

**BIDDING AND CONTRACT DOCUMENT**

**VOLUME 2: INTERPRETATION AND DEFINITIONS**

**1. INTERPRETATION**

**The provisions contained herein shall apply to the interpretation of the Bid Documents Volumes 1 to 6. These interpretation provisions shall not be repeated again in any of the other Volumes, except in Volume 5 which contains the SLA.**

1.1 Unless specifically otherwise provided, any number of days prescribed will be determined by excluding the first and including the last day.

1.2 In this document, unless the context indicates a contrary intention, a word or expression which denotes –

1.2.1 any gender shall include the other genders;

1.2.2 a natural person shall include juristic persons and vice versa;  
and

1.2.3 the singular shall include the plural and vice versa.

**2. DEFINITIONS**

**The definitions contained herein shall apply to Volumes 1 to 6 of the Bid Documents. These definitions shall not be repeated again in any of the other Volumes, except in Volume 5 which contains the SLA.**

2.1 **“Adult Supervisor”** means an adult person of 21 (twenty one) years or older who remains on a Vehicle during the conveyance of pre-

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primary and primary school Learners and who is to ensure the safety of such Learners;

2.2 “**Applicable Law**” means South African law and any of the following, from time to time, to the extent that it applies to a Party, or the Services –

2.2.1 Any South African statute, regulation, policy, by-law, directive, notice or subordinate legislation;

2.2.2 the common law;

2.2.3 any binding court order, judgment or decree;

2.2.4 any applicable South African industry code, policy or standard enforceable by-law; or

2.2.5 any applicable direction, policy or order that is given by a South African regulator having the force of law;

2.3 “**Authorised Learner**” means those Learners authorised by the Department to make use of the Services on the Routes and are listed on the Register of Authorised Learners;

2.4 “**Authorised Stop**” means a pick-up or drop-off point authorised by the Department in the Bid Documents;

2.5 “**BBBEE**” means broad-based black economic empowerment as contemplated in the Broad-Based Black Economic Empowerment Act 53 of 2003;

2.6 “**Bid Documents**” means the set of documents issued by the WCED comprising of Volumes 1 to 6 relating to the Services to be rendered in respect of the Routes;

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- 2.7 **"Bid Response"** means the submitted documentation from the Service Provider in response to the bid invitation contained in the Bid Documents;
- 2.8 **"Bidder"** means any natural or legal person submitting a bid; upon acceptance of the Bidder's bid by the WCED (upon acceptance of the award to the Bidder, all references to Bidder will include Service Provider and vice versa);
- 2.9 **"Business Day"** means any day other than a Saturday, Sunday or statutory public holiday in the Republic of South Africa;
- 2.10 **"Calendar Day"** means any day of the week and includes weekends and statutory public holidays in the Republic of South Africa;
- 2.11 **"Calendar Month"** means the period of time that begins on the 1st (first) Calendar Day of any given month and shall consist of the number of Calendar Days in such month, ending on the last Calendar Day of the same month;
- 2.12 **"Claim Form"** means the prescribed forms and certificates which are to be completed, signed and submitted by the Service Provider in support of its monthly claim;
- 2.13 **"Claim Month"** means from the 16<sup>th</sup> (sixteenth) Calendar Day of each Calendar Month or the first School Day thereafter to the 15<sup>th</sup> (fifteenth) Calendar Day of the next Calendar Month or the last School Day prior to the 15<sup>th</sup> (fifteenth), excluding weekends, public holidays and school holidays;
- 2.14 **"Closing Date"** means the date specified in the bid invitation and/or in the Bid Documents by which time a Bid must be delivered to the

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Head Office to qualify for consideration;

- 2.15 “**Code of Conduct**” means the document prepared by the Service Provider, in the form of Annexure “J” contained in Volume 6 of the Bid Documents and provided to the Department on the Commencement Date, that sets out the manner in which drivers and Adult Supervisors are to act in respect of Learners and render the Services;
- 2.16 “**Commencement Date**” means the date on which the Services will commence in terms of the SLA;
- 2.17 “**Contract**” means the agreement, which has been entered into in writing between the Bidder and the WCED, which includes the Bid Documents, the bid invitation, the Specifications, the letter of acceptance, the SLA and the Service Level Schedule;
- 2.18 “**Contract Rate**” means the tariff per kilometre per Learner category for which the Service Provider will be paid for providing the Services as from the Commencement Date;
- 2.19 “**CSD**” means the Central Supplier Database;
- 2.20 “**District Office**” means the regional office of the WCED where a Learner transport route is situated;
- 2.21 “**Driver’s Licence**” means a license issued to an individual to legally drive a Vehicle as more fully set out in the NRTA;
- 2.22 “**EFT**” means payment, by electronic funds transfer, for learner transport services rendered by the Bidder, directly into his designated bank account as is recorded on the central supplier database;

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- 2.23 "**Emergency**" means a situation which is beyond the control of the Service Provider, and which includes strikes, stay-aways, riots, *vis maior*, and which makes the provision of the Services or part thereof impossible;
- 2.24 "**GCC**" means the General Conditions of Contract issued by National Treasury which is annexed to the Bid Documents as Annexure "A" in Volume 6;
- 2.25 "**Head of Department**" means the head of and accounting officer of the Department;
- 2.26 "**Head Office**" means the central office of the WCED which is situated in Cape Town;
- 2.27 "**Initial Termination Date**" means the date that falls on the last Calendar Day of the last School Term in which the 7th (seventh) anniversary of the Commencement Date falls;
- 2.28 "**Learner**" means a Learner as defined in SASA that have been approved by the WCED to be transported on the Route and as more fully set out in the Bid Documents;
- 2.29 "**Learner Transport Policy**" means the National Learner Transport Policy, Government Gazette 39314, Government Notice 997, 23 October 2015;
- 2.30 "**Learner Transport Scheme**" means subsidised Routes for the provision the Services as identified and approved by the WCED;
- 2.31 "**NLTA**" means the National Land Transport Act 5 of 2009;
- 2.32 "**NRTA**" means the National Road Traffic Act 93 of 1996;

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- 2.33 **"Operating Licence"** means a licence required by section 50 of the NLTA and granted and issued in accordance with the NLTA and its regulations which is necessary to enable the Service Provider to provide the Services in terms of the Contract, and where the Service Provider is already in possession of such licence before the Commencement Date, includes any renewal, amendment or transfer of such licence necessary to enable him or her to provide the Services;
- 2.34 **"Overpayment"** means a payment made in excess of what is due to the Service Provider;
- 2.35 **"Parties"** means the WCED and the Bidder or Service Provider, as the case may be;
- 2.36 **"Positioning kilometres"** means kilometres travelled by a Vehicle with or without passengers:
- 2.36.1 from a depot to the starting point of a Route;
- 2.36.2 from the end of a Route to the depot;
- 2.36.3 from the end of the Route to the starting point of a Route for a second trip (only applicable for Routes with a single distance of 12 km or less);
- 2.37 **"PPPFA"** means the Preferential Procurement Policy Framework Act 5 of 2000;
- 2.38 **"Preferential Procurement Regulations"** means the Preferential Procurement Regulations, 2017 issued in Government Gazette 40553, Regulation 32 of 2017 dated 20 January 2017 effective from 1 April 2017;

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- 2.39 “**PRE**” means the Provincial Regulatory Entity or any other provincial regulatory authority vested with the power to issue Operating Licenses;
- 2.40 “**Preference**” means those preferences provided for in terms of the PPPFA and its Regulations;
- 2.41 “**Principal**” means an educator appointed or acting as the head of a School to which the Service Provider provides Services;
- 2.42 “**Professional Driving Permit**” means a permit issued to certain classes of drivers as more fully set out in the NRTA and its regulations;
- 2.43 “**Register of Authorised Learners**” means the register kept by a school Principal in which the details of Authorised Learners qualifying for and using the Learner Transport Scheme are indicated;
- 2.44 “**Return Distance**” means the distance from the first pick-up point on the Route to the last School on the Route, multiplied by two;
- 2.45 “**Revenue Kilometres**” means kilometres actually operated on approved Routes for which the Bidder is entitled to compensation in terms of the Contract;
- 2.46 “**Road Accident Fund**” means the fund created in terms of the Road Accident Fund Act 56 of 1996 for the payment of compensation in accordance with the Road Accident Fund Act for loss or damage wrongfully caused by the driving of motor vehicles;
- 2.47 “**Roadworthy Certificate**” means a certificate issued in terms of section 42 of the NRTA confirming that a Vehicle complies with various requirements and may be driven on a road;
- 2.48 “**Route**” means the Learner transport route stretching from the first

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pick-up point to the last drop off point on such Route and as more fully set out in the Bid Documents;

- 2.49 “**SASA**” means the South African Schools Act 84 of 1996;
- 2.50 “**School**” means a public School as defined in the South African Schools Act 84 of 1996 and which School is situated in the Western Cape Province;
- 2.51 “**School Day**” means a day on which Schools are open for learning during School Terms and excludes weekends and public holidays of the Republic of South Africa;
- 2.52 “**School Term**” means a portion of the academic year in which Schools hold classes;
- 2.53 “**Service Level Schedule**” means the document annexed to the SLA which more fully sets out the details regarding the Services to be provided by the Service Provider; the terms of which are contained in the Specifications and Special Conditions of Contract which is contained in Volume 4 of the Bid Documents;
- 2.54 “**Service Provider**” means the Bidder whose Bid has been accepted by the WCED for the provision of Learner transport services in terms of the provisions of the Contract (before acceptance of the Bidder’s bid by the WCED, all references to Service Provider will include Bidder and vice versa);
- 2.55 “**Services**” means the transportation of Learners along a Route by specified Vehicles at specified times and frequencies and stopping at specified locations in accordance with the Specifications, Special Conditions of Contract, SLA and the Service Level Schedule;
- 2.56 “**SLA**” means the Service Level Agreement entered into between

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the WCED and the Service Provider which also constitutes special conditions of contract as contemplated in the GCC;

- 2.57 **"Special Conditions of Contract"** means all terms and conditions relevant to this Bid as contained in the Contract, the SLA and the Service Level Schedule entered into between the Service Provider and the WCED;
- 2.58 **"Specifications"** means the Specifications as set out in Volume 4 of the Bid Documents in which the Routes, distances, Services, fares, time tables, performance criteria, stops and any additional related information are described;
- 2.59 **"Term"** means the duration of the Contract between the WCED and the Service Provider;
- 2.60 **"Time Schedule"** means a schedule approved by a Principal, indicating all departure times from points of origin and intermediate points as well as arrival times at destinations on each Route for School Days;
- 2.61 **"Validity Period"** means the period for which a bid is to remain valid and binding for consideration and acceptance as indicated in the Bid Documents. The period is calculated from the bid closing time and the bid shall remain in force and binding until the close of business on the final day of the period. If the final day does not coincide with a Business Day, the bid is to remain valid and binding until the close of business on the following Business Day;
- 2.62 **"VAT"** is an acronym for Value Added Tax levied in terms of the Value-Added Tax Act 89 of 1991;
- 2.63 **"Vehicle"** means a motor vehicle designed or adapted for the conveyance of not less than ten (10) Learners (including the driver),

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by means of which the Bidder proposes to provide the Services and includes –

2.63.1 "bus" which means a bus as defined in the NRTA (designed or modified to carry more than 35 (thirty five) persons including the driver) and includes a double decker bus, standard bus, maxi-bus, bus-train and bi-articulated bus;

2.63.2 "minibus" which means a motor vehicle designed or modified solely or principally for conveying more than 9 (nine) but not more than 16 seated persons, including the driver;

2.63.3 "midibus" which means a motor vehicle designed or modified solely or principally for conveying more than 16 (sixteen) but not more than 35 (thirty five) persons, including the driver, and for the purposes of the NRTA is a type of sub-category of bus;

2.63.4 "standard bus" which meaning a bus with a capacity of not less than 58 (fifty eight) persons and not more than 70 (seventy) seated persons;

2.63.5 "maxi-bus" which means a bus with 3 (three) axles and a seating capacity of between 71 (seventy one) and 90 (ninety) passengers, including the driver;

2.63.6 "bus-train" which means a bus-train as defined in the regulations to the NRTA, which–

2.63.6.1 consists of two sections connected to form a unit;

2.63.6.2 can swivel in a horizontal plane at the connection between such sections;

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2.63.6.3 is designed or adapted solely or principally for the conveyance of the driver and at least 100 (one hundred) other persons; and

2.63.6.4 has a continuous passageway over the length thereof;

2.63.7 “bi-articulated bus-train” which means a bus which–

2.63.7.1 consists of three sections connected to form a unit;

2.63.7.2 can swivel in a horizontal plane at the connection between such sections;

2.63.7.3 is designed or adapted solely or principally for the conveyance of the driver and at least 116 (one hundred and sixteen) other persons; and

2.63.7.4 has a continuous passageway over the length thereof;

2.63.8 Or any other Vehicle adapted according to the latest requirements of the South African Bureau of Standards, the Standards Act 29 of 1993, the NRTA and its regulations, or any other Applicable Law;

2.64 “**Vehicle Licence**” means the licencing and registration document issued to the owner of a Vehicle as more fully set out in the NRTA and relevant provincial laws and regulations and municipal by-laws;

2.65 “**Volume**” means Volumes 1 to 6 of the Bid Documents;

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2.66 **WCED**" means the Western Cape Education Department which includes the Head Office, District Office, Principal and public ordinary Schools; and

2.67 **WCSD**" means the Western Cape Supplier Database.

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