airbus Express Service vehicle for the unexpired Lease Term and will be deemed to have taken a lease of the replacement Bus Solution unit provided by AT under subparagraph (a)(i) on and from the date of replacement on the terms of this schedule;
- (iii) Where it is cost effective to repair the Bus Solution, AAL will pay the invoice generated by AT within 30 days.

(b) or, if AT notifies AAL that it will repair the relevant unit, AAL will pay the cost of repair.

- 4.2 AT does not provide any express or implied warranty, guarantee or other assurance regarding the Bus Solution including its performance or fitness for any use or purpose. AT will ensure that any contractor of AT for installation of the Bus Solution holds insurance for loss or damage caused by the installation of the Bus Solution.

5. **Redelivery**

- 5.1 On expiry of the Lease Term or the Memorandum, AAL will at its cost make available its Airport Express Service vehicles at its Auckland depot for removal of the Bus Solution by AT (or a contractor of AT). AAL will use its best endeavours to ensure the Bus Solution is in the same order and condition (fair wear and tear excepted) as the Lease Commencement Date. The lease of the relevant Bus Solution unit is terminated on such removal.

6. **Renewal**

- 6.1 If, before the expiry of the Lease Term, AT provides written notice to AAL of its intention to renew the lease of the Bus Solution and AAL agrees, the lease under this Memorandum will be renewed for a further term (as specified in the notice) and at a monthly rent for the renewed term to be agreed between AT and AAL (such rent to reflect the maintenance cost of the Bus Solution only).

7. **Bus solution lease**

- 7.1 AT leases to AAL and AAL accepts a lease of the Bus Solution for the Lease Term, from the Lease Commencement Date, at the Monthly Rent in accordance the lease agreement
- 7.2 AAL may request additional contactless card readers from AT for the purposes of training during the initial Lease Term, which will be provided free of charge to AAL on the same terms and conditions as this schedule.
- 7.3 AT will arrange for the cabling and installation required for the Bus Solution with the cost being borne by AAL.
- 7.4 Any Bus Solution cabling installed in the Vehicles will become the property of AAL.
- 7.5 AAL will use and maintain the Bus Solution in accordance with the instructions and training provided by AT.

8. **Maintenance**

- 8.1 AT will, in consultation with AAL, provide a maintenance protocol for scheduled maintenance and spares for the Bus Solution at each depot.
- 8.2 AT will undertake:
- (a) at AT's cost, scheduled maintenance of the Bus Solution in accordance with the maintenance protocol (as modified by AT from time to time, in consultation with AAL);
 - (b) at the cost of AAL, unscheduled maintenance (except any unscheduled maintenance caused by any defect in the Bus Solution that is the responsibility of the Bus Solution supplier).

- 8.3 AT may authorise AAL to contact directly the Bus Solution supplier or contracted maintenance services provider for the purpose of scheduled or unscheduled maintenance.

9. **Security interest**

- 9.1 AAL will not grant or otherwise provide any security interest over any Bus Solution (other than any security interest created by this schedule).
- 9.2 This schedule constitutes a security interest in the Bus Solution and all proceeds of any Bus Solution for the purposes of the Personal Property Securities Act 1999 (the "PPSA"). AAL acknowledges that AT may register its security interest under the provisions of the PPSA.
- 9.3 AAL will not, without the prior written approval of AT:
- (a) sell, lease, sublease or otherwise dispose of, deal with, or part with possession of any item of Bus Solution other than:
 - (i) to NZTA (or other regulatory authority responsible for Bus Solution acceptance, or any other person approved by AT) for testing, commissioning or acceptance purposes; or
 - (ii) to any AT-approved maintenance provider for maintenance or overhaul work, or modifications to the extent required or permitted by this schedule; or
 - (iii) as expressly authorised by this schedule;
 - (b) imply or represent (or allow another person to imply or represent) that any person other than AT owns all or part of the Bus Solution.

10. **Reporting and Access to Data**

AT will provide access to staff nominated by AAL to reports created by the AT Data Warehouse. AT will provide access to timely and accurate reports that have been pre-written. AT will also provide initial training and support in the use of reports