

contract documents. The contract document shall be prepared at the expense of the Employer in accordance with the Forms, where applicable, with such amendments as are agreed to by the Employer and the Operator. Such contract document shall incorporate the documents mentioned in clause 21 and shall have the purpose of consolidating all the terms of the agreement between the Parties. Two contract documents will be signed, one for each Party.

37. SUBSTITUTE OPERATOR

- 37.1 The written consent of the Employer shall be required before the Operator may appoint any substitute operator.
- 37.2 In the event of an industrial dispute or staff stay-away, or any other situation affecting the Operator's organisation and its ability to provide the services, the Operator shall be responsible to make all reasonable attempts to provide the services, including the option of finding alternative licensed operators to cover all scheduled trips. If there is no time to obtain prior written authority of the Representative or Employer before the appointment of the substitute operator, the Operator must inform the Representative of the particulars of such substitute operator and the Representative must obtain the written consent of the Employer within three (3) days of the appointment of the substitute operator.
- 37.3 The appointment of a substitute operator under clause 37.1 shall not be valid for more than thirty (30) days, whereafter the provisions of clause 18 ("Cession, Delegation and Sub-contracting") shall apply. The Employer shall nevertheless only deal with and issue instructions to the Operator and the Operator shall bear full responsibility for the provision of the services in accordance with the contract.
- 37.4 At the end of the month when claims are submitted, all details such as time, trips and days covered by the substitute operator must be submitted. The Operator will be paid at the applicable contract rates for these trips and it will be the Operator's responsibility to reimburse the substitute operator fully.
- 37.5 If the Operator is not able for any reason to provide scheduled trips for any consecutive period of twenty four (24) hours and fails to arrange for a substitute operator, it shall immediately inform the Employer to this effect, to enable the Employer to arrange for a substitute operator if it so desires. Unless the Operator can prove that it was prevented from operating due to circumstances beyond its control, it shall be liable for all the associated extra costs, and penalties in terms of clause 44 will be imposed for scheduled trips not operated. Such circumstances shall not include disputes, stayaways or strikes confined to the Operator's organisation.

38. SURETYSHIP

- 38.1 The Operator must, not later than fourteen (14) days after signing the contract documents, provide one or more suretyships from a banking institution registered in terms of the Banks Act, 1990, or an insurer registered in terms of the Short Term Insurance Act, 1998 or the Long Term Insurance Act, 1998 to do insurance business, or the Small Business Development Corporation, or cash, negotiable government stock, negotiable approved municipal stock, or a security bond to the satisfaction of the Employer, or such other form of security as may be approved by the Employer, for four percent (4%) of the contract amount, as security for the due and faithful fulfilment by it of all the terms and conditions of the contract. Where appropriate, the suretyship shall be in accordance with Form 20 of the Forms to the satisfaction of the Employer. Such suretyship(s) shall cover the full contract period. Where an Operator fails to furnish a suretyship(s) within such time or furnishes a suretyship(s) which is/are unacceptable, the Employer may give the Operator written notice to furnish an acceptable suretyship(s) within fourteen (14) days of such notice. If this is not done or if a further suretyship(s) provided is unacceptable, the Employer may cancel the contract without further notice. Whether or not a suretyship is acceptable shall be in the sole discretion of the Employer.
- 38.2 Upon expiry of the contract the surety(ies) shall be released unless the Operator still has to meet outstanding obligations and claims in terms of the contract and the cost of such obligations cannot be covered by any outstanding payment standing to the Operator's credit.
- 38.3 The cost of providing suretyships as well as the stamp duty thereon shall be for the Operator's account.
- 38.4 In lieu of or in addition to suretyships, the Employer may, in its discretion, in writing impose special audit requirements on the Operator, in which case the latter shall be obliged to comply therewith.

39. TERMINATION OF CONTRACT

39.1 Where—

- (a) application is made for the sequestration of the Operator's estate;
- (b) the Operator publishes a notice of surrender of its estate or presents a petition for the acceptance of the surrender of its estate as insolvent;
- (c) the Operator makes a compromise with its creditors or assigns in favour of its creditors;
- (d) the Operator agrees to carry out the contract under the supervision of a committee representing its creditors;
- (e) the Operator commits any other act of insolvency, or goes into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator is placed under judicial management;
- (f) judicial execution is levied on the Operator's goods;

- (g) the Operator delegates, cedes or sub-contracts the contract or part thereof without having obtained the Employer's consent in writing;
- (h) the penalties imposed in terms of clause 43 excluding amounts withheld under clauses 43.6.8, 43.6.9, 43.6.10 and 43.6.11 thereof, amount to more than 10 percent (10%) per month of the total amount payable in respect of the monthly payment certificates for any three (3) consecutive months or for any five (5) months during the contract period;
- (i) the Operator's operating licences or permit(s) necessary to provide the services are withdrawn or suspended;
- (j) the Operator fails at any stage to comply with the requirements of section 48 of the Act,
- (k) the Operator has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the Employer or SMF in connection with the obtaining or execution of this contract;
- (l) the Operator has acted in a fraudulent manner in obtaining or executing a contract with any government department, provincial administration, municipality, public body, company or person;
- (m) the Operator has approached anyone including any official or agent of the Employer, the Representative or any person in the service of the SMF before or after the contract was signed, with the aim of influencing the award of the contract in its favour;
- (n) the Operator has given notice of inability to sign or execute the contract;
- (o) the Operator has abandoned its obligations in terms of the contract;
- (p) the Operator has deliberately furnished inaccurate information either as regards its previous experience or the vehicles at its disposal for the services, or with regard to any other material information;
- (q) the Operator is discovered to have provided incorrect, false or fraudulent information as contemplated in clause 27.5;
- (r) the Operator is deceased where it is a natural person, or
- (s) the Operator fails to implement the Business Plan referred to in clause 9 and three percent (3%) of the gross certificate value payable to the Operators has been withheld as contemplated in clause 43.6.10 for six (6) consecutive months.

the Employer may after at least fourteen (14) days' written notice to the Operator, and all sureties, without prejudice to any other rights the Employer may have—

- (i) terminate the contract and, if appropriate, claim damages, or
- (ii) institute a claim for damages and/or sue for specific performance against the Operator, and/or
- (ii) claim any other lawful remedy the Employer may have.

39.2 Where the Operator—

- (a) fails to provide a suretyship as required by clause 38;

- (b) without reasonable excuse has failed to commence the services on the commencement date, or has suspended the services after receiving from the Representative or the Employer written notice to proceed;
- (c) consistently fails to observe the Specifications, notwithstanding the fact that penalties have been imposed, with the result that the quality of the services is unacceptable to the Employer;
- (d) fails to submit copies of its annual financial statements, auditor's report and other data as required by clause 15;
- (e) fails to maintain in force the insurance required by clause 28;
- (f) subject to clause 17.2, has failed or refused to carry out a written instruction of the Representative regarding any matter on which the Representative is authorised to give such an instruction;
- (g) has breached any other term of the contract,

the Employer may give the Operator at least fourteen (14) days' written notice to rectify the matter, and, without prejudice to any other rights the Employer may have—

- (i) if the Employer has notified the Operator of its intention to do so in that notice, take steps itself or have steps taken by others on its behalf to give effect to the breach or the Representative's orders not carried out by the Operator, without terminating the contract and without prejudice to any other rights of the Employer in terms of the contract, or
- (ii) if the Operator has not remedied the breach within the said 14 days, after not less than seven days' written notice to the Operator and all sureties—
 - (aa) terminate the contract and, if appropriate, claim damages, or
 - (bb) institute a claim for damages and/or sue for specific performance against the Operator, and/or
 - (cc) claim any other lawful remedy the Employer may have.

39.3 Where the contract is terminated under clause 39.1 or 39.2, the Employer may call upon the sureties in writing to make good to the Employer all loss, costs and damages as the case may be. To reduce its liability the surety may, with the consent of the Employer, find an alternative acceptable operator to continue the services or the Employer may itself employ another operator to complete the contract or any part thereof at its option.

39.4 Should the amounts the Employer must pay to complete the contract where it is terminated as contemplated in clauses 39.1 and 39.2, exceed the sum that would have been payable to the Operator on due completion by it, the Operator shall upon demand pay to the Employer the difference and it shall be deemed a debt due by the Operator to the Employer and shall be recoverable accordingly: Provided that, should the Operator on demand not pay such amount to the Employer, it may, without prejudice to any other rights the Employer may have, be deducted by the Employer from any sum due to or that may become due to

the Operator under this or any previous or subsequent contract between the Operator and the Employer.

- 39.5 Termination of the contract shall be without prejudice to any rights of the Employer in respect of any antecedent breach of contract by the Operator.
- 39.6 In the event of the Employer breaching any terms or conditions of the contract, the Operator may give the Employer at least thirty (30) days' written notice of such breach, calling upon the Employer to remedy the same. Should the Employer fail to remedy the breach in accordance with the notice, this contract may either be terminated after a further fourteen (14) days' written notice, or at the option of the Operator, it may institute a claim for damages and/or sue for specific performance against the Employer, or claim any other lawful remedy that the Operator may have against the Employer, without prejudice to any other rights the Operator may have.
- 39.7 Should standing kilometres paid to the Operator amount to more than thirty percent (30%) of the monthly scheduled kilometres for three (3) consecutive months, either party may terminate the contract on thirty (30) days' written notice to the other party. Neither party shall have any claim against the other arising out of such termination.
- 39.8 The Employer may, for any reasons other than those contemplated above, terminate this contract on three (3) months' written notice of such termination being given to the Operator. In such a case it will be obliged to pay to the Operator such damages as the Operator is able to prove, provided that such damages shall not exceed ten percent (10%) of the value of the uncompleted services. Apart from the foregoing, the Operator shall not be entitled to claim any other amounts whatsoever in respect of such termination of the contract.
- 39.9 In the case of termination of the contract in terms of this clause 39 the Employer may immediately appoint auditors to check and verify all relevant books, records and other data of the Operator, and the Operator shall give full cooperation in that regard and make all such information available to the Employer on request.

40. TIME TABLES

- 40.1 Subject to clauses 40.2 and 41, the services reflected in the time tables provided in the Specifications are the services that the Employer requires the Operator to operate as on the date of signing of the contract.
- 40.2 Due to the lapse of time between the drafting of the contract documents and the commencement date, as well as possible changing circumstances, variations to the time tables may be necessary before commencement of the services. If this is the case, the Representative and the Operator shall decide on appropriate time tables which will be submitted to the Employer for its approval at least

fourteen (14) days before the commencement date. If this is not done the time tables in the Specifications shall be operated on the commencement date until further notice from the Representative.

- 40.3 If variations of the time tables result in an increase or decrease of revenue kilometres, clauses 31.1 and 41.2 shall apply.
- 40.4 The Operator must formulate a proposed timetable to apply during holiday periods for approval by the Representative at least fourteen (14) days prior to public holidays and/or holiday periods. If the Operator fails to do this, the Representative must formulate such a time table which will be binding on the Operator for such holiday period.

41. VARIATIONS

- 41.1 The Representative may after consultation with the Operator make the following variations to the services within the service area, but the prior written consent of the Employer is mandatory before any variation that results in an increase in revenue kilometres is effected:

- (a) to increase or decrease the number of scheduled trips on any route or routes;
- (b) to omit any route or add a new route;
- (c) to lengthen, shorten or alter an existing route, where "alter" means to change the route without increasing or decreasing the kilometre length thereof;
- (d) to alter the number or location of authorised stops, in consultation with the relevant local authority and/or traffic authority where applicable; and
- (e) to change the time table of any portion of the services;
- (f) to make alterations in connection with vehicle capacities as contemplated in clause 41.6

and no such variation shall in any way invalidate or vitiate the contract. The Representative must notify the Operator in writing of any variations made to the existing services and the Operator must comply with any such variations. Should any variations be approved, the Operator must give to passengers not less than seven (7) days' notice, unless a shorter period is approved by the Representative, of any intended changes to the time table.

- 41.2 If during the course of the contract it becomes necessary to vary the services as provided for in clause 41.1, the following shall apply:
- (a) if the variation results in an increase or decrease of scheduled kilometres, the total kilometres for the particular month may fall into a different kilometre band shown on Form 9 of the Forms, in which case the contract rate for that band must be applied;

- (b) if the variation results in an increase or decrease of scheduled kilometres which is outside of the bands provided on Form 9 of the Forms, and such increase or decrease is less than fifteen percent (15%) below the bottom band or above the top band, the contract rates for the bottom or top band shall apply, as the case may be. If such increase or decrease is more than fifteen percent (15%), but less than twenty percent (20%) outside of the bottom or top band, as the case may be, the contract rates shall be adjusted based on existing contract rates, subject to the approval of the Treasury and Cabinet, where applicable. In the event of a dispute regarding such adjustments, paragraph (c) applies with the necessary changes; or
 - (c) if the variation results in an increase or decrease of more than twenty percent (20%) above or below the said bands for a consecutive period of three months, the contract rates and bands must be renegotiated based on existing rates. If the Parties fail to agree on such renegotiated rates and bands, the contract shall be terminated, provided that the Operator shall continue to provide the services for at least six (6) months after the date on which such negotiations broke down, but shall not be obliged to provide services for such period which are more than twenty percent (20%) above the highest band, or more than twenty percent (20%) below the lowest band.
- 41.3 The Operator and/or the Representative may apply in writing to the Employer for a variation in the types of vehicles which are used in providing the services, on the basis of a change in passenger demand or the utilization of better suited vehicles with a different capacity from those included in the contract. Prior to the Employer consenting to such a variation the financial implications thereof on the contract rates and time table shall be agreed upon in writing. The decision of the Employer in this regard shall be final and be communicated to the Representative and the Operator in writing.
- 41.4 Where the Operator is obliged to vary the services in the case of an emergency and such variation results in an increase or decrease of revenue kilometres, the provisions of clause 41.2 will apply, provided that approval for such variation must be obtained from the Employer within twenty-four (24) hours in the case of an increase.
- 41.5 If it appears to the Operator that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Operator may apply to the Representative for permission to introduce additional trips to cater for such passengers. If permission is granted and additional trips introduced, the Employer shall compensate the Operator therefor at the contract rates only if and when the passenger demand consistently exceeds forty-five percent (45%) of the legal seated passenger capacity of the bus per trip: provided that the Employer will not, as a policy matter, subsidize dedicated school trips. Such compensation shall be paid retrospectively as from the first day upon which the passenger demand so exceeded 45% of the seated capacity of the bus and all

costs incurred by the Operator prior to that day shall be for the Operator's own account.

41.6 If it appears to the Representative that the passenger demand on a particular route or trip is regularly less than fifty percent (50%) of the possible passenger kilometre capacity for a legally seated standard bus, the Representative must advise the Operator and the Employer accordingly. The Employer may at the request of the Operator approve that—

- (a) the standard bus on the particular route or trip be replaced with a midibus at eighty percent (80%) of the applicable contract rate for a standard bus for the relevant kilometres, or
- (b) the Operator continue operating the standard bus, in which case the Operator will be paid at eighty percent (80%) of the applicable contract rate for a standard bus for the relevant kilometres.

If the employer does not approve the application, the Representative may remove the trip or route from the time table in terms of clause 41.1

41.7 If the Employer requires services to be provided in areas outside the service area these will be negotiated under a supplementary agreement.

42. VEHICLES

42.1 The Operator is required to submit a statement on Form 7 of the Forms, showing what vehicles will be available for the services immediately upon commencement of the contract and what vehicles will be purchased or leased. Copies of signed purchase and lease agreements are to be provided to the Employer on request. The onus is on the Operator to decide what vehicles it will indicate on the said form for use in the provision of the services. These completed statements will be used, among other things, to assess the Operator's capacity to operate services of the magnitude concerned. Only vehicles shown in the completed Form 7 may be used to provide the services, unless the written consent of the Employer is obtained in advance.

42.2 The type and condition of all vehicles to be provided by the Operator for the provision of the services must correspond with the requirements of the Specifications. When so ordered by the Representative, the Operator must remove from the services any unsuitable vehicles. The approval or disapproval of any vehicle by the Employer or the Representative shall not in any way release the Operator from its obligations in terms of the contract.

42.3 If the Operator, without the written authority of the Representative, fails to provide the right type, with reference to quality and age, of vehicles as specified in the contract within three (3) months of the commencement date or, at a later stage in the contract period, within sixty (60) days after being instructed to do so

by the Representative, then a penalty will be imposed as contemplated in clause 44.

- 42.4 The Operator must display identification stickers or decals on vehicles used in providing the services if requested to do so by the Representative or the Employer.
- 42.5 The Operator must equip, maintain and identify the vehicles in accordance with the Specifications and the destination and shift number shall be correctly displayed at the front of each vehicle for every trip.
- 42.6 Any accident damage shall be repaired so that the vehicle complies with the Specifications.
- 42.7 All buses must be clean inside and outside when they leave a depot. Prior to the commencement date, the Operator, Employer and Representative (if appointed) must agree on guidelines as to what constitutes cleanliness in the operating circumstances.
- 42.8 No vehicles with hard seats will be permitted.
- 42.9 All vehicles operated on the contract must be painted in a uniform livery. Where an approved sub-contractor is used, the livery of the sub-contractor may differ from that of the Operator. Where there is more than one sub-contractor the livery of the different sub-contractors may differ from each other, but each individual sub-contractor's vehicle must be identifiable. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the Employer.

43. PENALTIES

- 43.1 Penalties shall be imposed against the Operator for each offence in accordance with this clause and the Representative shall advise the Operator on a weekly basis of penalties so imposed. Where the penalties so imposed, excluding amounts withheld under clauses 43.6.8, 43.6.9, 43.6.10 and 43.6.11, amount to more than 10 percent (10%) per month of the total amount payable in respect of the monthly payment certificates for any three (3) consecutive months or for any five (5) months during the contract period, the Employer may terminate the contract.
- 43.2 The services shall be fully monitored in the first month of operation and all offences shall be listed, but penalties will not be imposed. Thereafter penalties shall be imposed as set out hereunder. In both cases revenue kilometres shall only be paid for trips which have been operated.

- 43.3 It is the duty of the Operator to report all trips not operated, late and early trips, revenue kilometres operated and any other information which is relevant to the calculation of monthly claims. Where the Representative reports more trips not operated than those reported by the Operator for three (3) consecutive months, from the fourth month penalties will be doubled for the remaining contract period for all infringements not reported by the Operator.
- 43.4 The Operator shall be obliged to report within twenty four (24) hours the fact that any bus has provided services with a different duty number from that reflected in the time table. In case of default of so reporting a fine of two hundred and fifty rand (R250,00) per bus per day will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which revenue kilometres will not be paid and the trip will be deemed as not operated and the operator will be penalised in terms of clause 43.5.1.
- 43.5 No vehicle shall leave the first point of departure before the time listed in the time table or more than five (5) minutes thereafter, failing which penalties will be imposed as set out below.
- 43.6 The Operator will be expected to adhere strictly to the requirements of the Specifications. Penalties will be imposed in the following events:

43.6.1 Failing to provide specified trips

Where a trip has not been provided, a penalty of two hundred and fifty rand (R250) will be imposed, and no revenue kilometres will be paid.

43.6.2 Providing trips that depart late or early

In the case of a trip that—

- (a) departs between six (6) and fifteen (15) minutes late from the departure point, a penalty of twenty-five percent (25%) of the amount that the Employer would have paid for the trip concerned will be imposed, but revenue kilometres will be paid;
- (b) departs more than fifteen (15) minutes late from the departure point or any transfer point, a penalty of forty percent (40%) of the amount that the Employer would have paid for the trip concerned will be imposed, but revenue kilometres will be paid;
- (c) departs more than thirty (30) minutes late from the departure point or any transfer point, the trip will be deemed not to have been operated, no revenue kilometres will be paid and the two hundred and fifty rand (R250.00) penalty will not be applied;
- (d) is an early trip, a penalty of forty percent (40%) of the amount that the Employer would have paid for the trip concerned will be imposed, but revenue kilometres will be paid.

43.6.3 Vehicle breakdowns

- (a) The Operator is expected to provide a replacement vehicle for breakdowns as follows:
 - (i) At the starting point of a route or within an eight (8) kilometre radius of these points, within thirty (30) minutes;
 - (ii) At other points, within forty-five (45) minutes;provided that no breakdowns will be accepted as such inside depots.
- (b) Where a replacement vehicle is so provided, no penalty will be imposed and revenue kilometres will be paid. If a replacement vehicle is provided, but not within the stated time, a penalty of forty percent (40%) of the amount that the Employer would have paid for the trip concerned will be imposed, but revenue kilometres will be paid. If no replacement vehicle is provided, penalties will be imposed for a trip not provided as set out in clause 43.5.1. In all cases, however, where there are more than two percent (2%) vehicle breakdowns per month, a penalty of six hundred rand (R600,00) per breakdown over 2% will be imposed. This percentage will be based on the average number of peak vehicles per day totalled over the month in question.

43.6.4 Failing to display correct destinations or duty boards or to display any destinations or duty boards at all

Where destinations or duty boards have not been installed, the Operator shall have two (2) weekdays to remedy the situation, whereafter a penalty of two hundred rand (R200,00) per bus per day will be imposed. Where destinations have been incorrectly displayed, a penalty of two hundred rand (R200,00) will be imposed and where duties have been incorrectly displayed, a penalty of sixty rand (R60,00) will be imposed.

The Operator must report within twenty four (24) hours the fact that any bus has provided services with a different duty number than that reflected in the time table. In case of default of so reporting a fine of two hundred rand (R200,00) per bus per day will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which revenue kilometres will not be paid and the trip will be deemed as not operated and the operator will be penalised in terms of clause 43.6.1.

43.6.5 Failing to pick up or set down passengers at authorised stops

Where passengers were not picked up or set down at an authorised stop, a penalty of two hundred rand (R200,00) will be imposed, except where the lawful capacity of the vehicle would have been exceeded or a passenger has refused to pay the fare or on grounds of violent, abusive or otherwise offensive conduct on the part of the passenger or other grounds contemplated in the Act or applicable road traffic legislation.

43.6.6 Vehicles in an unsatisfactory condition

- (a) Where, in the discretion of the Representative, vehicles leave a depot in an unsatisfactory condition, i.e.—
 - (i) dirty on the outside or inside, a penalty of one hundred rand (R100,00) per bus will be imposed;
 - (ii) not in a good state of repair or with a leaking roof, one or more broken windows or in an unhygienic condition, a penalty of two hundred (R200,00) per bus will be imposed;
 - (iii) with missing, broken or wet seats, a penalty of fifty rand (R50,00) per bus will be imposed;
 - (iv) with broken or missing doors, a penalty of five hundred rand (R500,00) per bus will be imposed.
- (b) In the case of (a) (ii) to (iv), the Operator shall have two (2) weekdays to remedy the situation, whereafter a further penalty per day will be imposed. If a penalty is imposed in respect of a particular bus under (ii) to (iv) more than three times in any fourteen (14) day period, the Operator must withdraw that bus and replace it until such time as it has been repaired so as to comply with the specifications.
- (c) Penalties under (a) (ii) - (iv) will not apply immediately to buses leaving overnight parking areas that are not depots: in such a case where infringements are noted, the Operator shall have two (2) weekdays to remedy the situation, whereafter penalties will be imposed as set out above.
- (d) The Representative must inform the Operator before the commencement date of the standards that will be applied in respect of this clause.
- (e) Penalties under (a)(i) shall not apply to buses leaving overnight parking areas that are not depots.

43.6.7 Deviating from routes

Where there is a deviation from a route, a penalty of two hundred rand (R200,00) will be imposed, but approved revenue kilometres will be paid.

43.6.8 Failing to provide the right type, quality and age of vehicles as specified in Form 7 of the Forms

- (a) Where the Operator fails to provide the right type, quality and specification of vehicles as specified in Form 7 of the Forms read with clause 42.3 and clause 2.2 of the specifications, five percent (5%) of the total amount payable in respect of the relevant month's payment certificate will be withheld on a *pro rata* basis, for example if one of two hundred (200) buses is not according to specifications, 1/200 of five

- percent will be withheld. However, no penalty will be imposed if the Operator provides vehicles of substantially the same quality and specification, which in the opinion of the Representative are suitable.
- (b) No escalation or interest will be payable to the Operator on the monies withheld as contemplated above and such monies will only be paid after compliance with the specifications.
 - (c) If the Operator does not comply with the requirements within three (3) months from the date that the monies were first withheld, it will forfeit such monies.

43.6.9 Failing to install or to have operational EE and failing to provide specified information

- (a) The Operator shall install and commission EE and provide information therefrom as follows:
 - Stage A1: install required electronic equipment (EE) on all buses within ninety (90) days of the commencement date;
 - Stage A2: EE on buses to be commissioned, i.e. EE to be in full working order, drivers to be trained in its use and EE to be providing usable information within one hundred and fifty (150) days of the commencement date;
 - Stage B1: depot computer to be installed and commissioned within ninety (90) days of the commencement date;
 - Stage B2: depot computer to be processing information obtained from EE on buses within one hundred and fifty (150) days of the commencement date.
- (b) Where the Operator fails to complete these Stages within the time indicated to the satisfaction of the Employer, three percent (3%) of the gross certificate value payable to the Operator, i.e. after escalation, will be withheld from each month's payment certificate after expiry of such date in respect of each Stage not completed, until the end of the month in which the Stage is completed (i.e. 3% per Stage to a maximum of 12%). No interest will be payable on monies so withheld and the monies will only be paid to the Operator in the first payment certificate issued after the Stage has been completed to the satisfaction of the Employer. Where moneys are so withheld for three (3) months they will be forfeited. Where Stages A1 and A2 have been completed for some but not all of the vehicles, the penalty will be applied on a *pro rata* basis (on a similar basis to that illustrated in clause 44.5.8(a)) in respect of those vehicles in which those Stages have not been completed.
- (c) The four Stages will only be regarded as complete where all EE in buses and in the depot is fully operational and supplying all required information as specified in clause 27.1. Once the four Stages have been completed, if less than eighty percent (80%) of information in terms of trips and kilometres is provided in any month, five percent (5%) of the gross

certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited, in the discretion of the Employer.

- (d) Whether or not EE is installed, the onus will always be on the Operator to supply the Representative with the correct information as specified in clause 27 by using manual methods, intensive monitoring or other methods approved by the Employer. This must be done from the beginning of the second month of operation to the satisfaction of the Employer. Where this is not done, three percent (3%) of the gross certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited, where applicable over and above the penalties provided for in (b) and (c), and the Employer may regard this as a breach of a material term of the contract.
- (e) If EE which has been installed and has been operational becomes defective and unable to supply the required information, the Operator shall have such EE repaired within three (3) days, failing which it will be deemed not to have been installed and the above penalties will apply in respect of the Stage to which the defective equipment relates, and on a *pro rata* basis where applicable.
- (f) The Employer may, in its discretion, grant the Operator extensions of time or reduce the penalties in respect of paragraphs (a) to (e) above.
- (g) This clause is subject to clause 27.4, which provides that the Employer may decide not to pay any claim without adequate documented proof of the required information and data.

43.6.10 **Failing to implement the Business Plan**

If the Operator fails to implement the Business Plan referred to in clause 9, within the times stated in that Plan to the satisfaction of the Employer, three percent (3%) of the gross certificate value payable to the Operator, i.e. after escalation will be withheld from each month's payment certificate after expiry of such date in respect of each Stage not completed until the end of the month in which the Stage is completed (i.e. 3% per Stage). No interest will be payable on monies so withheld and the monies will only be paid to the operator in the first payment certificate issued after the Stage has been completed to the satisfaction of the Employer. Where monies are so withheld for three (3) months they will be forfeited.

43.6.11 **Failing to implement the goals of the RDP**

If the Operator fails to implement the goals of the RDP published in *Government Gazette* No. 16085 dated 23 November 1994 referred to in clause 11, within the times stated in the Proposal to the satisfaction of the Employer, three percent

(3%) of the gross certificate value payable to the Operator, i.e. before escalation will be withheld from each month's payment certificate after expiry of such date in respect of each Stage not completed until the end of the month in which the Stage is completed (i.e. 3% per Stage). No interest will be payable on monies so withheld and the monies will only be paid to the operator in the first payment certificate issued after the Stage has been completed to the satisfaction of the Employer. Where monies are so withheld for three (3) months they will be forfeited.

43.7 Notwithstanding the above, no penalty will be imposed if trips are cancelled as contemplated in clause 17.1.

43.8 Notwithstanding the above, no penalty will be imposed if the Operator furnishes the Representative with a reason for the failure which is acceptable to the Representative.

44. ESTABLISHMENT

44.1 During the period between the signing of the contract and the commencement date, the Operator must arrange the following activities, among others:

- (a) completion of all application and other procedures for the granting and issuing of necessary operating licences in terms of clause 31 and insurance and suretyship in terms of clauses 28 and 38, respectively;
- (b) acquisition of the required vehicles as specified in the contract;
- (c) procurement of offices, depots, workshops and stores;
- (d) recruitment and training of necessary personnel, if these are not already available;
- (e) development of bus schedules and operating data, management control systems and information systems;
- (f) preparation of driver duties, waybills and other forms necessary for the services;
- (g) establishment of liaison groups with employers and communities where passengers reside;
- (h) preparation of publicity material for passengers;
- (i) other activities necessary for the commencement of the services;
- (j) other activities requested by the Representative.

44.2 Within ten (10) days after signing the contract the Operator must prepare a programme listing the activities required by the contract, stating target starting and completion dates for each activity. The Representative and/or Employer will arrange meetings with the Operator and co-ordinate activities to facilitate the smooth transfer of responsibility for the operation of the services from the existing to the new contract.

44.3 With reference to Form 7, the Operator must supply the Employer with copies of lease or purchase agreements in respect of all buses that it intends to lease or

purchase for use on the contract within 10 days of the notification by the Employer. Failure to do so may be regarded as a material breach of contract.

45. DISPLAY OF VEHICLE AND DUTY NUMBERS

All vehicles used for the provision of the services must—

- (a) display on the front and rear of the vehicle, the fleet number of the vehicle; and
- (b) display behind the lower right front windscreen of the vehicle the duty number that is being operated.

46. SUBMISSION OF DUTIES

In accordance with clause 40.2, the Operator must submit a document to the Representative containing all the duties and timetables to be operated for each category of operating day according to clause 7.1 of the Specifications.

47. GOALS OF THE RDP

47.1 The Operator must indicate on Form 14 how it intends promoting the achievement of the objectives of the Reconstruction and Development Programme (RDP) during the contract period. This will be done by means of a written submission contained in the Business Plan in which actions to be taken in this regard are set out, clearly marked and hereinafter called the "Social Investment and Transformation Proposal."

47.2 The key programmes of the RDP are based on the following principles, which can be used as a framework, for drafting the Social Investment and Transformation Proposal (It is provided as a guide only to assist and should not be seen as exhaustive):

(a) **Meeting basic needs through—**

- upliftment of communities
- improvement in quality of life
- promotion of productive employment opportunities
- promoting the availability of safe, affordable, accessible, environmentally sensitive transport
- wage structures
- promotion of increased efficiency and productivity.

(b) **Developing human resources through—**

- socio-economic development
- occupational advancement
- affirmative action programmes, eg. organisational structure, including management

- technology transfer
- identification and promotion of education and training opportunities at all levels within the company.

(c) **Building the economy through—**

- promotion of economic empowerment eg. sub-contracting, franchising, etc.
- support of emerging entrepreneurs e.g. small operators.

(d) **Democratising state and society through—**

- liaison with interest groups and forums
- community involvement in identification, prioritisation and implementation of services
- negotiation and participative structures for employers ensuring, among other things, gender equity in the company's employment/appointment/training policy.

(e) **Implementing (a) - (d) above—**

Time frames within which the abovementioned actions will be implemented must be provided within the context of the Business Plan.

- 47.3 The said Social Investment and Transformation Proposal for the implementation of the principles of the RDP will be regarded as a material term of the contract and compliance therewith in terms of the programme submitted by the Operator will be monitored to the satisfaction of the Employer. Non-compliance therewith, in the discretion of the Employer, may be regarded as a material breach of contract as contemplated in terms of clause 39. Without prejudice to its rights under clause 39, penalties will be imposed on the Operator for failure to comply with the "RD Proposal" under clause 44.5.10, and the Employer will inform the communities where passengers reside of the failure.
- 47.4 The implementation and evaluation criteria and/or preference allocation will be discussed at the compulsory site meeting.

ANNEXURE A
BUSINESS PLAN

Draft – 24 July 2003

PROVINCIAL ADMINISTRATION OF PROVINCE

**PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES
BETWEEN AND**

**CONTRACT NO.
(Negotiated Contract in terms of section 47(3) of the
National Land Transport Transition Act, 2000)**

VOLUME 2: SPECIFICATIONS

CONTENTS

1. Operating licences/permits
2. Bus specification
3. Statistics of existing services
4. Services to be provided
5. Fares
6. Schedule of quantities
7. Submission of operating data
8. Rail Concessioning
9. Sub-contracting
10. Percentage to be deposited under clause 39 of terms and conditions of contract
11. Suretyship
12. Taxi recapitalisation
13. Minimum engine power of vehicles
14. Escalation under clause 24 of terms and conditions of contract
15. Date of fare increase

APPENDIX A: PASSENGER CENSUS FIGURES

APPENDIX B: TIMETABLES

APPENDIX C: FARE STRUCTURES

APPENDIX D: JOURNEYS CURRENTLY OPERATED ON THESE SERVICES BUT NOT INCLUDED IN THE CONTRACT

1. OPERATING LICENCES/ PERMITS

1.1 Existing operating licences /permits

..... (the current operator) currently holds permits for the routes described in this contract. If a different Operator is awarded this contract, the current operator has undertaken to relinquish its current permits for the routes as described in the tender. Certain services outside the scope of this contract may still be operated by the current operator.

1.2 Proposed operating licences for this contract

The Operator, if not already in possession of operating licences or permits, must submit applications for operating licences to the provincial Operating Licence Board (board), in terms of clause 31 for the provision of public transport services as described in these specifications. The Employer will notify the board in writing of the award of the contract to the Operator. The Operator shall submit an application to the board for operating licences in terms of section 40 of the Act, which will be granted only for the contract period. As soon as the operating licences have been granted by the board, the Operator must notify the Employer.

If the contract is terminated before the expiry date of the contract, the operating licences or permits for these services must be returned by the Operator to the board, for cancellation.

2. BUS SPECIFICATION

2.1 Livery

It is a requirement that all buses operated on the contract must be painted with a uniform livery. Where an approved sub-contractor(s) is/are used, the livery of the sub-contractor(s) may differ from the main operator. Where there is more than one sub-contractor, the livery of the different sub-contractor(s) may differ from each other, but each individual sub-contractor(s) vehicles must be identifiable. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the Employer.

2.2 Bus Standards

All buses must conform to the requirements and regulations of the National Road Traffic Act, 1996 or applicable legislation and applicable SABS specifications.

Details of the existing or proposed buses to be used on the services are to be provided on Form 7.

Standard buses also shall conform with the following requirements:

Minimum number of seats	58
Maximum number standing	43
Minimum engine power	As specified in clause 13 of the Specifications

No vehicle older than fifteen (15) years may be used to provide the specified service during the contract period whereafter it should be rebuilt or rehabilitated. No vehicle older than fifteen (15) years may be rebuilt or rehabilitated.

The age of a bus shall be determined from the date of first registration of the chassis and the Operator must provide proof of this. If the Operator proposes to use buses that have been rebuilt or rehabilitated as defined in clause 1 of the Terms and Conditions of Contract, it must provide full details of the work carried out and the date of completion thereof.

The Representative will monitor the age of the vehicles continuously from the commencement date of the contract and must report on their ages to the Employer to ensure compliance.

A fully rebuilt vehicle shall be deemed to be three (3) years old on the date of the completion of the rebuilding and a rehabilitated vehicle shall be deemed to be eight (8) years old on the date of the completion of the rehabilitation. No vehicle with a chassis age of more than twenty-seven (27) years may be used during the contract period. Rebuild or rehabilitation of a vehicle shall be completed within a period of three (3) months from the start thereof.

Each model of the same new body being built onto a different make of rebuilt chassis shall be inspected by SABS for conformance to compulsory vehicle and Road Traffic Act and Regulations and a letter will be handed to each registered bus body builder stating that the new body complies to compulsory vehicle standards. The chassis Vehicle Identity Number of the first vehicle of such a rebuilt batch or make will be quoted, and registers must be kept of all subsequent rebuilds separately for the different makes of rebuilt chassis.

All vehicles shall adhere to Class 1 accessibility requirements and comply to the following:

- (a) door opening to be 850mm wide with 1450mm head clearance;
- (b) first step to be 250mm above ground (retractable first step is also permissible), following steps with a maximum high of 230mm and a minimum depth of 200mm;

- (c) use of high-contrast colours on steps, grab rails, seat frames and edges of stairs, including black , but excluding red and green;
- (d) sufficient grab handles or handles be fitted with 25 to 35mm diameter and accessible from ground level , with colour contrast;
- (e) lettering on all signs inside the vehicle to be 25mm for a viewing distance of 7,5m;
- (f) audible announcement and visual display to be available;
- (g) reserved seating near entrances for people with disabilities, the elderly, pregnant women or passengers with any other mobility difficulties.

Modifications to vehicles for adherence to Class 1 accessibility requirements must be completed within twelve (12) months for the commencement date.

2.3 Alternative Bus Types

Should the Operator intend to use mini, midi or train buses all buses must conform with the requirements and regulations of the National Road Traffic Act, 1996 or applicable legislation and applicable SABS specifications.

Details of the existing or proposed buses and the appropriate mechanical and passenger loading information must be included on Form 7.

2.4 Route and Destination Equipment

A removable duty number board shall be displayed behind the right lower front windscreen visible from outside. The letter size shall be 150mm and be made from reflective material. The colour of the numbers must contrast with the background colour of the duty board to facilitate legibility.

A board or scroll stating the destination of each trip must be displayed on the front of the bus. The letter size must be at least 200mm and be adequately legible (readable) in all lighting conditions, such as early in the morning or at night. The colour of the letters must contrast with the background colour of the board or scroll to facilitate legibility.

3. STATISTICS OF EXISTING SERVICES

Statistics on trips related to cash ticket and multi-journey ticket sales with regard to these services, as supplied by the current operator are shown in Table 3.1.

TABLE 3.1: SUMMARY OF MONTHLY OPERATIONAL STATISTICS OF EXISTING SERVICE

[illegible]

The provisions of clauses 5 and 8.2 must be noted in this regard. The Operator must note that the new services will not necessarily have the same routes and trips as the existing services.

A passenger census was conducted in These results are attached in Appendix A. The Operator is nevertheless advised to carry out the Operator's own investigations into existing and potential passenger numbers.

4. SERVICES TO BE PROVIDED

4.1 The service area

4.1.1 Terrain and operating environment

The roads used for bus routes are mostly The terrain within the service area is

4.1.2 Competitive modes of transport

Competitive modes of public transport are minibus-taxis.

4.1.3 Private hire and contracts

When vehicles are not required to operate according to the time table they may be used for other purposes including private hires or other contracts as well as on the non subsidised routes, subject to the applicable operating licences being issued by the provincial Operating Licence Board. Such commitments shall in no way relieve the Operator from operating the scheduled trips as provided in the timetables. Caution must be taken as the information contained in this document does not include private hires, other contracts as well as non-subsidised routes.

4.1.4 Scholars

Scholars may use scheduled buses. In general, school trips in the peak period requiring a dedicated bus have been omitted.

4.2 Depots, terminals and bus parking

The existing bus stops and terminals authorised by the local authorities are to be used by the Operator.

The current operator utilises a depot in where the buses are kept and serviced during the day. The Operator should make own arrangements for depots, ranks and the servicing, maintenance and parking of vehicles to be used for the contract, subject to municipal by-laws, regulations and approvals.

4.3 Routes

4.3.1 Route numbers

The route numbers for the services required are to be:

Route 1 Bus Terminus to

The above routes are shown on Figures 1 to

4.3.2 Route descriptions

SAMPLE ROUTE DESCRIPTION

Route From to

4.4 Scheduling and Timetables

- 4.4.1 The timetables have been prepared for Monday to Friday, Saturday and Sunday services. It has been estimated that initially --- single decker standard class buses are required to provide the service as indicated on the timetables included in Appendix B. The Operator however should prepare its own estimate of the number of buses required to operate the services.
- 4.4.2 The timetables have been prepared assuming standard buses will be operated. However, if the Operator proposes to operate other vehicle categories (with different passenger capacities), the Operator must submit a revised timetable, indicating which type of vehicle is to be used on each trip. This shall be subject to approval by the Employer.
- 4.4.3 The timetables included in this document represent most of the trips currently provided, however some of the existing trips have been omitted where passenger numbers were observed to be less than the required number. The timetables provided in Appendix B are not necessarily the timetables which will be operated when the new contract services are implemented. Prior to the start of operations the actual scheduled kilometre timetable will be decided by the Representative and the Operator as provided in clause 40.2.
- 4.4.4 Adjustment or improvements may be negotiated between the Operator and the Employer, or the Representative, and implemented as soon as possible.
- 4.4.5 Where the majority of factories in a specific area close on a weekday which is between a public holiday and a week-end then a limited service should replace the normal Monday-Friday operation. The Representative must be advised in advance of the timetable to be operated on such a day.

- 4.4.6 A summary of the trips and average trip kilometres for each of the routes are set out in Table 4.1.

4.5 Cost savings and sub-contracting

The Employer will have no objections to the Operator leasing equipment such as vehicles, ticket machines and computer data equipment, instead of purchasing the equipment, provided they meet the standard of requirements specified in the contract documents. The Employer will welcome the use of sub-contractors for selected services, subject to suitable contracts being entered into between the operator and the sub-contractors.

5. FARES

5.1 Adult cash and multi-journey ticket (MJT) fares

The adult cash and multi-journey ticket fare structures are shown in Appendix C.

5.2 Scholar fares

The scholar cash and multi-journey ticket fare structures are shown in Appendix C.

5.3 Fare increases

A fare increase of ---% was/will be implemented by the existing operator on ----.

6. SCHEDULE OF QUANTITIES

6.1 Using a fleet of standard buses

The procedure used to estimate the revenue kilometres anticipated over the contract period is set out below:

From the summary of the trips given in Table 4.1, the average estimated monthly revenue kilometres to be operated has been calculated as follows:

----- km per Mon - Thur	x 17	=	----- km
----- km per Friday	x 4	=	----- km
----- km per Saturday	x 4	=	----- km
----- km per Sunday	x 4	=	----- km
Estimated total per month			----- km

[illegible][illegible]

- 4.4.6 Operating according to the timetables included in Appendix B will involve approximately revenue km of travel per month on the routes for a standard bus based on the distances included in Appendix B. The distances travelled from a depot to the terminus or any other journey not listed on the timetable will not be included in the total revenue kilometres that are to be operated.

The number of kilometres operated per month will also vary with seasonal demand and the general economic growth of the area. The estimated number of months of operation at the various bands of revenue kilometres per month are included in the Schedule of Quantities (Form 9).

It is anticipated that most months will operate at the middle kilometre bands but no guarantee is given in this regard. The upper and lower bands are anticipated to cover months when more or less kilometres are operated. There is no specific month order for the estimated number of months for which a kilometre band will be applicable.

6.2 Using a mixed fleet of vehicles

Should the Operator elect to use a mixed fleet of vehicles, the number of kilometres per month for each type of vehicle and the estimated number of kilometres to be operated for the five years for each kilometre band for each vehicle category will have to be inserted in the appropriate columns on an amended Schedule of Quantities Form (Form 9).

7. SUBMISSION OF OPERATING DATA

7.1 Duty numbers

Prior to the commencement date the Operator shall submit a complete list of proposed driver duties for Monday to Friday, Saturdays and Sundays. The duty shall have a number and list the starting and end destination names for each trip, together with the appropriate route number and times.

7.2 Trip information

Trip information for all approved trips must be provided on a monthly basis (see clause 27.1). The existing contract data base maintained by the Representative contains the information of all approved trips and is updated on a monthly basis.

The data entry may be undertaken by hand (typed in from the appropriate waybills). If the electronic ticket machines (EE) are not yet installed, or are not yet fully operational, this data information should be provided by manual methods from the first day of operation. Liaison with the Representative must take place during the establishment period on the procedures to be followed.

7.3 Use of electronic data transfer

If the EE data systems are operational, the daily trip information shall be extracted directly from the EE using an electronic data transfer programme capable of interfacing with the EE software. The cost of developing the programme is to be included in the contract rates. Where the EE data is incorrect or incomplete, the onus is on the Operator to ensure that the correct information or augmented information is collected and entered manually.

The software which is used to record the daily trip information must be capable of generating an ASCII file on stiffy disk and a paper-based report showing all passenger statistics, revenue kilometres and penalty trips for the entire month in question. This report, duly signed by the Operator, together with the completed electronically-based daily trip data, must be submitted to the Representative not later than seven (7) days after the end of the month. The report, which should be in agreement, will constitute the kilometre claim which the Representative will use for checking the monthly claim form.

7.4 Passenger perceptions of the service

Apart from the normal liaison between the Operator and passengers, such as commuter interest groups, surveys and occupancy counts, it is expected of the Operator to report on a monthly basis in writing on complaints received from passengers. The report should include the date and time that the complaint had been received and the actions taken to address specific complaints.

8. RAIL CONCESSIONING

It is government's intention to implement rail concessioning in certain areas as and when appropriate. Should such rail concessioning be contemplated in an area covered by this contract during the period of the contract, negotiations on any alterations to the contract that the Employer deems necessary in this regard and their possible effect on aspects such as fares will be entered into with the Operator.

9. SUB-CONTRACTING

- 9.1 The Operator will be obliged to sub-contract at least ten percent (10%) of the revenue kilometres of the contract in each particular month. The said minimum of 10% must be sub-contracted to small business entities contemplated in the National Small Business Act, 1996 (Act No. 102 of 1996).
- 9.2 The Operator will provide proof of registration or payment by its intended sub-contractor with respect to *insurance, tax, levies required by law*,
- 9.3 The sub-contracting agreement will be subject to approval by the Employer, who may not unreasonably withhold such approval. Should the Employer refuse such consent or fail to respond to the Operator's request within 7 (seven)

working days, the Operator may declare a dispute under clause 26. If consent is given for a sub-contract under clause 6.1, no contract between the Employer and the sub-contractor shall come into being and the Operator shall not be released from any liability or obligation under the contract, and it shall be responsible for the acts and omissions of any sub-contractor or its agents or servants as fully as if they were the acts or omissions of the Operator or of the Operator's agents or servants.

9.4 The Operator will ensure that its sub-contractor is formalised into a business entity within six months of the commencement date of the contract.

9.5 The Employer may at any time withdraw consent for a sub-contract after giving not less than thirty (30) days' notice to the Operator, where-

- (a) the contract of the Operator is terminated as set out in clause 39;
- (b) application is made for the sequestration of the Sub-contractor's estate;
- (c) the sub-contractor publishes a notice of surrender of its estate or presents a petition for the acceptance of the surrender of its estate as insolvent;
- (d) the Sub-contractor makes a compromise with its creditors or assigns in favour of its creditors;
- (e) the Sub-contractor agrees to carry out the contract under the supervision of a committee representing its creditors;
- (f) the Sub-contractor commits any other act of insolvency, or goes into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator is placed under judicial management;
- (g) judicial execution is levied on the Sub-contractor's goods;
- (h) the Operator's or Sub-contractor's operating licences or permit(s) necessary to provide the services are withdrawn or suspended;
- (i) the Sub-contractor has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the Employer or SMF in connection with the obtaining or execution of this contract;
- (j) the Sub-contractor has acted in a fraudulent manner in obtaining or executing a contract with any government department, provincial administration, municipality, public body, company or person;
- (k) the Sub-contractor has approached anyone including any official or agent of the Employer, the Representative or any person in the service of the SMF before or after the contract was signed, with the aim of influencing the award of the contract in its favour;
- (l) the Sub-contractor has given notice of inability to sign or execute the contract;
- (m) the Sub-contractor has abandoned its obligations in terms of the contract;
- (n) the Sub-contractor has deliberately furnished inaccurate information either as regards its previous experience or the vehicles at its disposal for the services, or with regard to any other material information; or
- (o) the Sub-contractor is deceased where it is a natural person.

In that event no claim against the Employer by the Operator or any other person on the grounds of the granting of such consent or the withdrawal thereof shall be entertained, and the Operator indemnifies the Employer against any claims and costs so incurred.

- 9.6 The Employer may at any time during the currency of this contract cede its rights and delegate its obligations in terms thereof to any transport authority or core city.

- 9.7 The Operator will not be allowed to sub-contract more than fifty percent (50%) of the revenue kilometres of the contract in any particular month. Where a combination of contracts has been tendered for and accepted, the Operator may choose whether this will apply to the combined services or to each individual contract, subject to the agreement of the Employer.

10. PERCENTAGE TO BE DEPOSITED UNDER CLAUSE 39 OF TERMS AND CONDITIONS OF CONTRACT

The percentage of the tender amount to be deposited in the circumstances contemplated in clause 39.4 of the Terms and Conditions of Contract shall be percent (.....%).

11. SURETYSHIP

The suretyship required in terms of clause 38 of the Terms and Conditions of Contract shall be for percent (....%) of the tender amount.

12. TAXI RECAPITALISATION

Tenderers are advise that it is government's intention to implement recapitalisation of the minibus taxi industry as and when appropriate. Should such recapitalisation be contemplated in an area covered by this contract during the period of the contract, variations may be effected under clause 32 of the General Conditions, or negotiations on any alterations to the contract that the Employer deems necessary in this regard and their possible effect on aspects such as fares will be entered into with the Operator outside of the contract.

13. MINIMUM ENGINE POWER OF VEHICLES

The minimum engine power of vehicles used on the contract shall be KW in inland areas and KW in coastal areas

14. ESCALATION UNDER CLAUSE 24 OF TERMS AND CONDITIONS OF CONTRACT

The base month indices applicable to this contract shall be those for The indices for the Province will be applicable to this contract.

15. DATE FOR FARE INCREASES

The date for annual fare increases for this contract will be in the month of each year starting on, unless the Parties agree otherwise.

APPENDIX A

PASSENGER CENSUS FIGURES

APPENDIX B

TIMETABLES

APPENDIX C

FARE STRUCTURES

APPENDIX D
JOURNEYS CURRENTLY OPERATED ON THESE SERVICES
BUT NOT INCLUDED IN THE CONTRACT

PROVINCIAL ADMINISTRATION OF PROVINCE

**PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES
BETWEEN AND**

CONTRACT NO.

VOLUME 3: TENDER FORMS

(i)

THE PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES BETWEEN AND

CONTRACT NO.

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..... PROVINCIAL ADMINISTRATION

**THE PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES
BETWEEN AND**

CONTRACT NO.

TAX CLEARANCE CERTIFICATE

(TO BE INSERTED)

..... PROVINCIAL ADMINISTRATION

**THE PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES
BETWEEN AND**

CONTRACT NO.

FORM 1: FORM OF CONTRACT

1. I/we having examined the contract documents for the provision of the above services, hereby undertake to render all or any of the services described in the attached documents to the Employer on the terms and conditions and in accordance with the specifications stipulated in the contract documents (and which shall be taken as part of, and incorporated into, this document at the rates and on the terms inserted therein, which according to Form 12 give a total contract amount of R.....
.....
.....
.....(words)

2. I/we agree that—

- (1) if I/we fail to fulfil the contract when called upon to do so, the Employer may, without prejudice to its other rights, cancel the contract that may have been entered into between me/us and the Employer and I/we will then pay to the Employer any additional expense incurred by the Employer having either to accept any less favourable tender or, if tenders have to be invited, the additional expenditure incurred by the invitation of tenders and by the subsequent acceptance of any less favourable tender; the Employer may also recover such additional expenditure by set off against moneys which may be due or become due to me/us or on my/our behalf for the due fulfilment of this or any other tender or contract and pending the ascertainment of the amount of such additional expenditure to retain such monies, guarantee or deposit a security for any loss the Employer may sustain by reason of my/our default;

- (2) the law of the Republic of South Africa shall govern this contract and the we choose *domicilium citandi et executandi* in the Republic at (full physical address).....
.....
.....