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## GENERAL NOTICE

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### NOTICE 568 OF 2013

#### DEPARTMENT OF TRANSPORT

#### NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009)

#### MODEL TENDER AND CONTRACT DOCUMENTS FOR PUBLIC TRANSPORT SERVICES

I, Dikobe Ben Martins, the Minister of Transport, acting under sections 8(1)(u) and 42 (6) of the National Land Transport Act, 2009 (Act No. 5 of 2009) after consultation with the MECs, do hereby make the Regulations in the Schedule. The Model Contract Documents will be used for subsidised services contracts put out on tender by contracting authorities in terms of the Act. The documents will comprise of 4 Schedules as follows:

#### SCHEDULE

1. Model Contract Documents for Negotiated Contracts (Gross-Based)
2. Model Tender and Contract Documents (Gross-Based)
3. Model Contract Documents for Negotiated Contracts (Net-Based)
4. Model Tender and Contract Documents (Net-Based).



MR DIKOBÉ B. MARTINS

MINISTER OF TRANSPORT

DATE: 08 May 2013

***Introductory Note:***

*This document is published by the National Department of Transport as **Document 1** in a set of four documents as follows:*

- 1. Model Gross-Based Negotiated Contract Documents*
- 2. Model Gross-Based Tender and Contract Documents*
- 3. Model Net-Based Negotiated Contract Documents*
- 4. Model Net-Based Tender and Contract Documents*

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009) (“the Act”)**

**MODEL NEGOTIATED CONTRACT DOCUMENTS  
(GROSS-BASED) in terms of section 41 of the Act**

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009)

MODEL NEGOTIATED CONTRACT DOCUMENTS  
(GROSS-BASED)

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

CONTRACT NO. ....  
(Negotiated contract in terms of section 41 of the  
National Land Transport Act, 2009)

### Contents

1. Volume 1: Terms and Conditions of Contract
2. Volume 2: Schedules

**Explanatory note:** This document is published as a guideline for contracting authorities. It is based on a gross contracting model, i.e. the contracting authority will plan and manage the services and set fares, specifications etc. and will keep the fares. The documents contain some elements of the previously published net-based Model Contract Documents. The document is also published along with other documents to provide for tendering situations and to include a net-based model as an alternative option. Contracting authorities may decide to use the gross- or net-based model according to which is more appropriate for the relevant situation.

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11. EFVE Operation
12. Style Guide for image and marketing
13. Journey Analysis Report
14. Occupational Health and Safety Agreement

## Acronyms

The following acronyms are used in this document:

BBBEE	Broad based black economic empowerment
BEE	Black economic empowerment
CA	Contracting authority
CPI	Consumer Price Index
EFVE	Electronic fare validation and collection equipment
IFRS	International Financial Reporting Standards
KPI	Key performance indicator
MFMA	The Local Government: Municipal Finance Management Act 56 of 2003
MJT	Multi-journey ticket
MTEF	Medium Term Equalisation Framework

OEM	Original equipment manufacturer
PFMA	The Public Finance Management Act 1 of 1999
SABS	South African Bureau of Standards
SMF	Supervising and monitoring firm
VAT	Value added tax

## THIS CONTRACT IS CONCLUDED BETWEEN:

1. The..... Municipality, a metropolitan/local Municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), herein represented by ..... in his/her capacity as ....., duly authorised by a resolution of the Municipality's Mayoral Committee/Council adopted at ..... on ..... ("the Contracting Authority")

OR

1. The ..... Provincial Administration (hereinafter called "the Contracting Authority") of the one part, herein represented by ..... in his/her capacity as ..... acting in terms of an agreement with the ..... Municipality dated ..... and attached hereto as Schedule .....

AND

2. .... (Registration number.....( called "the Operator") of the other part, herein represented by ..... in his/her capacity as .....

WHEREAS the contracting authority is desirous that certain passenger transport services be provided as detailed in this contract and the Operator agrees to provide the said services in terms of this contract;

NOW THIS CONTRACT WITNESSES AS FOLLOWS:

### 1. DEFINITIONS

- 1.1 In this contract, words in the singular also include words in the plural and *vice versa* where the context permits.
- 1.2 In this contract any word or expression to which a meaning has been assigned in the Act or the National Road Traffic Act has the meaning assigned to it by those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

**“accepted”, “approved”, “authorised”, “directed”, “ordered” and “rejected”** means accepted, approved, authorised, directed, ordered or rejected by the CA or Representative;

**“Act” or “the Act”** means the National Land Transport Act 5 of 2009;

**“agreed”** means agreed in writing by the CA or the Representative on the one hand and the Operator on the other hand;

**“authorised stop”** means a stop, rank or terminal authorised by the relevant municipality;

**“bus”** means a bus as defined in the Act (designed or modified to carry more than 35 persons including the driver) by means of which the Operator proposes to provide the services and includes a standard bus, double deck bus, maxi-bus, bus-train and bi-articulated bus;

**“business day”** means any day other than a Saturday, Sunday or official public holiday;

**“Business Plan”** means the business plan contemplated in Schedule 5;

**“BBBEE Codes of Good Practice”** means Codes of Good Practice on Broad Based Black Economic Empowerment (BBBEE) gazetted for the bus industry in terms of section 9 of the Broad-Based Black Economic Empowerment Act 53 of 2003 on 21 August 2009 (*Government Gazette* 32511);

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

- (a) consists of three sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 116 other persons; and
- (d) has a continuous passageway over the length thereof;

**“bus-train”** means a bus-train as defined in the National Road Traffic Regulations, i.e. a bus which–

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over the length thereof;



**“CA”** means contracting authority;

**“capacity”** in respect of vehicles means the maximum number of persons that may lawfully be carried in the vehicle, including all seated and standing passengers, but excluding the driver as specified in the relevant roadworthy certificate or legislation;

**“commencement date”** means the date on which the services to be provided by the Operator will commence as stated in clause 3, or such other date as may be agreed between the Parties in writing;

**“contract”** or **“this contract”** means this contract between the CA and the Operator, including the Schedules;

**“contracting authority”** means—

- (a) the ..... Municipality/Province; or
- (b) its successors in title; or
- (c) a municipal entity or provincial public entity established by that authority or any other agent appointed by it;

**“contract rates”** includes both fixed and variable contract rates;

**“clause”** means a clause of these terms and conditions of this contract;

**“day”** includes all days, i.e. weekdays, Saturdays, Sundays and public holidays;

**“date of first registration”** means in relation to a vehicle the date of first registration—

- (a) pursuant to the original manufacture of the vehicle; or
- (b) the date of manufacture shown on its compliance plate or chassis compliance plate,

**“Deputy”** or **“Representative's Deputy”** means the person appointed as such by the CA, or by the Supervising and Monitoring Firm (SMF) with the written consent of the CA, to perform the functions of such Deputy as set out in this contract;

**“double deck bus”**, means a bus which consists of two decks connected to form a unit with a capacity of up to 90 seated persons;

**“duty”** means a document providing written instructions to a driver of a vehicle specifying the various trips to be operated;

**“duty board”** means a board that displays the duty number of a particular vehicle for identification purposes;

**“early trip”** means a trip where the vehicle concerned departs from the departure point or any intermediate timing point specified in the time table, before the time listed in the time table;

**“EFVE”** means fully operational electronic fare validation and collection equipment which is designed and intended to be used to record information electronically about a ticket when the ticket is inserted into the equipment, or presented to the equipment for scanning, as more fully described in the Electronic Fare Collection Guidelines issued by the Department in November 2007, as amended from time to time, and subject to the Regulations relating to Integrated Fare Systems published under Notice R.511 in Government Gazette no. 34363 of 17 June 2011;

**“end of term period”** means the last 12 months of the term of this contract or, if a termination notice is given by the CA, the period between the date that the termination notice is given and the termination date;

**“fare evasion”** occurs where a person uses public transport without a valid ticket and includes, but is not limited to–

- (a) using such transport with no ticket or concession, or with a ticket or concession that has expired or is defaced, altered or fraudulent;
- (b) using a ticket in the wrong zone or route or overriding the zone; and/or
- (c) using a ticket that was not validated;

**“financial records”** means proper books of account and all other financial and planning records of the Operator relating to the services that would ordinarily be maintained and compiled in terms of generally acceptable accounting practice including, but not limited to–

- (a) Cash flow records;
- (b) Financial modelling reports;
- (c) Notes, documents and data supporting the records and reports contemplated in (a) and (b) including management information systems, electronic ticketing system information, ledgers, spreadsheets, payroll registers, customer invoices, supplier invoices, bank statements, tax returns and insurance policies; and
- (d) Audited financial statements prescribed by any applicable legislation;

**“financial report”** means a detailed report and analysis by the Operator of its financial performance under this contract including copies of the

Operator's most recent financial records referred to in the definition of "financial records", which must be its audited records where the law requires auditing;

**"fixed contract rate"** means the amount paid per peak vehicle per month to compensate the Operator for fixed or capital costs in terms of clause 39 as calculated in accordance with Schedule 10, and shall be fixed for the duration of the contract, but subject to escalation in terms of clause 37 and subject to Item 2.8 in Schedule 10;

**"form"** means a form shown in Schedule 1;

**"item"** means a paragraph of the relevant schedule to this contract;

**"maxi-bus"** means a bus with three axles and a seating capacity of between 71 and 90 passengers, including the driver;

**"MFMA"** means the Local Government: Municipal Finance Management Act 56 of 2003;

**"midibus"** means a midibus as defined in the Act (designed or modified to carry from 17 to 35 persons including the driver);

**"minibus"** means a minibus as defined in the Act (designed or modified to carry from 10 to 16 seated persons including the driver);

**"month"** means a calendar month;

**"multi-journey ticket" or "MJT"** means a ticket or token for a number of inbound and outbound trips on a specified route, valid for a period expiring on the date specified thereon or in the case of electronic payment methods the stored value of the payment instrument concerned;

**"National Road Traffic Act"** means the National Road Traffic Act 93 of 1996;

**"National Road Traffic Regulations"** means the National Road Traffic Regulations, 2000 promulgated under the National Road Traffic Act;

**"OEM"** means the original equipment manufacturer;

**"operating licence"** means an operating licence as defined in the Act, and includes a permit as defined in the Act, which is necessary to enable the Operator to provide the services in terms of this contract, and where the Operator is already in possession of such licence or a permit before the commencement date, includes any renewal, amendment or transfer thereof necessary to enable the Operator to provide the services;

**“operational records”** means those records of the Operator relating to the operational aspects of the services of a kind that would ordinarily be maintained and which will at least include the following:

- (a) revenue kilometres operated;
- (b) kilometres operated for dedicated school services;
- (c) trip cancellations and services not operated, including reasons;
- (d) environmental incidents and emergencies;
- (e) passengers conveyed;
- (f) any records relating to the operational aspects of the conduct of the services required by any legislation; and
- (g) accidents involving injuries or fatalities.

**“operational report”** means a detailed report and analysis by the Operator of its operational performance under this contract including, but not limited to–

- (a) an analysis of trips not operated, trips cancelled and trips operated late and early;
- (b) an analysis of revenue kilometres completed;
- (c) an analysis of kilometres operated for dedicated scholar services;
- (d) an analysis of the condition of vehicles operated and inspected and details of vehicles found not to be contract compliant;
- (e) an analysis of the actual availability of vehicles for scheduled services;
- (f) an analysis of the passengers transported subdivided as required by the CA;
- (g) an analysis of cash and MJT tickets cancelled;
- (h) details of complaints received; and
- (i) any other information required by the CA,

which report must be in the form required by the CA and which enables the CA to measure the Operator’s performance against any applicable performance benchmarks;

**“Operator”** means the Operator described on page 1 and includes the Operator's executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the CA, any cessionary, delegate or sub-contractor of the Operator or substitute Operator;

**“ownership control”** means the ability to exercise or to influence substantially the exercise, of any of the financial and operating policies of an operator so as to obtain a benefit from its activities;

**“Party”** or **“Parties”** means the CA and/or the Operator, as the context

indicates;

**“passenger kilometre capacity”** means the capacity of a vehicle in terms of passenger kilometres over a specific route distance calculated by multiplying the legally seated capacity of the vehicle by the trip kilometres;

**“payment certificate”** means the claim form certified by the Representative and subject to the approval of the CA, being the total of the forms and certificates required by the CA to be completed, signed and submitted by the Operator in support of its monthly claim, and which is in accordance with Form 1 in Schedule 1;

**“peak vehicle”** means a vehicle required by the Operator to provide services during the peak periods described in the time table;

**“PFMA”** means the Public Finance Management Act 1 of 1999;

**“positioning kilometres”** or **“dead kilometres”** mean kilometres travelled by a vehicle with or without passengers–

- (a) from a depot to the starting point of a scheduled trip;
- (b) from the end of a scheduled trip to a depot; or
- (c) from the end of a scheduled trip to the starting point of the next scheduled trip;

for which the Operator is not entitled to be compensated in terms of this contract;

**“public transport vehicle”** means a bus, midibus or minibus;

**“rapid transport bus”** or **“rapid transport bus train”** means a bus authorised to operate along a rapid transport lane in a bus rapid transport system, and which has a regulated floor height and door configuration designed to facilitate speedy access of passengers to and from dedicated loading facilities, and includes the sub-categories set out under the same definitions in the National Road Traffic Regulations;

**“Rebuilt bus”** means a bus rebuilt in accordance with the specifications set out in Schedule 2;

**“Rehabilitated bus”** means a bus rehabilitated in accordance with the specifications set out in Schedule 2;

**“Representative”** means the person appointed as such by the CA, or by the SMF with the written consent of the CA, to supervise and monitor the services and to perform the functions of Representative in this contract, or

a person authorised by the CA to act on its behalf. "Representative" also includes the Representative's delegate contemplated in clause 34. If no such person is formally appointed, the word "Representative" means any person duly appointed by the CA to represent it and notified to the Operator in writing;

**"revenue kilometres"** means scheduled kilometres actually operated on approved routes for which the Operator is entitled to be compensated in terms of this contract;

**"route"** means a fixed path from origin to destination along a series of roads with intermediate stops as specified in Schedule 8 or otherwise agreed to between the Parties;

**"scheduled kilometres"** means those kilometres which are authorised in accordance with the time table, as approved and amended from time to time and which will become revenue kilometres if operated;

**"scheduled trips"** means those trips which are authorised in accordance with the time table, as approved and amended from time to time;

**"separate agreement"** means a new agreement between the CA and the Operator for operating additional services which were not contemplated in this contract, are not required for the proper fulfilment of the this contract and do not amount to variations in terms of clause 16;

**"service area"** means the residential, business, industrial and other areas served by the routes, as described in Schedule 8, in which the services will be operated;

**"services"** means the services for the transportation of passengers along the routes by specified vehicles at specified times and frequencies and stopping at specified locations, which are to be provided in terms of this contract;

**"SMF" (Supervising and Monitoring Firm)** means a firm appointed by the CA if it so decides to act on its behalf for the supervision and monitoring of the services;

**"specifications"** means the specifications set out in Schedule 8 in which the services including routes, distances, fares, timetables, stops and any additional related information are described, and includes the vehicle specifications set out in Schedules 2, 3 and 4;

**"substitute operator"** means an operator appointed on a temporary basis in terms of clause 19;

**“standard bus”** means a bus with a capacity of from 36 to 70 seated persons, and the number of standing passengers authorised by the relevant roadworthy certificate issued in terms of the National Road Traffic Act;

**“ticketing system”** means electronic equipment as part of the EFVE for the collection of fares and validation of tickets, passes, smart cards or value cards;

**“time table”** means a schedule of passenger carrying trips approved by the CA, indicating all departure times from points of origin and specified intermediate points (not necessarily all authorised stops) as well as arrival times at destinations on each route for specified days, subject to any variation thereof in terms of clause 16;

**“trip”** means the operation of a vehicle, carrying fare paying passengers, travelling in a single direction on a route as set out in the authorised time table, including any variations approved by the CA or Representative in writing in terms of clause 16;

**“unsuitable vehicle”** means a vehicle which is materially different from those specified in Schedule 3 in terms of age, make, model or otherwise, or which the CA and/or Representative in their discretion deem to be unsuitable to provide the services adequately or which does not comply with the National Road Traffic Act or other applicable legislation;

**“variable contract rates”** means the rates per revenue kilometre agreed upon between the Parties as being the rates used to calculate payments to the Operator under clause 34 and as described in Schedule 10;

**“vehicle”** means a public transport vehicle; and

**“waybill”** means a document provided by the Operator that details duty, route and trip details (including details of passengers carried and tickets issued and cancelled per trip and revenue collected) as shown in Form 5.

## 2. PREAMBLE

### WHEREAS:

- 2.1 The CA has developed an integrated public transport network/integrated transport plan to provide better public transport service to the travelling public in its area. *[In the case of a province “has concluded an agreement with the .....Municipality dated ..... which is attached hereto as*

*Schedule .... and in terms of which the Province will manage this contract and the services provided in terms thereof on behalf of the Municipality”]*

- 2.2 The CA has contracted the Operator to provide the services, subject to the terms and conditions of this contract.

### **3. COMMENCEMENT DATE AND DURATION**

- 3.1 The Operator must commence the services on ..... 20... or as otherwise agreed between the Parties in writing. *[Note: where possible the commencement date should coincide with the start of the municipality’s financial year (even where the CA is the province acting on its behalf.)]*
- 3.2 The contract shall run for seven years, but the CA may, in its sole discretion, and depending on the performance of the Operator as gauged by the method shown in Schedule 9, extend the contract for a further period of not more than five years. The CA must, irrespective of its decision to so extend the contract or terminate it, notify the Operator in writing of its decision no later than the start of the end of term period. Should the CA have decided to extend the contract for a further period of five years, the Operator must confirm in writing that it will continue for the extended period or terminate its services at the expiry of the initial contract period no later than twelve months before the expiry of the initial period. This will allow the CA to secure the services of a new service provider through a tendering process.
- 3.3 Should the CA decide to extend the contract period in terms of clause 3.2, the parties must negotiate new contract rates for the period of the extension as soon as possible after the Operator is notified of the CA’s decision. Once new rates have been agreed upon, they will apply as from the start of the extended five-year period of the contract and for the purposes of clause 37 (Escalation) the base month shall be the month prior to the month in which the extended five-year period starts. Should the Parties not have agreed on new rates within 90 days of the start of the end of term period, the CA may, despite a previous decision to extend the contract, terminate the contract on giving the operator not less than 90 days written notice.
- 3.4 It is recorded that the CA may request tenders for the provision of the services in substantially the same service area as required by the Act before the start of the end of term period for a period commencing on termination of this contract. If this is done, any new contract awarded shall amount to a totally new contract based on the terms and conditions set out in the relevant tender documents.



- 3.5 If the subsequent contract is awarded to a different operator, the Operator undertakes to give its full support and co-operation in effecting the transition of the services to that other operator including, but not limited to, submitting the relevant operating licences to the applicable regulatory entity for cancellation or amendment.
- 3.6 Nothing in this contract is intended to give to, nor shall give the Operator a legitimate expectation regarding any extension of this contract, being either an extension contemplated in clause 3.2 or otherwise, or an expectation to be appointed as the operator in any extended or subsequent contract. The appointment of an operator for any extended period or subsequent contract will be in the sole and absolute discretion of the CA.

#### **4. INDEPENDENT CONTRACTOR**

- 4.1 The Operator shall act as an independent contractor and not as an employee or agent of the CA and does not have the authority to bind the CA contractually to any other party. The CA shall not be liable to pay any retrenchment or severance benefits to any of the employees of the Operator on dismissal or on expiry of the contract period and the Operator hereby unequivocally and unconditionally indemnifies the CA against any such claim.
- 4.2 The Operator must obtain the prior written approval of the CA for any changes in ownership control, which approval will not be withheld unreasonably.
- 4.3 If approval is granted for a change of ownership control, the Operator must provide the CA within seven days with the particulars of any such change as shown in Form 2 in respect of the new person or entity exercising such control. Failure to do so will result in imposition of a penalty in accordance with Schedule 7 or alternatively the CA may terminate the contract in terms of clause 48.

#### **5. DATA AND OTHER STATISTICS**

- 5.1 All data and statistics of whatever nature provided by the CA concerning existing or former services are provided in good faith as the best information available to the CA at the relevant time, to assist the Operator. No guarantee of the correctness of the data and statistics is given by the CA and no claims by the Operator arising from incorrect data or statistics or as a result of incorrect estimates made by the Operator will be entertained. The Operator must note that services required to be provided

in terms of this contract might differ from existing or former services provided in the service area.

- 5.2 It is the duty of the Operator to inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is contracting. No claims of any nature will be entertained on the basis of a failure to make such enquiries.
- 5.3 Six months after the commencement date the CA must arrange a meeting with the Operator to compare the scheduled weekly kilometres provided by the CA before that date with the actual scheduled weekly kilometres since that date. If there is a deviation of more than 10% (ten percent) which is either positive or negative, the Parties must re-negotiate the contract rates to take account of the variation. If the Parties are unable to agree on new contract rates within 14 days after the date of the meeting, either party may declare a dispute in terms of clause 41.

## **6. INFORMATION**

- 6.1 The Operator must submit all applicable information and data as may be required in terms of the contract documents within the required time frames. The CA may if it regards the information supplied as insufficient, call for further information. The Operator must furnish such additional information within seven days of being called upon to do so, in writing failing which penalties will be imposed in accordance with Schedule 7.
- 6.2 Any explanation desired by the Operator regarding the meaning or the interpretation of this contract must be requested in writing from the CA and the CA must respond in writing within seven business days. No oral explanations will be binding unless confirmed in writing. Such an explanation will not be regarded as an amendment of this contract unless the parties agree to it in writing as contemplated in clause 47.2, and will not amount to a variation unless made in terms of clause 16.
- 6.3 No oral representations or statements by the Representative or any other officer, employee or agent of the CA shall affect or modify any terms or obligations of this contract.
- 6.4 The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA, the Representative or a dedicated official or agent of the CA appointed by the CA to manage the contract.
- 6.5 The Operator must retain all information and records pertaining to this contract and keep it available to the CA for inspection for the duration of this contract and for at least three years after the expiry or termination of

this contract.

## **7. CONTRACT RATES ALL-INCLUSIVE**

- 7.1 The Operator must satisfy itself as to the correctness and sufficiency of the contract rates which shall (except in so far as is otherwise provided) cover all of the Operator's obligations under this contract.
- 7.2 The contract rates are calculated to cover full compensation for all general preliminaries, expenses incurred in complying with the conditions and Specifications, other costs, dead kilometres as well as everything else necessary for the execution of this contract. No claims of whatever nature will be entertained based on the fact that they are too low or do not cater for all eventualities, or that they were incorrectly calculated.
- 7.3 The Operator must also make sufficient allowance in the contract rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in clause 6.1.
- 7.4 The Operator's attention is drawn to the fact that the services may be varied during the contract period under clause 16, which could lead to an increase or decrease of monthly scheduled kilometres.
- 7.5 The Operator is advised that the services may have been rationalized and that routes, time tables etc. may not necessarily be the same as those operated previously.
- 7.6 Scheduling of buses for optimal use thereof, subject to the agreed timetables, will be the responsibility of the CA. Contract rates will be fixed for the contract period, subject to clauses 5.3 and 39.23.
- 7.7 Monthly payments to the operator, as well as fares paid by passengers, are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the contract rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.

## **8. INVESTIGATION OF OPERATOR**

- 8.1 The CA or its authorised agents may inspect the Operator's premises and facilities (including workshops and depots), as well as vehicles by means of which the Operator provides or proposes to provide the services, at any reasonable time. The Operator must give full co-operation in this regard.

- 8.2 The CA may appoint chartered accountants or other consultants to report on the financial resources or any operational aspects of the Operator at any time during the contract period or, if necessary, thereafter.
- 8.3 The Operator must provide all reasonable assistance in such an investigation, and on request by such accountants or consultants provide documentation or other information within seven days, failing which penalties will be imposed in accordance with Schedule 7.
- 8.4 The CA may require that the Operator's cash handling procedures, be audited by an independent third party within a reasonable period specified by the CA.
- 8.5 The Operator must permit the CA to inspect at any reasonable time—
- (a) the books, records and other material kept by or on behalf of the Operator (including any records relating to employees); and
  - (b) the Operator's premises, depots and contract vehicles,
- in order to—
- (c) check or audit any information supplied to the CA under this contract; or
  - (d) monitor the performance of the Operator or compliance by the Operator with its obligations under this contract.
- 8.6 If, at any time during the contract period, the CA believes reasonably that the solvency of the Operator is in doubt and that the situation is likely to affect adversely the continuity of the services, the CA may request the Operator to provide a statement of financial position certified by its directors, members, trustees or auditors. The Operator must comply with the CA's request within seven days or a period mutually agreed upon. .
- 8.7 If any survey or inspection conducted in terms of this contract reveals that information previously supplied to the CA was in any material respect inaccurate, the Operator shall be liable for any damages suffered by the CA as a result thereof which will be dealt with *mutatis mutandis* in the manner set out in clause 39.22 and will be in addition to the CA's rights to impose a penalty as provided for in Schedule 7 or to terminate the contract in terms of clause 48.

## **9. MANAGEMENT OF THE SERVICES**

- 9.1 The CA shall—

- (a) Determine the routes, trips, fares and timetable of the services;

- (b) Determine the operating hours for each day, which may differ for Fridays, Saturdays, Sundays, public holidays and school holidays;
  - (c) Prescribe other terms, conditions or operational rules deemed necessary for the provision of the services;
  - (d) Provide instructions and directions to the Operator; and
  - (e) In its sole and absolute discretion, amend the schedules, routes or timetable in the case—
    - (i) of an emergency;
    - (ii) where financial or budgetary restrictions demand an amendment to the services; or
    - (iii) of other events beyond the reasonable control of the CA.
- 9.2 The Operator shall at all times comply with the instructions, directions, terms, conditions and operating rules provided to it by the CA or its designated representatives.
- 9.3 The Operator may not deviate from the timetable and must ensure at all relevant times that it provides sufficient vehicles and trained drivers, mechanics and other staff to enable it to comply with the specifications and to provide the services adequately, and to be on standby to avoid any interruption or delay in providing the services.
- 9.4 The Operator must during the full period of the contract ensure at all times that it maintains adequate levels of fuel, in order to ensure efficient and uninterrupted delivery of the services. If the Operator uses off-premises fuel storage facilities, it must put in place adequate contingency arrangements to the satisfaction of the CA to ensure adequate and timeous delivery of fuel. However the Operator will not incur penalties where failure to provide services is due to fuel shortages that are beyond the Operator's control.
- 9.5 The CA or its representatives may conduct random spot checks to ensure compliance with clauses 9.3 and 9.4.

## **10. BUSINESS PLANNING, RECORDS AND REPORTING**

- 10.1 The Operator must within the time periods stated in this contract or, where no time period is indicated, within the time required by the CA, submit the Contract Management Plans, Business Plans, Operational Reports and other information set out in Schedule 5, and must assist the SMF to provide the reports and other information set out in Schedule 6.
- 10.2 The Operator and any companies holding shares in the Operator must at all times comply with good governance principles as contemplated in the King III Report and must comply with the Companies Act, 2008 and other applicable legislation regarding good governance, business planning,

records and reporting. Should the articles of association, shareholders' agreement, founding statement, constitution or like document(s) of the Operator or any companies holding shares in the Operator be amended, the Operator must supply the CA with copies of those documents within seven days of the amendment, failing which the Operator will be deemed to have failed to comply with clause 4.3 and a penalty will be imposed as contemplated in that clause.

## **11. PROVISION OF SERVICES**

- 11.1 The Operator must, on each day on which the services specified by the CA in Schedule 8 are to be provided, operate those services in accordance with the routes, vehicles, timetables and fare tables set out in that Schedule, and any other conditions set out in this contract, and not make any change to the service without obtaining the prior written approval of the CA in terms of clause 16, except in the case of emergency or another event contemplated in clause 15.
- 11.2 It is the responsibility and prerogative of the CA to develop and plan the services in accordance with its obligation in terms of the Act. This includes, among others the planning and specification of routes, timetables, vehicle types to be used, fare structures and scheduling of services to ensure optimal utilization of vehicles and capital cost.
- 11.3 The CA may also prescribe minimum service levels and assess performance, and may, where appropriate, vary the services in terms of clause 16.
- 11.4 The CA may, after consulting the Operator, issue protocols and standard operating procedures from time to time indicating how the services are to be provided, or where applicable how the Operator must work together with other operators of public transport modes. If such protocols or operating procedures will result in additional costs for the Operator that do not amount to variations under clause 16, the Parties must agree on additional compensation for the Operator.
- 11.5 The Operator accepts that the routes assigned to it in the Specifications may not always be for its exclusive use and may also be used by other public transport operators, as directed or decided by the CA. If other operators are allowed to compete with the Operator at a later stage and this is likely to impact adversely on the Operator's income, the Parties may negotiate additional compensation for the Operator. This will not apply to other bus and taxi operators operating the routes on the commencement date.

- 11.6 The Operator must exercise the highest degree of skill, care and diligence in the provision of the services and operate the services strictly in accordance with the specifications, as well as the other relevant provisions of this contract, to the satisfaction of the CA. The Operator must comply with and strictly adhere to the instructions and directions of the CA and Representative regarding the operation of the services, subject to clause 15. The Operator must take instructions and directions only from authorised officials and agents of the CA, identified in terms of clause 34.
- 11.7 Depending on the requirements of this contract as to which type or combination of types of vehicles are to be provided by the Operator, the Operator must provide for each trip a vehicle having the passenger capacity as specified in the definitions of "minibus", "midibus", "standard bus", "double deck bus" and/or "bus-train", as the case may be and that conforms fully with the requirements and attributes of clause 24 and Schedule 3.
- 11.8 The Operator may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question or on grounds of violent, abusive or otherwise illegal or offensive conduct on the part of that person or other grounds contemplated in the Act or the National Road Traffic Act, or because the person refuses to pay the fare or present an unvalidated ticket.
- 11.9 Should the Operator become aware of circumstances or problems which have prevented, are preventing or will prevent the Operator from providing the services as specified, the Operator must, as soon as is reasonably possible but not later than eight hours after becoming so aware, advise the CA of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced thereby, if applicable. Such advice must be confirmed in writing within 24 hours. The Operator must in such circumstances comply with clause 15.
- 11.10 In addition to any statutory obligations, the Operator must immediately after its occurrence, report to the CA or Representative any accident in which persons have been injured or killed. This must be followed by a written report containing full details of the occurrence within four business days of the occurrence.

## **12. OPERATING LICENCES AND PERMITS**

- 12.1 The Operator must promptly do everything in its power to obtain and maintain in force all operating licences or permits, including licences and permits required by local authorities, pay all fees and levies and issue all notices as may be necessary for or be connected with the due operation of the services in accordance with the Act and other applicable legislation.

- 12.2 The Operator must apply for the necessary operating licences or amendments not later than seven days after this contract was concluded in terms of regulation 16 of the National Land Transport Regulations, 2009 and provide all necessary information and assistance to the CA and competent regulatory entity to obtain the necessary operating licences, or amendments to existing permits or operating licences, or approval of fare increases, as the case may be, covering the contract routes in terms of section 56 of the Act unless it is already in possession of such licences, permits, amendments or approvals. In terms of that section the operating licences will be for the duration of the contract period only and will be specific to the contract. When such licences are issued, the Operator must supply copies to the CA within five days.
- 12.3 The Operator must take all reasonable steps to obtain the granting and issuing of the operating licences or amendments referred to in clause 12.2 as expeditiously as possible. If for any reason the necessary operating licences or amendments have not been granted and issued by a date being 14 days prior to the commencement date and the CA in its discretion after consultation with the Operator decides that it is unlikely that the Operator will obtain the licences in time to enable it to provide the services on the commencement date, the CA may—
- (a) cancel the contract after having given seven days' notice of its intention to do so, in which event the Parties shall be entitled to restitution with no claims against each other, unless the Operator was in bad faith (*mala fide*) or the failure to obtain operating licences timeously or at all, was due to its fault or negligence; or
  - (b) postpone the commencement date on written notice to the Operator, in which event, if the Operator is providing services before the commencement date on some or all of the routes in question in terms of another contract or arrangement, the Operator must continue providing the services according to that contract or arrangement until the operating licences are obtained.
- 12.4 Should another operator or interested person oppose, challenge or appeal against the granting of such operating licences, the Operator must do everything necessary to defend or counter the opposition, challenge or appeal, subject to the directions of the CA, and the costs thereof shall be borne by the CA, provided that if the opposition, challenge or appeal arises as a result of the Operator's failure to do all things reasonably necessary as contemplated in this clause, the Operator shall bear all costs associated therewith.
- 12.5 The Operator must forthwith upon the occurrence of any of the following events notify the CA in writing of the details thereof:



- (a) Any revocation, suspension or refusal to renew any licence or permit necessary for the provision of the services, and
- (b) The imposition of any condition upon such licence or permit or any other circumstance which would prevent the Operator from providing the services in accordance with the contract.

### **13. TIMETABLES**

- 13.1 Subject to this clause and clause 16, the services reflected in the timetables provided in Schedule 8 are the services that the CA requires the Operator to operate as on the commencement date.
- 13.2 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 timetables may be necessary before commencement of the services. If this is the case, the Parties must agree on appropriate timetables at least 15 business days before the commencement date. If this is not done the timetables in Schedule 8 as at the date of signing of this contract shall be operated on the commencement date until further notice from the CA.
- 13.3 The CA will formulate a proposed timetable to apply during holiday periods, after consulting the Operator, at least 14 days prior to public holidays and/or holiday periods. Such time table will be binding on the Operator for such holiday period.

### **14. SUBMISSION OF DUTIES**

- 14.1 Subject to clause 13, the Operator must submit a document to the CA containing all the duties and timetables to be operated for each category of operating day and vehicle on a weekly basis not later than 8:00 each Wednesday morning.
- 14.2 No changes may be effected to the duty numbers without seven days' prior written notification to the Representative, and passengers.

### **15. TEMPORARY INTERRUPTION OF SERVICES**

- 15.1 Cancellation of scheduled trips that form part of a reduced service during holiday periods is permitted if the CA or Representative approves them in writing at least 14 days in advance.

- 15.2 Cancellation of scheduled trips other than that due to a strike or stayaway action that is reasonably beyond the Operator's control or could not be prevented by the Operator is not permitted unless the CA or Representative approves them in writing at least 14 days in advance.
- 15.3 Cancellation of other scheduled trips by the Operator is not permitted unless in the opinion of the CA or Representative the cancellation—
- (a) is due to unforeseen emergencies, road closures, obstructions, floods or weather conditions or other circumstances or problems contemplated in clause 11.8; or
  - (b) results from immediate danger to life or of personal injury and/or serious damage to property, and
- the CA or Representative has approved the cancellation in advance, and if such approval was granted telephonically or by the SMS, the approval has been confirmed in writing by the CA within 48 hours of having been given.
- 15.4 Cancellation of scheduled trips by the Operator must be agreed to in writing by the CA or Representative.
- 15.5 The discretion on whether a scheduled trip is validly cancelled or not shall lie solely with the CA, and the Operator may declare a dispute under clause 41 if dissatisfied with the CA's decision.
- 15.6 Where the Representative directs the Operator to provide services in circumstances where the Operator is of the opinion that there is immediate danger to life or of personal injury or of serious damage to property, due to violence, conflict, serious intimidation of drivers or boycott action, either against the Operator's firm or generally, the matter shall be referred to the CA for decision within 24 hours and the CA's decision will be final. If the CA decides that there was not in fact such danger, the Operator will be penalized under Schedule 7 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.7 Where the Operator is of the opinion that scheduled trips should be cancelled due to boycott action, either against the Operator's firm or generally, the Operator must, through the Representative, refer the matter to the CA for decision. If the CA decides that such cancellation is justified the variable contract rate will not be paid for services not provided but the fixed contract rate will still be paid: if not, the Operator shall be penalized in accordance with Schedule 7 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.

- 15.8 The Operator must inform the Representative immediately of any proposed cancellation of any scheduled trips in terms of this clause and the Parties must then meet on an urgent basis to agree to the deviation, if any, to be allowed, and the re-commencement of the services. If they fail to reach agreement within three hours of having met for the first time, the CA's decision will be final and binding on the parties.
- 15.9 For the purposes of this clause "emergency" means a situation which is beyond the control of the Operator, for example strikes, stayaways, riots, *vis major*, etc., and which makes the provision of the services or part thereof impossible.

## 16. VARIATIONS

- 16.1 The Operator must comply with the services set out in the Specifications in Schedule 8 in respect of routes, time tables, vehicles and fare structures.
- 16.2 The CA or Representative may after consultation with the Operator make the following variations to the services within the service area:
- (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 necessarily 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;
  - (e) to change the time table of any portion of the services; and
  - (f) to make alterations in connection with vehicle capacities as contemplated in clause 16.3,

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

- 16.3 The Operator may apply in writing to the CA for a variation in the types of vehicles which are used to provide 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 CA

consenting to such a variation the financial implications thereof on the contract rates (if any) and time table shall be agreed upon in writing. The decision of the CA in this regard shall be final and be communicated to the Operator in writing within 14 days of receipt of the request.

- 16.4 If it appears to the Operator that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Operator must apply to the CA for permission to introduce additional trips to cater for such passengers and such permission will not be unreasonably withheld. If written permission is granted and additional trips introduced, the CA shall compensate the Operator therefor at the applicable variable and fixed contract rates as from the first day of the month following the approval and all costs incurred by the Operator prior to that day shall be for the Operator's own account.
- 16.5 If it appears to the Operator or Representative that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the CA may at the request of the Operator or Representative approve that—
- (a) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
  - (b) the Operator continues operating the vehicle, in which case the Operator will be paid at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity as the CA might consider appropriate for the circumstances for the relevant kilometres.

If the CA does not approve the application it may remove the trip or route from the time table in terms of clause 16.2.

- 16.6 Where a variation is made or approved in terms of this clause, any cost to the Operator occasioned by such variation will be catered for in the fixed and variable contract rates calculated as indicated in Schedule 10.
- 16.7 If the CA requires services to be provided in areas outside the service area or on special occasions these will be negotiated under a separate agreement the terms of which will have no bearing on this contract and may not impact negatively on the Operator's obligations in terms of this contract.
- 16.8 Services provided in terms of clause 16.7 will be provided at rates as set out in Schedule 10 and as requested by the CA in writing, subject to the availability of vehicles and staff as agreed to by the Operator, keeping in

mind that, once agreed to, such commitments shall in no way relieve the Operator from operating the scheduled trips as provided in the time table applicable to this contract.

- 16.9 Where approved variations in terms of this clause result in the amount of revenue kilometres that the Operator was required to operate on the commencement date being increased or decreased by more than 15% during peak periods, the fixed contract rate will be renegotiated based on the principles set out in Schedule 10. If the Parties cannot agree on a new rate, the matter will be treated as a dispute under clause 41, and the Operator will continue to be remunerated based on the rate determined in accordance with Schedule 10 on the commencement date until a new rate is determined. The new rate will then apply retrospectively as from the date that the variation was implemented, and the difference will be made up in the next monthly payment following the resolution of the dispute.

## **17. CESSION AND DELEGATION**

- 17.1 The Operator may not cede its rights or delegate its obligations under this contract or any part thereof, or any benefit or interest therein, to another person, whether as security or otherwise, without the prior written consent of the CA. The CA may regard a contravention of this sub-clause as a material breach of contract justifying termination thereof in terms of clause 48.
- 17.2 It shall be in the sole discretion of the CA to grant or refuse such consent, which shall not be withheld unreasonably.
- 17.3 The CA may at any time during the currency of this contract cede its rights or delegate its obligations in terms thereof to a municipal entity or provincial public entity as defined in the MFMA or PFMA, as the case may be.

## **18. SUB-CONTRACTING**

The Operator may not sub-contract any of its obligations or rights in terms of this contract, subject to clause 17.

## **19. SUBSTITUTE OPERATOR**

- 19.1 The Operator may appoint a substitute operator on a temporary basis in the circumstances contemplated in clause 19.3, and subject to this clause.

- 19.2 Before the Operator appoints any substitute operator it must obtain the written consent of the CA who must approve the substitute operator as fit and proper to provide the services.
- 19.3 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 must make all reasonable attempts to provide the services, including the option of finding licensed substitute operators to cover all scheduled trips. If there is no time to obtain prior written authority from the CA before the appointment of the substitute operator, the Operator must inform the Representative of the particulars of such substitute operator the same day and the CA will approve or refuse consent within three days.
- 19.4 Where a substitute operator has been providing the services for 30 days or more, the CA may cancel this contract and direct that the Operator and/or substitute operator leave the service area, and may appoint another operator of the CA's choosing as a stopgap measure while the required procedures are followed to award a new contract.
- 19.5 If the Operator is not able for any reason to provide scheduled trips for any consecutive period of 24 hours and fails to arrange for a substitute operator, it must immediately inform the Representative to this effect to enable the CA 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, the Operator shall be liable for all the associated extra costs, and penalties in terms of Schedule 7 will be imposed for scheduled trips not operated.

## **20. SERVICES OUTSIDE OF THIS CONTRACT**

- 20.1 In addition to the services which the Operator is obliged to provide in terms of this contract, it may, with the prior approval of the CA, operate any other passenger transport service with vehicles owned by the Operator and specified for use in this contract, provided that—
- (a) the operation of such service does not in any way interfere with the full and complete performance by the Operator of its obligations under this contract;
  - (b) the additional services do not operate in competition with the services specified in this contract; and
  - (c) the Operator will compensate the CA in an amount to be agreed upon and deducted from the relevant monthly claim or claims, to compensate for the fact that the subsidy paid under the contract partially covers vehicle costs.

- 20.2 The Operator may not operate any other passenger transport service outside of this contract with vehicles owned by the CA, unless the CA agrees in writing in advance.

*[Note: As an alternative the Operator can be prohibited from doing private hires with vehicles owned by the CA.]*

- 20.3 Where approval has been granted in terms of clause 20.2 the Operator will pay the CA a fee for the use of its vehicles in an amount to be agreed upon.
- 20.4 The Operator must provide the CA with a detailed summary with each monthly payment certificate, in the form approved by the CA, of all kilometres travelled in connection with other services on a monthly basis to enable the CA to determine the amount payable to it under this clause. That amount shall be recoverable as a debt due to the CA which may be off-set against any monthly payment due to the Operator.
- 20.5 Where the CA requests the Operator to provide services on its behalf outside of the scope of this contract, this will be done in terms of a separate contract, unless otherwise agreed.

## **21. ACCESSIBLE PUBLIC TRANSPORT**

- 21.1 The Operator must within three months after the commencement date, provide the number of vehicles that accommodate special categories of passengers as defined in the Act, including providing for people in wheelchairs, and upgrade the fleet to be compliant in this regard, as required by the Vehicle Specifications outlined in Schedule 3. Should the Operator fail to provide such vehicles penalties as set out in Schedule 7 will apply each month until compliance takes place.
- 21.2 In the case of a rapid transport bus or rapid transport bus train as defined in the National Road Traffic Regulations, there are different requirements, which are obtainable from the Department. The Operator must comply with these requirements and should it fail to do so the penalties as set out in Schedule 7 will apply each month until compliance takes place.

## **22. DISPLAY OF VEHICLE AND DUTY NUMBERS**

All vehicles used for the provision of the services must display fleet numbers and duty numbers as specified in Schedule 3.

## **23. INFORMATION TO AND FROM PASSENGERS**

- 23.1 The Operator must ensure that up-to-date timetables and fares tables are available on all vehicles and at other places required by the CA and must comply fully with the Consumer Protection Act 68 of 2008 in this regard.
- 23.2 The CA may operate an information centre, a shopfront information service and a customer call centre. The Operator must maintain close links with these services and provide accurate, timely information as required by the CA. In addition the Operator must facilitate a "help desk" facility to respond to enquiries and to communicate directly with customers, especially about service changes, as directed by the CA.
- 23.3 The Operator must participate in passenger liaison and information dissemination processes established by the CA and attend monthly or more frequent meetings in this regard. All complaints received by the CA will be forwarded to the Operator for a written response within fourteen working days, failing which a penalty will be imposed in terms of Schedule 7. Such response must include a report on the incident in the format provided in Form 3 with, where required by the CA or its Representative, a program for the prevention of similar incidents.
- 23.4 The Operator must in the first instance manage all customer complaints relating to the services. The Operator must formulate a Customer Complaints Policy within 30 days of the commencement date for approval by the CA. Failure to do so will result in penalties being imposed in terms of Schedule 7. Once approved, the Operator must comply with the Policy. The Operator must also provide the CA and its agents and representatives with every assistance in dealing with passenger complaints received by the CA, and must take such remedial measures as may be agreed between the Parties without prejudice to the right of the CA to take action under other relevant provisions of this contract where persistent failure to deal with complaints is adjudged by the CA to contravene those conditions.
- 23.5 Where the Operator receives complaints directly from the public, it must report these to the Representative, in writing, within fourteen working days, with details of the complaint, the date and time of the event leading to the complaint and the date of receipt of the complaint itself, the nature of the complaint and the immediate actions taken to address it. The Operator must keep a Passenger Complaints Register to record these complaints and details for the duration of the contract. The CA may provide a *pro forma* register which the Operator must use. Failure to comply with this clause will result in the imposition of a penalty in terms of Schedule 7.



## **24. VEHICLES**

- 24.1 The Operator must, as part of the negotiation process, list on Form 4 of Schedule 1 the vehicles per vehicle category that will be available for the services on the commencement date and whether the vehicles will be purchased or leased. The numbers and types of vehicles must comply with those specified in Schedule 3. Copies of signed purchase and lease agreements must be provided to the CA 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 others, to determine the contract rates, assess the Operator's capacity to operate services of the magnitude concerned and whether the vehicles comply with Schedule 3.
- 24.2 Only vehicles shown in the completed Form 4 may be used to provide the services, unless the written consent of the CA to replace vehicles with others of the same or better quality and age is obtained in advance to enable the CA to assess whether the vehicles are acceptable. Where such consent has not been obtained, the revenue kilometres operated by such vehicles will not be paid, the Operator will not be allowed to claim fixed cost for the vehicles and the Operator will be penalised in terms of Schedule 7.
- 24.3 The number of vehicles must make allowance for at least ten percent (10%) spare capacity. This spare capacity must be maintained at all times during the period of the contract. When applying for operating licences or amendments thereof under clause 12 the Operator must ensure that application is made for sufficient vehicles to comply with this requirement.
- 24.4 All vehicles must conform to the requirements and regulations of the National Road Traffic Act and other applicable legislation and applicable SABS specifications.
- 24.5 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 Schedule 3 at all times. When so ordered by the CA, the Operator must remove from the services any unsuitable vehicles. The approval or disapproval of any vehicle by the CA shall not in any way release the Operator from its obligations in terms of the contract.
- 24.6 A detailed fleet list of the vehicles per vehicle category that will be available for the services on the commencement date, in the format required by the CA, must be submitted to the CA not later than fourteen days before the commencement date.

- 24.7 If the Operator, without the written authority of the CA, fails to provide the right type, with reference to quality and age, of vehicles as specified in Schedule 3 and listed on Form 4, within three months of the commencement date or, at a later stage in the contract period, within thirty days after being instructed to do so by the CA, then a penalty will be imposed in terms of Schedule 7.
- 24.8 The Operator must ensure that each vehicle-
- (a) is operated and maintained in accordance with the manufacturer's specifications, recommendations and service standards and is serviced at the times required or recommended by that manufacturer; and
  - (b) is properly licensed and has a current roadworthy certificate issued in compliance with the National Road Traffic Act.
- 24.9 The CA may inspect the vehicles at any time during the contract period and at any location. It may require the Operator to produce specific vehicles at the CA's cost for a more comprehensive inspection at the nearest acceptable testing station directed by the CA with due regard to the fact that the vehicle should be detained for as short a period as possible.
- 24.10 The Operator must withdraw a vehicle failing an inspection contemplated in clause 24.9 from service until repaired and successfully re-tested at a location to be determined by the CA. The inspection fees will be for the account of the Operator.
- 24.11 The Operator must allow for the storage of small items of bags and equipment on vehicles in such a manner that the legal width of gangways is maintained.
- 24.12 All vehicles used on the contract must be fitted, either permanently or temporarily as decided by the CA, with communication equipment capable of transmitting and receiving messages between vehicle(s) and a base station. This equipment must comply with the specifications and requirements set out in Schedule 3.
- 24.13 The Operator will be held responsible where any vehicle may not be used, or where the licence of a vehicle may not be renewed due to demerit points being awarded against the Operator or its drivers in terms of the Administrative Adjudication of Road Traffic Offences Act 46 of 1998 (AARTO Act), and if the Operator fails to supply sufficient and compliant replacing vehicles this will be regarded as a breach of this clause and penalties will be imposed accordingly.

*[Note: If the CA is to own the vehicles, this clause will have to be adapted and a number of additional clauses provided, including, but not limited to the following:*

- *Operator responsible to look after the vehicles as from date of possession and is liable for any damage etc. due to its fault unless covered by insurance.*
- *Operator may not lend out or alienate the vehicles in any way (or can do so with prior written consent of CA and on stated terms and conditions).*
- *Provisions for maintenance of the vehicles – either that the Operator must ensure they are delivered to the supplier or supplier's agent for servicing and repairs, or that the Operator must maintain them, as the case may be.*
- *Operator must provide written reports/proof that maintenance is carried out. Operator liable for damage caused by lack of maintenance.*
- *If/when the contract is terminated vehicles to be returned to the CA in a good condition and state of repair.*
- *Operator liable for damage to vehicles that is not covered by insurance unless not due to Operator's fault.*
- *Operator must keep vehicle log for each vehicle.*
- *CA may inspect vehicles at any time.]*

## **25. INDEMNITY AND INSURANCE**

25.1 The Operator must take steps to ensure the safety of passengers, the general public and property. The CA shall not be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Operator or its agents or employees and the Operator hereby indemnifies the CA against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges and expenses whatsoever in this regard.

25.2 The Operator must effect and maintain throughout the duration of the contract, at its own expense, public liability insurance and SASRIA cover for at least ten million rand (R10m), all risks insurance and supplementary insurance in respect of civil commotion, riot and strikes, and full comprehensive vehicle insurance based on the realistic market value of the vehicle(s) for the amounts and deductibles, if any, determined by the CA by notice in writing to the Operator from time to time, with an insurer chosen by the Operator and acceptable to the CA, registered as required by applicable legislation. Proof of such insurance must be submitted to the CA prior to the commencement date and the Operator must advise the CA

in writing of any changes thereto. Proof of payment of monthly premiums must be attached to the monthly payment certificate.

- 25.3 If the Operator for any reason fails to take out or maintain such insurance, the CA may pay any premium due on such policy on the Operator's behalf and set such amount off against any amount due to the Operator in terms of this contract, plus an administration fee of ten percent of each premium so paid. This right is in addition to any other remedy that the CA may have.

## **26. DEPOTS**

- 26.1 The Operator must provide and be responsible for the depots owned by the Operator unless otherwise agreed.
- 26.2 During the lifespan of the contract and depending on the availability of funding the CA may purchase the depots and lease them back to the Operator as part of a separate agreement.
- 26.3 All maintenance facilities as required by the Operator must be provided in the depots at the cost of the Operator while the Operator owns the depots. Such facilities must be adequate for the type of operations, as required by the CA. *[Note: To be adapted if there are no facilities at depots and the Operator outsources vehicle maintenance.]*

## **27. LEASE OF DEPOTS**

### **A. Where the CA owns the depots:**

- 27.1 The CA hereby lets and the Operator hereby hires the following depots on the terms and conditions set out in the Lease Agreement, attached hereto for information purposes:
- (a) Depot A situated at .....
  - (b) Depot B situated at .....

*[This clause is applicable where the CA will acquire or build the depots and lease them to the Operator, possibly at no rental or a nominal rental. The lease agreement must set out full details of the lease of the depots, including a duty on the Operator to maintain them, take out insurance for them, restore them in good condition on termination of the Agreement, etc.]*

**B. Where the Operator owns the depots and sells them to the CA:**

27.1 The Operator hereby sells and the CA hereby purchases the following depots on the terms and conditions set out in the Sale Agreement attached hereto for information purposes:

- (a) Depot A situated at ... ..
- (b) Depot B situated at ... ..

27.2 The monthly installments payable to the Operator by the CA shall be added to each monthly claim and paid to the Operator as part of the monthly payment certificate.

27.3 The CA hereby lets and the Operator hereby hires the abovementioned depots on the terms and conditions set out in the Lease Agreement attached as Schedule ....

*[This clause is applicable where the CA will purchase the depots and lease them back to the Operator. In this case both purchase and lease agreement are required – they can be combined into one document. It should be noted that it may be possible for the CA to expropriate the property on which the depot is situated if the Operator refuses to sell. It will then have to pay market related compensation. It may be the case that another operator or a related company of the Operator owns the depots. In that case appropriate agreements will have to be concluded, e.g. CA buys or leases them.]*

**28. STAFF**

28.1 The Operator must provide a staff complement able to provide the services to be rendered in terms of this contract. Subject to section 197 of the Labour Relations Act 66 of 1995 (as amended) in respect of the previous operation of the services, the Operator must source the required employees from the operator of that previous contract and guarantee the jobs of those employees. Those jobs relate to the number of actual employees required by the Operator to execute this contract and exclude sub-contracting requirements, set-asides, reduction in the scope of the services and other measures taken by organs of state over which the Operator has no or little control, in respect of both the previous contract and this contract.

28.2 The Operator must conduct business in full compliance with all applicable labour legislation.

28.3 The Operator must ensure that all staff is properly trained, experienced and otherwise fit and proper for the duties to be performed by them under

this contract.

28.4 The Operator must ensure that all dedicated staff is provided with appropriate training in particular in the following areas:

- (a) service requirements of passengers with disabilities;
- (b) management of confrontational or difficult passengers;
- (c) occupational health and safety issues;
- (d) customer care;
- (e) role of a bus driver;
- (f) inspection, dispatch and supervision of services;
- (g) contract management; and
- (h) compilation of claims.

28.5 If the Operator becomes aware that any member of staff is not fit and proper to execute his/her duties effectively, the Operator must take appropriate action to ensure that its ability to perform its obligations under this contract is not at risk.

28.6 The Operator must at all times and at its own expense provide and pay the remuneration of a fully competent, proficient and appropriately licensed driver for each vehicle used on the contract who in all ways complies with the provisions of applicable legislation. All such drivers must maintain the highest standards of courtesy and consideration to the public and to the CA's employees and agents. No driver may smoke, drink alcohol or take prohibited drugs on any vehicle, or be in any way under the influence thereof, whilst driving a vehicle in terms of the contract and must at all times adhere to the rules of the road and other prescriptions of the National Road Traffic Act.

28.7 The Operator must ensure that each driver holds the necessary professional driving permit required to drive public transport vehicles and-

- (a) has a thorough and detailed knowledge of the fares, routes and timetables;
- (b) is provided with training in accordance with appropriate industry practice, as reasonably required by the CA;
- (c) is attired in a clean, well maintained and appropriate uniform as required by the CA;
- (d) has been the subject of appropriate security checks by the Operator as required by the CA;
- (e) is familiar and well trained in the use of the EFVE system; and
- (f) has a detailed knowledge and understanding of the driver's obligations regarding fare evasion and ticket failures.

- 28.8 The Operator must supply sufficient, competent management and support staff to manage the contract and oversee operations in accordance with Form 7 of Schedule 1.
- 28.9 If the Operator becomes aware that any driver is not fit and proper for any of the reasons referred to above, the Operator must source another/other drivers who are qualified to ensure that its ability to perform its obligations under this contract is not at risk in any material way.
- 28.10 The CA may require members of staff employed by the Operator and who perform their duties in view of the public to wear uniforms at all times while on duty, and the Operator must ensure that those staff members wear such uniforms as prescribed by the CA.
- 28.11 If the CA prescribes uniforms in terms of clause 28.10 the CA will supply the uniforms at its cost. The Operator must ensure that the uniforms are kept in good condition and worn in a professional manner and in accordance with the standards required by the CA, and must replace uniforms from time to time with the prior approval of the CA and at the cost of the CA.
- 28.12 The Operator must sign the Occupational Health and Safety Agreement attached as Schedule 14.

## **29. PUBLIC TRANSPORT STOPS**

- 29.1 The Operator may only use bus stops, including intermediate stops, authorized by the CA in its capacity as planning authority, or where the CA is a province, by the relevant municipality.
- 29.2 All vehicles operating along the routes must stop at authorised stops if there are passengers waiting or passengers wishing to alight, except where—
- (a) the stop is not part of the route being operated;
  - (b) the vehicle is operating express services and displays a sign to that effect;
  - (c) the vehicle is not in service; or
  - (d) the vehicle is full and displays a sign to that effect.
- 29.3 Vehicles must stop at any stop where requested to do so by an authorised representative of the CA or an authorised officer as defined in the Act, or where a passenger wishes to alight in an emergency.
- 29.4 At any stops, and the transfer points identified in Schedule 8, drivers must not allow passengers to board or alight until the vehicle has arrived at the

stop sign to facilitate queuing and boarding.

- 29.5 Vehicles must not be parked at stops, other than while loading or unloading, so as to avoid causing delays to other traffic.
- 29.6 Where stops are used for transferring between modes or as timing points vehicles must not be delayed for longer than required by such actions.

### **30. ADVERTISING ON VEHICLES**

Advertising on vehicles is allowed only with the written consent of the CA and must comply with Schedule 4.

### **31. IMAGE AND MARKETING**

- 31.1 The Operator must contribute to and conform to the style guide provided in Schedule 12, which will define the use of graphics, information signage, timetables, advertising material and vehicle livery.
- 31.2 The CA wishes to develop a co-operative relationship to enhance the marketing of public transport. This will focus on the generic benefits of public transport and the marketing of special events. The Operator must participate in agreed marketing programs and initiate and conduct them as directed by the CA. If there are costs involved for the Operator that are not envisaged elsewhere in this contract, the CA will bear those costs.

### **32. FARES**

- 32.1 The primary method of fare payment and access to the integrated public transport services will be through contactless bank issued EMV (Europay Master Visa) dual interface smart cards hosting the Department's AFC Data Structure as more fully described in the Electronic Fare Collection Guidelines published by the Minister as well as Schedule 11 and the Regulations referred to in the definition of EFVE in clause 1. Commuters must also be able to pay for single fares in cash on board the vehicles.
- 32.2 The fares to be charged by the Operator on all routes described in the Specifications shall be set by the CA, and the Operator must comply with the Act and other applicable legislation in this regard.
- 32.3 All fares collected and tickets handled by the Operator for the purpose of providing the services belong to the CA, therefore the Operator must, at all times—



- (a) account to the CA for the fares collected and tickets sold;
  - (b) in collecting the fares, handling tickets and dealing with the fares collected, act with the utmost good faith;
  - (c) in all other respects, use its best endeavours to ensure that passengers pay correct fares; and
  - (d) in collecting fares and handling tickets, comply strictly with the—
    - (i) fare schedules published by the CA from time to time; and
    - (ii) the Ticket and Revenue Procedures Manual developed by the CA. *[Note: This needs to be developed to ensure proper accounting of fares collected and tickets sold.]*
- 32.4 The Operator must make all efforts to minimise fare evasion as directed by the CA and to maintain observable fare evasion to below two percent of total fares. In this regard the Operator must—
- (a) comply with the written directions of the CA in relation to fare evasion and take any steps in that regard directed by the CA; and
  - (b) provide the CA with a Fare Evasion Plan for approval by the CA, not later than 14 days before the commencement date. The Operator must comply with such Plan once approved, and failure to do so will result in the imposition of penalties in terms of Schedule 7. The CA may direct changes to that Plan from time to time and the Operator must implement any changes forthwith.
- 32.5 Fares will be increased at least once per annum as determined by the CA. The increase may be based on the annual published Consumer Price Index (CPI), and will not be less than the CPI increase, coupled with increases or decreases in the price of fuel and spares and other factors that the CA considers relevant. The CA will give passengers notice of change of fares in the manner decided by it, at least 30 days prior to the date of the change after consulting affected passengers.
- 32.6 Whenever there is an increase or reduction in the price of the fuel used by the Operator, fares may be adjusted to reflect the increase or decrease in the manner and from the date determined by the CA.
- 32.7 Without limiting the CA's rights, the CA or an agent appointed by it may audit the Operator's performance of its obligations under this clause at any time.

### **33. ELECTRONIC FARE VALIDATION AND COLLECTION EQUIPMENT (EFVE) TICKETING SYSTEM AND FARE COLLECTION**

*[Note: In an integrated system as well as a gross system the CA will have to take more control of the ticketing system used and the fares set. In the clauses below it is assumed that the CA will take the responsibility for providing and maintaining the equipment.]*

- 33.1 The CA shall supply the EFVE Ticketing System and electronic equipment relating thereto at stations and transfer points.
- 33.2 The Operator must ensure that all vehicles are installed with the Ticketing System as required by the CA in a timely manner on or before the date stipulated by the CA, prior to the time that the vehicle is required for use in providing the services.
- 33.3 The Operator must—
- (a) only use the EFVE Ticketing System, tickets and fares approved by the CA;
  - (b) not use the EFVE Ticketing System for the purpose of providing services other than those contracted with the CA without the consent of the CA;
  - (c) not give access to the EFVE Ticketing System to any party other than the CA and its authorised agents for any purpose whatsoever;
  - (d) not attempt to access or modify raw patronage or revenue data stored in the EFVE Ticketing System;
  - (e) not at any time permit a vehicle to leave a depot should there be any defect in the EFVE or if it becomes defective during operation, replace the vehicle immediately and if replacement is not possible, use a manual waybill system;
  - (f) use a common time obtained from the CA for recorded information and ensure that its staff regularly update the ticketing hardware time; and
  - (g) make its staff available for training in such equipment as and when required by the CA.
- 33.4 The Operator must ensure that passengers validate tickets upon boarding except when passengers are transferring to a replacement vehicle in the event of breakdown (in this situation the Operator must ensure that passengers do not validate their tickets).  
*[Note: If the CA outsources the ticketing function this clause will have to be adapted accordingly.]*
- 33.5 The Operator shall provide assistance to passengers, as required, seeking to validate their ticket.

- 33.6 The CA shall provide the Operator with a copy of the Manual of Ticketing and Revenue Procedures not later than seven days before the commencement date.
- 33.7 All cash collected by the Operator in respect of the services through on-board collection, vending machines, portable validators and over-the-counter-ticket sales is the property of the CA.
- 33.8 The CA is responsible for the management of bulk cash collection from ticket sales and the supply and maintenance of the drop safe. The CA shall specify the number of cash collection bags to be provided by the cash collector for each depot. Provision of additional cash collection bags, other than arising from normal wear and tear, shall be at the Operator's cost. The CA shall determine the method and bear the cost of bulk cash collection from the Operator's depot.
- 33.9 The Operator is responsible and liable for the cash proceeds of ticket sales until they are signed for by the Cash Collector appointed by the CA. The Cash Collector is responsible and liable for the cash after it is removed from the Operator's secure storage and signed for by the Cash Collector. Any shortfall of cash from daily takings will be the responsibility of the Operator.
- 33.10 Should the EFVE become obsolete during the life of this contract and be replaced by a new or upgraded EFVE, the Operator must, at the cost of the CA—
- (a) participate in project teams associated with the planning for a new or upgraded system;
  - (b) assist the CA with implementation of the new or upgraded system;
  - (c) make staff available for training on the operation of the new or upgraded system;
  - (d) make vehicles and depot facilities available to the CA for installation of new or upgraded equipment; and
  - (e) provide any other reasonable assistance the CA requests.
- 33.11 Should the CA decide to implement new monitoring methods or equipment it may provide additional or different equipment, at the cost of the CA, at any time during the contract period. The CA will then negotiate with the Operator who must give full co-operation to the CA in this regard and see to it that the additional or new equipment is installed in all vehicles as required by the CA within the time so required. In this regard clause 33.10 will apply with the necessary changes.
- 33.12 All other issues related to the EFVE operation, support, maintenance, etc

will be dealt with as more fully described in Schedule 11.

#### **34. MONITORING AND CONTROL**

34.1 This contract includes allowance for performance incentives and penalties. In order to manage these and ensure that service quality is maintained, as well as to facilitate the payment of the Operator's claims, the CA may appoint an independent Supervision and Monitoring Firm (SMF) which shall—

- (a) Administer and supervise the contract to ensure contract compliance;
- (b) Monitor the operation of the services according to an approved monitoring strategy;
- (c) Impose penalties for non-compliance where necessary and calculate performance values;
- (d) Arrange and chair weekly penalty meetings and monthly contract meetings;
- (e) Arrange and chair meetings (other than monthly contract meetings) with the Operator;
- (f) Verify and certify the Operator's payment certificates;
- (g) Measure the Operator's performance against KPI benchmarks;
- (h) Identify and assist the CA and Operator with routing and scheduling problems when necessary;
- (i) Where appropriate, adjust services in terms of clause 16;
- (j) Report any unusual events to the contract manager appointed by the Operator as soon as it becomes aware of them. This will not excuse or exonerate the Operator from any of its obligations in terms of this contract relating to such events; and
- (k) Execute any other functions allocated by the CA.

34.2 Work to be carried out by the Representative and SMF in terms of clause 34.1 is detailed in Schedule 6.

34.3 The CA may decide not to appoint a SMF in which case it will designate officials to perform the functions of the Representative and/or SMF.

34.4 The Representative and SMF have no authority to release the Operator from any of its obligations in terms of the contract, nor are they empowered, except as stipulated in this contract, to issue any order that would impede the Operator, give rise to additional expenditure for the CA or result in an amendment to the services.

34.5 Despite any contrary provisions in this contract, the CA may reverse or amend a direction or decision of the Representative or SMF and make or issue new ones. Any such reversed, amended or new direction or

decision shall for the purposes of this contract be deemed to have been issued by the Representative.

- 34.6 The CA, Representative and SMF may investigate any complaints, objections or representations made by passengers, local authorities or other interested persons relating to the services.
- 34.7 Should the Operator become aware that any of its employees have threatened the Representative or his/her delegates, the Representative's Deputy or employees of the SMF or CA the Operator must take immediate disciplinary or other appropriate steps to prevent a recurrence.
- 34.8 All communications between the Operator and the CA shall take place via the Representative except where specifically provided otherwise.
- 34.9 The Operator must inform all its employees of the identity, powers and duties of the Representative, Deputy and monitoring staff. For purposes of identification the SMF must provide its staff with a unique personal identity card with photograph.
- 34.10 With the objective of ensuring that services are provided as specified, the CA may direct that all buses be fitted with on-board Global Positioning System Tracking devices or other monitoring equipment. Provision for the installation of this equipment must be made in the costing of the services where vehicles will be solely owned by the Operator.
- 34.11 The CA will, through the Representative and, once installed, using the electronic monitoring equipment installed in the vehicles, monitor the services on a daily basis to optimize service provision to users through adjustment of timetables, quality of vehicles, customer relations and other aspects.

## **35. PENALTIES**

- 35.1 The services shall be fully monitored in the first three months of operation and all offences listed, but penalties will not be imposed. Thereafter penalties shall be imposed as set out in Schedule 7. In both cases revenue kilometres will only be paid for trips which have been operated.
- 35.2 The fact that a penalty has been imposed will not affect or prejudice any other remedy that the CA may have, and will not preclude the CA from exercising its other rights or remedies in terms of this contract for non-fulfilment by the Operator of its obligations.

**36. COSTING OF SERVICE PROVISION**

- 36.1 This Contract is priced on the basis of a two part cost structure (a variable and fixed cost component) for every vehicle type to be used on the contract.
- 36.2 The various cost elements and the manner in which the variable and fixed cost per vehicle type is calculated is more fully described in Schedule 10.
- 36.3 The variable cost component of this contract will be subject to escalation as indicated in clause 37.
- 36.4 The fixed cost component of the contract will be subject to escalation as indicated in clause 37.

**37. ESCALATION AND CALCULATION OF MONTHLY PAYMENT**

- 37.1 The fixed and variable contract rates shall be escalated monthly, in the manner set out in clause 37.2, but will be limited to the percentage increase in the Public Transport Operations Grant allocated to the CA by the Grant Framework published in terms of the Division of Revenue Act for the financial year in question.
- 37.2 The fixed and variable contract rates shall be escalated monthly, in the following manner:
- 37.2.1 The escalation formula set out in this clause is designed to compensate for variations in input costs affecting the agreed rates for the provision of the services.
- 37.2.2 The fixed costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the adjustment factor Y determined according to the formula set out below and:

$$Y = (1 - x) \left[ \left( a \times \frac{Lt}{L_o} \right) + \left( b \times \left( \frac{CPI_t}{CPI_o} \right) \right) \right]$$

Where  $a + b = 1$

And in which the symbols have the following meanings:

“x” is the proportion of fixed costs not subject to adjustment and its value is 2% (0,02).

"a" is the coefficient deemed to represent the proportionate value of labour costs linked to labour categories as determined by the Bargaining Council. A value of ... .. ( ... %) shall be applied for this contract.

"b" is the coefficient deemed to represent the proportionate value of the other fixed costs. A value of ... .. ( ... %) shall be applied for this contract.

"L" is the labour index for all hourly paid employees as published in Table C-3-Steel and Engineering Industries Federation of South Africa (SEIFSA) "Index of actual Labour Cost", SEIFSA Price and Index Pages.

"CPI" is the Consumer Price Index as published monthly by Statistics South Africa.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

37.2.3 The variable costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the variable cost adjustment factor Z determined according to the formula as set out below:

$$Z = (1 - x) \left[ \left( c \times \frac{Ft}{Fo} \right) + \left( d \times \left( \frac{PPI_t}{PPI_o} \right) \right) \right]$$

Where  $c + d = 1$

And in which the symbols have the following meanings:

"x" is the proportion of variable costs not subject to adjustment and its value is 2% (0,02).

"c" is the coefficient deemed to represent the proportionate value of fuel. A value of ... .. ( ... %) shall be applied for this contract.

"d" is the coefficient deemed to represent the proportionate value of the other variable costs. A value of ..... ( ... %) shall be applied for this contract.

"F" is the "Fuel Index" and shall be determined as:

$$F = \alpha \times \frac{P_t}{P_o} + \beta \times \frac{D_t}{D_o} \quad \text{where } \alpha + \beta = 1$$

$P_o$ ,  $P_t$ ,  $D_o$  and  $D_t$  are the actual monthly petrol and diesel prices as published by the Department of Minerals and Energy on a monthly basis and are available on the following web address: [http://www.dme.gov.za/energy/liquid\\_prices.stm](http://www.dme.gov.za/energy/liquid_prices.stm)

$\alpha$  and  $\beta$  are the coefficients representing the proportion of petrol and diesel respectively, used in operating the fleet. The Operator must provide values for these, which will be adjusted in accordance with adjustments to the fleet.

"PPI" is the Producer Price Index for Imported Goods as published monthly by Statistics South Africa in P0142.1.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

37.2.4 If any index or price relevant to any particular certificate is not known at the time the value of the certificate is calculated, the latest published figures shall be used. Any correction that may be necessary shall be made by increasing or decreasing the subsequent monthly payments to the Operator.

37.2.5 The amount payable to the Operator "Ac" shall be determined by the formula:

$$Ac = Y \times (F - 50\%P) + Z \times (V - 50\%P)$$

The symbols in the formula have the following meanings:

"Y" is the fixed cost escalation factor as determined in terms of clause 37.2.2.

"F" is the total fixed cost component of the claim, reflecting the fleet available for service as certified by the Representative and will be determined by multiplying the fixed cost per bus as determined in terms of Schedule 10 by the number of buses operated (peak plus 10% spare capacity).



"Z" is the variable cost escalation factor s determined in terms of clause 37.2.3

"V" is the total variable cost component as certified by the Representative in the certificate under consideration and will be determined by multiplying the variable cost rate per kilometre as determined in terms of Schedule 10 by the number of scheduled kilometres actually operated.

"P" is the total value of penalties imposed for the period of the certificate under consideration.

### 38. PERFORMANCE MONITORING

38.1 The underlying policy objectives of performance monitoring are to—

- (a) measure the reliability, punctuality and general operational efficiency of the services by means of a review of key performance indicators (KPIs);
- (b) measure the customer satisfaction with the services rendered;
- (c) encourage improved service provision and quality by providing for a remedial process where performance problems are identified and addressed; and
- (d) provide for a mechanism where compliance with KPIs can be used as a motivation for possible subsequent extension of the contract after the initial contract period up to the maximum period allowed by the Act.

38.2 The first six months from the commencement date will be considered as an establishment phase, and performance during that period will not be used in the performance measurement process, although penalties will be imposed after the third month in accordance with clause 35 and Schedule 7. Thereafter, the performance of the Operator will be assessed on a monthly basis according to the following KPIs established by the CA:

- (a) **Reliability** which measures the operator's ability to operate the contract timetable in terms of the percentage of scheduled trips actually operated. Trips not operated due to circumstances beyond the operator's control (e.g. accidents, traffic and strikes) are not taken into account for calculation purposes;
- (b) **Punctuality** which measures the operator's ability to operate on-time. It is calculated in terms of the percentage of on-time departures and arrivals at terminal points and selected intermediate points;

- (c) **Driver quality** which measures the technical ability (driving skills) and attitude of drivers as well as consideration for passengers. It is assessed through the following:
- (i) complaints reported by passengers in which case it is calculated as the percentage of trips operated for which complaints were received; and
  - (ii) surveys whilst vehicles are in service to evaluate vehicle handling and customer interaction. In this instance it is calculated as the percentage of surveys that indicates that remedial action is required.

The data collated is shared with the operator in order to take action and address any areas of weakness that are identified. Remedial action taken by the operator is also monitored;

- (d) **Bus availability** which measures the operator's ability to have available and operate the number of buses to operate the contract timetable. It is calculated as the percentage of scheduled trips that were not operated due to insufficient buses and/or spare capacity;
- (e) **Vehicle quality** which measures the operator's ability to maintain and operate the quality of vehicles required in terms of Schedule 3. It is evaluated in terms of both the general and technical condition of vehicles:
- (i) General vehicle condition relates to the general appearance of vehicles that is assessed through inspections or monitoring at terminals and intermediate timing and monitoring points. It is calculated as the percentage of trips operated that incurred penalties related to unsatisfactory vehicles as per clause 6.2 of Schedule 7;
  - (ii) Technical vehicle condition relates to the technical performance/quality of vehicles. It is calculated as the number of scheduled trips that were not operated due to breakdowns caused by poor vehicle maintenance or failure to adhere to maintenance procedures. It is also assessed through technical bus inspections at depots by suitably qualified staff. Defects are noted and given a score, with higher scores for more serious defects. The key measure is the average number of points per vehicles, with a target of zero. The evaluation also includes an assessment of maintenance procedures and the operator's vehicle pass rate at roadworthy certificate tests.

The results of the assessments are made available to the Operator in order to take action and address any areas of weakness that are identified. Action taken is also monitored;

- (f) **Safety** relates to the operator's ability to provide a safe service. Failure can result in the loss of this contract whilst unsatisfactory

performance can also lead to the failure to win new contracts. It is measured as the percentage of trips operated that were involved in accidents directly caused by either poor driving skills or judgement of drivers, poor vehicle maintenance, insufficient or poor safety policies, procedures and risk assessments or failure to implement or adhere to such policies and procedures. Checks on safety policies, procedures and risk assessments are conducted through visits to operating premises and interviews with operational staff. These visits are followed by a report highlighting areas of concern and an action plan. This plan is then reviewed in consultation with the Operator and forms the basis of the next inspection.

- (g) **Revenue protection** measures the operator's commitment to implement fare evasion procedures and its ability to ensure that the observed fare evasion is kept below 2%. It is assessed through random audits conducted by the CA or SMF;
- (h) **Passenger satisfaction** is measured through passenger satisfaction surveys to assess and monitor passengers' satisfaction with the quality of services provided and identify areas for improvement;
- (i) **Contract compliance** relates to the operator's ability to comply with the contract specifications. Areas that will be specifically focused on include the following:
  - (i) Submission of information and reports;
  - (ii) Adherence to decisions taken and instructions given by the CA and the SMF;
  - (iii) Training of staff; and
  - (iv) Revenue collection which entails the fitting and maintenance of ticketing equipment.

38.3 The KPI performance benchmarks (standards) against which the Operator's performance will be measured are summarised in Schedule 9.

38.4 The Operator's performance in terms of the KPI benchmarks will be reported on by the SMF in its monthly monitoring reports and at monthly contract meetings.

38.5 The CA will commission annual customer satisfaction surveys, as more fully described in Schedule 9, to obtain customers' viewpoints on aspects related to, but not limited to—

- (a) service delivery;
- (b) railway stations and other public transport stops and their proximity to points of origin and destination;
- (c) passenger comfort;
- (d) ticketing;

- (e) information services (including timetables);
  - (f) personal safety;
  - (g) value for money;
  - (h) staff service; and
  - (i) accessibility.
- 38.6 The contract may be renewed by the CA for a further period of five years in terms of clause 3.2 if the Operator, on the CA's assessment, has met the conditions as set out in clause 38.8.
- 38.7 The extension of the contract for years eight to twelve will be subject to a Contract Performance Review that will take place during the first three months of year seven of this contract based on the monthly reviews contemplated in clause 38.2. Detailed information on the review process is given in Schedule 9.
- 38.8 Extension of this contract for a subsequent term will only be considered if the CA is satisfied that—
- (a) The Operator has met the Reliability Benchmark in all of the 78 months considered for assessment;
  - (b) The Operator has met the Punctuality Benchmark in at least 70 of the 78 months considered for assessment;
  - (c) The Operator has met the Customer Experience Benchmark in at least 52 of the 78 months considered for assessment;
  - (d) The Operator has on average over the 78 months considered for assessment met at least 95% of the Performance Benchmarks; and
  - (e) The Operator has not been issued with a letter for breach of any of the contract conditions during the course of the contract that has not been remedied or waived in accordance with the requirements of this contract to the CA's reasonable satisfaction.
- 38.9 The details of the performance assessment regime may be varied from time to time by the CA in consultation with the Operator.
- 38.10 If the Operator fails to meet any KPI benchmark, the Operator must, at its own cost—
- (a) investigate and report to the CA within five business days the underlying causes of the failure to meet the performance benchmark; and
  - (b) on being required to do so by the CA, take the necessary action to address the reasons for not achieving the performance benchmarks.
- 38.11 The Parties must meet periodically and at least annually to review the Operator's performance against the performance benchmarks and, if

appropriate, discuss what steps the Operator should take to improve such performance. Information regarding these reviews is given in Schedule 9.

### **39. PAYMENT FOR SERVICES AND SUPPORTING DOCUMENTATION**

- 39.1 The Operator shall be paid monthly for providing the services set out in Schedule 8 and for approved variations in accordance with clause 16, in an amount calculated in terms of clause 37.2.5 by multiplying the total revenue kilometres operated by vehicle class by the applicable variable contract rates, plus an amount calculated by multiplying the number of peak vehicles per class operated by the applicable fixed contract rates, less any penalties.
- 39.2 The Operator will not be paid for positioning or dead kilometres.
- 39.3 The amount payable as calculated in clause 39.1 will be escalated in terms of clause 37, after which amounts to be withheld under clause 35 and Schedule 7 will be deducted. Actual route distances as set out in Schedule 8 or agreed between the Operator and the Representative shall be used to calculate revenue kilometres for each trip.
- 39.4 The onus is on the Operator to prove that trips have been operated. The Operator must note that regulator sheets and depot departure documents are not considered as evidence of a trip having operated in accordance with the timetable.
- 39.5 Not later than seven days after the end of each month, the Operator must submit to the Representative a monthly claim form in the format prescribed by the CA in Form 1.
- 39.6 To support the calculation of the Operator's monthly claims and to enable proper monitoring of performance, the Operator must supply the CA monthly with the following written statistical data and information for each driver's duty/shift or part thereof as part of a journey analysis report in the format set out in Schedule 13:
- (a) The scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
  - (b) detail of trips not operated and reasons therefor;
  - (c) revenue kilometres of each trip;
  - (d) cash and multi-journey ticket (MJT) passenger numbers for each trip;
  - (e) the number of each type of MJT presented on each trip;
  - (f) the value of the cash fares collected;
  - (g) the value of MJT fares collected;
  - (h) the number of each passenger type not required to pay for the trip

- being made (e.g. pensioner, scholar, under-age child);
- (i) waybills in the format shown in Form 5 if the EFVE is not yet installed or has failed; and
- (j) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract;

The Operator must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the contract period.

- 39.7 The Operator must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 39.8 Claim forms must be prepared by the Operator, and checked and certified as correct and payable by the Representative.
- 39.9 The monthly claim forms will only be certified by the Representative if he/she is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.
- 39.10 The Representative may, before submitting a claim form to the CA as a payment certificate, make any correction or modification to that certificate or any previous payment certificate(s) and may withhold certification in respect of any part of the services not being operated to his/her satisfaction.
- 39.11 The Representative must submit the payment certificate to the CA as soon as possible, but not later than seven days after receipt thereof, error free, from the Operator. Where the Representative has amended a claim form or payment certificate, he/she must supply a copy of the amended form or certificate to the Operator.
- 39.12 The CA must effect payment to the Operator as soon as possible but not later than 14 days after receipt of the error free payment certificate from the Representative. All payments will be made directly into the bank account of the Operator, details of which must be supplied by the Operator. The CA may reject any payment certificate submitted by the Representative that contains errors. The rejected certificate must be returned to the Representative for correction and no discussions in this regard will be entered into between the CA and the Operator.
- 39.13 Should the Operator, for whatever reason, owe an amount to the CA, the CA may set it off against any moneys that may be owing to the Operator by the CA in terms of a monthly payment certificate.

- 39.14 The certification or approval of a payment certificate by the Representative and/or the CA shall not be deemed to be approval of, or waiving of rights regarding any services or other matter in respect of which it was issued, or be taken to be an admission of the due performance of the contract or any part thereof, or of the accuracy of any claim made by the Operator, and no certificate shall revoke or prejudice any of the rights and powers of the CA and the Representative. No such certificate shall deprive the CA or the Representative of any right they may have regarding wrongful acts or breach of contract on the part of the Operator that may appear or become known later.
- 39.15 To collect and supply that portion of the required data and information as listed in clauses 33 and 34 which is capable of being electronically collected, the Operator must, within 30 days after the equipment has been made available to the Operator, ensure that the EFVE equipment selected, provided and paid for by the CA and tracking devices are installed and in use on all vehicles.
- 39.16 While EFVE and tracking devices have not yet been installed, the onus will be on the Operator to supply the correct information by means of manual waybills. The CA may decide not to pay any claim without adequate documented proof of the required data and information: Provided that if the equipment has not been made available to the Operator, the Operator is entitled to additional remuneration for costs related to employing additional temporary staff or having to pay overtime of permanent staff to compensate for having to provide the information manually in amounts to be agreed between the parties.
- 39.17 If the Operator fails to install the EFVE and/or tracking equipment, ensure that it is in a working condition, supply it timeously to the supplier for maintenance, or to provide the required information in either electronic format or by means of manual waybills, penalties shall be imposed in terms of Schedule 7.
- 39.18 In the event that EFVE and tracking devices become defective, the alternative method of presenting the required data and information will be by using hand-written emergency waybills that are signed by the driver as to the correctness of the detail and also by the depot supervisor certifying that the EFVE malfunctioned. The emergency waybill must detail all of the information required in Form 5. These signed and certified waybills must be presented to the Representative within 24 hours of each occurrence.
- 39.19 The software which is used to record the daily and monthly summarised trip information must be capable of generating an Excel file.
- 39.20 In addition to any information requested in terms of clause 39.6, the CA

may at any time request the Operator to provide any information regarding the operation of the contract, including, but not limited to, cost elements that influence the provision of services, imposition of fares, installation of EFVE and tracking devices and any other matter that may affect payments to the Operator. The Operator must comply with such a request within seven days, or such other period as the CA may determine, which may be less than seven days where information is urgently required. Failure to do so will result in penalties being imposed in terms of Schedule 7.

39.21 Where the Operator is performing more than one negotiated contract, subsidised service contract, current tendered contract or interim contract contemplated in Chapter 5 of the Act, all information must be provided separately per contract, i.e. consolidated information in respect of more than one such contract will not be acceptable.

39.22 If in the opinion of the CA the Operator provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Operator or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Operator. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—

- (a) the CA may immediately appoint auditors to check and verify all books and records of the Operator and the Operator hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
- (b) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
- (c) the onus of proof shall be on the Operator to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to respond to the allegations, which are set out in the notice. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the CA may proceed with the action as set out above.

39.23 The CA may, with the consent of the accounting officer of the CA as



required by the MFMA/PFMA and any other relevant person or body, amend the contract rates in the case of extraordinary circumstances. Such amendment will take effect from the date, as determined by the CA, upon which such circumstances arose. For the purposes of this sub-clause "extraordinary circumstances" shall include, but not be limited to—

- (a) the fact that road or other physical conditions have deteriorated or improved to an unforeseeable extent; or
- (b) any other unforeseeable circumstance that is extraordinary in the opinion of the CA, but excludes natural growth in patronage and service requirements;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to comment on the proposed amended rates, which are set out in the notice together with the reasons for the proposed change. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the contract rates will be amended as from the date of expiry of the said period of seven days. If the Operator is dissatisfied with the amended rates it may declare a dispute under clause 41.

39.24 The CA may, in its sole discretion, pay to the Operator a single lump sum to defray establishment costs, over and above other amounts payable to the Operator in terms of this contract, in an amount determined by the CA, provided that—

- (a) the Operator was not the operator of a previous contract for services in the area for a period immediately preceding the contract period;
- (b) the CA is of the opinion that such payment is fair and justified in the circumstances;
- (c) the Operator has complied with clause 39.25;
- (d) the amount must be refunded to the CA if the contract is terminated within 180 days after the commencement date for any reason that can be ascribed to the Operator; and
- (e) the funds available to the CA to finance the contract allow for the payment of such costs, as decided by the CA.

39.25 The Operator must, if it wishes to claim establishment costs, not later than 30 days before the commencement date, submit a properly completed Form 11 and supply the information required by that Form to enable the CA to evaluate the request for payment of establishment costs. The CA will inform the Operator not later than 14 days before the commencement date whether the claim was successful or not.

39.26 If the Operator's claim for establishment costs is successful, the costs will be paid to the Operator not later than seven days before the

commencement date.

- 39.27 Should the CA fail to pay a monthly claim of the Operator within the 30 day period contemplated in clause 39.12, the CA will pay interest at the rate prescribed from time to time in terms of the Prescribed Rate of Interest Act 55 of 1975 on the outstanding amount or amounts until the date of payment, subject to the Operator having provided all of the required information and having submitted an error-free claim form to the Representative, and subject to the other provisions of this clause." *[Note: still to be discussed with National Treasury and approved by Senior Management of the Department]*

#### **40. RELAXATION**

- 40.1 Except as otherwise stated, no latitude, extension of time or other indulgence which may be given or allowed by either Party to the other will operate as a waiver or a novation, or otherwise affect any of that Party's rights in terms of or arising from this contract or stop such Party from enforcing strict compliance with the terms of this contract.
- 40.2 A failure by either Party to enforce any provision of this contract shall not constitute a waiver of that provision or affect that Party's right to require performance thereof at any time in the future.

#### **41. SETTLEMENT OF DISPUTES**

- 41.1 The Operator may appeal to the CA against the imposition of any penalty in terms of clause 34 or Schedule 7 or against any variation in terms of clauses 16 or 39.23, by giving written notice to the CA within 14 days of the penalty or variation coming to its knowledge. If the Operator is not satisfied with the CA's decision, it may declare a dispute in terms of clause 41.2.
- 41.2 Should any dispute or difference of any nature whatsoever arise between the Parties in connection with or arising from this contract, whether a dispute contemplated in clause 41.1 or otherwise, the Party declaring the dispute or difference must notify the other Party in writing, and the Parties must attempt to resolve the matter within 21 days of the notice. If no resolution can be achieved within that period, the dispute or difference must be settled by way of mediation in the manner provided for in regulation 7 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 published under Notice R.877 of 31 August 2009 in *Government Gazette* 32535 or, where applicable, by arbitration under regulation 8 of those Regulations, reading in the necessary changes, unless the Parties agree in writing to another dispute

resolution procedure.

- 41.3 Where the proceedings contemplated in clauses 41.1 and 41.2 are deemed to be inappropriate by a Party to the dispute, nothing in this Contract will prevent a Party from approaching a court for urgent relief.
- 41.4 The Operator must despite any dispute, difference or settlement procedure continue to provide the services in accordance with this contract.
- 41.5 This clause shall survive the termination or cancellation of this contract.

## **42. COMPLETION AND SIGNING OF CERTAIN FORMS**

- 42.1 Where the Operator is a company, close corporation or other legal person it must submit a resolution or agreement of the directors, members or trustees which must be substantially in accordance with Form 6.
- 42.2 Where the Operator is a consortium of two or more parties, it must submit a signed memorandum of understanding between the parties to such consortium, as well as Form 6 for each director, member or trustee, in which is defined precisely the conditions under which the consortium will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several parties forming the consortium, the benefits that will accrue to each party and any other information necessary to permit a full appraisal of its functioning. In this contract the term "consortium" is intended to have the specific meaning of a form of partnership involving mainly companies, close corporations or other legal persons. Within 10 days after the contract is signed, a final signed consortium agreement must be submitted to the CA, failing which the contract may be terminated. Such agreement shall be subject to the approval of the CA, who may likewise terminate the contract if the consortium agreement is rejected and not amended to the satisfaction of the CA.

## **43. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

The Parties must keep confidential and not disclose without prior written consent of the other Party any information supplied by either Party, or that is contained in the contract documents, being information contemplated in Chapter 4 of the Promotion of Access to Information Act 2 of 2000, except where obliged to do so in terms of law. All contract documents shall remain the property of the CA and may not be sold or otherwise disposed of. Also, all documents and data prepared by the Operator in connection

with the services which are lodged with the CA shall become the property of the CA.

#### **44. CHOICE OF LAW**

The law of the Republic of South Africa shall be applicable to this contract and any matter arising therefrom. The Operator must abide by all applicable statutes, regulations, ordinances, by-laws and other laws and binds itself to accept the jurisdiction of the courts of law of the Republic of South Africa in respect of any matter arising out of this contract.

#### **45. CONTRACT DOCUMENTS**

45.1 All of the documents constituting this contract are to be read in conjunction with each other.

45.2 The several documents constituting the contract are to be regarded as mutually explanatory. In the case of ambiguities or discrepancies in these documents, or in the case of uncertainty as to the meaning or intention of any part of these documents, the Operator must refer this to the Representative so that it may be explained and rectified. The Operator is responsible for the consequences arising from neglect to take this precaution. When the Representative is notified of such ambiguities, discrepancies or uncertainties, he/she must, in consultation with the CA, issue instructions to the Operator directing what is to be done: provided always that if the Operator is of the opinion that the Representative's instructions will result in additional expenses for the Operator which the Operator could not reasonably have anticipated, the Operator may declare a dispute in accordance with clause 41.

45.3 In case of a conflict the order of precedence of the documents shall be as follows subject to any amendments in writing contemplated in clause 47:

- (a) These Terms and Conditions;
- (b) Schedules 2 to 12; and
- (c) Forms (Schedule 1).

These documents, together with any such amendments, constitute the contract documents.

**46. DOMICILIA AND COMMUNICATION**

- 46.1 The *domicilia citandi et executandi* in the RSA of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this contract shall be:

The CA: .....  
The Operator: .....

The postal addresses of the Parties are:

CA: .....  
Operator: .....

The telefax numbers of the Parties are:

CA: .....  
Operator: .....

The e-mail addresses of the Parties are:

CA: .....  
Operator: .....

- 46.2 The Parties must give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

- 46.3 Communication must be maintained by using the following methods:

- (a) hand delivery to a responsible person during ordinary business hours at the domicilium address mentioned in clause 46.1;
- (b) prepaid registered post;
- (c) telefax; or
- (d) electronic mail (e-mail).

- 46.4 Any notice given in terms of this contract must be in writing and shall be deemed to have been received by the addressee, unless the contrary is proved—

- (a) on the date of delivery, if delivered by hand;
- (b) on the eighth day following the date of posting, if sent by prepaid registered post; or
- (c) on the day after dispatch, if sent by telefax or e-mail, provided that the recipient has acknowledged receipt by telefax or e-mail on that day.

**47. ENTIRE CONTRACT**

- 47.1 The documents mentioned in clause 45 and approved alterations thereto shall constitute the full agreement between the Parties, and no other representations or terms shall form part thereof unless reduced to writing and signed by or on behalf of the Parties.
- 47.2 No amendment of this contract or of any provisions or terms thereof, and no extension of time or waiver or relaxation or suspension of any of the provisions or terms of this contract shall be of any force or effect unless reduced to writing and signed by both parties hereto.

**48. BREACH**

- 48.1 Where the CA discovers that—

- (a) the Operator has committed an act of insolvency or is insolvent;
- (b) the Operator has made a compromise with its creditors or assigned in favour of its creditors;
- (c) the Operator has agreed to carry out the contract under the supervision of a committee representing its creditors;
- (d) the Operator has been sequestrated or gone into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator has been placed under judicial management or becomes subject to business rescue proceedings in terms of Chapter 6 of the Companies Act 71 of 2008; or
- (e) judicial execution has been levied on the Operator's goods,

the CA may, subject to the Companies Act, 2008, demand in writing that the Operator deposit in cash with the CA not more than ten percent of the amounts estimated to be due to the Operator over the remainder of the contract period (excluding an extension for the five year period contemplated in clause 3.2). The CA will hold the said amount in trust as a pledge for the remainder of the contract period to cover any failure by the Operator to fulfil its obligations under this contract and/or any damages the CA may suffer, and will repay it to the Operator within 14 days after expiry or termination of the contract, after deduction of any amounts owing by the Operator to the CA. The Operator must comply with such a demand within seven days of receipt thereof, failing which the CA may terminate the contract.

- 48.2 Where the penalties imposed in terms of Schedule 7 amount to more than ten percent in a particular consecutive four-week period of the total amount payable in respect of that period, the CA may deliver a written

notice to the Operator informing it that this contract will be terminated on further written notice if such penalties so exceed ten percent in any subsequent four-week period. If such a notice is sent and the penalties do again exceed that percentage in any subsequent four-week period, the CA may terminate the contract forthwith on further written notice and without granting the Operator any further opportunity to rectify the matter.

#### 48.3 Where—

- (a) the Operator delegates, cedes or sub-contracts the contract or part thereof without having obtained the CA's consent in writing; or
- (b) the Operator's operating licences necessary to provide the services are withdrawn or suspended; or
- (c) the Operator fails at any stage to comply with the requirements of the Act; or
- (d) the Operator has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the CA in connection with the obtaining or execution of this contract; or
- (e) the Operator has acted in a fraudulent manner in obtaining or executing any contract; or
- (f) the Operator has abandoned any of his or her obligations in terms of this contract; or
- (g) the Operator is discovered to have provided incorrect, false or fraudulent information;
- (h) the Operator consistently fails to observe the specifications set out in any of the Schedules whether or not penalties have been imposed, with the result that the quality of the services is unacceptable to the CA; or
- (i) the ownership control in the Operator has changed without the consent of the CA,

the CA may, without prejudice to any other rights it may have, terminate this contract and, if appropriate, claim damages from the Operator, in addition to any other lawful remedy the CA may have. For the purpose of paragraph (h), the Operator will be regarded as having consistently failed to observe the specifications where the CA provides a written certificate to that effect. If the Operator disagrees with the CA's opinion, he or she may declare a dispute under clause 41.

- 48.4 Where the Operator has breached or failed to comply with any term of the contract as contemplated in clause 48.3, or commits another breach of the terms or conditions of this contract other than one contemplated in clause 48.2 (excessive penalties – in which case that sub-clause applies), the CA may give the Operator at least 30 days' written notice to rectify the matter, and, if the Operator has not remedied the breach within the said 30 days, without prejudice to any other rights the CA may have, the CA may—

- (a)
  - (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
  - (iii) claim any other lawful remedy the CA may have, or
- (b) without prejudice to its rights under paragraph (a) or to any other rights of the CA in terms of this contract, the CA may, without terminating the contract, take steps itself or have steps taken by others on its behalf to give effect to the CA's orders not carried out by the Operator, and notify the Operator in writing that—
  - (i) such steps have been taken;
  - (ii) that the Operator must satisfy the CA by written proof within a time stated in the notice that the Operator will be able to resume the services to the CA's satisfaction by a stated date; and
  - (iii) the Operator must resume the services to the satisfaction of the CA by that date;
  - (iv) if the Operator fails to comply with either (ii) or (iii), the CA may act under paragraph (a).

48.5 The CA may terminate the contract on three months' written notice of such termination being given to the Operator, where—

- (a) applicable transport planning shows that the services are no longer required or are no longer required in their present form or that another transport mode will be more suitable; or
- (b) national, provincial or local transport policy requires it.

In such a case the CA must pay to the Operator such damages as the Operator is able to prove, provided that such damages shall not exceed ten percent 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.

48.6 Where the contract is terminated under this clause the CA may require the Operator to continue providing the services for a maximum of 30 days after the date of termination, but subject to section 41(3) and 42(5) of the Act.

48.7 Where the contract is terminated—

- (a) the Operator must leave the service area at the expiry of the period contemplated in clause 48.6, or on the date of termination of this contract, as required by the CA, despite the fact that a dispute may



- have been declared under clause 41, or that any Party has applied to a court for relief, and whether or not the Operator disputes the validity of the relevant notice of termination;
- (b) the Operator undertakes not to operate services in the service area after the expiry of the period contemplated in clause 48.6, or on the date of termination of this contract, as the case may be, despite the fact that the Operator may hold operating licences or permits authorising such operation, and undertakes to submit any such licences or permits to the relevant regulatory entity for cancellation; and
  - (c) the CA may employ another operator to complete the contract or any part thereof at its option.
- 48.8 Should the amounts the CA must pay to have the services provided for the remainder of the period of this contract, where it is terminated as contemplated in this clause, exceed the sum that would have been payable to the Operator on due completion by it, the Operator shall upon demand pay to the CA the difference and it shall be deemed a debt due by the Operator to the CA and shall be recoverable accordingly.
- 48.9 Termination of the contract shall be without prejudice to any rights of the CA in respect of any antecedent breach of contract by the Operator.
- 48.10 In the event of the CA breaching any terms or conditions of the contract, the Operator may give the CA at least 14 days' written notice of such breach, calling upon the CA to remedy the same. Should the CA fail to remedy the breach in accordance with the notice, this contract may either be terminated by the Operator giving a further 14 days' written notice, during which the Operator must still provide the services under the contract, or at the option of the Operator, it may institute a claim for damages and/or sue for specific performance against the CA, or claim any other lawful remedy that the Operator may have against the CA, without prejudice to any other rights the Operator may have.
- 48.11 Should more than 30 percent of the monthly scheduled kilometres not be provided for three consecutive months due to reasons contemplated in clause 15, either party may terminate the contract, but not less than 30 days after the end of the third such month. Neither party shall have any claim against the other arising out of such termination.
- 48.12 In the case of termination of this contract in terms of this clause, except for clause 48.10, the CA 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 CA on request.

**49. GENERAL MATTERS**

- 49.1 This document and its annexures constitute the entire contract between the Parties and neither Party may rely on any representation, undertaking, term or condition that is not included in this document.
- 49.2 No agreement to vary, add to or cancel this contract shall be of any force or effect unless reduced to writing and signed on behalf of the Parties.
- 49.3 This contract will be signed as two identical originals, which both together will constitute the entire agreement between the Parties.

**50. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this contract.

**Signed at** ..... **on this** ..... **day of** .....

For: ..... (CA)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**Signed at** ..... **on this** .... **day of** .....

For: ..... (Operator)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**SCHEDULES**

1. Forms
2. Specifications for rebuilt and rehabilitated buses
3. Vehicle specifications
4. Specifications for advertising on vehicles
5. Contract management plan, business plan and monthly and annual reports
6. Duties to be performed by the Representative, Deputy and SMF
7. Penalties

8. Particulars of services: Routes, distances, services, fares, timetables, performance criteria, stops and additional related information
9. Performance monitoring
10. Calculation of fixed and variable contract rates
11. EFVE operation
12. Style Guide for Image and Marketing
13. Journey Analysis Report
14. Occupational Health and Safety Agreement

**SCHEDULE 1: FORMS**

- Form 1: Payment Certificate
- Form 2: Notification of change in ownership control of the Operator
- Form 3: Incident Report
- Form 4: Vehicles to be used to provide the services
- Form 5: Waybill
- Form 6: Resolution of directors, members or trustees
- Form 7: Management structure of Operator
- Form 8: Existing services operated by the Operator
- Form 9: Operating licences and permits held by the Operator
- Form 10: Tax Clearance Certificate
- Form 11: Claim for establishment costs

**FORM 1: PAYMENT CERTIFICATE**

*[Hard copy to be inserted]*

## FORM 2: NOTIFICATION IN CHANGE OF OWNERSHIP CONTROL OF THE OPERATOR

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... \*Municipality/Provincial Administration hereby gives notice in terms of clause 4.3 of the Contract, that the ownership control of the said Operator \*has changed/will change as follows with effect from ..... 20....:

The new \*shareholders/members/beneficiaries of the Operator \*are/will be the following:

1. .... [full names] Identity number .....
2. .... [full names] Identity number .....
3. .... [full names] Identity number .....

Details of the reasons for the change in ownership control are as follows: .....

.....  
 .....

Other relevant information:

.....  
 .....

Signed at ..... on ..... 20....

.....

For Operator

As witnesses:

1. ....
2. ....

**\* Delete whichever is not applicable**

**FORM 3: INCIDENT REPORT**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... Municipality/Provincial Administration hereby provide the following Incident Report in terms of clause 23.3 of the contract:

Complaint/incident lodged/reported by: .....

Date of complaint/incident: .....

Full description of complaint/incident (full details are required):

.....  
.....

Steps taken to address/solve the situation (full details are required):

.....  
.....

Program/proposed steps to prevent a repeat of the situation:

.....  
.....

Other relevant information:

.....  
.....

Signed at ..... on ..... 20.....

.....

For Operator

As witnesses:

1. ....

2. ....

**FORM 4: VEHICLES TO BE USED TO PROVIDE THE SERVICES**

1. All vehicles used must be roadworthy as required by the National Road Traffic Act, 1996.
2. The Operator must only supply details of those vehicles that are intended for use on this Contract.
3. Certificates of homologation for all vehicle types to be used during the contract period must be attached to this Form.
4. A copy of the last vehicle licence issued must be attached for vehicles that are currently owned by the Operator.
5. Where vehicles are to be purchased or leased a copy of the vehicle licence and proof that they have been registered in terms of the National Traffic Information System (NaTIS) must be produced before the commencement date.
6. In Table A provided below the Operator must provide details of its current vehicle fleet to be used on this contract, including spare vehicles.
7. In Table B provided below the Operator must provide details of new or additional vehicles that are to be acquired for this contract.







## FORM 5: WAYBILL

## CASH WAYBILL

NIPPER  
PERFORATION

B 582541

DRIVER: \_\_\_\_\_ COY No. \_\_\_\_\_ DATE: \_\_\_\_\_ 20 \_\_\_\_\_  
 TIME CASHED UP: \_\_\_\_\_ DUTY No. \_\_\_\_\_

TICKET					INSPECTOR'S SIGNATURE						
DENOMINATION	OPENING No.	CLOSING No.	QUANTITY SOLD	VALUE		TIME	TICKET VALUE CHECKED				
				R	C						
							TICKET VALUE.....	R.....			
							WAYBILL CHECKER				
							COY No. ....				
							CASH RECEIVED				
							AMOUNT .....	R.....			
							CASHIER				
							COY No. ....				
							DRIVER'S				
							SURPLUS / SHORTAGE	R.....			
							WAYBILL RE-CHECKED				
							TICKET VALUE.....	R.....			
							WAYBILL RE-CHECKER				
							COY No. ....				
							WAYBILL CHECKER				
							SHORTAGE / SURPLUS	R.....			
Module Number .....											
Defect .....											
Etm Number .....											
Bus Number .....											
TOTAL VALUE R											

DRIVER'S SIGNATURE .....

**FORM 6: RESOLUTION OF DIRECTORS, MEMBERS OR TRUSTEES**

Signatories for companies, close corporations or other juristic persons must establish their authority by attaching a copy of the relevant resolution of the board of directors/members/trustees or other authority as applicable, duly signed and dated.

An example is shown below:

"The board of \*directors/members/trustees/other authority of ..... ("the Operator") resolved at a meeting held at ..... on ..... 20 ..... that Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with Contract no. .... with the ..... \*Municipality/Provincial Administration on behalf of the said Operator.

SIGNED AT ..... ON THIS ..... DAY OF ..... 20 .....

.....

ON BEHALF OF THE \*COMPANY/CLOSE CORPORATION/TRUST/OTHER JURISTIC PERSON

CAPACITY .....

.....

SIGNATURE OF SIGNATORY

WITNESSES:

1. ....

2. ....

**\* Delete whichever is not applicable**

**FORM 7: MANAGEMENT STRUCTURE OF OPERATOR**

The management organisation structure that is proposed to be established to manage the contract must be indicated by means of an organogram. The organogram must detail the positions envisaged by the Operator for each member of that structure and include names where current staff are to be utilized. A detailed description of the duties of each post must accompany the organogram. Should the structure change at the start or during the contract a detailed explanation must be submitted to the CA. The organogram must be reflected in calculations when completing Schedule 10.

[illegible]

**FORM 9: EXISTING OPERATING LICENCES AND PERMITS HELD BY THE OPERATOR**

The Operator must provide details of all operating licences and permits held by it in terms of the Act. Photocopies of the licences and permits must be attached.

[illegible]

**FORM 10: TAX CLEARANCE CERTIFICATE**

A valid and current tax clearance certificate for the Operator issued by the SA Revenue Services must be attached.



**FORM 11: CLAIM FOR ESTABLISHMENT COSTS**

<b>Budgeted Establishment Cost (Page 1)</b>					
<b>Total</b>				<b>R</b>	<b>-</b>
	<b>Cost/unit</b>	<b>Quantity</b>	<b>Total</b>		
<b>Office Development</b>				<b>R</b>	<b>-</b>
Pay lease deposit (3 months)	R	1,00	0	R	-
Municipal/Utility deposit (if net lease)	R	1,00	0	R	-
<b>Office Furniture and Equipment</b>				<b>R</b>	<b>-</b>
<b>Board room</b>				<b>R</b>	<b>-</b>
Table	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Pens	R	1,00	0	R	-
Cupboard	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Meeting room(s)</b>				<b>R</b>	<b>-</b>
Table	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Cupboard	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Management office(s)</b>				<b>R</b>	<b>-</b>
Desk	R	1,00	0	R	-
Comfortable chair	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Credenza	R	1,00	0	R	-
Filing cabinet	R	1,00	0	R	-
Printer (small)	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Open plan</b>				<b>R</b>	<b>-</b>
Work stations	R	1,00	0	R	-
Work station chairs	R	1,00	0	R	-
Work table	R	1,00	0	R	-
Filing cabinets	R	1,00	0	R	-
Printer, Copier, Fax Scanner (large)	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Dustbins	R	1,00	0	R	-
Safe (fire proof)	R	1,00	0	R	-
Crockery	R	1,00	0	R	-
Kettle	R	1,00	0	R	-
Microwave	R	1,00	0	R	-
Fridge	R	1,00	0	R	-
Office cleaning material	R	1,00	0	R	-
Office cleaning equipment	R	1,00	0	R	-
Fire extinguisher	R	1,00	0	R	-
First aid	R	1,00	0	R	-
<b>Training room</b>				<b>R</b>	<b>-</b>
Tables/desks	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
White boards	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Dustbins	R	1,00	0	R	-

Budgeted Establishment Cost (Page 2)				
<b>Reception</b>				<b>R -</b>
Desk	R	1,00	0	R -
Office chair	R	1,00	0	R -
Dustbin	R	1,00	0	R -
Client seating	R	1,00	0	R -
Coffee table	R	1,00	0	R -
<b>Computer Hardware and Accessories</b>				<b>R -</b>
Desktop computer and monitor	R	1,00	0	R -
Keyboard and mouse	R	1,00	0	R -
Printer (colour)	R	1,00	0	R -
Modem	R	1,00	0	R -
Notebook computer	R	1,00	0	R -
Server	R	1,00	0	R -
Air conditioner	R	1,00	0	R -
Cabling	R	1,00	0	R -
Wireless	R	1,00	0	R -
Surge protector	R	1,00	0	R -
Computer locks	R	1,00	0	R -
UPS	R	1,00	0	R -
<b>Computer Software Systems</b>				<b>R -</b>
Windows server	R	1,00	0	R -
Microsoft Office Suite (Professional)	R	1,00	0	R -
Virus protection software	R	1,00	0	R -
Accounting software	R	1,00	0	R -
Payroll software	R	1,00	0	R -
Inventory management	R	1,00	0	R -
Vehicle management system	R	1,00	0	R -
Vehicle tracking system	R	1,00	0	R -
<b>Communications</b>				<b>R -</b>
Telephone lines	R	1,00	0	R -
Internet connection	R	1,00	0	R -
Toll-free line	R	1,00	0	R -
Desk telephone	R	1,00	0	R -
Fax machine	R	1,00	0	R -
Answering machine/service	R	1,00	0	R -
Speakerphone	R	1,00	0	R -
Cellular telephone with internet features	R	1,00	0	R -
Alarm system	R	1,00	0	R -
Internal communication system	R	1,00	0	R -
Two way radio	R	1,00	0	R -
Intercom (at door)	R	1,00	0	R -
<b>General Office Supplies</b>				<b>R -</b>
Business cards	R	1,00	0	R -
Envelopes (standard)	R	1,00	0	R -
Envelopes (large)	R	1,00	0	R -
Stationery (other)	R	1,00	0	R -
Postage stamps	R	1,00	0	R -
Printer cartridges (HP Laserjet)	R	1,00	0	R -
CDs	R	1,00	0	R -
Pencils and pens	R	1,00	0	R -
Printer paper (per ream)	R	1,00	0	R -
<b>Vehicles</b>				<b>R -</b>
Operating licenses	R	1,00	0	R -

Budgeted Establishment Cost (Page 3)				
<b>Staff Uniforms and Protective Clothing*</b>				<b>R -</b>
<b>Driver</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suits	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Depot Services Staff</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suite	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Route Controllers</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suite	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Inventory</b>				<b>R -</b>
Tyres	R	1,00	0	R -
Lubricants	R	1,00	0	R -
Cleaning material	R	1,00	0	R -
<b>Roaming Bakkie Kit Out</b>				<b>R -</b>
Tools	R	1,00	0	R -
Compressor	R	1,00	0	R -
Generator	R	1,00	0	R -
Light	R	1,00	0	R -
<b>Depot kit out</b>				<b>R -</b>
Pay deposit	R	1,00	0	R -
Cleaning material opening inventory	R	1,00	0	R -
Fuel opening inventory	R	1,00	0	R -
Parts opening inventory	R	1,00	0	R -
Lubricants opening inventory	R	1,00	0	R -
Workshop tools	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>General</b>				<b>R -</b>
Post box	R	1,00	0	R -
Other				
<b>* Only if CA requires this from start of operations. Replacement uniforms to be included in costing for subsequent years</b>				

## SCHEDULE 2: SPECIFICATIONS FOR REBUILT AND REHABILITATED BUSES

### 1. Rebuilt bus

“**Rebuilt bus**” means that a new body has been built on a rebuilt chassis, that all the compulsory vehicle standards applicable to the body as laid down by the latest requirements of the South African Bureau of Standards (SABS), the Standards Act 29 of 1993 and /or the National Road Traffic and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the bus complies with the following:

#### A. Body rebuilt by a registered and SABS approved bus body builder

- (a) Body superstructure conforming to SABS 1563: 1992 roll-over protection requirements;
- (b) New lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (c) Rear reflectors and side reflectors (where fitted) conforming to SABS 1046;
- (d) Chevron conforming to SABS 1329;
- (e) Seats and anchorages conforming to SABS 1564;
- (f) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (g) Class II rear view mirrors conforming to SABS 1436;
- (h) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (i) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (j) Minimum ceiling height 1,75m;
- (k) Individual axle mass loads to be established and mass distribution to be within permissible limits, seated and standing passengers to be based on 68kgs per passenger, with luggage based on 100kgs per cubic metre;
- (l) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (m) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

- (a) New wiring harness to be fitted; and
- (b) Wiring and electrical connectors to conform to SAE J 1292: (Per SABS)

**C. Mechanical**

- (a) Chassis stripped and cleaned (either shot-blasted or sand-blasted);
- (b) Chassis cracks are not permitted. Cracked components to be replaced; loose rivets or bolts to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Full paint treatment to be applied to chassis;
- (e) Reconditioned or new engine, fuel pump, compressor, gearbox, radiator alternator, starter motor, steering pump and box, differential, front and rear axles, steering components, to be fitted, to OEM specifications;
- (f) Springs to be scragged and shock absorbers to be replaced;
- (g) New colour-coded air hoses to be fitted throughout, with reconditioned brake valves;
- (h) Air reservoirs and fuel tanks to be cleaned;
- (i) Fuel pipes to be renewed;
- (j) New tyres to be fitted to front wheels and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (k) In the event of a bus-train the articulation component must be SABS approved and items such as coupling, turn table, bellows, etc must be replaced/reconditioned to OEM specifications.

A Rebuilt Bus shall be deemed to be three years old on the date of the completion of the rebuilding.

Midibuses and minibuses may not be rebuilt.

**2. Rehabilitated bus**

**“Rehabilitated bus”** means that only the floor and the inner and outer cladding of the body must be removed to facilitate close *in situ* examination and repair of the superstructure framing, that new cladding and floor is fitted and that all the compulsory requirements (excepting rollover conforming to SABS 1563) as laid down by the latest requirements of the SABS, the Standards Act 29 of 1993 and /or the National Road Traffic Act and National Road Traffic Regulations are met in each and

every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the vehicle complies with the following:

**A. Body rehabilitated by a registered bus body builder**

- (a) Lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (b) Rear reflectors , and side reflectors (where fitted) conforming to SABS 1046;
- (c) Chevron conforming to SABS 1329;
- (d) Seats and anchorages conforming to SABS 1564;
- (e) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (f) Class II rear view mirrors conforming to SABS 1436;
- (g) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (h) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (i) Minimum ceiling height 1,75m;
- (j) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (k) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

Electrical wiring to be reworked and be in safe working order.

**C. Mechanical**

- (a) Chassis to be inspected *in situ*;
- (b) Chassis cracks are not permitted. Cracked chassis members to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Springs to be scragged and shock absorbers to be replaced;
- (e) Air reservoirs and fuel tanks to be cleaned;
- (f) Fuel pipes to be renewed;
- (g) New tyres to be fitted to front wheels, and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (h) In the event of a bus-train the articulation components must be reconditioned to OEM specifications.

A Rehabilitated Bus shall be deemed to be eight years old on the date of completion of the rehabilitation. *[Note: This may have to be revised or qualified given the 12 year contract period, e.g. to state that one rehabilitation during that period will be sufficient.]*

Midibuses and minibuses may not be rehabilitated.

### SCHEDULE 3: VEHICLE SPECIFICATIONS

The Operator must provide at least the following numbers and types of vehicles by the commencement date to operate the services as indicated on the timetables in Schedule 8, in addition to the 10% spare capacity required by clause 24.2:

- ..... minibuses
- ..... midibuses;
- ..... standard buses;
- ..... maxi-buses;
- ..... bus-trains; and
- ..... bi-articulated bus trains.

The Operator may choose to provide larger vehicles than those specified, if they meet the requirements of this Schedule and Schedule 2, but the Operator will not receive additional compensation for such larger vehicles unless their introduction is necessitated by additional revenue kilometres approved as a variation under clause 16 and is approved by the CA in writing, and subject to Item 2.8 of Schedule 10.

All vehicles used to provide the services in terms of this contract must comply with the following specifications:

#### 1. Accessibility requirements

1.1 All vehicles must adhere to and comply with the following accessibility requirements by the date contemplated in clause 21:

- door opening to be 850mm wide with 1450mm head clearance;
- first step to be a maximum of 250mm above ground (retractable first step is also permissible), following steps with a maximum height of 230mm and a minimum depth of 250mm;
- use of high-contrast colours on steps, grab rails, seat frames and edges of stairs, which conform to the requirements of SANS 10400 (S) for persons with disabilities and which increase the visual clarity of the interior;
- sufficient grab rails or handles adjacent to the entry and exit points, seats and by all steps shall be fitted with 25 to 35mm diameter and at a comfortable height from finished floor level for all special needs passengers, with suitable visual clarity. The aim is to ensure that special needs passengers can enter the vehicle, gain access to their seat, and leave the vehicle in safety, comfort and convenience.



- 1.2 In addition to the requirements of Item 1.1, the Operator is encouraged to provide vehicles that are universally accessible to all special categories of passengers. The additional costs involved will be negotiated between the Parties and paid by the CA if the CA approves the costs of providing such vehicles/adapting existing vehicles. This will include providing for the following:

**Equipment and reserved seating:**

- Equipment to display the route and destination externally on the front and side of the vehicle shall be provided internally, where it is visible to passengers. Lettering on all signs inside the vehicle to be at least 25mm for a viewing distance of 7,5m unless different sizes are required for specific signs; and
- Reserved seating next to the entrances for persons with disabilities, elderly people, pregnant women or passengers with any other mobility difficulties.

**Steps:**

- The rise of each tread step must be the same height and not exceed 170mm.
- Solid risers must be provided in all accessible routes.
- A stairway must be provided with handrails on both sides of the stairway. The stairway may not include any winders as defined in SANS 10400-M.
- No spiral stairway may form part of an accessible route.
- Nosings must effectively contrast with their immediate surroundings. The minimum dimensions of each nosing must be 40mm by 40mm.

**Grabrails:**

The tube of any grabrail must have an outside diameter between 32mm and 38mm.

**Visual clarity:**

Colour, tone and luminance contrast should be used to aid the identification of critical surfaces. Externally, critical surfaces include guiding walls, steps, rails and textured guidance surfaces. Internally, critical surfaces that require an effective light reflective value (LRV) are ceilings, walls floors, stairways, doors and significant fixtures and fittings.

LRV is measured by a spectrophotometer being the light reflected from a surface in standard conditions and expressed on a scale of 0 to 100 where black is about 5 and white about 90.

- 1.3 The Operator must comply with any regulations that may be made in terms of section 8(1)(y) of the Act at the Operator's cost.

## 2. Vehicle standards

- 2.1 All vehicles must conform to the requirements and regulations of the National Road Traffic Act or other applicable legislation and applicable SABS standards as from the commencement date.
- 2.2 No vehicle older than 15 years may be used to provide the services during the contract period unless it is rebuilt or rehabilitated.
- 2.3 The age of a vehicle is determined from the date of first registration of the chassis and the operator must provide proof of this. If the operator proposes to use vehicles that have been rebuilt or rehabilitated as defined in Schedule 2, 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 to ensure compliance.
- 2.4 In accordance with Schedule 2, a fully rebuilt vehicle shall be deemed to be three years old on the date of the completion of the rebuilding and a rehabilitated vehicle shall be deemed to be eight years old on the date of the completion of the rehabilitation. No vehicle with a chassis age of more than twenty-seven years may be used during the contract period.
- 2.5 Details of the existing or proposed vehicles to be used on the services must be provided on Form 4.
- 2.6 Vehicles must conform to the following requirements:

	Vehicle type			
	Minibus	Midibus	Standard bus	Bus-train
Minimum seated capacity for contract	16	35	65	To be specified
Maximum standing capacity	None	None	27	To be specified
Minimum engine power	To be specified	To be specified	150kW	To be specified

**3. Livery**

- 3.1 All vehicles operated on the contract must be painted in a uniform livery as approved by the CA. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the CA.

**4. Route and destination equipment**

- 4.1 A removable/changeable duty number board must be displayed behind the right lower front windscreen visible from outside. The letter size must 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.
- 4.2 A board or scroll stating the destination of each trip must be displayed on the front of the vehicle. The wording must be clearly discernible at a distance of 150 metres. The letter size must be at least 150mm and be adequately legible (readable) in all lighting conditions, including early morning and at night. The colour of the letters must contrast with the background colour of the board or scroll to facilitate legibility.
- 4.3 Electronic destination equipment is permitted and must be approved by the CA.

**5. Communication equipment**

To be specified by the CA.

**6. Monitoring equipment**

To be specified by the CA.

**SCHEDULE 4: SPECIFICATIONS FOR ADVERTISING ON VEHICLES**

1. All advertising on vehicles must be legal, decent, honest, truthful and be designed with due sense of social responsibility.
2. Advertising must be in accordance with marketing laws and regulations and also respect generally accepted advertising standards and codes of ethics.
3. It must be evident from the advertising who the advertiser is.
4. Advertising must not prompt acts of violence nor include illustrations or descriptions of murder, violence or abuse and must not play on superstition and fear in an improper way.
5. Advertising must not discriminate with respect to race, gender, religion or nationality, nor offend people's religious or political beliefs.
6. Advertising must not prompt disruptive behaviour with respect to safety in the home, at work or in traffic, or promote other dangerous, irresponsible, unhealthy and environmentally damaging behaviour.
7. There must be no advertising (direct or indirect) for religious or political views or movements, nor for products offered by such. However, advertising of information relevant to society in general is allowed, e.g. about the environment, health and education.
8. Advertising which targets children and youth must not be designed in such a way that it is psychologically or morally harmful. Advertising may not be designed so as to exploit children and youth's natural innocence and loyalty, as well as their particular trust in their parents, teachers etc. It may not undermine the authority and responsibility of the latter.
9. It is the Operator's responsibility to ensure that advertising is legal and meets the above conditions.
10. Advertising on more than one vehicle must be done in a uniform manner as approved by the CA.
11. All advertisements must be submitted to the CA for pre-assessment as to whether the particular advertisement meets the above conditions. The CA may also assess future or existing advertisements of its own accord. The Operator must respect the decisions and instructions of the CA in this respect, and must accept that non-compliance could lead to declaration of a dispute or an application for an interdict and/or a claim for compensation.
12. Where the CA owns the vehicles, it is entitled to 30% of the gross advertising revenue and fees received by the Operator from an advertiser. The CA may set off the advertising revenue due to it under this clause against the payments for services to be made to the Operator.

## **SCHEDULE 5: CONTRACT MANAGEMENT AND BUSINESS PLANS AND MONTHLY AND ANNUAL REPORTS**

### **1. Contents of Contract Management Plan**

The Contract Management Plan must provide information on the following matters:

- (i) The management structure proposed to manage the contract, including details of–
  - a) Which staff categories will be full time and which will be part time;
  - b) The number and categories of staff not covered in terms of the bargaining council arrangements, (i.e. mostly staff on managerial level);
  - c) The numbers involved in each staff category, as defined by the bargaining council and set out in such a format that it can be audited; and
  - d) Recruitment and training of necessary personnel, if these are not already available.
- (ii) Details of how the Operator proposes to meet its reporting requirements under this contract, with full details of management control and information systems to be set up to ensure that its requirements are met in terms of this contract.
- (iii) How the Operator proposes to handle penalty verification and contesting of penalties as required.
- (iv) Details of–
  - a) Arrangements for the financing and acquisition of the required vehicles as specified in Form 4;
  - b) Procurement of offices, depots, workshops and stores; and
  - c) Arrangements for fuel supply.
- (v) How the vehicles will be maintained with details on whether maintenance will be done in-house or not. In this case details must be provided on–
  - Available staff specifying categories of staff numbers in each category;
  - Inspection and maintenance strategies to be implemented; and
  - Maintenance contracts with vehicle suppliers. Details on what is actually to be attended to by vehicle suppliers and if issues are excluded from this how those aspects will be

addressed, taking into account the aspects mentioned under (a) above.

- (vi) Details of the fleet replacement program, if vehicles will be replaced during the term of the contract, as proposed in Form 4.
- (vii) The contingency plans that the Operator will implement if unable to provide the services.
- (viii) The plans that the Operator will implement in emergencies.
- (ix) How the Operator plans to meet the Key Performance Indicators, including details of—
  - the method of advising the CA or Representative of any missed trips; and
  - complaints handling and the Operator's defects register.
- (x) Details of the establishment of liaison groups with employers of commuters and communities where passengers reside if such liaison groups have not been established or are not functioning.

## **2. Finalisation of Contract Management Plan**

- (i) Within 10 working days of submission of a draft Contract Management Plan under Item 1 the CA must provide comments on the draft Contract Management Plan, suggesting areas for consideration or amendment.
- (ii) The Operator must review and update the draft Contract Management Plan to address any comments raised by the CA and re-submit it to the CA for final approval within 10 working days of receiving the CA's comments. The Plan must then be signed by the Parties and a signed copy be retained by each party.

## **3. Compliance with the Contract Management Plan**

In providing the services, the Operator must comply with the provisions of the Contract Management Plan.

## **4. Business Plans**

*[Note: The submission of the business plans should preferably coincide with the MTEF cycles as this will be used to submit information to Treasury regarding financing requirements if needed. This whole section is necessary because of the new role players and to ensure that they are provided with sufficient information/reports to manage the processes involved. The Business Plan will assist the CA in obtaining additional funding from Treasury, should this be required.]*

- 4.1 No later than 30 days after the commencement date and 30 days after the anniversary of that date each year during the duration of the contract the Operator must prepare and submit to the CA a draft Business Plan for the services operated in terms thereof for a period covering the following three years, whether or not that three year period extends beyond the termination of the contract.
- 4.2 The Business Plan must–
- a) Include a detailed 3 year financial forecast for the Operator based on the costs and revenue projections which were originally provided to the CA;
  - b) Comply with and incorporate (where applicable) the information and reporting requirements or other reasonable requirements prescribed by the CA from time to time; and
  - c) Identify any differences from the previous Business Plan, together with the reasons for those differences.
- 4.3 Within 15 working days of submission of a draft Business Plan under Item 4.2 the CA and the Operator must meet to discuss the Business Plan.
- 4.4 Within 10 working days of the meeting mentioned in Item 4.3 the CA must provide comments on the draft Business Plan, suggesting areas for consideration or amendment.
- 4.5 The Operator must review and update the draft Business Plan in response to comments received and address and incorporate any suggested areas for consideration or amendment within a further 10 working days and re-submit to the CA–
- (a) The final updated Business Plan with a statement of reasons why the CA's comments have not been accepted, if that is the case; and
  - (b) An extract of the resolution of the board of directors or owners of the Operator approving the Business Plan.
- 4.6 The Business Plan for the financial year ending ..... will be that part of the initial Business Plan that relates to the period from the commencement date to .....

## **5. Monthly Operational Reports**

- 5.1 The Operator must provide the CA with a monthly operational report outlining the monthly operations of the Operator within 15 business days of the end of the month. The monthly report will provide information outlined in Items 5.3 to 5.5 below.

- 5.2 The CA may require the Operator in writing to provide a breakdown of statistical information by time period and/or by route.
- 5.3 The Operator must submit monthly management accounts with the monthly operational report. The CA will review the information submitted from time to time which must include, but will not be limited to—
- a) Actual results vs budgets and forecasts;
  - b) Details of debtors and creditors and the age of the debt;
  - c) Cash flow statements; and
  - d) Details of capital expenditure planned in next three months with details of financing.
- 5.4 The CA must keep all information provided by the Operator confidential and may not disclose it to any other person or body without the prior written consent of the Operator.

## **6. Annual Reporting**

- 6.1 The Operator must maintain those financial, operational and financial planning records that would ordinarily be maintained by a skilled and experienced public transport operator and as required in terms of generally accepted accounting practice.
- 6.2 The Operator must provide to the CA as soon as practicable (and in any event not later than three months) after the end of each 12 month period after the commencement date an annual report that includes—
- (a) a general description of the activities undertaken by the Operator during the previous year, as well as any significant initiatives to be introduced in the current year.
  - (b) a Training and Staff Development Report which will identify programs and courses that Operator's staff participated in.
  - (c) Certified true copies of its audited accounts for that specific period together with all related directors' and auditor's reports, including:
    - (i) A balance sheet at the end of the reporting period;
    - (ii) Profit and loss statement for the reporting period;
    - (iii) Statement of retained earnings for the period; and
    - (iv) A cash flow statement for the reporting period.



- (d) A commentary on–
- (i) material variations between actual results and budget year to date;
  - (ii) progress against Key Performance Indicators;
  - (iii) acquisitions and disposals of contract vehicles and depots;
  - (iv) details of its indebtedness (whether actual or contingent) in respect of financial commitments (including any lease or hiring agreement);
  - (v) financial viability; and
  - (vi) material variations between actual results and the forecasts contained in any forecasts done during the negotiations between the Parties to conclude this contract.
- (e) Details of the number of employees, their roles and the minimum, average and maximum wage paid for each staff category.

- 6.3 The accounts referred to in paragraph (c) must be prepared consistently in accordance with generally accepted accounting practice and/or International Financial Reporting Standards (IFRS) and the Operator's normal accounting policies, details of which must be supplied, on request, to the CA.
- 6.4 Any changes to the Operator's accounting policies should be notified to the CA on submission of the accounts. The Operator must draw the CA's attention to any differences between its normal accounting policies and generally accepted accounting procedures.
- 6.5 Each set of accounts delivered under paragraph (c) must give a true and fair view of the state of affairs for the period covered by the accounts.
- 6.6 The Operator must ensure that the records kept and accounts submitted under this item relate only to the business conducted under this contract and are separate from the financial and planning records and accounts of its other operations and contracts, if any.

**SCHEDULE 6: DUTIES TO BE PERFORMED BY THE REPRESENTATIVE, DEPUTY AND SMF**

1. The function of the SMF's Representative, or if no Representative is appointed, an official appointed by the CA for the purpose, is to administer and supervise the contract in accordance with the provisions thereof. In this regard the Representative shall perform all the duties of the Representative as described in the contract and at all times endeavour to be just to both the CA and the Operator. Insofar as it is not in conflict with the duty to be just to both Parties, the Representative must ensure that the CA's interests in the contract are protected.
2. It is the duty of the Representative to supervise the operation of the services as provided by the Operator on behalf of the CA, to monitor such services to ensure compliance with the Specifications and to arrange and chair monthly project meetings.
3. The Representative may from time to time, with the written consent of the CA, delegate in writing to an authorised person any of the powers and functions vested in it, and must furnish the Operator with a copy of all such written delegations of powers and functions. Any written direction or written approval given to the Operator by such a delegate in accordance with such delegation (but not otherwise) shall be binding on both the Operator and the CA in the same way as if it had been given by the Representative, provided always that—
  - (a) failure of a person authorised by the Representative to make a ruling or issue an instruction shall not prejudice the power of the Representative to make such ruling or issue such instruction later; and
  - (b) should the Operator be dissatisfied with any decision of a person authorised by the Representative, it may refer the matter to the Representative within seven (7) days, who must thereupon confirm, vary or reverse the decision.

The Representative shall remain liable to fulfil all of his/her duties in terms of the contract notwithstanding the appointment of a delegate.

4. It is also the duty of the Representative's Deputy to supervise the operation of the services as provided by the Operator on behalf of the CA and to monitor such services to ensure compliance with the Specifications. Other functions of the Deputy include, among other things, to arrange and chair meetings with the Operator other than monthly project and weekly penalty meetings, to develop a monitoring strategy, to supervise the

monitoring staff and audit the quality of their monitoring activities, and to ensure that all relevant information required by the CA is forwarded in accordance with the formalities prescribed.

5. The monitors will conduct monitoring on routes and at termini, ranks and intermediate monitoring points.
6. Monitoring on route establishes the following:
  - (a) route and stop adherence;
  - (b) passenger demand along the route;
  - (c) drivers' driving skills, adherence to traffic regulations and consideration for passengers; and
  - (d) the accuracy of EFVE by comparing actual passenger numbers with EFVE data and reports.
7. Monitoring at termini, ranks and intermediate monitoring points establishes the following:
  - (a) the actual departure and/or arrival time to determine conformance with the contract timetable;
  - (b) whether the correct shift number is displayed;
  - (c) whether the correct destination is displayed on the destination board;
  - (d) whether vehicles are in a satisfactory condition with respect to general vehicle condition;
  - (e) the validity of licences; and
  - (f) the number of passengers and their perceptions.
8. Technical bus inspections will be carried out by suitably qualified staff at the depot(s) on a weekly basis. Defects identified will be classified in terms of the following types:
  - (a) Type A defect: a warning;
  - (b) Type B defect: defect to be repaired within two days; and
  - (c) Type C defect: defect to be repaired before resuming contract trips or duties (shifts).
- 8.1 The standards that will be applicable to standard and bus-trains as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:
  - (a) Reject if the licence of the motor vehicle has expired. [See Chapter III Regulation 4(3) of the NRTA Regulations.] The Operator has twenty-one days to display the licence;

however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.

- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145(1), which requires a bus' RWC to be valid for six months only. The twenty-one days' grace to display licences does not apply to RWCs.
- (c) Reject if there is no valid operating licence/permit kept in the vehicle in terms of the National Land Transport Act 5 of 2009 (NLTA) and Regulations for the prescribed routes/services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 and 1116-4; not securely fitted; legibility/reflectivity affected/damaged/tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped/cracked within driver's control zone vision; windscreen clouded/defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped/cracked/discoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitutes a danger to passengers.
- (h) Chevrons must conform to SANS 1329 and reflectors to SANS 1046; chevrons, reflectors and contour markings as prescribed in the National Road Traffic Act (NRTA) and SANS 10047.
- (i) All glass must conform to NRTA Regulation 202; Such window/glass is permanently marked with the trade mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) emergency exit for every twelve (12) passengers; Emergency exits to be clearly identified with 50mm lettering facing inside and outside.
- (j) Reject if head lights (high and low beam) beams are not similar in intensity, do not work, lenses are missing/broken and or clouded/discoloured and if any park light, stop light, tail light, number plate light or indicator/hazard light does not work, lenses are missing/broken or clouded/discolored. If any stop light or indicator light when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046).
- (k) Reject if any equipment that was required for the vehicle when it was new has been removed, or replaced with unsatisfactory equipment, or has been degraded.

- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the driver or if wiper blades have cracks.
- (m) Reject if the vehicle is not fitted with a destination indicator of any type, electronic type, manual roller type or board, however, if electronic/roller-type it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Regulation 264A)
- (n) Reject if the bonnet cover does not seal and if, in the case of standard buses and bus-trains, the vehicle is not fitted with handrails at the steps and passageway and the step light(s) on the steps is/are not functioning;
- (o) Reject if cross-ply and radial tyres are mixed or a different size on the same axle; if inflated duals make wall contact; if the casings are damaged; Reject if tread depth is below 3 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked. Any wheel rim does not comply with load tables - SANS 1550-3. Reject if the wheel flaps are not fitted or in a good condition or do not comply with SANS 1496.
- (q) Reject if any steering drop arm/tie rod end/drag link/linkages play exceeds 1 mm. (Bushes, end's side play, etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing/loose or not correctly fitted; proper movement is obstructed by another part of vehicle.
- (r) Reject if the information display/self adhesive tamper proof label is not clearly imprinted with those items specified in clause 5.2.4 of SANS 20047; reject if there is no manufacturers plate fitted with the prescribed data in clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chafing, not correctly clamped or signs of leaks.
- (t) Reject if steering stops are missing, not correctly fitted/adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the manufacturer's recommendation or the wheel hub or any spoke is broken or damaged or there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or is not secure; missing fasteners; modifications not in line with manufacturer's specifications.

- (v) Reject if the low air warning devices (audio or light) are missing or do not function when air pressure is below 4.1 bar. (SANS 10047 - 5.31(c) read with NRTA Regulation 156(2))
- (w) Reject if the maximum air pressure is below 7.3 Bar and if the time between starting the engine with reservoirs empty and reaching the operating speed exceeds the time limits as specified (SANS 20013, SANS 1207 or SANS 1051).
- (x) Reject if the fire extinguisher does not conform to NRTA Regulation 260 or emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (y) Reject if driver's door lock does not work correctly from inside or outside; hinges, catches or pillars of the door are not secure when closed.
- (z) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (aa) Reject if no partition is fitted behind the driver.
- (bb) Reject if a control is functional incomplete/fractured/broken or obstructed/impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both; a control is so positioned that when operated it will impair proper control of the vehicle; if any pedal, does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective. Gear lever/linkage/boot are defective/loose/damaged.
- (cc) Reject if the exhaust brake is not working. Retarder (if fitted) reject if not working, if mounting bolts are loose, excessive bearing play, signs of corrosion/fractures, etc. (SANS 1051-4).
- (dd) Reject if hand brake is not effective. Reject if the brake operating cylinders or diaphragms with excessive travel are found. (limit of 55 mm or half the cylinder length) (SANS 1051-5).
- (ee) Reject if excessive oil/water is in the air system, air reservoir or with no provision for draining automatically or manually, any reservoir not secured. (SANS 1051-3).
- (ff) Reject if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake fully applied and whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visibly clogged air cleaners/valves. (SANS 1051).

- (hh) Reject if any brake linings on one or more wheels are worn below the low wear indicator or are contaminated with oil or unnecessary free play is present. (SANS 1051).
- (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters not functioning or have parts missing; defective/missing brake boosters or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked/fractured or excessively worn / oval. (SANS 1051-6).
- (jj) Reject if any air valve (foot brake, four way, load sensing, etc.) shows any signs of malfunctioning, air leaks, oil discharge, loose or defective.
- (kk) Reject if the number of passengers displayed in the vehicle does not correspond with the licence disc and actual seats fitted (Regulation 245A) (Lettering size to be 75mm).
- (ll) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the battery/battery carrier/fittings are not secure. (SANS 10047 - Clause 5.38).
- (mm) Reject if the passenger seats and frames are loose, broken/torn and or danger to passengers. (SANS 10047 and SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
- (nn) Reject if the twist locks, screws or fasteners are not in good working order. Reject if the inspection covers in the passenger isle are not properly secured causing a danger to passengers.
- (oo) Reject if any seat facing has its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (pp) Reject if the vehicle is fitted with twist locks and the twist locks are not in good working order.
- (qq) Reject if the vehicle is not weatherproof (water, dust leaks, etc.).
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047).
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 and 1563).
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts or they are not as per the ALB Plate (or in breach of contract specifications).
- (uu) Reject if any "U" bolts are loose, broken or missing or if spring cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear.)

- (ww) Reject if any spring hanger/brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding or if the "Fox Clamps" are missing or loose.
- (xx) Reject if the vehicle is fitted with a load sensing valve and it is not functional, loose, damaged, etc. (SANS 1207, SANS 20013 read with SANS 10047).
- (yy) Reject if any shock absorber is missing/broken/leaking oil (air) or loose and or mountings worn/loose/missing.
- (zz) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (aaa) Reject if any excessive cracks, deformation or corrosion of any chassis/cross member occur; repairs will only be accepted if in compliance with the manufacturer's specifications (SANS 1563).
- (bbb) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if hub seals and or "O" rings are leaking oil.
- (ccc) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc.) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks or pipes are damaged, chafed or not secure.
- (ddd) Reject if any engine or gearbox mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired (SANS 1563).
- (eee) Reject if flange bolts loose/broken; worn centre bearing/housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (fff) Reject if the exhaust system is not secured, the system is within  
25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (ggg) Reject if the engine misfires, lacks power to the extent that it would hinder traffic or if engine failure appears imminent (i.e. engine knock, etc.).
- (hhh) Reject if in the case of a bus-train, the Operator fails to produce a certificate to certify that it has separated the two parts of the bus-train and examined the ball coupling and



repaired, replaced or adjusted it, as necessary (SANS 10047 - 5.9.3.(g) read with the NRTA and its Regulations).

8.2 The standards that will be applicable to mini and midibuses as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:

- (a) Reject if the Licence of the motor vehicle has expired. [See Chapter III Regulation 4 (3) of the NRTA Regulations] The operator has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.
- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145 (1). Please note that the twenty-one days does not apply to RWCs.
- (c) Reject if there is no valid Operating Licence / Permit displayed in the vehicle in terms of the NLTA & Regulations for the prescribed routes / services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 & 1116-4; not securely fitted; legibility / reflectivity affected / damaged / tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped / cracked within driver's control zone vision; windscreen clouded / defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped / cracked / discolored within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitute a danger to passengers.
- (h) Chevrons must conform to SANS 1329 & Reflectors to SANS 1046; Chevrons, Reflectors & Contour Markings as prescribed in the NRTA & SANS 10047: Reject if the vehicle is not fitted with a "100" km per hour sticker on the rear of the vehicle.
- (i) All glass must conform to NRTA Regulation 202; Such window / glass is permanently marked with the Trade Mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane, or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency Exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) Emergency Exit for every twelve (12) passengers; Emergency Exits to be clearly identified with 50mm Lettering facing inside & outside.

- (j) Reject if head lights' beams (high and low beams) are not similar in intensity, does not work, lenses are missing / broken and or clouded / discolored and if any park light, stop light, tail light, number plate light or indicator / hazard light does not work, lenses are missing / broken or clouded / discolored or if any stop light or indicator light, when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046)
- (k) Reject if any equipment that was required for the vehicle when it was new has not been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the Driver. Wiper blades have cracks.
- (m) Reject if it is not fitted with a destination indicator of any type; electronic type, manual roller type or board, however, if electronic / roller type is used it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Reg. 264A)
- (n) Reject if it is not fitted with handrails at the steps; if the step light(s) on the steps is not functioning and if the bonnet cover does not seal.
- (o) Reject if the vehicle is not fitted with commercial rated tyres and of sizes 185R or 195R. Reject if tread depth is below 2 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked or if any wheel rim does not comply with load tables - SANS 1550-3.
- (q) Reject if any steering drop arm / tie rod end / drag link / linkages, play exceeds 1 mm. (Bushes, End's Side Play, Etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing / loose or not correctly fitted or if proper movement is obstructed by another part of the vehicle.
- (r) Reject if the information display /self adhesive tamper proof label is not clearly imprinted with those items specified in Clause 5.2.4 of SANS 20047; reject if there is no Manufacturers Plate fitted with the prescribed data in Clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chaffing, not correctly clamped or show signs of leaks (only in the case of Midi-Buses with Air Brake Systems).

- (t) Reject if steering stops are missing, not correctly fitted / adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the Manufacturer's recommendation or the wheel hub or any spoke is broken or damages or if there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or not secure; fasteners are missing or if modifications are not in line with manufacturers' specifications.
- (v) Reject if the low air warning devices (audio and or light) are missing or do not function when air pressure is below 4.1 bar. (Only in the case of Midi-Buses with Air Brake Systems). [SANS 10047 - 5.31© read with NRTA Regulation 156 (2)]
- (w) Reject if the fire extinguisher does not conform to NRTA Regulation 260 and emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (x) Reject if driver's door lock does not work correctly from inside or outside or if hinges, catches or pillars of the door is not secure when closed.
- (y) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (z) Reject if no partition is fitted behind the driver.
- (aa) Reject if a control is functional incomplete / fractured / broken or obstructed / impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both or if a control is so positioned that when operated it will impair proper control of the vehicle. Reject if any pedal does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective or if the gear lever / linkage / boot is defective / loose / damaged.
- (bb) Reject if the vehicle is not fitted with a tamper proof speed governor, with 100 km per hour set as the maximum.
- (cc) Reject if the vehicle does not qualify as per the specifications of the Taxi Recapitalisation Program.
- (dd) Reject if hand brake is not effective. SANS 1051-5
- (ee) Reject if excessive oil / water is in the air system or air reservoir or with no provision for draining automatically or manually or if any reservoir is not secured. SANS 1051-3 (Only in the case of Midi-Buses with Air Brake Systems)
- (ff) Reject if not fitted with a *Type 2 Braking System*; if any brake pipes are excessively chafed, corroded, damaged,

- inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake being fully applied, whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visible clogged air cleaners/valves. SANS 1051 (Only in the case of Midi-Buses with Air Brake Systems)
  - (hh) Reject if any brake linings / pads on one or more wheels are worn below the low wear indicator or is contaminated with oil or unnecessary free play is present. SANS 1051
  - (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters are not functioning or have parts missing; defective / missing brake booster's or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked / fractured or excessively worn / oval. SANS 1051-6 (Only in the case of Midi-Buses with Air Brake Systems)
  - (jj) Reject if the number of passengers displayed in the vehicle does not correspond with the Licence Disc & actual seats fitted (Reg. 245A) (Lettering size to be 75mm)
  - (kk) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the Battery / battery carrier / fittings are not secure. (SANS 10047 - Clause 5.38)
  - (ll) Reject if the passenger seats & frames are loose, broken / torn and or danger to passengers. (SANS 10047 & SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
  - (mm) Reject if the seat frames are not fitted onto the vehicle as prescribed in SANS 10047. (Caution: Mini & Midibuses converted from Goods vehicle to a Passenger vehicle, must supply a SABS certificate that approved the seat mountings)
  - (nn) Reject if the vehicle is not fitted with seatbelts for every seat on board the vehicle and or if seatbelts are frayed.
  - (oo) Reject if the twist locks, screws or fasteners are not in a good working order. (Only in the case of Midi-Buses)
  - (pp) Reject if any seat facing or have its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
  - (qq) Reject if the vehicle is not weatherproof. (water, dust leaks, etc)
  - (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047)
  - (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 & 1563)

- (tt) Reject if any spring has broken blades or sagging, broken centre bolts.
- (uu) Reject if any "U" Bolts are loose, broken or missing. Spring Cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear)
- (ww) Reject if any spring hanger / brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding, if the "Fox Clamps" are missing or loose.
- (xx) Reject if any shock absorber is missing / broken / leaking oil (air) or loose and or mountings worn / loose / missing.
- (yy) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (zz) Reject if any excessive cracks, deformation or corrosion of any Chassis / Cross Member occur; repairs will only be accepted, if in compliance of the Manufacturer's Specifications.(SANS 1563)
- (aaa) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if Hub Seals and or "O" rings are leaking oil.
- (bbb) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks. Pipes are damaged, chafed or not secure.
- (ccc) Reject if any Engine and or Gearbox Mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired.(SANS 1563)
- (ddd) Reject if flange bolts loose / broken; worn centre bearing / housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; there is a damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (eee) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (fff) Reject if the engine misfire, lacks power to the extent that it would hinder traffic and / or if engine failure appears imminent.(i.e. engine knock, etc)

9. The weekly technical bus inspections will also entail an inspection of the Operator's maintenance records and procedures and its vehicle pass rate for RWCs.
10. Other duties to be performed by the SMF's staff include the following:
  - (a) random inspections of passenger travel passes or tickets, on or off the vehicles;
  - (b) weekly inspection of infrastructure at termini;
  - (c) monitoring of the operational records of the Operator in respect of this contract;
  - (d) monitoring of EFVE fitting and maintenance; and
  - (e) dealing with complaints (complaints will be passed up the chain of management as necessary).
11. The Representative must submit monthly monitoring reports to the CA detailing the results of the tasks carried out in terms of Items 6 to 9 of this Schedule. In addition, the report must at least also contain the information set out below, and the Operator must give its full co-operation to ensure that the Representative/SMF is in a position to do so:

(i) *Operational Statistics*

- (a) Timetabled trips;
- (b) Timetabled trips not operated;
- (c) Timetabled trips departing early at any time point;
- (d) Timetabled trips arriving more than five minutes late at any time point;
- (e) Vehicle failures and reasons;
- (f) Timetabled trips delayed or missed due to vehicle failure;
- (g) The average number of vehicles available for service during the peak period (morning or evening, whichever has the greater vehicle requirement), expressed as a percentage of the total number of vehicles operated by the Operator;
- (h) Number of buses operated during the busiest peak period of the day, expressed as a percentage of the number of vehicles available for use;
- (i) Subsidy per kilometre operated;
- (j) Subsidy per passenger;
- (k) Subsidy per vehicle category;
- (l) Number of vehicles subsidised per category;
- (m) Number of scheduled trips per vehicle category;
- (n) Number of trips operated per vehicle category;
- (o) Total number of penalties incurred;
- (p) Monetary value of penalties (including escalation);

- (q) Passengers per kilometre operated;
- (r) Passengers per trip operated;
- (s) Employees per vehicle;
- (t) Scheduled kilometres;
- (u) Revenue kilometres operated per vehicle category;
- (v) Estimates of fare evasion and fraud levels,

and any reasons for changes to the above.

(ii) *Performance values in terms of KPI benchmarks*

The report is to include the results of the monthly performance evaluation conducted in terms of clause 38 of the contract and the KPI benchmark and score values detailed in Schedule 9. A scorecard will be completed and submitted for that purpose. Action to be taken by the Operator in the event of poor performance must also be reported on.

(iii) *Other Information*

- (a) Details of temporary minor timetable variations;
- (b) The results of service capacity assessments conducted during the month;
- (c) The number of tickets checked;
- (d) The results of all ticket inspections conducted during the month;
- (e) The activities undertaken by the Operator to resolve customer complaints;
- (f) Accidents where passengers have been killed or injured (apart from the requirements of the law to report these immediately;
- (g) Complaints and commendations;
- (h) Claims for compensation received by the Operator for injuries or death sustained by passengers or other persons (excluding Operator's employees) arising from the Operator's activities;
- (i) Electronic Ticketing System faults experienced and that require rectification by the Operator or the CA;
- (j) A summary of customer and quality assurance initiatives which will detail the customer and quality assurance initiatives that have been implemented by the Operator; and
- (k) Any other information that the CA or Operator deems relevant.

## **SCHEDULE 7: PENALTIES**

### **1. General**

- 1.1 Penalties shall be imposed against the Operator for each offence in accordance with this Schedule and the CA must advise the Operator on a weekly basis of penalties so imposed. Where penalties, excluding amounts withheld in terms of Items 7.1, 7.2, 12.2, 13, 16.1 or 17.1, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months or for any five months during the contract period, the CA may terminate the contract in terms of clause 48.3(h).
- 1.2 The Operator must 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 discovers that the Operator has failed to report trips not operated, operated late, operated early or provided other misleading information regarding the operation of the services, penalties for those offences will be increased by 10 percent and the CA will consider laying fraud charges against the Operator.
- 1.3 All penalties payable in terms of this Schedule quoted in fixed rand values shall be escalated annually, starting from the anniversary of the commencement date, by increasing them in terms of the average increase in the Consumer Price Index (CPI) for the previous five months.
- 1.4 Where any payment to the operator is withheld in terms of this Schedule, no escalation or interest will be payable to the Operator on the monies withheld and such monies will only be paid to the Operator after full compliance, unless specifically stated otherwise.
- 1.5 The Operator will not be penalized for trips departing late where the driver was waiting for passengers transferring from another vehicle in any public transport mode in terms of arrangements forming part of an integrated public transport network or integrated transport plan.

### **2. Failing to provide scheduled trips**

- 2.1 Where a trip has not been provided on a Tuesday, Wednesday, Thursday, Saturday or Sunday which is not a public holiday, a penalty of R2 000,00 per trip not provided will be imposed, and the variable contract rate will not be paid.
- 2.2 (a) Where a trip is not operated on the Thursday prior to an Easter weekend or the Tuesday after an Easter weekend, a penalty of R10 000,00 will apply, and the variable contract rate will not be



- paid.
- (b) Where a trip is not operated on any Friday or Monday due to bus and/or driver availability problems stemming from private hires, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid .

2.3 The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the operator will be penalized.

2.4 Despite the above, no penalty will be imposed where trips are cancelled for reasons specified in clause 15 of the contract.

### **3. Providing trips that depart late or early**

3.1 Subject to clause 15 of the contract, in the case of a trip that—

- (a) departs between six and 15 minutes late from the departure, transfer or monitoring point, a penalty of R300,00 will be imposed;
- (b) departs more than 15 minutes late from such point, a penalty of R500,00 will be imposed;
- (c) departs more than 30 minutes late from such point, the trip will be deemed not to have been operated and no revenue kilometres will be paid, but the R2 000,00 and R10 000 penalties in terms of items 2.1 and 2.2 will not be applied;
- (d) departs early, a penalty of R500,00 will be imposed.

3.2 Where a trip departs late from an intermodal transfer point due to the late arrival by the public transport vehicle or train preceding the Operator's vehicle in the chain of a connecting service, and this is certified by the Representative, the Operator will not be penalised.

### **4. Vehicle breakdowns**

4.1 The Operator must provide a replacement vehicle for breakdowns as follows:

- (a) At the starting point of a route or within an eight kilometre radius of those points, within 30 minutes; and
- (b) At other points, within 45 minutes;

provided that no breakdowns will be accepted as such inside depots.

4.2 Where a replacement vehicle is so provided, no penalty will be imposed and the variable contract rate will be paid.

- 4.3 If a replacement vehicle is provided, but not within the stated time, a penalty of R500,00 will be imposed for each trip not operated. If no replacement vehicle is provided, penalties will be imposed for a trip not provided. In all cases, however, where there are more than two percent vehicle breakdowns per month, a penalty of R5 000,00 per breakdown over 2% will be imposed. This percentage will be based on the average number of trips per month totalled over the month in question.

**5. Failing to display correct destination and/or duty boards or to display any destination or duty boards**

- 5.1 Where destination or duty boards have not been installed or are incorrectly displayed a penalty of R400,00 per infringement will be imposed.
- 5.2 Where the Operator changes duty numbers in contravention of clause 14 of the contract, a penalty of R1 000,00 per incident will be imposed.
- 5.3 The Operator must report within 24 hours the fact that any vehicle 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 R1 000,00 per infringement will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the Operator will be penalised accordingly.

**6. Providing trips with vehicles not approved or in an unsatisfactory condition**

- 6.1 Vehicles must be roadworthy and comply at all times with the National Road Traffic Act and other relevant legislation. Where a vehicle fails to comply with any legal requirement, it must be withdrawn from service immediately until the defect is rectified, and penalties will be imposed for failing to operate unless a spare vehicle is provided that complies with all legal requirements and that complies with the specifications detailed in Schedules 2 and 3.

Any contract trips operated by a vehicle which is–

- (a) not on the approved contract fleet list whether contract compliant or not; or
- (b) is not contract compliant; or
- (c) is without a valid licence or roadworthy certificate; or
- (d) has been deemed to be unsafe for use,

will be deemed as not having operated the trips in question. No revenue kilometres will be paid and penalties in terms of item 7.1 will be imposed.

6.2 Where vehicles leave a depot, transfer point, terminus or starting point in an unsatisfactory condition the following penalties will apply:

- (a) dirty on the outside or inside or with wet seats, a penalty of R1 000,00 per vehicle will be imposed, but this will not apply to vehicles leaving overnight parking areas in rural areas;
- (b) not in a good state of repair or with a leaking roof, one or more broken or missing windows or in an unhygienic condition, a penalty of R1 000,00 per vehicle will be imposed;
- (c) with missing or broken seats, a penalty of R1 000,00 will be imposed;
- (d) with broken, missing or open doors, or doors that cannot be closed properly, a penalty of R1 000,00 per vehicle will be imposed.
- (e) operating without its head and/or tail lights on, a penalty of R100,00 per trip will be applied.

6.3 If a penalty is imposed in respect of a particular vehicle under item 6.2(a) to (d) more than three times in any 14 day period, the Operator must withdraw that vehicle and replace it until it has been repaired so as to comply with the specifications.

6.4 The standards that will be applied in respect of this item are as follows:

**(a) “Dirty”**

*Dirty Inside:*

A vehicle of which the seats have not been cleaned and the floor has not been swept and washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

*Dirty Outside:*

A vehicle which is full of dust or mud and had not been washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

**(b) “Not in a good state of repair”**

Includes anything that can cause injury to a passenger or the public *e.g.* loose strips on the floor, loose inspection covers, loose engine covers, broken steps, loose and dangerous luggage racks etc.

Also applicable where the body exterior needs attention *e.g.* accident damage that has not been repaired, body panels that have not been repainted, lights that are not working etc

**(c) “Leaking roof”**

A roof that leaks water or through which dust enters the vehicle.

**(d) “Broken windows”**

Windows that are cracked within the vision of the driver and windows that are so badly cracked that it could cause injury to a person. Also includes windows which are badly installed or of which the window rubbers have deteriorated to such an extent that they leak water or allow dust to enter the vehicle.

**(e) “Unhygienic condition”**

A vehicle that is so dirty from old accumulated dirt against the panels, floor and roof that it constitutes an unhygienic condition. Also includes a situation where cockroaches and/or other insects such as lice are found.

**(f) “Missing seat”**

A seat or row of seats that has been removed from the vehicle.

**(g) “Broken seat”**

A seat of which the seat clips have broken resulting in it being loose from the floor or seat frame.

**(h) “Wet seat”**

A seat that has been washed but not dried or a seat that is wet due to water leaks from the roof or windows.

**(i) “Broken door”**

A door that is hanging loose from the door hinges or of which the door clip/handle is not working.

**(j) “Missing door”**

A vehicle without a passenger or driver door.

**7. Failing to provide the right type, quality and age of vehicles**

- 7.1 Where the Operator fails to provide all of the vehicles of the right type, quality and specification as specified in Schedules 2 and 3 after the commencement date it shall be penalized in the amount of R5 000,00 per

unapproved bus per day, plus five percent of the total amount payable in respect of the relevant month's payment certificate, with a minimum of R25 000,00, will be withheld on a *pro rata* basis, for example if one of 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 similar to those specified in Form 4 of Schedule 1 (can be different manufacturer but must be same seat capacity and same engine capacity and quality), which in the opinion of the Representative are suitable.

- 7.2 Item 7.1 will also apply where the operator fails to provide the accessible vehicles or to adapt its vehicles to comply with the accessible vehicle requirements as required by clause 21 of the contract and as specified in Schedule 3 and by the date specified in that clause.

- 7.3 If the Operator does not comply with the specifications for rebuilt and rehabilitated buses in Schedule 2 within three months from the date that the monies were first withheld, it will forfeit such monies.

## **8. Deviating from routes**

Where there is a deviation from a route the variable kilometre rate will not be paid.

## **9. 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 R1 000,00 per incident will be imposed, except—

- (a) where the lawful capacity of the vehicle would have been exceeded; or
- (b) a passenger has refused to pay the fare; or
- (c) on grounds of violent, abusive or otherwise offensive conduct on the part of a passenger.

## **10. Failing to provide information or provision of misleading information**

- 10.1 Any of the following conduct by the Operator amounts to the provision of misleading information and may be subject to the penalty provided in Item 10.2:

- (a) Deliberately recording or including (or deliberately failing to record or include) any matter in the operator's records, reports or financial statements which renders those documents untrue or misleading;
- (b) Failing to provide a financial report or an operational report or failing to provide a statement of financial position by the time specified in this Contract;

- (c) Failing to provide information as contemplated in clause 6 of the contract; and
- (d) Failing to co-operate and provide information as contemplated in clause 8.6 of the contract.

10.2 If, in the opinion of the CA the Operator has provided such or any other misleading information as contemplated in item 10.1, the CA may request that the necessary corrective action be taken. If the Operator fails to do so within seven days or as requested by the CA to the satisfaction of the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the corrective action was requested, will be forfeited.

10.3 The Operator must supply the CA with any additional information applicable to the operations or where the Operator is so requested by the CA in terms of this contract. If the Operator fails to do so within seven days or as requested by the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the information was requested will be forfeited.

#### **11. Failure to provide patronage information**

11.1 Once EFVE has been installed as required by clause 33 of the contract, the information derived from it must reflect at least eighty percent of observed patronage based on a joint on-board census carried out by the Representative and the Operator. While EFVE has not been so installed, the information on patronage must be observed by other methods, such as waybills. Information provided on patronage must be accurate.

11.2 If the information provided is less than 80% of observed patronage in any month, five percent of the gross certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited.

11.3 Compliance with this clause will be proved by comparing patronage observed by the monitors on at least 30% of the trips for the month in question with that reflected by EFVE. Should this sample not comply, the penalty will be levied for all of the trips provided on all routes in terms of the contract.

#### **12. Failing to install or to have operational EFVE**

12.1 The Operator shall install and commission EFVE and provide information therefrom as follows:

- Stage A1: install required electronic equipment (EFVE) on all vehicles

- within 30 days of the commencement date;
  - Stage A2: EFVE on vehicles to be commissioned, i.e. EFVE to be in full working order, drivers to be trained in its use and EFVE to be providing usable information within 60 days of the commencement date;
  - Stage B1: depot computer to be installed and commissioned within 30 days of the commencement date;
  - Stage B2: depot computer to be processing information obtained from EFVE on vehicles within 60 days of the commencement date.
- 12.2 Where the Operator fails to complete these Stages within the time indicated to the satisfaction of the CA, three percent 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 CA. Where moneys are so withheld for three 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 in respect of those vehicles in which those Stages have not been completed.
- 12.3 The four Stages will only be regarded as complete where EFVE in all buses and in the depot is fully operational and supplying all required information as specified in clause 33 of the contract.
- 12.4 Whether or not EFVE is installed, the onus will always be on the Operator to supply the correct information as specified in clauses 6 and 33 of the contract by using manual methods, intensive monitoring or other methods approved by the CA. This must be done from the beginning of the second month of operation to the satisfaction of the CA. Where this is not done, three percent of the gross certificate value payable to the Operator, before escalation, of the applicable month's payment certificate will be forfeited, where applicable over and above the penalties provided for above, and the CA may regard this as a breach of a material term of the contract.
- 12.5 If EFVE which has been installed and has been operational becomes defective and unable to supply the required information, the Operator must make it available for repair within three 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.
- 12.6 This clause is subject to the provisions of the contract which provide that

the CA may decide not to pay any claim without adequate documented proof of the required information and data.

**13. Failing to implement the BBBEE Codes of Good Practice**

If the Operator fails to comply with the targets and milestones of the BBBEE Codes of Good Practice at any time during the contract period three percent of the gross certificate value payable to the Operator, i.e. before escalation, will be withheld from each month's payment certificate. 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 compliance has been proved to the satisfaction of the CA. Where monies are so withheld for three months they will be forfeited.

**14. Use of unauthorised sub-contractor**

Where the Operator uses a sub-contractor without the approval of the CA in contravention of clause 18 of the contract, a penalty of five percent of the amount payable in terms of the payment certificate for the month in question will be forfeited for each month in which such contravention has taken place.

**15. Failing to obtain approval for a change in ownership control**

Where the Operator fails to obtain approval from the CA for a change in ownership control as required by clause 4.2 and 4.3 of the contract, a penalty of R10 000,00 will be imposed, if the CA decides not to terminate the contract.

**16. Failure to submit a Customer Complaints Policy, keep a Passenger Complaints Register or to respond to complaints**

- 16.1 Where the Operator fails to submit a Customer Complaints Policy to the CA in contravention of clause 23.4 of the contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until it is submitted to the satisfaction of the CA.
- 16.2 Where the Operator fails to keep a Passenger Complaints Register as required by clause 23.5 of the contract, a penalty of R5 000,00 per month will be imposed until the Register is kept to the satisfaction of the CA.
- 16.3 Where the Operator fails to respond to a complaint from a passenger as required by clause 23.4 of the contract or has not addressed complaints by the public to the satisfaction of the CA or Representative a penalty of R2 000,00 per incident will be imposed.



**17. Failing to submit fare evasion procedures or to check tickets**

- 17.1 Where the Operator fails to submit a fare evasion plan to the CA in contravention of clause 32.4(ii) of the contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until they are submitted to the satisfaction of the CA.
- 17.2 Where on inspection it appears that any of the Operator's drivers has failed to check a passenger's ticket or failed to check that the ticket was properly validated or that the ticket has not been defaced, a penalty of R250 per incident will be imposed.

**SCHEDULE 8: SPECIFICATIONS: ROUTES, TIME TABLES, FARES,  
STOPS AND ADDITIONAL RELATED INFORMATION**

*[To be completed in relation to the specific services/design]*

## SCHEDULE 9: PERFORMANCE MONITORING

### 1. KPI Performance Benchmarks and score values

- 1.1 The KPI benchmark values (standards) that will be applicable during the contract period as well as the values in terms of which scores will be allocated to the Operator for the purposes of monthly performance evaluations are summarised in Table 1 below.

**Table 1: KPI Benchmark and score values**

KPI	Benchmark value (Standard)	Score Values
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1
<b>Punctuality</b>		
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1
<b>Driver quality</b>		
• Passenger complaints	2%	≤2% = 1; >2% = 0
• Surveys	2%	≤2% = 1; >2% = 0
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1
<b>Vehicle quality</b>		
• General vehicle condition	2%	≤2% = 1; >2% = 0
• Technical vehicle condition:		
(i) breakdowns	2%	≤2% = 1; >2% = 0
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0
(iv) Roadworthy certificate pass rate	98%	<100% = 0; 100% = 1
<b>Safety</b>	1%	≤1% = 1; >1% = 0
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1
<b>Contract compliance</b>		
(i) information & reports	100%	<100% = 0; 100% = 1
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1
(iii) staff training	100%	<100% = 0; 100% = 1
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1

- 1.2 It should be noted that should remedial action be required in terms of the

driver and vehicle quality KPIs and the Operator fails to implement such action in subsequent months, a score of zero will be allocated for those months.

- 1.3 The format that will be used by the Representative/SMF to evaluate the Operator's monthly performance is given in Table 2 on the next page. The form must be signed by both the Operator and the Representative and will be submitted to the CA as part of the Representative's monthly monitoring report.

## **2. Customer Satisfaction Surveys**

- 2.1 The CA will undertake Customer Satisfaction Surveys during the contract period. These may be route focused or area focused as the CA deems necessary.
- 2.2 The surveys will entail face-to-face interviews with passengers alighting from vehicles. Questions relate to the journey that has just been made including overall satisfaction with journey, information, safety and security, cleanliness, reliability and staff behaviour.
- 2.3 The surveys will be summarised and conclusions drawn by the CA.
- 2.4 The final reports will be made available to the Operator and will be discussed at a meeting convened for this specific purpose. This meeting may be attended by commuter/community forum members with the prior written consent of the CA, and the Operator will be allowed to question the conclusions of the report.
- 2.5 At the Contract Performance Review of year seven, all Customer Survey reports will be considered and any continued negativity in them may negate the contract extension.

## **3. Periodic Performance Reviews**

- 3.1 The Operator must attend meetings with the CA as requested by the CA from time to time for the purposes of enabling it to conduct periodic reviews of the financial and operational performance of the Operator under this contract.
- 3.2 Any reviews conducted under clause 38.11 of the contract will not be more frequent than one review each quarter except where the circumstances or nature of the review requires follow up reviews or an extended review.
- 3.3 The CA must give the Operator not less than 10 business days' notice of any such meeting.
- 3.4 The persons attending the meetings on behalf of the Operator

Table 2: Format for monthly performance evaluations

KPI	Benchmark value (standard)	Score values	KPI value	Month: .....	Score
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1			
<b>Punctuality</b>					
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1			
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1			
<b>Driver quality</b>					
• Passenger complaints	2%	≤2% = 1; >2% = 0			
• Surveys	2%	≤2% = 1; >2% = 0			
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1			
<b>Vehicle quality</b>					
• General vehicle condition	2%	≤2% = 1; >2% = 0			
• Technical vehicle condition:					
(i) breakdowns	2%	≤2% = 1; >2% = 0			
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0 ≤1 = 1; >1 = 0			
(iii) maintenance procedures	100%	<100% = 0; 100% = 1			
(iv) RWC pass rate	98%	<98% = 0; ≥98% = 1			
<b>Safety</b>	1%	≤1% = 1; >1% = 0			
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1			
<b>Contract compliance</b>					
(i) information & reports	100%	<100% = 0; 100% = 1			
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1			
(iii) staff training	100%	<100% = 0; 100% = 1			
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1			
<b>Maximum score = 19</b>		<b>Total score:</b>			
		<b>Signed:</b>			
		<b>SMF Representative:</b>			
		<b>Operator:</b>			
		<b>Date:</b>			

must be of appropriate seniority and responsibility and must include those directors or senior managers of the Operator reasonably requested by the CA.

- 3.5 The officials attending the meetings on behalf of the CA must also be of appropriate seniority and responsibility to take the necessary decisions and an official at not lower than Director level must attend each meeting.
- 3.6 If requested to do so in a written agenda not less than 48 hours before the meeting, the Operator must prepare and present reports at the meetings in respect of those aspects of its performance requested by the CA.

#### **4. Contract Extension Review**

- 4.1 The contract extension review is based on the monthly KPI benchmark evaluations conducted throughout the contract period.
- 4.2 In addition to the conditions specified in clause 38.8 of the contract, the CA will evaluate the operator's ability to continue operating the services in a sustainable manner and to meet the KPI benchmarks during the contract extension.

**SCHEDULE 10: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES****1. The variable cost component**

- 1.1 The variable cost component is linked to the number of scheduled revenue kilometres to be operated by each of the vehicle types on the contract. A variable contract rate (price per kilometer) is therefore calculated per vehicle type.
- 1.2 Variable costs consist of the following cost elements:
- Fuel (diesel and petrol);
  - Tyres;
  - Maintenance and spares; and
  - Oil and lubricants
- 1.3 The Operator must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D. The information must be provided for each cost element for the first twelve months of the contract period.
- 1.4 Kilometres operated by additional vehicles will be charged for at the same rates for the type of vehicle concerned.
- 1.5 If a new vehicle type is introduced on the contract, an additional Table 1 must be completed and approved by the CA for inclusion as an addendum to the contract documents.

**2. The fixed cost component**

- 2.1 The fixed cost component will be linked to the number of vehicles of each vehicle type operated on the contract. A fixed contract rate (rate per vehicle) is therefore calculated per vehicle type.
- 2.2 Fixed cost consists of the following cost elements:
- Labour (wages and costs of drivers, management, the administration department and the traffic and engineering departments of the Operator's organisation);
  - Vehicle related costs (installments, depreciation, vehicle insurance, licence fees and operating licences and permits); and
  - Other general (overhead) costs;
- 2.3 To support the Operator's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C.

- 2.4 Upon award of the contract Tables 2A, 2B and 2C must be completed providing employee names and monthly salaries/wages and benefits and submitted to the CA.
- 2.5 The Operator must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs on Tables 3B, 3C, 3D and 3E. The information must be provided for the first year of contract.
- 2.6 The monthly repayments for vehicles will be considered to be over a 60 month period.
- 2.7 If a new vehicle type is introduced on the contract, an additional Table 3 must be completed and approved by the CA for inclusion as an addendum to the contract documents.
- 2.8 The Operator must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4.

### **3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is done in terms of Tables 5 to 7.



TABLE 1A: VARIABLE COST PROJECTION: BUS TRAINS

[illegible]

TABLE 1B: VARIABLE COST PROJECTION: BUSES

[illegible]



TABLE 2A: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>MANAGEMENT</b>															
Managing director			-		-								0	-	-
General Manager			-		-								0	-	-
Financial Manager			-		-								0	-	-
Operations Manager			-		-								0	-	-
Engineering Manager			-		-								0	-	-
<b>ADMINISTRATIVE</b>															
PA to MD			-		-								0	-	-
Secretary to MD			-		-								0	-	-
Schedules Clerk, Ticket Clerk, Clerk			-		-								0	-	-
Senior Clerk			-		-								0	-	-
Data Capture Clerk			-		-								0	-	-
Telephonist, Receptionist			-		-								0	-	-
Gate Keeper, Security Guard, Night Watchman			-		-								0	-	-
Messenger			-		-								0	-	-
Typist/Clerk			-		-								0	-	-
Chief Cook			-		-								0	-	-
Tea Person, Canteen Assistant			-		-								0	-	-
Planning Clerk, Register Clerk			-		-								0	-	-
Wage clerk/HR&IR Supervisor			-		-								0	-	-
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2B: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>DRIVERS</b>															
			-		-								0	-	
<b>TRAFFIC</b>															
Driving Instructor			-		-								0	-	
Senior Inspector			-		-								0	-	
Inspector			-		-								0	-	
Regulator, Transport Officer, Rank Despatcher, Point Controller			-		-								0	-	
Senior Regulator			-		-								0	-	
Despatcher, Route Despatcher, Sub-Depot Despatcher			-		-								0	-	
Sales Point Controller, Clipcard Seller, Season Ticker Seller			-		-								0	-	
Ticket Seller, Cashier Mobile, Driver Cashier Mobile			-		-								0	-	
Flycheck Driver, Chauffeur, Service Vehicle Driver			-		-								0	-	
Light Vehicle Driver, Mobile Driver			-		-								0	-	
Roster Clerk (Traffic), Traffic Clerk			-		-								0	-	
Private Hire Clerk, Special Hire Clerk			-		-								0	-	
Ticket Office Clerk, Cashier, Satright Clerk			-		-								0	-	
Senior Ticket Office Clerk			-		-								0	-	
Senior Operations Clerk			-		-								0	-	
Senior Cashier			-		-								0	-	
Operations Clerk, Clerk (Traffic)			-		-								0	-	
Duty Staff Bus Driver			-		-								0	-	
Operator			-		-								0	-	
Hostess, Steward			-		-								0	-	
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2C: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>ENGINEERING</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	-
Foreman			-		-								0	-	-
Artisan (negotiated for)			-		-								0	-	-
Operatives (grades A, B, C and D)			-		-								0	-	-
Honorary Artisan			-		-								0	-	-
Trade Worker (Grades P16 to P14)			-		-								0	-	-
Trade Trainee (Grades P16 to P14)			-		-								0	-	-
Grade 5			-		-								0	-	-
Technician			-		-								0	-	-
Assistant Technician			-		-								0	-	-
Grade 4			-		-								0	-	-
Artisan's Assistant			-		-								0	-	-
General Hand			-		-								0	-	-
Trade Assistant (P19 to P17)			-		-								0	-	-
Works Staff, General Worker			-		-								0	-	-
Tyre Attendant			-		-								0	-	-
Tyre Programmer			-		-								0	-	-
Senior Engineering Clerk, Engineering Clerk			-		-								0	-	-
Stores Clerk, Stores Assistant			-		-								0	-	-
Driver Shunter, Technical Driver			-		-								0	-	-
Selright Mechanic			-		-								0	-	-
Vehicle Checker (FOWL)			-		-								0	-	-
Fuel Attendant			-		-								0	-	-
Steam Jenny Operator, Steam Cleaner			-		-								0	-	-
Bus Cleaner, Cleaner, Bus Washer			-		-								0	-	-
Fork Lift Driver			-		-								0	-	-
Greaser			-		-								0	-	-
Workshop Cleaner, Cleaner, Yard Cleaner			-		-								0	-	-
Handyman, Handyman Estates			-		-								0	-	-
Labourer			-		-								0	-	-
Trimmer, Upholsterer			-		-								0	-	-
Assistant Handyman			-		-								0	-	-
Spray Painter, Painter, Signwriter			-		-								0	-	-
Assistant Painter			-		-								0	-	-
Stores Driver, Heavy Vehicle Driver			-		-								0	-	-
Data Typist, Data Input Clerk			-		-								0	-	-
Stores Data Clerk			-		-								0	-	-
Shedman (Grades A3 to A5)			-		-								0	-	-
Shunter Driver			-		-								0	-	-
Taco Mechanic, Taco Clerk			-		-								0	-	-
Brake Attendant			-		-								0	-	-
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	-

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured



TABLE 3B: FIXED COST PROJECTION: BUS TRAINS

[illegible]

TABLE 3C: FIXED COST PROJECTION: BUSES

[illegible]

TABLE 3D: FIXED COST PROJECTION: MIDIBUSES

	MONTH												TOTAL YEAR 1
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Installments: New vehicles <sup>1</sup>													
Installments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

TABLE 3E: FIXED COST PROJECTION: MINIBUSES

	MONTH												TOTAL YEAR 1
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Installments: New vehicles <sup>1</sup>													
Installments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

## Notes:

1. To correlate with information provided in Table 3A







TABLE 6: SUMMARIZED FIXED AND VARIABLE COST 1ST YEAR					
COST CATEGORY	Bus trains	Buses	Midibuses	Minibuses	TOTAL
<b>VARIABLE COSTS</b>					
Fuel (Diesel and petrol)	Table 1A-D				
Tyres	Table 1A-D				
Maintenance and spares	Table 1A-D				
Oil and lubricants	Table 1A-D				
<b>A. TOTAL VARIABLE COSTS</b>					
<b>FIXED COSTS</b>					
Installments	Table 3B-E				
Depreciation	Table 3B-E				
Insurance (vehicle insurance)	Table 3B-E				
License fees	Table 3B-E				
Operating licences and permits	Table 3B-E				
Drivers' wages and cost <sup>1</sup>	Table 2B				
Traffic wages and cost <sup>1</sup>	Table 2B				
Engineering wages and cost <sup>1</sup>	Table 2C				
Administrative salaries and cost <sup>1</sup>	Table 2A				
Management salaries and cost <sup>1</sup>	Table 2A				
General costs <sup>2</sup>	Table 4				
<b>B. TOTAL FIXED COSTS</b>					
<b>C. TOTAL COSTS (before profit)</b>					
<b>D. PROFIT ALLOCATION<sup>3</sup></b>					
<b>E. TOTAL COSTS YEAR 1 (C + D)</b>					

Note:

1. Wages/salaries and cost to be allocated based on number of vehicles in each vehicle type
2. General costs to be allocated pro-rata to number of vehicles per vehicle type
3. Profit to be allocated pro-rata to number of vehicles per vehicle type

TABLE 7: RATE CALCULATION					
		Bus trains	Buses	Midibuses	Minibuses
<b>TOTAL VARIABLE COSTS</b>	<i>Table 6</i>				
Min: Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Variable costs shortfall</b>					
Number of kilometres					
Rate per kilometre (Rands)					
<b>TOTAL FIXED COSTS</b>	<i>Table 6</i>				
Min: Pro-rata Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Fixed costs shortfall</b>					
Number of vehicles					
Fixed cost/vehicle (Rands)					
<b>Note:</b>					
1. Pro-rata Operating income means the income as based on the calculations in Table 3 per vehicle type					
2. Pro-rata Profit means the profit allocated based on the % split between the fixed and variable costs in terms of Total Cost (before profit) in Table 6					

**SCHEDULE 11: EFVE OPERATION****1. EFVE Support**

- 1.1 The EFVE is supported by software which is controlled, monitored and maintained by the CA.
- 1.2 The Operator must use EFVE hardware and software provided by the CA. The Operator must allow the CA access to the hardware and software for the purpose of maintenance and auditing as and when the CA deems necessary. The CA is responsible for software installation, testing, modification and enhancements.
- 1.3 The Operator shall not modify any part of the Ticketing System in any way.
- 1.4 The Operator must notify the CA immediately of any fault in the EFVE software or hardware.

**2. Revenue Management****2.1 Patronage Data Collection and Analysis**

- 2.1.1 The EFVE Ticketing System is the primary source of patronage data. The Operator must ensure on a daily basis the transfer of patronage data to the CA.
- 2.1.2 Accurate and timely collection of data is dependent upon proper operation of the EFVE Ticketing System. This Schedule includes a description of the assignment and use of ticket codes, the key data element in patronage reports.
- 2.1.3 A list of available Patronage Reports is available from the CA on request.

**2.2 Patronage Data Adjustment**

- 2.2.1 As patronage data might be used as basis for incentive payments, the CA will only adjust patronage data when there is a contract area-wide equipment failure. Any adjustment for such a failure is at the discretion of the CA. The CA will not adjust patronage data for individual EFVE Ticketing System equipment failure, fare evasion or ticket failure.
- 2.2.2 The CA will provide a summary report of equipment failure data, including vehicle control units and validators for the contract area.
- 2.2.3 The CA will provide the Operator with a summary of the adjustments made to the raw patronage data provided by the Operator in that month, by route and day, not later than 15 business days after the end of each calendar month.

### **2.3 Fare Evasion and Ticket Failure**

2.3.1 The Operator must monitor and measure the incidence of fare evasion by ticket inspections.

2.3.2 For ticket failures, the Operator must ensure that drivers—

- (a) complete a Ticket Problem Slip;
- (b) write “invalid”, the date and driver identification number on the ticket; and
- (c) advise passengers of the possibility of a replacement ticket for unused trips as per the back of the Ticket Problem Slip.

2.3.3 The Operator must make every effort to ensure that concession tickets are not sold by drivers unless a CA-approved concession pass is produced by the passenger.

2.3.4 The Operator must ensure that passengers do not travel for a distance greater than that permitted by the passenger’s ticket. If this occurs then the driver must request the passenger either to—

- (a) buy and validate another ticket; or
- (b) disembark from the vehicle, and penalties will be imposed in terms of Schedule 7 for failing to comply with fare evasion procedures.

2.3.5 Random audits will be undertaken by the CA or Representative to ensure that steps are being taken to minimise fare evasion.

### **2.4 Inspectors**

2.4.1 The CA may task the SMF or appoint inspectors to conduct random inspections, including ticket inspections, to ensure passenger compliance with legislation and this contract.

2.4.2 All tickets inspected by an inspector must be passed through a Portable Reader Decoder (PRD) to determine date and time validity. The CA will supply the PRDs.

2.4.3 Each inspector must keep records of the number of tickets checked by route, whether the ticket was valid or not, non-validity type and action taken by the inspector.

2.4.4 Ticket offence reports and expiation notices (penalty notices issued to passengers) must be forwarded to the CA within five business days of them being issued for prosecution if required.

## **2.5 Ticket Production and Sales**

- 2.5.1 Smart cards or value cards must be used which will be purchased at terminals, transfer stations and other ticket outlets as directed by the CA. The Parties must negotiate on the cost implications involved before the contract rates are agreed upon.
- 2.5.2 The Operator must sell tickets and provide refund facilities at ticket outlets at terminals and transfer stations at the following terminals and transfer stations: .....unless the CA requires roving ticket sales or has granted an exemption in writing. The Operator must adhere to the CA's directions as regards roving ticket sales, if applicable.
- 2.5.3 Ticket outlet opening hours to the public for sales shall be 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. Variations to these hours shall be at the discretion of the CA.
- 2.5.4 To allow for passengers not able to acquire tickets off-vehicle, the Operator must install in each vehicle ticket selling equipment as required by the CA which may be fixed or portable. Fares so collected must be paid over to the CA within 24 hours or on the first working day following collection, whichever is first, along with the ticket stubs or electronic records as may be appropriate. Any contravention of this rule will constitute a serious breach of contract for which penalties will be applied.
- 2.5.5 Cash ticket sales on vehicles must be limited to a minimum, and will be phased out of the system within six months of implementing the integrated network.
- 2.5.6 The CA will supply tickets to the Operator for counter sales and for issue to all drivers for on-board sales.
- 2.5.7 The Operator must ensure that drivers have sufficient cash float to give change to passengers buying tickets.
- 2.5.8 The Operator must keep adequate ticket stock and records to ensure continuous supply for on-board and counter sales, and re-order tickets from the CA when necessary. No commission will be paid to Operators for ticket sales or refunds.
- 2.5.9 Faulty tickets presented for replacement refund action should be retained by the Operator and affixed to a Ticket Credit Form for reconciliation and audit purposes.

**2.6 Fare Validation**

- 2.6.1 Fare validation will take place on board vehicles and/or at bus stops, terminals and transfer stations.
- 2.6.2 All vehicles must be provided with card readers to “validate” the smart cards.
- 2.6.3 Major stations will be equipped with card readers to allow quick boarding.

**2.7 Ticketing System Maintenance**

- 2.7.1 The Operator must ensure that the Ticketing System is kept in a reasonable working condition, and take reasonable precautions to ensure that the Ticketing System is not damaged by its employees, agents, passengers or other persons.
- 2.7.2 The Ticketing System maintenance service to be undertaken by the Operator shall comprise—
  - (a) First Level Corrective Maintenance;
  - (b) First Level Preventative Maintenance; and
  - (c) Second Level Repair Maintenance,as described in this Schedule.
- 2.7.3 If the Ticketing System is faulty or does not operate, and such fault is not due to—
  - (a) failure by the Operator to carry out First Level Corrective Maintenance, or
  - (b) a jam or other fault of a class that is capable of being remedied by the Operator,then the Operator must immediately notify the CA of such fault.
- 2.7.4 The Operator must give the CA full access to the Ticketing System to enable it to—
  - (a) carry out service maintenance, repair and maintenance of the Ticketing System, other than First Level Corrective Maintenance;
  - (b) carry out service maintenance and repair of the Ticketing System in response to a notification of a fault with the Ticketing System; and
  - (c) undertake installation or removal of the Ticketing System or any part thereof when necessary.



## **2.8 Failure of Operator to meet Maintenance Obligations**

2.8.1 The Operator must pay all costs arising from the CA attending to remedy any fault of the Ticketing System which fault is due solely or partially to—

- (a) the failure by the Operator to carry out First Level Corrective Maintenance;
- (b) damage caused to the Ticketing System by the Operator, its employees and agents; or
- (c) damage to the Ticketing System by any person not authorised by the CA having access to it while it is in possession of the Operator.

## **2.9 Claims**

2.9.1 The Operator may not claim or be entitled to claim from the CA any sum for inconvenience, loss or damage to the Operator due to—

- (a) vandalism or willful damage to or misuse of the Ticketing System;
- (b) faults caused by or arising from inadequate equipment maintenance or repair;
- (c) any delay by the CA in attending to and replacing any faulty component of the Ticketing System;
- (d) the delay in conducting any inspection maintenance or repair of ticketing equipment;
- (e) the replacement or upgrading of the Ticketing System; or
- (f) faults or damage to the Ticketing System caused by industrial action, an act of God or other unforeseen events.

**SCHEDULE 12: STYLE GUIDE FOR IMAGE AND MARKETING**

*[CA to prepare]*

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**SCHEDULE 13: JOURNEY ANALYSIS REPORT**

See next page.

## Journey Analysis

## Operator:

Date Range: 2010/02/20 to 2010/02/20  
 Contracts: ALL  
 Routes: ALL

Start	Driver No	Driver Name	Bus	Duty	Jny	Act. Start	Sched Dist.	Arrive	Actual Dist	Revenue	Tickets	Passes	Pengrs
<b>Trips for 20/02/2010</b>													
<b>Contract: 0010</b>													
<b>Route: 0010</b>													
09:40	1	Galehole NS	942	120	940		9.20		0.00	R0.00	0	0	0
<b>Route: 0030</b>													
05:30	1	Galehole NS	942	120	530		53.50		0.00	R224.50	24	5	29
08:00	1	Galehole NS	942	120	800		47.90		0.00	R124.00	11	0	11
13:25	1	Galehole NS	549	120	1323		53.50		0.00	R124.00	11	7	21
<b>Route: 0040</b>													
07:00	140	Moleme MB	896	127	700		25.00		0.00	R0.00	0	0	0
07:00	117	Moholeng MI	455	127	700	06:54	25.00		0.00	R75.00	10	17	27
07:00	100	Kaekae S	3205	127	700		25.00		0.00	R165.00	22	20	42
13:15	140	Moleme MB	896	127	1315		25.00		0.00	R0.00	0	0	0
13:15	122	Mosimanekgosi TS	458	127	1315	14:00	25.00		0.00	R135.00	18	10	28
<b>Route: 0041</b>													
07:15				126	715		76.50		0.00	R299.50	53	0	53
13:20	83	Mayer RJ	546	126	1320		76.50		0.00	R299.50	53	0	53
<b>Route: 0070</b>													
04:30				132	430		100.00						
<b>Route: 0120</b>													
06:00	122	Mosimanekgosi TS	9999	142	600		41.50		0.00	R78.00	13	0	13
13:30	140	Moleme MB	896	142	1330		41.50		0.00	R262.50	22	2	24
<b>Route: 0121</b>													
07:00	51	Galehole OS	654	111	700		43.50		0.00	R207.00	18	0	18
13:30	100	Kaekae S	654	111	1330		43.50		0.00	R328.00	26	2	28
<b>Route: 0150</b>													
06:30	147	Melore LB	72	146	630		99.30		0.00	R805.00	40	6	46
13:30	147	Melore LB	72	146	1330		99.30		0.00	R687.30	36	11	47
<b>Route: 0220</b>													
07:00	137	SamaneJO	731	150	700		85.20		0.00	R612.50	36	0	36
13:30	137	SamaneJO	731	150	1330		85.20		0.00	R736.00	45	0	45
<b>Route: 0240</b>													
07:00	59	Nkokou TG	546	141	700		74.00		0.00	R1192.50	62	1	63
13:30	59	Nkokou TG	546	141	1330		74.00		0.00	R876.00	39	1	40
<b>Route: N010</b>													
08:10	122	Mosimanekgosi TS	9999	142	810		9.20		0.00	R0.00	0	0	0
08:20	117	Moholeng MI	455	127	820		9.20		0.00	R0.00	0	0	0
08:20	100	Kaekae S	3205	127	820	07:01	9.20		0.00	R0.00	0	0	0
08:55				111	855		9.20		0.00	R0.00	0	0	0
09:10				126	910		9.20		0.00	R0.00	0	0	0
09:10				146	910		9.20		0.00	R0.00	0	0	0
10:10	137	SamaneJO	731	150	1010		9.20		0.00	R0.00	0	0	0
11:20				111	1120		10.90		0.00	R0.00	0	0	0
12:15	137	SamaneJO	731	150	1215		9.20		0.00	R0.00	0	0	0
12:40	140	Moleme MB	896	142	1250		9.20		0.00	R0.00	0	0	0
12:50				146	1250		9.20		0.00	R0.00	0	0	0
12:55	1	Galehole NS	549	120	1255		9.20		0.00	R0.00	0	0	0
12:55				126	1255		9.20		0.00	R0.00	0	0	0
12:55	140	Moleme MB	896	127	1255		9.20		0.00	R0.00	0	0	0
12:55	122	Mosimanekgosi TS	458	127	1255		9.20		0.00	R0.00	0	0	0
<b>Route: N030</b>													
05:00				120	500		5.00		0.00	R0.00	0	0	0
15:00	1	Galehole NS	942	120	1510		47.00		0.00	R0.00	0	0	0
15:10				120	1510		5.00		0.00	R0.00	0	0	0
<b>Route: N041</b>													
14:05	122	Mosimanekgosi TS	458	127	1405	14:33	20.00		0.00	R0.00	0	0	0
<b>Route: N043</b>													
06:50				126	650		13.10		0.00	R0.00	0	0	0
15:55				126	1555		13.10		0.00	R0.00	0	0	0
<b>Grand Total:</b>													
										R7,453.80	489	82	571
										R7,453.80	489	82	571

**SCHEDULE 14: Occupational Health and Safety Agreement**

This is an agreement between:

The ..... Municipality/Provincial Administration

(being the contracting authority in the contract concluded between it and the Mandatary mentioned below for the provision of public transport services to which this agreement is appended and hereinafter referred to as the "Employer")

And

.....  
(being the supplier and the Operator in terms of the abovementioned contract and hereinafter referred to as the "Mandatary")

in respect of the abovementioned public transport services as more fully described in the contract referred to above

.....  
(hereinafter referred to as the "work")

WHEREAS section 37(1) of the Occupational Health and Safety Act 85 of 1993 (the OHS Act) provides that an employer shall be liable to be convicted and sentenced in respect of an act or omission by its mandatary or employee in certain circumstances;

AND WHEREAS the supplier, appointed by the Employer (contracting authority) to do work (as contemplated in the Act) is also liable in terms of section 37(3) of the OHS Act (and in its own right as employer) to comply with the provisions of the OHS Act applicable to its employees and mandataries;

AND WHEREAS section 37(2) of the OHS Act limits the employer's liability in terms of section 37(1) if the employer and Mandatary have agreed in writing to the arrangements and procedures between them to ensure compliance by the Mandatary with the provisions of that Act

;

NOW THEREFORE, the Employer and Mandatary, hereby agree as follows:

1. The Mandatary hereby unconditionally accepts responsibility for compliance with the OHS Act in respect of the work in terms of section 37(2) of that Act.
2. The Mandatary hereby indemnifies the Employer against any patrimonial loss or damages which the Employer may suffer as a direct result of any claims and/or steps that may be instituted against the Employer due to non-compliance by the Mandatary (or employees and mandataries of the Mandatary) with the provisions of the OHS Act.
3. Without limiting the indemnity contemplated in 2 above, the Employer and Mandatary agree to the following arrangements and procedures to ensure compliance by the Mandatary with the provisions of the OHS Act:
  - 3.1 The Mandatary warrants that it has read and fully understands the requirements of the OHS Act and the regulations promulgated in terms

of that Act and has allowed for all costs to be incurred to ensure such compliance.

- 3.2 The Mandatary must prepare and submit to the Employer a Health and Safety Plan as is appropriate for the work within 10 business days of the date of signature of this agreement by the last Party.
- 3.3 Such Health and Safety Plan must at least cover the following:
  - 3.3.1 The management structure, site supervision and responsible persons, including a succession plan;
  - 3.3.2 The Mandatary's induction training programme for employees and sub-contractors;
  - 3.3.3 Health and safety precautions and procedures to be adhered to in order to ensure compliance with the OHS Act, Regulations and Safety Specifications;
  - 3.3.4 Regular monitoring procedures to be performed;
  - 3.3.5 Regular liaison, consultation and review meetings with all parties;
  - 3.3.6 Site security, welfare facilities and first aid; and
  - 3.3.7 Site rules and fire and emergency procedures.
4. The Mandatary must ensure that all sub-contractors and other persons engaged in the execution of the work also comply with the above requirements.
5. The Mandatary must inform the Employer immediately should the Mandatary at any time during the execution of the work find that it is not able to comply with the OHS Act or to perform this agreement or such compliance or performance will be detrimentally affected. The Mandatary must liaise with the Employer, who may, in its sole discretion, agree to release the Mandatary from the provisions of this agreement and/or the indemnity granted by the Mandatary herein, subject to the conditions which the Employer may impose.
6. The Mandatary hereby appoints Mr/Ms ..... as its representative and the responsible person on site for the duration of the contract in terms of section 8(2)(i) of the OHS Act as well as any regulations or prescriptions in terms of that Act.
7. The Mandatary's Registration number with the Compensation Commission is ..... If not so registered, the Mandatary must register with the Department of Labour within one month from the commencement date of the abovementioned contract and submit proof in this regard to the Employer.
8. Nothing in this agreement shall be interpreted as detracting from the

Employer's responsibility to comply with its obligations in terms of the OHS Act, including but not limited to the Employer's facilities.

SIGNED at.....on ..... 20....

\_\_\_\_\_

(For and on behalf of the Employer)

SIGNED at.....on .....20....

(For and on behalf of the Mandatary)

***Introductory Note:***

*This document is published by the National Department of Transport as **Document 2** in a set of four documents as follows:*

- 1. Model Gross-Based Negotiated Contract Documents*
- 2. Model Gross-Based Tender and Contract Documents*
- 3. Model Net-Based Negotiated Contract Documents*
- 4. Model Net-Based Tender and Contract Documents*

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009) (“the Act”)**

**MODEL TENDER AND CONTRACT DOCUMENTS**  
**(GROSS-BASED) in terms of section 42(6)(b) of the Act**



.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009)**

**MODEL TENDER AND CONTRACT DOCUMENTS  
(GROSS-BASED)**

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

**CONTRACT NO. ....  
(Tendered contract in terms of section 42 of the  
National Land Transport Act, 2009)**

**Contents**

1. Volume 1: Tender Rules
2. Volume 2: Conditions of Contract
3. Volume 3: Forms

**Explanatory note:** This document is published in terms of section 42(6)(b) of the Act as a requirement for contracting authorities for subsidised service contracts contemplated in section 42 of the Act, who will not be permitted to deviate from them unless agreed to in writing by the Minister. It is based on a gross contracting model, i.e. the contracting authority will plan and manage the services and set fares, specifications etc. and will keep the fares. The document contains some elements of the previously published net-based Model Contract Documents. The document is also published along with other documents to provide for negotiated contracts and to include a net-based model as an alternative option. Contracting authorities may decide to use the gross- or net-based model according to which is more appropriate for the relevant situation.

## **VOLUME 1: TENDER RULES**

### **Contents**

1. Definitions
2. Tender notices
3. Charge for documents
4. Application of these Tender Rules
5. Agent
6. Validity period
7. Documents that must accompany the tender
8. Undertaking
9. Duties of tenderer
10. Data and other statistics
11. Information
12. Costs and losses incurred by the tenderer
13. Tender all-inclusive
14. Tender qualification
15. Alternative tenders
16. Combinations of tenders
17. Completion and signing of tender forms
18. Alterations to tender documents
19. Tender withdrawal or modification prior to the closing of tenders
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22. Tender withdrawal or modification after closing of tenders
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25. Disqualification of tender
26. Tender acceptance
27. Ownership and confidential nature of documents
28. Additional qualification for tenderer
29. Signing of contract

#### **1. DEFINITIONS**

Words and expressions defined in the Conditions of Contract (Volume 2) also apply in these Tender Rules unless the context indicates otherwise.

#### **2. TENDER NOTICES**

Notices inviting tenders will be published in the Provincial/Municipal Tender Bulletin.

### 3. CHARGE FOR DOCUMENTS

A charge as specified in the Tender Bulletin will be levied on collection of tender documents.

### 4. APPLICATION OF THESE TENDER RULES

These Tender Rules and the instructions given in the official tender notice are binding on all tenderers submitting tenders to provide the services.

### 5. AGENT

Where applicable foreign tenderers must state in their tender the name of their accredited agent in the Republic of South Africa in whom the necessary legal competence is vested and who has been duly appointed to sign contracts, and also indicate a street address to serve as their *domicilium citandi et executandi* in the Republic.

### 6. VALIDITY PERIOD

The period for which tenders are to remain valid and binding is indicated in the tender notice and is calculated from the time the tender closes. Tenders are to remain in force and binding until the close of business on the last day of the period calculated, and if this day falls on a Saturday, Sunday or official public holiday, the tender must remain valid and binding until the close of business on the following working day, unless the Contracting Authority (CA) informs the tenderer in writing before this time that his tender is no longer valid. The CA may extend the period for which the tender is to remain valid for a further 30 days on written notice to the tenderer.

### 7. DOCUMENTS THAT MUST ACCOMPANY THE TENDER

In addition to any documents that are specifically required, the following documents must be attached to the tender where applicable:

- (a) A valid, original tax clearance certificate, and in the case of a consortium or joint venture, such a certificate in respect of each party to such consortium, issued by the South African Receiver of Revenue (SARS). Submissions to SARS must be made on Form ST5.1 "Application for Tax Clearance Certificate" which is available from any SARS office.
- (b) Where applicable, duly completed and signed undertakings/declarations/certificates in the form set out in the applicable Forms provided in Volume 3. In the case of Form 19 "Declaration of Financial Support by Owner", every firm or entity that exercises ownership control over the tenderer must complete the form. In the case of doubt, the tenderer must ask the CA for written confirmation that completion thereof is or is not required.
- (c) All tenderers must complete the affidavit in Form 8 of Volume 3 regarding previous convictions for offences (if any) committed by the tenderer or any of its directors, members, trustees or office bearers.

- (d) All tenderers must attach a valid Verification Certificate from an accredited or recognised verification agency confirming their BBBEE status and the BBBEE contribution level of the tenderer with the BBBEE Act and Codes of Good Practice.

## **8. UNDERTAKING**

By submitting a tender the tenderer undertakes to submit to the relevant Provincial Regulatory Entity/Operating Licensing Board for cancellation or amendment, as the case may be, all operating licences and permits that authorise any public transport services on the routes or in the area in which the services proposed in these tender documents are to take place that will or are likely to compete with such services.

## **9. DUTIES OF TENDERERS**

- 9.1 The tenderer must inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is tendering. No claims of any nature will be entertained on the basis of a tenderer's failure to make such inquiries.
- 9.2 The CA will arrange an information meeting, attendance at which is compulsory. A service area inspection will be held after the information meeting, attendance of which is not compulsory. Attendance at all other meetings of tenderers is compulsory. Details of such meetings are provided in the tender documents.
- 9.3 If any meeting of tenderers arranged by the CA, except the service area inspection, have not been attended by the tenderer himself or herself, or by an authorised representative of the tenderer who must be—
- (a) suitably qualified to comprehend the implications of the services to be provided; and
  - (b) in the direct employ of the tenderer; or
  - (c) a consultant or agent commissioned by the tenderer,
- this will disqualify the tenderer.
- 9.4 Minutes of the information meeting will be issued to tenderers as part of the addenda. Questions asked at such meeting and inspection will be minuted and replied to in addenda. Only replies minuted in such addenda will be binding on the CA.

## **10. DATA AND OTHER STATISTICS**

All data and statistics of whatever nature provided in these tender documents concerning existing or former services are provided in good faith as the best information available to the CA at the time of publication of this tender, to assist tenderers in tendering. No guarantee of the correctness of the data and statistics provided in these tender documents is given by the CA and no claims by tenderers or operators arising from incorrect data or statistics or as a result of incorrect estimates made by the tenderer will be entertained. Tenderers must note that services required to be provided in terms of these tender documents might differ from existing or former services provided in the service area.

## **11. INFORMATION**

- 11.1 The tenderer must submit with the tender all applicable information and data as may be required in terms of these tender documents, including that required in terms of

the certificates, schedules and forms. The CA may if such details are insufficient, call for further information. The tenderer must furnish such additional information within seven working days of being called upon to do so or the tender will not be considered further.

- 11.2 The tenderer must make sufficient allowance in the relevant tendered rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in rule 11.1.
- 11.3 All written information submitted by the tenderer together with and in support of the tender will form part of the tenderer's offer.
- 11.4 Any explanation needed by a tenderer regarding the meaning or interpretation of the tender documents must be requested in writing from the CA with sufficient time allowed for a reply to reach all tenderers before the closing of tenders. Any such explanation provided to any tenderer concerning the tender documents will be furnished to all tenderers by way of written addenda as provided for in rule 11.6.
- 11.5 No oral representations or statements by any officer, employee or agent of the CA shall affect or modify any terms or obligations of these tender documents. The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA or its duly appointed agent.
- 11.6 If during the tender period the CA wishes to make additional information available to tenderers or to make amendments to the tender documents, this will be issued in the form of addenda. The addenda will be sequentially numbered, dated and hand delivered or sent by e-mail or telefax to the addresses of all tenderers who have already drawn tender documents. For this purpose all tenderers must provide their physical, postal and e-mail addresses and telephone and telefax numbers, if any. If any particulars are not provided, the CA will send addenda by the best available method in the CA's discretion. All addenda issued are regarded as part of the tender documents and tenderers must acknowledge receipt thereof in writing by hand, telefax or e-mail within 24 hours after receipt. Such acknowledgement of receipt must also be indicated on the covering page to the Tender Forms. Should receipt of all addenda not be so acknowledged the CA may reject the tender.

## **12. COSTS AND LOSSES INCURRED BY THE TENDERER**

Neither the CA nor the departmental procurement structures of the relevant municipality or province will be liable for any costs or losses which may be incurred by any tenderer in the preparation and submission of a tender or attending meetings and in visiting the service area in connection therewith, and such costs and losses will be for the tenderer's own account.

## **13. TENDER ALL INCLUSIVE**

- 13.1 The tenderer must before tendering satisfy itself as to the correctness and sufficiency of the tender and of the rates stated in Form 12 of the Tender Forms. Such rates shall, except as otherwise provided, cover all of the tenderer's obligations under the contract.
- 13.2 The tenderer must allow in the tender for full compensation for all general preliminaries, all expenses incurred in complying with the contract and its specifications, all other costs, positioning kilometres as well as everything else

necessary for the execution of the contract in accordance with the tender documents. The tenderer's attention is drawn to the fact that the services may be varied during the contract period under clause 16 of the Conditions of Contract, which could lead to an increase or decrease of monthly revenue kilometres. Tenderers are advised that the services may have been rationalized and/or restructured and that routes, time tables etc. may not necessarily be the same as those operated by previous operators in the service area. The tendered rates are intended to compensate the Operator fully for all costs and expenses and no claims of whatever nature will be entertained. Tendered rates will be fixed for the contract period, subject to clause 39.23 of the Conditions of Contract.

- 13.3 Monthly payments to the operator are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the tendered rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.
- 13.4 The tenderer must allow in the tender for increases and decreases in scheduled kilometres, for example due to changes in demand and seasonal factors and for reduced services during holiday periods, as contemplated in clauses 13.3 and 16 of the Conditions of Contract, as well as any other factors which the tenderer may consider relevant.
- 13.5 Tenderers are advised to take cognisance of the implications for their current and future labour forces of the length of the contract period, subject to clause 3 of the Conditions of Contract.

#### **14. TENDER QUALIFICATION**

Tenders must be submitted strictly in accordance with the tender documents, i.e. without qualifications. Where an alternative tender is submitted, it will be additional to the unqualified tender that must be submitted in terms of rule 15.2.

#### **15. ALTERNATIVE TENDERS**

- 15.1 The tender documents are drafted on the basis that the services are to be provided with the type of vehicles as specified in Schedule 2 of the Conditions of Contract and tendered to be used on Form 11.
- 15.2 No alternative tender will be considered unless a tender without any qualifications and strictly on the basis of the tender documents, is also submitted.
- 15.3 If the CA does not make provision for an alternative method of providing the services and the tenderer, in addition to its unqualified tender as required in terms of rule 15.2, desires to submit for consideration such alternative method or any other variation, separate tender forms and/or a statement must accompany the tender setting out the alternative or variation proposed. In such a case the following procedure must be observed:
- (a) Proposals involving modification of the services in whole or in part should be notified in confidence to the CA as early as possible during the tender period. The CA may decide not to consider an alternative tender unless this prior notification has been given not later than 14 days after publication of the tender. The CA may, following receipt of the notification and after such consultation with the tenderer as the CA considers necessary, give a

CONTINUES ON PAGE 162—PART 2



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preliminary opinion as to the acceptability of the modifications proposed; this opinion will however not be binding on the CA. In their own interest tenderers are advised to provide as much information as possible about the modifications when submitting an alternative tender, including full time tables.

- (b) If the tenderer does decide to submit an alternative tender, it must be accompanied by supporting information to enable its technical acceptability and tendered rates to be assessed fully.
- (c) When an alternative tender is submitted it must be made in the form of an alternative offer, showing the financial or other implications of the qualification(s) on the unqualified tender.
- (d) Any alternative tender involving modifications to the services will be assessed on its merits.
- (e) A decision whether or not to adopt operationally acceptable modified services will be governed among other things by the amount of the overall saving which the CA can reliably be expected to achieve.

## 16. COMBINATIONS OF TENDERS

Tenderers may tender for the combination of two or more contracts where such combinations could result in the combined tender amount being reduced. In the case of a combination the savings to the CA will be in the form of reduced contract rates. For each combination a separate tender must be submitted in accordance with Form 12 of the Tender Forms on which the reduced rates must be specified.

## 17. COMPLETION AND SIGNING OF TENDER FORMS

- 17.1 All appropriate tender forms, schedules and certificates contained in Part 1 of Volume 3 (Tender Forms) must be fully and properly completed, signed and witnessed where indicated, in black ink, as provided for, and submitted with the other tender documents as part of the tenderer's tender. Every page of the Tender Forms which is not signed, and every page of the other tender documents, must be initialled by or on behalf of the tenderer. Persons signing or initialling must be duly authorised.
- 17.2 Form 12 of the Tender Forms must be fully priced and totalled in the currency of the Republic of South Africa to show the amount of the tender. It should be noted that the tender amount is only relevant for purposes of tender evaluation and determining whether the CA will have adequate funds to cover the contract payments, ***and will not necessarily reflect the actual amount payable to the successful tenderer over the period of the contract. Tenderers should also note that the kilometres indicated on Form 10 are only estimates and will not necessarily be the kilometres operated over the contract period.***
- 17.3 Where the space provided in the bound documents is insufficient, separate schedules may be drawn up in accordance with the given formats. These schedules must then be bound together with a suitable contents page and submitted with the tender documents. All such schedules must be signed, witnessed and initialled as specified in rule 17.1.
- 17.4 A tender submitted by a company, close corporation or other legal person must be accompanied by a resolution or agreement of the directors or members which must be substantially in accordance with Form 5 of the Tender Forms. The tender must be signed by a duly authorised person. A tender submitted by a partnership must be accompanied by a written partnership agreement.



- 17.5 A tender submitted by a consortium of two or more parties must be accompanied by a signed memorandum of understanding between the parties to such consortium, as well as Form ... of the Tender Forms, in which is defined precisely the conditions under which the consortium will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several parties forming the consortium, the benefits that will accrue to each party and any other information necessary to permit a full appraisal of its functioning. In the contract documents the term "consortium" is intended to have the specific meaning of a form of partnership involving mainly companies or other legal persons, which will each be jointly and severally liable to the CA. Loose business arrangements will not be considered. Within 10 days after the contract is awarded, a final signed consortium agreement must be submitted to the CA, failing which the contract may be terminated. Such agreement shall be subject to the approval of the CA, who may likewise terminate the contract if the agreement is rejected and not amended to the satisfaction of the CA.
- 17.6 If all tender forms are not fully and properly completed, signed, witnessed and initialled the tender shall be void unless otherwise decided by the CA.
- 17.7 When a combined tender is submitted, a full set of tender forms for each combination is required, and each page must be clearly marked "Tender no. ... in combination with Tender no. ...". Volumes 1 to 3 must also be submitted, with each page initialled.

## **18. ALTERATIONS TO TENDER DOCUMENTS**

No unauthorised alteration or addition may be made to any part of the tender documents. If any such unauthorised alteration or addition is made the tender may be declared void unless otherwise decided by the CA.

## **19. TENDER WITHDRAWAL OR MODIFICATION PRIOR TO CLOSING OF TENDER**

A tenderer may not withdraw, modify or correct its tender after it has been delivered, unless the request for such withdrawal, modification or correction together with full details of such modification or correction is received at the address given for submission of tenders, in writing either by hand or mail, before the closing time and date set for the receipt of tenders. The original tender as amended by such written communication will be considered as the tenderer's offer.

## **20. SUBMISSION AND CLOSING OF TENDERS**

- 20.1 All the Tender Forms (Part 1 of Volume 3) with all supporting documents must be submitted to the CA strictly in accordance with these Tender Rules and the instructions given in the official tender notice published in the Tender Bulletin. Tenderers must check the numbers of the pages and satisfy themselves that none are missing or duplicated. The CA will not be liable in respect of claims arising from the fact that pages are missing or duplicated.
- 20.2 Each tender must be submitted in a separate sealed envelope and be clearly marked with the contract number, title and closing date and the name and address of the tenderer, provided that a combined tender may be submitted in a single envelope marked with all relevant contract numbers. The envelope shall not contain documents relating to any tender other than that indicated on the envelope.

- 20.3 All tenders received will be kept unopened and in safe custody. If a tender is received in an open envelope, the envelope will be sealed. If a tender is received without the relevant information on the envelope, the envelope will be opened and the information ascertained and written on the envelope, thereafter the envelope will be resealed.
- 20.4 Tenders close at the date and time specified in the tender advertisement.
- 20.5 The CA may consider an extension of the closing date should circumstance justify it. It will normally only be extended if there is sufficient time to publish an amending notification before the original closing date.
- 20.6 No tenders forwarded by telegram, facsimile (fax), e-mail or similar methods shall be considered. However, photostat copies of tenders which are lodged in the prescribed manner and in which the relevant forms are signed in black ink after being copied, will be accepted as valid tenders. The tender forms must not be retyped or redrafted except in the case of an alternative tender where a separate tender must be submitted in accordance with Form 12 of the Tender Forms.

## **21. OPENING OF TENDERS**

- 21.1 Tenders will be opened in public as soon as practicable after the closing time.
- 21.1 The names of tenderers will be read out and tender amounts disclosed.

## **22. TENDER WITHDRAWAL OR MODIFICATION AFTER CLOSING OF TENDERS**

- 22.1 Except as provided in these rules no tenderer may withdraw, modify or amend its tender after the date and time set for the closing of tenders.
- 22.2 The CA may, but is not obliged, to correct arithmetical errors in the tender and thus adjust the tender amount. The tenderer will be informed of the effect of any corrections on the tender amount prior to the acceptance of the tender.
- 22.3 If there are tendered rates or coefficients which are in the opinion of the CA excessively low or high or not in proper balance with other rates, the CA may ask the tenderer for clarification and/or to amend such tendered rates or coefficients. Such excessively low or high rates or coefficients or imbalances may prejudice the tender. Any amendment of such rates shall be done without altering the tender amount. Should the tenderer fail to clarify or amend the tender in a manner acceptable to the CA, or at all, this may prejudice the tender.
- 22.4 Should a tenderer withdraw its tender after the closing time of tenders and within the period for which it has agreed that the tender shall remain open for acceptance, or fail to sign the contract when called upon to do so, the CA may without prejudice to its other rights, agree to the withdrawal of such tender or cancel the contract that may have been concluded between the tenderer and the CA and such tenderer must then pay to the CA any additional expense incurred by the CA or State having either to accept any less favourable tender or, if fresh tenders have to be invited, the additional expenditure incurred by the invitation of fresh tenders and by the subsequent acceptance of any less favourable tender. The CA or State may also recover such additional expenditure by set-off against moneys which may be due or

become due to such tenderer or on its behalf for the due fulfilment of this or any other tender or contract, and pending the ascertainment of the amount of such additional expenditure may retain such moneys, guarantee or deposit as security for any loss the CA or State may sustain by reason of the default.

- 22.5 Tenderers should note that should their tender be accepted and should they be unwilling or unable to commence the services on the commencement date due to circumstances that are within their control, and the CA decides to make alternative arrangements without cancelling the contract, they will be held liable for all attendant costs and damages.
- 22.6 When in circumstances contemplated in rule 22.4 the CA does not deem it desirable to invite fresh tenders, the CA may in its discretion accept another tender from those already received.

### **23. EVALUATION OF TENDERER**

- 23.1 The CA has the right to evaluate the tenderer fully in terms of its ability to perform the contract and the tenderer must assist the CA in all reasonable ways requested by the CA in this regard.
- 23.2 As part of the evaluation process the CA may inspect the tenderer's premises and facilities (including workshops and depots), as well as public transport vehicles to be used for the tender by means of which the tenderer proposes to provide the services. The tenderer must give full co-operation in this regard.
- 23.3 The CA may appoint a firm of chartered accountants or other consultants to report on the financial resources of any tenderer or any other relevant aspects, either at the time of evaluating the tender or after the awarding of the contract. The tenderer must provide all reasonable assistance in such an investigation.
- 23.4 Subject to the Preferential Procurement Policy Act 5 of 2000 and other applicable legislation and policy, at least the following evaluation criteria will be used to evaluate tenderers:

#### **Qualifying Criteria:**

- (a) Completion of tender forms
- (b) Correctness of tenders
- (c) Financial ringfencing in the case of a public entity.

#### **Financial Criteria:**

- (a) Cost of tender
- (b) Financial sustainability
- (c) Vehicle ownership/financing.

#### **Operational Criteria**

- (a) Previous operational record
- (b) Electronic equipment
- (c) Vehicle profile
- (d) Depots
- (e) Services and maintenance schedule
- (f) Additional/spare vehicle capacity.

**24. DISQUALIFICATION OF TENDERERS**

- 24.1 The CA may reject a tender from a person, firm or corporation who has committed an act contemplated in clause 47.3(d) to (l) of the Conditions of Contract in respect of this or a previous tender or contract, or a tender from a person, firm or corporation that is or was a shareholder, member or director of such a first-mentioned firm or corporation.
- 24.2 Any restriction imposed upon any person, firm or corporation may, for the purpose of these rules, be applied to any other undertaking with which such person, firm or corporation is associated. The expression "person, firm or corporation" includes an authorised employee or agent of such person, firm or corporation.
- 24.3 The CA may take into account any decision of any departmental procurement structures of a municipality, province or national state department or other organ of state with regard to the restriction of a tenderer in the evaluation process.
- 24.4 Decisions of the CA to disqualify any person, firm or corporation in terms of rules 24.1 to 24.3 and any revocation or variation of such decisions may be communicated by the CA to the departmental procurement structures of any other organ of state.

**25. DISQUALIFICATION OF TENDER**

The tender of any tenderer which does not conform to these Tender Rules and the instructions reflected in the official tender notice, if any, shall be void unless accepted by the CA.

**26. TENDER ACCEPTANCE**

- 26.1 All tenders duly submitted and accepted as valid tenders, will be taken into consideration by the CA unless these rules provide otherwise.
- 26.2 The CA will notify the successful tenderer by telefax or e-mail, and post of the fact that its tender has been accepted. In this regard the Post Office shall be regarded as the tenderer's agent, and delivery of such acceptance to the Post Office shall be treated as delivery to the tenderer. Any time period stipulated in this contract which is to be calculated from the time of the said notice must be calculated from the date of faxing, e-mailing or posting of such notice, as the case may be.
- 26.3 Once the tenderer has been advised in writing of the acceptance of its tender, the contract, as defined in the Conditions of Contract, will come into being, subject to the provisions in the various contract documents relating to, among other things, amendment or cancellation and any conditions stipulated in the letter of acceptance. After acceptance of a tender the successful tenderer will be called "the Operator" in the contract document.

**27. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

All tender and contract documents relating to this tender shall be regarded as confidential, shall remain the property of the CA and may not be sold or otherwise disposed of, subject to the Promotion of Access to Information Act 2 of 2000 and

provided that information contemplated in Chapter 4 of that Act will not be disclosed except where disclosure is compulsory in terms of law.

## **28. ADDITIONAL QUALIFICATION FOR TENDERER**

- 28.1 No tender will be considered if the company, close corporation, joint venture, partnership or consortium through which the services are to be performed (including, where appropriate, the business entity or undertaking of any person or entity exercising ownership control over the business or undertaking of the tenderer, or performing services on behalf of, or in the capacity as agent of the tenderer) does not operate according to business principles with financial ringfencing, as required by regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services (Notice R.877 of 31 August 2009) made in terms of the Act.
- 28.2 All tenderers will be measured in terms of their overall performance on all elements of BBBEE as per BBBEE Scorecard contained in the BBBEE Codes of Good Practice defined in the Conditions of Contract. Based on the overall performance, a tenderer will be given a BEE status and will be recognized at the corresponding BEE recognition level.
- 28.3 Tenderers must also comply with any other relevant provisions of the Act or abovementioned Regulations.

## **29. SIGNING OF CONTRACT**

- 29.1 After the acceptance of the tender, as contemplated in rule 26 the Operator must within seven days of being called upon to do so, sign the contract document (Form 20). The contract document will be prepared at the expense of the CA in accordance with Form 20 of the Tender Forms, with such amendments as are agreed to by the CA and the Operator. Such contract document shall incorporate the documents mentioned in clause 44 of the Conditions of Contract and shall have the purpose of consolidating all the terms of the agreement between the Parties. Where feasible, alterations made by means of addenda will be incorporated in the text of the relevant volumes. Two contract documents will be signed, one for each Party.
- 29.2 The fact that the contract document referred to in rule 29.1 has been signed will not derogate from the provisions of rule 26.3 which provides that a binding contract will come into being as soon as the tenderer has been advised in writing that its tender has been accepted.

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## 1. DEFINITIONS

1.1 In this contract, words in the singular also include words in the plural and *vice versa* where the context permits.

1.2 In this contract any word or expression to which a meaning has been assigned in the Act or the National Road Traffic Act has the meaning assigned to it by those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

**"accepted", "approved", "authorised", "directed", "ordered" and "rejected"** means accepted, approved, authorised, directed, ordered or rejected by the CA or Representative;

**"Act" or "the Act"** means the National Land Transport Act 5 of 2009;

**"agreed"** means agreed in writing by the CA or the Representative on the one hand and the Operator on the other hand;

**"authorised stop"** means a stop, rank or terminal authorised by the relevant municipality;

**"bi-articulated bus-train"** means a bus which—

- (a) consists of three sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 116 other persons; and
- (d) has a continuous passageway over the length thereof;

**"bus"** means a bus as defined in the Act (designed or modified to carry more than 35 persons including the driver) by means of which the Operator proposes to provide the services and includes a double deck bus, standard bus, maxi-bus, bus-train and bi-articulated bus;

**"business day"** means any day other than a Saturday, Sunday or official public holiday;

**"Business Plan"** means the business plan contemplated in Schedule 4;

**"BBBEE Codes of Good Practice"** means Codes of Good Practice on Broad Based Black Economic Empowerment (BBBEE) gazetted for the bus industry in terms of section 9 of the Broad-Based Black Economic Empowerment Act 53 of 2003 on 21 August 2009 (*Government Gazette* 32511);

**"bus-train"** means a bus-train as defined in the National Road Traffic Regulations, i.e. a bus which—

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over the length thereof;

**"CA"** means contracting authority;



**"capacity"** in respect of vehicles means the maximum number of persons that may lawfully be carried in the vehicle, including all seated and standing passengers, but excluding the driver as specified in the relevant roadworthy certificate or legislation;

**"commencement date"** means the date on which the services to be provided by the Operator will commence as stated in clause 3 or the letter of acceptance of the tender, or such other date as may be agreed between the Parties in writing;

**"contract"** or **"this contract"** means this contract between the CA and the Operator resulting from the acceptance of the tenderer's tender by the CA, including the Schedules;

**"contracting authority"** means—

- (a) the ..... Municipality/Province; or
- (b) its successors in title; or
- (c) a municipal entity or provincial public entity established by that authority or any other agent appointed by it;

**"contract rates"** means the fixed and variable contract rates tendered by the successful tenderer and accepted by the CA as being the rates applicable to this contract;

**"clause"** means a clause of these terms and conditions of this contract;

**"day"** includes all days, i.e. weekdays, Saturdays, Sundays and public holidays;

**"date of first registration"** means in relation to a vehicle the date of first registration—

- (a) pursuant to the original manufacture of the vehicle; or
- (b) the date of manufacture shown on its compliance plate or chassis compliance plate,

**"Deputy"** or **"Representative's Deputy"** means the person appointed as such by the CA, or by the Supervising and Monitoring Firm (SMF) with the written consent of the CA, to perform the functions of such Deputy as set out in this contract;

**"double deck bus"**, means a bus which consists of two decks connected to form a unit with a capacity of up to 90 seated persons;

**"duty"** means a document providing written instructions to a driver of a vehicle specifying the various trips to be operated;

**"duty board"** means a board that displays the duty number of a particular vehicle for identification purposes;

**"early trip"** means a trip where the vehicle concerned departs from the departure point or any intermediate timing point specified in the time table, before the time listed in the time table;

**"EFVE"** means fully operational electronic fare validation and collection equipment which is designed and intended to be used to record information electronically about a ticket when the ticket is inserted into the equipment, or presented to the equipment for scanning, as more fully described in the Electronic Fare Collection Guidelines issued by the Department in November 2007, as amended from time to time and subject to the Regulations relating to Integrated Fare Systems published under Notice R.511 in Government Gazette no. 34363 of 17 June 2011;

**"end of term period"** means the last 12 months of the term of this contract or, if a termination notice is given by the CA, the period between the date that the termination notice is given and the termination date;

**"fare evasion"** occurs where a person uses public transport without a valid ticket and includes, but is not limited to—

- (a) using such transport with no ticket or concession, or with a ticket or concession that has expired or is defaced, altered or fraudulent;
- (b) using a ticket in the wrong zone or route or overriding the zone; and/or
- (c) using a ticket that was not validated;

**"financial records"** means proper books of account and all other financial and planning records of the Operator and any sub-contractors relating to the services that would ordinarily be maintained and compiled in terms of generally acceptable accounting practice including, but not limited to—

- (a) Cash flow records;
- (b) Financial modelling reports;
- (c) Notes, documents and data supporting the records and reports contemplated in (a) and (b) including management information systems, electronic ticketing system information, ledgers, spreadsheets, payroll registers, customer invoices, supplier invoices, bank statements, tax returns and insurance policies; and
- (d) Audited financial statements prescribed by any applicable legislation;

**"financial report"** means a detailed report and analysis by the Operator and any sub-contractors of its financial performance under this contract including copies of the Operator's most recent financial records referred to in the definition of "financial records", which must be its audited records where the law requires auditing;

**"fixed contract rate"** means the amount paid per peak vehicle per month to compensate the Operator for fixed or capital costs in terms of clause 39 as calculated in accordance with Schedule 9, and shall be fixed for the duration of the contract, but subject to escalation in terms of clause 37 and subject to Item 2.8 in Schedule 9;

**"form"** means a form shown in Volume 3;

**"item"** means a paragraph of the relevant schedule to this contract;

**"maxi-bus"** means a bus with three axles and a seating capacity of between 71 and 90 passengers, including the driver;

**"MFMA"** means the Local Government: Municipal Finance Management Act 56 of 2003;

**"midibus"**, means a midibus as defined in the Act (designed or modified to carry from 17 to 35 persons including the driver);

**"minibus"**, means a minibus as defined in the Act (designed or modified to carry from 10 to 16 seated persons including the driver);

**"month"** means a calendar month;

**"multi-journey ticket" or "MJT"** means a ticket or token for a number of inbound and outbound trips on a specified route, valid for a period expiring on the date specified thereon or in the case of electronic payment methods the stored value of the payment instrument concerned;

**"National Road Traffic Act"** means the National Road Traffic Act 93 of 1996;

**"National Road Traffic Regulations"** means the National Road Traffic Regulations, 2000 promulgated under the National Road Traffic Act;

**"OEM"** means the original equipment manufacturer;

**"operating licence"** means an operating licence as defined in the Act, and includes a permit as defined in the Act, which is necessary to enable the Operator to provide the services in terms of this contract, and where the Operator is already in possession of such licence or a permit before the commencement date, includes any renewal, amendment or transfer thereof necessary to enable the Operator to provide the services;

**"operational records"** means those records of the Operator and any sub-contractors relating to the operational aspects of the services of a kind that would ordinarily be maintained and which will at least include the following:

- (a) revenue kilometres operated;
- (b) kilometres operated for dedicated school services;
- (c) trip cancellations and services not operated, including reasons;
- (d) environmental incidents and emergencies;
- (e) passengers conveyed;
- (f) any records relating to the operational aspects of the conduct of the services required by any legislation; and
- (g) accidents involving injuries or fatalities.

**"operational report"** means a detailed report and analysis by the Operator and each sub-contractor of its operational performance under this contract including, but not limited to—

- (a) an analysis of trips not operated, trips cancelled and trips operated late and early;
- (b) an analysis of revenue kilometres completed;
- (c) an analysis of kilometres operated for dedicated scholar services;
- (d) an analysis of the condition of vehicles operated and inspected and details of vehicles found not to be contract compliant;
- (e) an analysis of the actual availability of vehicles for scheduled services;
- (f) an analysis of the passengers transported subdivided as required by the CA;
- (g) an analysis of cash and MJT tickets cancelled;
- (h) details of complaints received; and
- (i) any other information required by the CA,

which report must be in the form required by the CA and which enables the CA to measure the Operator's performance against any applicable performance benchmarks;

**"Operator"** means the person, company, close corporation, trust, joint venture, partnership or consortium whose tender has been accepted by the CA as described on page 1 of Form ... and includes the Operator's executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the CA, any cessionary, delegate or sub-contractor of the Operator or substitute Operator;

**"ownership control"** means the ability to exercise or to influence substantially the exercise, of any of the financial and operating policies of an operator so as to obtain a benefit from its activities;

**"Party"** or **"Parties"** means the CA and/or the Operator, as the context indicates;

**"passenger kilometre capacity"** means the capacity of a vehicle in terms of passenger kilometres over a specific route distance calculated by multiplying the legally seated capacity of the vehicle by the trip kilometres;

**"payment certificate"** means the claim form certified by the Representative and subject to the approval of the CA, being the total of the forms and certificates required by the CA to be completed, signed and submitted by the Operator in support of its monthly claim, and which is in accordance with Form 1 in Volume 3;

**"peak vehicle"** means a vehicle required by the Operator to provide services during the peak periods described in the time table;

**"PFMA"** means the Public Finance Management Act 1 of 1999;

**"positioning kilometres"** or **"dead kilometres"** mean kilometres travelled by a vehicle with or without passengers—

- (a) from a depot to the starting point of a scheduled trip;
  - (b) from the end of a scheduled trip to a depot; or
  - (c) from the end of a scheduled trip to the starting point of the next scheduled trip;
- for which the Operator is not entitled to be compensated in terms of this contract;

**"public transport vehicle"** means a bus, midibus or minibus;

**"rapid transport bus"** or **"rapid transport bus train"** means a bus authorised to operate along a rapid transport lane in a bus rapid transport system, and which has a regulated floor height and door configuration designed to facilitate speedy access of passengers to and from dedicated loading facilities, and includes the sub-categories set out under the same definitions in the National Road Traffic Regulations;

**"Rebuilt bus"** means a bus rebuilt in accordance with the specifications set out in Schedule 1;

**"Rehabilitated bus"** means a bus rehabilitated in accordance with the specifications set out in Schedule 1;

**"Representative"** means the person appointed as such by the CA, or by the SMF with the written consent of the CA, to supervise and monitor the services and to perform the functions of Representative in this contract, or a person authorised by the CA to act on its behalf. "Representative" also includes the Representative's delegate contemplated in clause 34. If no such person is formally appointed, the word "Representative" means any person duly appointed by the CA to represent it and notified to the Operator in writing;

**"revenue kilometres"** means scheduled kilometres actually operated on approved routes for which the Operator is entitled to be compensated in terms of this contract;

**"route"** means a fixed path from origin to destination along a series of roads with intermediate stops as specified in Schedule 7 or otherwise agreed to between the Parties;

**"scheduled kilometres"** means those kilometres which are authorised in accordance with the time table, as approved and amended from time to time and which will become revenue kilometres if operated;

**"scheduled trips"** means those trips which are authorised in accordance with the time table, as approved and amended from time to time;

**"separate agreement"** means a new agreement between the CA and the Operator for operating additional services which were not contemplated in this contract, are not required for the proper fulfilment of the this contract and do not amount to variations in terms of clause 16;

**"service area"** means the residential, business, industrial and other areas served by the routes, as described in Schedule 7, in which the services will be operated;

**"services"** means the services for the transportation of passengers along the routes by specified vehicles at specified times and frequencies and stopping at specified locations, which are to be provided in terms of this contract;

**"SMF" (Supervising and Monitoring Firm)** means a firm appointed by the CA if it so decides to act on its behalf for the supervision and monitoring of the services;

**"specifications"** means the specifications set out in Schedule 7 in which the services including routes, distances, fares, timetables, stops and any additional related information are described, and includes the vehicle specifications set out in Schedule 2;

**"sub-contractor"** means an operator that has the approval of the CA to provide an agreed portion of the services as shown in Schedule 8;

**"substitute operator"** means an operator appointed on a temporary basis in terms of clause 19;

**"standard bus"** means a bus with a capacity of from 36 to 70 seated persons, and the number of standing passengers authorised by the relevant roadworthy certificate issued in terms of the National Road Traffic Act;

**"tender"** means a written offer on the official tender forms issued pursuant to an invitation to tender;

**"tender amount"** means the total amount in a tenderer's tender for the provision of the specified services as shown on Tender Form 12, which amount is only relevant for evaluation purposes and to determine whether the CA will have adequate funds to cover the contract payments and is subject to adjustment in respect of—

- (a) arithmetical errors that may occur in the priced schedules and are corrected;
- (b) acceptance of alternative offers;

**"tender documents"** means the documents comprising, among others, the Tender Rules, Conditions of Contract, Tender Forms and addenda, inviting tenders for the operation of the services;

**"tendered rates"** means the amounts per revenue kilometre tendered for providing the services (variable contract rates) and the amounts per vehicle (fixed contract rates) as shown in Tender Form 12;

**"tenderer"** means the person, close corporation, company, joint venture, partnership, trust or consortium submitting a *bona fide* offer to provide the services specified in the tender documents, but excludes any assignee of the tenderer without the written consent of the CA;

**"ticketing system"** means electronic equipment as part of the EFVE for the collection of fares and validation of tickets, passes, smart cards or value cards;

**"time table"** means a schedule of passenger carrying trips approved by the CA, indicating all departure times from points of origin and specified intermediate points (not necessarily all authorised stops) as well as arrival times at destinations on each route for specified days, subject to any variation thereof in terms of clause 16;

**"trip"** means the operation of a vehicle, carrying fare paying passengers, travelling in a single direction on a route as set out in the authorised time table, including any variations approved by the CA or Representative in writing in terms of clause 16;

**"unsuitable vehicle"** means a vehicle which is materially different from those specified in Schedule 2 and Form 11 in terms of age, make, model or otherwise, or which the CA and/or Representative in their discretion deem to be unsuitable to provide the services adequately or which does not comply with the National Road Traffic Act or other applicable legislation;

**"variable contract rates"** means the rates per revenue kilometre agreed upon between the Parties as being the rates used to calculate payments to the Operator under clause 39 and as described in Schedule 9;

**"vehicle"** means a public transport vehicle; and

**"waybill"** means a document provided by the Operator that details duty, route and trip details (including details of passengers carried and tickets issued and cancelled per trip and revenue collected) as shown in Form 24.

## 2. PREAMBLE

### WHEREAS:

- 2.1 The CA has developed an integrated public transport network/integrated transport plan to provide better public transport service to the travelling public in its area. *[In the case of a province "has concluded an agreement with the ....Municipality dated ..... which is attached hereto as Schedule .... and in terms of which the Province will manage this contract and the services provided in terms thereof on behalf of the Municipality"]*
- 2.2 The CA has contracted the Operator to provide the services pursuant to acceptance of the Operator's tender, subject to the terms and conditions of this contract.

## 3. COMMENCEMENT DATE AND DURATION

- 3.1 The Operator must commence the services on ..... 20... or as otherwise agreed between the Parties in writing. *[Note: where possible the commencement date should coincide with the start of the municipality's financial year (even where the CA is the province acting on its behalf.)]*
- 3.2 The contract shall run for seven years, but the CA may, in its sole discretion, and depending on the performance of the Operator as gauged by the method shown in Schedule 8, extend the contract for a further period of not more than five years. The CA must, irrespective of its decision to so extend the contract or terminate it, notify the Operator in writing of its decision no later than the start of the end of term period. Should the CA have decided to extend the contract for a further period of five years, the Operator must confirm in writing that it will continue for the extended period or terminate its services at the expiry of the initial contract period no later than nine months before the expiry of the initial period. This will allow the CA to secure the services of a new service provider through a tendering process.
- 3.3 Should the CA decide to extend the contract period in terms of clause 3.2, the parties must negotiate new contract rates for the period of the extension as soon as possible after the Operator is notified of the CA's decision. Once new rates have been agreed upon, they will apply as from the start of the extended five-year period of the contract and for the purposes of clause 37 (Escalation) the base month shall be the month prior to the month in which the extended five-year period starts. Should the Parties not have agreed on new rates within 90 days of the start of the end of term period, the CA may, despite a previous decision to extend the contract, terminate the contract on giving the operator not less than 90 days written notice.
- 3.4 It is recorded that the CA may request tenders for the provision of the services in substantially the same service area as required by the Act before the start of the end of term period for a period commencing on termination of this contract. If this is done, any new contract awarded shall amount to a totally new contract based on the terms and conditions set out in the relevant tender documents.
- 3.5 If the subsequent contract is awarded to a different operator, the Operator undertakes to give its full support and co-operation in effecting the transition of the

services to that other operator including, but not limited to, submitting the relevant operating licences to the applicable regulatory entity for cancellation or amendment.

- 3.6 Nothing in this contract is intended to give to, nor shall give the Operator a legitimate expectation regarding any extension of this contract, being either an extension contemplated in clause 3.2 or otherwise, or an expectation to be appointed as the operator in any extended or subsequent contract. The appointment of an operator for any extended period or subsequent contract being in the sole and absolute discretion of the CA.

#### **4. INDEPENDENT CONTRACTOR**

- 4.1 The Operator shall act as an independent contractor and not as an employee or agent of the CA and does not have the authority to bind the CA contractually to any other party. The CA shall not be liable to pay any retrenchment or severance benefits to any of the employees of the Operator on dismissal or on expiry of the contract period and the Operator hereby unequivocally and unconditionally indemnifies the CA against any such claim.
- 4.2 The Operator must obtain the prior written approval of the CA for any changes in ownership control, which approval will not be withheld unreasonably.
- 4.3 If approval is granted for a change of ownership control, the Operator must provide the CA within seven days with the particulars of any such change as shown in Form 22 in respect of the new person or entity exercising such control. Failure to do so will result in imposition of a penalty in accordance with Schedule 6 or alternatively the CA may terminate the contract in terms of clause 47.

#### **5. DATA AND OTHER STATISTICS**

- 5.1 All data and statistics of whatever nature provided by the CA concerning existing or former services are provided in good faith as the best information available to the CA at the relevant time, to assist the Operator. No guarantee of the correctness of the data and statistics is given by the CA and no claims by the Operator arising from incorrect data or statistics or as a result of incorrect estimates made by the Operator will be entertained. The Operator must note that services required to be provided in terms of this contract might differ from existing or former services provided in the service area.
- 5.2 It is the duty of the Operator to inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is contracting. No claims of any nature will be entertained on the basis of a failure to make such enquiries.
- 5.3 Six months after the commencement date the CA must arrange a meeting with the Operator to compare the scheduled weekly kilometres provided by the CA before that date with the actual scheduled weekly kilometres since that date. If there is a deviation of more than 10% (ten percent) which is either positive or negative, the Parties must re-negotiate the contract rates to take account of the variation. If the Parties are unable to agree on new contract rates within 14 days after the date of the meeting, either Party may declare a dispute in terms of clause 41.



## **6. INFORMATION**

- 6.1 The Operator must submit all applicable information and data as may be required in terms of the contract documents within the required time frames. The CA may if it regards the information supplied as insufficient, call for further information. The Operator must furnish such additional information within seven days of being called upon to do so, in writing failing which penalties will be imposed in accordance with Schedule 6.
- 6.2 Any explanation desired by the Operator regarding the meaning or the interpretation of this contract must be requested in writing from the CA and the CA must respond in writing within seven business days. No oral explanations will be binding unless confirmed in writing. Such an explanation will not be regarded as an amendment of this contract unless the parties agree to it in writing as contemplated in clause 46.2, and will not amount to a variation unless made in terms of clause 16.
- 6.3 No oral representations or statements by the Representative or any other officer, employee or agent of the CA shall affect or modify any terms or obligations of this contract.
- 6.4 The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA, the Representative or a dedicated official or agent of the CA appointed by the CA to manage the contract.
- 6.5 The Operator must retain all information and records pertaining to this contract and keep it available to the CA for inspection for the duration of this contract and for at least three years after the expiry or termination of this contract.

## **7. CONTRACT RATES ALL-INCLUSIVE**

- 7.1 In terms of the Tender Rules, the Operator has satisfied itself as to the correctness and sufficiency of the contract rates which shall (except in so far as is otherwise provided) cover all of the Operator's obligations under this contract.
- 7.2 The contract rates are calculated to cover full compensation for all general preliminaries, expenses incurred in complying with the conditions and Specifications, other costs, dead kilometres as well as everything else necessary for the execution of this contract. No claims of whatever nature will be entertained based on the fact that they are too low or do not cater for all eventualities or that they were incorrectly calculated.
- 7.3 The Operator must also make sufficient allowance in the contract rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in clause 6.1.
- 7.4 The Operator's attention is drawn to the fact that the services may be varied during the contract period under clause 16, which could lead to an increase or decrease of monthly scheduled kilometres.
- 7.5 The Operator is advised that the services may have been rationalized and that routes, time tables etc. may not necessarily be the same as those operated previously.

- 7.6 Scheduling of vehicles for optimal use thereof, subject to the agreed timetables, will be the responsibility of the CA. Contract rates will be fixed for the contract period, subject to clauses 5.3 and 39.23.
- 7.7 Monthly payments to the operator, as well as fares paid by passengers, are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the contract rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.

## **8. INVESTIGATION OF OPERATOR**

- 8.1 The CA or its authorised agents may inspect the Operator's premises and facilities (including workshops and depots), as well as vehicles by means of which the Operator provides or proposes to provide the services, at any reasonable time. The Operator must give full co-operation in this regard.
- 8.2 The CA may appoint chartered accountants or other consultants to report on the financial resources or any operational aspects of the Operator at any time during the contract period or, if necessary, thereafter.
- 8.3 The Operator must provide all reasonable assistance in such an investigation and on request by such accountants or consultants provide documentation or other information within seven days, failing which penalties will be imposed in accordance with Schedule 6.
- 8.4 The CA may require that the Operator's cash handling procedures, be audited by an independent third party within a reasonable period specified by the CA.
- 8.5 The Operator must permit the CA or any agent of the CA to inspect at any reasonable time, and ensure that any sub-contractor permits the CA to inspect—
- (a) the books, records and other material kept by or on behalf of the Operator or sub-contractor (including any records relating to employees); and
  - (b) the Operator's or sub-contractor's premises, depots and contract vehicles, in order to—
  - (c) check or audit any information supplied to the CA under this contract; or
  - (d) monitor the performance of the Operator or sub-contractor or compliance by the Operator or sub-contractor with its obligations under this contract.
- 8.6 If, at any time during the contract period, the CA believes reasonably that the solvency of the Operator is in doubt and that the situation is likely to affect adversely the continuity of the services, the CA may request the Operator to provide a statement of financial position certified by its directors, members, trustees or auditors. The Operator must comply with the CA's request within seven days a period mutually agreed upon.
- 8.7 If any survey or inspection conducted in terms of this contract reveals that information previously supplied to the CA was in any material respect inaccurate, the Operator shall be liable for any damages suffered by the CA as a result thereof which will be dealt with *mutatis mutandis* in the manner set out in clause 39.22 and will be in addition to the CA's rights to impose a penalty as provided for in Schedule 6 or to terminate the contract in terms of clause 47.

## **9. MANAGEMENT OF THE SERVICES**

### **9.1 The CA shall—**

- (a) Determine the routes, trips, fares and timetable of the services;
- (b) Determine the operating hours for each day, which may differ for Fridays, Saturdays, Sundays, public holidays and school holidays;
- (c) Prescribe other terms, conditions or operational rules deemed necessary for the provision of the services;
- (d) Provide instructions and directions to the Operator; and
- (e) In its sole and absolute discretion, amend the schedules, routes or timetable in the case—
  - (i) of an emergency;
  - (ii) where financial or budgetary restrictions demand an amendment to the services; or
  - (iii) of other events beyond the reasonable control of the CA.

### **9.2 The Operator shall at all times comply with the instructions, directions, terms, conditions and operating rules provided to it by the CA or its designated representatives.**

### **9.3 The Operator may not deviate from the timetable and must ensure at all relevant times that it provides sufficient vehicles and trained drivers, mechanics and other staff to enable it to comply with the specifications and to provide the services adequately, and to be on standby to avoid any interruption or delay in providing the services.**

### **9.4 The Operator must during the full period of the contract ensure at all times that it maintains adequate levels of fuel, in order to ensure efficient and uninterrupted delivery of the services. If the Operator uses off-premises fuel storage facilities, it must put in place adequate contingency arrangements to the satisfaction of the CA to ensure adequate and timeous delivery of fuel. However the Operator will not incur penalties where failure to provide services is due to fuel shortages that are beyond the Operator's control.**

### **9.5 The CA or its representatives may conduct random spot checks to ensure compliance with clauses 9.3 and 9.4.**

## **10. BUSINESS PLANNING, RECORDS AND REPORTING**

### **10.1 The Operator must within the time periods stated in this contract or, where no time period is indicated, within the time required by the CA, submit the Contract Management Plans, Business Plans, Operational Reports and other information set out in Schedule 4, and must assist the SMF to provide the reports and other information set out in Schedule 5.**

### **10.2 The Operator and any companies holding shares in the Operator must at all times comply with good governance principles as contemplated in the King III Report and must comply with the Companies Act, 2008 and other applicable legislation regarding good governance, business planning, records and reporting. Should the articles of association, shareholders' agreement, founding statement, constitution or like**

document(s) of the Operator or any companies holding shares in the Operator be amended, the Operator must supply the CA with copies of those documents within seven days of the amendment, failing which the Operator will be deemed to have failed to comply with clause 4.3 and a penalty will be imposed as contemplated in that clause.

## **11. PROVISION OF SERVICES**

- 11.1 The Operator must, on each day on which the services specified by the CA in Schedule 7 are to be provided, operate those services in accordance with the routes, vehicles, timetables and fare tables set out in that Schedule, and any other conditions set out in this contract, and not make any change to the service without obtaining the prior written approval of the CA in terms of clause 16, except in the case of emergency or another event contemplated in clause 15.
- 11.2 It is the responsibility and prerogative of the CA to develop and plan the services in accordance with its obligation in terms of the Act. This includes, among others the planning and specification of routes, timetables, vehicle types to be used, fare structures and scheduling of services to ensure optimal utilization of vehicles and capital cost.
- 11.3 The CA may also prescribe minimum service levels and assess performance, and may, where appropriate, vary the services in terms of clause 16.
- 11.4 The CA may, after consulting the Operator, issue protocols and standard operating procedures from time to time indicating how the services are to be provided, or where applicable how the Operator must work together with other operators of public transport modes. If such protocols or operating procedures will result in additional costs for the Operator that do not amount to variations under clause 16, the Parties must agree on additional compensation for the Operator.
- 11.5 The Operator accepts that the routes assigned to it in the Specifications may not always be for its exclusive use and may also be used by other public transport operators, as directed or decided by the CA. If other operators are allowed to compete with the Operator at a later stage and this is likely to impact adversely on the Operator's income, the Parties may negotiate additional compensation for the Operator. This will not apply to other bus and taxi operators operating the routes on the commencement date.
- 11.6 The Operator must exercise the highest degree of skill, care and diligence in the provision of the services and operate the services strictly in accordance with the specifications, as well as the other relevant provisions of this contract, to the satisfaction of the CA. The Operator must comply with and strictly adhere to the instructions and directions of the CA and Representative regarding the operation of the services, subject to clause 15. The Operator must take instructions and directions only from authorised officials and agents of the CA, identified in terms of clause 34.
- 11.7 Depending on the requirements of this contract as to which type or combination of types of vehicles are to be provided by the Operator, the Operator must provide for each trip a vehicle having the passenger capacity as specified in the definitions of "minibus", "midibus", "standard bus", "double deck bus" and/or "bus-train", as the case may be and that conforms fully with the requirements and attributes of clause 24 and Schedule 2.

- 11.8 The Operator may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question or on grounds of violent, abusive or otherwise illegal or offensive conduct on the part of that person or other grounds contemplated in the Act or the National Road Traffic Act, or because the person refuses to pay the fare or present an invalidated ticket.
- 11.9 Should the Operator become aware of circumstances or problems which have prevented, are preventing or will prevent the Operator from providing the services as specified, the Operator must, as soon as is reasonably possible but not later than eight hours after becoming so aware, advise the CA of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced thereby, if applicable. Such advice must be confirmed in writing within 24 hours. The Operator must in such circumstances comply with clause 15.
- 11.10 In addition to any statutory obligations, the Operator must immediately after its occurrence, report to the CA or Representative any accident in which persons have been injured or killed. This must be followed by a written report containing full details of the occurrence within four business days of the occurrence.

## 12. OPERATING LICENCES AND PERMITS

- 12.1 The Operator must promptly do everything in its power to obtain and maintain in force all operating licences or permits, including licences and permits required by local authorities, pay all fees and levies and issue all notices as may be necessary for or be connected with the due operation of the services in accordance with the Act and other applicable legislation.
- 12.2 The Operator must apply for the necessary operating licences or amendments not later than seven days after this contract was concluded in terms of regulation 16 of the National Land Transport Regulations, 2009 and provide all necessary information and assistance to the CA and competent regulatory entity to obtain the necessary operating licences, or amendments to existing permits or operating licences, or approval of fare increases, as the case may be, covering the contract routes in terms of section 56 of the Act, both for the Operator and any sub-contractors, unless they are already in possession of such licences, permits, amendments or approvals. In terms of that section the operating licences will be for the duration of the contract period only and will be specific to the contract. When such licences are issued, the Operator must supply copies to the CA within five days.
- 12.3 The Operator must take all reasonable steps to obtain the granting and issuing of the operating licences or amendments referred to in clause 12.2 as expeditiously as possible. If for any reason the necessary operating licences or amendments have not been granted and issued by a date being 14 days prior to the commencement date and the CA in its discretion after consultation with the Operator decides that it is unlikely that the Operator will obtain the licences in time to enable it to provide the services on the commencement date, the CA may—
- (a) cancel the contract after having given seven days' notice of its intention to do so, in which event the Parties shall be entitled to restitution with no claims against each other, unless the Operator was in bad faith (*mala fide*) or the

- failure to obtain operating licences timeously or at all, was due to its fault or negligence; or
- (b) postpone the commencement date on written notice to the Operator, in which event, if the Operator is providing services before the commencement date on some or all of the routes in question in terms of another contract or arrangement, the Operator must continue providing the services according to that contract or arrangement until the operating licences are obtained.
- 12.4 Should another operator or interested person oppose, challenge or appeal against the granting of such operating licences, the Operator must do everything necessary to defend or counter the opposition, challenge or appeal, subject to the directions of the CA, and the costs thereof shall be borne by the CA, provided that if the opposition, challenge or appeal arises as a result of the Operator's failure to do all things reasonably necessary as contemplated in this clause, the Operator shall bear all costs associated therewith.
- 12.5 The Operator must forthwith upon the occurrence of any of the following events notify the CA in writing of the details thereof:
- (a) Any revocation, suspension or refusal to renew any licence or permit necessary for the provision of the services, and
- (b) The imposition of any condition upon such licence or permit or any other circumstance which would prevent the Operator from providing the services in accordance with the contract.

### **13. TIMETABLES**

- 13.1 Subject to this clause and clause 16, the services reflected in the timetables provided in Schedule 7 are the services that the CA requires the Operator to operate as on the commencement date.
- 13.2 Due to the lapse of time between the drafting of the tender and contract documents and the commencement date, as well as possible changing circumstances, variations to the timetables may be necessary before commencement of the services. If this is the case, the Parties must agree on appropriate timetables at least 15 business days before the commencement date. If this is not done the timetables in Schedule 7 as at the date of signing of this contract shall be operated on the commencement date until further notice from the CA.
- 13.3 The CA will formulate a proposed timetable to apply during holiday periods, after consulting the Operator, at least 14 days prior to public holidays and/or holiday periods. Such time table will be binding on the Operator for such holiday period.

### **14. SUBMISSION OF DUTIES**

- 14.1 Subject to clause 13, the Operator must submit a document to the CA containing all the duties and timetables to be operated for each category of operating day and vehicle on a weekly basis not later than 8:00 each Wednesday morning.
- 14.2 No changes may be effected to the duty numbers without seven days' prior written notification to the Representative, and passengers.

## 15. TEMPORARY INTERRUPTION OF SERVICES

- 15.1 Cancellation of scheduled trips that form part of a reduced service during holiday periods is permitted if the CA or Representative approves them in writing at least 14 days in advance.
- 15.2 Cancellation of scheduled trips other than that due to a strike or stay away action that is reasonably beyond the Operator's control or could not be prevented by the Operator, is not permitted unless the CA or Representative approves them in writing at least 14 days in advance.
- 15.3 Cancellation of other scheduled trips by the Operator is not permitted unless in the opinion of the CA or Representative the cancellation—
- (a) is due to unforeseen emergencies, road closures, obstructions, floods or weather conditions or other circumstances or problems contemplated in clause 11.8; or
  - (b) results from immediate danger to life or of personal injury and/or serious damage to property, and

the CA or Representative has approved the cancellation in advance, and if such approval was granted telephonically or by the SMS, the approval has been confirmed in writing by the CA within 48 hours of having been given.

- 15.4 Cancellation of scheduled trips by the Operator must be agreed to in writing by the CA or Representative.
- 15.5 The discretion on whether a scheduled trip is validly cancelled or not shall lie solely with the CA, and the Operator may declare a dispute under clause 41 if dissatisfied with the CA's decision.
- 15.6 Where the Representative directs the Operator to provide services in circumstances where the Operator is of the opinion that there is immediate danger to life or of personal injury or of serious damage to property, due to violence, conflict, serious intimidation of drivers or boycott action, either against the Operator's firm or generally, the matter shall be referred to the CA for decision within 24 hours and the CA's decision will be final. If the CA decides that there was not in fact such danger, the Operator will be penalized under Schedule 6 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.7 Where the Operator is of the opinion that scheduled trips should be cancelled due to boycott action, either against the Operator's firm or generally, the Operator must, through the Representative, refer the matter to the CA for decision. If the CA decides that such cancellation is justified the variable contract rate will not be paid for services not provided but the fixed contract rate will still be paid: if not, the Operator shall be penalized in accordance with Schedule 6 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.8 The Operator must inform the Representative immediately of any proposed cancellation of any scheduled trips in terms of this clause and the Parties must then meet on an urgent basis to agree to the deviation, if any, to be allowed, and the re-commencement of the services. If they fail to reach agreement within three hours of having met for the first time, the CA's decision will be final and binding on the parties.

- 15.9 For the purposes of this clause "emergency" means a situation which is beyond the control of the Operator, for example strikes, stayaways, riots, *vis major*, etc., and which makes the provision of the services or part thereof impossible.

## 16. VARIATIONS

- 16.1 The Operator must comply with the services set out in the Specifications in Schedule 7 in respect of routes, time tables, vehicles and fare structures.

- 16.2 The CA or Representative may after consultation with the Operator make the following variations to the services within the service area:

- (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 necessarily 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;
- (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 16.3,

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

- 16.3 The Operator may apply in writing to the CA for a variation in the types of vehicles which are used to provide 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 CA consenting to such a variation the financial implications thereof on the contract rates (if any) and time table shall be agreed upon in writing. The decision of the CA in this regard shall be final and be communicated to the Operator in writing within 14 days of receipt of the request.

- 16.4 If it appears to the Operator that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Operator must apply to the CA for permission to introduce additional trips to cater for such passengers, and such permission will not be unreasonably withheld. If written permission is granted and additional trips introduced, the CA shall compensate the Operator therefore at the applicable variable and fixed contract rates as from the first day of the month following the approval and all costs incurred by the Operator prior to that day shall be for the Operator's own account.

- 16.5 If it appears to the Operator or Representative that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the CA may at the request of the Operator or Representative approve that—



- (a) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
- (b) the Operator continues operating the vehicle, in which case the Operator will be paid at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity as the CA might consider appropriate for the circumstances for the relevant kilometres.

If the CA does not approve the application it may remove the trip or route from the time table in terms of clause 16.2.

- 16.6 Where a variation is made or approved in terms of this clause, any cost to the Operator occasioned by such variation will be catered for in the fixed and variable contract rates calculated as indicated in Schedule 9.
- 16.7 Where approved variations in terms of this clause result in the amount of revenue kilometres that the Operator had to operate on the commencement date being increased or decreased by more than 15% during peak periods, the fixed contract rate will be renegotiated based on the principles in Schedule 9. If the Parties cannot agree on a new rate, the matter will be treated as a dispute under clause 41, and the Operator will continue to be remunerated based on the tendered rates that applied on the commencement date until a new fixed contract rate is determined. The new rate will then apply retrospectively as from the date that the variation was implemented, and the difference will be made up in the next monthly payment following the resolution of the dispute.
- 16.8 If the CA requires services to be provided in areas outside the service area or on special occasions these will be negotiated under a separate agreement the terms of which will have no bearing on this contract and may not impact negatively on the Operator's obligations in terms of this contract.
- 16.9 Services provided in terms of clause 16.7 will be provided at rates as set out in Schedule 9 and as requested by the CA in writing, subject to the availability of vehicles and staff as agreed to by the Operator, keeping in mind that, once agreed to, such commitments shall in no way relieve the Operator from operating the scheduled trips as provided in the timetable applicable to this contract.

## **17. CESSION AND DELEGATION**

- 17.1 The Operator may not cede its rights or delegate its obligations under this contract or any part thereof, or any benefit or interest therein, to another person, whether as security or otherwise, without the prior written consent of the CA. The CA may regard a contravention of this sub-clause as a material breach of contract justifying termination thereof in terms of clause 47.
- 17.2 It shall be in the sole discretion of the CA to grant or refuse such consent, which shall not be withheld unreasonably.
- 17.3 The CA may at any time during the currency of this contract cede its rights or delegate its obligations in terms thereof to a municipal entity or provincial public entity as defined in the MFMA or PFMA, as the case may be.

**18. SUB-CONTRACTING**

- 18.1 To implement government policy relating to the promotion of small business and BBBEE, the Operator must sub-contract the services as specified in the timetables.
- 18.2 The Operator must, within seven days of signing this contract, advertise the services to be sub-contracted in local newspapers for not less than 14 days, and after receiving the names of interested parties submit these to an evaluation committee, to be established for this purpose, consisting of representatives of the Operator and the CA for discussion. The CA must consider the views of such committee, but the CA must make the final decision.
- 18.3 The sub-contracting envisaged in clause 18.1 must be implemented from not later than three months after the commencement date and until termination of the contract.
- 18.4 The sub-contractor—
- (a) must be 100% owned by persons previously disadvantaged by unfair discrimination who are not also shareholders of the Operator and who are not agents, employees of or fronts for the Operator;
  - (b) must have a management structure on which at least 60% of managers are such persons and have active involvement in the daily management of the sub-contract; and
  - (c) may not be directly or indirectly owned, controlled or managed by any person who is a shareholder, employee or agent of the Operator or CA or who is the partner or immediate family member of such a shareholder, employee or agent.
- 18.5 The Operator must communicate any change in shareholding or ownership in the sub-contractor to the CA in writing within seven days of the change coming to its notice.
- 18.6 The CA may set selection criteria for sub-contractors and directives for the Operator in the use and management of sub-contractors, and the Operator must comply with such criteria and directives. Such criteria or directives may include, but need not be limited to, requirements regarding the use of experienced management assistance by the sub-contractor.
- 18.7 The Operator must conclude a written sub-contracting agreement in the form set out in Schedule 14 with each sub-contractor.
- 18.8 The Operator may not amend the sub-contracting agreement without the prior written approval of the CA. If the Operator does so penalties will be imposed in accordance with Schedule 6.
- 18.9 The Operator must, if required in writing by the CA, provide proof of registration or payment by its intended sub-contractors of insurance premiums and taxes and levies required by law and provide a tax clearance certificate from the SA Revenue services for each sub-contractor.
- 18.10 If consent is given for a sub-contract under this clause no contract between the CA

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.

- 18.11 Where applicable, the Operator must ensure that each sub-contractor is formalised into a business entity approved by the CA within six months of the commencement date of the contract.
- 18.12 The Operator must ensure that a monthly payment certificate, the format of which is approved by the CA is compiled in respect of payments from the Operator to the sub-contractor and attached to the Operator's monthly payment certificate. The Operator's payment certificate will not be processed for payment if such certificate is not attached.
- 18.13 The Operator must ensure that payment into the dedicated bank account of the sub-contractor is effected by electronic funds transfer within two working days of receiving payment from the CA, failing which the CA may deduct the amounts owing from any future payment to the Operator and pay them directly to the sub-contractor, in addition to any other rights that the CA may have.
- 18.14 The CA may at any time withdraw consent for a sub-contract after giving not less than 30 days' notice to the Operator where the sub-contractor does not meet the CA's qualification criteria for sub-contractors or commits an act or omission contemplated in clause 47.
- 18.15 In the event that consent for a sub-contract is withdrawn no claim against the CA 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 CA against any claims and costs so incurred.

## **19. SUBSTITUTE OPERATOR**

- 19.1 The Operator may appoint a substitute operator on a temporary basis in the circumstances contemplated in clause 19.2, and subject to this clause.
- 19.2 Before the Operator appoints any substitute operator it must obtain the written consent of the CA who must approve the substitute operator as fit and proper to provide the services.
- 19.3 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 must make all reasonable attempts to provide the services, including the option of finding licensed substitute operators to cover all scheduled trips. If there is no time to obtain prior written authority from the CA before the appointment of the substitute operator, the Operator must inform the Representative of the particulars of such substitute operator the same day and the CA will approve or refuse consent within three days.
- 19.4 Where a substitute operator has been providing the services for 30 days or more, the CA may cancel this contract and direct that the Operator and/or substitute operator leave the service area, and may appoint another operator of the CA's choosing as a stopgap measure while the required procedures are followed to award a new contract.

- 19.5 If the Operator is not able for any reason to provide scheduled trips for any consecutive period of 24 hours and fails to arrange for a substitute operator, it must immediately inform the Representative to this effect to enable the CA 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, the Operator shall be liable for all the associated extra costs, and penalties in terms of Schedule 6 will be imposed for scheduled trips not operated.

## **20. SERVICES OUTSIDE OF THIS CONTRACT**

- 20.1 In addition to the services which the Operator is obliged to provide in terms of this contract, it may, with the prior approval of the CA, operate any other passenger transport service with vehicles owned by the Operator and specified for use in this contract, provided that—

- (a) the operation of such service does not in any way interfere with the full and complete performance by the Operator of its obligations under this contract;
- (b) the additional services do not operate in competition with the services specified in this contract; and
- (c) the Operator will compensate the CA in an amount to be agreed upon and deducted from the relevant monthly claim or claims, to compensate for the fact that the subsidy paid under the contract partially covers vehicle costs.

- 20.2 The Operator may not operate any other passenger transport service outside of this contract with vehicles owned by the CA, unless the CA agrees in writing in advance.

*[Note: As an alternative the Operator can be prohibited from doing private hires with vehicles owned by the CA.]*

- 20.3 Where approval has been granted in terms of clause 20.2 the Operator will pay the CA a fee for the use of its vehicles in an amount to be agreed upon.

- 20.4 The Operator must provide the CA with a detailed summary with each monthly payment certificate, in the form approved by the CA, of all kilometres travelled in connection with other services on a monthly basis to enable the CA to determine the amount payable to it under this clause. That amount shall be recoverable as a debt due to the CA which may be off-set against any monthly payment due to the Operator.

- 20.5 Where the CA requests the Operator to provide services on its behalf outside of the scope of this contract, this will be done in terms of a separate contract, unless otherwise agreed.

## **21. ACCESSIBLE PUBLIC TRANSPORT**

- 21.1 The Operator must within three months after the commencement date, provide the number of vehicles that accommodate special categories of passengers, as defined in the Act, including providing wheelchairs and upgrade the fleet to be compliant in this regard, as required by the Vehicle Specifications outlined in Schedule 2. Should

the Operator fail to provide such vehicles penalties as set out in Schedule 6 will apply each month until compliance takes place.

- 21.2 In the case of a rapid transport bus or rapid transport bus train as defined in the National Road Traffic Regulations, there are different requirements, which are obtainable from the Department. The Operator must comply with these requirements and should it fail to do so the penalties as set out in Schedule 6 will apply each month until compliance takes place.

## **22. DISPLAY OF VEHICLE AND DUTY NUMBERS**

All vehicles used for the provision of the services must display fleet numbers and duty numbers as specified in Schedule 2.

## **23. INFORMATION TO AND FROM PASSENGERS**

- 23.1 The Operator must ensure that up-to-date timetables and fares tables are available on all vehicles and at other places required by the CA and must comply fully with the Consumer Protection Act 68 of 2008 in this regard.
- 23.2 The CA may operate an information centre, a shopfront information service and a customer call centre. The Operator must maintain close links with these services and provide accurate, timely information as required by the CA. In addition the Operator must facilitate a "help desk" facility to respond to enquiries and to communicate directly with customers, especially about service changes, as directed by the CA.
- 23.3 The Operator must participate in passenger liaison and information dissemination processes established by the CA and attend monthly or more frequent meetings in this regard. All complaints received by the CA will be forwarded to the Operator for a written response within fourteen working days, failing which a penalty will be imposed in terms of Schedule 6. Such response must include a report on the incident in the format provided in Form 3 with, where required by the CA or its Representative, a program for the prevention of similar incidents.
- 23.4 The Operator must in the first instance manage all customer complaints relating to the services. The Operator must formulate a Customer Complaints Policy within 30 days of the commencement date for approval by the CA. Failure to do so will result in penalties being imposed in terms of Schedule 6. Once approved, the Operator must comply with the Policy. The Operator must also provide the CA and its agents and representatives with every assistance in dealing with passenger complaints received by the CA, and must take such remedial measures as may be agreed between the Parties without prejudice to the right of the CA to take action under other relevant provisions of this contract where persistent failure to deal with complaints is adjudged by the CA to contravene those conditions.
- 23.5 Where the Operator receives complaints directly from the public, it must report these to the Representative, in writing, within fourteen working days, with details of the complaint, the date and time of the event leading to the complaint and the date of receipt of the complaint itself, the nature of the complaint and the immediate actions taken to address it. The Operator must keep a Passenger Complaints Register to record these complaints and details for the duration of the contract. The CA may

provide a *pro forma* register which the Operator must use. Failure to comply with this clause will result in the imposition of a penalty in terms of Schedule 6.

## 24. VEHICLES

- 24.1 The Operator must submit a statement on Tender Form 11 showing the vehicles per vehicle category that will be available for the services on the commencement date and whether the vehicles will be purchased or leased. The numbers and types of vehicles must comply with those specified in Schedule 2. Copies of signed purchase and lease agreements must be provided to the CA 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 others, to assess the Operator's capacity to operate services of the magnitude concerned and whether the vehicles comply with Schedule 2.
- 24.2 Only vehicles shown in the completed Form 11 may be used to provide the services, unless the written consent of the CA is obtained in advance to replace vehicles with others of the same or better quality and age, to enable the CA to assess whether the vehicles are acceptable. Where such consent has not been obtained, the revenue kilometres operated by such vehicles will not be paid, the Operator will not be allowed to claim fixed cost for the vehicles and the Operator will be penalised in terms of Schedule 6.
- 24.3 The number of vehicles must make allowance for at least ten percent (10%) spare capacity. This spare capacity must be maintained at all times during the period of the contract. When applying for operating licences or amendments thereof under clause 12 the Operator must ensure that application is made for sufficient vehicles to comply with this requirement.
- 24.4 All vehicles must conform to the requirements and regulations of the National Road Traffic Act and other applicable legislation and applicable SABS specifications.
- 24.5 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 Schedule 2 at all times. When so ordered by the CA, the Operator must remove from the services any unsuitable vehicles. The approval or disapproval of any vehicle by the CA shall not in any way release the Operator from its obligations in terms of the contract.
- 24.6 A detailed fleet list of the vehicles per vehicle category that will be available for the services on the commencement date, in the format required by the CA, must be submitted to the CA not later than fourteen days before the commencement date.
- 24.7 If the Operator, without the written authority of the CA, fails to provide the right type, with reference to quality and age, of vehicles as specified in Schedule 2 and listed on Tender Form 11 within three months of the commencement date or, at a later stage in the contract period, within 30 days after being instructed to do so by the CA, then a penalty will be imposed in terms of Schedule 6.
- 24.8 The Operator must ensure that each vehicle—
- (a) is operated and maintained in accordance with the manufacturer's specifications, recommendations and service standards and is serviced at the times required or recommended by that manufacturer; and

- (b) is properly licensed and has a current roadworthy certificate issued in compliance with the National Road Traffic Act.
- 24.9 The CA may inspect the vehicles at any time during the contract period and at any location. It may require the Operator to produce specific vehicles at the CA's cost for a more comprehensive inspection at the nearest acceptable testing station directed by the CA with due regard to the fact that the vehicle should be detained for as short a period as possible.
- 24.10 The Operator must withdraw a vehicle failing an inspection contemplated in clause 24.9 from service until repaired and successfully re-tested at a location to be determined by the CA. The inspection fees will be for the account of the Operator.
- 24.11 The Operator must allow for the storage of small items of bags and equipment on vehicles in such a manner that the legal width of gangways is maintained.
- 24.12 All vehicles used on the contract must be fitted, either permanently or temporarily as decided by the CA, with communication equipment capable of transmitting and receiving messages between vehicle(s) and a base station. This equipment must comply with the specifications and requirements set out in Schedule 2.
- 24.13 The Operator will be held responsible where any vehicle may not be used, or where the licence of a vehicle may not be renewed due to demerit points being awarded against the Operator or its drivers in terms of the Administrative Adjudication of Road Traffic Offences Act 46 of 1998 (AARTO Act), and if the Operator fails to supply sufficient and compliant replacing vehicles this will be regarded as a breach of this clause and penalties will be imposed accordingly.

*[Note: If the CA is to own the vehicles, this clause will have to be adapted and a number of additional clauses provided, including, but not limited to the following:*

- *Operator responsible to look after the vehicles as from date of possession and is liable for any damage etc. due to its fault unless covered by insurance.*
- *Operator may not lend out or alienate the vehicles in any way (or can do so with prior written consent of CA and on stated terms and conditions).*
- *Provisions for maintenance of the vehicles – either that the Operator must ensure they are delivered to the supplier or supplier's agent for servicing and repairs, or that the Operator must maintain them, as the case may be.*
- *Operator must provide written reports/proof that maintenance is carried out. Operator liable for damage caused by lack of maintenance.*
- *If/when the contract is terminated vehicles to be returned to the CA in a good condition and state of repair.*
- *Operator liable for damage to vehicles that is not covered by insurance unless not due to Operator's fault.*
- *Operator must keep vehicle log for each vehicle.*
- *CA may inspect vehicles at any time.]*

## **25. INDEMNITY AND INSURANCE**

- 25.1 The Operator must take steps to ensure the safety of passengers, the general public and property. The CA shall not be liable for any loss or damages resulting from

damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Operator or its agents, employees or sub-contractors and the Operator hereby indemnifies the CA against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges and expenses whatsoever in this regard.

- 25.2 The Operator must effect and maintain throughout the duration of the contract, at its own expense, public liability insurance and SASRIA cover for at least ten million rand (R10m), all risks insurance and supplementary insurance in respect of civil commotion, riot and strikes, and full comprehensive vehicle insurance based on the realistic market value of the vehicle(s) for the amounts and deductibles, if any, determined by the CA by notice in writing to the Operator from time to time, with an insurer chosen by the Operator and acceptable to the CA, registered as required by applicable legislation. Proof of such insurance must be submitted to the CA prior to the commencement date and the Operator must advise the CA in writing of any changes thereto. Proof of payment of monthly premiums must be attached to the monthly payment certificate.
- 25.3 If the Operator for any reason fails to take out or maintain such insurance, the CA may pay any premium due on such policy on the Operator's behalf and set such amount off against any amount due to the Operator in terms of this contract, plus an administration fee of ten percent of each premium so paid. This right is in addition to any other remedy that the CA may have.

## **26. DEPOTS**

- 26.1 The Operator must provide and be responsible for the depots owned by the Operator unless otherwise agreed.
- 26.2 During the lifespan of the contract and depending on the availability of funding the CA may purchase the depots and lease them back to the Operator as part of a separate agreement.
- 26.3 All maintenance facilities as required by the Operator must be provided in the depots at the cost of the Operator while the Operator owns the depots. Such facilities must be adequate for the type of operations, as required by the CA. *[Note: To be adapted if there are no facilities at depots and the Operator outsources vehicle maintenance.]*

## **27. LEASE OF DEPOTS**

### **A. Where the CA owns the depots:**

- 27.1 The CA hereby lets and the Operator hereby hires the following depots on the terms and conditions set out in the Lease Agreement, attached hereto for information purposes:
- Depot A situated at ... ..
  - Depot B situated at ... ..

*[This clause is applicable where the CA will acquire or build the depots and lease them to the Operator, possibly at no rental or a nominal rental. The lease agreement must set out full details of the lease of the depots, including a duty on the Operator to*



*maintain them, take out insurance for them, restore them in good condition on termination of the Agreement, etc.]*

**B. Where the Operator owns the depots and sells them to the CA:**

27.1 The Operator hereby sells and the CA hereby purchases the following depots on the terms and conditions set out in the Sale Agreement attached hereto for information purposes:

- Depot A situated at .....
- Depot B situated at .....

27.2 The monthly instalments payable to the Operator by the CA shall be added to each monthly claim and paid to the Operator as part of the monthly payment certificate.

27.3 The CA hereby lets and the Operator hereby hires the abovementioned depots on the terms and conditions set out in the Lease Agreement attached as Schedule ....

*[This clause is applicable where the CA will purchase the depots and lease them back to the Operator. In this case both purchase and lease agreement are required – they can be combined into one document. It should be noted that it may be possible for the CA to expropriate the property on which the depot is situated if the Operator refuses to sell. It will then have to pay market related compensation. It may be the case that another operator or a related company of the Operator owns the depots. In that case appropriate agreements will have to be concluded, e.g. CA buys or leases them.]*

**28. STAFF**

28.1 The Operator must provide a staff complement able to provide the services to be rendered in terms of this contract. Subject to section 197 of the Labour Relations Act 66 of 1995 (as amended) in respect of the previous operation of the services, the Operator must source the required employees from the operator of that previous contract and guarantee the jobs of those employees. Those jobs relate to the number of actual employees required by the Operator to execute this contract and exclude sub-contracting requirements, set-asides, reduction in the scope of the services and other measures taken by organs of state over which the Operator has no or little control, in respect of both the previous contract and this contract.

28.2 The Operator must conduct business in full compliance with all applicable labour legislation.

28.3 The Operator must ensure that all staff is properly trained, experienced and otherwise fit and proper for the duties to be performed by them under this contract.

28.4 The Operator must, and ensure that each sub-contractor does, ensure that all dedicated staff is provided with appropriate training in particular in the following areas:

- (a) Service requirements of passengers with disabilities;
- (b) management of confrontational or difficult passengers;
- (c) occupational health and safety issues;
- (d) customer care;
- (e) role of a bus driver;

- (f) inspection, dispatch and supervision of services;
  - (g) contract management; and
  - (h) compilation of claims.
- 28.5 If the Operator becomes aware that any member of staff is not fit and proper to execute his/her duties effectively, the Operator must take appropriate action to ensure that its ability to perform its obligations under this contract is not at risk.
- 28.6 The Operator must at all times and at its own expense provide and pay the remuneration of a fully competent, proficient and appropriately licensed driver for each vehicle used on the contract who in all ways complies with the provisions of applicable legislation. All such drivers must maintain the highest standards of courtesy and consideration to the public and to the CA's employees and agents. No driver may smoke, drink alcohol or take prohibited drugs on any vehicle, or be in any way under the influence thereof, whilst driving a vehicle in terms of the contract and must at all times adhere to the rules of the road and other prescriptions of the National Road Traffic Act.
- 28.7 The Operator must ensure that each driver holds the necessary professional driving permit required to drive public transport vehicles and—
- (a) has a thorough and detailed knowledge of the fares, routes and timetables;
  - (b) is provided with training in accordance with appropriate industry practice, as reasonably required by the CA;
  - (c) is attired in a clean, well maintained and appropriate uniform as required by the CA;
  - (d) has been the subject of appropriate security checks by the Operator as required by the CA;
  - (e) is familiar and well trained in the use of the EFVE system; and
  - (f) has a detailed knowledge and understanding of the driver's obligations regarding fare evasion and ticket failures.
- 28.8 The Operator must supply sufficient, competent management and support staff to manage the contract and oversee operations in accordance with Form 16.
- 28.9 If the Operator becomes aware that any driver is not fit and proper for any of the reasons referred to above, the Operator must source another/other drivers who are qualified to ensure that its ability to perform its obligations under this contract is not at risk in any material way.
- 28.10 The CA may require members of staff employed by the Operator and who perform their duties in view of the public to wear uniforms at all times while on duty, and the Operator must ensure that those staff members wear such uniforms as prescribed by the CA.
- 28.11 If the CA prescribes uniforms in terms of clause 28.10 the CA will supply the uniforms at its cost. The Operator must ensure that the uniforms are kept in good condition and worn in a professional manner and in accordance with the standards required by the CA, and must replace uniforms from time to time with the prior approval of the CA and at the cost of the CA.
- 28.12 The Operator must sign the Occupational Health and Safety Agreement attached as Schedule 13.

## **29. PUBLIC TRANSPORT STOPS**

- 29.1 The Operator may only use bus stops, including intermediate stops, authorized by the CA in its capacity as planning authority, or where the CA is a province, by the relevant municipality.
- 29.2 All vehicles operating along the routes must stop at authorised stops if there are passengers waiting or passengers wishing to alight, except where—
- a) the stop is not part of the route being operated;
  - b) the vehicle is operating express services and displays a sign to that effect;
  - c) the vehicle is not in service; or
  - d) the vehicle is full and displays a sign to that effect.
- 29.3 Vehicles must stop at any stop where requested to do so by an authorised representative of the CA or an authorised officer as defined in the Act, or where a passenger wishes to alight in an emergency.
- 29.4 At any stops, and the transfer points identified in Schedule 7, drivers must not allow passengers to board or alight until the vehicle has arrived at the stop sign to facilitate queuing and boarding.
- 29.5 Vehicles must not be parked at stops, other than while loading or unloading, so as to avoid causing delays to other traffic.
- 29.6 Where stops are used for transferring between modes or as timing points vehicles must not be delayed for longer than required by such actions.

## **30. ADVERTISING ON VEHICLES**

Advertising on vehicles is allowed only with the written consent of the CA and must comply with Schedule 3.

## **31. IMAGE AND MARKETING**

- 31.1 The Operator must contribute to and conform to the style guide provided in Schedule 11, which will define the use of graphics, information signage, timetables, advertising material and vehicle livery.
- 31.2 The CA wishes to develop a co-operative relationship to enhance the marketing of public transport. This will focus on the generic benefits of public transport and the marketing of special events. The Operator must participate in agreed marketing programs and initiate and conduct them as directed by the CA. If there are costs involved for the Operator that are not envisaged elsewhere in this contract, the CA will bear those costs.

## **32. FARES**

- 32.1 The primary method of fare payment and access to the integrated public transport services will be through contactless bank issued EMV (Europay Master Visa) dual

interface smart cards hosting the Department's AFC Data Structure as more fully described in the Electronic Fare Collection Guidelines published by the Minister as well as Schedule 10 and the Regulations referred to in the definition of EFVE in clause 1. Commuters must also be able to pay for single fares in cash on board the vehicles.

32.2 The fares to be charged by the Operator on all routes described in the Specifications shall be set by the CA, and the Operator must comply with the Act and other applicable legislation in this regard.

32.3 All fares collected and tickets handled by the Operator for the purpose of providing the services belong to the CA, therefore the Operator must, at all times—

- (a) account to the CA for the fares collected and tickets sold;
- (b) in collecting the fares, handling tickets and dealing with the fares collected, act with the utmost good faith;
- (c) in all other respects, use its best endeavours to ensure that passengers pay correct fares; and
- (d) in collecting fares and handling tickets, comply strictly with the—
  - (i) fare schedules published by the CA from time to time; and
  - (ii) the Ticket and Revenue Procedures Manual developed by the CA. *[Note: This needs to be developed to ensure proper accounting of fares collected and tickets sold.]*

32.4 The Operator must make all efforts to minimise fare evasion as directed by the CA and to maintain observable fare evasion to below two percent of total fares. In this regard the Operator must—

- (a) comply with the written directions of the CA in relation to fare evasion and take any steps in that regard directed by the CA; and
- (b) provide the CA with a Fare Evasion Plan for approval by the CA, not later than 14 days before the commencement date. The Operator must comply with such Plan once approved, and failure to do so will result in the imposition of penalties in terms of Schedule 6. The CA may direct changes to that Plan from time to time and the Operator must implement any changes forthwith.

32.5 Fares will be increased at least once per annum as determined by the CA. The increase may be based on the annual published Consumer Price Index (CPI) and will not be less than the CPI increase, coupled with increases or decreases in the price of fuel and spares and other factors that the CA considers relevant. The CA will give passengers notice of change of fares in the manner decided by it, at least 30 days prior to the date of the change after consulting affected passengers.

32.6 Whenever there is an increase or reduction in the price of the fuel used by the Operator, fares may be adjusted to reflect the increase or decrease in the manner and from the date determined by the CA.

32.7 Without limiting the CA's rights, the CA or an agent appointed by it may audit the Operator's performance of its obligations under this clause at any time.

### 33. ELECTRONIC FARE VALIDATION AND COLLECTION EQUIPMENT (EFVE) TICKETING SYSTEM AND FARE COLLECTION

*[Note: In an integrated system as well as a gross system the CA will have to take more control of the ticketing system used and the fares set. In the clauses below it is assumed that the CA will take the responsibility for providing and maintaining the equipment.]*

- 33.1 The CA shall supply the EFVE Ticketing System and electronic equipment relating thereto at stations and transfer points.
- 33.2 The Operator must ensure that all vehicles are installed with the Ticketing System as required by the CA in a timely manner on or before the date stipulated by the CA, prior to the time that the vehicle is required for use in providing the services.
- 33.3 The Operator must—
- (a) only use the EFVE Ticketing System, tickets and fares approved by the CA;
  - (b) not use the EFVE Ticketing System for the purpose of providing services other than those contracted with the CA without the consent of the CA;
  - (c) not give access to the EFVE Ticketing System to any party other than the CA and its authorised agents for any purpose whatsoever;
  - (d) not attempt to access or modify raw patronage or revenue data stored in the EFVE Ticketing System;
  - (e) not at any time permit a vehicle to leave a depot should there be any defect in the EFVE or if it becomes defective during operation, replace the vehicle immediately and if replacement is not possible, use a manual waybill system;
  - (f) use a common time obtained from the CA for recorded information and ensure that its staff regularly update the ticketing hardware time; and
  - (g) make its staff available for training in such equipment as and when required by the CA.
- 33.4 The Operator must ensure that passengers validate tickets upon boarding except when passengers are transferring to a replacement vehicle in the event of breakdown (in this situation the Operator must ensure that passengers do not validate their tickets).
- [Note: If the CA outsources the ticketing function this clause will have to be adapted accordingly.]*
- 33.5 The Operator shall provide assistance to passengers, as required, seeking to validate their ticket.
- 33.6 The CA shall provide the Operator with a copy of the Manual of Ticketing and Revenue Procedures not later than seven days before the commencement date.
- 33.7 All cash collected by the Operator in respect of the services through on-board collection, vending machines, portable validators and over-the counter-ticket sales is the property of the CA.
- 33.8 The CA is responsible for the management of bulk cash collection from ticket sales and the supply and maintenance of the drop safe. The CA shall specify the number of cash collection bags to be provided by the cash collector for each depot. Provision of additional cash collection bags, other than arising from normal wear and tear, shall be at the Operator's cost. The CA shall determine the method and bear the cost of

bulk cash collection from the Operator's depot.

- 33.9 The Operator is responsible and liable for the cash proceeds of ticket sales until they are signed for by the Cash Collector appointed by the CA. The Cash Collector is responsible and liable for the cash after it is removed from the Operator's secure storage and signed for by the Cash Collector. Any shortfall of cash from daily takings will be the responsibility of the Operator.
- 33.10 Should the EFVE become obsolete during the life of this contract and be replaced by a new or upgraded EFVE, the Operator must, at the cost of the CA—
- (a) participate in project teams associated with the planning for a new or upgraded system;
  - (b) assist the CA with implementation of the new or upgraded system;
  - (c) make staff available for training on the operation of the new or upgraded system;
  - (d) make vehicles and depot facilities available to the CA for installation of new or upgraded equipment; and
  - (e) provide any other reasonable assistance the CA requests.
- 33.11 Should the CA decide to implement new monitoring methods or equipment it may provide additional or different equipment, at the cost of the CA, at any time during the contract period. The CA will then negotiate with the Operator who must give full co-operation to the CA in this regard and see to it that the additional or new equipment is installed in all vehicles as required by the CA within the time so required. In this regard clause 33.10 will apply with the necessary changes.
- 33.12 All other issues related to the EFVE operation, support, maintenance, etc. will be dealt with as more fully described in Schedule 10.

#### **34. MONITORING AND CONTROL**

- 34.1 This contract includes allowance for performance incentives and penalties. In order to manage these and ensure that service quality is maintained, as well as to facilitate the payment of the Operator's claims, the CA may appoint an independent Supervision and Monitoring Firm (SMF) which shall—
- (a) Administer and supervise the contract to ensure contract compliance;
  - (b) Monitor the operation of the services according to an approved monitoring strategy;
  - (c) Impose penalties for non-compliance where necessary and calculate performance values;
  - (d) Arrange and chair weekly penalty meetings and monthly contract meetings;
  - (e) Arrange and chair meetings (other than monthly contract meetings) with the Operator;
  - (f) Verify and certify the Operator's payment certificates;
  - (g) Measure the Operator's performance against KPI benchmarks;
  - (h) Identify and assist the CA and Operator with routing and scheduling problems when necessary;
  - (i) Where appropriate, adjust services in terms of clause 16;
  - (j) Report any unusual events to the contract manager appointed by the Operator as soon as it becomes aware of them. This will not excuse or exonerate the Operator from any of its obligations in terms of this contract relating to such events; and

(k) Execute any other functions allocated by the CA.

- 34.2 Work to be carried out by the Representative and SMF in terms of clause 34.1 is detailed in Schedule 5.
- 34.3 The CA may decide not to appoint a SMF in which case it will designate officials to perform the functions of the Representative and/or SMF.
- 34.4 The Representative and SMF have no authority to release the Operator from any of its obligations in terms of the contract, nor are they empowered, except as stipulated in this contract, to issue any order that would impede the Operator, give rise to additional expenditure for the CA or result in an amendment to the services.
- 34.5 Despite any contrary provisions in this contract, the CA may reverse or amend a direction or decision of the Representative or SMF and make or issue new ones. Any such reversed, amended or new direction or decision shall for the purposes of this contract be deemed to have been issued by the Representative.
- 34.6 The CA, Representative and SMF may investigate any complaints, objections or representations made by passengers, local authorities or other interested persons relating to the services.
- 34.7 Should the Operator become aware that any of its employees have threatened the Representative or his/her delegates, the Representative's Deputy or employees of the SMF or CA the Operator must take immediate disciplinary or other appropriate steps to prevent a recurrence.
- 34.8 All communications between the Operator and the CA shall take place via the Representative except where specifically provided otherwise.
- 34.9 The Operator must inform all its employees of the identity, powers and duties of the Representative, Deputy and monitoring staff. For purposes of identification the SMF must provide its staff with a unique personal identity card with photograph.
- 34.10 With the objective of ensuring that services are provided as specified, the CA may direct that all buses be fitted with on-board Global Positioning System Tracking devices or other monitoring equipment. Provision for the installation of this equipment must be made in the costing of the services where vehicles will be solely owned by the Operator.
- 34.11 The CA will, through the Representative and, once installed, using the electronic monitoring equipment installed in the vehicles, monitor the services on a daily basis to optimize service provision to users through adjustment of timetables, quality of vehicles, customer relations and other aspects.

## **35. PENALTIES**

- 35.1 The services shall be fully monitored in the first three months of operation and all offences listed, but penalties will not be imposed in the first, second and third months. Thereafter penalties shall be imposed as set out in Schedule 6. In both cases revenue kilometres will only be paid for trips which have been operated.

- 35.2 The fact that a penalty has been imposed will not affect or prejudice any other remedy that the CA may have, and will not preclude the CA from exercising its other rights or remedies in terms of this contract for non-fulfilment by the Operator of its obligations.

### **36. COSTING OF SERVICE PROVISION**

- 36.1 This Contract is priced on the basis of a two part cost structure (a variable and fixed cost component) for every vehicle type to be used on the contract.
- 36.2 The various cost elements and the manner in which the variable and fixed cost per vehicle type is calculated is more fully described in Schedule 9.
- 36.3 The variable cost component of this contract will be subject to escalation as indicated in clause 37.
- 36.4 The fixed cost component of the contract will be subject to escalation as indicated in clause 37.

### **37. ESCALATION AND CALCULATION OF MONTHLY PAYMENT**

- 37.1 The fixed and variable contract rates shall be escalated monthly, in the manner set out in clause 37.2, but will be limited to the percentage increase in the Public Transport Operations Grant allocated to the CA by the Grant Framework published in terms of the Division of Revenue Act for the financial year in question.
- 37.2 The fixed and variable contract rates shall be escalated monthly, in the following manner:
- 37.2.1 The escalation formula set out in this clause is designed to compensate for variations in input costs affecting the agreed rates for the provision of the services.
- 37.2.2 The fixed costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the adjustment factor Y determined according to the formula set out below and:

$$Y = (1 - x) \left[ \left( a \times \frac{L_t}{L_o} \right) + \left( b \times \left( \frac{CPI_t}{CPI_o} \right) \right) \right]$$

Where  $a + b = 1$

And in which the symbols have the following meanings:

"x" is the proportion of fixed costs not subject to adjustment and its value is 2% (0,02).

"a" is the coefficient deemed to represent the proportionate value of labour costs linked to labour categories as determined by the Bargaining Council. A value of ... .. (...%) shall be applied for this contract.

"b" is the coefficient deemed to represent the proportionate value of the other fixed costs. A value of ... .. (...%) shall be applied for this contract.



"L" is the labour index for all hourly paid employees as published in Table C-3-Steel and Engineering Industries Federation of South Africa (SEIFSA) "Index of actual Labour Cost", SEIFSA Price and Index Pages.

"CPI" is the Consumer Price Index as published monthly by Statistics South Africa.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

- 37.2.3 The variable costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the variable cost adjustment factor Z determined according to the formula as set out below:

$$Z = (1 - x) \left[ \left( c \times \frac{F_t}{F_o} \right) + \left( d \times \left( \frac{PPI_t}{PPI_o} \right) \right) \right]$$

Where  $c + d = 1$

And in which the symbols have the following meanings:

"x" is the proportion of variable costs not subject to adjustment and its value is 2% (0,02).

"c" is the coefficient deemed to represent the proportionate value of fuel. A value of ..... (....%) shall be applied for this contract.

"d" is the coefficient deemed to represent the proportionate value of the other variable costs. A value of ..... (....%) shall be applied for this contract.

"F" is the "Fuel Index" and shall be determined as:

$$F = \alpha \times \frac{P_t}{P_o} + \beta \times \frac{D_t}{D_o} \text{ where } \alpha + \beta = 1$$

$P_o$ ,  $P_t$ ,  $D_o$  and  $D_t$  are the actual monthly petrol and diesel prices as published by the Department of Minerals and Energy on a monthly basis and are available on the following web address: [http://www.dme.gov.za/energy/liquid\\_prices.stm](http://www.dme.gov.za/energy/liquid_prices.stm)

$\alpha$  and  $\beta$  are the coefficients representing the proportion of petrol and diesel respectively, used in operating the fleet. The Operator must provide values for these, which will be adjusted in accordance with adjustments to the fleet.

"PPI" is the Producer Price Index for Imported Goods as published monthly by Statistics South Africa in P0142.1.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

37.2.4 If any index or price relevant to any particular certificate is not known at the time the value of the certificate is calculated, the latest published figures shall be used. Any correction that may be necessary shall be made by increasing or decreasing the subsequent monthly payments to the Operator.

37.2.5 The amount payable to the Operator "Ac" shall be determined by the formula:

$$Ac = Y \times (F - 50\%P) + Z \times (V - 50\%P)$$

The symbols in the formula have the following meanings:

"Y" is the fixed cost escalation factor as determined in terms of clause 37.2.2.

"F" is the total fixed cost component of the claim, reflecting the fleet available for service as certified by the Representative and will be determined by multiplying the fixed cost per bus as determined in terms of Schedule 9 by the number of buses operated (peak plus 10% spare capacity).

"Z" is the variable cost escalation factor as determined in terms of clause 37.2.3

"V" is the total variable cost component as certified by the Representative in the certificate under consideration and will be determined by multiplying the variable cost rate per kilometre as determined in terms of Schedule 9 by the number of scheduled kilometres actually operated.

"P" is the total value of penalties imposed for the period of the certificate under consideration.

## **38. PERFORMANCE MONITORING**

38.1 The underlying policy objectives of performance monitoring are to—

- (a) measure the reliability, punctuality and general operational efficiency of the services by means of a review of key performance indicators (KPIs);
- (b) measure the customer satisfaction with the services rendered;
- (c) encourage improved service provision and quality by providing for a remedial process where performance problems are identified and addressed; and
- (d) provide for a mechanism where compliance with KPIs can be used as a motivation for possible subsequent extension of the contract after the initial contract period up to the maximum period allowed by the Act.

38.2 The first six months from the commencement date will be considered as an establishment phase, and performance during that period will not be used in the performance measurement process, although penalties will be imposed after the Third month in accordance with clause 35 and Schedule 6. Thereafter, the performance of the Operator will be assessed on a monthly basis according to the following KPIs established by the CA:

- a) **Reliability** which measures the operator's ability to operate the contract timetable in terms of the percentage of scheduled trips actually operated. Trips not operated due to circumstances beyond the operator's control (e.g. accidents, traffic and strikes) are not taken into account for calculation purposes;
- b) **Punctuality** which measures the operator's ability to operate on-time. It is calculated in terms of the percentage of on-time departures and arrivals at terminal points and selected intermediate points;
- c) **Driver quality** which measures the technical ability (driving skills) and attitude of drivers as well as consideration for passengers. It is assessed through the following:
  - (i) complaints reported by passengers in which case it is calculated as the percentage of trips operated for which complaints were received; and
  - (ii) surveys whilst vehicles are in service to evaluate vehicle handling and customer interaction. In this instance it is calculated as the percentage of surveys that indicates that remedial action is required.

The data collated is shared with the operator in order to take action and address any areas of weakness that are identified. Remedial action taken by the operator is also monitored;

- d) **Vehicle availability** which measures the operator's ability to have available and operate the number of vehicles to operate the contract timetable. It is calculated as the percentage of scheduled trips that were not operated due to insufficient buses and/or spare capacity ;
- e) **Vehicle quality** which measures the operator's ability to maintain and operate the quality of vehicles required in terms of Schedule 2. It is evaluated in terms of both the general and technical condition of vehicles;
  - (i) General vehicle condition relates to the general appearance of vehicles that is assessed through inspections or monitoring at terminals and intermediate timing and monitoring points. It is calculated as the percentage of trips operated that incurred penalties related to unsatisfactory vehicles as per item 6.2 of Schedule 6;
  - (ii) Technical vehicle condition relates to the technical performance/quality of vehicles. It is calculated as the number of scheduled trips that were not operated due to breakdowns caused by poor vehicle maintenance or failure to adhere to maintenance procedures. It is also assessed through technical bus inspections at depots by suitably qualified staff. Defects are noted and given a score, with higher scores for more serious defects. The key measure is the average number of points per vehicles, with a target of zero. The evaluation also includes an assessment of maintenance procedures and the operator's vehicle pass rate at roadworthy certificate tests.

The results of the assessments are made available to the Operator in order to take action and address any areas of weakness that are identified. Action taken is also monitored;

- f) **Safety** relates to the operator's ability to provide a safe service. Failure can result in the loss of this contract whilst unsatisfactory performance can also lead to the failure to win new contracts. It is measured as the percentage of trips

operated that were involved in accidents directly caused by either poor driving skills or judgement of drivers, poor vehicle maintenance, insufficient or poor safety policies, procedures and risk assessments or failure to implement or adhere to such policies and procedures. Checks on safety policies, procedures and risk assessments are conducted through visits to operating premises and interviews with operational staff. These visits are followed by a report highlighting areas of concern and an action plan. This plan is then reviewed in consultation with the Operator and forms the basis of the next inspection.

- g) **Revenue protection** measures the operator's commitment to implement fare evasion procedures and its ability to ensure that the observed fare evasion is kept below 2%. It is assessed through random audits conducted by the CA or SMF;
- h) **Passenger satisfaction** is measured through passenger satisfaction surveys to assess and monitor passengers' satisfaction with the quality of services provided and identify areas for improvement;
- i) **Contract compliance** relates to the operator's ability to comply with the contract specifications. Areas that will be specifically focused on include the following:
  - (i) Submission of information and reports;
  - (ii) Adherence to decisions taken and instructions given by the CA and the SMF;
  - (iii) Training of staff; and
  - (iv) Revenue collection which entails the fitting and maintenance of ticketing equipment.

38.3 The KPI performance benchmarks (standards) against which the Operator's performance will be measured are summarised in Schedule 8.

38.4 The Operator's performance in terms of the KPI benchmarks will be reported on by the SMF in its monthly monitoring reports and at monthly contract meetings.

38.5 The CA will commission annual customer satisfaction surveys, as more fully described in Schedule 8, to obtain customers' viewpoints on aspects related to, but not limited to—

- a) service delivery;
- b) railway stations and other public transport stops and their proximity to points of origin and destination;
- c) passenger comfort;
- d) ticketing;
- e) information services (including timetables);
- f) personal safety;
- g) value for money;
- h) staff service; and
- i) accessibility.

38.6 The contract may be renewed by the CA for a further period of five years in terms of clause 3.2 if the Operator, on the CA's assessment, has met the conditions as set out in clause 38.8.

38.7 The extension of the contract for years eight to twelve will be subject to a Contract Performance Review that will take place during the first three months of year seven of this contract based on the monthly reviews contemplated in clause 38.2.

Detailed information on the review process is given in Schedule 8.

- 38.8 Extension of this contract for a subsequent term will only be considered if the CA is satisfied that—
- (a) The Operator has met the Reliability Benchmark in all of the 78 months considered for assessment;
  - (b) The Operator has met the Punctuality Benchmark in at least 70 of the 78 months considered for assessment;
  - (c) The Operator has met the Customer Experience Benchmark in at least 52 of the 78 months considered for assessment;
  - (d) The Operator has on average over the 78 months considered for assessment met at least 95% of the Performance Benchmarks; and
  - (e) The Operator has not been issued with a letter for breach of any of the contract conditions during the course of the contract that has not been remedied or waived in accordance with the requirements of this contract to the CA's reasonable satisfaction.
- 38.9 The details of the performance assessment regime may be varied from time to time by the CA in consultation with the Operator.
- 38.10 If the Operator fails to meet any KPI benchmark, the Operator must, at its own cost—
- (a) investigate and report to the CA within five business days the underlying causes of the failure to meet the performance benchmark; and
  - (b) on being required to do so by the CA, take the necessary action to address the reasons for not achieving the performance benchmarks.
- 38.11 The Parties must meet periodically and at least annually to review the Operator's performance against the performance benchmarks and, if appropriate, discuss what steps the Operator should take to improve such performance. Information regarding these reviews is given in Schedule 8.

## **39. PAYMENT FOR SERVICES AND SUPPORTING DOCUMENTATION**

- 39.1 The Operator shall be paid monthly for providing the services set out in Schedule 7 and for approved variations in accordance with clause 16, in an amount calculated by multiplying the total revenue kilometres operated by vehicle class by the applicable variable contract rates, plus an amount calculated by multiplying the number of peak vehicles per class operated by the applicable fixed contract rates, less any penalties.
- 39.2 The Operator will not be paid for positioning or dead kilometres.
- 39.3 The amount payable as calculated in clause 39.1 will be escalated in terms of clause 37, after which amounts to be withheld under clause 35 and Schedule 6 will be deducted. Actual route distances as set out in Schedule 7 or agreed between the Operator and the Representative shall be used to calculate revenue kilometres for each trip.

- 39.4 The onus is on the Operator to prove that trips have been operated. The Operator must note that regulator sheets and depot departure documents are not considered as evidence of a trip having operated in accordance with the timetable.
- 39.5 Not later than seven days after the end of each month, the Operator must submit to the Representative a monthly claim form in the format prescribed by the CA in Form 1.
- 39.6 To support the calculation of the Operator's monthly claims and to enable proper monitoring of performance, the Operator must supply the CA monthly with the following written statistical data and information for each driver's duty/shift or part thereof as part of a journey analysis report in the format set out in Schedule 12:
- (a) the scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
  - (b) detail of trips not operated and reasons therefore;
  - (c) revenue kilometres of each trip;
  - (d) cash and multi-journey ticket (MJT) passenger numbers for each trip;
  - (e) the number of each type of MJT presented on each trip;
  - (f) the value of the cash fares collected;
  - (g) the value of MJT fares collected;
  - (h) the number of each passenger type not required to pay for the trip being made (e.g. pensioner, scholar, under-age child);
  - (i) waybills in the format shown in Form 24 if the EFVE is not yet installed or has failed; and
  - (j) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract;

The Operator must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the contract period.

- 39.7 The Operator must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 39.8 Claim forms must be prepared by the Operator, and checked and certified as correct and payable by the Representative.
- 39.9 The monthly claim forms will only be certified by the Representative if he/she is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.
- 39.10 The Representative may, before submitting a claim form to the CA as a payment certificate, make any correction or modification to that certificate or any previous payment certificate(s) and may withhold certification in respect of any part of the services not being operated to his/her satisfaction.
- 39.11 The Representative must submit the payment certificate to the CA as soon as possible, but not later than seven days after receipt thereof, error free, from the Operator. Where the Representative has amended a claim form or payment certificate, he/she must supply a copy of the amended form or certificate to the Operator.
- 39.12 The CA must effect payment to the Operator as soon as possible but not later than 14 days after receipt of the error free payment certificate from the Representative. All

payments will be made directly into the bank account of the Operator, details of which must be supplied by the Operator. The CA may reject any payment certificate submitted by the Representative that contains errors. The rejected certificate must be returned to the Representative for correction and no discussions in this regard will be entered into between the CA and the Operator.

- 39.13 Should the Operator, for whatever reason, owe an amount to the CA, the CA may set it off against any moneys that may be owing to the Operator by the CA in terms of a monthly payment certificate.
- 39.14 The certification or approval of a payment certificate by the Representative and/or the CA shall not be deemed to be approval of, or waiving of rights regarding any services or other matter in respect of which it was issued, or be taken to be an admission of the due performance of the contract or any part thereof, or of the accuracy of any claim made by the Operator, and no certificate shall revoke or prejudice any of the rights and powers of the CA and the Representative. No such certificate shall deprive the CA or the Representative of any right they may have regarding wrongful acts or breach of contract on the part of the Operator that may appear or become known later.
- 39.15 To collect and supply that portion of the required data and information as listed in clauses 33 and 34 which is capable of being electronically collected, the Operator must, within 30 days after the equipment has been made available to the Operator, ensure that the EFVE equipment selected, provided and paid for by the CA and tracking devices are installed and in use on all vehicles.
- 39.16 While EFVE and tracking devices have not yet been installed, the onus will be on the Operator to supply the correct information by means of manual waybills. The CA may decide not to pay any claim without adequate documented proof of the required data and information: Provided that if the equipment has not been made available to the Operator, the Operator is entitled to additional remuneration for costs related to employing additional temporary staff or having to pay overtime of permanent staff to compensate for having to provide the information manually in amounts to be agreed between the parties.
- 39.17 If the Operator fails to install the EFVE and/or tracking equipment, ensure that it is in a working condition, supply it timeously to the supplier for maintenance, or to provide the required information in either electronic format or by means of manual waybills, penalties shall be imposed in terms of Schedule 6.
- 39.18 In the event that EFVE and tracking devices become defective, the alternative method of presenting the required data and information will be by using hand-written emergency waybills that are signed by the driver as to the correctness of the detail and also by the depot supervisor certifying that the EFVE malfunctioned. The emergency waybill must detail all of the information required in Form 5. These signed and certified waybills must be presented to the Representative within 24 hours of each occurrence.
- 39.19 The software which is used to record the daily and monthly summarised trip information must be capable of generating an Excel file.
- 39.20 In addition to any information requested in terms of clause 39.6, the CA may at any time request the Operator to provide any information regarding the operation of the contract, including, but not limited to, cost elements that influence the provision of services, imposition of fares, installation of EFVE and tracking devices and any other

matter that may affect payments to the Operator. The Operator must comply with such a request within seven days, or such other period as the CA may determine, which may be less than seven days where information is urgently required. Failure to do so will result in penalties being imposed in terms of Schedule 6.

- 39.21 Where the Operator is performing more than one negotiated contract, subsidised service contract, current tendered contract or interim contract contemplated in Chapter 5 of the Act, all information must be provided separately per contract, i.e. consolidated information in respect of more than one such contract will not be acceptable.
- 39.22 If in the opinion of the CA the Operator provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Operator or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Operator. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—
- (a) the CA may immediately appoint auditors to check and verify all books and records of the Operator and the Operator hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
  - (b) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
  - (c) the onus of proof shall be on the Operator to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to respond to the allegations, which are set out in the notice. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the CA may proceed with the action as set out above.

- 39.23 The CA may, with the consent of the accounting officer of the CA as required by the MFMA/PFMA and any other relevant person or body, amend the contract rates in the case of extraordinary circumstances. Such amendment will take effect from the date, as determined by the CA, upon which such circumstances arose. For the purposes of this sub-clause "extraordinary circumstances" shall include, but not be limited to—
- (a) the fact that road or other physical conditions have deteriorated or improved to an unforeseeable extent; or
  - (b) any other unforeseeable circumstance that is extraordinary in the opinion of the CA, but excludes natural growth in patronage and service requirements;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to comment on the proposed amended rates, which are set out in the notice together with the reasons for the proposed change. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the contract rates will be amended as from the date of expiry of the said period of seven



days. If the Operator is dissatisfied with the amended rates it may declare a dispute under clause 41.

39.24 The CA may, in its sole discretion, pay to the Operator a single lump sum to defray establishment costs, over and above other amounts payable to the Operator in terms of this contract, in an amount determined by the CA, provided that—

- (a) The Operator was not the operator of a previous contract for services in the area for a period immediately preceding the contract period;
- (b) The CA is of the opinion that such payment is fair and justified in the circumstances;
- (c) The Operator has complied with clause 39.25;
- (d) The amount must be refunded to the CA if the contract is terminated within 180 days after the commencement date for any reason that can be ascribed to the Operator; and
- (e) The funds available to the CA to finance the contract allow for the payment of such costs, as decided by the CA.

39.25 The Operator must, if it wishes to claim establishment costs, not later than 30 days before the commencement date, submit a properly completed Form 11 and supply the information required by that Form to enable the CA to evaluate the request for payment of establishment costs. The CA will inform the Operator not later than 14 days before the commencement date whether the claim was successful or not.

39.26 If the Operator's claim for establishment costs is successful, the costs will be paid to the Operator not later than seven days before the commencement date.

39.27 Should the CA fail to pay a monthly claim of the Operator within the 30 day period contemplated in clause 39.12, the CA will pay interest at the rate prescribed from time to time in terms of the Prescribed Rate of Interest Act 55 of 1975 on the outstanding amount or amounts until the date of payment, subject to the Operator having provided all of the required information and having submitted an error-free claim form to the Representative, and subject to the other provisions of this clause." *[Note: still to be discussed with National Treasury and approved by Senior Management of the Department]*

## **40. RELAXATION**

40.1 Except as otherwise stated, no latitude, extension of time or other indulgence which may be given or allowed by either Party to the other will operate as a waiver or a novation, or otherwise affect any of that Party's rights in terms of or arising from this contract or stop such Party from enforcing strict compliance with the terms of this contract.

40.2 A failure by either Party to enforce any provision of this contract shall not constitute a waiver of that provision or affect that Party's right to require performance thereof at any time in the future.

## **41. SETTLEMENT OF DISPUTES**

41.1 The Operator may appeal to the CA against the imposition of any penalty in terms of clause 35 or Schedule 6 or against any variation in terms of clauses 16 or 39.23, by

giving written notice to the CA within 14 days of the penalty or variation coming to its knowledge. If the Operator is not satisfied with the CA's decision, it may declare a dispute in terms of clause 41.2.

- 41.2 Should any dispute or difference of any nature whatsoever arise between the Parties in connection with or arising from this contract, whether a dispute contemplated in clause 41.1 or otherwise, the Party declaring the dispute or difference must notify the other Party in writing, and the Parties must attempt to resolve the matter within 21 days of the notice. If no resolution can be achieved within that period, the dispute or difference must be settled by way of mediation in the manner provided for in regulation 7 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 published under Notice R.877 of 31 August 2009 in *Government Gazette* 32535 or, where applicable, by arbitration under regulation 8 of those Regulations, reading in the necessary changes, unless the Parties agree in writing to another dispute resolution procedure.
- 41.3 Where the proceedings contemplated in clauses 41.1 and 41.2 are deemed to be inappropriate by a Party to the dispute, nothing in this Contract will prevent a Party from approaching a court for urgent relief.
- 41.4 The Operator must despite any dispute, difference or settlement procedure continue to provide the services in accordance with this contract.
- 41.5 This clause shall survive the termination or cancellation of this contract.

## **42. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

The Parties must keep confidential and not disclose without prior written consent of the other Party any information supplied by either Party, or that is contained in the contract documents, being information contemplated in Chapter 4 of the Promotion of Access to Information Act<sup>2</sup> of 2000, except where obliged to do so in terms of law. All contract documents shall remain the property of the CA and may not be sold or otherwise disposed of. Also, all documents and data prepared by the Operator in connection with the services which are lodged with the CA shall become the property of the CA.

## **43. CHOICE OF LAW**

The law of the Republic of South Africa shall be applicable to this contract and any matter arising there from. The Operator must abide by all applicable statutes, regulations, ordinances, by-laws and other laws and binds itself to accept the jurisdiction of the courts of law of the Republic of South Africa in respect of any matter arising out of this contract.

## **44. CONTRACT DOCUMENTS**

- 44.1 All of the documents constituting this contract are to be read in conjunction with each other.
- 44.2 The several documents constituting the contract are to be regarded as mutually explanatory. In the case of ambiguities or discrepancies in these documents, or in the case of uncertainty as to the meaning or intention of any part of these

documents, the Operator must refer this to the Representative so that it may be explained and rectified. The Operator is responsible for the consequences arising from neglect to take this precaution. When the Representative is notified of such ambiguities, discrepancies or uncertainties, he/she must, in consultation with the CA, issue instructions to the Operator directing what is to be done: provided always that if the Operator is of the opinion that the Representative's instructions will result in additional expenses for the Operator which the Operator could not reasonably have anticipated, the Operator may declare a dispute in accordance with clause 41.

- 44.3 In case of a conflict the order of precedence of the documents shall be as follows subject to any amendments in writing contemplated in clause 46:

- (a) These Conditions of Contract;
- (b) Tender Rules;
- (b) Schedules 1 to 13; and
- (c) Forms (Volume 3).

These documents, together with any such amendments, constitute the contract documents.

#### 45. **DOMICILIA AND COMMUNICATION**

- 45.1 The *domicile citandi et executandi* in the RSA of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this contract shall be:

The CA: .....  
The Operator: .....

The postal addresses of the Parties are:

CA: .....  
Operator: .....

The telefax numbers of the Parties are:

CA: .....  
Operator: .....

The e-mail addresses of the Parties are:

CA: .....  
Operator: .....

- 45.2 The Parties must give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

- 45.3 Communication must be maintained by using the following methods:

- (a) hand delivery to a responsible person during ordinary business hours at the domicilium address mentioned in clause 45.1;
- (b) prepaid registered post;
- (c) telefax; or

- (d) electronic mail (e-mail).
- 45.4 Any notice given in terms of this contract must be in writing and shall be deemed to have been received by the addressee, unless the contrary is proved—
- (a) on the date of delivery, if delivered by hand;
  - (b) on the eighth day following the date of posting, if sent by prepaid registered post; or
  - (c) on the day after dispatch, if sent by telefax or e-mail, provided that the recipient has acknowledged receipt by telefax or e-mail on that day.

#### **46. ENTIRE CONTRACT**

- 46.1 On acceptance of the tender the documents mentioned in clause 44 and approved alterations thereto shall constitute the full agreement between the Parties, and no other representations or terms shall form part thereof unless reduced to writing and signed by or on behalf of the Parties.
- 46.2 No amendment of this contract or of any provisions or terms thereof, and no extension of time or waiver or relaxation or suspension of any of the provisions or terms of this contract shall be of any force or effect unless reduced to writing and signed by both parties hereto.

#### **47. BREACH**

- 47.1 Where the CA discovers that—
- (a) the Operator has committed an act of insolvency or is insolvent;
  - (b) the Operator has made a compromise with its creditors or assigned in favour of its creditors;
  - (c) the Operator has agreed to carry out the contract under the supervision of a committee representing its creditors;
  - (d) the Operator has been sequestered or gone into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator has been placed under judicial management or becomes subject to business rescue proceedings in terms of Chapter 6 of the Companies Act 71 of 2008; or
  - (e) judicial execution has been levied on the Operator's goods,

the CA may, subject to the Companies Act, 2008, demand in writing that the Operator deposit in cash with the CA not more than ten percent of the amounts estimated to be due to the Operator over the remainder of the contract period (excluding an extension for the five year period contemplated in clause 3.2). The CA will hold the said amount in trust as a pledge for the remainder of the contract period to cover any failure by the Operator to fulfil its obligations under this contract and/or any damages the CA may suffer, and will repay it to the Operator within 14 days after expiry or termination of the contract, after deduction of any amounts owing by the Operator to the CA. The Operator must comply with such a demand within seven days of receipt thereof, failing which the CA may terminate the contract.

- 47.2 Where the penalties imposed in terms of Schedule 6 amount to more than ten percent in a particular consecutive four-week period of the total amount payable in respect of that period, the CA may deliver a written notice to the Operator informing it

that this contract will be terminated on further written notice if such penalties so exceed ten percent in any subsequent four-week period. If such a notice is sent and the penalties do again exceed that percentage in any subsequent four-week period, the CA may terminate the contract forthwith on further written notice and without granting the Operator any further opportunity to rectify the matter.

47.3 Where—

- (a) the Operator delegates, cedes or sub-contracts the contract or part thereof without having obtained the CA's consent in writing; or
- (b) the Operator has approached anyone including any official or agent of the CA, the Representative or any person in the service of the SMF before or after tenders have been called for, with the aim of influencing the award of the contract in its favour; or
- (c) the Operator, when advised that its tender has been accepted, has given notice of its inability to sign or execute the contract; or
- (d) the Operator has entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from tendering for this contract, or as to the amount of the tender to be submitted; or
- (e) the Operator has disclosed to any other person, firm or company the exact or approximate amount of its proposed tender before the closing date for tenders, except where disclosure, in confidence, was necessary in order to obtain insurance premium quotations required for the preparation of the tender; or
- (f) the Operator has deliberately furnished inaccurate information in its tender either as regards its previous experience or the vehicles at its disposal for the services, or with regard to any other material information; or
- (g) the Operator's operating licences necessary to provide the services are withdrawn or suspended; or
- (h) the Operator fails at any stage to comply with the requirements of the Act; or
- (i) the Operator has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the CA in connection with the tender process or the obtaining or execution of this contract; or
- (j) the Operator has acted in a fraudulent manner in obtaining or executing any contract; or
- (k) the Operator has abandoned any of his or her obligations in terms of this contract; or
- (l) the Operator is discovered to have provided incorrect, false or fraudulent information at any stage;
- (m) the Operator consistently fails to observe the specifications set out in any of the Schedules whether or not penalties have been imposed, with the result that the quality of the services is unacceptable to the CA; or
- (n) the ownership control in the Operator has changed without the consent of the CA,

the CA may, without prejudice to any other rights it may have, terminate this contract and, if appropriate, claim damages from the Operator, in addition to any other lawful remedy the CA may have. For the purpose of paragraph (m), the Operator will be regarded as having consistently failed to observe the specifications where the CA provides a written certificate to that effect. If the Operator disagrees with the CA's opinion, he or she may declare a dispute under clause 41.

47.4 Where the Operator has breached or failed to comply with any term of the contract as contemplated in clause 47.3, or commits another breach of the terms or conditions of

this contract other than one contemplated in clause 47.2 (excessive penalties – in which case that sub-clause applies), the CA may give the Operator at least 30 days' written notice to rectify the matter, and, if the Operator has not remedied the breach within the said 30 days, without prejudice to any other rights the CA may have, the CA may—

- (a)
  - (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
  - (iii) claim any other lawful remedy the CA may have, or
- (b) without prejudice to its rights under paragraph (a) or to any other rights of the CA in terms of this contract, the CA may, without terminating the contract, take steps itself or have steps taken by others on its behalf to give effect to the CA's orders not carried out by the Operator, and notify the Operator in writing that—
  - (i) such steps have been taken;
  - (ii) that the Operator must satisfy the CA by written proof within a time stated in the notice that the Operator will be able to resume the services to the CA's satisfaction by a stated date;
  - (iii) the Operator must resume the services to the satisfaction of the CA by that date; and
  - (iv) if the Operator fails to comply with either (ii) or (iii), the CA may act under paragraph (a).

47.5 The CA may terminate the contract on three months' written notice of such termination being given to the Operator, where—

- (a) there has been some defect, error or failure to comply with applicable laws or rules in the tender process or in awarding the contract that requires the contract to be terminated; or
- (b) applicable transport planning shows that the services are no longer required or are no longer required in their present form or that another transport mode will be more suitable; or
- (c) national, provincial or local transport policy requires it.

In such a case the CA must pay to the Operator such damages as the Operator is able to prove, provided that such damages shall not exceed ten percent 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.

47.6 Where the contract is terminated under this clause the CA may require the Operator to continue providing the services for a maximum of 30 days after the date of termination, but subject to section 41(3) and 42(5) of the Act.

47.7 Where the contract is terminated—

- (a) the Operator must leave the service area at the expiry of the period contemplated in clause 47.6, or on the date of termination of this contract, as required by the CA, despite the fact that a dispute may have been declared under clause 41, or that any Party has applied to a court for relief, and whether or not the Operator disputes the validity of the relevant notice of termination;

- (b) the Operator undertakes not to operate services in the service area after the expiry of the period contemplated in clause 47.6, or on the date of termination of this contract, as the case may be, despite the fact that the Operator may hold operating licences or permits authorising such operation, and undertakes to submit any such licences or permits to the relevant regulatory entity for cancellation; and
- (c) the CA may employ another operator to complete the contract or any part thereof at its option.

47.8 Should the amounts the CA must pay to have the services provided for the remainder of the period of this contract, where it is terminated as contemplated in this clause, exceed the sum that would have been payable to the Operator on due completion by it, the Operator shall upon demand pay to the CA the difference and it shall be deemed a debt due by the Operator to the CA and shall be recoverable accordingly.

47.9 Termination of the contract shall be without prejudice to any rights of the CA in respect of any antecedent breach of contract by the Operator.

47.10 In the event of the CA breaching any terms or conditions of the contract, the Operator may give the CA at least 14 days' written notice of such breach, calling upon the CA to remedy the same. Should the CA fail to remedy the breach in accordance with the notice, this contract may either be terminated by the Operator giving a further 14 days' written notice, during which the Operator must still provide the services under the contract, or at the option of the Operator, it may institute a claim for damages and/or sue for specific performance against the CA, or claim any other lawful remedy that the Operator may have against the CA, without prejudice to any other rights the Operator may have.

47.11 Should more than 30% of the monthly scheduled kilometres not be provided for three consecutive months due to reasons contemplated in clause 15, either party may terminate the contract, but not less than 30 days after the end of the third such month. Neither party shall have any claim against the other arising out of such termination.

47.12 In the case of termination of this contract in terms of this clause, except for clause 47.10, the CA 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 CA on request.

## **48. GENERAL MATTERS**

48.1 This document and its annexures constitute the entire contract between the Parties and neither Party may rely on any representation, undertaking, term or condition that is not included in this document.

48.2 No agreement to vary, add to or cancel this contract shall be of any force or effect unless reduced to writing and signed on behalf of the Parties.

48.3 This contract will be signed as two identical originals, which both together will constitute the entire agreement between the Parties.

## **49. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this contract.

## **SCHEDULES**

1. Specifications for rebuilt and rehabilitated buses
2. Vehicle specifications
3. Specifications for advertising on vehicles
4. Contract management plan, business plan and monthly and annual reports
5. Duties to be performed by the Representative, Deputy and SMF
6. Penalties
7. Specifications: Routes, distances, services, fares, timetables, stops and additional related information
8. Performance monitoring
9. Calculation of fixed and variable contract rates
10. EFVE operation
11. Style Guide for Image and Marketing
12. Journey Analysis Report
13. Occupational Health and Safety Agreement
14. Pro Forma sub-contracting agreement



## **SCHEDULE 1: SPECIFICATIONS FOR REBUILT AND REHABILITATED BUSES**

### **1. Rebuilt bus**

**“Rebuilt bus”** means that a new body has been built on a rebuilt chassis, that all the compulsory vehicle standards applicable to the body as laid down by the latest requirements of the South African Bureau of Standards (SABS), the Standards Act 29 of 1993 and /or the National Road Traffic and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the bus complies with the following:

#### **A. Body rebuilt by a registered and SABS approved bus body builder**

- (a) Body superstructure conforming to SABS 1563: 1992 roll-over protection requirements;
- (b) New lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (c) Rear reflectors and side reflectors (where fitted) conforming to SABS 1046;
- (d) Chevron conforming to SABS 1329;
- (e) Seats and anchorages conforming to SABS 1564;
- (f) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (g) Class II rear view mirrors conforming to SABS 1436;
- (h) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (i) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (j) Minimum ceiling height 1,75m;
- (k) Individual axle mass loads to be established and mass distribution to be within permissible limits, seated and standing passengers to be based on 68kgs per passenger, with luggage based on 100kgs per cubic metre;
- (l) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (m) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

#### **B. Electrical**

- (a) New wiring harness to be fitted; and

- (b) Wiring and electrical connectors to conform to SAE J 1292: (Per SABS)

C. **Mechanical**

- (a) Chassis stripped and cleaned (either shot-blasted or sand-blasted);
- (b) Chassis cracks are not permitted. Cracked components to be replaced; loose rivets or bolts to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Full paint treatment to be applied to chassis;
- (e) Reconditioned or new engine, fuel pump, compressor, gearbox, radiator alternator, starter motor, steering pump and box, differential, front and rear axles, steering components, to be fitted, to OEM specifications;
- (f) Springs to be scragged and shock absorbers to be replaced;
- (g) New colour-coded air hoses to be fitted throughout, with reconditioned brake valves;
- (h) Air reservoirs and fuel tanks to be cleaned;
- (i) Fuel pipes to be renewed;
- (j) New tyres to be fitted to front wheels and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (k) In the event of a bus-train the articulation component must be SABS approved and items such as coupling, turn table, bellows, etc must be replaced/reconditioned to OEM specifications.

A Rebuilt Bus shall be deemed to be three years old on the date of the completion of the rebuilding.

Midibuses and minibuses may not be rebuilt.

2. **Rehabilitated bus**

“**Rehabilitated bus**” means that only the floor and the inner and outer cladding of the body must be removed to facilitate close *in situ* examination and repair of the superstructure framing, that new cladding and floor is fitted and that all the compulsory requirements (excepting rollover conforming to SABS 1563) as laid down by the latest requirements of the SABS, the Standards Act 29 of 1993 and /or the National Road Traffic Act and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the vehicle complies with the following:

A. **Body rehabilitated by a registered bus body builder**

- (a) Lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (b) Rear reflectors , and side reflectors (where fitted) conforming to SABS 1046;
- (c) Chevron conforming to SABS 1329;
- (d) Seats and anchorages conforming to SABS 1564;

- (e) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (f) Class II rear view mirrors conforming to SABS 1436;
- (g) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (h) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (i) Minimum ceiling height 1,75m;
- (j) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (k) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

Electrical wiring to be reworked and be in safe working order.

**C. Mechanical**

- (a) Chassis to be inspected *in situ*;
- (b) Chassis cracks are not permitted. Cracked chassis members to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Springs to be scragged and shock absorbers to be replaced;
- (e) Air reservoirs and fuel tanks to be cleaned;
- (f) Fuel pipes to be renewed;
- (g) New tyres to be fitted to front wheels, and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (h) In the event of a bus-train the articulation components must be reconditioned to OEM specifications.

A Rehabilitated Bus shall be deemed to be eight years old on the date of completion of the rehabilitation. *[Note: This may have to be revised or qualified given the 12 year contract period, e.g. to state that one rehabilitation during that period will be sufficient.]*

Midibuses and minibuses may not be rehabilitated.

## **SCHEDULE 2: VEHICLE SPECIFICATIONS**

The Operator must provide at least the following numbers and types of vehicles by the commencement date to operate the services as indicated on the timetables in Schedule 7, in addition to the 10% spare capacity required by clause 24.2 of the Conditions of Contract:

..... minibuses

..... midibuses;

..... standard buses;

..... maxi-buses;

..... bus-trains; and

..... bi-articulated bus trains.

The Operator may choose to provide larger vehicles than those specified, if they meet the requirements of this Schedule and Schedule 2, but the Operator will not receive additional compensation for such larger vehicles unless their introduction is necessitated by additional revenue kilometres approved as a variation under clause 16 of the Conditions of Contract and is approved by the CA in writing, and subject to Item 2.8 of Schedule 9.

All vehicles used to provide the services in terms of this contract must comply with the following specifications:

### **1. Accessibility requirements**

1.1 All vehicles must adhere to and comply with the following accessibility requirements by the date contemplated in clause 21 of the Conditions of Contract:

- 
- door opening to be 850mm wide with 1450mm head clearance;
- first step to be a maximum of 250mm above ground (retractable first step is also permissible), following steps with a maximum height of 230mm and a minimum depth of 250mm;
- use of high-contrast colours on steps, grab rails, seat frames and edges of stairs, which conform to the requirements of SANS 10400 (S) for persons with disabilities and which increase the visual clarity of the interior;
- sufficient grab rails or handles adjacent to the entry and exit points, seats and by all steps shall be fitted with 25 to 35mm diameter and at a

comfortable height from finished floor level for all special needs passengers, with suitable visual clarity. The aim is to ensure that special needs passengers can enter the vehicle, gain access to their seat, and leave the vehicle in safety, comfort and convenience;

- 1.2 In addition to the requirements of Item 1.1, the tenderer may tender to provide vehicles that are more universally accessible to all special categories of passengers. The additional costs involved must be reflected in the tendered rates. In such a case the tenderer's proposals and rates will be evaluated as part of the tender evaluation process. This could include providing for the following:

**Equipment and reserved seating:**

- equipment to display the route and destination externally on the front and side of the vehicle shall be provided internally, where it is visible to passengers. Lettering on all signs inside the vehicle to be at least 25mm for a viewing distance of 7,5m unless different sizes are required for specific signs; and
- reserved seating next to the entrances for persons with disabilities, elderly people, pregnant women or passengers with any other mobility difficulties.

**Steps:**

- The rise of each tread step must be the same height and not exceed 170mm.
- Solid risers must be provided in all accessible routes.
- A stairway must be provided with handrails on both sides of the stairway. The stairway may not include any winders as defined in SANS 10400-M.
- No spiral stairway may form part of an accessible route.
- Nosings must effectively contrast with their immediate surroundings. The minimum dimensions of each nosing must be 40mm by 40mm.

**Grabrails:**

The tube of any grabrail must have an outside diameter between 32mm and 38mm.

**Visual clarity:**

Colour, tone and luminance contrast should be used to aid the identification of critical surfaces. Externally, critical surfaces include guiding walls, steps, rails and textured guidance surfaces. Internally, critical surfaces that require an effective light reflective value (LRV) are ceilings, walls floors, stairways, doors and significant fixtures and fittings.

LRV is measured by a spectrophotometer being the light reflected from a surface in standard conditions and expressed on a scale of 0 to 100 where black is about 5 and white about 90.

- 1.3 The Operator must comply with any regulations that may be made in terms of section 8(1)(y) of the Act at the Operator's cost.

## 2. Vehicle standards

- 2.1 All vehicles must conform to the requirements and regulations of the National Road Traffic Act or other applicable legislation and applicable SABS standards as from the commencement date.
- 2.2 No vehicle older than 15 years may be used to provide the services during the contract period unless it is rebuilt or rehabilitated.
- 2.3 The age of a vehicle is determined from the date of first registration of the chassis and the operator must provide proof of this. If the operator proposes to use vehicles that have been rebuilt or rehabilitated as defined in Schedule 1, 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 to ensure compliance.
- 2.4 In accordance with Schedule 1, a fully rebuilt vehicle shall be deemed to be three years old on the date of the completion of the rebuilding and a rehabilitated vehicle shall be deemed to be eight years old on the date of the completion of the rehabilitation. No vehicle with a chassis age of more than twenty-seven years may be used during the contract period.
- 2.5 Details of the existing or proposed vehicles to be used on the services must be provided on Form 11.
- 2.6 Vehicles must conform to the following requirements:

	Vehicle type			
	Minibus	Midibus	Standard bus	Bus-train
Minimum seated capacity for contract	16	35	65	To be specified
Maximum standing capacity	None	None	27	To be specified
Minimum engine power	To be specified	To be specified	150kW	To be specified

**3. Livery**

All vehicles operated on the contract must be painted in a uniform livery as approved by the CA. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the CA.

**4. Route and destination equipment**

4.1 A removable/changeable duty number board must be displayed behind the right lower front windscreen visible from outside. The letter size must 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.

4.2 A board or scroll stating the destination of each trip must be displayed on the front of the vehicle. The wording must be clearly discernible at a distance of 150 metres. The letter size must be at least 150mm and be adequately legible (readable) in all lighting conditions, including early morning and at night. The colour of the letters must contrast with the background colour of the board or scroll to facilitate legibility.

4.3 Electronic destination equipment is permitted and must be approved by the CA.

**5. Communication equipment**

To be specified by the CA.

**6. Monitoring equipment**

To be specified by the CA.

**SCHEDULE 3: SPECIFICATIONS FOR ADVERTISING ON VEHICLES**

1. All advertising on vehicles must be legal, decent, honest, truthful and be designed with due sense of social responsibility.
2. Advertising must be in accordance with marketing laws and regulations and also respect generally accepted advertising standards and codes of ethics.
3. It must be evident from the advertising who the advertiser is.
4. Advertising must not prompt acts of violence nor include illustrations or descriptions of murder, violence or abuse and must not play on superstition and fear in an improper way.
5. Advertising must not discriminate with respect to race, gender, religion or nationality, nor offend people's religious or political beliefs.
6. Advertising must not prompt disruptive behaviour with respect to safety in the home, at work or in traffic, or promote other dangerous, irresponsible, unhealthy and environmentally damaging behaviour.
7. There must be no advertising (direct or indirect) for religious or political views or movements, nor for products offered by such. However, advertising of information relevant to society in general is allowed, e.g. about the environment, health and education.
8. Advertising which targets children and youth must not be designed in such a way that it is psychologically or morally harmful. Advertising may not be designed so as to exploit children and youth's natural innocence and loyalty, as well as their particular trust in their parents, teachers etc. It may not undermine the authority and responsibility of the latter.
9. It is the Operator's responsibility to ensure that advertising is legal and meets the above conditions.
10. Advertising on more than one vehicle must be done in a uniform manner as approved by the CA.
11. All advertisements must be submitted to the CA for pre-assessment as to whether the particular advertisement meets the above conditions. The CA may also assess future or existing advertisements of its own accord. The Operator must respect the decisions and instructions of the CA in this respect, and must accept that non-compliance could lead to declaration of a dispute or an application for an interdict and/or a claim for compensation.
12. Where the CA owns the vehicles, it is entitled to 30% of the gross advertising revenue and fees received by the Operator from an advertiser. The CA may set off the advertising revenue due to it under this clause against the payments for services to be made to the Operator.



## **SCHEDULE 4: CONTRACT MANAGEMENT PLAN, BUSINESS PLAN AND MONTHLY AND ANNUAL REPORTS**

### **1. Contents of Contract Management Plan**

The Contract Management Plan must provide information on the following matters:

- (i) The management structure proposed to manage the contract, including details of–
  - (a) Which staff categories will be full time and which will be part time;
  - (b) The number and categories of staff not covered in terms of the bargaining council arrangements, (i.e. mostly staff on managerial level);
  - (c) The numbers involved in each staff category, as defined by the bargaining council and set out in such a format that it can be audited; and
  - (d) Recruitment and training of necessary personnel, if these are not already available.
- (ii) Details of how the Operator proposes to meet its reporting requirements under this contract, with full details of management control and information systems to be set up to ensure that its requirements are met in terms of this contract.
- (iii) How the Operator proposes to handle penalty verification and contesting of penalties as required.
- (iv) Details of–
  - a) Arrangements for the financing and acquisition of the required vehicles as specified in Form 4;
  - b) Procurement of offices, depots, workshops and stores; and
  - c) Arrangements for fuel supply.
- (v) How the vehicles will be maintained with details on whether maintenance will be done in-house or not. In this case details must be provided on–
  - Available staff specifying categories of staff numbers in each category;
  - Inspection and maintenance strategies to be implemented; and
  - Maintenance contracts with vehicle suppliers. Details on what is actually to be attended to by vehicle suppliers and if issues are excluded from this how those aspects will be addressed, taking into account the aspects mentioned under (a) above.

- (vi) Details of the fleet replacement program, if vehicles will be replaced during the term of the contract, as proposed in Form 4.
- (vii) The contingency plans that the Operator will implement if unable to provide the services.
- (viii) The plans that the Operator will implement in emergencies.
- (ix) How the Operator plans to meet the Key Performance Indicators, including details of—
  - the method of advising the CA or Representative of any missed trips; and
  - complaints handling and the Operator's defects register.
- (x) Details of the establishment of liaison groups with employers of commuters and communities where passengers reside if such liaison groups have not been established or are not functioning.

## **2. Finalisation of Contract Management Plan**

- (i) Within 10 working days of submission of a draft Contract Management Plan under Item 1 the CA must provide comments on the draft Contract Management Plan, suggesting areas for consideration or amendment.
- (ii) The Operator must review and update the draft Contract Management Plan to address any comments raised by the CA and re-submit it to the CA for final approval within 10 working days of receiving the CA's comments. The Plan must then be signed by the Parties and a signed copy be retained by each party.

## **3. Compliance with the Contract Management Plan**

In providing the services, the Operator must comply with the provisions of the Contract Management Plan.

## **4. Business Plans**

*[Note: The submission of the business plans should preferably coincide with the MTEF cycles as this will be used to submit information to Treasury regarding financing requirements if needed. This whole section is necessary because of the new role players and to ensure that they are provided with sufficient information/reports to manage the processes involved.*

*The Business Plan will assist the CA in obtaining additional funding from Treasury, should this be required.]*

- 4.1 No later than 30 days after the commencement date and 30 days after the anniversary of that date each year during the duration of the contract the Operator must prepare and submit to the CA a draft Business Plan for the services operated in terms thereof for a period covering the following three years,

whether or not that three year period extends beyond the termination of the contract.

4.2 The Business Plan must–

- a) Include a detailed 3 year financial forecast for the Operator and each sub-contractor based on the costs and revenue projections which were originally provided to the CA;
- b) Comply with and incorporate (where applicable) the information and reporting requirements or other reasonable requirements prescribed by the CA from time to time;
- c) Identify any differences from the previous Business Plan, together with the reasons for those differences;
- d) Include a reconciliation demonstrating that the sub-contractor's revenues and costs forecasts in respect of the services have been incorporated into the Operator's forecast; and
- e) Include details of any amendments to sub-contracting arrangements

4.3 Within 15 working days of submission of a draft Business Plan under Item 4.2 the CA and the Operator must meet to discuss the Business Plan.

4.4 Within 10 working days of the meeting mentioned in Item 4.3 the CA must provide comments on the draft Business Plan, suggesting areas for consideration or amendment.

4.5 The Operator must review and update the draft Business Plan in response to comments received and address and incorporate any suggested areas for consideration or amendment within a further 10 working days and re-submit to - the CA–

- (a) The final updated Business Plan with a statement of reasons why the CA's comments have not been accepted, if that is the case; and
- (b) An extract of the resolution of the board of directors or owners of the Operator and each sub-contractor approving the Business Plan.

4.6 The Business Plan for the financial year ending ..... will be that part of the initial Business Plan that relates to the period from the commencement date to .....

**5. Monthly Operational Reports**

5.1 The Operator must provide the CA with a monthly operational report outlining the monthly operations of the Operator and each sub-contractor within 15 business days of the end of the month. The monthly report will provide information outlined in Items 5.3 to 5.5 below.

- 5.2 The CA may require the Operator in writing to provide a breakdown of statistical information by time period and/or by route.
- 5.3 The Operator must submit monthly management accounts with the monthly operational report. The CA will review the information submitted from time to time which must include, but will not be limited to—
- a) Actual results vs budgets and forecasts;
  - b) Details of debtors and creditors and the age of the debt;
  - c) Cash flow statements; and
  - d) Details of capital expenditure planned in next three months with details of financing.
- 5.4 The CA must keep all information provided by the Operator confidential and may not disclose it to any other person or body without the prior written consent of the Operator.

## **6. Annual Reporting**

- 6.1 The Operator must maintain, and ensure that each sub-contractor maintains, those financial, operational and financial planning records that would ordinarily be maintained by a skilled and experienced public transport operator and as required in terms of generally accepted accounting practice.
- 6.2 The Operator must provide, and ensure that each sub-contractor provides, to the CA as soon as practicable (and in any event not later than three months) after the end of each 12 month period after the commencement date an annual report that includes—
- (a) a general description of the activities undertaken by the Operator during the previous year, as well as any significant initiatives to be introduced in the current year.
  - (b) A Training and Staff Development Report which will identify programs and courses that Operator's staff participated in.
  - (c) Certified true copies of its audited accounts for that specific period together with all related directors' and auditor's reports, including:
    - (i) A balance sheet at the end of the reporting period;
    - (ii) Profit and loss statement for the reporting period;
    - (iii) Statement of retained earnings for the period; and
    - (iv) A cash flow statement for the reporting period.
  - (d) A commentary on—
    - (i) material variations between actual results and budget year to date;
    - (ii) progress against Key Performance Indicators;
    - (iii) acquisitions and disposals of contract vehicles and depots;

- (iv) details of its indebtedness (whether actual or contingent) in respect of financial commitments (including any lease or hiring agreement);
    - (v) financial viability; and
    - (vi) material variations between actual results and the forecasts contained in any forecasts done during the negotiations between the Parties to conclude this contract.
  - (e) Details of the number of employees, their roles and the minimum, average and maximum wage paid for each staff category.
- 6.3 The accounts referred to in paragraph (c) must be prepared consistently in accordance with generally accepted accounting practice and/or International Financial Reporting Standards (IFRS) and the Operator's normal accounting policies, details of which must be supplied, on request, to the CA.
- 6.4 Any changes to the Operator's accounting policies should be notified to the CA on submission of the accounts. The Operator must draw the CA's attention to any differences between its normal accounting policies and generally accepted accounting procedures.
- 6.5 Each set of accounts delivered under paragraph (c) must give a true and fair view of the state of affairs for the period covered by the accounts.
- 6.6 The Operator must ensure that the records kept and accounts submitted under this item relate only to the business conducted under this contract and are separate from the financial and planning records and accounts of its other operations and contracts, if any.

**SCHEDULE 5: DUTIES TO BE PERFORMED BY THE REPRESENTATIVE, DEPUTY AND SMF**

1. The function of the SMF's Representative, or if no Representative is appointed, an official appointed by the CA for the purpose, is to administer and supervise the contract in accordance with the provisions thereof. In this regard the Representative shall perform all the duties of the Representative as described in the contract and at all times endeavour to be just to both the CA and the Operator. Insofar as it is not in conflict with the duty to be just to both Parties, the Representative must ensure that the CA's interests in the contract are protected.
2. It is the duty of the Representative to supervise the operation of the services as provided by the Operator on behalf of the CA, to monitor such services to ensure compliance with the Specifications and to arrange and chair monthly project meetings.
3. The Representative may from time to time, with the written consent of the CA, delegate in writing to an authorised person any of the powers and functions vested in it, and must furnish the Operator with a copy of all such written delegations of powers and functions. Any written direction or written approval given to the Operator by such a delegate in accordance with such delegation (but not otherwise) shall be binding on both the Operator and the CA in the same way as if it had been given by the Representative, provided always that—
  - (a) failure of a person authorised by the Representative to make a ruling or issue an instruction shall not prejudice the power of the Representative to make such ruling or issue such instruction later; and
  - (b) should the Operator be dissatisfied with any decision of a person authorised by the Representative, it may refer the matter to the Representative within seven (7) days, who must thereupon confirm, vary or reverse the decision.

The Representative shall remain liable to fulfil all of his/her duties in terms of the contract notwithstanding the appointment of a delegate.

4. It is also the duty of the Representative's Deputy to supervise the operation of the services as provided by the Operator on behalf of the CA and to monitor such services to ensure compliance with the Specifications. Other functions of the Deputy include, among other things, to arrange and chair meetings with the Operator other than monthly project and weekly penalty meetings, to develop a monitoring strategy, to supervise the monitoring staff and audit the quality of their monitoring activities, and to ensure that all relevant information required by the CA is forwarded in accordance with the formalities prescribed.
5. The monitors will conduct monitoring on routes and at termini, ranks and intermediate monitoring points.
6. Monitoring on route establishes the following:
  - (a) route and stop adherence;

- (b) passenger demand along the route;
  - (c) drivers' driving skills, adherence to traffic regulations and consideration for passengers; and
  - (d) the accuracy of EFVE by comparing actual passenger numbers with EFVE data and reports.
7. Monitoring at termini, ranks and intermediate monitoring points establishes the following:
- (a) the actual departure and/or arrival time to determine conformance with the contract timetable;
  - (b) whether the correct shift number is displayed;
  - (c) whether the correct destination is displayed on the destination board;
  - (d) whether vehicles are in a satisfactory condition with respect to general vehicle condition;
  - (e) the validity of licences; and
  - (f) the number of passengers and their perceptions.
8. Technical bus inspections will be carried out by suitably qualified staff at the depot(s) on a weekly basis. Defects identified will be classified in terms of the following types:
- (a) Type A defect: a warning;
  - (b) Type B defect: defect to be repaired within two days; and
  - (c) Type C defect: defect to be repaired before resuming contract trips or duties (shifts).
9. The standards that will be applicable to standard and bus-trains as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:
- (a) Reject if the licence of the motor vehicle has expired. [See Chapter III Regulation 4(3) of the NRTA Regulations.] The Operator has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.
  - (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145(1), which requires a bus' RWC to be valid for six months only. The twenty-one days' grace to display licences does not apply to RWCs.
  - (c) Reject if there is no valid operating licence/permit kept in the vehicle in terms of the National Land Transport Act 5 of 2009 (NLTA) and Regulations for the prescribed routes/services.
  - (d) Reject if number plate(s) are not compliant with SANS 1116-2 and 1116-4; not securely fitted; legibility/reflectivity affected/damaged/tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
  - (e) Reject if windscreen(s) are chipped/cracked within driver's control zone vision; windscreen clouded/defective; not identifiable as safety glass. (SANS 1191)

- (f) Reject if mirrors are chipped/cracked/dicoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitutes a danger to passengers.
- (h) Chevrons must conform to SANS 1329 and reflectors to SANS 1046; chevrons, reflectors and contour markings as prescribed in the National Road Traffic Act (NRTA) and SANS 10047.
- (i) All glass must conform to NRTA Regulation 202; Such window/glass is permanently marked with the trade mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) emergency exit for every twelve (12) passengers; Emergency exits to be clearly identified with 50mm lettering facing inside and outside.
- (j) Reject if head lights (high and low beam) beams are not similar in intensity, do not work, lenses are missing/broken and or clouded/dicoloured and if any park light, stop light, tail light, number plate light or indicator/hazard light does not work, lenses are missing/broken or clouded/dicoloured. If any stop light or indicator light when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046).
- (k) Reject if any equipment that was required for the vehicle when it was new has been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the driver or if wiper blades have cracks.
- (m) Reject if the vehicle is not fitted with a destination indicator of any type, electronic type, manual roller type or board, however, if electronic/roller type it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Regulation 264A)
- (n) Reject if the bonnet cover does not seal and if, in the case of standard buses and bus-trains, the vehicle is not fitted with handrails at the steps and passageway and the step light(s) on the steps is/are not functioning;
- (o) Reject if cross-ply and radial tyres are mixed or a different size on the same axle; if inflated duals make wall contact; if the casings are damaged; Reject if tread depth is below 3 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked. Any wheel rim does not comply with load tables - SANS 1550-3. Reject if the wheel flaps are not fitted or in a good condition or do not comply with SANS 1496.
- (q) Reject if any steering drop arm/tie rod end/drag link/linkages play exceeds 1 mm. (Bushes, end's side play, etc.); if there is any sign of welding; distortion; mechanism does not operate smoothly



throughout the range, any fastener, retaining device or locking device is missing/loose or not correctly fitted; proper movement is obstructed by another part of vehicle.

- (r) Reject if the information display/self-adhesive tamper proof label is not clearly imprinted with those items specified in clause 5.2.4 of SANS 20047; reject if there is no manufacturers plate fitted with the prescribed data in clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chafing, not correctly clamped or signs of leaks.
- (t) Reject if steering stops are missing, not correctly fitted/adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the manufacturer's recommendation or the wheel hub or any spoke is broken or damaged or there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or is not secure; missing fasteners; modifications not in line with manufacturer's specifications.
- (v) Reject if the low air warning devices (audio or light) are missing or do not function when air pressure is below 4.1 bar. (SANS 10047 - 5.31(c) read with NRTA Regulation 156(2))
- (w) Reject if the maximum air pressure is below 7.3 Bar and if the time between starting the engine with reservoirs empty and reaching the operating speed exceeds the time limits as specified (SANS 20013, SANS 1207 or SANS 1051).
- (x) Reject if the fire extinguisher does not conform to NRTA Regulation 260 or emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (y) Reject if driver's door lock does not work correctly from inside or outside; hinges, catches or pillars of the door are not secure when closed.
- (z) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (aa) Reject if no partition is fitted behind the driver.
- (bb) Reject if a control is functional incomplete/fractured/broken or obstructed/impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both; a control is so positioned that when operated it will impair proper control of the vehicle; if any pedal, does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective. Gear lever/linkage/boot are defective/loose/damaged.
- (cc) Reject if the exhaust brake is not working. Retarder (if fitted) reject if not working, if mounting bolts are loose, excessive bearing play, signs of corrosion/fractures, etc. (SANS 1051-4).
- (dd) Reject if hand brake is not effective. Reject if the brake operating cylinders or diaphragms with excessive travel are found. (limit of 55 mm or half the cylinder length) (SANS 1051-5).

- (ee) Reject if excessive oil/water is in the air system, air reservoir or with no provision for draining automatically or manually, any reservoir not secured. (SANS 1051-3).
- (ff) Reject if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake fully applied and whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visibly clogged air cleaners/valves. (SANS 1051).
- (hh) Reject if any brake linings on one or more wheels are worn below the low wear indicator or are contaminated with oil or unnecessary free play is present. (SANS 1051).
- (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters not functioning or have parts missing; defective/missing brake boosters or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked/fractured or excessively worn / oval. (SANS 1051-6).
- (jj) Reject if any air valve (foot brake, four way, load sensing, etc.) shows any signs of malfunctioning, air leaks, oil discharge, loose or defective.
- (kk) Reject if the number of passengers displayed in the vehicle does not correspond with the licence disc and actual seats fitted (Regulation 245A) (Lettering size to be 75mm).
- (ll) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the battery/battery carrier/fittings are not secure. (SANS 10047 - Clause 5.38).
- (mm) Reject if the passenger seats and frames are loose, broken/torn and or danger to passengers. (SANS 10047 and SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
- (nn) Reject if the twist locks, screws or fasteners are not in good working order. Reject if the inspection covers in the passenger isle are not properly secured causing a danger to passengers.
- (oo) Reject if any seat facing has its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (pp) Reject if the vehicle is fitted with twist locks and the twist locks are not in good working order.
- (qq) Reject if the vehicle is not weatherproof (water, dust leaks, etc.).
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047).
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 and 1563).
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts or they are not as per the ALB Plate (or in breach of contract specifications).
- (uu) Reject if any "U" bolts are loose, broken or missing or if spring cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear.)

- (ww) Reject if any spring hanger/brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding or if the "Fox Clamps" are missing or loose.
- (xx) Reject if the vehicle is fitted with a load sensing valve and it is not functional, loose, damaged, etc. (SANS 1207, SANS 20013 read with SANS 10047).
- (yy) Reject if any shock absorber is missing/broken/leaking oil (air) or loose and or mountings worn/loose/missing.
- (zz) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (aaa) Reject if any excessive cracks, deformation or corrosion of any chassis/cross member occur; repairs will only be accepted if in compliance with the manufacturer's specifications (SANS 1563).
- (bbb) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if hub seals and or "O" rings are leaking oil.
- (ccc) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc.) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks or pipes are damaged, chafed or not secure.
- (ddd) Reject if any engine or gearbox mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired (SANS 1563).
- (eee) Reject if flange bolts loose/broken; worn centre bearing/housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (fff) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (ggg) Reject if the engine misfires, lacks power to the extent that it would hinder traffic or if engine failure appears imminent (i.e. engine knock, etc.).
- (hhh) Reject if in the case of a bus-train, the Operator fails to produce a certificate to certify that it has separated the two parts of the bus-train and examined the ball coupling and repaired, replaced or adjusted it, as necessary (SANS 10047 - 5.9.3.(g) read with the NRTA and its Regulations).

10. The standards that will be applicable to mini and midibuses as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:

- (a) Reject if the Licence of the motor vehicle has expired. [See Chapter III Regulation 4 (3) of the NRTA Regulations] The operator

has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.

- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145 (1). Please note that the twenty-one days does not apply to RWCs.
- (c) Reject if there is no valid Operating Licence / Permit displayed in the vehicle in terms of the NLTA & Regulations for the prescribed routes / services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 & 1116-4; not securely fitted; legibility / reflectivity affected / damaged / tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped / cracked within driver's control zone vision; windscreen clouded / defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped / cracked / discoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitute a danger to passengers.
- (h) Chevrons must conform to SANS 1329 & Reflectors to SANS 1046; Chevrons, Reflectors & Contour Markings as prescribed in the NRTA & SANS 10047: Reject if the vehicle is not fitted with a "100" km per hour sticker on the rear of the vehicle.
- (i) All glass must conform to NRTA Regulation 202; Such window / glass is permanently marked with the Trade Mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane, or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency Exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) Emergency Exit for every twelve (12) passengers; Emergency Exits to be clearly identified with 50mm Lettering facing inside & outside.
- (j) Reject if head lights' beams (high and low beams) are not similar in intensity, does not work, lenses are missing / broken and or clouded / discoloured and if any park light, stop light, tail light, number plate light or indicator / hazard light does not work, lenses are missing / broken or clouded / discoloured or if any stop light or indicator light, when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046)
- (k) Reject if any equipment that was required for the vehicle when it was new has not been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the Driver. Wiper blades have cracks.
- (m) Reject if it is not fitted with a destination indicator of any type; electronic type, manual roller type or board, however, if electronic / roller type is used it must be in working order. The lettering height

- must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Reg. 264A)
- (n) Reject if it is not fitted with handrails at the steps; if the step light(s) on the steps is not functioning and if the bonnet cover does not seal.
  - (o) Reject if the vehicle is not fitted with commercial rated tyres and of sizes 185R or 195R. Reject if tread depth is below 2 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
  - (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked or if any wheel rim does not comply with load tables - SANS 1550-3.
  - (q) Reject if any steering drop arm / tie rod end / drag link / linkages, play exceeds 1 mm. (Bushes, End's Side Play, Etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing / loose or not correctly fitted or if proper movement is obstructed by another part of the vehicle.
  - (r) Reject if the information display /self-adhesive tamper proof label is not clearly imprinted with those items specified in Clause 5.2.4 of SANS 20047; reject if there is no Manufacturers Plate fitted with the prescribed data in Clause 5.2.4 of SANS 20047.
  - (s) Reject if hydraulic pipes are chaffing, not correctly clamped or show signs of leaks (only in the case of Midi-Buses with Air Brake Systems).
  - (t) Reject if steering stops are missing, not correctly fitted / adjusted or obstructed by another part.
  - (u) Reject if steering wheel play exceeds 45 degrees or the Manufacturer's recommendation or the wheel hub or any spoke is broken or damages or if there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or not secure; fasteners are missing or if modifications are not in line with manufacturers' specifications.
  - (v) Reject if the low air warning devices (audio and or light) are missing or do not function when air pressure is below 4.1 bar. (Only in the case of Midi-Buses with Air Brake Systems). [SANS 10047 - 5.31© read with NRTA Regulation 156 (2)]
  - (w) Reject if the fire extinguisher does not conform to NRTA Regulation 260 and emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
  - (x) Reject if driver's door lock does not work correctly from inside or outside or if hinges, catches or pillars of the door is not secure when closed.
  - (y) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
  - (z) Reject if no partition is fitted behind the driver.
  - (aa) Reject if a control is functional incomplete / fractured / broken or obstructed / impeded in its travel or the steering wheel (with wheels

- in a straight position) obscures the speedometer or the low air-pressure warning device or both or if a control is so positioned that when operated it will impair proper control of the vehicle. Reject if any pedal does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective or if the gear lever / linkage / boot is defective / loose / damaged.
- (bb) Reject if the vehicle is not fitted with a tamper proof speed governor, with 100 km per hour set as the maximum.
  - (cc) Reject if the vehicle does not qualify as per the specifications of the Taxi Recapitalisation Program.
  - (dd) Reject if hand brake is not effective. SANS 1051-5
  - (ee) Reject if excessive oil / water is in the air system or air reservoir or with no provision for draining automatically or manually or if any reservoir is not secured. SANS 1051-3 (Only in the case of Midi-Buses with Air Brake Systems)
  - (ff) Reject if not fitted with a *Type 2 Braking System*; if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
  - (gg) Reject: If with the foot brake being fully applied, whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visible clogged air cleaners/valves. SANS 1051 (Only in the case of Midi-Buses with Air Brake Systems)
  - (hh) Reject if any brake linings / pads on one or more wheels are worn below the low wear indicator or is contaminated with oil or unnecessary free play is present. SANS 1051
  - (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters are not functioning or have parts missing; defective / missing brake booster's or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked / fractured or excessively worn / oval. SANS 1051-6 (Only in the case of Midi-Buses with Air Brake Systems)
  - (jj) Reject if the number of passengers displayed in the vehicle does not correspond with the Licence Disc & actual seats fitted (Reg. 245A) (Lettering size to be 75mm)
  - (kk) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the Battery / battery carrier / fittings are not secure. (SANS 10047 - Clause 5.38)
  - (ll) Reject if the passenger seats & frames are loose, broken / torn and or danger to passengers. (SANS 10047 & SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
  - (mm) Reject if the seat frames are not fitted onto the vehicle as prescribed in SANS 10047. (Caution: Mini & Midibuses converted from Goods vehicle to a Passenger vehicle, must supply a SABS certificate that approved the seat mountings)
  - (nn) Reject if the vehicle is not fitted with seatbelts for every seat on board the vehicle and or if seatbelts are frayed.
  - (oo) Reject if the twist locks, screws or fasteners are not in a good working order. (Only in the case of Midi-Buses)

- (pp) Reject if any seat facing or have its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (qq) Reject if the vehicle is not weatherproof. (water, dust leaks, etc.)
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047)
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 & 1563)
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts.
- (uu) Reject if any "U" Bolts are loose, broken or missing. Spring Cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear)
- (ww) Reject if any spring hanger / brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding, if the "Fox Clamps" are missing or loose.
- (xx) Reject if any shock absorber is missing / broken / leaking oil (air) or loose and or mountings worn / loose / missing.
- (yy) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (zz) Reject if any excessive cracks, deformation or corrosion of any Chassis / Cross Member occur; repairs will only be accepted, if in compliance of the Manufacturer's Specifications.(SANS 1563)
- (aaa) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if Hub Seals and or "O" rings are leaking oil.
- (bbb) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc.) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks. Pipes are damaged, chafed or not secure.
- (ccc) Reject if any Engine and or Gearbox Mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired.(SANS 1563)
- (ddd) Reject if flange bolts loose / broken; worn centre bearing / housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; there is a damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (eee) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (fff) Reject if the engine misfire, lacks power to the extent that it would hinder traffic and / or if engine failure appears imminent (i.e. engine knock, etc.).

11. The weekly technical bus inspections will also entail an inspection of the Operator's maintenance records and procedures and its vehicle pass rate for RWCs.
12. Other duties to be performed by the SMF's staff include the following:
  - (a) random inspections of passenger travel passes or tickets, on or off the vehicles;
  - (b) weekly inspection of infrastructure at termini;
  - (c) monitoring of the operational records of the Operator in respect of this contract;
  - (d) monitoring of EFVE fitting and maintenance; and
  - (e) dealing with complaints (complaints will be passed up the chain of management as necessary).
13. The Representative must submit monthly monitoring reports to the CA detailing the results of the tasks carried out in terms of Items 6 to 9 of this Schedule. In addition, the report must at least also contain the information set out below, and the Operator must give its full co-operation to ensure that the Representative/SMF is in a position to do so:

(i) *Operational Statistics*

- (a) Timetabled trips;
- (b) Timetabled trips not operated;
- (c) Timetabled trips departing early at any time point;
- (d) Timetabled trips arriving more than five minutes late at any time point;
- (e) Vehicle failures and reasons;
- (f) Timetabled trips delayed or missed due to vehicle failure;
- (g) The average number of vehicles available for service during the peak period (morning or evening, whichever has the greater vehicle requirement), expressed as a percentage of the total number of vehicles operated by the Operator;
- (h) Number of buses operated during the busiest peak period of the day, expressed as a percentage of the number of vehicles available for use;
- (i) Subsidy per kilometre operated;
- (j) Subsidy per passenger;
- (k) Subsidy per vehicle category;
- (l) Number of vehicles subsidised per category;
- (m) Number of scheduled trips per vehicle category;
- (n) Number of trips operated per vehicle category;
- (o) Total number of penalties incurred;
- (p) Monetary value of penalties (including escalation);
- (q) Passengers per kilometre operated;
- (r) Passengers per trip operated;
- (s) Employees per vehicle;
- (t) Scheduled kilometres;
- (u) Revenue kilometres operated per vehicle category;



- (v) Estimates of fare evasion and fraud levels,  
and any reasons for changes to the above.

(ii) *Performance values in terms of KPI benchmarks*

The report is to include the results of the monthly performance evaluation conducted in terms of clause 38 of the Conditions of Contract and the KPI benchmark and score values detailed in Schedule 8. A scorecard will be completed and submitted for that purpose. Action to be taken by the Operator in the event of poor performance must also be reported on.

(iii) *Other Information*

- (a) Details of temporary minor timetable variations;
- (b) The results of service capacity assessments conducted during the month;
- (c) The number of tickets checked;
- (d) The results of all ticket inspections conducted during the month;
- (e) The activities undertaken by the Operator to resolve customer complaints;
- (f) Accidents where passengers have been killed or injured (apart from the requirements of the law to report these immediately;
- (g) Complaints and commendations;
- (h) Claims for compensation received by the Operator for injuries or death sustained by passengers or other persons (excluding Operator's employees) arising from the Operator's activities;
- (i) Electronic Ticketing System faults experienced and that require rectification by the Operator or the CA;
- (j) A summary of customer and quality assurance initiatives which will detail the customer and quality assurance initiatives that have been implemented by the Operator; and
- (k) Any other information that the CA or Operator deems relevant.

**SCHEDULE 6: PENALTIES****1. General**

- 1.1 Penalties shall be imposed against the Operator for each offence in accordance with this Schedule and the CA must advise the Operator on a weekly basis of penalties so imposed. Where penalties, excluding amounts withheld in terms of Items 7.1, 7.2, 12.2, 13, 16.1 or 17.1, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months or for any five months during the contract period, the CA may terminate the contract in terms of clause 47.3(m) of the Conditions of Contract.
- 1.2 The Operator must 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 discovers that the Operator has failed to report trips not operated, operated late, operated early or provided other misleading information regarding the operation of the services, penalties for those offences will be increased by 10 percent and the CA will consider laying fraud charges against the Operator.
- 1.3 All penalties payable in terms of this Schedule quoted in fixed rand values shall be escalated annually, starting from the anniversary of the commencement date, by increasing them in terms of the average increase in the Consumer Price Index (CPI) for the previous five months.
- 1.4 Where any payment to the operator is withheld in terms of this Schedule, no escalation or interest will be payable to the Operator on the monies withheld and such monies will only be paid to the Operator after full compliance, unless specifically stated otherwise.
- 1.5 The Operator will not be penalized for trips departing late where the driver was waiting for passengers transferring from another vehicle in any public transport mode in terms of arrangements forming part of an integrated public transport network or integrated transport plan.

**2. Failing to provide scheduled trips**

- 2.1 (a) Where a trip is not operated on the Thursday prior to an Easter weekend or the Tuesday after an Easter weekend, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.
- (b) Where a trip is not operated on any Friday or Monday due to bus and/or driver availability problems stemming from private hires, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.

- 2.2 Where a trip is not operated on a day directly before or after a weekend (i.e. a Friday or Monday) or long weekend a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.
- 2.3 The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the operator will be penalized.
- 2.4 Despite the above, no penalty will be imposed where trips are cancelled for reasons specified in clause 15 of the Conditions of Contract.

**3. Providing trips that depart late or early**

- 3.1 Subject to clause 15 of the Conditions of Contract, in the case of a trip that—
- (a) departs between six and 15 minutes late from the departure, transfer or monitoring point, a penalty of R300,00 will be imposed;
  - (b) departs more than 15 minutes late from such point, a penalty of R500,00 will be imposed;
  - (c) departs more than 30 minutes late from such point, the trip will be deemed not to have been operated and no revenue kilometres will be paid, but the R2 000,00 and R10 000 penalties in terms of items 2.1 and 2.2 will not be applied;
  - (d) departs early, a penalty of R500,00 will be imposed.
- 3.2 Where a trip departs late from an intermodal transfer point due to the late arrival by the public transport vehicle or train preceding the Operator's vehicle in the chain of a connecting service, and this is certified by the Representative, the Operator will not be penalised.

**4. Vehicle breakdowns**

- 4.1 The Operator must provide a replacement vehicle for breakdowns as follows:
- (a) At the starting point of a route or within an eight kilometre radius of those points, within 30 minutes; and
  - (b) At other points, within 45 minutes;
- provided that no breakdowns will be accepted as such inside depots.
- 4.2 Where a replacement vehicle is so provided, no penalty will be imposed and the variable contract rate will be paid.
- 4.3 If a replacement vehicle is provided, but not within the stated time, a penalty of R500,00 will be imposed for each trip not operated. If no replacement vehicle is provided, penalties will be imposed for a trip not provided. In all cases, however, where there are more than two percent vehicle breakdowns per month, a penalty of R5 000,00 per breakdown over 2% will be imposed. This percentage will be based on the average number of trips per month totalled over the month in question.

**5. Failing to display correct destination and/or duty boards or to display any destination or duty boards**

- 5.1 Where destination or duty boards have not been installed or are incorrectly displayed a penalty of R400,00 per infringement will be imposed.
- 5.2 Where the Operator changes duty numbers in contravention of clause 14 of the Conditions of Contract, a penalty of R1 000,00 per incident will be imposed.
- 5.3 The Operator must report within 24 hours the fact that any vehicle 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 R1 000,00 per infringement will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the Operator will be penalised accordingly.

**6. Providing trips with vehicles not approved or in an unsatisfactory condition**

- 6.1 Vehicles must be roadworthy and comply at all times with the National Road Traffic Act and other relevant legislation. Where a vehicle fails to comply with any legal requirement, it must be withdrawn from service immediately until the defect is rectified, and penalties will be imposed for failing to operate unless a spare vehicle is provided that complies with all legal requirements and that complies with the specifications detailed in Schedules 1 and 2.

Any contract trips operated by a vehicle which is–

- (a) not on the approved contract fleet list whether contract compliant or not; or
- (b) is not contract compliant; or
- (c) is without a valid operating licence, permit or roadworthy certificate; or
- (d) has been deemed to be unsafe for use,

will be deemed as not having operated the trips in question. No revenue kilometres will be paid and penalties in terms of item 7.1 will be imposed.

- 6.2 Where vehicles leave a depot, transfer point, terminus or starting point in an unsatisfactory condition the following penalties will apply:

- (a) dirty on the outside or inside or with wet seats, a penalty of R1 000,00 per vehicle will be imposed, but this will not apply to vehicles leaving overnight parking areas in rural areas;
- (b) not in a good state of repair or with a leaking roof, one or more broken or missing windows or in an unhygienic condition, a penalty of R1 000,00 per vehicle will be imposed;
- (c) with missing or broken seats, a penalty of R1 000,00 will be imposed;
- (d) with broken, missing or open doors, or doors that cannot be closed properly, a penalty of R1 000,00 per vehicle will be imposed.
- (e) operating without its head and/or tail lights on, a penalty of R100,00 per trip will be applied.

6.3 If a penalty is imposed in respect of a particular vehicle under item 6.2(a) to (d) more than three times in any 14 day period, the Operator must withdraw that vehicle and replace it until it has been repaired so as to comply with the specifications.

6.4 The standards that will be applied in respect of this item are as follows:

**(a) “Dirty”**

*Dirty Inside:*

A vehicle of which the seats have not been cleaned and the floor has not been swept and washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

*Dirty Outside:*

A vehicle which is full of dust or mud and had not been washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

**(b) “Not in a good state of repair”**

Includes anything that can cause injury to a passenger or the public e.g. loose strips on the floor, loose inspection covers, loose engine covers, broken steps, loose and dangerous luggage racks etc. Also applicable where the body exterior needs attention e.g. accident damage that has not been repaired, body panels that have not been repainted, lights that are not working etc.

**(c) “Leaking roof”**

A roof that leaks water or through which dust enters the vehicle.

**(d) “Broken windows”**

Windows that are cracked within the vision of the driver and windows that are so badly cracked that it could cause injury to a person. Also includes windows which are badly installed or of which the window rubbers have deteriorated to such an extent that they leak water or allow dust to enter the vehicle.

**(e) “Unhygienic condition”**

A vehicle that is so dirty from old accumulated dirt against the panels, floor and roof that it constitutes an unhygienic condition. Also includes a situation where cockroaches and/or other insects such as lice are found.

**(f) “Missing seat”**

A seat or row of seats that has been removed from the vehicle.

**(g) “Broken seat”**

A seat of which the seat clips have broken resulting in it being loose from the floor or seat frame.

**(h) “Wet seat”**

A seat that has been washed but not dried or a seat that is wet due to water leaks from the roof or windows.

**(i) “Broken door”**

A door that is hanging loose from the door hinges or of which the door clip/handle is not working.

**(j) “Missing door”**

A vehicle without a passenger or driver door.

**7. Failing to provide the right type, quality and age of vehicles**

- 7.1 Where the Operator fails to provide all of the vehicles of the right type, quality and specification as specified in Schedules 1 and 2 after the commencement date it shall be penalized in the amount of R5 000,00 per unapproved bus per day, plus five percent of the total amount payable in respect of the relevant month's payment certificate, with a minimum of R25 000,00, will be withheld on a *pro rata* basis, for example if one of 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 similar to those specified (can be different manufacturer but must be same seat capacity, and same engine capacity) in Schedule 2 of the same quality, which in the opinion of the Representative are suitable.
- 7.2 Item 7.1 will also apply where the operator fails to provide the accessible vehicles or to adapt its vehicles to comply with the accessible vehicle requirements as required by clause 21 of the Conditions of Contract and as specified in Schedule 2 and by the date specified in that clause.
- 7.3 If the Operator does not comply with the specifications for rebuilt and rehabilitated buses in Schedule 1 within three months from the date that the monies were first withheld, it will forfeit such monies.

**8. Deviating from routes**

Where there is a deviation from a route the variable kilometre rate will not be paid.

**9. 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 R1 000,00 per incident will be imposed, except—

- (a) where the lawful capacity of the vehicle would have been exceeded; or
- (b) a passenger has refused to pay the fare; or
- (c) on grounds of violent, abusive or otherwise offensive conduct on the part of a passenger.

#### **10. Failing to provide information or provision of misleading information**

10.1 Any of the following conduct by the Operator amounts to the provision of misleading information and may be subject to the penalty provided in Item 10.2:

- (a) Deliberately recording or including (or deliberately failing to record or include) any matter in the operator's records, reports or financial statements which renders those documents untrue or misleading;
- (b) Failing to provide a financial report or an operational report or failing to provide a statement of financial position by the time specified in this Contract;
- (c) Failing to provide information as contemplated in clause 6 of the Conditions of Contract; and
- (d) Failing to co-operate and provide information as contemplated in clause 8.6 of those Conditions of Contract.

10.2 If, in the opinion of the CA the Operator has provided such or any other misleading information as contemplated in item 10.1, the CA may request that the necessary corrective action be taken. If the Operator fails to do so within seven days or as requested by the CA to the satisfaction of the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the corrective action was requested, will be forfeited.

10.3 The Operator must supply the CA with any additional information applicable to the operations or where the Operator is so requested by the CA in terms of this contract. If the Operator fails to do so within seven days or as requested by the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the information was requested will be forfeited.

#### **11. Failure to provide patronage information**

11.1 Once EFVE has been installed as required by clause 33 of the Conditions of Contract, the information derived from it must reflect at least eighty percent of observed patronage based on a joint on-board census carried out by the Representative and the Operator.. While EFVE has not been so installed, the information on patronage must be observed by other methods, such as waybills. Information provided on patronage must be accurate.

11.2 If the information provided is less than 80% of observed patronage in any month, five percent of the gross certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited.

11.3 Compliance with this clause will be proved by comparing patronage observed by the monitors on at least 30% of the trips for the month in question with that reflected by EFVE. Should this sample not comply, the penalty will be levied for all of the trips provided on all routes in terms of the contract.

**12. Failing to install or to have operational EFVE**

12.1 The Operator shall install and commission EFVE and provide information therefrom as follows:

- Stage A1: install required electronic equipment (EFVE) on all vehicles within 30 days of the commencement date;
- Stage A2: EFVE on vehicles to be commissioned, i.e. EFVE to be in full working order, drivers to be trained in its use and EFVE to be providing usable information within 60 days of the commencement date;
- Stage B1: depot computer to be installed and commissioned within 30 days of the commencement date;
- Stage B2: depot computer to be processing information obtained from EFVE on vehicles within 60 days of the commencement date.

12.2 Where the Operator fails to complete these Stages within the time indicated to the satisfaction of the CA, three percent 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 CA. Where moneys are so withheld for three 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 in respect of those vehicles in which those Stages have not been completed.

12.3 The four Stages will only be regarded as complete where EFVE in all buses and in the depot is fully operational and supplying all required information as specified in clause 33 of the Conditions of Contract.

12.4 Whether or not EFVE is installed, the onus will always be on the Operator to supply the correct information as specified in clauses 6 and 33 of the Conditions of Contract by using manual methods, intensive monitoring or other methods approved by the CA. This must be done from the beginning of the second month of operation to the satisfaction of the CA. Where this is not done, three percent of the gross certificate value payable to the Operator, before escalation, of the applicable month's payment certificate will be forfeited, where applicable over and above the penalties provided for above, and the CA may regard this as a breach of a material term of the contract.

12.5 If EFVE which has been installed and has been operational becomes defective and unable to supply the required information, the Operator must make it available for repair within three 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.



- 12.6 This item is subject to the provisions of the contract which provide that the CA may decide not to pay any claim without adequate documented proof of the required information and data.

**13. Failing to implement the BBBEE Codes of Good Practice**

If the Operator fails to comply with the targets and milestones of the BBBEE Codes of Good Practice at any time during the contract period three percent of the gross certificate value payable to the Operator, i.e. before escalation, will be withheld from each month's payment certificate. 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 compliance has been proved to the satisfaction of the CA. Where monies are so withheld for three months they will be forfeited.

**14. Use of unauthorised sub-contractor**

Where the Operator uses a sub-contractor without the approval of the CA in contravention of clause 18 of the Conditions of Contract, a penalty of five percent of the amount payable in terms of the payment certificate for the month in question will be forfeited for each month in which such contravention has taken place.

**15. Failing to obtain approval for a change in ownership control**

Where the Operator fails to obtain approval from the CA for a change in ownership control as required by clause 4.2 and 4.3 of the Conditions of Contract, a penalty of R10 000,00 will be imposed, if the CA decides not to terminate the contract.

**16. Failure to submit a Customer Complaints Policy, keep a Passenger Complaints Register or to respond to complaints**

- 16.1 Where the Operator fails to submit a Customer Complaints Policy to the CA in contravention of clause 23.4 of the Conditions of Contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until it is submitted to the satisfaction of the CA.
- 16.2 Where the Operator fails to keep a Passenger Complaints Register as required by clause 23.5 of the Conditions of Contract, a penalty of R5 000,00 per month will be imposed until the Register is kept to the satisfaction of the CA.
- 16.3 Where the Operator fails to respond to a complaint from a passenger as required by clause 23.4 of the Conditions of Contract or has not addressed complaints by the public to the satisfaction of the CA or Representative a penalty of R2 000,00 per incident will be imposed.

**17. Failing to submit fare evasion procedures or to check tickets**

- 17.1 Where the Operator fails to submit a fare evasion plan to the CA in contravention of clause 32.4(ii) of the Conditions of Contract, a penalty of two percent per

month of the amount payable in respect of that month's payment certificate will be imposed until they are submitted to the satisfaction of the CA.

- 17.2 Where on inspection it appears that any of the Operator's drivers has failed to check a passenger's ticket or failed to check that the ticket was properly validated or that the ticket has not been defaced, a penalty of R250 per incident will be imposed.

**18. Failing to pay a sub-contractor**

If the Operator fails to pay a sub-contractor within the time specified in clause 18 of the contract, a penalty of R50 000,00 or five percent of the amount payable to the sub-contractor, whichever is the highest, will be imposed in the month following the failure to pay. Should three failures in any 12 months occur the penalty will be increased to R150 000,00 or 100% of the amount payable to the sub-contractor, whichever is the highest.

**19. Amending a sub-contracting agreement without approval**

Where the Operator amends a sub-contracting agreement without the prior approval of the CA in contravention of clause 18.8 of the contract, a penalty of R10 000,00 per month will be imposed until the contract is amended or replaced to conform to the *pro forma* contract in Schedule 11 to the satisfaction of the CA.

**SCHEDULE 7: SPECIFICATIONS: ROUTES, DISTANCES, SERVICES, FARES, TIME TABLES, STOPS AND ADDITIONAL RELATED INFORMATION**

*[To be completed in relation to the specific services/design]*

**SCHEDULE 8: PERFORMANCE MONITORING****1. KPI Performance Benchmarks and score values**

- 1.1 The KPI benchmark values (standards) that will be applicable during the contract period as well as the values in terms of which scores will be allocated to the Operator for the purposes of monthly performance evaluations are summarised in Table 1 below.

**Table 1: KPI Benchmark and score values**

KPI	Benchmark value (Standard)	Score Values
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1
<b>Punctuality</b>		
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1
<b>Driver quality</b>		
• Passenger complaints	2%	≤2% = 1; >2% = 0
• Surveys	2%	≤2% = 1; >2% = 0
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1
<b>Vehicle quality</b>		
• General vehicle condition	2%	≤2% = 1; >2% = 0
• Technical vehicle condition:		
(i) breakdowns	2%	≤2% = 1; >2% = 0
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0
(iv) Roadworthy certificate pass rate	98%	<100% = 0; 100% = 1
<b>Safety</b>	1%	≤1% = 1; >1% = 0
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1
<b>Contract compliance</b>		
(i) information & reports	100%	<100% = 0; 100% = 1
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1
(iii) staff training	100%	<100% = 0; 100% = 1
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1

- 1.2 It should be noted that should remedial action be required in terms of the driver and vehicle quality KPIs and the Operator fails to implement such action in subsequent months, a score of zero will be allocated for those months.

- 1.3 The format that will be used by the Representative/SMF to evaluate the Operator's monthly performance is given in Table 2 on the next page. The form must be signed by both the Operator and the Representative and will be submitted to the CA as part of the Representative's monthly monitoring report.

## **2. Customer Satisfaction Surveys**

- 2.1 The CA will undertake Customer Satisfaction Surveys during the contract period. These may be route focused or area focused as the CA deems necessary.
- 2.2 The surveys will entail face-to-face interviews with passengers alighting from vehicles. Questions relate to the journey that has just been made including overall satisfaction with journey, information, safety and security, cleanliness, reliability and staff behaviour.
- 2.3 The surveys will be summarised and conclusions drawn by the CA.
- 2.4 The final reports will be made available to the Operator and will be discussed at a meeting convened for this specific purpose. This meeting may be attended by commuter/community forum members with the prior written consent of the CA, and the Operator will be allowed to question the conclusions of the report.
- 2.5 At the Contract Performance Review of year seven, all Customer Survey reports will be considered and any continued negativity in them may negate the contract extension.

## **3. Periodic Performance Reviews**

- 3.1 The Operator must, and ensure that any sub-contractors, attend meetings with the CA as requested by the CA from time to time for the purposes of enabling it to conduct periodic reviews of the financial and operational performance of the Operator under this contract.
- 3.2 Any reviews conducted under clause 38.11 of the Conditions of Contract will not be more frequent than one review each quarter except where the circumstances or nature of the review requires follow up reviews or an extended review.
- 3.3 The CA must give the Operator not less than 10 business days' notice of any such meeting.
- 3.4 The persons attending the meetings on behalf of the Operator must be of appropriate seniority and responsibility and must include those directors or senior managers of the Operator or sub-contractors, as the case may be, reasonably requested by the CA.
- 3.5 The officials attending the meetings on behalf of the CA must also be of appropriate seniority and responsibility to take the necessary decisions and an official at not lower than Director level must attend each meeting.
- 3.6 If requested to do so in a written agenda not less than 48 hours before the

meeting, the Operator must prepare and present reports at the meetings in respect of those aspects of its performance requested by the CA.

Table 2: Format for monthly performance evaluations

KPI	Benchmark value (standard)	Score values	Month: .....	
			KPI value	Score
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1		
<b>Punctuality</b>				
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1		
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1		
<b>Driver quality</b>				
• Passenger complaints	2%	≤2% = 1; >2% = 0		
• Surveys	2%	≤2% = 1; >2% = 0		
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1		
<b>Vehicle quality</b>				
• General vehicle condition	2%	≤2% = 1; >2% = 0		
• Technical vehicle condition:				
(i) breakdowns	2%	≤2% = 1; >2% = 0		
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0 ≤1 = 1; >1 = 0		
(iii) maintenance procedures	100%	<100% = 0; 100% = 1		
(iv) RWC pass rate	98%	<98% = 0; ≥98% = 1		
<b>Safety</b>	1%	<1% = 1; >1% = 0		
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1		
<b>Contract compliance</b>				
(i) information & reports	100%	<100% = 0; 100% = 1		
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1		
(iii) staff training	100%	<100% = 0; 100% = 1		
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1		
<b>Maximum score = 19</b>		<b>Total score:</b>		
		<b>Signed:</b>		
		<b>SMF Representative:</b>		
		<b>Operator:</b>		
		<b>Date:</b>		

**4. Contract Extension Review**

- 4.1 The contract extension review is based on the monthly KPI benchmark evaluations conducted throughout the contract period.
- 4.2 In addition to the conditions specified in clause 38.8 of the Conditions of Contract, the CA will evaluate the operator's ability to continue operating the services in a sustainable manner and to meet the KPI benchmarks during the contract extension.



**SCHEDULE 9: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES****1. The variable cost component**

1.1 The variable cost component is linked to the number of scheduled revenue kilometres to be operated by each of the vehicle types on the contract. A variable contract rate (price per kilometre) is therefore calculated per vehicle type.

1.2 Variable costs consist of the following cost elements:

- Fuel (diesel and petrol);
- Tyres;
- Maintenance and spares; and
- Oil and lubricants

1.3 The Operator must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D of Form 12. The information must be provided for each cost element for the first twelve months of the contract period.

1.4 Kilometres operated by additional vehicles will be charged for at the same rates for the type of vehicle concerned.

1.5 If a new vehicle type is introduced on the contract, an additional Table 1 must be completed and approved by the CA for inclusion as an addendum to the contract documents.

**2. The fixed cost component**

2.1 The fixed cost component will be linked to the number of vehicles of each vehicle type operated on the contract. A fixed contract rate (rate per vehicle) is therefore calculated per vehicle type.

2.2 Fixed cost consists of the following cost elements:

- Labour (wages and costs of drivers, management, the administration department and the traffic and engineering departments of the Operator's organisation);
- Vehicle related costs (instalments, depreciation, vehicle insurance, licence fees and operating licences and permits); and
- Other general (overhead) costs;

2.3 To support the Operator's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C of Form 12.

2.4 Upon award of the contract Tables 2A, 2B and 2C must be completed providing employee names and monthly salaries/wages and benefits and submitted to the CA.

2.5 The Operator must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs

on Tables 3B, 3C, 3D and 3E of Form 12. The information must be provided for the first year of contract.

- 2.6 The monthly repayments for vehicles will be considered to be over a 60 month period.
- 2.7 If a new vehicle type is introduced on the contract, an additional Table 3 must be completed and approved by the CA for inclusion as an addendum to the contract documents.
- 2.8 The Operator must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4 of Form 12.

### **3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is done in terms of Tables 5 to 7 of Form 12.

## **SCHEDULE 10: EFVE OPERATION**

This Schedule is subject to the Regulations Relating to Integrated Fare Systems, 2011 promulgated under Notice R.511 in *Government Gazette* No. 34363 dated 17 June 2011.

### **1. EFVE Support**

- 1.1 The EFVE is supported by software which is controlled, monitored and maintained by the CA.
- 1.2 The Operator must use EFVE hardware and software provided by the CA. The Operator must allow the CA access to the hardware and software for the purpose of maintenance and auditing as and when the CA deems necessary. The CA is responsible for software installation, testing, modification and enhancements.
- 1.3 The Operator shall not modify any part of the Ticketing System in any way.
- 1.4 The Operator must notify the CA immediately of any fault in the EFVE software or hardware.

### **2. Revenue Management**

#### **2.1 Patronage Data Collection and Analysis**

- 2.1.1 The EFVE Ticketing System is the primary source of patronage data. The Operator must ensure on a daily basis the transfer of patronage data to the CA.
- 2.1.2 Accurate and timely collection of data is dependent upon proper operation of the EFVE Ticketing System. This Schedule includes a description of the assignment and use of ticket codes, the key data element in patronage reports.
- 2.1.3 A list of available Patronage Reports is available from the CA on request.

#### **2.2 Patronage Data Adjustment**

- 2.2.1 As patronage data might be used as basis for incentive payments, the CA will only adjust patronage data when there is a contract area-wide equipment failure. Any adjustment for such a failure is at the discretion of the CA. The CA will not adjust patronage data for individual EFVE Ticketing System equipment failure, fare evasion or ticket failure.
- 2.2.2 The CA will provide a summary report of equipment failure data, including vehicle control units and validators for the contract area.
- 2.2.3 The CA will provide the Operator with a summary of the adjustments made to the raw patronage data provided by the Operator in that month, by route and day, not later than 15 business days after the end of each calendar month.

## **2.3 Fare Evasion and Ticket Failure**

- 2.3.1 The Operator must monitor and measure the incidence of fare evasion by ticket inspections.
- 2.3.2 For ticket failures, the Operator must ensure that drivers—
- (a) complete a Ticket Problem Slip;
  - (b) write “invalid”, the date and driver identification number on the ticket; and
  - (c) advise passengers of the possibility of a replacement ticket for unused trips as per the back of the Ticket Problem Slip.
- 2.3.3 The Operator must make every effort to ensure that concession tickets are not sold by drivers unless a CA-approved concession pass is produced by the passenger.
- 2.3.4 The Operator must ensure that passengers do not travel for a distance greater than that permitted by the passenger’s ticket. If this occurs then the driver must request the passenger either to—
- (a) buy and validate another ticket; or
  - (b) disembark from the vehicle, and penalties will be imposed in terms of Schedule 6 for failing to comply with fare evasion procedures.
- 2.3.5 Random audits will be undertaken by the CA or Representative to ensure that steps are being taken to minimise fare evasion.

## **2.4 Inspectors**

- 2.4.1 The CA may task the SMF or appoint inspectors to conduct random inspections, including ticket inspections, to ensure passenger compliance with legislation and this contract.
- 2.4.2 All tickets inspected by an inspector must be passed through a Portable Reader Decoder (PRD) to determine date and time validity. The CA will supply the PRDs.
- 2.4.3 Each inspector must keep records of the number of tickets checked by route, whether the ticket was valid or not, non-validity type and action taken by the inspector.
- 2.4.4 Ticket offence reports and expiation notices (penalty notices issued to passengers) must be forwarded to the CA within five business days of them being issued for prosecution if required.

## **2.5 Ticket Production and Sales**

- 2.5.1 Smart cards or value cards must be used which will be purchased at terminals, transfer stations and other ticket outlets as directed by the CA. This must not be costed as part of the tendered rates, and the parties will negotiate on the cost implications involved, if any, in which case the contract rates may be adjusted to reflect this cost.

- 2.5.2 The Operator must sell tickets and provide refund facilities at ticket outlets at terminals and transfer stations at the following terminals and transfer stations: .....unless the CA requires roving ticket sales or has granted an exemption in writing. The Operator must adhere to the CA's directions as regards roving ticket sales, if applicable.
- 2.5.3 Ticket outlet opening hours to the public for sales shall be 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. Variations to these hours shall be at the discretion of the CA.
- 2.5.4 To allow for passengers not able to acquire tickets off-vehicle, the Operator must install in each vehicle ticket selling equipment as required by the CA which may be fixed or portable. Fares so collected must be paid over to the CA within 24 hours or on the first working day following collection, whichever is first, along with the ticket stubs or electronic records as may be appropriate. Any contravention of this rule will constitute a serious breach of contract for which penalties will be applied.
- 2.5.5 Cash ticket sales on vehicles must be limited to a minimum, and will be phased out of the system within six months of implementing the integrated network.
- 2.5.6 The CA will supply tickets to the Operator for counter sales and for issue to all drivers for on-board sales.
- 2.5.7 The Operator must ensure that drivers have sufficient cash float to give change to passengers buying tickets.
- 2.5.8 The Operator must keep adequate ticket stock and records to ensure continuous supply for on-board and counter sales, and re-order tickets from the CA when necessary. No commission will be paid to Operators for ticket sales or refunds.
- 2.5.9 Faulty tickets presented for replacement refund action should be retained by the Operator and affixed to a Ticket Credit Form for reconciliation and audit purposes.

## **2.6 Fare Validation**

- 2.6.1 Fare validation will take place on board vehicles and/or at bus stops, terminals and transfer stations.
- 2.6.2 All vehicles must be provided with card readers to "validate" the smart cards.
- 2.6.3 Major stations will be equipped with card readers to allow quick boarding.

## **2.7 Ticketing System Maintenance**

2.7.1 The Operator must ensure that the Ticketing System is kept in a reasonable working condition, and take reasonable precautions to ensure that the Ticketing System is not damaged by its employees, agents, passengers or other persons.

2.7.2 The Ticketing System maintenance service to be undertaken by the Operator shall comprise—

- (a) First Level Corrective Maintenance;
- (b) First Level Preventative Maintenance; and
- (c) Second Level Repair Maintenance,

as described in this Schedule.

2.7.3 If the Ticketing System is faulty or does not operate, and such fault is not due to—

- (a) failure by the Operator to carry out First Level Corrective Maintenance, or
- (b) a jam or other fault of a class that is capable of being remedied by the Operator,

then the Operator must immediately notify the CA of such fault.

2.7.4 The Operator must give the CA full access to the Ticketing System to enable it to—

- (a) carry out service maintenance, repair and maintenance of the Ticketing System, other than First Level Corrective Maintenance;
- (b) carry out service maintenance and repair of the Ticketing System in response to a notification of a fault with the Ticketing System; and
- (c) undertake installation or removal of the Ticketing System or any part thereof when necessary.

## **2.8 Failure of Operator to meet Maintenance Obligations**

The Operator must pay all costs arising from the CA attending to remedy any fault of the Ticketing System which fault is due solely or partially to—

- (a) the failure by the Operator to carry out First Level Corrective Maintenance;
- (b) damage caused to the Ticketing System by the Operator, its employees and agents; or
- (c) damage to the Ticketing System by any person not authorised by the CA having access to it while it is in possession of the Operator.

## **2.9 Claims**

The Operator may not claim or be entitled to claim from the CA any sum for inconvenience,

loss or damage to the Operator due to—

- (a) vandalism or wilful damage to or misuse of the Ticketing System;
- (b) faults caused by or arising from inadequate equipment maintenance or repair;
- (c) any delay by the CA in attending to and replacing any faulty component of the Ticketing System;
- (d) the delay in conducting any inspection maintenance or repair of ticketing equipment;
- (e) the replacement or upgrading of the Ticketing System; or
- (f) faults or damage to the Ticketing System caused by industrial action, an act of God or other unforeseen events.

**SCHEDULE 11: STYLE GUIDE FOR IMAGE AND MARKETING**

*[CA to prepare]*



## **SCHEDULE 12: JOURNEY ANALYSIS REPORT**

See next page.

## Journey Analysis

Operator:

Date Range: 2010/02/20 to 2010/02/20

Contracts: ALL

Routes: ALL

Start	Driver No	Driver Name	Bus	Duty	Jny	Act. Start	Sched Dist.	Arrive	Actual Dist	Revenue	Tickets	Passes	Psngrs
<b>Trips for 20/02/2010</b>													
<b>Contract:</b>													
<b>Route: 0010</b>													
09:40	1	Galehole NS	942	120	940		9.20		0.00	R0.00	0	0	0
<b>Route: 0030</b>													
05:30	1	Galehole NS	942	120	530		53.50		0.00	R224.50	24	5	29
08:00	1	Galehole NS	942	120	800		47.90		0.00	R124.00	11	0	11
13:25	1	Galehole NS	549	120	1325		53.50		0.00	R145.00	14	7	21
<b>Route: 0040</b>													
07:00	140	Molene MB	896	127	700		25.00		0.00	R0.00	0	0	0
07:00	117	Moholeng MI	455	127	700	06:54	25.00		0.00	R75.00	10	17	27
07:00	100	Kaekae S	3205	127	700		25.00		0.00	R165.00	22	20	42
13:15	140	Molene MB	896	127	1315		25.00		0.00	R0.00	0	0	0
13:15	122	MosimaneKgosi TS	458	127	1315	14:00	25.00		0.00	R135.00	18	10	28
<b>Route: 0041</b>													
07:15				126	715		76.50		0.00	R799.50	53	0	53
13:20	83	Meyer RJ	546	126	1320		76.50		0.00	R799.50	53	0	53
<b>Route: 0070</b>													
04:30				132	430		100.00						
<b>Route: 0120</b>													
06:00	122	MosimaneKgosi TS	9999	142	600		41.50		0.00	R78.00	13	0	13
13:30	140	Molene MB	896	142	1330		41.50		0.00	R262.50	22	2	24
<b>Route: 0121</b>													
07:00	51	Galehole OS	654	111	700		43.50		0.00	R207.00	18	0	18
13:30	100	Kaekae S	654	111	1330		43.50		0.00	R328.00	26	2	28
<b>Route: 0190</b>													
06:30	147	Melore LB	72	146	630		99.30		0.00	R806.00	40	6	46
13:30	147	Melore LB	72	146	1330		99.30		0.00	R687.30	36	11	47
<b>Route: 0220</b>													
07:00	137	SamaneJO	731	150	700		85.20		0.00	R612.50	36	0	36
13:30	137	SamaneJO	731	150	1330		85.20		0.00	R736.00	45	0	45

## SCHEDULE 13: OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

This is an agreement between:

The ..... Municipality/Provincial Administration

(being the contracting authority in the contract concluded between it and the Mandatary mentioned below for the provision of public transport services to which this agreement is appended and hereinafter referred to as the "Employer")

And

.....  
(being the supplier and the Operator in terms of the abovementioned contract and hereinafter referred to as the "Mandatary")

in respect of the abovementioned public transport services as more fully described in the contract referred to above

.....  
(hereinafter referred to as the "work")

WHEREAS section 37(1) of the Occupational Health and Safety Act 85 of 1993 (the OHS Act) provides that an employer shall be liable to be convicted and sentenced in respect of an act or omission by its mandatary or employee in certain circumstances;

AND WHEREAS the supplier, appointed by the Employer (contracting authority) to do work (as contemplated in the Act) is also liable in terms of section 37(3) of the OHS Act (and in its own right as employer) to comply with the provisions of the OHS Act applicable to its employees and mandataries;

AND WHEREAS section 37(2) of the OHS Act limits the employer's liability in terms of section 37(1) if the employer and mandatary have agreed in writing to the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of that Act

;

NOW THEREFORE, the Employer and Mandatary, hereby agree as follows:

1. The Mandatary hereby unconditionally accepts responsibility for compliance with the OHS Act in respect of the work in terms of section 37(2) of that Act.
2. The Mandatary hereby indemnifies the Employer against any patrimonial loss or damages which the Employer may suffer as a direct result of any claims and/or steps that may be instituted against the Employer due to non-compliance by the Mandatary (or employees and mandataries of the Mandatary) with the provisions of the OHS Act.
3. Without limiting the indemnity contemplated in 2 above, the Employer and Mandatary agree to the following arrangements and procedures to ensure compliance by the Mandatary with the provisions of the OHS Act:

- 3.1 The Mandatary warrants that it has read and fully understands the requirements of the OHS Act and the regulations promulgated in terms of that Act and has allowed for all costs to be incurred to ensure such compliance.
- 3.2 The Mandatary must prepare and submit to the Employer a Health and Safety Plan as is appropriate for the work within 10 business days of the date of signature of this agreement by the last Party.
- 3.3 Such Health and Safety Plan must at least cover the following:
  - 3.3.1 The management structure, site supervision and responsible persons, including a succession plan;
  - 3.3.2 The Mandatary's induction training programme for employees and sub-contractors;
  - 3.3.3 Health and safety precautions and procedures to be adhered to in order to ensure compliance with the OHS Act, Regulations and Safety Specifications;
  - 3.3.4 Regular monitoring procedures to be performed;
  - 3.3.5 Regular liaison, consultation and review meetings with all parties;
  - 3.3.6 Site security, welfare facilities and first aid; and
  - 3.3.7 Site rules and fire and emergency procedures.
4. The Mandatary must ensure that all sub-contractors and other persons engaged in the execution of the work also comply with the above requirements.
5. The Mandatary must inform the Employer immediately should the Mandatary at any time during the execution of the work find that it is not able to comply with the OHS Act or to perform this agreement or such compliance or performance will be detrimentally affected. The Mandatary must liaise with the Employer, who may, in its sole discretion, agree to release the Mandatary from the provisions of this agreement and/or the indemnity granted by the Mandatary herein, subject to the conditions which the Employer may impose.
6. The Mandatary hereby appoints Mr/Ms .....as its representative and the responsible person on site for the duration of the contract in terms of section 8(2)(i) of the OHS Act as well as any regulations or prescriptions in terms of that Act.
7. The Mandatary's Registration number with the Compensation Commission is ..... If not so registered, the Mandatary must register with the Department of Labour within one month from the commencement date of the abovementioned contract and submit proof in this regard to the Employer.
8. Nothing in this agreement shall be interpreted as detracting from the Employer's responsibility to comply with its obligations in terms of the OHS Act, including but not limited to the Employer's facilities.

SIGNED at.....on ..... 20....

.....

(For and on behalf of the Employer)

SIGNED at.....on .....20....

.....

(For and on behalf of the Mandatary)

**SCHEDULE 14: PRO FORMA SUB-CONTRACTING AGREEMENT****AGREEMENT**

This is an agreement between:

.....

(Registration number ..... ("the Operator"), herein represented by .....

in his/her capacity as .....

And

.....

(Identity/Registration number ..... ("the Sub-Contractor"), herein represented by .....

in his/her capacity as .....

**Contents****Recordal**

1. Definitions
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## Schedules

1. Timetables
2. Route descriptions and maps
3. Fare tables
4. Vehicle specifications
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### WHEREAS:

The Operator has concluded a contract with the ..... Municipality/Provincial Administration to provide public transport services in the ..... area;

The Operator and Sub-Contractor have agreed that the Sub-Contractor will provide a part of those services as specified in this Agreement;

The Sub-Contractor agrees to provide the said services in terms of this Agreement:

### NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

## 1. DEFINITIONS

In this Agreement any word or expression to which a meaning has been assigned in the Main Contract or the National Land Transport Act, 2009 (Act No. 5 of 2009) ("the Act") or the National Road Traffic Act, 1996 (Act No. 93 of 1996) shall have the meaning assigned to it by the Main Contract and those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

"Act" or "the Act" means the National Land Transport Act, 2009 (Act No. 5 of 2009);

"Agreement" or "this Agreement" means this Agreement between the Operator and the Sub-Contractor, together with all Schedules thereto;

"CA" means the Contracting Authority contemplated in the Main Agreement;

“contract rates” means the rates per kilometre payable to the Sub-Contractor in terms of this Agreement as set out in Schedule 6;

“dead kilometres” means kilometres travelled by a vehicle with or without passengers—

- a) from a depot to the starting point of a scheduled trip;
- b) from the end of a scheduled trip to a depot; or
- c) from the end of a scheduled trip to the starting point of the next scheduled trip;

“Main Contract” means the abovementioned contract between the ..... Municipality/Province and the Operator concluded at ..... on .....;

“Operator” means ....., being the Operator in the Main Contract;

“Party” or “Parties” means the Operator or the Sub-Contractor or both of them, as the context indicates; and

“services” means the public transport services to be provided in terms of this Agreement.

## **2. PROVISION OF SERVICES**

- 2.1 The Sub-Contractor undertakes to operate the services in accordance with this Agreement as set out in Schedule 1: Timetables, Schedule 2: Route Descriptions and Maps and Schedule 3: Fare Tables.
- 2.2 All bus stops, including intermediate stops must be authorised by the CA and any relevant municipality with due consideration to by-laws and regulations of such municipality.
- 2.3 Cancellation of scheduled trips is not allowed unless authorised in writing by the Operator.
- 2.4 The Sub-Contractor must exercise the highest degree of skill, care and diligence in providing the services and operate the services strictly in accordance with this Agreement, to the satisfaction of the Operator. The Sub-Contractor must comply with and strictly adhere to the Operator’s reasonable instructions and directions regarding the operation of the services. The Sub-Contractor must take instructions and directions only from the Operator and the CA or the monitoring staff or duly authorised employees or agents of the CA.
- 2.5 Should the Sub-Contractor not carry out the Operator’s written instructions regarding any matter relating to this Agreement, the Operator may, within 14 days after having notified the Sub-Contractor of its intention to do so, take steps itself or have steps taken by others on its behalf to give effect to the Operator’s orders not carried out by the Sub-Contractor, without terminating this Agreement and without prejudice to any other rights of the Operator: Provided that if the Operator issues more than three such notices during the period of this Agreement it may terminate the Agreement.



- 2.6 The Sub-contractor may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question, or on the grounds of violent, abusive or otherwise offensive conduct on the part of that person or other grounds contemplated in applicable road traffic legislation, or because the person refuses to pay the fare.
- 2.7 Should the Sub-Contractor become aware of circumstances or problems which have prevented, are preventing or will prevent him or her from providing the services as specified, he/she must, as soon as is reasonably possible after becoming so aware, advise the Operator of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced thereby, if applicable. Such advice must be confirmed in writing as soon as reasonably possible.
- 2.8 If the Sub-Contractor is not able to provide a trip due to a vehicle or driver not being available, he/she must make a prior arrangement with the Operator to hire or borrow a vehicle and/or driver from the Operator.
- 2.9 The Sub-Contractor must screen all drivers to be used to provide the services, who must be in possession of the required professional driving permits, and must comply with the reasonable requirements of the Operator and CA.

### **3. COMMENCEMENT DATE AND DURATION**

- 3.1 This Agreement shall commence on ..... and terminate on ....., subject to earlier termination in terms of clause 18.
- 3.2 The Sub-Contractor shall commence the services on .....
- 3.3 Upon expiry or termination of this Agreement or if the Main Contract is cancelled or terminated and the services under the Main Contract are operated for the CA in terms of a new or different contract, the Sub-contractor shall give his/her full co-operation to effect the transition of the services to the new operator and will continue to operate the services until this Agreement expires or is terminated.

### **4. PAYMENT FOR SERVICES**

- 4.1 The Operator will pay the Sub-Contractor monthly for providing the services at the rates per kilometre for revenue kilometres actually provided by the Sub-Contractor, either in terms of the services specified in Schedule 1 or approved variations in accordance with clause 14.
- 4.2 The Sub-Contractor shall be paid in an amount calculated by multiplying the total revenue kilometres by the contract rates, less any penalties.
- 4.3 The amount payable as calculated in terms of clause 4.2 will be escalated in terms of clause 5, after which amounts to be withheld under clause 15 will be deducted. Actual route distances as shown in Schedule 1 shall be used to calculate revenue kilometres for each trip, provided always that the onus is on the Sub-Contractor to

prove that trips have been operated. The Sub-Contractor will not be paid for dead kilometres.

- 4.4 Not later than seven days after the end of each month, the Sub-Contractor must submit to the Operator a monthly claim form in the format prescribed by the CA.
- 4.5 To support the calculation of the Sub-Contractor's monthly claims and to enable proper monitoring of performance, the Sub-Contractor must supply the Operator monthly with the following written statistical data and information for each driver's duty/shift or part thereof in the format required by the CA:
- (i) the scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
  - (ii) detail of trips not operated and reasons therefor;
  - (iii) revenue kilometres of each trip;
  - (iv) cash and multi-journey ticket (MJT) passenger numbers for each trip;
  - (v) the number of each type of MJT presented on each trip;
  - (vi) the value of the cash fares collected;
  - (vii) the value of MJT fares collected;
  - (viii) the number of each passenger type not required to pay for the trip being made (*i.e.* pensioner, scholar, under-age child); and
  - (ix) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract.

The Sub-Contractor must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the period of the Agreement.

- 4.6 The Sub-Contractor must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 4.7 Claim forms must be prepared by the Sub-Contractor, and checked and certified as correct and payable by the Operator.
- 4.8 The monthly claim forms will only be certified by the Operator if it is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.
- 4.9 The Operator must submit the payment certificate to the CA as soon as possible, but not later than three working days after receipt thereof, error free, from the Sub-Contractor.
- 4.10 The Operator must pay the Sub-Contractor as soon as possible but not later than two business days after receipt of payment from the CA by payment into the dedicated bank account of the Sub-Contractor by electronic funds transfer. The CA may reject any payment certificate submitted by the Sub-Contractor that contains errors. The rejected certificate must be returned to the Operator for correction and no discussions in this regard will be entered into between the CA and the Sub-Contractor unless the CA decides otherwise.

- 4.11 The CA may refuse to pay the Sub-Contractor's claim without adequate documented proof of the required data and information that may be requested by the CA.
- 4.12 In addition to any information requested in terms of clause 4.11, the CA may at any time request the Operator to provide any information regarding the operation of this Agreement. The Sub-Contractor must comply with such a request submitted to the Sub-Contractor by the Operator within seven days, or such other period as the CA may allow. Failure to do so will result in penalties being imposed under clause 15.
- 4.13 If in the opinion of the CA the Sub-Contractor provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Sub-Contractor or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Sub-Contractor. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—
- (i) the CA may immediately appoint auditors to check and verify all books and records of the Sub-Contractor and the Sub-Contractor hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
  - (ii) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
  - (ii) the onus of proof shall be on the Sub-Contractor to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner.

## 5. ESCALATION

- 5.1 The contract rates will be escalated on the same basis applicable to the contract rates in terms of the Main Agreement.
- 5.2 The Operator must inform the Sub-Contractor timeously of any escalation applicable to such rates to enable the Sub-Contractor to complete his/her monthly claim certificates accordingly.

## 6. VEHICLES

- 6.1 The Sub-Contractor must provide the services with the vehicles specified in Schedule 4.
- 6.2 Vehicles must at all times comply with the specifications set out in Schedule 4.
- 6.3 When so ordered by the Operator the Sub-Contractor shall remove from the service any unsuitable vehicles. The approval or disapproval of any vehicle by the Operator shall not in any way release the Sub-Contractor from his/her obligation in terms of this Agreement.

- 6.4 The Sub-contractor shall equip, maintain and identify the vehicles in accordance with Schedule 4 and the destination and shift number shall be correctly displayed at the front of each vehicle for every trip.
- 6.5 Any accident damage must be repaired forthwith so that the vehicle complies with Schedule 4.
- 6.6 All vehicles must be clean inside and outside when they leave a depot.
- 6.7 No vehicles with hard seats will be permitted and all vehicles shall be painted in a uniform corporate appearance unless the Operator or CA decides otherwise.

*[Note: If the Sub-Contractor will lease or borrow vehicles from the Operator, the Agreement will have to provide for terms and conditions in that regard.]*

## **7. FARES**

- 7.1 The onus of collecting fares will be on the Sub-Contractor and all fares collected by the Sub-contractor shall be paid to the Operator in the manner required by the Operator for transfer to the CA.
- 7.2 The cash and multi journey ticket fares to be charged by the Sub-Contractor on all routes operated in terms of this Agreement are subject to approval by the Operator and the CA and the onus will be on the Sub-contractor to comply with the Act in this regard, and if fares form part of the conditions of the Sub-Contractor's operating licences or permits, apply to the relevant Provincial Regulatory Entity for amendment thereof.
- 7.3 When so directed by the Operator or CA, the Sub-Contractor must implement fare increases as directed by them. The Sub-Contractor must give notice of change of fees to the passengers in the manner stipulated by the Operator or CA at least 28 days prior to the change.
- 7.4 The approved fare table shall be available in each vehicle and the Sub-Contractor must maintain proper records of fares as required by the CA.
- 7.5 Failure of the Sub-Contractor to issue valid tickets in respect of fares collected, is regarded as a material breach of contract and may lead to termination of this Agreement in terms of clause 18.

## **8. CESSION AND DELEGATION**

- 8.1 The Sub-Contractor may not cede its rights or delegate its obligations in terms of this Agreement, or further sub-contract the services or dispose of any or all of its rights, title, obligation or interest in and to this Agreement to any other party without the prior written consent of both the Operator and the CA.
- 8.2 The Sub-Contractor may not contract out any support service, including but not limited to inspection, statistical analyses, tyre maintenance, salary and wage

administration and any like service without the prior written consent of both the Operator and CA, which consent shall not be unreasonably withheld.

- 8.3 Failure to comply with this clause may be regarded as a material breach of this Agreement and entitle the Operator to terminate it in terms of clause 18.
- 8.4 Where the Operator has granted consent for a further sub-contract, it may at any time withdraw such consent on 30 days' written notice, and in that event no claim against the Operator by the Sub-Contractor or any other person on the grounds of the granting of such consent or the withdrawal thereof shall be entertained, and the Sub-Contractor indemnifies the Operator against any claims and cost incurred.

## **9. ACCESS AND DISCLOSURE**

- 9.1 The Operator and the CA, and any person duly authorised by them shall at all reasonable times have access to all vehicles, workshops, offices and depots of the Sub-Contractor for the purpose of monitoring service quality, patronage and ticket and general inspection, and the Sub-Contractor shall provide for and render every assistance regarding such access or in obtaining the right thereto.
- 9.2 The Sub-Contractor must inform all his/her employees of the identity, powers and duties of the Operator and monitoring staff appointed by the CA. For purposes of identification the Operator must provide such staff with a unique personal identity card and photograph.
- 9.3 The Sub-Contractor must, at the request of the Operator or the CA, produce proof of the validity of all licences, permits and other requirements necessary to perform this Agreement. Such proof shall be furnished not later than seven days from the date of receipt of a written request.

## **10. ACCOUNTING MATTERS**

The Sub-Contractor must keep proper accounting and financial records in respect of this Agreement in accordance with generally accepted accounting practice and have such records audited annually. The Sub-Contractor must also annually, within six months of the end of his/her financial year, submit to the Operator copies of such financial statements, together with the auditors' report and such operating data as the Operator may require. All accounting records and waybills must be kept for at least three years after termination or expiration of this Agreement, and may be kept on microfilm.

## **11. POWERS AND DUTIES OF OPERATOR AND CA**

- 11.1 The Operator and the CA and their agents or representatives shall have the right to investigate any complaint, objection or representation made by passengers, local authorities or other interested persons relating to the services.
- 11.2 Should the Sub-Contractor become aware that any of his/her employees have threatened any such agent or representative, or the monitoring staff whilst carrying

out their duties, he/she shall be obliged to take immediate disciplinary action against such employees.

- 11.3 The Sub-Contractor must meet with the Operator and representatives of the CA at least on a monthly basis to discuss issues related to this Agreement.

## **12. SERVICES OUTSIDE OF THIS AGREEMENT**

In addition to the services that the Sub-Contractor must provide in terms of this Agreement, he/she may operate, with prior written approval from the Operator, any other passenger transport services, provided that the operation thereof will in no way interfere with or inhibit his/her ability to provide the services in terms of this Agreement.

## **13. TIMETABLES**

- 13.1 The full route description and standard day timetables for each route to be provided in terms of this Agreement are set out in Schedule 1.
- 13.2 The Operator shall formulate a proposed timetable to apply during holiday periods at least 14 days prior to public holidays and/or holiday periods. Such a timetable will be binding on the Sub-Contractor for such holiday period.
- 13.3 Permanent changes to the passenger numbers being carried may necessitate changes to the timetables and the number of vehicles required to operate the service. The Sub-Contractor will be required to adjust his/her operations to meet the new circumstances, subject to clause 14 (variations).
- 13.4 No changes to the route descriptions and timetables are permitted unless prior written authority is given by the Operator authorising such a change.

## **14. VARIATIONS**

- 14.1 The Operator may make the following variations to the services within the service area, provided that the prior consent of the CA is required 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 or authorised stops, in consultation with the relevant local authority and/or traffic authority where applicable and
  - e) to change the timetable of any portion of the service.

No such variation shall in any way invalidate or vitiate this Agreement. The Operator must notify the Sub-Contractor in writing of any variations made to the existing services and the Sub-Contractor must comply with any such variations. Not less than seven days' notice, unless a shorter period is approved by the Operator, of any

intended changes to the timetable must be given to passengers by the Sub-Contractor.

- 14.2 The Sub-Contractor may apply in writing to the Operator 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 Operator consenting to such a variation the financial implications thereof on the contract rates and timetables shall be agreed upon in writing. The decision of the Operator in this regard shall be final and be communicated to the Sub-Contractor in writing.
- 14.3 If it appears to the Sub-Contractor that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Sub-Contractor may apply to the Operator for permission to introduce additional trips to cater for such passengers. If written permission is granted and additional trips introduced, the Operator shall compensate the Sub-Contractor therefor at the variable contract rate as from the first day of the month following the approval and all costs incurred by the Sub-Contractor prior to that day shall be for the Sub-Contractor's own account.
- 14.4 If it appears to the Sub-Contractor that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the Operator may at the request of the Sub-Contractor approve that—
- (i) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
  - (ii) the Sub-Contractor continues operating the vehicle, in which case the Sub-Contractor will be paid at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity as the Operator might consider appropriate for the circumstances for the relevant kilometres.

If the Operator does not approve the application it will remove the trip or route from the timetable.

## **15. PENALTIES**

The services shall be fully monitored in the first three months of operation and all offences listed, but penalties will not be imposed in the first three months. Thereafter penalties shall be imposed as set out in Schedule 5 and be deducted from each monthly claim. In all cases revenue kilometres shall only be paid for trips which have actually been operated.

## **16. CONFIDENTIALITY**

The Parties shall keep confidential and not disclose without prior written consent of the other Party any trade, business or confidential information supplied by either Party in terms of or in executing this Agreement except where obliged to do so in terms of legislation or by a court of law.

**17. DISPUTES**

Should any dispute or difference arise between the Parties in connection with or arising from this Agreement the Party declaring the dispute or difference shall notify the other Party in writing, and the Parties shall attempt to resolve the matter by agreement within 21 days of receipt of the notice by the latter Party. If no resolution can be achieved within such period, the dispute or difference may be settled by way of mediation or arbitration if the Parties agree, in accordance with agreed procedures.

**18. TERMINATION OF THE AGREEMENT**

18.1 The Operator may, after not less than seven days' written notice to the Sub-Contractor or his/her executor, if applicable, terminate this Agreement and if appropriate claim damages or alternatively, at its option, the Operator may institute a claim for damages and/or sue for specific performance against the Sub-Contractor or claim any other lawful remedy if—

- a) application is made for the sequestration of the Sub-Contractors' estate;
- b) the Sub-Contractor publishes a notice of surrender of his/her estate or presents a petition for the acceptance of the surrender of his/her estate insolvent;
- c) the Sub-Contractor makes a compromise with his/her creditors or assigns in favour of his/her creditors;
- d) the Sub-Contractor agrees to carry out this Agreement under the supervision of a committee representing his/her creditors;
- e) 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);
- f) judicial execution is levied on the Sub-Contractors' goods;
- g) the Sub-Contractor cedes or assigns this Agreement or part thereof without the Operator's written consent;
- h) the penalties imposed in terms of Schedule 5 excluding amounts withheld in terms thereof, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months;
- i) the Operator has issued more than three notices contemplated in clause 2.5 or the Sub-Contractor :
  - aa) has offered, promised, or given a bribe or other gift or remuneration to any officer or employee in the service of the Operator or the CA in connection with the obtaining or execution of this Agreement,
  - bb) has acted in a fraudulent manner or in bad faith in obtaining or executing a contract with any Government department, provincial administration, public body, company or person;
  - cc) has abandoned his/her obligations in terms of this Agreement
  - dd) has without reasonable excuse failed to commence the services on the commencement date or has suspended the services after receiving from the Operator written notice to proceed,
  - ee) has acted in a manner that is dishonest, contrary to the public interest or in any other way undesirable for the purposes of this Agreement,



- ff) is discovered to have provided incorrect, false or fraudulent information as contemplated in clause 14.5;
- gg) has breached any material term of the Agreement not mentioned above; or
- hh) is deceased, in the case of the Sub-Contractor being a natural person;
- ii) is guilty of not issuing valid tickets as described in clause 7.5;
- jj) is fomenting labour unrest with the Operator's staff; or
- kk) has failed to notify the Operator and CA of a change in its ownership control in terms of clause 22.

18.2 If the Sub-Contractor–

- a) consistently fails to observe the terms of this Agreement despite the fact that penalties have been imposed, with the result that the quality of the services is unacceptable to the Operator or CA;
- b) fails to submit copies of annual financial statements and auditors report and other data as required by clause 10;
- c) has failed to take out or maintain insurance as required by clause 21,

the Operator may give the Sub-Contractor no less than 14 days' written notice to rectify the matter. If the Sub-Contractor does not rectify the matter as specified in the notice, the Operator may after seven days' written notice to the Sub-Contractor, terminate the Agreement and if appropriate claim damages, alternatively at its option the Operator may institute a claim for damages and/or sue for specific performance against the Sub-Contractor or enforce any other lawful remedy.

- 18.3 On termination of this Agreement in terms of this clause, should the amounts the Operator must pay to complete the contract exceed the sum that would have been payable to the Sub-Contractor on due completion by him/her, the Sub-Contractor shall upon demand pay the Operator the difference which will be deemed a debt due by the Sub-Contractor to the Operator and shall be recoverable accordingly.
- 18.4 Termination of this Agreement shall be without prejudice and any rights of the Operator in respect of any antecedent breach of contract by the Sub-Contractor.
- 18.5 In the event of the Operator breaching any terms or conditions of this Agreement, the Sub-Contractor may give the Operator not less than 14 days' written notice of such breach, calling upon the Operator to remedy the same. Should the Operator fail to remedy the breach in accordance with the notice this Agreement may either be terminated after a further seven days' written notice or at the option of the Sub-Contractor, the Sub-Contractor may institute a claim for damages and/or sue for specific performance against the Operator or claim any other lawful remedy that the Sub-Contractor may have against the Operator.
- 18.6 This Agreement will terminate automatically if the Main Contract is terminated for any reason, with effect from the date that the Main Contract is terminated.
- 18.7 The Operator may for any reason other than those contemplated above terminate this Agreement on not less than three months' written notice of such termination given to the Sub-Contractor. In such case it will be obliged to pay the Sub-Contractor such damages as the Sub-Contractor is able to prove, provided that such damages shall not exceed ten percent of the value of the uncompleted services. Apart from the

foregoing, the Sub-Contractor shall not be entitled to claim any other amounts whatsoever in respect of such termination of contract.

- 18.8 In the case of termination of this Agreement the Operator or CA may immediately appoint auditors to check and verify all relevant books, records and other data of the Sub-Contractor relating to the Agreement and the Sub-Contractor shall give full co-operation in this regard.

## 19. DOMICILIA AND COMMUNICATION

- 19.1 The *domicilia citandi et excutandi* of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this Agreement shall be:

**The Operator** .....

**The Sub-contractor** .....

- 19.2 The other particulars of the Parties are :

**The Operator** Telephone number :  
Telefax number :

**The Sub-contractor** Telephone number :  
Telefax number :

- 19.3 The Parties shall give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

- 19.4 Communication shall be maintained by using the following methods:

- a) hand delivery,
- b) registered mail,
- c) Telefax, telegram or telex or,
- d) Courier

- 19.5 Any notice given in terms of this contract shall be in writing and shall be deemed to have been received by the addressee:

- a) on the date of delivery, if delivered by hand,
- b) on the eighth day following date of posting, if sent by prepaid registered mail
- c) on the day after dispatch, if sent by telefax, telegram or telex, provided that the other Party has acknowledged receipt by the same method; or
- d) on the day after dispatch, if delivered by courier

## 20. INDEPENDENT CONTRACTOR

The Sub-Contractor shall act as an independent contractor and not as an employee or agent of the Operator and has no authority to bind the Operator contractually to

any other party. In particular, the Operator shall not be liable to pay any retrenchment or severance pay to any of the employees of the Sub-Contractor on dismissal.

## **21. INSURANCE**

- 21.1 The Sub-Contractor must take steps to ensure the safety of the passengers and property. The Operator shall not be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Sub-Contractor or his/her agents or employees and the Sub-Contractor hereby indemnifies the Operator against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges expenses whatsoever in this regard.
- 21.2 The Sub-Contractor must take out and maintain throughout the duration of the Agreement, at his/her own expense public liability insurance for at least ten million rand (R10m), and other insurance and in such amounts as the Operator may from time to time direct with an insurance company, chosen by the Sub-Contractor and acceptable to the Operator, properly registered in the Republic. Proof of such insurance must be submitted to the Operator prior to the commencement of the services and the Sub-Contractor must advise the Operator in writing of any changes thereto and provide the Operator with proof of payment of monthly premiums on demand.

## **22. CHANGE IN SHAREHOLDING**

The Sub-Contractor must notify the Operator and CA in writing within seven days of any change in its shareholding or ownership, providing full details. Failure to do so will result in the imposition of a penalty in accordance with Schedule 5, and entitle the Operator to terminate this Agreement.

## **23. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this Agreement.

**Signed** at ..... on this ..... day of .....

For: ..... (Operator)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**Signed** at ..... on this .... day of .....

For: ..... (Sub-Contractor)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

## **SCHEDULES**

... ..

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**VOLUME 3: FORMS****Part 1: Tender Forms**

- Form 1: Tenderer's address form for the delivery of addenda
- Form 2: Certificate of tenderer's attendance at Information Meeting
- Form 3: Form of Tender
- Form 4: Tax Clearance Certificate
- Form 5: Certificate of authority for signatory in respect of legal persons
- Form 6: Certificate of non-collusive tender in respect of a single tenderer
- Form 7: Certificate of authorisation for signatory and declaration of joint and several liabilities in respect of a consortium
- Form 8: Affidavit regarding previous convictions for offences
- Form 9: Declaration of interest
- Form 10: Schedule of existing public transport services operated by tenderer
- Form 11: Schedule of existing or proposed vehicles
- Form 12: Calculation of fixed and variable contract rates and contract amount
- Form 13: Claim for establishment costs
- Form 14: Operating licences or permits held by the tenderer
- Form 15: Proposed organisation structure of tenderer
- Form 16: Schedule of employees to be used on the contract
- Form 17: Declaration and undertaking in terms of regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services
- Form 18: Certificate of conditions of a loan, guarantee or other financial assistance provided to the tenderer
- Form 19: Declaration of financial support by owner

**Part 2: Contract Forms – To be completed only after tender is accepted**

Form 20: Contract

Form 21: *Pro forma* Payment Certificate

Form 22: Notification of change in ownership control of the Operator

Form 23: Incident Report

Form 24: Waybill

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 1: TENDERER'S ADDRESS FORM FOR THE DELIVERY OF ADDENDA**

[To be completed by all tenderers submitting tenders.]

PARTICULARS OF TENDERER:

Name of tenderer: .....

Address of tenderer: .....

.....

.....

Name of contact person: .....

Telephone number: .....

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA:

I acknowledge receipt of the following addenda:

1. Addendum No. .... dated ..... (Number of pages received ..... )
2. Addendum No. .... dated ..... (Number of pages received ..... )
3. Addendum No. .... dated ..... (Number of pages received ..... )
4. Addendum No. .... dated ..... (Number of pages received ..... )
5. Addendum No. .... dated ..... (Number of pages received ..... )

.....

Name .....

TENDERER/SIGNATORY

ON BEHALF OF TENDERER

.....

DATE

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 2: CERTIFICATE OF TENDERER'S ATTENDANCE AT THE INFORMATION  
MEETING**

This is to certify that I, .....  
being the Tenderer/representative of the Tenderer\*, of (address) .....  
.....  
and with telephone number ..... attended the information meeting held on  
..... (date).

.....  
TENDERER/TENDERER'S REPRESENTATIVE\*

.....  
DATE

CAPACITY OF REPRESENTATIVE: .....

CONFIRMATION OF ATTENDANCE:

.....  
for CONTRACTING AUTHORITY DATE

.....  
NAME OF SIGNATORY

WITNESSES:

1. .... Name: .....

2. .... Name: .....

\* *Delete whichever is not applicable*



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 3: FORM OF TENDER**

1. I/we, having examined the tender documents for the provision of the above services, including all addenda issued after the date the tender documents were collected, hereby tender to render all or any of the services described in the attached documents to the ..... Municipality/Provincial Administration on the terms and conditions and in accordance with the specifications stipulated in the tender documents (and which shall be taken as part of, and incorporated into, this tender at the rates and on the terms inserted therein, which according to Form 12 of the Tender Forms give a total tender amount of R.....  
.....(words)
2. I/we agree that—
  - (a) the offer herein shall remain binding upon me/us and open for acceptance by the Contracting Authority (CA) during the validity period indicated and calculated from the closing time of the tender until ..... or such period for which it may be extended.
  - (b) if I/we withdraw my/our tender within the period for which I/we have agreed that the tender shall remain open for acceptance, or fail to sign the contract when called upon to do so, the CA may, without prejudice to its other rights, agree to the withdrawal of my/our tender or cancel the contract that may have been entered into between me/us and the CA and I/we will then pay to the CA any additional expense incurred by the CA having either to accept any less favourable tender or, if fresh tenders have to be invited, the additional expenditure incurred by the invitation of fresh tenders and by the subsequent acceptance of any less favourable tender; the CA 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 fulfillment 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 as security for any loss the CA may sustain by reason of my/our default;
  - (c) if my/our tender is accepted the acceptance may be communicated to me/us by letter or order by ordinary post or registered post and that the Post Office shall be regarded as my/our agent, and delivery of such acceptance to the Post Office shall be treated

as delivery to me/us;

- (d) the law of the Republic of South Africa shall govern the contract created by the acceptance of my/our tender and the we choose *domicilium citandi et executandi* in the Republic at (full physical address of this place) .....  
 .....

3. I/we undertake to give notice in writing of any change of the above *domicilium citandi et executandi* and related particulars, at least fourteen (14) days prior to such new particulars becoming effective.
4. I/we undertake to acknowledge receipt of all communications from the CA.
5. I/we acknowledge that any notice given in terms of this tender must be in writing and shall be deemed to have been received by the addressee—
  - (a) on the date of delivery if delivered by hand;
  - (b) on the eighth (8th) day following the date of posting, if posted by pre-paid mail;
  - (c) on the day after dispatch, if sent by courier, telefax, telegram or telex.
6. I/we have prepared this tender based on the specifications provided.
7. I/we furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our tender; that the rates quoted cover all the work/item(s) specified in the tender documents and that the rates cover all my/our obligations under a resulting contract and that I/we accept that any mistakes regarding rates and calculations will be at my/our risk.
8. I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principal(s) liable for the due fulfilment of this contract.
9. I/we understand that the CA is not bound to accept the lowest or any particular tender it may receive, and that it or the CA will not defray any expenses incurred by me/us in tendering.
10. If my/our tender is accepted, I/we undertake to sign the *pro forma* contract (Form 20) included in this document within seven (7) days of being called upon to do so by the CA.
11. If my/our tender is accepted, and until the *pro forma* contract (Form 20) is prepared and executed, this tender, together with the written acceptance thereof, shall constitute a binding contract between me/us and the CA and shall be deemed for all purposes to be the contract

agreement, together with the other documents listed in clause 44 of the Conditions of Contract, insofar as they are applicable.

12. I/we undertake to commence the services on the commencement date.
13. I/we undertake to provide proof of insurance in terms of clause 25 of the Conditions of Contract.
14. I/we declare that I/we have *\*participated/ not participated\** in the submission of any other offer for the operation of the services described in the attached documents. If in the affirmative state the name(s) of the tenderer(s) involved:  
 .....  
 .....  
 .....
15. Are you duly authorised to sign this tender? \*YES/NO
16. Has the Declaration of Interest (Form 9) been duly completed and included with the other tender forms? \*YES/NO

**\* Delete whichever is not applicable**

SIGNATURE(S) OF TENDERER OR ASSIGNEE(S).....

DATE.....

Capacity and particulars of the authority under which this tender is signed:

Name of the Tenderer (in block letters): .....

Postal address (in block letters):.....

Telephone Number(s): .....

Facsimile number(s): .....

Tender number: .....

Name of contact person (block letters): .....

Tenderer's tax reference number: .....

**NB: ALL TENDERS AND SUPPORTING DOCUMENTS MUST BE SEALED IN AN ENVELOPE CLEARLY MARKED WITH:**

**TENDER No. ....**

PROVISION OF PUBLIC PASSENGER TRANSPORT SERVICES BETWEEN:

.....  
.....

and must be placed in the tender box at the Office of the Tender Board/CA, situated at

.....  
.....

Not later than 11:00 on ..... when all tenders will be opened in public and the names of the tenderers shall be read out and the tender amounts disclosed.

### **IMPORTANT CONDITIONS**

1. Failure on the part of the tenderer to sign this Tender Form 3 and thus to acknowledge and accept the conditions in writing or to complete the attached forms, questionnaires and specifications in all respects, may invalidate the tender.
2. Tenders must be submitted on the official forms.
3. Despite clause 44 of the Conditions of Contract, if any of the conditions on this Tender Form 3 are in conflict with any special conditions, stipulations or provisions incorporated in the tender, such special conditions, stipulations or provisions will apply.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 4: TAX CLEARANCE CERTIFICATE**

***Note:***

A valid and current tax clearance certificate for the Operator issued by the SA Revenue Services must be attached.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 5: CERTIFICATE OF AUTHORITY FOR SIGNATORY IN RESPECT OF LEGAL PERSONS**

Signatories for companies, close corporations, trusts or other legal persons must establish their authority by attaching a copy of the relevant resolution of the board of directors/members or authority as applicable, duly signed and dated. An example is shown below.

"The board of directors/members/..... (other)\* of ..... resolved at a meeting held at ..... on the ..... day of ..... 20 ..... that Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with tender(s) number(s) ..... on behalf of the company/close corporation/..... (other)\*.

SIGNED AT ..... ON THIS THE ..... DAY OF ..... 20 .....

.....  
ON BEHALF OF THE COMPANY/CLOSE CORPORATION/TRUST/OTHER\*  
CAPACITY

.....

.....  
SIGNATURE

.....  
NAME OF SIGNATORY  
WITNESSES:

1. .... Name: .....

2. .... Name: .....

\* *Delete whichever is not applicable*

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 6: CERTIFICATE OF NON-COLLUSIVE TENDER**

I/we certify that this is a *bona fide* tender.

I/we also certify that I/we have not done and I/we undertake that I/we shall not do any of the following acts at any time before the hour and date specified for the closure of submission of tenders for this contract:

- (a) Fix or adjust the amount of this tender by, or under, or in accordance with any agreement or arrangement with any other person or, where applicable, any person outside the consortium;
- (b) communicate to a person or, where applicable, any person outside the consortium, other than the person calling for these tenders, the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender;
- (c) cause or induce any other person or, where applicable, any person outside the consortium, to communicate to me/it the amount or approximate amount of any rival tender for this contract;
- (d) enter into any agreement or arrangement with any other person or, where applicable, any person outside the consortium, to the effect that such person will refrain from tendering for this contract, or as to the amount of any tender to be submitted or the conditions on which a tender is made, nor cause or induce any other person to enter into any such agreement or arrangement;
- (e) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person or, where applicable, any person

outside the consortium, for doing or having done or causing or having caused to be done in relation to any tender or proposed tender for this contract, any act or thing of the sort described above.

In this certificate, the term—

"person" includes any persons, body of persons or association, whether corporate or not; and

"agreement or arrangement" includes any agreement or arrangement, whether formal or informal and whether legally binding or not.

"person outside the consortium" means a person other than a director, member, partner or employee of the tenderer, partnership, company, close corporation, trust or other entity being part of the consortium, or any employee of such a person, partnership, company, close corporation, trust or other entity.

SIGNED AT ..... ON THIS THE ..... DAY OF .....20 .....

.....  
TENDERER/SIGNATORY ON BEHALF OF TENDERER

.....  
NAME OF SIGNATORY

WITNESSES:

1. .... Name: .....

2. .... Name: .....



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 7: CERTIFICATE OF AUTHORITY FOR SIGNATORY AND DECLARATION OF  
JOINT AND SEVERAL LIABILITIES IN RESPECT OF A CONSORTIUM**

Signatories for consortia must establish their authority by attaching a copy of the relevant resolution/agreement of the parties to such consortium, duly signed and dated.

We, the undersigned, .....  
carrying on business as a consortium under the name and style of .....  
.....  
resolved/agreed at a meeting held at ..... on the ..... day of .....  
20.... that:

1. with regard to tenders by the consortium to the CA, we bind ourselves or respective corporations, or companies *in solidum* for any indebtedness, obligation or liability which may become due, owing and payable to the CA by the consortium. We undertake immediately to discharge the debt, obligation or liability to the CA on demand. We renounce the *beneficium ordinis seu excussionis et divisionis* and all other legal exceptions that could be raised or pleaded in answer to any claim by the CA, thus allowing the CA to enforce this undertaking against any one or more of us and cause execution to be levied against our assets without any prior or simultaneous action against the consortium or any other of us;
2. we individually indemnify the CA and will immediately pay to the CA on demand the amount of any claim which may be owing by the consortium. We undertake that our liabilities to the CA in terms hereof, shall not be affected by any change in the composition of the consortium from time to time unless the CA has expressly released us therefrom in writing. Any amounts and due dates of any liability, obligations or debt owed by the consortium shall be proved by a certificate signed by any official of the CA;

3. the CA may regard this consortium as a legal person and that we will give due notice in writing in the event of any alteration in the composition of the consortium. Such notice will be binding on the consortium if given in its name by any of the signatories hereto. Should any conflicting instructions be given at any time by different parties, the CA shall be entitled to act or decline to act on any of the instructions in its absolute discretion, which decision by the CA shall be final and binding on the consortium; and
4. Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with tender(s) number(s) ..... on behalf of the consortium.

SIGNED AT ..... ON THIS THE ..... DAY OF .....20 .....

SIGNATURES OF ALL PARTIES TO THE CONSORTIUM:

1. ....  
for: .....
2. ....  
for: .....
3. ....  
for: .....
- .....

SIGNATORY

WITNESSES:

1. .... Name: .....
2. .... Name: .....

**\* Delete whichever is not applicable**

FULL NAMES OF COMPANIES, CLOSE CORPORATIONS, PARTNERSHIPS AND/OR  
NATURAL PERSONS FORMING THE CONSORTIUM:

1. ....

2. ....

3. ....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 8: AFFIDAVIT REGARDING PREVIOUS CONVICTIONS FOR OFFENCES**

*[To be completed by or on behalf of the tenderer.]*

I, the undersigned, ....., chief executive officer/managing director/managing member/other (specify) ..... of ..... ("the tenderer") hereby make oath/affirmation and say:

The tenderer and/or any director, member or other office bearer of the tenderer have/have not\* been convicted of any of the following offences (state date of conviction and the court involved):

- An offence under the National Land Transport Act 5 of 2009, the National Land Transport Transition Act 22 of 2000 or any other law for operating public transport without the necessary operating licence or permit  
.....
- Any offence involving dishonesty or tax evasion  
.....
- An offence under the National Road Traffic Act 93 of 1996, the Road Traffic Act 29 of 1989 or other road traffic legislation for which a fine of more than R2000 or imprisonment for more than three months was imposed  
.....
- An offence listed in Schedule 1 of the Criminal Procedure Act 51 of 1977.  
.....
- Possession of an unlicensed firearm or dangerous weapon as defined in the Dangerous Weapons Act 71 of 1968, or illegal possession of explosives  
.....  
.....
- A conspiracy, incitement or attempt to commit an offence mentioned above  
.....

*[If space is insufficient, provide details on a separate sheet.]*

SIGNED and sworn to/affirmed before me at ..... on this ..... day of ..... 20..... by the deponent who acknowledged that he/she knows and understands the contents of this affidavit.

.....

Commissioner of Oaths

\* ***Delete whichever is not applicable.***

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 9: DECLARATION OF INTEREST**

Any natural or legal person, including a person employed by the State, whether a national department, provincial administration or municipality (called “the State” in this document) or a person who acts on behalf of the State or a person having a kinship with a person employed by the State, including blood relationship, may make an offer or offers in terms of this tender invitation. In view of possible allegations of favouritism should the resulting tender, or part thereof, be awarded to persons employed by the State, or to persons who act on behalf of the State or to persons connected with or related to them, it is required that the tenderer or his or her authorized representative declares his or her position *vis-à-vis* the evaluating authority and/or his or her interest, where—

- the tenderer is employed by the State or acts on behalf of the State; and/or
- the natural or legal person on whose behalf the tender document is signed has a relationship with a person who is involved with the evaluation of the tender or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation of the tender.

In order to give effect to the above, the following questionnaire must be completed and submitted with the tender:

1. Are you or any person connected with the tenderer employed by the State, the CA or the Tender Board?

YES/NO\*

If so, state particulars: .....

.....

.....

2. Do you, or any person connected with the tenderer, have any relationship (family, friend or other) with a person employed by the State, the CA or the Tender Board or their administration who may be involved with the evaluation or adjudication of this tender?

YES/NO\*

If so, state particulars: .....  
 .....  
 .....

3. Are you, or any person connected with the tenderer, aware of any relationship (family, friend or other) between the tenderer and any person employed by the State, the CA or the Tender Board or their administration who may be involved with the evaluation or adjudication of this tender?

YES/NO\*

If so, state particulars: .....  
 .....  
 .....

SIGNED AT ..... ON THIS THE ..... DAY OF  
 .....20 .....

..... Name: .....

TENDERER/SIGNATORY  
 ON BEHALF OF TENDERER

.....

POSITION OF DECLARANT

WITNESSES:

1. .... Name: .....

2. .... Name: .....

**\* Delete whichever is not applicable**

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 10: SCHEDULE OF EXISTING PUBLIC TRANSPORT SERVICES**  
**OPERATED BY TENDERER**

In the table provided below the Operator must provide details of existing public transport services operated by the Operator, if any:

Service Area	Number of Routes	Number & Type of Vehicles	Approx. Total Daily km	Average Daily Passengers

**\* Delete whichever is not applicable**



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 11: SCHEDULE OF EXISTING OR PROPOSED VEHICLES**

***Note:***

1. All vehicles used must be registered, licensed and roadworthy as required by the National Road Traffic Act, 1996.
2. The Operator must only supply details of those vehicles that are intended for use on this contract.
3. Certificates of homologation for all vehicle types to be used during the contract period must be attached to this Form.
4. A copy of the last vehicle licence issued must be attached for vehicles that are currently owned by the Operator.
5. Where vehicles are to be purchased or leased a copy of the vehicle licence and proof that they have been registered in terms of the National Traffic Information System (NaTIS) must be produced before the commencement date.
6. In Table A provided below the Operator must provide details of its current vehicle fleet to be used on this contract, including spare vehicles.
7. In Table B provided below the Operator must provide details of new or additional vehicles that are to be acquired for this contract.





..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 12: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES AND  
CONTRACT AMOUNT**

***Note:***

**1. The variable cost component**

A variable contract rate(price per kilometre) is to be calculated per vehicle type.

The Tenderer must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D. The information must be provided for each cost element for the first twelve months of the contract period.

**2. The fixed cost component**

A fixed contract rate (rate per vehicle) is to be calculated per vehicle type.

To support the Tenderer's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C.

The Tenderer must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs on Tables 3B, 3C, 3D and 3E. The information must be provided for the first year of contract.

The Tenderer must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4.

**3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is to be done in terms of Tables 5 to 7.

TABLE 1A: VARIABLE COST PROJECTION: BUS TRAINS

[illegible]

TABLE 1B: VARIABLE COST PROJECTION: BUSES

[illegible]



TABLE 2A: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>MANAGEMENT</b>															
Managing director			-		-								0	-	-
General Manager			-		-								0	-	-
Financial Manager			-		-								0	-	-
Operations Manager			-		-								0	-	-
Engineering Manager			-		-								0	-	-
<b>ADMINISTRATIVE</b>															
PA to MD			-		-								0	-	-
Secretary to MD			-		-								0	-	-
Schedules Clerk, Ticket Clerk, Clerk			-		-								0	-	-
Senior Clerk			-		-								0	-	-
Data Capture Clerk			-		-								0	-	-
Telephonist, Telephonist/Receptionist			-		-								0	-	-
Gate Keeper, Security Guard, Night Watchman			-		-								0	-	-
Messenger			-		-								0	-	-
Typist/Clerk			-		-								0	-	-
Chef-Cook			-		-								0	-	-
Tea Person, Canteen Assistant			-		-								0	-	-
Planning Clerk, Register Clerk			-		-								0	-	-
Wage clerk/HR&IR Supervisor			-		-								0	-	-
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	-

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2B: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
DRIVERS			-	-	-	-	-	-	-	-	-	-	0	-	-
TRAFFIC			-	-	-	-	-	-	-	-	-	-	0	-	-
Driving Instructor			-	-	-	-	-	-	-	-	-	-	0	-	-
Senior Inspector			-	-	-	-	-	-	-	-	-	-	0	-	-
Inspector			-	-	-	-	-	-	-	-	-	-	0	-	-
Regulator, Transport Officer, Rank Despatcher, Point Controller			-	-	-	-	-	-	-	-	-	-	0	-	-
Senior Regulator			-	-	-	-	-	-	-	-	-	-	0	-	-
Despatcher, Route Despatcher, Sub-Depot Despatcher			-	-	-	-	-	-	-	-	-	-	0	-	-
Sales Point Controller, Clipcard Seller, Season Ticket Seller			-	-	-	-	-	-	-	-	-	-	0	-	-
Ticket Seller, Cashier Mobile, Driver Cashier Mobile			-	-	-	-	-	-	-	-	-	-	0	-	-
Flycheck Driver, Chauffeur, Service Vehicle Driver			-	-	-	-	-	-	-	-	-	-	0	-	-
Light Vehicle Driver, Mobile Driver			-	-	-	-	-	-	-	-	-	-	0	-	-
Roster Clerk (Traffic), Traffic Clerk			-	-	-	-	-	-	-	-	-	-	0	-	-
Private Hire Clerk, Special Hire Clerk			-	-	-	-	-	-	-	-	-	-	0	-	-
Ticket Office Clerk, Cashier, Seiright Clerk			-	-	-	-	-	-	-	-	-	-	0	-	-
Senior Ticket Office Clerk			-	-	-	-	-	-	-	-	-	-	0	-	-
Senior Operations Clerk			-	-	-	-	-	-	-	-	-	-	0	-	-
Senior Cashier			-	-	-	-	-	-	-	-	-	-	0	-	-
Operations Clerk, Clerk (Traffic)			-	-	-	-	-	-	-	-	-	-	0	-	-
Duty Staff Bus Driver			-	-	-	-	-	-	-	-	-	-	0	-	-
Operator			-	-	-	-	-	-	-	-	-	-	0	-	-
Hostess, Steward			-	-	-	-	-	-	-	-	-	-	0	-	-
TOTAL	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	-

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured



TABLE 2C: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>ENGINEERING</b>															
Foreman	-		-		-								0	-	-
Artisan (negotiated for)	-		-		-								0	-	-
Operatives (grades A, B, C and D)	-		-		-								0	-	-
Honorary Artisan	-		-		-								0	-	-
Trade Worker (Grades P16 to P14)	-		-		-								0	-	-
Trade Trainee (Grades P16 to P14)	-		-		-								0	-	-
Grade 5	-		-		-								0	-	-
Technician	-		-		-								0	-	-
Assistant Technician	-		-		-								0	-	-
Grade 4	-		-		-								0	-	-
Artisan's Assistant	-		-		-								0	-	-
General Hand	-		-		-								0	-	-
Trade Assistant (P19 to P17)	-		-		-								0	-	-
Works Staff, General Worker	-		-		-								0	-	-
Tyre Attendant	-		-		-								0	-	-
Tyre Programmer	-		-		-								0	-	-
Senior Engineering Clerk, Engineering Clerk	-		-		-								0	-	-
Stores Clerk, Stores Assistant	-		-		-								0	-	-
Driver Shunter, Technical Driver	-		-		-								0	-	-
Seitright Mechanic	-		-		-								0	-	-
Vehicle Checker (FOWL)	-		-		-								0	-	-
Fuel Attendant	-		-		-								0	-	-
Steam, Jenny Operator, Steam Cleaner	-		-		-								0	-	-
Bus Cleaner, Cleaner, Bus Washer	-		-		-								0	-	-
Fork Lift Driver	-		-		-								0	-	-
Greaser	-		-		-								0	-	-
Workshop Cleaner, Cleaner, Yard Cleaner	-		-		-								0	-	-
Handyman, Handyman Estates	-		-		-								0	-	-
Labourer	-		-		-								0	-	-
Trimmer, Upholsterer	-		-		-								0	-	-
Assistant Handyman	-		-		-								0	-	-
Spray Painter, Painter, Signwriter	-		-		-								0	-	-
Assistant Painter	-		-		-								0	-	-
Stores Driver, Heavy Vehicle Driver	-		-		-								0	-	-
Data Typist, Data Input Clerk	-		-		-								0	-	-
Stores Data Clerk	-		-		-								0	-	-
Shedman (Grades A3 to A5)	-		-		-								0	-	-
Shunter Driver	-		-		-								0	-	-
Taco Mechanic, Taco Clerk	-		-		-								0	-	-
Brake Attendant	-		-		-								0	-	-
<b>TOTAL</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>0</b>	<b>0</b>	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

### TABLE 3A: FLEET FINANCE DETAILS

[illegible]

TABLE 3B: FIXED COST PROJECTION: BUS TRAINS

[illegible]

TABLE 3C: FIXED COST PROJECTION: BUSES

[illegible]

TABLE 3D: FIXED COST PROJECTION: MIDIBUSES

	MONTH												TOTAL YEAR
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Instalments: New vehicles <sup>1</sup>													
Instalments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

TABLE 3E: FIXED COST PROJECTION: MINIBUSES

	MONTH												TOTAL YEAR
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Instalments: New vehicles <sup>1</sup>													
Instalments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

## Notes:

1. To correlate with information provided in Table 3A

#### TABLE 4: GENERAL COSTS PROJECTION

[illegible]

TABLE 5: INCOME PROJECTION

	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL YEAR
MONTH													
<b>A. OPERATING INCOME: BUS TRAINS</b>													
Cash tickets													
MJT/Clip cards													
Scholars													
Special hires													
Contracts													
<b>B. OPERATING INCOME: BUSES</b>													
Cash tickets													
MJT/Clip cards													
Scholars													
Special hires													
Contracts													
<b>C. OPERATING INCOME: MIDIBUSES</b>													
Cash tickets													
MJT/Clip cards													
Scholars													
Special hires													
Contracts													
<b>D. OPERATING INCOME: MINIBUSES</b>													
Cash tickets													
MJT/Clip cards													
Scholars													
Special hires													
Contracts													
<b>E. TOTAL OPERATING INCOME (A-D)</b>													
Cash tickets													
MJT/Clip cards													
Scholars													
Special hires													
Contracts													

CONTINUES ON PAGE 322—PART 3



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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

TABLE 6: SUMMARIZED FIXED AND VARIABLE COST 1ST YEAR

COST CATEGORY		Bus trains	Buses	Midibuses	Minibuses	TOTAL
VARIABLE COSTS						
Fuel (Diesel and petrol)	Table 1A-D					
Tyres	Table 1A-D					
Maintenance and spares	Table 1A-D					
Oil and lubricants	Table 1A-D					
<b>A. TOTAL VARIABLE COSTS</b>						
FIXED COSTS						
Installments	Table 3B-E					
Depreciation	Table 3B-E					
Insurance (vehicle insurance)	Table 3B-E					
License fees	Table 3B-E					
Operating licences and permits	Table 3B-E					
Drivers' wages and cost <sup>1</sup>	Table 2B					
Traffic wages and cost <sup>1</sup>	Table 2B					
Engineering wages and cost <sup>1</sup>	Table 2C					
Administrative salaries and cost <sup>1</sup>	Table 2A					
Management salaries and cost <sup>1</sup>	Table 2A					
General costs <sup>2</sup>	Table 4					
<b>B. TOTAL FIXED COSTS</b>						
<b>C. TOTAL COSTS (before profit)</b>						
<b>D. PROFIT ALLOCATION<sup>3</sup></b>						
<b>E. TOTAL COSTS YEAR 1 (C + D)</b>						

Note:

1. Wages/salaries and cost to be allocated based on number of vehicles in each vehicle type
2. General costs to be allocated pro-rata to number of vehicles per vehicle type
3. Profit to be allocated pro-rata to number of vehicles per vehicle type



TABLE 7: RATE CALCULATION					
		Bus trains	Buses	Midibuses	Minibuses
<b>TOTAL VARIABLE COSTS</b>	<i>Table 6</i>				
Min: Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Variable costs shortfall</b>					
Number of kilometres					
Rate per kilometre (Rands)					
<b>TOTAL FIXED COSTS</b>	<i>Table 6</i>				
Min: Pro-rata Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Fixed costs shortfall</b>					
Number of vehicles					
Fixed cost/vehicle (Rands)					
<b>Note:</b>					
1. Pro-rata Operating income means the income as based on the calculations in Table 3 per vehicle type					
2. Pro-rata Profit means the profit allocated based on the % split between the fixed and variable costs in terms of Total Cost (before profit) in Table 6					

Based on the information in the above Tables, the following rates are hereby tendered:

Variable contract rate: R..... per kilometre

Fixed contract rate: Vehicle type: ..... R..... per vehicle

Vehicle type: ..... R..... per vehicle

Vehicle type: ..... R..... per vehicle

#### **CALCULATION OF CONTRACT AMOUNT**

Based on the Tables completed above and the rates tendered above, the estimated Contract Amount is calculated as follows:

Estimated kilometres over the contract period: ..... km

..... km X R..... (variable contract rate)	=	R....
.....km X R..... (fixed contract rate for ..... vehicles	=	R.....
.....km X R..... (fixed contract rate for ..... vehicles	=	R.....
.....km X R..... (fixed contract rate for ..... vehicles	=	R.....
.....km X R..... (fixed contract rate for ..... vehicles	=	R.....
Add establishment costs (if any) as calculated on Form 13	=	R .....
<b>TOTAL (CONTRACT AMOUNT)</b>		<b>R .....</b>

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 13: CLAIM FOR ESTABLISHMENT COSTS**

***Note:***

1. Should the tenderer wish to claim establishment cost, the Table provided below must be completed and submitted.

Budgeted Establishment Cost (Page 1)				
Total		R		
	Cost/unit	Quantity	Total	
<b>Office Development</b>			<b>R</b>	<b>-</b>
Pay lease deposit (3 months)	R		R	-
Municipal/Utility deposit (if net lease)	R		R	-
<b>Office Furniture and Equipment</b>			<b>R</b>	<b>-</b>
<b>Board room</b>			<b>R</b>	<b>-</b>
Table	R		R	-
Chairs	R		R	-
Flip chart	R		R	-
Pens	R		R	-
Cupboard	R		R	-
Dustbin	R		R	-
<b>Meeting room(s)</b>			<b>R</b>	<b>-</b>
Table	R		R	-
Chairs	R		R	-
Cupboard	R		R	-
Dustbin	R		R	-
<b>Management office(s)</b>			<b>R</b>	<b>-</b>
Desk	R		R	-
Comfortable chair	R		R	-
Chairs	R		R	-
Credenza	R		R	-
Filing cabinet	R		R	-
Printer (small)	R		R	-
Dustbin	R		R	-
<b>Open plan</b>			<b>R</b>	<b>-</b>
Work stations	R		R	-
Work station chairs	R		R	-
Work table	R		R	-
Filing cabinets	R		R	-
Printer, Copier, Fax Scanner (large)	R		R	-
Flip chart	R		R	-
Dustbins	R		R	-
Safe (fire proof)	R		R	-
Crockery	R		R	-
Kettle	R		R	-
Microwave	R		R	-
Fridge	R		R	-
Office cleaning material	R		R	-
Office cleaning equipment	R		R	-
Fire extinguisher	R		R	-
First aid	R		R	-
<b>Training room</b>			<b>R</b>	<b>-</b>
Tables/desks	R		R	-
Chairs	R		R	-
White boards	R		R	-
Flip chart	R		R	-
Dustbins	R		R	-

Budgeted Establishment Cost (Page 2)				
<b>Reception</b>			<b>R</b>	<b>-</b>
Desk	R		R	-
Office chair	R		R	-
Dustbin	R		R	-
Client seating	R		R	-
Coffee table	R		R	-
<b>Computer Hardware and Accessories</b>			<b>R</b>	<b>-</b>
Desktop computer and monitor	R		R	-
Keyboard and mouse	R		R	-
Printer (colour)	R		R	-
Modem	R		R	-
Notebook computer	R		R	-
Server	R		R	-
Air conditioner	R		R	-
Cabling	R		R	-
Wireless	R		R	-
Surge protector	R		R	-
Computer locks	R		R	-
UPS	R		R	-
<b>Computer Software Systems</b>			<b>R</b>	<b>-</b>
Windows server	R		R	-
Microsoft Office Suite (Professional)	R		R	-
Virus protection software	R		R	-
Accounting software	R		R	-
Payroll software	R		R	-
Inventory management	R		R	-
Vehicle management system	R		R	-
Vehicle tracking system	R		R	-
<b>Communications</b>			<b>R</b>	<b>-</b>
Telephone lines	R		R	-
Internet connection	R		R	-
Toll-free line	R		R	-
Desk telephone	R		R	-
Fax machine	R		R	-
Answering machine/service	R		R	-
Speakerphone	R		R	-
Cellular telephone with internet features	R		R	-
Alarm system	R		R	-
Internal communication system	R		R	-
Two way radio	R		R	-
Intercom (at door)	R		R	-
<b>General Office Supplies</b>			<b>R</b>	<b>-</b>
Business cards	R		R	-
Envelopes (standard)	R		R	-
Envelopes (large)	R		R	-
Stationery (other)	R		R	-
Postage stamps	R		R	-
Printer cartridges (e.g. HP Laserjet)	R		R	-
CDs	R		R	-
Pencils and pens	R		R	-
Printer paper (per ream)	R		R	-
<b>Vehicles</b>			<b>R</b>	<b>-</b>
Operating licences	R		R	-

Budgeted Establishment Cost (Page 3)				
<b>Staff Uniforms and Protective Clothing*</b>				<b>R -</b>
<b>Driver</b>				<b>R -</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suits	R		R	-
Other (specify)	R		R	-
<b>Depot Services Staff</b>				<b>R -</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suite	R		R	-
Other (specify)	R		R	-
<b>Route Controllers</b>				<b>R -</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suite	R		R	-
Other (specify)	R		R	-
<b>Inventory</b>				<b>R -</b>
Tyres	R		R	-
Lubricants	R		R	-
Cleaning material	R		R	-
<b>Roaming Bakkie Kit Out</b>				<b>R -</b>
Tools	R		R	-
Compressor	R		R	-
Generator	R		R	-
Light	R		R	-
<b>Depot kit out</b>				<b>R -</b>
Pay deposit	R		R	-
Cleaning material opening inventory	R		R	-
Fuel opening inventory	R		R	-
Parts opening inventory	R		R	-
Lubricants opening inventory	R		R	-
Workshop tools	R		R	-
Other (specify)	R		R	-
<b>General</b>				<b>R -</b>
Post box	R		R	-
Other				
<b>* Only if CA requires this from start of operations. Replacement uniforms to be included in costing for subsequent years</b>				

**TENDER NO. ....**

The Operator must provide details of all operating licences and permits held by it in terms of the Act. Photocopies of the licences and permits must be attached.

[illegible]

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 15: PROPOSED ORGANISATION STRUCTURE OF TENDERER**

The management organisation structure that is proposed to be established by the tenderer to manage the contract must be indicated by means of an organogram.

Tenderers must state which staff categories will be full time and which will be part time.



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 16: SCHEDULE OF EMPLOYEES TO BE USED ON THE CONTRACT**

<b>BARGAINING UNIT JOB CATEGORIES</b>		
<b>JOB CATEGORY</b>	<b>NUMBER</b>	<b>MINIMUM WAGE*</b>
<b>A. TRAFFIC</b>		
Driving Instructor		
Senior Inspector		
Inspector		
Driver/Conductor, Conductor, OMO		
Regulator, Transport Officer, Rank Dispatcher, Point Controller		
Senior Regulator		
Dispatcher, Route Dispatcher, Sub-Depot Dispatcher		
Sales Point Controller, Clipcard Seller, Season Ticket Seller		
Ticket Seller, Cashier Mobile, Driver Cashier Mobile		
Flycheck Driver, Chauffeur, Service Vehicle Driver		
Light Vehicle Driver, Mobile Driver		
Roster Clerk (Traffic), Traffic Clerk		
Private Hire Clerk, Special Hire Clerk		
Ticket Office Clerk, Cashier, Setright Clerk		
Senior Ticket Office Clerk		
Senior Operations Clerk		
Senior Cashier		

Operations Clerk, Clerk (Traffic)		
Duty Staff Bus Driver		
Operator		
Hostess, Steward		
<b>ENGINEERING</b>		
Artisan (negotiated for)		
Operatives (grades A, B, C and D)		
Honorary Artisan		
Trade Worker (Grades P16 to P14)		
Trade Trainee (Grades P16 to P14)		
Grade 5		
Technician		
Assistant Technician		
Grade 4		
Artisan's Assistant		
General Hand		
Trade Assistant (P19 to P17)		
Works Staff, General Worker		
Tyre Attendant		
Tyre Programmer		
Senior Engineering Clerk, Engineering Clerk		
Stores Clerk, Stores Assistant		
Driver Shunter, Technical Driver		
Setright Mechanic		
Vehicle Checker (FOWL)		

Fuel Attendant		
Steam Jenny Operator, Steam Cleaner		
Bus Cleaner, Cleaner, Bus Washer		
Fork Lift Driver		
Greaser		
Workshop Cleaner, Cleaner, Yard Cleaner		
Handyman, Handyman Estates		
Labourer		
Trimmer, Upholsterer		
Assistant Handyman		
Spray Painter, Painter, Signwriter		
Assistant Painter		
Stores Driver, Heavy Vehicle Driver		
Data Typist, Data Input Clerk		
Stores Data Clerk		
Shedman (Grades A3 to A5)		
Shunter Driver		
Taco Mechanic, Taco Clerk		
Brake Attendant		
<b>C      ADMINISTRATION</b>		
Schedules Clerk, Ticket Clerk, Clerk		
Senior Clerk		
Data Capture Clerk		
Telephonist, Telephonist/Receptionist		
Gate Keeper, Security Guard, Night Watchman		

Messenger		
Typist/Clerk		
Chef-Cook		
Tea Person, Canteen Assistant		
Planning Clerk, Register Clerk		
<b>TOTAL</b>		

**\*NOTE:**

1. These wages are the minimum that will be paid per month to employees required to operate this tender.
2. The Tenderer is advised that minimum wages must be in accordance with the latest Main Agreement of the South African Road Passenger Bargaining Council (SARPBAC), (see clause 28 of the Conditions of Contract).
3. The information provided on this form must correspond with the information provided in Tables 2A, 2B and 2C on Form 12.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 17: DECLARATION AND UNDERTAKING IN TERMS OF REGULATION 5 OF THE  
NATIONAL LAND TRANSPORT REGULATIONS ON CONTRACTING FOR PUBLIC  
TRANSPORT SERVICES**

*[To be signed by the person specified in Form 1 as authorised to sign tender documents on behalf of the tenderer.]*

I, ..... in my capacity as ..... of ..... [the tenderer], and duly authorised to make this declaration, hereby confirm that I am aware of and understand the requirements of regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 promulgated in terms of the National Land Transport Act 5 of 2009 ("the Act"), pertaining to the requirements for qualification as a tenderer for a subsidised service contract.

I confirm that ..... [the tenderer]—

- (a) conducts his/her/its public transport operations according to business principles with financial ringfencing, as required by the abovementioned regulation 5; and
- (b) is liable to pay income tax; and
- (c) has not received for the purposes of the present tender and any contract which may be awarded to the tenderer as a consequence of the present tender, and will not for the duration of any contract which may be awarded to it pursuant to that tender, receive any unfair advantage as regards access to financial or other support or resources from any organ of state, unless such advantage is part of subsidies paid in terms of an existing contract as defined in the Act.

I am aware that should any aspect of the above declaration be proved false or incorrect, it may result in the disqualification of the tenderer, or in termination of any contract awarded to the tenderer pursuant to the above tender.

.....

Authorised signatory

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 18: CERTIFICATE OF CONDITIONS OF A LOAN, GUARANTEE OR OTHER FINANCIAL  
ASSISTANCE PROVIDED TO THE TENDERER**

**Instructions:**

*The purpose of this form is to illustrate to the evaluating committee what forms of assistance are provided to the tenderer by third parties. The evaluating committee will use the form to determine provisionally whether a tenderer is the recipient of an unfair advantage as contemplated in regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 made in terms of the National Land Transport Act5 of 2009.*

*This form must be completed by any entity that provides or intends to provide assistance to the tenderer, including but not limited to:*

- *its banker;*
- *any ultimate holding company/entity;*
- *any direct holding company/entity;*
- *any subsidiary company/entity or;*
- *any fellow subsidiary company/entity.*

*The types of assistance to be listed include, but are not limited to:*

- *Bank overdrafts*
- *Guarantees*
- *Suretyships*
- *Lease of the bus fleet*
- *Hire of the bus fleet*
- *Funds advanced to the tenderer*
- *Expenditure paid on behalf of the tenderer*
- *Loan accounts (current and long term)*

*Tenderers are urged to ensure that this form is completed by any organisation which provides or intends to provide assistance to the tenderer. If in doubt, tenderers must discuss the question with the CA through the main contact person as indicated in the tender documents.*

*In the case of the tenderer's banker, the form must be signed by the bank manager. In the case of any other organisation, the form must be signed by a person with the necessary authority (e.g. the chief financial officer or equivalent, or the chief executive officer or equivalent). If in doubt, tenderers must discuss the question with the CA through the main contact person as indicated in the tender documents.*

I, ....., in my capacity as Branch Manager/Chief Executive Officer of ..... ("the Financier"), and duly authorised to provide this certificate on behalf of the Financier, hereby confirm that the Financier has provided ..... (the tenderer) with financial assistance in the form of (mark applicable one(s) with an X):

Loans .....

Guarantees .....

Suretyships .....

Facility(ies) .....

Other (specify) .....

Particulars of any and all material financial assistance provided to the tenderer and the terms and conditions thereof are set out below:

# 1. Description

a) Present value of assistance

b) Future value of assistance already negotiated

c) Date of expiry of assistance

d) Repayment terms

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

## 2. Description

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....



**3. Description**

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

**4. Description**

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....  
.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....  
.....  
.....

*[Particulars may be attached by means of an annexure.]*

I confirm that the Financier's decision to provide all facets of the above financial assistance to the tenderer was based solely on commercial considerations, following an evaluation of the operations and financial position of the tenderer.

I specifically record that except as indicated above, the decision to provide financial assistance to the tenderer was not directly or indirectly influenced by the intervention of any organ of state.

I confirm that the above particulars accurately represent all of the material aspects of the agreement between the Financier and the tenderer, and that no undisclosed terms, conditions or warranties apply.

.....

Branch Manager/CEO

.....

Full names

.....

Date

Official stamp of Financier:

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 19: DECLARATION OF FINANCIAL SUPPORT BY OWNER**

***Instructions:***

1. *This form must be completed for each participant in a consortium/joint venture and all sub-contractors to the Operator/consortium/joint venture that are known at the time of tendering.*
2. *This form must be completed by each person/entity exercising ownership control over the tenderer or each consortium/joint venture member.*
3. *If there is any uncertainty regarding the entities within a group of entities that must sign this declaration, tenderers must ask the CA for guidance.*

I, ....., in my capacity as Chief Executive Officer of ..... ("the Owner"), and duly authorised to make this declaration, hereby confirm that the Owner exercises ownership control over ..... ("the tenderer") as contemplated in regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 made in terms of the National Land Transport Act 5 of 2009.

I further confirm that the Owner has made or provided financial assistance or support to the tenderer by means of the following:

1. ....
2. ....
3. ....
4. ....

*(including investments, grants, subsidies, concessions, loans, guarantees or other means)*

Material particulars of such assistance are set out below:

**1. Description**

.....  
a) Present value of assistance  
.....

b) Future value of assistance already negotiated  
.....

c) Date of expiry of assistance  
.....

d) Repayment terms  
.....

e) Security (nature, value)  
.....

f) Name(s) of entity(ies) providing security, directly or indirectly  
.....  
.....

g) Cost of assistance (e.g. interest at prime rate)  
.....

h) Other material terms and conditions pertaining to the assistance  
.....  
.....  
.....

**2. Description**

.....  
a) Present value of assistance  
.....

b) Future value of assistance already negotiated  
.....

c) Date of expiry of assistance  
.....

d) Repayment terms  
.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

### 3. Description

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

**4. Description**

.....  
a) Present value of assistance

.....  
b) Future value of assistance already negotiated

.....  
c) Date of expiry of assistance

.....  
d) Repayment terms

.....  
e) Security (nature, value)

.....  
f) Name(s) of entity(ies) providing security, directly or indirectly

.....  
g) Cost of assistance (e.g. interest at prime rate)

.....  
h) Other material terms and conditions pertaining to the assistance

.....  
I specifically record that, except as indicated above, the decision to provide financial assistance to the tenderer was not directly or indirectly influenced by the intervention of any organ of state.

I confirm that the above particulars accurately represent all of the material aspects relating to the financing arrangements between the Owner and the tenderer, and that no undisclosed terms, conditions or warranties apply.

.....  
Chief Executive Officer

.....  
Date

**FORMS TO BE COMPLETED**

**ONLY AFTER THE TENDER IS ACCEPTED**

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 20: CONTRACT**

THIS CONTRACT IS CONCLUDED BETWEEN the ..... Municipality/Provincial Administration  
(hereinafter called "the Contracting Authority" (CA)) of the one part, herein represented by .....  
.....  
in his/her capacity as .....  
AND .....  
( called "the Operator") of the other part, herein represented by .....  
.....  
in his/her capacity as .....  
.....

WHEREAS the CA is desirous that certain passenger transport services be provided as detailed in the tender documents for Tender No ..... and a tender by the Operator for the provision of the said services has been accepted;

NOW THIS CONTRACT WITNESSES AS FOLLOWS:

1. The Operator shall provide the services in accordance with the contract documents listed in clause 44 of the Conditions of Contract.
2. This contract is awarded for a period of .....(....) years from date of commencement.
3. In the event of discrepancies or differences between or in any documents forming part of, or connected with, or bearing upon the contract, they shall be determined and resolved in accordance with clause 44 of the Conditions of Contract.
4. In consideration of the payment made by the CA to the Operator, as hereinafter mentioned, the Operator hereby undertakes to provide the said services in conformity in all respects with the provisions of the contract.
5. The CA hereby undertakes to pay the Operator in consideration of the said provision of services the amounts at the times and manner prescribed by the contract. The amounts to be paid by the CA to the Operator for the due and faithful performance of the contract shall be at the rates shown in Form 12 of the Tender Forms.



6. The operator undertakes to surrender the public permits/operating licences to the relevant Provincial Operating Entity/Operating Licensing Board as required by section 48(1)(b) of the National Land Transport Act 5 of 2009 and other applicable legislation for cancellation or amendment, as the case may be, at the end of the contract period, or if the contract is terminated in terms of clause 47 of the Conditions of Contract, and undertakes not to oppose any applications for operating licences made by other operators who may obtain contracts from the CA to continue the services insofar as they relate to the area or routes in question.

SIGNED AT ..... ON THIS THE ..... DAY OF ..... 20....

.....  
EMPLOYER

Name: .....

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

.....  
for OPERATOR (duly authorised thereto)

Name: .....

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 21: PRO FORMA PAYMENT CERTIFICATE**

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 22: NOTIFICATION OF CHANGE IN OWNERSHIP CONTROL OF THE OPERATOR**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... \*Municipality/Provincial Administration hereby give notice in terms of clause 4.3 of the Conditions of Contract, that the ownership control of the said Operator \*has changed/will change as follows with effect from ..... 20....:

The new \*shareholders/members/beneficiaries of the Operator \*are/will be the following:

1. .... [full names] Identity number .....
2. .... [full names] Identity number .....
3. .... [full names] Identity number .....

Details of the reasons for the change in ownership control are as follows: .....

.....  
.....

Other relevant information:

.....  
.....

Signed at ..... on ..... 20....

.....

For Operator

As witnesses:

1. ....
2. ....

**\* Delete whichever is not applicable**

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 23: INCIDENT REPORT**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... Municipality/Provincial Administration hereby provide the following Incident Report in terms of clause 23.3 of the Conditions of Contract:

Complaint/incident lodged/reported by: .....

Date of complaint/incident: .....

Full description of complaint/incident (full details are required):

.....

.....

Steps taken to address/solve the situation (full details are required):

.....

.....

Program/proposed steps to prevent a repeat of the situation:

.....

.....

Other relevant information:

.....

.....

Signed at ..... on ..... 20.....

.....

For Operator

As witnesses:

1. ....

2. ....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 24: WAYBILL**

***Note:***

The information is to be provided as per the format below:

**CASH WAYBILL**NIPPER  
PERFORATION**B** 582541
 DRIVER: \_\_\_\_\_ COY No. \_\_\_\_\_ DATE: \_\_\_\_\_ 20 \_\_\_\_\_  
 TIME CASHED UP: \_\_\_\_\_ DUTY No. \_\_\_\_\_

TICKET					INSPECTOR'S SIGNATURE			
DENOMINATION	OPENING No.	CLOSING No.	QUANTITY SOLD	VALUE		TIME		
				R	C			
						TICKET VALUE CHECKED		
						TICKET VALUE.....		R.....
						WAYBILL CHECKER		
						COY No. ....		
						CASH RECEIVED		
						AMOUNT .....		R.....
						CASHIER		
						COY No. ....		
						DRIVER'S		
						SURPLUS / SHORTAGE		R.....
						WAYBILL RE-CHECKED		
						TICKET VALUE.....		R.....
						WAYBILL RE-CHECKER		
						COY No. ....		
						WAYBILL CHECKER		
						SHORTAGE / SURPLUS		R.....
TOTAL VALUE R								

DRIVER'S SIGNATURE .....

***Introductory Note:***

*This document is published by the National Department of Transport as **Document 3** in a set of four documents as follows:*

- 1. Model Gross-Based Negotiated Contract Documents*
- 2. Model Gross-Based Tender and Contract Documents*
- 3. Model Net-Based Negotiated Contract Documents*
- 4. Model Net-Based Tender and Contract Documents*

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009) (“the Act”)****MODEL NEGOTIATED CONTRACT DOCUMENTS  
(NET-BASED) in terms of section 41 of the Act**

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009)

MODEL NEGOTIATED CONTRACT DOCUMENTS  
(NET-BASED)

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

CONTRACT NO. ....  
(Negotiated contract in terms of section 41 of the  
National Land Transport Act, 2009)

### Contents

1. Volume 1: Terms and Conditions of Contract
2. Volume 2: Schedules

**Explanatory note:** This document is published as a guideline for contracting authorities. It is based on a net-based contracting model, i.e. the contracting authority will plan and manage the services and set fares, specifications etc. but the operator will keep the fares. The document includes some elements of the previously published net-based Model Contract Documents. The document is also published along with other documents to provide for tendering situations and to include a gross-based model as an alternative option. Contracting authorities may decide to use the gross- or net-based model according to which is more appropriate for the relevant situation.



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12. Style Guide for image and marketing
13. Journey Analysis Report
14. Occupational Health and Safety Agreement

## Acronyms

The following acronyms are used in this document:

BBBEE	Broad based black economic empowerment
BEE	Black economic empowerment
CA	Contracting authority
CPI	Consumer Price Index
EFVE	Electronic fare validation and collection equipment
IFRS	International Financial Reporting Standards
KPI	Key performance indicator
MFMA	The Local Government: Municipal Finance Management Act 56 of 2003
MJT	Multi-journey ticket
MTEF	Medium Term Equalisation Framework

OEM	Original equipment manufacturer
PFMA	The Public Finance Management Act 1 of 1999
SABS	South African Bureau of Standards
SMF	Supervising and monitoring firm
VAT	Value added tax

## THIS CONTRACT IS CONCLUDED BETWEEN:

1. The..... Municipality, a metropolitan/local Municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), herein represented by ..... in his/her capacity as ....., duly authorised by a resolution of the Municipality's Mayoral Committee/Council adopted at ..... on ..... ("the Contracting Authority")

OR

1. The ..... Provincial Administration (hereinafter called "the Contracting Authority") of the one part, herein represented by ..... in his/her capacity as ..... acting in terms of an agreement with the ..... Municipality dated ..... and attached hereto as Schedule .....

AND

2. .... (Registration number.....( called "the Operator") of the other part, herein represented by ..... in his/her capacity as .....

WHEREAS the contracting authority is desirous that certain passenger transport services be provided as detailed in this contract and the Operator agrees to provide the said services in terms of this contract;

NOW THIS CONTRACT WITNESSES AS FOLLOWS:

### 1. DEFINITIONS

- 1.1 In this contract, words in the singular also include words in the plural and *vice versa* where the context permits.
- 1.2 In this contract any word or expression to which a meaning has been assigned in the Act or the National Road Traffic Act has the meaning assigned to it by those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

"accepted", "approved", "authorised", "directed", "ordered" and

**“rejected”** means accepted, approved, authorised, directed, ordered or rejected by the CA or Representative;

**“Act”** or **“the Act”** means the National Land Transport Act 5 of 2009;

**“agreed”** means agreed in writing by the CA or the Representative on the one hand and the Operator on the other hand;

**“authorised stop”** means a stop, rank or terminal authorised by the relevant municipality;

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

- (a) consists of three sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 116 other persons; and
- (d) has a continuous passageway over the length thereof;

**“bus”** means a bus as defined in the Act (designed or modified to carry more than 35 persons including the driver) by means of which the Operator proposes to provide the services and includes a standard bus, double deck bus, maxi-bus, bus-train and bi-articulated bus;

**“business day”** means any day other than a Saturday, Sunday or official public holiday;

**“Business Plan”** means the business plan contemplated in Schedule 5;

**“BBBEE Codes of Good Practice”** means Codes of Good Practice on Broad Based Black Economic Empowerment (BBBEE) gazetted for the bus industry in terms of section 9 of the Broad-Based Black Economic Empowerment Act 53 of 2003 on 21 August 2009 (*Government Gazette* 32511);

**“bus-train”** means a bus-train as defined in the National Road Traffic Regulations, i.e. a bus which–

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over the length thereof;

**“CA”** means contracting authority;

**“capacity”** in respect of vehicles means the maximum number of persons that may lawfully be carried in the vehicle, including all seated and standing passengers, but excluding the driver as specified in the relevant roadworthy certificate or legislation;

**“commencement date”** means the date on which the services to be provided by the Operator will commence as stated in clause 3, or such other date as may be agreed between the Parties in writing;

**“contract”** or **“this contract”** means this contract between the CA and the Operator, including the Schedules;

**“contracting authority”** means—

- (a) the ..... Municipality/Province; or
- (b) its successors in title; or
- (c) a municipal entity or provincial public entity established by that authority or any other agent appointed by it;

**“contract rates”** includes both fixed and variable contract rates;

**“clause”** means a clause of these terms and conditions of this contract;

**“day”** includes all days, i.e. weekdays, Saturdays, Sundays and public holidays;

**“date of first registration”** means in relation to a vehicle the date of first registration—

- (a) pursuant to the original manufacture of the vehicle; or
- (b) the date of manufacture shown on its compliance plate or chassis compliance plate,

**“Deputy”** or **“Representative's Deputy”** means the person appointed as such by the CA, or by the Supervising and Monitoring Firm (SMF) with the written consent of the CA, to perform the functions of such Deputy as set out in this contract;

**“double deck bus”**, means a bus which consists of two decks connected to form a unit with a capacity of up to 90 seated persons;

**“duty”** means a document providing written instructions to a driver of a vehicle specifying the various trips to be operated;

**“duty board”** means a board that displays the duty number of a particular vehicle for identification purposes;

**“early trip”** means a trip where the vehicle concerned departs from the departure point or any intermediate timing point specified in the time table, before the time listed in the time table;

**“EFVE”** means fully operational electronic fare validation and collection equipment which is designed and intended to be used to record information electronically about a ticket when the ticket is inserted into the equipment, or presented to the equipment for scanning, as more fully described in the Electronic Fare Collection Guidelines issued by the Department in November 2007, as amended from time to time, and subject to the Regulations relating to Integrated Fare Systems published under Notice R.511 in Government Gazette no. 34363 of 17 June 2011;;

**“end of term period”** means the last 12 months of the term of this contract or, if a termination notice is given by the CA, the period between the date that the termination notice is given and the termination date;

**“fare evasion”** occurs where a person uses public transport without a valid ticket and includes, but is not limited to–

- (a) using such transport with no ticket or concession, or with a ticket or concession that has expired or is defaced, altered or fraudulent;
- (b) using a ticket in the wrong zone or route or overriding the zone; and/or
- (c) using a ticket that was not validated;

**“financial records”** means proper books of account and all other financial and planning records of the Operator relating to the services that would ordinarily be maintained and compiled in terms of generally acceptable accounting practice including, but not limited to–

- (a) Cash flow records;
- (b) Financial modelling reports;
- (c) Notes, documents and data supporting the records and reports contemplated in (a) and (b) including management information systems, electronic ticketing system information, ledgers, spreadsheets, payroll registers, customer invoices, supplier invoices, bank statements, tax returns and insurance policies; and
- (d) Audited financial statements prescribed by any applicable legislation;

**“financial report”** means a detailed report and analysis by the Operator

of its financial performance under this contract including copies of the Operator's most recent financial records referred to in the definition of "financial records", which must be its audited records where the law requires auditing;

**"fixed contract rate"** means the amount paid per peak vehicle per month to compensate the Operator for fixed or capital costs in terms of clause 39 as calculated in accordance with Schedule 10, and shall be fixed for the duration of the contract, but subject to escalation in terms of clause 37 and subject to Item 2.8 in Schedule 10;

**"form"** means a form shown in Schedule 1;

**"item"** means a paragraph of the relevant schedule to this contract;

**"maxi-bus"** means a bus with three axles and a seating capacity of between 71 and 90 passengers, including the driver;

**"MFMA"** means the Local Government: Municipal Finance Management Act 56 of 2003;

**"midibus"** means a midibus as defined in the Act (designed or modified to carry from 17 to 35 persons including the driver);

**"minibus"** means a minibus as defined in the Act (designed or modified to carry from 10 to 16 seated persons including the driver);

**"month"** means a calendar month;

**"multi-journey ticket" or "MJT"** means a ticket or token for a number of inbound and outbound trips on a specified route, valid for a period expiring on the date specified thereon or in the case of electronic payment methods the stored value of the payment instrument concerned;

**"National Road Traffic Act"** means the National Road Traffic Act 93 of 1996;

**"National Road Traffic Regulations"** means the National Road Traffic Regulations, 2000 promulgated under the National Road Traffic Act;

**"OEM"** means the original equipment manufacturer;

**"operating licence"** means an operating licence as defined in the Act, and includes a permit as defined in the Act, which is necessary to enable the Operator to provide the services in terms of this contract, and where the Operator is already in possession of such licence or a permit before the commencement date, includes any renewal, amendment or transfer



thereof necessary to enable the Operator to provide the services;

**“operational records”** means those records of the Operator relating to the operational aspects of the services of a kind that would ordinarily be maintained and which will at least include the following:

- (a) revenue kilometres operated;
- (b) kilometres operated for dedicated school services;
- (c) trip cancellations and services not operated, including reasons;
- (d) environmental incidents and emergencies;
- (e) passengers conveyed;
- (f) any records relating to the operational aspects of the conduct of the services required by any legislation; and
- (g) accidents involving injuries or fatalities.

**“operational report”** means a detailed report and analysis by the Operator of its operational performance under this contract including, but not limited to–

- (a) an analysis of trips not operated, trips cancelled and trips operated late and early;
- (b) an analysis of revenue kilometres completed;
- (c) an analysis of kilometres operated for dedicated scholar services;
- (d) an analysis of the condition of vehicles operated and inspected and details of vehicles found not to be contract compliant;
- (e) an analysis of the actual availability of vehicles for scheduled services;
- (f) an analysis of the passengers transported subdivided as required by the CA;
- (g) an analysis of cash and MJT tickets cancelled;
- (h) details of complaints received; and
- (i) any other information required by the CA,

which report must be in the form required by the CA and which enables the CA to measure the Operator's performance against any applicable performance benchmarks;

**“Operator”** means the Operator described on page 1 and includes the Operator's executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the CA, any cessionary, delegate or sub-contractor of the Operator or substitute Operator;

**“ownership control”** means the ability to exercise or to influence substantially the exercise, of any of the financial and operating policies of an operator so as to obtain a benefit from its activities;

**“Party” or “Parties”** means the CA and/or the Operator, as the context indicates;

**“passenger kilometre capacity”** means the capacity of a vehicle in terms of passenger kilometres over a specific route distance calculated by multiplying the legally seated capacity of the vehicle by the trip kilometres;

**“payment certificate”** means the claim form certified by the Representative and subject to the approval of the CA, being the total of the forms and certificates required by the CA to be completed, signed and submitted by the Operator in support of its monthly claim, and which is in accordance with Form 1 in Schedule 1;

**“peak vehicle”** means a vehicle required by the Operator to provide services during the peak periods described in the time table;

**“PFMA”** means the Public Finance Management Act 1 of 1999;

**“positioning kilometres” or “dead kilometres”** means kilometres travelled by a vehicle with or without passengers–

- (a) from a depot to the starting point of a scheduled trip;
- (b) from the end of a scheduled trip to a depot; or
- (c) from the end of a scheduled trip to the starting point of the next scheduled trip;

for which the Operator is not entitled to be compensated in terms of this contract;

**“public transport vehicle”** means a bus, midibus or minibus;

**“rapid transport bus” or “rapid transport bus train”** means a bus authorised to operate along a rapid transport lane in a bus rapid transport system, and which has a regulated floor height and door configuration designed to facilitate speedy access of passengers to and from dedicated loading facilities, and includes the sub-categories set out under the same definitions in the National Road Traffic Regulations;

**“Rebuilt bus”** means a bus rebuilt in accordance with the specifications set out in Schedule 2;

**“Rehabilitated bus”** means a bus rehabilitated in accordance with the specifications set out in Schedule 2;

**“Representative”** means the person appointed as such by the CA, or by

the SMF with the written consent of the CA, to supervise and monitor the services and to perform the functions of Representative in this contract, or a person authorised by the CA to act on its behalf. "Representative" also includes the Representative's delegate contemplated in clause 34. If no such person is formally appointed, the word "Representative" means any person duly appointed by the CA to represent it and notified to the Operator in writing;

**"revenue kilometres"** means scheduled kilometres actually operated on approved routes for which the Operator is entitled to be compensated in terms of this contract;

**"route"** means a fixed path from origin to destination along a series of roads with intermediate stops as specified in Schedule 8 or otherwise agreed to between the Parties;

**"scheduled kilometres"** means those kilometres which are authorised in accordance with the time table, as approved and amended from time to time and which will become revenue kilometres if operated;

**"scheduled trips"** means those trips which are authorised in accordance with the time table, as approved and amended from time to time;

**"separate agreement"** means a new agreement between the CA and the Operator for operating additional services which were not contemplated in this contract, are not required for the proper fulfilment of the this contract and do not amount to variations in terms of clause 16;

**"service area"** means the residential, business, industrial and other areas served by the routes, as described in Schedule 8, in which the services will be operated;

**"services"** means the services for the transportation of passengers along the routes by specified vehicles at specified times and frequencies and stopping at specified locations, which are to be provided in terms of this contract;

**"SMF" (Supervising and Monitoring Firm)** means a firm appointed by the CA if it so decides to act on its behalf for the supervision and monitoring of the services;

**"specifications"** means the specifications set out in Schedule 8 in which the services including routes, distances, fares, timetables, stops and any additional related information are described, and includes the vehicle specifications set out in Schedules 2, 3 and 4;

**“standard bus”** means a bus with a capacity of from 36 to 70 seated persons, and the number of standing passengers authorised by the relevant roadworthy certificate issued in terms of the National Road Traffic Act;

**“substitute operator”** means an operator appointed on a temporary basis in terms of clause 19;

**“ticketing system”** means electronic equipment as part of the EFVE for the collection of fares and validation of tickets, passes, smart cards or value cards;

**“time table”** means a schedule of passenger carrying trips approved by the CA, indicating all departure times from points of origin and specified intermediate points (not necessarily all authorised stops) as well as arrival times at destinations on each route for specified days, subject to any variation thereof in terms of clause 16;

**“trip”** means the operation of a vehicle, carrying fare paying passengers, travelling in a single direction on a route as set out in the authorised time table, including any variations approved by the CA or Representative in writing in terms of clause 16;

**“unsuitable vehicle”** means a vehicle which is materially different from those specified in Schedule 3 in terms of age, make, model or otherwise, or which the CA and/or Representative in their discretion deem to be unsuitable to provide the services adequately or which does not comply with the National Road Traffic Act or other applicable legislation;

**“variable contract rates”** means the rates per revenue kilometre agreed upon between the Parties as being the rates used to calculate payments to the Operator under clause 34 and as described in Schedule 10;

**“vehicle”** means a public transport vehicle; and

**“waybill”** means a document provided by the Operator that details duty, route and trip details (including details of passengers carried and tickets issued and cancelled per trip and revenue collected) as shown in Form 5.

## 2. PREAMBLE

### WHEREAS:

- 2.1 The CA has developed an integrated public transport network/integrated transport plan to provide better public transport service to the travelling public in its area. *[In the case of a province "has concluded an agreement with the .....Municipality dated ..... which is attached hereto as Schedule .... and in terms of which the Province will manage this contract and the services provided in terms thereof on behalf of the Municipality"]*
- 2.2 The CA has contracted the Operator to provide the services, subject to the terms and conditions of this contract.

## 3. COMMENCEMENT DATE AND DURATION

- 3.1 The Operator must commence the services on ..... 20... or as otherwise agreed between the Parties in writing. *[Note: where possible the commencement date should coincide with the start of the municipality's financial year (even where the CA is the province acting on its behalf.)]*
- 3.2 The contract shall run for seven years, but the CA may, in its sole discretion, and depending on the performance of the Operator as gauged by the method shown in Schedule 9, extend the contract for a further period of not more than five years. The CA must, irrespective of its decision to so extend the contract or terminate it, notify the Operator in writing of its decision no later than the start of the end of term period. Should the CA have decided to extend the contract for a further period of five years, the Operator must confirm in writing that it will continue for the extended period or terminate its services at the expiry of the initial contract period no later than twelve months before the expiry of the initial period. This will allow the CA to secure the services of a new service provider through a tendering process.
- 3.3 Should the CA decide to extend the contract period in terms of clause 3.2, the parties must negotiate new contract rates for the period of the extension as soon as possible after the Operator is notified of the CA's decision. Once new rates have been agreed upon, they will apply as from the start of the extended five-year period of the contract and for the purposes of clause 37 (Escalation) the base month shall be the month prior to the month in which the extended five-year period starts. Should the Parties not have agreed on new rates within 90 days of the start of the end of term period, the CA may, despite a previous decision to extend the

contract, terminate the contract on giving the operator not less than 90 days written notice.

- 3.4 It is recorded that the CA may request tenders for the provision of the services in substantially the same service area as required by the Act before the start of the end of term period for a period commencing on termination of this contract. If this is done, any new contract awarded shall amount to a totally new contract based on the terms and conditions set out in the relevant tender documents.
- 3.5 If the subsequent contract is awarded to a different operator, the Operator undertakes to give its full support and co-operation in effecting the transition of the services to that other operator including, but not limited to, submitting the relevant operating licences to the applicable regulatory entity for cancellation or amendment.
- 3.6 Nothing in this contract is intended to give to, nor shall give the Operator a legitimate expectation regarding any extension of this contract, being either an extension contemplated in clause 3.2 or otherwise, or an expectation to be appointed as the operator in any extended or subsequent contract. The appointment of an operator for any extended period or subsequent contract will be in the sole and absolute discretion of the CA.

#### **4. INDEPENDENT CONTRACTOR**

- 4.1 The Operator shall act as an independent contractor and not as an employee or agent of the CA and does not have the authority to bind the CA contractually to any other party. The CA shall not be liable to pay any retrenchment or severance benefits to any of the employees of the Operator on dismissal or on expiry of the contract period and the Operator hereby unequivocally and unconditionally indemnifies the CA against any such claim.
- 4.2 The Operator must obtain the prior written approval of the CA for any changes in ownership control, which approval will not be withheld unreasonably.
- 4.3 If approval is granted for a change of ownership control, the Operator must provide the CA within seven days with the particulars of any such change as shown in Form 2 in respect of the new person or entity exercising such control. Failure to do so will result in imposition of a penalty in accordance with Schedule 7 or alternatively the CA may terminate the contract in terms of clause 48.

## **5. DATA AND OTHER STATISTICS**

- 5.1 All data and statistics of whatever nature provided by the CA concerning existing or former services are provided in good faith as the best information available to the CA at the relevant time, to assist the Operator. No guarantee of the correctness of the data and statistics is given by the CA and no claims by the Operator arising from incorrect data or statistics or as a result of incorrect estimates made by the Operator regarding existing or potential numbers of passengers, or otherwise, will be entertained. The Operator must note that services required to be provided in terms of this contract might differ from existing or former services provided in the service area and passenger numbers may differ over time.
- 5.2 It is the duty of the Operator to inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is contracting. No claims of any nature will be entertained on the basis of a failure to make such enquiries.
- 5.3 Six months after the commencement date the CA must arrange a meeting with the Operator to compare the passenger base load figures and scheduled weekly kilometres provided by the CA before that date with the actual loads and scheduled weekly kilometres achieved since that date. If there is a deviation of more than 10% (ten percent) which is either positive or negative, the Parties must re-negotiate the contract rates to take account of the variation. If the Parties are unable to agree on new contract rates within 14 days after the date of the meeting, either Party may declare a dispute in terms of clause 41.

## **6. INFORMATION**

- 6.1 The Operator must submit all applicable information and data as may be required in terms of the contract documents within the required time frames. The CA may if it regards the information supplied as insufficient, call for further information. The Operator must furnish such additional information within seven days of being called upon to do so, in writing failing which penalties will be imposed in accordance with Schedule 7.
- 6.2 Any explanation desired by the Operator regarding the meaning or the interpretation of this contract must be requested in writing from the CA and the CA must respond in writing within seven business days. No oral explanations will be binding unless confirmed in writing. Such an explanation will not be regarded as an amendment of this contract unless the parties agree to it in writing as contemplated in clause 47.2, and will not amount to a variation unless made in terms of clause 16.

- 6.3 No oral representations or statements by the Representative or any other officer, employee or agent of the CA shall affect or modify any terms or obligations of this contract.
- 6.4 The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA, the Representative or a dedicated official or agent of the CA appointed by the CA to manage the contract.
- 6.5 The Operator must retain all information and records pertaining to this contract and keep them available to the CA for inspection for the duration of this contract and for at least three years after the expiry or termination of this contract.

## **7. CONTRACT RATES ALL-INCLUSIVE**

- 7.1 The Operator must satisfy itself as to the correctness and sufficiency of the contract rates which shall (except in so far as is otherwise provided) cover all of the Operator's obligations under this contract.
- 7.2 The contract rates are calculated to cover full compensation for all general preliminaries, expenses incurred in complying with the conditions and Specifications, other costs, dead kilometres as well as everything else necessary for the execution of this contract. No claims of whatever nature will be entertained based on the fact that they are too low or do not cater for all eventualities or that they were incorrectly calculated.
- 7.3 The Operator must also make sufficient allowance in the contract rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in clause 6.1.
- 7.4 The Operator's attention is drawn to the fact that the services may be varied during the contract period under clause 16, which could lead to an increase or decrease of monthly scheduled kilometres.
- 7.5 The Operator is advised that the services may have been rationalized and that routes, time tables etc. may not necessarily be the same as those operated previously.
- 7.6 Scheduling of buses for optimal use thereof, subject to the agreed timetables, will be the responsibility of the Operator, subject to the approval of the CA. Contract rates will be fixed for the contract period, subject to clauses 5.3 and 39.23.



- 7.7 Monthly payments to the operator, as well as fares paid by passengers, are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the contract rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.

## **8. INVESTIGATION OF OPERATOR**

- 8.1 The CA or its authorised agents may inspect the Operator's premises and facilities (including workshops and depots), as well as vehicles by means of which the Operator provides or proposes to provide the services, at any reasonable time. The Operator must give full co-operation in this regard.
- 8.2 The CA may appoint chartered accountants or other consultants to report on the financial resources or any operational aspects of the Operator at any time during the contract period or, if necessary, thereafter.
- 8.3 The Operator must provide all reasonable assistance in such an investigation, and on request by such accountants or consultants provide documentation or other information within seven days, failing which penalties will be imposed in accordance with Schedule 7.
- 8.4 The CA may require that the Operator's passenger revenue and cash handling procedures, be audited by an independent third party within a reasonable period specified by the CA.
- 8.5 The Operator must permit the CA to inspect at any reasonable time—
- (a) the books, records and other material kept by or on behalf of the Operator (including any records relating to employees); and
  - (b) the Operator's premises, depots and contract vehicles,
- in order to—
- (c) check or audit any information supplied to the CA under this contract; or
  - (d) monitor the performance of the Operator or compliance by the Operator with its obligations under this contract.
- 8.6 If, at any time during the contract period, the CA believes reasonably that the solvency of the Operator is in doubt and that the situation is likely to affect adversely the continuity of the services, the CA may request the Operator to provide a statement of financial position certified by its directors, members, trustees or auditors. The Operator must comply with the CA's request within seven days or a period mutually agreed upon.

- 8.7 If any survey or inspection conducted in terms of this contract reveals that information previously supplied to the CA was in any material respect inaccurate, the Operator shall be liable for any damages suffered by the CA as a result thereof which will be dealt with *mutatis mutandis* in the manner set out in clause 39.22 and will be in addition to the CA's rights to impose a penalty as provided for in Schedule 7 or to terminate the contract in terms of clause 48.

## 9. MANAGEMENT OF THE SERVICES

### 9.1 The CA shall—

- (a) Determine the routes, trips, fares and timetable of the services;
- (b) Determine the operating hours for each day, which may differ for Fridays, Saturdays, Sundays, public holidays and school holidays;
- (c) Prescribe other terms, conditions or operational rules deemed necessary for the provision of the services;
- (d) Provide instructions and directions to the Operator; and
- (e) In its sole and absolute discretion, amend the schedules, routes or timetable in the case—
  - (i) of an emergency;
  - (ii) where financial or budgetary restrictions demand an amendment to the services; or
  - (iii) of other events beyond the reasonable control of the CA.

### 9.2 The Operator shall at all times comply with the instructions, directions, terms, conditions and operating rules provided to it by the CA or its designated representatives.

### 9.3 The Operator may not deviate from the timetable and must ensure at all relevant times that it provides sufficient vehicles and trained drivers, mechanics and other staff to enable it to comply with the specifications and to provide the services adequately, and to be on standby to avoid any interruption or delay in providing the services.

### 9.4 The Operator must during the full period of the contract ensure at all times that it maintains adequate levels of fuel, in order to ensure efficient and uninterrupted delivery of the services. If the Operator uses off-premises fuel storage facilities, it must put in place adequate contingency arrangements to the satisfaction of the CA to ensure adequate and timeous delivery of fuel. However, the Operator will not incur penalties where failure to provide services is due to fuel shortages that are beyond the Operator's control.

- 9.5 The CA or its representatives may conduct random spot checks to ensure compliance with clauses 9.3 and 9.4.

## **10. BUSINESS PLANNING, RECORDS AND REPORTING**

- 10.1 The Operator must within the time periods stated in this contract or, where no time period is indicated, within the time required by the CA, submit the Contract Management Plans, Business Plans, Operational Reports and other information set out in Schedule 5, and must assist the SMF to provide the reports and other information set out in Schedule 6.
- 10.2 The Operator and any companies holding shares in the Operator must at all times comply with good governance principles as contemplated in the King III Report and must comply with the Companies Act, 2008 and other applicable legislation regarding good governance, business planning, records and reporting. Should the articles of association, shareholders' agreement, founding statement, constitution or like document(s) of the Operator or any companies holding shares in the Operator be amended, the Operator must supply the CA with copies of those documents within seven days of the amendment, failing which the Operator will be deemed to have failed to comply with clause 4.3 and a penalty will be imposed as contemplated in that clause.

## **11. PROVISION OF SERVICES**

- 11.1 The Operator must, on each day on which the services specified by the CA in Schedule 8 are to be provided, operate those services in accordance with the routes, vehicles, timetables and fare tables set out in that Schedule, and any other conditions set out in this contract, and not make any change to the service without obtaining the prior written approval of the CA in terms of clause 16, except in the case of emergency or another event contemplated in clause 15.
- 11.2 It is the responsibility and prerogative of the CA to develop and plan the services in accordance with its obligation in terms of the Act. This includes, among others the planning and specification of routes, timetables, vehicle types to be used, fare structures and scheduling of services to ensure optimal utilization of vehicles and capital cost.
- 11.3 The CA may also prescribe minimum service levels and assess performance, and may, where appropriate, vary the services in terms of clause 16.
- 11.4 The CA may, after consulting the Operator, issue protocols and standard operating procedures from time to time indicating how the services are to

be provided, or where applicable how the Operator must work together with other operators of public transport modes. If such protocols or operating procedures will result in additional costs for the Operator that do not amount to variations under clause 16, the Parties must agree on additional compensation for the Operator.

- 11.5 The Operator accepts that the routes assigned to it in the Specifications may not always be for its exclusive use and may also be used by other public transport operators, as directed or decided by the CA. If other operators are allowed to compete with the Operator at a later stage and this is likely to impact adversely on the Operator's income, the Parties may negotiate additional compensation for the Operator. This will not apply to other bus and taxi operators operating the routes on the commencement date.
- 11.6 The Operator must exercise the highest degree of skill, care and diligence in the provision of the services and operate the services strictly in accordance with the specifications, as well as the other relevant provisions of this contract, to the satisfaction of the CA. The Operator must comply with and strictly adhere to the instructions and directions of the CA and Representative regarding the operation of the services, subject to clause 15. The Operator must take instructions and directions only from authorised officials and agents of the CA, identified in terms of clause 34.
- 11.7 Depending on the requirements of this contract as to which type or combination of types of vehicles are to be provided by the Operator, the Operator must provide for each trip a vehicle having the passenger capacity as specified in the definitions of "minibus", "midibus", "standard bus", "double deck bus" and/or "bus-train", as the case may be and that conforms fully with the requirements and attributes of clause 24 and Schedule 3.
- 11.8 The Operator may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question or on grounds of violent, abusive or otherwise illegal or offensive conduct on the part of that person or other grounds contemplated in the Act or the National Road Traffic Act, or because the person refuses to pay the fare or present an unvalidated ticket.
- 11.9 Should the Operator become aware of circumstances or problems which have prevented, are preventing or will prevent the Operator from providing the services as specified, the Operator must, as soon as is reasonably possible but not later than eight hours after becoming so aware, advise the CA of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced

thereby, if applicable. Such advice must be confirmed in writing within 24 hours. The Operator must in such circumstances comply with clause 15.

- 11.10 In addition to any statutory obligations, the Operator must immediately after its occurrence, report to the CA or Representative any accident in which persons have been injured or killed. This must be followed by a written report containing full details of the occurrence within four business days of the occurrence.

## **12. OPERATING LICENCES AND PERMITS**

- 12.1 The Operator must promptly do everything in its power to obtain and maintain in force all operating licences or permits, including licences and permits required by local authorities, pay all fees and levies and issue all notices as may be necessary for or be connected with the due operation of the services in accordance with the Act and other applicable legislation.
- 12.2 The Operator must apply for the necessary operating licences or amendments not later than seven days after this contract was concluded in terms of regulation 16 of the National Land Transport Regulations, 2009 and provide all necessary information and assistance to the CA and competent regulatory entity to obtain the necessary operating licences, or amendments to existing permits or operating licences, or approval of fare increases, as the case may be, covering the contract routes in terms of section 56 of the Act unless it is already in possession of such licences, permits, amendments or approvals. In terms of that section the operating licences will be for the duration of the contract period only and will be specific to the contract. When such licences are issued, the Operator must supply copies to the CA within five days.
- 12.3 The Operator must take all reasonable steps to obtain the granting and issuing of the operating licences or amendments referred to in clause 12.2 as expeditiously as possible. If for any reason the necessary operating licences or amendments have not been granted and issued by a date being 14 days prior to the commencement date and the CA in its discretion after consultation with the Operator decides that it is unlikely that the Operator will obtain the licences in time to enable it to provide the services on the commencement date, the CA may—
- (a) cancel the contract after having given seven days' notice of its intention to do so, in which event the Parties shall be entitled to restitution with no claims against each other, unless the Operator was in bad faith (*mala fide*) or the failure to obtain operating licences timeously or at all, was due to its fault or negligence; or
  - (b) postpone the commencement date on written notice to the Operator, in which event, if the Operator is providing services

before the commencement date on some or all of the routes in question in terms of another contract or arrangement, the Operator must continue providing the services according to that contract or arrangement until the operating licences are obtained.

- 12.4 Should another operator or interested person oppose, challenge or appeal against the granting of such operating licences, the Operator must do everything necessary to defend or counter the opposition, challenge or appeal, subject to the directions of the CA, and the costs thereof shall be borne by the CA, provided that if the opposition, challenge or appeal arises as a result of the Operator's failure to do all things reasonably necessary as contemplated in this clause, the Operator shall bear all costs associated therewith.
- 12.5 The Operator must forthwith upon the occurrence of any of the following events notify the CA in writing of the details thereof:
- (a) Any revocation, suspension or refusal to renew any licence or permit necessary for the provision of the services, and
  - (b) The imposition of any condition upon such licence or permit or any other circumstance which would prevent the Operator from providing the services in accordance with the contract.

### **13. TIMETABLES**

- 13.1 Subject to this clause and clause 16, the services reflected in the timetables provided in Schedule 8 are the services that the CA requires the Operator to operate as on the commencement date.
- 13.2 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 timetables may be necessary before commencement of the services. If this is the case, the Parties must agree on appropriate timetables at least 15 business days before the commencement date. If this is not done the timetables in Schedule 8 as at the date of signing of this contract shall be operated on the commencement date until further notice from the CA.
- 13.3 The CA will formulate a proposed timetable to apply during holiday periods, after consulting the Operator, at least 14 days prior to public holidays and/or holiday periods. Such time table will be binding on the Operator for such holiday period.

**14. SUBMISSION OF DUTIES**

- 14.1 Subject to clause 13, the Operator must submit a document to the CA containing all the duties and timetables to be operated for each category of operating day and vehicle on a weekly basis not later than 8:00 each Wednesday morning.
- 14.2 No changes may be effected to the duty numbers without seven days' prior written notification to the Representative, and passengers.

**15. TEMPORARY INTERRUPTION OF SERVICES**

- 15.1 Cancellation of scheduled trips that form part of a reduced service during holiday periods is permitted if the CA or Representative approves them in writing at least 14 days in advance.
- 15.2 Cancellation of scheduled trips other than that due to a strike or stayaway action that is reasonably beyond the Operator's control or could not be prevented by the Operator, is not permitted unless the CA or Representative approves them in writing at least 14 days in advance.
- 15.3 Cancellation of other scheduled trips by the Operator is not permitted unless in the opinion of the CA or Representative the cancellation—
- (a) is due to unforeseen emergencies, road closures, obstructions, floods or weather conditions or other circumstances or problems contemplated in clause 11.8; or
  - (b) results from immediate danger to life or of personal injury and/or serious damage to property, and

the CA or Representative has approved the cancellation in advance, and if such approval was granted telephonically or by the SMS, the approval has been confirmed in writing by the CA within 48 hours of having been given.

- 15.4 Cancellation of scheduled trips by the Operator must be agreed to in writing by the CA or Representative and the Operator may declare a dispute under clause 41 if dissatisfied with the CA's decision.
- 15.5 The discretion on whether a scheduled trip is validly cancelled or not shall lie solely with the CA.
- 15.6 Where the Representative directs the Operator to provide services in circumstances where the Operator is of the opinion that there is immediate danger to life or of personal injury or of serious damage to property, due to violence, conflict, serious intimidation of drivers or boycott action, either

against the Operator's firm or generally, the matter shall be referred to the CA for decision within 24 hours and the CA's decision will be final. If the CA decides that there was not in fact such danger, the Operator will be penalized under Schedule 7 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.

- 15.7 Where the Operator is of the opinion that scheduled trips should be cancelled due to boycott action, either against the Operator's firm or generally, the Operator must, through the Representative, refer the matter to the CA for decision. If the CA decides that such cancellation is justified the variable contract rate will not be paid for services not provided but the fixed contract rate will still be paid: if not, the Operator shall be penalized in accordance with Schedule 7 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.8 The Operator must inform the Representative immediately of any proposed cancellation of any scheduled trips in terms of this clause and the Parties must then meet on an urgent basis to agree to the deviation, if any, to be allowed, and the re-commencement of the services. If they fail to reach agreement within three hours of having met for the first time, the CA's decision will be final and binding on the parties.
- 15.9 For the purposes of this clause "emergency" means a situation which is beyond the control of the Operator, for example strikes, stayaways, riots, *vis major*, etc., and which makes the provision of the services or part thereof impossible.

## 16. VARIATIONS

- 16.1 The Operator must comply with the services set out in the Specifications in Schedule 8 in respect of routes, time tables, vehicles and fare structures.
- 16.2 The CA or Representative may after consultation with the Operator make the following variations to the services within the service area:
- (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 necessarily 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;
- (e) to change the time table of any portion of the services; and
- (f) to make alterations in connection with vehicle capacities as contemplated in clause 16.3,

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

- 16.3 The Operator may apply in writing to the CA for a variation in the types of vehicles which are used to provide 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 CA consenting to such a variation the financial implications thereof on the contract rates (if any) and time table shall be agreed upon in writing. The decision of the CA in this regard shall be final and be communicated to the Operator in writing within 14 days of receipt of the request.
- 16.4 If it appears to the Operator that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Operator must apply to the CA for permission to introduce additional trips to cater for such passengers and such permission will not be unreasonably withheld.. If written permission is granted and additional trips introduced, the CA shall compensate the Operator therefor at the applicable variable and fixed contract rates as from the first day of the month following the approval and all costs incurred by the Operator prior to that day shall be for the Operator's own account.
- 16.5 If it appears to the Operator or Representative that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the CA may at the request of the Operator or Representative approve that—
- (a) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
  - (b) the Operator continues operating the vehicle, in which case the Operator will be paid at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity as the CA might

consider appropriate for the circumstances for the relevant kilometres.

If the CA does not approve the application it may remove the trip or route from the time table in terms of clause 16.2.

- 16.6 Where a variation is made or approved in terms of this clause, any cost to the Operator occasioned by such variation will be catered for in the fixed and variable contract rates calculated as indicated in Schedule 10.
- 16.7 If the CA requires services to be provided in areas outside the service area or on special occasions these will be negotiated under a separate agreement the terms of which will have no bearing on this contract and may not impact negatively on the Operator's obligations in terms of this contract.
- 16.8 Services provided in terms of clause 16.7 will be provided at rates as set out in Schedule 10 and as requested by the CA in writing, subject to the availability of vehicles and staff as agreed to by the Operator, keeping in mind that, once agreed to, such commitments shall in no way relieve the Operator from operating the scheduled trips as provided in the time table applicable to this contract.
- 16.9 Where approved variations in terms of this clause result in the amount of revenue kilometres that the Operator was required to operate on the commencement date being increased or decreased by more than 15% during peak periods, the fixed contract rate will be renegotiated based on the principles set out in Schedule 10. If the Parties cannot agree on a new rate, the matter will be treated as a dispute under clause 41, and the Operator will continue to be remunerated based on the rate determined in accordance with Schedule 10 on the commencement date until a new rate is determined. The new rate will then apply retrospectively as from the date that the variation was implemented, and the difference will be made up in the next monthly payment following the resolution of the dispute.

## **17. CESSION AND DELEGATION**

- 17.1 The Operator may not cede its rights or delegate its obligations under this contract or any part thereof, or any benefit or interest therein, to another person, whether as security or otherwise, without the prior written consent of the CA. The CA may regard a contravention of this sub-clause as a material breach of contract justifying termination thereof in terms of clause 48.

- 17.2 It shall be in the sole discretion of the CA to grant or refuse such consent, which shall not be withheld unreasonably.
- 17.3 The CA may at any time during the currency of this contract cede its rights or delegate its obligations in terms thereof to a municipal entity or provincial public entity as defined in the MFMA or PFMA, as the case may be.

## **18. SUB-CONTRACTING**

The Operator may not sub-contract any of its obligations or rights in terms of this contract, subject to clause 17.

## **19. SUBSTITUTE OPERATOR**

- 19.1 The Operator may appoint a substitute operator on a temporary basis in the circumstances contemplated in clause 19.3, and subject to this clause.
- 19.2 Before the Operator appoints any substitute operator it must obtain the written consent of the CA who must approve the substitute operator as fit and proper to provide the services.
- 19.3 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 must make all reasonable attempts to provide the services, including the option of finding licensed substitute operators to cover all scheduled trips. If there is no time to obtain prior written authority from the CA before the appointment of the substitute operator, the Operator must inform the Representative of the particulars of such substitute operator the same day and the CA will approve or refuse consent within three days.
- 19.4 Where a substitute operator has been providing the services for 30 days or more, the CA may cancel this contract and direct that the Operator and/or substitute operator leave the service area, and may appoint another operator of the CA's choosing as a stopgap measure while the required procedures are followed to award a new contract.
- 19.5 If the Operator is not able for any reason to provide scheduled trips for any consecutive period of 24 hours and fails to arrange for a substitute operator, it must immediately inform the Representative to this effect to enable the CA 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, the Operator shall be liable for all the

associated extra costs, and penalties in terms of Schedule 7 will be imposed for scheduled trips not operated.

## **20. SERVICES OUTSIDE OF THIS CONTRACT**

20.1 In addition to the services which the Operator is obliged to provide in terms of this contract, it may, with the prior approval of the CA, operate any other passenger transport service with vehicles owned by the Operator and specified for use in this contract, provided that—

- (a) the operation of such service does not in any way interfere with the full and complete performance by the Operator of its obligations under this contract;
- (b) the additional services do not operate in competition with the services specified in this contract; and
- (c) the Operator will compensate the CA in an amount to be agreed upon and deducted from the relevant monthly claim or claims, to compensate for the fact that the subsidy paid under the contract partially covers vehicle costs.

20.2 The Operator may not operate any other passenger transport service outside of this contract with vehicles owned by the CA, unless the CA agrees in writing in advance.

*[Note: As an alternative the Operator can be prohibited from doing private hires with vehicles owned by the CA.]*

20.3 Where approval has been granted in terms of clause 20.2 the Operator will pay the CA a fee for the use of its vehicles in an amount to be agreed upon.

20.4 The Operator must provide the CA with a detailed summary with each monthly payment certificate, in the form approved by the CA, of all kilometres travelled in connection with other services on a monthly basis to enable the CA to determine the amount payable to it under this clause. That amount shall be recoverable as a debt due to the CA which may be off-set against any monthly payment due to the Operator.

20.5 Where the CA requests the Operator to provide services on its behalf outside of the scope of this contract, this will be done in terms of a separate contract, unless otherwise agreed.

## **21. ACCESSIBLE PUBLIC TRANSPORT**

- 21.1 The Operator must within three months after the commencement date, provide the number of vehicles that accommodate special categories of passengers as defined in the Act, including providing for wheelchairs , and upgrade the fleet to be compliant in this regard, as required by the Vehicle Specifications outlined in Schedule 3. Should the Operator fail to provide such vehicles penalties as set out in Schedule 7 will apply each month until compliance takes place.
- 21.2 In the case of a rapid transport bus or rapid transport bus train as defined in the National Road Traffic Regulations, there are different requirements, which are obtainable from the Department. The Operator must comply with these requirements and should it fail to do so the penalties as set out in Schedule 7 will apply each month until compliance takes place.

## **22. DISPLAY OF VEHICLE AND DUTY NUMBERS**

All vehicles used for the provision of the services must display fleet numbers and duty numbers as specified in Schedule 3.

## **23. INFORMATION TO AND FROM PASSENGERS**

- 23.1 The Operator must ensure that up-to-date timetables and fares tables are available on all vehicles and at other places required by the CA and must comply fully with the Consumer Protection Act 68 of 2008 in this regard.
- 23.2 The CA may operate an information centre, a shopfront information service and a customer call centre. The Operator must maintain close links with these services and provide accurate, timely information as required by the CA. In addition the Operator must facilitate a "help desk" facility to respond to enquiries and to communicate directly with customers, especially about service changes, as directed by the CA.
- 23.3 The Operator must participate in passenger liaison and information dissemination processes established by the CA and attend monthly or more frequent meetings in this regard. All complaints received by the CA will be forwarded to the Operator for a written response within fourteen working days, failing which a penalty will be imposed in terms of Schedule 7. Such response must include a report on the incident in the format provided in Form 3 with, where required by the CA or its Representative, a program for the prevention of similar incidents.
- 23.4 The Operator must in the first instance manage all customer complaints

relating to the services. The Operator must formulate a Customer Complaints Policy within 30 days of the commencement date for approval by the CA. Failure to do so will result in penalties being imposed in terms of Schedule 7. Once approved, the Operator must comply with the Policy. The Operator must also provide the CA and its agents and representatives with every assistance in dealing with passenger complaints received by the CA, and must take such remedial measures as may be agreed between the Parties without prejudice to the right of the CA to take action under other relevant provisions of this contract where persistent failure to deal with complaints is adjudged by the CA to contravene those conditions.

- 23.5 Where the Operator receives complaints directly from the public, it must report these to the Representative, in writing, within fourteen working days, with details of the complaint, the date and time of the event leading to the complaint and the date of receipt of the complaint itself, the nature of the complaint and the immediate actions taken to address it. The Operator must keep a Passenger Complaints Register to record these complaints and details for the duration of the contract. The CA may provide a *pro forma* register which the Operator must use. Failure to comply with this clause will result in the imposition of a penalty in terms of Schedule 7.

## 24. VEHICLES

- 24.1 The Operator must, as part of the negotiation process, list on Form 4 of Schedule 1 the vehicles per vehicle category that will be available for the services on the commencement date and whether the vehicles will be purchased or leased. The numbers and types of vehicles must comply with those specified in Schedule 3. Copies of signed purchase and lease agreements must be provided to the CA 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 others, to determine the contract rates, assess the Operator's capacity to operate services of the magnitude concerned and whether the vehicles comply with Schedule 3.
- 24.2 Only vehicles shown in the completed Form 4 may be used to provide the services, unless the written consent of the CA to replace vehicles with others of the same or better quality and age is obtained in advance to enable the CA to assess whether the vehicles are acceptable. Where such consent has not been obtained, the revenue kilometres operated by such vehicles will not be paid, the Operator will not be allowed to claim fixed cost for the vehicles and the Operator will be penalised in terms of Schedule 7.

- 24.3 The number of vehicles must make allowance for at least ten percent (10%) spare capacity. This spare capacity must be maintained at all times during the period of the contract. When applying for operating licences or amendments thereof under clause 12 the Operator must ensure that application is made for sufficient vehicles to comply with this requirement.
- 24.4 All vehicles must conform to the requirements and regulations of the National Road Traffic Act and other applicable legislation and applicable SABS specifications.
- 24.5 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 Schedule 3 at all times. When so ordered by the CA, the Operator must remove from the services any unsuitable vehicles. The approval or disapproval of any vehicle by the CA shall not in any way release the Operator from its obligations in terms of the contract.
- 24.6 A detailed fleet list of the vehicles per vehicle category that will be available for the services on the commencement date, in the format required by the CA, must be submitted to the CA not later than fourteen days before the commencement date.
- 24.7 If the Operator, without the written authority of the CA, fails to provide the right type, with reference to quality and age, of vehicles as specified in Schedule 3 and listed on Form 4, within three months of the commencement date or, at a later stage in the contract period, within thirty days after being instructed to do so by the CA, then a penalty will be imposed in terms of Schedule 7.
- 24.8 The Operator must ensure that each vehicle-
- (a) is operated and maintained in accordance with the manufacturer's specifications, recommendations and service standards and is serviced at the times required or recommended by that manufacturer; and
  - (b) is properly licensed and has a current roadworthy certificate issued in compliance with the National Road Traffic Act.
- 24.9 The CA may inspect the vehicles at any time during the contract period and at any location. It may require the Operator to produce specific vehicles at the CA's cost for a more comprehensive inspection at the nearest acceptable testing station directed by the CA with due regard to the fact that the vehicle should be detained for as short a period as possible.

- 24.10 The Operator must withdraw a vehicle failing an inspection contemplated in clause 24.9 from service until repaired and successfully re-tested at a location to be determined by the CA. The inspection fees will be for the account of the Operator.
- 24.11 The Operator must allow for the storage of small items of bags and equipment on vehicles in such a manner that the legal width of gangways is maintained.
- 24.12 All vehicles used on the contract must be fitted, either permanently or temporarily as decided by the CA, with communication equipment capable of transmitting and receiving messages between vehicle(s) and a base station. This equipment must comply with the specifications and requirements set out in Schedule 3.
- 24.13 The Operator will be held responsible where any vehicle may not be used, or where the licence of a vehicle may not be renewed due to demerit points being awarded against the Operator or its drivers in terms of the Administrative Adjudication of Road Traffic Offences Act 46 of 1998 (AARTO Act), and if the Operator fails to supply sufficient and compliant replacing vehicles this will be regarded as a breach of this clause and penalties will be imposed accordingly.

*[Note: If the CA is to own the vehicles, this clause will have to be adapted and a number of additional clauses provided, including, but not limited to the following:*

- *Operator responsible to look after the vehicles as from date of possession and is liable for any damage etc. due to its fault unless covered by insurance.*
- *Operator may not lend out or alienate the vehicles in any way (or can do so with prior written consent of CA and on stated terms and conditions).*
- *Provisions for maintenance of the vehicles – either that the Operator must ensure they are delivered to the supplier or supplier's agent for servicing and repairs, or that the Operator must maintain them, as the case may be.*
- *Operator must provide written reports/proof that maintenance is carried out. Operator liable for damage caused by lack of maintenance.*
- *If/when the contract is terminated vehicles to be returned to the CA in a good condition and state of repair.*
- *Operator liable for damage to vehicles that is not covered by insurance unless not due to Operator's fault.*
- *Operator must keep vehicle log for each vehicle.*
- *CA may inspect vehicles at any time.]*



## 25. INDEMNITY AND INSURANCE

- 25.1 The Operator must take steps to ensure the safety of passengers, the general public and property. The CA shall not be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Operator or its agents or employees and the Operator hereby indemnifies the CA against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges and expenses whatsoever in this regard.
- 25.2 The Operator must effect and maintain throughout the duration of the contract, at its own expense, public liability insurance and SASRIA cover for at least ten million rand (R10m), all risks insurance and supplementary insurance in respect of civil commotion, riot and strikes, and full comprehensive vehicle insurance based on the realistic market value of the vehicle(s) for the amounts and deductibles, if any, determined by the CA by notice in writing to the Operator from time to time, with an insurer chosen by the Operator and acceptable to the CA, registered as required by applicable legislation. Proof of such insurance must be submitted to the CA prior to the commencement date and the Operator must advise the CA in writing of any changes thereto. Proof of payment of monthly premiums must be attached to the monthly payment certificate.
- 25.3 If the Operator for any reason fails to take out or maintain such insurance, the CA may pay any premium due on such policy on the Operator's behalf and set such amount off against any amount due to the Operator in terms of this contract, plus an administration fee of ten percent of each premium so paid. This right is in addition to any other remedy that the CA may have.

## 26. DEPOTS

- 26.1 The Operator must provide and be responsible for the depots owned by the Operator unless otherwise agreed.
- 26.2 During the lifespan of the contract and depending on the availability of funding the CA may purchase the depots and lease them back to the Operator as part of a separate agreement.
- 26.3 All maintenance facilities as required by the Operator must be provided in the depots at the cost of the Operator while the Operator owns the depots. Such facilities must be adequate for the type of operations, as required by the CA. *[Note: To be adapted if there are no facilities at depots and the*

*Operator outsources vehicle maintenance.]*

## **27. LEASE OF DEPOTS**

### **A. Where the CA owns the depots:**

- 27.1 The CA hereby lets and the Operator hereby hires the following depots on the terms and conditions set out in the Lease Agreement, attached hereto for information purposes:
- (a) Depot A situated at .....
  - (b) Depot B situated at .....

*[This clause is applicable where the CA will acquire or build the depots and lease them to the Operator, possibly at no rental or a nominal rental. The lease agreement must set out full details of the lease of the depots, including a duty on the Operator to maintain them, take out insurance for them, restore them in good condition on termination of the Agreement, etc.]*

### **B. Where the Operator owns the depots and sells them to the CA:**

- 27.1 The Operator hereby sells and the CA hereby purchases the following depots on the terms and conditions set out in the Sale Agreement attached hereto for information purposes:
- (a) Depot A situated at .....
  - (b) Depot B situated at .....
- 27.2 The monthly installments payable to the Operator by the CA shall be added to each monthly claim and paid to the Operator as part of the monthly payment certificate.
- 27.3 The CA hereby lets and the Operator hereby hires the abovementioned depots on the terms and conditions set out in the Lease Agreement attached as Schedule ....

*[This clause is applicable where the CA will purchase the depots and lease them back to the Operator. In this case both purchase and lease agreement are required – they can be combined into one document. It should be noted that it may be possible for the CA to expropriate the property on which the depot is situated if the Operator refuses to sell. It will then have to pay market related compensation. It may be the case that another operator or a related company of the Operator owns the depots. In that case appropriate agreements will have to be concluded, e.g. CA buys or leases them.]*

## 28. STAFF

- 28.1 The Operator must provide a staff complement able to provide the services to be rendered in terms of this contract. Subject to section 197 of the Labour Relations Act of 1995 (as amended) in respect of the previous operation of the services, the Operator must source the required employees from the operator of that previous contract and guarantee the jobs of those employees. Those jobs relate to the number of actual employees required by the Operator to execute this contract and exclude sub-contracting requirements, set-asides, reduction in the scope of the services and other measures taken by organs of state over which the Operator has no or little control, in respect of both the previous contract and this contract..
- 28.2 The Operator must conduct business in full compliance with all applicable labour legislation.
- 28.3 The Operator must ensure that all staff is properly trained, experienced and otherwise fit and proper for the duties to be performed by them under this contract.
- 28.4 The Operator must ensure that all dedicated staff is provided with appropriate training in particular in the following areas:
- (a) Service requirements of passengers with disabilities;
  - (b) management of confrontational or difficult passengers;
  - (c) occupational health and safety issues;
  - (d) customer care;
  - (e) role of a bus driver;
  - (f) inspection, dispatch and supervision of services;
  - (g) contract management; and
  - (h) compilation of claims.
- 28.5 If the Operator becomes aware that any member of staff is not fit and proper to execute his/her duties effectively, the Operator must take appropriate action to ensure that its ability to perform its obligations under this contract is not at risk.
- 28.6 The Operator must at all times and at its own expense provide and pay the remuneration of a fully competent, proficient and appropriately licensed driver for each vehicle used on the contract who in all ways complies with the provisions of applicable legislation. All such drivers must maintain the highest standards of courtesy and consideration to the public and to the CA's employees and agents. No driver may smoke, drink alcohol or take

prohibited drugs on any vehicle, or be in any way under the influence thereof, whilst driving a vehicle in terms of the contract and must at all times adhere to the rules of the road and other prescriptions of the National Road Traffic Act.

- 28.7 The Operator must ensure that each driver holds the necessary professional driving permit required to drive public transport vehicles and—
- (a) has a thorough and detailed knowledge of the fares, routes and timetables;
  - (b) is provided with training in accordance with appropriate industry practice, as reasonably required by the CA;
  - (c) is attired in a clean, well maintained and appropriate uniform as required by the CA;
  - (d) has been the subject of appropriate security checks by the Operator as required by the CA;
  - (e) is familiar and well trained in the use of the EFVE system; and
  - (f) has a detailed knowledge and understanding of the driver's obligations regarding fare evasion and ticket failures.
- 28.8 The Operator must supply sufficient, competent management and support staff to manage the contract and oversee operations in accordance with Form 7 of Schedule 1.
- 28.9 If the Operator becomes aware that any driver is not fit and proper for any of the reasons referred to above, the Operator must source another/other drivers who are qualified to ensure that its ability to perform its obligations under this contract is not at risk in any material way.
- 28.10 The CA may require members of staff employed by the Operator and who perform their duties in view of the public to wear uniforms at all times while on duty, and the Operator must ensure that those staff members wear such uniforms as prescribed by the CA.
- 28.11 If the CA prescribes uniforms in terms of clause 28.10 the CA will supply the uniforms at its cost. The Operator must ensure that the uniforms are kept in good condition and worn in a professional manner and in accordance with the standards required by the CA, and must replace uniforms from time to time with the prior approval of the CA and at the cost of the CA.
- 28.12 The Operator must sign the Occupational Health and Safety Agreement attached as Schedule 14.

## **29. PUBLIC TRANSPORT STOPS**

- 29.1 The Operator may only use bus stops, including intermediate stops, authorized by the CA in its capacity as planning authority, or where the CA is a province, by the relevant municipality.
- 29.2 All vehicles operating along the routes must stop at authorised stops if there are passengers waiting or passengers wishing to alight, except where—
- (a) the stop is not part of the route being operated;
  - (b) the vehicle is operating express services and displays a sign to that effect;
  - (c) the vehicle is not in service; or
  - (d) the vehicle is full and displays a sign to that effect.
- 29.3 Vehicles must stop at any stop where requested to do so by an authorised representative of the CA or an authorised officer as defined in the Act, or where a passenger wishes to alight in an emergency.
- 29.4 At any stops, and the transfer points identified in Schedule 8, drivers must not allow passengers to board or alight until the vehicle has arrived at the stop sign to facilitate queuing and boarding.
- 29.5 Vehicles must not be parked at stops, other than while loading or unloading, so as to avoid causing delays to other traffic.
- 29.6 Where stops are used for transferring between modes or as timing points vehicles must not be delayed for longer than required by such actions.

## **30. ADVERTISING ON VEHICLES**

Advertising on vehicles is allowed only with the written consent of the CA and must comply with Schedule 4.

## **31. IMAGE AND MARKETING**

- 31.1 The Operator must contribute to and conform to the style guide provided in Schedule 12, which will define the use of graphics, information signage, timetables, advertising material and vehicle livery.
- 31.2 The CA wishes to develop a co-operative relationship to enhance the marketing of public transport. This will focus on the generic benefits of

public transport and the marketing of special events. The Operator must participate in agreed marketing programs and initiate and conduct them as directed by the CA. If there are costs involved for the Operator that are not envisaged elsewhere in this contract, the CA will bear those costs.

## **32. FARES**

- 32.1 The primary method of fare payment and access to the integrated public transport services will be through contactless bank issued EMV (Europay Master Visa) dual interface smart cards hosting the Department's AFC Data Structure as more fully described in the Electronic Fare Collection Guidelines published by the Minister as well as Schedule 11 and the Regulations referred to in the definition of EFVE in clause 1. Commuters must also be able to pay for single fares in cash on board the vehicles.
- 32.2 The fares to be charged by the Operator on all routes described in the Specifications shall be set by the CA after consulting the Operator, and the Operator must comply with the Act and other applicable legislation in this regard. The Operator may request fare increases, and the CA must consider these requests in the light of prevailing economic circumstances and other factors that the CA considers relevant. Should the CA not approve the request it must provide the Operator with full reasons, and the Operator may declare a dispute under clause 41.
- 32.3 All fares collected and tickets handled by the Operator for the purpose of providing the services belong to the Operator, but the Operator must, at all times—
- (a) in collecting the fares, handling tickets and dealing with the fares collected, act with the utmost good faith;
  - (b) in all other respects, use its best endeavours to ensure that passengers pay correct fares; and
  - (c) in collecting fares and handling tickets, comply strictly with the fare schedules published by the CA from time to time.
- 32.4 The Operator must make all efforts to minimise fare evasion and in this regard provide the CA with a Fare Evasion Plan not later than 14 days before the commencement date.
- 32.5 Fares will be increased at least once per annum as determined by the CA. The increase may be based on the annual published Consumer Price Index (CPI) coupled with increases or decreases in the price of fuel and spares and other factors that the CA considers relevant, but will not be less than the CPI increase. The CA will give passengers notice of change

of fares in the manner decided by it, at least 30 days prior to the date of the change after consulting affected passengers.

- 32.6 Whenever there is an increase or reduction in the price of the fuel used by the Operator, fares may be adjusted to reflect the increase or decrease in the manner and from the date determined by the CA.
- 32.7 Without limiting the CA's rights, the CA or an agent appointed by it may audit the Operator's performance of its obligations under this clause at any time.

### **33. ELECTRONIC FARE VALIDATION AND COLLECTION EQUIPMENT (EFVE) TICKETING SYSTEM AND FARE COLLECTION**

*[Note: In an integrated system as well as a gross system the CA will have to take more control of the ticketing system used and the fares set. In the clauses below it is assumed that the CA will take the responsibility for providing and maintaining the equipment.]*

- 33.1 The CA shall supply the EFVE Ticketing System and electronic equipment relating thereto at stations and transfer points.
- 33.2 The Operator must ensure that all vehicles are equipped with the Ticketing System as required by the CA in a timely manner on or before the date stipulated by the CA, prior to the time that the vehicle is required for use in providing the services.
- 33.3 The Operator must—
- (a) only use the EFVE Ticketing System, tickets and fares approved by the CA;
  - (b) not use the EFVE Ticketing System for the purpose of providing services other than those contracted with the CA without the consent of the CA;
  - (c) not give access to the EFVE Ticketing System to any party other than the CA and its authorised agents for any purpose whatsoever;
  - (d) not attempt to access or modify raw patronage or revenue data stored in the EFVE Ticketing System;
  - (e) not at any time permit a vehicle to leave a depot should there be any defect in the EFVE or if it becomes defective during operation, replace the vehicle immediately and if replacement is not possible, use a manual waybill system;
  - (f) use a common time obtained from the CA for recorded information and ensure that its staff regularly update the ticketing hardware time; and

- (g) make its staff available for training in such equipment as and when required by the CA.
- 33.4 The Operator must ensure that passengers validate tickets upon boarding except when passengers are transferring to a replacement vehicle in the event of breakdown (in this situation the Operator must ensure that passengers do not validate their tickets).  
*[Note: If the CA outsources the ticketing function this clause will have to be adapted accordingly.]*
- 33.5 The Operator shall provide assistance to passengers, as required, seeking to validate their ticket.
- 33.6 The CA shall provide the Operator with a copy of the Manual of Ticketing and Revenue Procedures not later than seven days before the commencement date.
- 33.7 All cash collected by the Operator in respect of the services through on-board collection, vending machines, portable validators and over-the-counter-ticket sales is the property of the Operator.
- 33.8 Should the EFVE become obsolete during the life of this contract and be replaced by a new or upgraded EFVE, the Operator must, at the cost of the CA—
- (a) participate in project teams associated with the planning for a new or upgraded system;
  - (b) assist the CA with implementation of the new or upgraded system;
  - (c) make staff available for training on the operation of the new or upgraded system;
  - (d) make vehicles and depot facilities available to the CA for installation of new or upgraded equipment; and
  - (e) provide any other reasonable assistance the CA requests.
- 33.9 Should the CA decide to implement new monitoring methods or equipment it may provide additional or different equipment, at the cost of the CA, at any time during the contract period. The CA will then negotiate with the Operator who must give full co-operation to the CA in this regard and see to it that the additional or new equipment is installed in all vehicles as required by the CA within the time so required. In this regard clause 33.10 will apply with the necessary changes.
- 33.10 All other issues related to the EFVE operation, support, maintenance, etc will be dealt with as more fully described in Schedule 11.



## **34. MONITORING AND CONTROL**

34.1 This contract includes allowance for performance incentives and penalties. In order to manage these and ensure that service quality is maintained, as well as to facilitate the payment of the Operator's claims, the CA may appoint an independent Supervision and Monitoring Firm (SMF) which shall—

- (a) Administer and supervise the contract to ensure contract compliance;
- (b) Monitor the operation of the services according to an approved monitoring strategy;
- (c) Impose penalties for non-compliance where necessary and calculate performance values;
- (d) Arrange and chair weekly penalty meetings and monthly contract meetings;
- (e) Arrange and chair meetings (other than monthly contract meetings) with the Operator;
- (f) Verify and certify the Operator's payment certificates;
- (g) Measure the Operator's performance against KPI benchmarks;
- (h) Identify and assist the CA and Operator with routing and scheduling problems when necessary;
- (i) Where appropriate, adjust services in terms of clause 16;
- (j) Report any unusual events to the contract manager appointed by the Operator as soon as it becomes aware of them. This will not excuse or exonerate the Operator from any of its obligations in terms of this contract relating to such events; and
- (k) Execute any other functions allocated by the CA.

34.2 Work to be carried out by the Representative and SMF in terms of clause 34.1 is detailed in Schedule 6.

34.3 The CA may decide not to appoint a SMF in which case it will designate officials to perform the functions of the Representative and/or SMF.

34.4 The Representative and SMF have no authority to release the Operator from any of its obligations in terms of the contract, nor are they empowered, except as stipulated in this contract, to issue any order that would impede the Operator, give rise to additional expenditure for the CA or result in an amendment to the services.

34.5 Despite any contrary provisions in this contract, the CA may reverse or amend a direction or decision of the Representative or SMF and make or issue new ones. Any such reversed, amended or new direction or decision shall for the purposes of this contract be deemed to have been issued by the Representative.

- 34.6 The CA, Representative and SMF may investigate any complaints, objections or representations made by passengers, local authorities or other interested persons relating to the services.
- 34.7 Should the Operator become aware that any of its employees have threatened the Representative or his/her delegates, the Representative's Deputy or employees of the SMF or CA the Operator must take immediate disciplinary or other appropriate steps to prevent a recurrence.
- 34.8 All communications between the Operator and the CA shall take place via the Representative except where specifically provided otherwise.
- 34.9 The Operator must inform all its employees of the identity, powers and duties of the Representative, Deputy and monitoring staff. For purposes of identification the SMF must provide its staff with a unique personal identity card with photograph.
- 34.10 With the objective of ensuring that services are provided as specified, the CA may direct that all buses be fitted with on-board Global Positioning System Tracking devices or other monitoring equipment. Provision for the installation of this equipment must be made in the costing of the services where vehicles will be solely owned by the Operator.
- 34.11 The CA will, through the Representative and, once installed, using the electronic monitoring equipment installed in the vehicles, monitor the services on a daily basis to optimize service provision to users through adjustment of timetables, quality of vehicles, customer relations and other aspects.

### **35. PENALTIES**

- 35.1 The services shall be fully monitored in the first three months of operation and all offences listed, but penalties will not be imposed in the first three months. Thereafter penalties shall be imposed as set out in Schedule 7. In both cases revenue kilometres will only be paid for trips which have been operated.
- 35.2 The fact that a penalty has been imposed will not affect or prejudice any other remedy that the CA may have, and will not preclude the CA from exercising its other rights or remedies in terms of this contract for non-fulfilment by the Operator of its obligations.

### **36. COSTING OF SERVICE PROVISION**

- 36.1 This Contract is priced on the basis of a two part cost structure (a variable and fixed cost component) for every vehicle type to be used on the contract.
- 36.2 The various cost elements and the manner in which the variable and fixed cost per vehicle type is calculated is more fully described in Schedule 10.
- 36.3 The variable cost component of this contract will be subject to escalation as indicated in clause 37.
- 36.4 The fixed cost component of the contract will be subject to escalation as indicated in clause 37.

### **37. ESCALATION AND CALCULATION OF MONTHLY PAYMENT**

- 37.1 The fixed and variable contract rates shall be escalated monthly, in the manner set out in clause 37.2, but will be limited to the percentage increase in the Public Transport Operations Grant allocated to the CA by the Grant Framework published in terms of the Division of Revenue Act for the financial year in question.
- 37.2 The fixed and variable contract rates shall be escalated monthly, in the following manner:
- 37.2.1 The escalation formula set out in this clause is designed to compensate for variations in input costs affecting the agreed rates for the provision of the services.
- 37.2.2 The fixed costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the adjustment factor Y determined according to the formula set out below and:

$$Y = (1 - x) \left[ \left( a \times \frac{Lt}{Lo} \right) + \left( b \times \left( \frac{CPI_t}{CPI_o} \right) \right) \right]$$

Where  $a + b = 1$

And in which the symbols have the following meanings:

“x” is the proportion of fixed costs not subject to adjustment and its value is 2% (0,02).

"a" is the coefficient deemed to represent the proportionate value of labour costs linked to labour categories as determined by the Bargaining Council. A value of ... .. (%) shall be applied for this contract.

"b" is the coefficient deemed to represent the proportionate value of the other fixed costs. A value of ... .. (%) shall be applied for this contract.

"L" is the labour index for all hourly paid employees as published in Table C-3-Steel and Engineering Industries Federation of South Africa (SEIFSA) "Index of actual Labour Cost", SEIFSA Price and Index Pages.

"CPI" is the Consumer Price Index as published monthly by Statistics South Africa.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

37.2.3 The variable costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the variable cost adjustment factor Z determined according to the formula as set out below:

$$Z = (1 - x) \left[ \left( c \times \frac{F_t}{F_o} \right) + \left( d \times \left( \frac{PPI_t}{PPI_o} \right) \right) \right]$$

Where  $c + d = 1$

And in which the symbols have the following meanings:

"x" is the proportion of variable costs not subject to adjustment and its value is 2% (0,02).

"c" is the coefficient deemed to represent the proportionate value of fuel. A value of ... .. (%) shall be applied for this contract.

"d" is the coefficient deemed to represent the proportionate value of the other variable costs. A value of ... .. (%) shall be applied for this contract.

"F" is the "Fuel Index" and shall be determined as:

$$F = \alpha \times \frac{P_t}{P_o} + \beta \times \frac{D_t}{D_o} \quad \text{where } \alpha + \beta = 1$$

$P_o$ ,  $P_t$ ,  $D_o$  and  $D_t$  are the actual monthly petrol and diesel prices as published by the Department of Minerals and Energy on a monthly basis and are available on the following web address: [http://www.dme.gov.za/energy/liquid\\_prices.stm](http://www.dme.gov.za/energy/liquid_prices.stm)

$\alpha$  and  $\beta$  are the coefficients representing the proportion of petrol and diesel respectively, used in operating the fleet. The Operator must provide values for these, which will be adjusted in accordance with adjustments to the fleet.

"PPI" is the Producer Price Index for Imported Goods as published monthly by Statistics South Africa in P0142.1.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

37.2.4 If any index or price relevant to any particular certificate is not known at the time the value of the certificate is calculated, the latest published figures shall be used. Any correction that may be necessary shall be made by increasing or decreasing the subsequent monthly payments to the Operator.

37.2.5 The amount payable to the Operator "Ac" shall be determined by the formula:

$$Ac = Y \times (F - 50\%P) + Z \times (V - 50\%P)$$

The symbols in the formula have the following meanings:

"Y" is the fixed cost escalation factor as determined in terms of clause 37.2.2.

"F" is the total fixed cost component of the claim, reflecting the fleet available for service as certified by the Representative and will be determined by multiplying the fixed cost per bus as determined in terms of Schedule 10 by the number of buses operated (peak plus 10% spare capacity).

"Z" is the variable cost escalation factor  $s$  determined in terms of clause 37.2.3

"V" is the total variable cost component as certified by the Representative in the certificate under consideration and will be determined by multiplying the variable cost rate per kilometre as determined in terms of Schedule 10 by the number of scheduled kilometres actually operated.

"P" is the total value of penalties imposed for the period of the certificate under consideration.

### 38. PERFORMANCE MONITORING

38.1 The underlying policy objectives of performance monitoring are to—

- (a) measure the reliability, punctuality and general operational efficiency of the services by means of a review of key performance indicators (KPIs);
- (b) measure the customer satisfaction with the services rendered;
- (c) encourage improved service provision and quality by providing for a remedial process where performance problems are identified and addressed; and
- (d) provide for a mechanism where compliance with KPIs can be used as a motivation for possible subsequent extension of the contract after the initial contract period up to the maximum period allowed by the Act.

38.2 The first six months from the commencement date will be considered as an establishment phase, and performance during that period will not be used in the performance measurement process, although penalties will be imposed after the third month in accordance with clause 35 and Schedule 7. Thereafter, the performance of the Operator will be assessed on a monthly basis according to the following KPIs established by the CA:

- (a) **Reliability** which measures the operator's ability to operate the contract timetable in terms of the percentage of scheduled trips actually operated. Trips not operated due to circumstances beyond the operator's control (e.g. accidents, traffic and strikes) are not taken into account for calculation purposes;
- (b) **Punctuality** which measures the operator's ability to operate on-time. It is calculated in terms of the percentage of on-time departures and arrivals at terminal points and selected intermediate points;

- (c) **Driver quality** which measures the technical ability (driving skills) and attitude of drivers as well as consideration for passengers. It is assessed through the following:

- (i) complaints reported by passengers in which case it is calculated as the percentage of trips operated for which complaints were received; and
- (ii) surveys whilst vehicles are in service to evaluate vehicle handling and customer interaction. In this instance it is calculated as the percentage of surveys that indicates that remedial action is required.

The data collated is shared with the operator in order to take action and address any areas of weakness that are identified. Remedial action taken by the operator is also monitored;

- (d) **Bus availability** which measures the operator's ability to have available and operate the number of buses to operate the contract timetable. It is calculated as the percentage of scheduled trips that were not operated due to insufficient buses and/or spare capacity;

- (e) **Vehicle quality** which measures the operator's ability to maintain and operate the quality of vehicles required in terms of Schedule 3. It is evaluated in terms of both the general and technical condition of vehicles:

- (i) General vehicle condition relates to the general appearance of vehicles that is assessed through inspections or monitoring at terminals and intermediate timing and monitoring points. It is calculated as the percentage of trips operated that incurred penalties related to unsatisfactory vehicles as per clause 6.2 of Schedule 7;
- (ii) Technical vehicle condition relates to the technical performance/quality of vehicles. It is calculated as the number of scheduled trips that were not operated due to breakdowns caused by poor vehicle maintenance or failure to adhere to maintenance procedures. It is also assessed through technical bus inspections at depots by suitably qualified staff. Defects are noted and given a score, with higher scores for more serious defects. The key measure is the average number of points per vehicles, with a target of zero. The evaluation also includes an assessment of maintenance procedures and the operator's vehicle pass rate at roadworthy certificate tests.

The results of the assessments are made available to the Operator in order to take action and address any areas of weakness that are identified. Action taken is also monitored;

- (f) **Safety** relates to the operator's ability to provide a safe service. Failure can result in the loss of this contract whilst unsatisfactory performance can also lead to the failure to win new contracts. It is measured as the percentage of trips operated that were involved in accidents directly caused by either poor driving skills or judgement of drivers, poor vehicle maintenance, insufficient or poor safety policies, procedures and risk assessments or failure to implement or adhere to such policies and procedures. Checks on safety policies, procedures and risk assessments are conducted through visits to operating premises and interviews with operational staff. These visits are followed by a report highlighting areas of concern and an action plan. This plan is then reviewed in consultation with the Operator and forms the basis of the next inspection.
- (g) **Revenue protection** measures the operator's commitment to implement fare evasion procedures and its ability to ensure that the observed fare evasion is kept below 2%. It is assessed through random audits conducted by the CA or SMF;
- (h) **Passenger satisfaction** is measured through passenger satisfaction surveys to assess and monitor passengers' satisfaction with the quality of services provided and identify areas for improvement;
- (i) **Contract compliance** relates to the operator's ability to comply with the contract specifications. Areas that will be specifically focused on include the following:
  - (i) Submission of information and reports;
  - (ii) Adherence to decisions taken and instructions given by the CA and the SMF;
  - (iii) Training of staff; and
  - (iv) Revenue collection which entails the fitting and maintenance of ticketing equipment.

38.3 The KPI performance benchmarks (standards) against which the Operator's performance will be measured are summarised in Schedule 9.

38.4 The Operator's performance in terms of the KPI benchmarks will be reported on by the SMF in its monthly monitoring reports and at monthly contract meetings.

38.5 The CA will commission annual customer satisfaction surveys, as more fully described in Schedule 9, to obtain customers' viewpoints on aspects related to, but not limited to—

- (a) service delivery;
- (b) railway stations and other public transport stops and their proximity to points of origin and destination;



- (c) passenger comfort;
  - (d) ticketing;
  - (e) information services (including timetables);
  - (f) personal safety;
  - (g) value for money;
  - (h) staff service; and
  - (i) accessibility.
- 38.6 The contract may be renewed by the CA for a further period of five years in terms of clause 3.2 if the Operator, on the CA's assessment, has met the conditions as set out in clause 38.8.
- 38.7 The extension of the contract for years eight to twelve will be subject to a Contract Performance Review that will take place during the first three months of year seven of this contract based on the monthly reviews contemplated in clause 38.2. Detailed information on the review process is given in Schedule 9.
- 38.8 Extension of this contract for a subsequent term will only be considered if the CA is satisfied that—
- (a) The Operator has met the Reliability Benchmark in all of the 78 months considered for assessment;
  - (b) The Operator has met the Punctuality Benchmark in at least 70 of the 78 months considered for assessment;
  - (c) The Operator has met the Customer Experience Benchmark in at least 52 of the 78 months considered for assessment;
  - (d) The Operator has on average over the 78 months considered for assessment met at least 95% of the Performance Benchmarks; and
  - (e) The Operator has not been issued with a letter for breach of any of the contract conditions during the course of the contract that has not been remedied or waived in accordance with the requirements of this contract to the CA's reasonable satisfaction.
- 38.9 The details of the performance assessment regime may be varied from time to time by the CA in consultation with the Operator.
- 38.10 If the Operator fails to meet any KPI benchmark, the Operator must, at its own cost—
- (a) investigate and report to the CA within five business days the underlying causes of the failure to meet the performance benchmark; and
  - (b) on being required to do so by the CA, take the necessary action to address the reasons for not achieving the performance benchmarks.

- 38.11 The Parties must meet periodically and at least annually to review the Operator's performance against the performance benchmarks and, if appropriate, discuss what steps the Operator should take to improve such performance. Information regarding these reviews is given in Schedule 9.

### **39. PAYMENT FOR SERVICES AND SUPPORTING DOCUMENTATION**

- 39.1 The Operator shall be paid monthly for providing the services set out in Schedule 8 and for approved variations in accordance with clause 16, in an amount calculated in terms of clause 37.2.5 by multiplying the total revenue kilometres operated by vehicle class by the applicable variable contract rates, plus an amount calculated by multiplying the number of peak vehicles per class operated by the applicable fixed contract rates, less any penalties.
- 39.2 The Operator will not be paid for positioning or dead kilometres.
- 39.3 The amount payable as calculated in clause 39.1 will be escalated in terms of clause 37, after which amounts to be withheld under clause 35 and Schedule 7 will be deducted. Actual route distances as set out in Schedule 8 or agreed between the Operator and the Representative shall be used to calculate revenue kilometres for each trip.
- 39.4 The onus is on the Operator to prove that trips have been operated. The Operator must note that regulator sheets and depot departure documents are not considered as evidence of a trip having operated in accordance with the timetable.
- 39.5 Not later than seven days after the end of each month, the Operator must submit to the Representative a monthly claim form in the format prescribed by the CA in Form 1.
- 39.6 To support the calculation of the Operator's monthly claims and to enable proper monitoring of performance, the Operator must supply the CA monthly with the following written statistical data and information for each driver's duty/shift or part thereof as part of a journey analysis report in the format set out in Schedule 13:
- (a) The scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
  - (b) detail of trips not operated and reasons therefor;
  - (c) revenue kilometres of each trip;
  - (d) cash and multi-journey ticket (MJT) passenger numbers for each trip;
  - (e) the number of each type of MJT presented on each trip;

- (f) the value of the cash fares collected;
- (g) the value of MJT fares collected;
- (h) the number of each passenger type not required to pay for the trip being made (*e.g.* pensioner, scholar, under-age child);
- (i) waybills in the format shown in Form 5 if the EFVE is not yet installed or has failed; and
- (j) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract;

The Operator must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the contract period.

- 39.7 The Operator must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 39.8 Claim forms must be prepared by the Operator, and checked and certified as correct and payable by the Representative.
- 39.9 The monthly claim forms will only be certified by the Representative if he/she is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.
- 39.10 The Representative may, before submitting a claim form to the CA as a payment certificate, make any correction or modification to that certificate or any previous payment certificate(s) and may withhold certification in respect of any part of the services not being operated to his/her satisfaction.
- 39.11 The Representative must submit the payment certificate to the CA as soon as possible, but not later than seven days after receipt thereof, error free, from the Operator. Where the Representative has amended a claim form or payment certificate, he/she must supply a copy of the amended form or certificate to the Operator.
- 39.12 The CA must effect payment to the Operator as soon as possible but not later than 14 days after receipt of the error free payment certificate from the Representative. All payments will be made directly into the bank account of the Operator, details of which must be supplied by the Operator. The CA may reject any payment certificate submitted by the Representative that contains errors. The rejected certificate must be returned to the Representative for correction and no discussions in this regard will be entered into between the CA and the Operator.

- 39.13 Should the Operator, for whatever reason, owe an amount to the CA, the CA may set it off against any moneys that may be owing to the Operator by the CA in terms of a monthly payment certificate.
- 39.14 The certification or approval of a payment certificate by the Representative and/or the CA shall not be deemed to be approval of, or waiving of rights regarding any services or other matter in respect of which it was issued, or be taken to be an admission of the due performance of the contract or any part thereof, or of the accuracy of any claim made by the Operator, and no certificate shall revoke or prejudice any of the rights and powers of the CA and the Representative. No such certificate shall deprive the CA or the Representative of any right they may have regarding wrongful acts or breach of contract on the part of the Operator that may appear or become known later.
- 39.15 To collect and supply that portion of the required data and information as listed in clauses 33 and 34 which is capable of being electronically collected, the Operator must, within 30 days after the equipment has been made available to the Operator, ensure that the EFVE equipment selected, provided and paid for by the CA and tracking devices are installed and in use on all vehicles.
- 39.16 While EFVE and tracking devices have not yet been installed, the onus will be on the Operator to supply the correct information by means of manual waybills. The CA may decide not to pay any claim without adequate documented proof of the required data and information: Provided that if the equipment has not been made available to the Operator, the Operator is entitled to additional remuneration for costs related to employing additional temporary staff or having to pay overtime of permanent staff to compensate for having to provide the information manually in amounts to be agreed between the parties.
- 39.17 If the Operator fails to install the EFVE and/or tracking equipment, ensure that it is in a working condition, supply it timeously to the supplier for maintenance, or to provide the required information in either electronic format or by means of manual waybills, penalties shall be imposed in terms of Schedule 7.
- 39.18 In the event that EFVE and tracking devices become defective, the alternative method of presenting the required data and information will be by using hand-written emergency waybills that are signed by the driver as to the correctness of the detail and also by the depot supervisor certifying that the EFVE malfunctioned. The emergency waybill must detail all of the information required in Form 5. These signed and certified waybills must be presented to the Representative within 24 hours of each occurrence.

- 39.19 The software which is used to record the daily and monthly summarised trip information must be capable of generating an Excel file.
- 39.20 In addition to any information requested in terms of clause 39.6, the CA may at any time request the Operator to provide any information regarding the operation of the contract, including, but not limited to, cost elements that influence the provision of services, imposition of fares, installation of EFVE and tracking devices and any other matter that may affect payments to the Operator. The Operator must comply with such a request within seven days, or such other period as the CA may determine, which may be less than seven days where information is urgently required. Failure to do so will result in penalties being imposed in terms of Schedule 7.
- 39.21 Where the Operator is performing more than one negotiated contract, subsidised service contract, current tendered contract or interim contract contemplated in Chapter 5 of the Act, all information must be provided separately per contract, i.e. consolidated information in respect of more than one such contract will not be acceptable.
- 39.22 If in the opinion of the CA the Operator provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Operator or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Operator. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—
- (a) the CA may immediately appoint auditors to check and verify all books and records of the Operator and the Operator hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
  - (b) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
  - (c) the onus of proof shall be on the Operator to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to respond to the allegations, which are set out in the notice. If the Operator fails to respond within that time or

provides reasons that are unacceptable to the CA, the CA may proceed with the action as set out above.

39.23 The CA may, with the consent of the accounting officer of the CA as required by the MFMA/PFMA and any other relevant person or body, amend the contract rates in the case of extraordinary circumstances. Such amendment will take effect from the date, as determined by the CA, upon which such circumstances arose. For the purposes of this sub-clause "extraordinary circumstances" shall include, but not be limited to—

- (a) the fact that road or other physical conditions have deteriorated or improved to an unforeseeable extent; or
- (b) any other unforeseeable circumstance that is extraordinary in the opinion of the CA, but excludes natural growth in patronage and service requirements;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to comment on the proposed amended rates, which are set out in the notice together with the reasons for the proposed change. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the contract rates will be amended as from the date of expiry of the said period of seven days. If the Operator is dissatisfied with the amended rates it may declare a dispute under clause 41.

39.24 The CA may, in its sole discretion, pay to the Operator a single lump sum to defray establishment costs, over and above other amounts payable to the Operator in terms of this contract, in an amount determined by the CA, provided that—

- (a) the Operator was not the operator of a previous contract for services in the area for a period immediately preceding the contract period;
- (b) the CA is of the opinion that such payment is fair and justified in the circumstances;
- (c) the Operator has complied with clause 39.25;
- (d) the amount must be refunded to the CA if the contract is terminated within 180 days after the commencement date for any reason that can be ascribed to the Operator; and
- (e) the funds available to the CA to finance the contract allow for the payment of such costs, as decided by the CA.

39.25 The Operator must, if it wishes to claim establishment costs, not later than 30 days before the commencement date, submit a properly completed Form 11 and supply the information required by that Form to enable the CA to evaluate the request for payment of establishment costs. The CA

will inform the Operator not later than 14 days before the commencement date whether the claim was successful or not.

39.26 If the Operator's claim for establishment costs is successful, the costs will be paid to the Operator not later than seven days before the commencement date.

39.27 Should the CA fail to pay a monthly claim of the Operator within the 30 day period contemplated in clause 39.12, the CA will pay interest at the rate prescribed from time to time in terms of the Prescribed Rate of Interest Act 55 of 1975 on the outstanding amount or amounts until the date of payment, subject to the Operator having provided all of the required information and having submitted an error-free claim form to the Representative, and subject to the other provisions of this clause." *[Note: still to be discussed with National Treasury and approved by Senior Management of the Department]*

#### **40. RELAXATION**

40.1 Except as otherwise stated, no latitude, extension of time or other indulgence which may be given or allowed by either Party to the other will operate as a waiver or a novation, or otherwise affect any of that Party's rights in terms of or arising from this contract or stop such Party from enforcing strict compliance with the terms of this contract.

40.2 A failure by either Party to enforce any provision of this contract shall not constitute a waiver of that provision or affect that Party's right to require performance thereof at any time in the future.

#### **41. SETTLEMENT OF DISPUTES**

41.1 The Operator may appeal to the CA against the imposition of any penalty in terms of clause 34 or Schedule 7 or against any variation in terms of clauses 16 or 39.23, by giving written notice to the CA within 14 days of the penalty or variation coming to its knowledge. If the Operator is not satisfied with the CA's decision, it may declare a dispute in terms of clause 41.2.

41.2 Should any dispute or difference of any nature whatsoever arise between the Parties in connection with or arising from this contract, whether a dispute contemplated in clause 41.1 or otherwise, the Party declaring the dispute or difference must notify the other Party in writing, and the Parties must attempt to resolve the matter within 21 days of the notice. If no resolution can be achieved within that period, the dispute or difference must be settled by way of mediation in the manner provided for in

regulation 7 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 published under Notice R.877 of 31 August 2009 in *Government Gazette* 32535 or, where applicable, by arbitration under regulation 8 of those Regulations, reading in the necessary changes, unless the Parties agree in writing to another dispute resolution procedure.

- 41.3 Where the proceedings contemplated in clauses 41.1 and 41.2 are deemed to be inappropriate by a Party to the dispute, nothing in this Contract will prevent a Party from approaching a court for urgent relief.
- 41.4 The Operator must despite any dispute, difference or settlement procedure continue to provide the services in accordance with this contract.
- 41.5 This clause shall survive the termination or cancellation of this contract.

#### **42. COMPLETION AND SIGNING OF CERTAIN FORMS**

- 42.1 Where the Operator is a company, close corporation or other legal person it must submit a resolution or agreement of the directors, members or trustees which must be substantially in accordance with Form 6.
- 42.2 Where the Operator is a consortium of two or more parties, it must submit a signed memorandum of understanding between the parties to such consortium, as well as Form 6 for each director, member or trustee, in which is defined precisely the conditions under which the consortium will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several parties forming the consortium, the benefits that will accrue to each party and any other information necessary to permit a full appraisal of its functioning. In this contract the term "consortium" is intended to have the specific meaning of a form of partnership involving mainly companies, close corporations or other legal persons. Within 10 days after the contract is signed, a final signed consortium agreement must be submitted to the CA, failing which the contract may be terminated. Such agreement shall be subject to the approval of the CA, who may likewise terminate the contract if the consortium agreement is rejected and not amended to the satisfaction of the CA.

#### **43. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

The Parties must keep confidential and not disclose without prior written consent of the other Party any information supplied by either Party, or that is contained in the contract documents, being information contemplated in



Chapter 4 of the Promotion of Access to Information Act 2 of 2000, except where obliged to do so in terms of law. All contract documents shall remain the property of the CA and may not be sold or otherwise disposed of. Also, all documents and data prepared by the Operator in connection with the services which are lodged with the CA shall become the property of the CA.

#### **44. CHOICE OF LAW**

The law of the Republic of South Africa shall be applicable to this contract and any matter arising therefrom. The Operator must abide by all applicable statutes, regulations, ordinances, by-laws and other laws and binds itself to accept the jurisdiction of the courts of law of the Republic of South Africa in respect of any matter arising out of this contract.

#### **45. CONTRACT DOCUMENTS**

- 45.1 All of the documents constituting this contract are to be read in conjunction with each other.
- 45.2 The several documents constituting the contract are to be regarded as mutually explanatory. In the case of ambiguities or discrepancies in these documents, or in the case of uncertainty as to the meaning or intention of any part of these documents, the Operator must refer this to the Representative so that it may be explained and rectified. The Operator is responsible for the consequences arising from neglect to take this precaution. When the Representative is notified of such ambiguities, discrepancies or uncertainties, he/she must, in consultation with the CA, issue instructions to the Operator directing what is to be done: provided always that if the Operator is of the opinion that the Representative's instructions will result in additional expenses for the Operator which the Operator could not reasonably have anticipated, the Operator may declare a dispute in accordance with clause 41.
- 45.3 In case of a conflict the order of precedence of the documents shall be as follows subject to any amendments in writing contemplated in clause 47:
- (a) These Terms and Conditions;
  - (b) Schedules 2 to 12; and
  - (c) Forms (Schedule 1).

These documents, together with any such amendments, constitute the contract documents.

**46. DOMICILIA AND COMMUNICATION**

46.1 The *domicilia citandi et executandi* in the RSA of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this contract shall be:

The CA: .....  
The Operator: .....

The postal addresses of the Parties are:

CA: .....  
Operator: .....

The telefax numbers of the Parties are:

CA: .....  
Operator: .....

The e-mail addresses of the Parties are:

CA: .....  
Operator: .....

46.2 The Parties must give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

46.3 Communication must be maintained by using the following methods:

- (a) hand delivery to a responsible person during ordinary business hours at the domicilium address mentioned in clause 46.1;
- (b) prepaid registered post;
- (c) telefax; or
- (d) electronic mail (e-mail).

46.4 Any notice given in terms of this contract must be in writing and shall be deemed to have been received by the addressee, unless the contrary is proved—

- (a) on the date of delivery, if delivered by hand;
- (b) on the eighth day following the date of posting, if sent by prepaid registered post; or
- (c) on the day after dispatch, if sent by telefax or e-mail, provided that the recipient has acknowledged receipt by telefax or e-mail on that day.

**47. ENTIRE CONTRACT**

- 47.1 The documents mentioned in clause 45 and approved alterations thereto shall constitute the full agreement between the Parties, and no other representations or terms shall form part thereof unless reduced to writing and signed by or on behalf of the Parties.
- 47.2 No amendment of this contract or of any provisions or terms thereof, and no extension of time or waiver or relaxation or suspension of any of the provisions or terms of this contract shall be of any force or effect unless reduced to writing and signed by both parties hereto.

**48. BREACH**

- 48.1 Where the CA discovers that—
- (a) the Operator has committed an act of insolvency or is insolvent;
  - (b) the Operator has made a compromise with its creditors or assigned in favour of its creditors;
  - (c) the Operator has agreed to carry out the contract under the supervision of a committee representing its creditors;
  - (d) the Operator has been sequestrated or gone into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator has been placed under judicial management or becomes subject to business rescue proceedings in terms of Chapter 6 of the Companies Act 71 of 2008; or
  - (e) judicial execution has been levied on the Operator's goods, the CA may, subject to the Companies Act, 2008, demand in writing that the Operator deposit in cash with the CA not more than ten percent of the amounts estimated to be due to the Operator over the remainder of the contract period (excluding an extension for the five year period contemplated in clause 3.2). The CA will hold the said amount in trust as a pledge for the remainder of the contract period to cover any failure by the Operator to fulfil its obligations under this contract and/or any damages the CA may suffer, and will repay it to the Operator within 14 days after expiry or termination of the contract, after deduction of any amounts owing by the Operator to the CA. The Operator must comply with such a demand within seven days of receipt thereof, failing which the CA may terminate the contract.
- 48.2 Where the penalties imposed in terms of Schedule 7 amount to more than ten percent in a particular consecutive four-week period of the total

amount payable in respect of that period, the CA may deliver a written notice to the Operator informing it that this contract will be terminated on further written notice if such penalties so exceed ten percent in any subsequent four-week period. If such a notice is sent and the penalties do again exceed that percentage in any subsequent four-week period, the CA may terminate the contract forthwith on further written notice and without granting the Operator any further opportunity to rectify the matter.

#### 48.3 Where—

- (a) the Operator delegates, cedes or sub-contracts the contract or part thereof without having obtained the CA's consent in writing; or
- (b) the Operator's operating licences necessary to provide the services are withdrawn or suspended; or
- (c) the Operator fails at any stage to comply with the requirements of the Act; or
- (d) the Operator has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the CA in connection with the obtaining or execution of this contract; or
- (e) the Operator has acted in a fraudulent manner in obtaining or executing any contract; or
- (f) the Operator has abandoned any of his or her obligations in terms of this contract; or
- (g) the Operator is discovered to have provided incorrect, false or fraudulent information;
- (h) the Operator consistently fails to observe the specifications set out in any of the Schedules whether or not penalties have been imposed, with the result that the quality of the services is unacceptable to the CA; or
- (i) the ownership control in the Operator has changed without the consent of the CA,

the CA may, without prejudice to any other rights it may have, terminate this contract and, if appropriate, claim damages from the Operator, in addition to any other lawful remedy the CA may have. For the purpose of paragraph (h), the Operator will be regarded as having consistently failed to observe the specifications where the CA provides a written certificate to that effect. If the Operator disagrees with the CA's opinion, he or she may declare a dispute under clause 41.

- 48.4 Where the Operator has breached or failed to comply with any term of the contract as contemplated in clause 48.3, or commits another breach of the terms or conditions of this contract other than one contemplated in clause 48.2 (excessive penalties – in which case that sub-clause applies), the CA may give the Operator at least 14 days' written notice to rectify the matter, and, if the Operator has not remedied the breach within the said 30 days,

without prejudice to any other rights the CA may have, the CA may—

- (a)
  - (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
  - (iii) claim any other lawful remedy the CA may have, or
- (b) without prejudice to its rights under paragraph (a) or to any other rights of the CA in terms of this contract, the CA may, without terminating the contract, take steps itself or have steps taken by others on its behalf to give effect to the CA's orders not carried out by the Operator, and notify the Operator in writing that—
  - (i) such steps have been taken;
  - (ii) that the Operator must satisfy the CA by written proof within a time stated in the notice that the Operator will be able to resume the services to the CA's satisfaction by a stated date; and
  - (iii) the Operator must resume the services to the satisfaction of the CA by that date;
  - (iv) if the Operator fails to comply with either (ii) or (iii), the CA may act under paragraph (a).

48.5 The CA may terminate the contract on three months' written notice of such termination being given to the Operator, where—

- (a) applicable transport planning shows that the services are no longer required or are no longer required in their present form or that another transport mode will be more suitable; or
- (b) national, provincial or local transport policy requires it.

In such a case the CA must pay to the Operator such damages as the Operator is able to prove, provided that such damages shall not exceed ten percent 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.

48.6 Where the contract is terminated under this clause the CA may require the Operator to continue providing the services for a maximum of 30 days after the date of termination, but subject to section 41(3) and 42(5) of the Act.

48.7 Where the contract is terminated—

- (a) the Operator must leave the service area at the expiry of the period contemplated in clause 48.6, or on the date of termination of this

contract, as required by the CA, despite the fact that a dispute may have been declared under clause 41, or that any Party has applied to a court for relief, and whether or not the Operator disputes the validity of the relevant notice of termination;

- (b) the Operator undertakes not to operate services in the service area after the expiry of the period contemplated in clause 48.6, or on the date of termination of this contract, as the case may be, despite the fact that the Operator may hold operating licences or permits authorising such operation, and undertakes to submit any such licences or permits to the relevant regulatory entity for cancellation; and
- (c) the CA may employ another operator to complete the contract or any part thereof at its option.

48.8 Should the amounts the CA must pay to have the services provided for the remainder of the period of this contract, where it is terminated as contemplated in this clause, exceed the sum that would have been payable to the Operator on due completion by it, the Operator shall upon demand pay to the CA the difference and it shall be deemed a debt due by the Operator to the CA and shall be recoverable accordingly.

48.9 Termination of the contract shall be without prejudice to any rights of the CA in respect of any antecedent breach of contract by the Operator.

48.10 In the event of the CA breaching any terms or conditions of the contract, the Operator may give the CA at least 30 days' written notice of such breach, calling upon the CA to remedy the same. Should the CA fail to remedy the breach in accordance with the notice, this contract may either be terminated by the Operator giving a further 14 days' written notice, during which the Operator must still provide the services under the contract, or at the option of the Operator, it may institute a claim for damages and/or sue for specific performance against the CA, or claim any other lawful remedy that the Operator may have against the CA, without prejudice to any other rights the Operator may have.

48.11 Should more than 30 percent of the monthly scheduled kilometres not be provided for three consecutive months due to reasons contemplated in clause 15, either party may terminate the contract, but not less than 30 days after the end of the third such month. Neither party shall have any claim against the other arising out of such termination.

48.12 In the case of termination of this contract in terms of this clause, except for clause 48.10, the CA 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 CA on request.

**49. GENERAL MATTERS**

- 49.1 This document and its annexures constitute the entire contract between the Parties and neither Party may rely on any representation, undertaking, term or condition that is not included in this document.
- 49.2 No agreement to vary, add to or cancel this contract shall be of any force or effect unless reduced to writing and signed on behalf of the Parties.
- 49.3 This contract will be signed as two identical originals, which both together will constitute the entire agreement between the Parties.

**50. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this contract.

**Signed at** ..... **on this** ..... **day of** .....

For: ..... (CA)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**Signed at** ..... **on this** .... **day of** .....

For: ..... (Operator)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**SCHEDULES**

1. Forms
2. Specifications for rebuilt and rehabilitated buses
3. Vehicle specifications
4. Specifications for advertising on vehicles
5. Contract management plan, business plan and monthly and annual reports
6. Duties to be performed by the Representative, Deputy and SMF
7. Penalties

8. Particulars of services: Routes, distances, services, fares, timetables, performance criteria, stops and additional related information
9. Performance monitoring
10. Calculation of fixed and variable contract rates
11. EFVE operation
12. Style Guide for Image and Marketing
13. Journey Analysis Report
14. Occupational Health and Safety Agreement



**SCHEDULE 1: FORMS**

- Form 1: Payment Certificate
- Form 2: Notification of change in ownership control of the Operator
- Form 3: Incident Report
- Form 4: Vehicles to be used to provide the services
- Form 5: Waybill
- Form 6: Resolution of directors, members or trustees
- Form 7: Management structure of Operator
- Form 8: Existing services operated by the Operator
- Form 9: Operating licences and permits held by the Operator
- Form 10: Tax Clearance Certificate
- Form 11: Claim for establishment costs

**FORM 1: PAYMENT CERTIFICATE**

*[Hard copy to be inserted]*

## FORM 2: NOTIFICATION IN CHANGE OF OWNERSHIP CONTROL OF THE OPERATOR

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... \*Municipality/Provincial Administration hereby gives notice in terms of clause 4.3 of the Contract, that the ownership control of the said Operator \*has changed/will change as follows with effect from ..... 20....:

The new \*shareholders/members/beneficiaries of the Operator \*are/will be the following:

1. .... [full names] Identity number .....
2. .... [full names] Identity number .....
3. .... [full names] Identity number .....

Details of the reasons for the change in ownership control are as follows: .....

.....  
 .....

Other relevant information:

.....  
 .....

Signed at ..... on ..... 20....

.....

For Operator

As witnesses:

1. ....
2. ....

**\* Delete whichever is not applicable**

**FORM 3: INCIDENT REPORT**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... Municipality/Provincial Administration hereby provide the following Incident Report in terms of clause 23.3 of the contract:

Complaint/incident lodged/reported by: .....

Date of complaint/incident: .....

Full description of complaint/incident (full details are required):

.....  
.....

Steps taken to address/solve the situation (full details are required):

.....  
.....

Program/proposed steps to prevent a repeat of the situation:

.....  
.....

Other relevant information:

.....  
.....

Signed at ..... on ..... 20.....

.....

For Operator

As witnesses:

1. ....

2. ....

**FORM 4: VEHICLES TO BE USED TO PROVIDE THE SERVICES**

1. All vehicles used must be roadworthy as required by the National Road Traffic Act, 1996.
2. The Operator must only supply details of those vehicles that are intended for use on this Contract.
3. Certificates of homologation for all vehicle types to be used during the contract period must be attached to this Form.
4. A copy of the last vehicle licence issued must be attached for vehicles that are currently owned by the Operator.
5. Where vehicles are to be purchased or leased a copy of the vehicle licence and proof that they have been registered in terms of the National Traffic Information System (NaTIS) must be produced before the commencement date.
6. In Table A provided below the Operator must provide details of its current vehicle fleet to be used on this contract, including spare vehicles.
7. In Table B provided below the Operator must provide details of new or additional vehicles that are to be acquired for this contract.



**TABLE B: NEW OR ADDITIONAL VEHICLES TO BE ACQUIRED**

N = New      U = Used      P = Purchased      L = Leased

[illegible]

AVERAGE AGE CALCULATION: CHASSIS ..... BODIES .....

\* Copies of contracts to be provided if requested

## FORM 5: WAYBILL

## CASH WAYBILL

NIPPER  
PERFORATION

B 582541

DRIVER: \_\_\_\_\_ COY No. \_\_\_\_\_ DATE: \_\_\_\_\_ 20 \_\_\_\_\_  
 TIME CASHED UP: \_\_\_\_\_ DUTY No. \_\_\_\_\_

TICKET					INSPECTOR'S SIGNATURE				
DENOMINATION	OPENING No.	CLOSING No.	QUANTITY SOLD	VALUE		TIME	TICKET VALUE CHECKED		
				R	C				
							TICKET VALUE..... R.....		
							WAYBILL CHECKER		
							COY No. ....		
							CASH RECEIVED		
							AMOUNT ..... R.....		
							CASHIER		
							COY No. ....		
							DRIVER'S		
							SURPLUS / SHORTAGE R.....		
							WAYBILL RE-CHECKED		
							TICKET VALUE..... R.....		
							WAYBILL RE-CHECKER		
							COY No. ....		
							WAYBILL CHECKER		
							SHORTAGE / SURPLUS R.....		
Module Number									
Defect									
Etm Number									
Bus Number									
TOTAL VALUE R									

DRIVER'S SIGNATURE .....



**FORM 6: RESOLUTION OF DIRECTORS, MEMBERS OR TRUSTEES**

Signatories for companies, close corporations or other juristic persons must establish their authority by attaching a copy of the relevant resolution of the board of directors/members/trustees or other authority as applicable, duly signed and dated.

An example is shown below:

"The board of \*directors/members/trustees/other authority of ..... ("the Operator") resolved at a meeting held at ..... on ..... 20 ..... that Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with Contract no. .... with the ..... \*Municipality/Provincial Administration on behalf of the said Operator.

SIGNED AT ..... ON THIS ..... DAY OF ..... 20 .....

.....  
ON BEHALF OF THE \*COMPANY/CLOSE CORPORATION/TRUST/OTHER JURISTIC PERSON

CAPACITY .....

.....  
SIGNATURE OF SIGNATORY

WITNESSES:

1. ....

2. ....

\* **Delete whichever is not applicable**

**FORM 7: MANAGEMENT STRUCTURE OF OPERATOR**

The management organisation structure that is proposed to be established to manage the contract must be indicated by means of an organogram. The organogram must detail the positions envisaged by the Operator for each member of that structure and include names where current staff are to be utilized. A detailed description of the duties of each post must accompany the organogram. Should the structure change at the start or during the contract a detailed explanation must be submitted to the CA. The organogram must be reflected in calculations when completing Schedule 10.





**FORM 10: TAX CLEARANCE CERTIFICATE**

A valid and current tax clearance certificate for the Operator issued by the SA Revenue Services must be attached.

**FORM 11: CLAIM FOR ESTABLISHMENT COSTS**

<b>Budgeted Establishment Cost (Page 1)</b>					
<b>Total</b>				<b>R</b>	<b>-</b>
	<b>Cost/unit</b>	<b>Quantity</b>	<b>Total</b>		
<b>Office Development</b>				<b>R</b>	<b>-</b>
Pay lease deposit (3 months)	R	1,00	0	R	-
Municipal/Utility deposit (if net lease)	R	1,00	0	R	-
<b>Office Furniture and Equipment</b>				<b>R</b>	<b>-</b>
<b>Board room</b>				<b>R</b>	<b>-</b>
Table	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Pens	R	1,00	0	R	-
Cupboard	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Meeting room(s)</b>				<b>R</b>	<b>-</b>
Table	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Cupboard	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Management office(s)</b>				<b>R</b>	<b>-</b>
Desk	R	1,00	0	R	-
Comfortable chair	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
Credenza	R	1,00	0	R	-
Filing cabinet	R	1,00	0	R	-
Printer (small)	R	1,00	0	R	-
Dustbin	R	1,00	0	R	-
<b>Open plan</b>				<b>R</b>	<b>-</b>
Work stations	R	1,00	0	R	-
Work station chairs	R	1,00	0	R	-
Work table	R	1,00	0	R	-
Filing cabinets	R	1,00	0	R	-
Printer, Copier, Fax Scanner (large)	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Dustbins	R	1,00	0	R	-
Safe (fire proof)	R	1,00	0	R	-
Crockery	R	1,00	0	R	-
Kettle	R	1,00	0	R	-
Microwave	R	1,00	0	R	-
Fridge	R	1,00	0	R	-
Office cleaning material	R	1,00	0	R	-
Office cleaning equipment	R	1,00	0	R	-
Fire extinguisher	R	1,00	0	R	-
First aid	R	1,00	0	R	-
<b>Training room</b>				<b>R</b>	<b>-</b>
Tables/desks	R	1,00	0	R	-
Chairs	R	1,00	0	R	-
White boards	R	1,00	0	R	-
Flip chart	R	1,00	0	R	-
Dustbins	R	1,00	0	R	-

<b>Budgeted Establishment Cost (Page 2)</b>				
<b>Reception</b>				<b>R -</b>
Desk	R	1,00	0	R -
Office chair	R	1,00	0	R -
Dustbin	R	1,00	0	R -
Client seating	R	1,00	0	R -
Coffee table	R	1,00	0	R -
<b>Computer Hardware and Accessories</b>				<b>R -</b>
Desktop computer and monitor	R	1,00	0	R -
Keyboard and mouse	R	1,00	0	R -
Printer (colour)	R	1,00	0	R -
Modem	R	1,00	0	R -
Notebook computer	R	1,00	0	R -
Server	R	1,00	0	R -
Air conditioner	R	1,00	0	R -
Cabling	R	1,00	0	R -
Wireless	R	1,00	0	R -
Surge protector	R	1,00	0	R -
Computer locks	R	1,00	0	R -
UPS	R	1,00	0	R -
<b>Computer Software Systems</b>				<b>R -</b>
Windows server	R	1,00	0	R -
Microsoft Office Suite (Professional)	R	1,00	0	R -
Virus protection software	R	1,00	0	R -
Accounting software	R	1,00	0	R -
Payroll software	R	1,00	0	R -
Inventory management	R	1,00	0	R -
Vehicle management system	R	1,00	0	R -
Vehicle tracking system	R	1,00	0	R -
<b>Communications</b>				<b>R -</b>
Telephone lines	R	1,00	0	R -
Internet connection	R	1,00	0	R -
Toll-free line	R	1,00	0	R -
Desk telephone	R	1,00	0	R -
Fax machine	R	1,00	0	R -
Answering machine/service	R	1,00	0	R -
Speakerphone	R	1,00	0	R -
Cellular telephone with internet features	R	1,00	0	R -
Alarm system	R	1,00	0	R -
Internal communication system	R	1,00	0	R -
Two way radio	R	1,00	0	R -
Intercom (at door)	R	1,00	0	R -
<b>General Office Supplies</b>				<b>R -</b>
Business cards	R	1,00	0	R -
Envelopes (standard)	R	1,00	0	R -
Envelopes (large)	R	1,00	0	R -
Stationery (other)	R	1,00	0	R -
Postage stamps	R	1,00	0	R -
Printer cartridges (HP Laserjet)	R	1,00	0	R -
CDs	R	1,00	0	R -
Pencils and pens	R	1,00	0	R -
Printer paper (per ream)	R	1,00	0	R -
<b>Vehicles</b>				<b>R -</b>
Operating licenses	R	1,00	0	R -

Budgeted Establishment Cost (Page 3)				
<b>Staff Uniforms and Protective Clothing*</b>				<b>R -</b>
<b>Driver</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suits	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Depot Services Staff</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suite	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Route Controllers</b>				<b>R -</b>
Uniform	R	1,00	0	R -
Shoes	R	1,00	0	R -
Safety vest	R	1,00	0	R -
Rain suite	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>Inventory</b>				<b>R -</b>
Tyres	R	1,00	0	R -
Lubricants	R	1,00	0	R -
Cleaning material	R	1,00	0	R -
<b>Roaming Bakkie Kit Out</b>				<b>R -</b>
Tools	R	1,00	0	R -
Compressor	R	1,00	0	R -
Generator	R	1,00	0	R -
Light	R	1,00	0	R -
<b>Depot kit out</b>				<b>R -</b>
Pay deposit	R	1,00	0	R -
Cleaning material opening inventory	R	1,00	0	R -
Fuel opening inventory	R	1,00	0	R -
Parts opening inventory	R	1,00	0	R -
Lubricants opening inventory	R	1,00	0	R -
Workshop tools	R	1,00	0	R -
Other (specify)	R	1,00	0	R -
<b>General</b>				<b>R -</b>
Post box	R	1,00	0	R -
Other				
<b>* Only if CA requires this from start of operations. Replacement uniforms to be included in costing for subsequent years</b>				



## **SCHEDULE 2: SPECIFICATIONS FOR REBUILT AND REHABILITATED BUSES**

### **1. Rebuilt bus**

“**Rebuilt bus**” means that a new body has been built on a rebuilt chassis, that all the compulsory vehicle standards applicable to the body as laid down by the latest requirements of the South African Bureau of Standards (SABS), the Standards Act 29 of 1993 and /or the National Road Traffic and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the bus complies with the following:

#### **A. Body rebuilt by a registered and SABS approved bus body builder**

- (a) Body superstructure conforming to SABS 1563: 1992 roll-over protection requirements;
- (b) New lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (c) Rear reflectors and side reflectors (where fitted) conforming to SABS 1046;
- (d) Chevron conforming to SABS 1329;
- (e) Seats and anchorages conforming to SABS 1564;
- (f) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (g) Class II rear view mirrors conforming to SABS 1436;
- (h) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (i) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (j) Minimum ceiling height 1,75m;
- (k) Individual axle mass loads to be established and mass distribution to be within permissible limits, seated and standing passengers to be based on 68kgs per passenger, with luggage based on 100kgs per cubic metre;
- (l) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (m) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

- (a) New wiring harness to be fitted; and
- (b) Wiring and electrical connectors to conform to SAE J 1292: (Per SABS)

**C. Mechanical**

- (a) Chassis stripped and cleaned (either shot-blasted or sand-blasted);
- (b) Chassis cracks are not permitted. Cracked components to be replaced; loose rivets or bolts to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Full paint treatment to be applied to chassis;
- (e) Reconditioned or new engine, fuel pump, compressor, gearbox, radiator alternator, starter motor, steering pump and box, differential, front and rear axles, steering components, to be fitted, to OEM specifications;
- (f) Springs to be scragged and shock absorbers to be replaced;
- (g) New colour-coded air hoses to be fitted throughout, with reconditioned brake valves;
- (h) Air reservoirs and fuel tanks to be cleaned;
- (i) Fuel pipes to be renewed;
- (j) New tyres to be fitted to front wheels and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (k) In the event of a bus-train the articulation component must be SABS approved and items such as coupling, turn table, bellows, etc must be replaced/reconditioned to OEM specifications.

A Rebuilt Bus shall be deemed to be three years old on the date of the completion of the rebuilding.

Midibuses and minibuses may not be rebuilt.

**2. Rehabilitated bus**

**“Rehabilitated bus”** means that only the floor and the inner and outer cladding of the body must be removed to facilitate close *in situ* examination and repair of the superstructure framing, that new cladding and floor is fitted and that all the compulsory requirements (excepting rollover conforming to SABS 1563) as laid down by the latest requirements of the SABS, the Standards Act 29 of 1993 and /or the National Road Traffic Act and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for

each vehicle to be used, and that the vehicle complies with the following:

**A. Body rehabilitated by a registered bus body builder**

- (a) Lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (b) Rear reflectors , and side reflectors (where fitted) conforming to SABS 1046;
- (c) Chevron conforming to SABS 1329;
- (d) Seats and anchorages conforming to SABS 1564;
- (e) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (f) Class II rear view mirrors conforming to SABS 1436;
- (g) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (h) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (i) Minimum ceiling height 1,75m;
- (j) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (k) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

Electrical wiring to be reworked and be in safe working order.

**C. Mechanical**

- (a) Chassis to be inspected *in situ*;
- (b) Chassis cracks are not permitted. Cracked chassis members to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Springs to be scragged and shock absorbers to be replaced;
- (e) Air reservoirs and fuel tanks to be cleaned;
- (f) Fuel pipes to be renewed;
- (g) New tyres to be fitted to front wheels, and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (h) In the event of a bus-train the articulation components must

be reconditioned to OEM specifications.

A Rehabilitated Bus shall be deemed to be eight years old on the date of completion of the rehabilitation. *[Note: This may have to be revised or qualified given the 12 year contract period, e.g. to state that one rehabilitation during that period will be sufficient.]*

Midibuses and minibuses may not be rehabilitated.

### **SCHEDULE 3: VEHICLE SPECIFICATIONS**

The Operator must provide at least the following numbers and types of vehicles by the commencement date to operate the services as indicated on the timetables in Schedule 8, in addition to the 10% spare capacity required by clause 24.2:

... .... minibuses  
... .. midibuses;  
... .... standard buses;  
... .. maxi-buses;  
... .. bus-trains; and  
... .. bi-articulated bus trains.

The Operator may choose to provide larger vehicles than those specified, if they meet the requirements of this Schedule and Schedule 2, but the Operator will not receive additional compensation for such larger vehicles unless their introduction is necessitated by additional revenue kilometres approved as a variation under clause 16 and is approved by the CA in writing, and subject to Item 2.8 of Schedule 10.

All vehicles used to provide the services in terms of this contract must comply with the following specifications:

#### **1. Accessibility requirements**

All vehicles must adhere to and comply with the following accessibility requirements by the date contemplated in clause 21:

- door opening to be 850mm wide with 1450mm head clearance;
- first step to be a maximum of 250mm above ground (retractable first step is also permissible), following steps with a maximum height of 230mm and a minimum depth of 250mm;
- use of high-contrast colours on steps, grab rails, seat frames and edges of stairs, which conform to the requirements of SANS 10400 (S) for persons with disabilities and which increase the visual clarity of the interior;
- sufficient grab rails or handles adjacent to the entry and exit points, seats and by all steps shall be fitted with 25 to 35mm diameter and at a comfortable height from finished floor level for all special needs passengers, with suitable visual clarity. The aim is to ensure that special needs passengers can enter the vehicle, gain access to

their seat, and leave the vehicle in safety, comfort and convenience.

- 1.2 In addition to the requirements of Item 1.1, the Operator is encouraged to provide vehicles that are universally accessible to all special categories of passengers. The additional costs involved will be negotiated between the Parties and paid by the CA if the CA approves the costs of providing such vehicles/adapting existing vehicles. This will include providing for the following:

**Equipment and reserved seating:**

- equipment to display the route and destination externally on the front and side of the vehicle shall be provided internally, where it is visible to passengers. Lettering on all signs inside the vehicle to be at least 25mm for a viewing distance of 7,5m unless different sizes are required for specific signs; and
- reserved seating next to the entrances for persons with disabilities, elderly people, pregnant women or passengers with any other mobility difficulties.

**Steps:**

- The rise of each tread step must be the same height and not exceed 170mm.
- Solid risers must be provided in all accessible routes.
- A stairway must be provided with handrails on both sides of the stairway. The stairway may not include any winders as defined in SANS 10400-M.
- No spiral stairway may form part of an accessible route.
- Nosings must effectively contrast with their immediate surroundings. The minimum dimensions of each nosing must be 40mm by 40mm.

**Grabrails:**

The tube of any grabrail must have an outside diameter between 32mm and 38mm.

**Visual clarity:**

Colour, tone and luminance contrast should be used to aid the identification of critical surfaces. Externally, critical surfaces include guiding walls, steps, rails and textured guidance surfaces. Internally, critical surfaces that require an effective light reflective value (LRV) are ceilings, walls floors, stairways, doors and significant fixtures and fittings.

LRV is measured by a spectrophotometer being the light reflected from a surface in standard conditions and expressed on a scale of 0 to 100 where black is about 5 and white about 90.

- 1.3 The Operator must comply with any regulations that may be made in terms of section 8(1)(y) of the Act at the Operator's cost.

## 2. Vehicle standards

- 2.1 All vehicles must conform to the requirements and regulations of the National Road Traffic Act or other applicable legislation and applicable SABS standards as from the commencement date.
- 2.2 No vehicle older than 15 years may be used to provide the services during the contract period unless it is rebuilt or rehabilitated.
- 2.3 The age of a vehicle is determined from the date of first registration of the chassis and the operator must provide proof of this. If the operator proposes to use vehicles that have been rebuilt or rehabilitated as defined in Schedule 2, 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 to ensure compliance.
- 2.4 In accordance with Schedule 2, a fully rebuilt vehicle shall be deemed to be three years old on the date of the completion of the rebuilding and a rehabilitated vehicle shall be deemed to be eight years old on the date of the completion of the rehabilitation. No vehicle with a chassis age of more than twenty-seven years may be used during the contract period.
- 2.5 Details of the existing or proposed vehicles to be used on the services must be provided on Form 4.
- 2.6 Vehicles must conform to the following requirements:

	Vehicle type			
	Minibus	Midibus	Standard bus	Bus-train
Minimum seated capacity for contract	16	35	65	To be verified
Maximum standing capacity	None	None	27	To be verified
Minimum engine power	To be verified	To be verified	150kW	To be verified

**3. Livery**

- 3.1 All vehicles operated on the contract must be painted in a uniform livery as approved by the CA. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the CA.

**4. Route and destination equipment**

- 4.1 A removable/changeable duty number board must be displayed behind the right lower front windscreen visible from outside. The letter size must 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.
- 4.2 A board or scroll stating the destination of each trip must be displayed on the front of the vehicle. The wording must be clearly discernible at a distance of 150 metres. The letter size must be at least 150mm and be adequately legible (readable) in all lighting conditions, including early morning and at night. The colour of the letters must contrast with the background colour of the board or scroll to facilitate legibility.
- 4.3 Electronic destination equipment is permitted and must be approved by the CA.

**5. Communication equipment**

To be specified by the CA.

**6. Monitoring equipment**

To be specified by the CA.



**SCHEDULE 4: SPECIFICATIONS FOR ADVERTISING ON VEHICLES**

1. All advertising on vehicles must be legal, decent, honest, truthful and be designed with due sense of social responsibility.
2. Advertising must be in accordance with marketing laws and regulations and also respect generally accepted advertising standards and codes of ethics.
3. It must be evident from the advertising who the advertiser is.
4. Advertising must not prompt acts of violence nor include illustrations or descriptions of murder, violence or abuse and must not play on superstition and fear in an improper way.
5. Advertising must not discriminate with respect to race, gender, religion or nationality, nor offend people's religious or political beliefs.
6. Advertising must not prompt disruptive behaviour with respect to safety in the home, at work or in traffic, or promote other dangerous, irresponsible, unhealthy and environmentally damaging behaviour.
7. There must be no advertising (direct or indirect) for religious or political views or movements, nor for products offered by such. However, advertising of information relevant to society in general is allowed, e.g. about the environment, health and education.
8. Advertising which targets children and youth must not be designed in such a way that it is psychologically or morally harmful. Advertising may not be designed so as to exploit children and youth's natural innocence and loyalty, as well as their particular trust in their parents, teachers etc. It may not undermine the authority and responsibility of the latter.
9. It is the Operator's responsibility to ensure that advertising is legal and meets the above conditions.
10. Advertising on more than one vehicle must be done in a uniform manner as approved by the CA.
11. All advertisements must be submitted to the CA for pre-assessment as to whether the particular advertisement meets the above conditions. The CA may also assess future or existing advertisements of its own accord. The Operator must respect the decisions and instructions of the CA in this respect, and must accept that non-compliance could lead to declaration of a dispute or an application for an interdict and/or a claim for compensation.
12. Where the CA owns the vehicles, it is entitled to 30% of the gross advertising revenue and fees received by the Operator from an advertiser. The CA may set off the advertising revenue due to it under this clause against the payments for services to be made to the Operator.

## **SCHEDULE 5: CONTRACT MANAGEMENT AND BUSINESS PLANS AND MONTHLY AND ANNUAL REPORTS**

### **1. Contents of Contract Management Plan**

The Contract Management Plan must provide information on the following matters:

- (i) The management structure proposed to manage the contract, including details of—
  - a) Which staff categories will be full time and which will be part time;
  - b) The number and categories of staff not covered in terms of the bargaining council arrangements, (i.e. mostly staff on managerial level);
  - c) The numbers involved in each staff category, as defined by the bargaining council and set out in such a format that it can be audited; and
  - d) Recruitment and training of necessary personnel, if these are not already available.
- (ii) Details of how the Operator proposes to meet its reporting requirements under this contract, with full details of management control and information systems to be set up to ensure that its requirements are met in terms of this contract.
- (iii) How the Operator proposes to handle penalty verification and contesting of penalties as required.
- (iv) Details of—
  - a) Arrangements for the financing and acquisition of the required vehicles as specified in Form 4;
  - b) Procurement of offices, depots, workshops and stores; and
  - c) Arrangements for fuel supply.
- (v) How the vehicles will be maintained with details on whether maintenance will be done in-house or not. In this case details must be provided on—
  - Available staff specifying categories of staff numbers in each category;
  - Inspection and maintenance strategies to be implemented; and
  - Maintenance contracts with vehicle suppliers. Details on what is actually to be attended to by vehicle suppliers and if issues are excluded from this how those aspects will be

addressed, taking into account the aspects mentioned under (a) above.

- (vi) Details of the fleet replacement program, if vehicles will be replaced during the term of the contract, as proposed in Form 4.
- (vii) The contingency plans that the Operator will implement if unable to provide the services.
- (viii) The plans that the Operator will implement in emergencies.
- (ix) How the Operator plans to meet the Key Performance Indicators, including details of—
  - the method of advising the CA or Representative of any missed trips; and
  - complaints handling and the Operator's defects register.
- (x) Details of the establishment of liaison groups with employers of commuters and communities where passengers reside if such liaison groups have not been established or are not functioning.

## **2. Finalisation of Contract Management Plan**

- (i) Within 10 working days of submission of a draft Contract Management Plan under Item 1 the CA must provide comments on the draft Contract Management Plan, suggesting areas for consideration or amendment.
- (ii) The Operator must review and update the draft Contract Management Plan to address any comments raised by the CA and re-submit it to the CA for final approval within 10 working days of receiving the CA's comments. The Plan must then be signed by the Parties and a signed copy be retained by each party.

## **3. Compliance with the Contract Management Plan**

In providing the services, the Operator must comply with the provisions of the Contract Management Plan.

## **4. Business Plans**

*[Note: The submission of the business plans should preferably coincide with the MTEF cycles as this will be used to submit information to Treasury regarding financing requirements if needed. This whole section is necessary because of the new role players and to ensure that they are provided with sufficient information/reports to manage the processes involved.*

*The Business Plan will assist the CA in obtaining additional funding from Treasury, should this be required.]*

- 4.1 No later than 30 days after the commencement date and 30 days after the anniversary of that date each year during the duration of the contract the Operator must prepare and submit to the CA a draft Business Plan for the services operated in terms thereof for a period covering the following three years, whether or not that three year period extends beyond the termination of the contract.
- 4.2 The Business Plan must–
- a) Include a detailed 3 year financial forecast for the Operator based on the costs and revenue projections which were originally provided to the CA;
  - b) Comply with and incorporate (where applicable) the information and reporting requirements or other reasonable requirements prescribed by the CA from time to time; and
  - c) Identify any differences from the previous Business Plan, together with the reasons for those differences.
- 4.3 Within 15 working days of submission of a draft Business Plan under Item 4.2 the CA and the Operator must meet to discuss the Business Plan.
- 4.4 Within 10 working days of the meeting mentioned in Item 4.3 the CA must provide comments on the draft Business Plan, suggesting areas for consideration or amendment.
- 4.5 The Operator must review and update the draft Business Plan in response to comments received and address and incorporate any suggested areas for consideration or amendment within a further 10 working days and re-submit to the CA–
- (a) The final updated Business Plan with a statement of reasons why the CA's comments have not been accepted, if that is the case; and
  - (b) An extract of the resolution of the board of directors or owners of the Operator approving the Business Plan.
- 4.6 The Business Plan for the financial year ending ..... will be that part of the initial Business Plan that relates to the period from the commencement date to .....

## **5. Monthly Operational Reports**

- 5.1 The Operator must provide the CA with a monthly operational report outlining the monthly operations of the Operator within 15 business days of the end of the month. The monthly report will provide information outlined in Items 5.3 to 5.5 below.

- 5.2 The CA may require the Operator in writing to provide a breakdown of statistical information by time period and/or by route.
- 5.3 The Operator must submit monthly management accounts with the monthly operational report. The CA will review the information submitted from time to time which must include, but will not be limited to–
- a) Actual results vs budgets and forecasts;
  - b) Details of debtors and creditors and the age of the debt;
  - c) Cash flow statements; and
  - d) Details of capital expenditure planned in next three months with details of financing.
- 5.4 The CA must keep all information provided by the Operator confidential and may not disclose it to any other person or body without the prior written consent of the Operator.

## **6. Annual Reporting**

- 6.1 The Operator must maintain those financial, operational and financial planning records that would ordinarily be maintained by a skilled and experienced public transport operator and as required in terms of generally accepted accounting practice.
- 6.2 The Operator must provide to the CA as soon as practicable (and in any event not later than three months) after the end of each 12 month period after the commencement date an annual report that includes–
- (a) a general description of the activities undertaken by the Operator during the previous year, as well as any significant initiatives to be introduced in the current year.
  - (b) a Training and Staff Development Report which will identify programs and courses that Operator's staff participated in.
  - (c) Certified true copies of its audited accounts for that specific period together with all related directors' and auditor's reports, including:
    - (i) A balance sheet at the end of the reporting period;
    - (ii) Profit and loss statement for the reporting period;
    - (iii) Statement of retained earnings for the period; and
    - (iv) A cash flow statement for the reporting period.
  - (d) A commentary on–

- (i) material variations between actual results and budget year to date;
    - (ii) progress against Key Performance Indicators;
    - (iii) acquisitions and disposals of contract vehicles and depots;
    - (iv) details of its indebtedness (whether actual or contingent) in respect of financial commitments (including any lease or hiring agreement);
    - (v) financial viability; and
    - (vi) material variations between actual results and the forecasts contained in any forecasts done during the negotiations between the Parties to conclude this contract.
  - (e) Details of the number of employees, their roles and the minimum, average and maximum wage paid for each staff category.
- 6.3 The accounts referred to in paragraph (c) must be prepared consistently in accordance with generally accepted accounting practice and/or International Financial Reporting Standards (IFRS) and the Operator's normal accounting policies, details of which must be supplied, on request, to the CA.
- 6.4 Any changes to the Operator's accounting policies should be notified to the CA on submission of the accounts. The Operator must draw the CA's attention to any differences between its normal accounting policies and generally accepted accounting procedures.
- 6.5 Each set of accounts delivered under paragraph (c) must give a true and fair view of the state of affairs for the period covered by the accounts.
- 6.6 The Operator must ensure that the records kept and accounts submitted under this item relate only to the business conducted under this contract and are separate from the financial and planning records and accounts of its other operations and contracts, if any.

**SCHEDULE 6: DUTIES TO BE PERFORMED BY THE REPRESENTATIVE,  
DEPUTY AND SMF**

1. The function of the SMF's Representative, or if no Representative is appointed, an official appointed by the CA for the purpose, is to administer and supervise the contract in accordance with the provisions thereof. In this regard the Representative shall perform all the duties of the Representative as described in the contract and at all times endeavour to be just to both the CA and the Operator. Insofar as it is not in conflict with the duty to be just to both Parties, the Representative must ensure that the CA's interests in the contract are protected.
2. It is the duty of the Representative to supervise the operation of the services as provided by the Operator on behalf of the CA, to monitor such services to ensure compliance with the Specifications and to arrange and chair monthly project meetings.
3. The Representative may from time to time, with the written consent of the CA, delegate in writing to an authorised person any of the powers and functions vested in it, and must furnish the Operator with a copy of all such written delegations of powers and functions. Any written direction or written approval given to the Operator by such a delegate in accordance with such delegation (but not otherwise) shall be binding on both the Operator and the CA in the same way as if it had been given by the Representative, provided always that—
  - (a) failure of a person authorised by the Representative to make a ruling or issue an instruction shall not prejudice the power of the Representative to make such ruling or issue such instruction later; and
  - (b) should the Operator be dissatisfied with any decision of a person authorised by the Representative, it may refer the matter to the Representative within seven (7) days, who must thereupon confirm, vary or reverse the decision.

The Representative shall remain liable to fulfil all of his/her duties in terms of the contract notwithstanding the appointment of a delegate.

4. It is also the duty of the Representative's Deputy to supervise the operation of the services as provided by the Operator on behalf of the CA and to monitor such services to ensure compliance with the Specifications. Other functions of the Deputy include, among other things, to arrange and chair meetings with the Operator other than monthly project and weekly penalty meetings, to develop a monitoring strategy, to supervise the

monitoring staff and audit the quality of their monitoring activities, and to ensure that all relevant information required by the CA is forwarded in accordance with the formalities prescribed.

5. The monitors will conduct monitoring on routes and at termini, ranks and intermediate monitoring points.
6. Monitoring on route establishes the following:
  - (a) route and stop adherence;
  - (b) passenger demand along the route;
  - (c) drivers' driving skills, adherence to traffic regulations and consideration for passengers; and
  - (d) the accuracy of EFVE by comparing actual passenger numbers with EFVE data and reports.
7. Monitoring at termini, ranks and intermediate monitoring points establishes the following:
  - (a) the actual departure and/or arrival time to determine conformance with the contract timetable;
  - (b) whether the correct shift number is displayed;
  - (c) whether the correct destination is displayed on the destination board;
  - (d) whether vehicles are in a satisfactory condition with respect to general vehicle condition;
  - (e) the validity of licences; and
  - (f) the number of passengers and their perceptions.
8. Technical bus inspections will be carried out by suitably qualified staff at the depot(s) on a weekly basis. Defects identified will be classified in terms of the following types:
  - (a) Type A defect: a warning;
  - (b) Type B defect: defect to be repaired within two days; and
  - (c) Type C defect: defect to be repaired before resuming contract trips or duties (shifts).
- 8.1 The standards that will be applicable to standard and bus-trains as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:
  - (a) Reject if the licence of the motor vehicle has expired. [See Chapter III Regulation 4(3) of the NRTA Regulations.] The Operator has twenty-one days to display the licence;



however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.

- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145(1), which requires a bus' RWC to be valid for six months only. The twenty-one days' grace to display licences does not apply to RWCs.
- (c) Reject if there is no valid operating licence/permit kept in the vehicle in terms of the National Land Transport Act 5 of 2009 (NLTA) and Regulations for the prescribed routes/services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 and 1116-4; not securely fitted; legibility/reflectivity affected/damaged/tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped/cracked within driver's control zone vision; windscreen clouded/defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped/cracked/discoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitutes a danger to passengers.
- (h) Chevrons must conform to SANS 1329 and reflectors to SANS 1046; chevrons, reflectors and contour markings as prescribed in the National Road Traffic Act (NRTA) and SANS 10047.
- (i) All glass must conform to NRTA Regulation 202; Such window/glass is permanently marked with the trade mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) emergency exit for every twelve (12) passengers; Emergency exits to be clearly identified with 50mm lettering facing inside and outside.
- (j) Reject if head lights (high and low beam) beams are not similar in intensity, do not work, lenses are missing/broken and or clouded/discoloured and if any park light, stop light, tail light, number plate light or indicator/hazard light does not work, lenses are missing/broken or clouded/discolored. If any stop light or indicator light when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046).
- (k) Reject if any equipment that was required for the vehicle when it was new has been removed, or replaced with unsatisfactory equipment, or has been degraded.

- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the driver or if wiper blades have cracks.
- (m) Reject if the vehicle is not fitted with a destination indicator of any type, electronic type, manual roller type or board, however, if electronic/roller-type it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Regulation 264A)
- (n) Reject if the bonnet cover does not seal and if, in the case of standard buses and bus-trains, the vehicle is not fitted with handrails at the steps and passageway and the step light(s) on the steps is/are not functioning;
- (o) Reject if cross-ply and radial tyres are mixed or a different size on the same axle; if inflated duals make wall contact; if the casings are damaged; Reject if tread depth is below 3 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked. Any wheel rim does not comply with load tables - SANS 1550-3. Reject if the wheel flaps are not fitted or in a good condition or do not comply with SANS 1496.
- (q) Reject if any steering drop arm/tie rod end/drag link/linkages play exceeds 1 mm. (Bushes, end's side play, etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing/loose or not correctly fitted; proper movement is obstructed by another part of vehicle.
- (r) Reject if the information display/self adhesive tamper proof label is not clearly imprinted with those items specified in clause 5.2.4 of SANS 20047; reject if there is no manufacturers plate fitted with the prescribed data in clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chafing, not correctly clamped or signs of leaks.
- (t) Reject if steering stops are missing, not correctly fitted/adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the manufacturer's recommendation or the wheel hub or any spoke is broken or damaged or there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or is not secure; missing fasteners; modifications not in line with manufacturer's specifications.

- (v) Reject if the low air warning devices (audio or light) are missing or do not function when air pressure is below 4.1 bar. (SANS 10047 - 5.31(c) read with NRTA Regulation 156(2))
- (w) Reject if the maximum air pressure is below 7.3 Bar and if the time between starting the engine with reservoirs empty and reaching the operating speed exceeds the time limits as specified (SANS 20013, SANS 1207 or SANS 1051).
- (x) Reject if the fire extinguisher does not conform to NRTA Regulation 260 or emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (y) Reject if driver's door lock does not work correctly from inside or outside; hinges, catches or pillars of the door are not secure when closed.
- (z) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (aa) Reject if no partition is fitted behind the driver.
- (bb) Reject if a control is functional incomplete/fractured/broken or obstructed/impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both; a control is so positioned that when operated it will impair proper control of the vehicle; if any pedal, does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective. Gear lever/linkage/boot are defective/loose/damaged.
- (cc) Reject if the exhaust brake is not working. Retarder (if fitted) reject if not working, if mounting bolts are loose, excessive bearing play, signs of corrosion/fractures, etc. (SANS 1051-4).
- (dd) Reject if hand brake is not effective. Reject if the brake operating cylinders or diaphragms with excessive travel are found. (limit of 55 mm or half the cylinder length) (SANS 1051-5).
- (ee) Reject if excessive oil/water is in the air system, air reservoir or with no provision for draining automatically or manually, any reservoir not secured. (SANS 1051-3).
- (ff) Reject if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake fully applied and whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visibly clogged air cleaners/valves. (SANS 1051).

- (hh) Reject if any brake linings on one or more wheels are worn below the low wear indicator or are contaminated with oil or unnecessary free play is present. (SANS 1051).
- (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters not functioning or have parts missing; defective/missing brake boosters or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked/fractured or excessively worn / oval. (SANS 1051-6).
- (jj) Reject if any air valve (foot brake, four way, load sensing, etc.) shows any signs of malfunctioning, air leaks, oil discharge, loose or defective.
- (kk) Reject if the number of passengers displayed in the vehicle does not correspond with the licence disc and actual seats fitted (Regulation 245A) (Lettering size to be 75mm).
- (ll) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the battery/battery carrier/fittings are not secure. (SANS 10047 - Clause 5.38).
- (mm) Reject if the passenger seats and frames are loose, broken/torn and or danger to passengers. (SANS 10047 and SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
- (nn) Reject if the twist locks, screws or fasteners are not in good working order. Reject if the inspection covers in the passenger isle are not properly secured causing a danger to passengers.
- (oo) Reject if any seat facing has its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (pp) Reject if the vehicle is fitted with twist locks and the twist locks are not in good working order.
- (qq) Reject if the vehicle is not weatherproof (water, dust leaks, etc.).
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047).
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 and 1563).
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts or they are not as per the ALB Plate (or in breach of contract specifications).
- (uu) Reject if any "U" bolts are loose, broken or missing or if spring cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear.)

- (ww) Reject if any spring hanger/brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding or if the "Fox Clamps" are missing or loose.
- (xx) Reject if the vehicle is fitted with a load sensing valve and it is not functional, loose, damaged, etc. (SANS 1207, SANS 20013 read with SANS 10047).
- (yy) Reject if any shock absorber is missing/broken/leaking oil (air) or loose and or mountings worn/loose/missing.
- (zz) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (aaa) Reject if any excessive cracks, deformation or corrosion of any chassis/cross member occur; repairs will only be accepted if in compliance with the manufacturer's specifications (SANS 1563).
- (bbb) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if hub seals and or "O" rings are leaking oil.
- (ccc) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc.) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks or pipes are damaged, chafed or not secure.
- (ddd) Reject if any engine or gearbox mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired (SANS 1563).
- (eee) Reject if flange bolts loose/broken; worn centre bearing/housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (fff) Reject if the exhaust system is not secured, the system is within  
25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (ggg) Reject if the engine misfires, lacks power to the extent that it would hinder traffic or if engine failure appears imminent (i.e. engine knock, etc.).
- (hhh) Reject if in the case of a bus-train, the Operator fails to produce a certificate to certify that it has separated the two parts of the bus-train and examined the ball coupling and

repaired, replaced or adjusted it, as necessary (SANS 10047 - 5.9.3.(g) read with the NRTA and its Regulations).

8.2 The standards that will be applicable to mini and midibuses as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:

- (a) Reject if the Licence of the motor vehicle has expired. [See Chapter III Regulation 4 (3) of the NRTA Regulations] The operator has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.
- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145 (1). Please note that the twenty-one days does not apply to RWCs.
- (c) Reject if there is no valid Operating Licence / Permit displayed in the vehicle in terms of the NLTA & Regulations for the prescribed routes / services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 & 1116-4; not securely fitted; legibility / reflectivity affected / damaged / tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped / cracked within driver's control zone vision; windscreen clouded / defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped / cracked / discolored within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitute a danger to passengers.
- (h) Chevrons must conform to SANS 1329 & Reflectors to SANS 1046; Chevrons, Reflectors & Contour Markings as prescribed in the NRTA & SANS 10047: Reject if the vehicle is not fitted with a "100" km per hour sticker on the rear of the vehicle.
- (i) All glass must conform to NRTA Regulation 202; Such window / glass is permanently marked with the Trade Mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane, or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency Exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) Emergency Exit for every twelve (12) passengers; Emergency Exits to be clearly identified with 50mm Lettering facing inside & outside.

- (j) Reject if head lights' beams (high and low beams) are not similar in intensity, does not work, lenses are missing / broken and or clouded / discolored and if any park light, stop light, tail light, number plate light or indicator / hazard light does not work, lenses are missing / broken or clouded / discolored or if any stop light or indicator light, when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046)
- (k) Reject if any equipment that was required for the vehicle when it was new has not been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the Driver. Wiper blades have cracks.
- (m) Reject if it is not fitted with a destination indicator of any type; electronic type, manual roller type or board, however, if electronic / roller type is used it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Reg. 264A)
- (n) Reject if it is not fitted with handrails at the steps; if the step light(s) on the steps is not functioning and if the bonnet cover does not seal.
- (o) Reject if the vehicle is not fitted with commercial rated tyres and of sizes 185R or 195R. Reject if tread depth is below 2 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked or if any wheel rim does not comply with load tables - SANS 1550-3.
- (q) Reject if any steering drop arm / tie rod end / drag link / linkages, play exceeds 1 mm. (Bushes, End's Side Play, Etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing / loose or not correctly fitted or if proper movement is obstructed by another part of the vehicle.
- (r) Reject if the information display /self adhesive tamper proof label is not clearly imprinted with those items specified in Clause 5.2.4 of SANS 20047; reject if there is no Manufacturers Plate fitted with the prescribed data in Clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chaffing, not correctly clamped or show signs of leaks (only in the case of Midi-Buses with Air Brake Systems).

- (t) Reject if steering stops are missing, not correctly fitted / adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the Manufacturer's recommendation or the wheel hub or any spoke is broken or damages or if there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or not secure; fasteners are missing or if modifications are not in line with manufacturers' specifications.
- (v) Reject if the low air warning devices (audio and or light) are missing or do not function when air pressure is below 4.1 bar. (Only in the case of Midi-Buses with Air Brake Systems). [SANS 10047 - 5.31© read with NRTA Regulation 156 (2)]
- (w) Reject if the fire extinguisher does not conform to NRTA Regulation 260 and emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (x) Reject if driver's door lock does not work correctly from inside or outside or if hinges, catches or pillars of the door is not secure when closed.
- (y) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (z) Reject if no partition is fitted behind the driver.
- (aa) Reject if a control is functional incomplete / fractured / broken or obstructed / impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both or if a control is so positioned that when operated it will impair proper control of the vehicle. Reject if any pedal does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective or if the gear lever / linkage / boot is defective / loose / damaged.
- (bb) Reject if the vehicle is not fitted with a tamper proof speed governor, with 100 km per hour set as the maximum.
- (cc) Reject if the vehicle does not qualify as per the specifications of the Taxi Recapitalisation Program.
- (dd) Reject if hand brake is not effective. SANS 1051-5
- (ee) Reject if excessive oil / water is in the air system or air reservoir or with no provision for draining automatically or manually or if any reservoir is not secured. SANS 1051-3 (Only in the case of Midi-Buses with Air Brake Systems)
- (ff) Reject if not fitted with a *Type 2 Braking System*; if any brake pipes are excessively chafed, corroded, damaged,



- inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake being fully applied, whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visible clogged air cleaners/valves. SANS 1051 (Only in the case of Midi-Buses with Air Brake Systems)
  - (hh) Reject if any brake linings / pads on one or more wheels are worn below the low wear indicator or is contaminated with oil or unnecessary free play is present. SANS 1051
  - (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters are not functioning or have parts missing; defective / missing brake booster's or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked / fractured or excessively worn / oval. SANS 1051-6 (Only in the case of Midi-Buses with Air Brake Systems)
  - (jj) Reject if the number of passengers displayed in the vehicle does not correspond with the Licence Disc & actual seats fitted (Reg. 245A) (Lettering size to be 75mm)
  - (kk) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the Battery / battery carrier / fittings are not secure. (SANS 10047 - Clause 5.38)
  - (ll) Reject if the passenger seats & frames are loose, broken / torn and or danger to passengers. (SANS 10047 & SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
  - (mm) Reject if the seat frames are not fitted onto the vehicle as prescribed in SANS 10047. (Caution: Mini & Midibuses converted from Goods vehicle to a Passenger vehicle, must supply a SABS certificate that approved the seat mountings)
  - (nn) Reject if the vehicle is not fitted with seatbelts for every seat on board the vehicle and or if seatbelts are frayed.
  - (oo) Reject if the twist locks, screws or fasteners are not in a good working order. (Only in the case of Midi-Buses)
  - (pp) Reject if any seat facing or have its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
  - (qq) Reject if the vehicle is not weatherproof. (water, dust leaks, etc)
  - (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047)
  - (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 & 1563)

- (tt) Reject if any spring has broken blades or sagging, broken centre bolts.
- (uu) Reject if any "U" Bolts are loose, broken or missing. Spring Cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear)
- (ww) Reject if any spring hanger / brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding, if the "Fox Clamps" are missing or loose.
- (xx) Reject if any shock absorber is missing / broken / leaking oil (air) or loose and or mountings worn / loose / missing.
- (yy) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (zz) Reject if any excessive cracks, deformation or corrosion of any Chassis / Cross Member occur; repairs will only be accepted, if in compliance of the Manufacturer's Specifications.(SANS 1563)
- (aaa) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if Hub Seals and or "O" rings are leaking oil.
- (bbb) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks. Pipes are damaged, chafed or not secure.
- (ccc) Reject if any Engine and or Gearbox Mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired.(SANS 1563)
- (ddd) Reject if flange bolts loose / broken; worn centre bearing / housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; there is a damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (eee) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (fff) Reject if the engine misfire, lacks power to the extent that it would hinder traffic and / or if engine failure appears imminent.(i.e. engine knock, etc)

9. The weekly technical bus inspections will also entail an inspection of the Operator's maintenance records and procedures and its vehicle pass rate for RWCs.
10. Other duties to be performed by the SMF's staff include the following:
  - (a) random inspections of passenger travel passes or tickets, on or off the vehicles;
  - (b) weekly inspection of infrastructure at termini;
  - (c) monitoring of the operational records of the Operator in respect of this contract;
  - (d) monitoring of EFVE fitting and maintenance; and
  - (e) dealing with complaints (complaints will be passed up the chain of management as necessary).
11. The Representative must submit monthly monitoring reports to the CA detailing the results of the tasks carried out in terms of Items 6 to 9 of this Schedule. In addition, the report must at least also contain the information set out below, and the Operator must give its full co-operation to ensure that the Representative/SMF is in a position to do so:
  - (i) *Operational Statistics*
    - (a) Timetabled trips;
    - (b) Timetabled trips not operated;
    - (c) Timetabled trips departing early at any time point;
    - (d) Timetabled trips arriving more than five minutes late at any time point;
    - (e) Vehicle failures and reasons;
    - (f) Timetabled trips delayed or missed due to vehicle failure;
    - (g) The average number of vehicles available for service during the peak period (morning or evening, whichever has the greater vehicle requirement), expressed as a percentage of the total number of vehicles operated by the Operator;
    - (h) Number of buses operated during the busiest peak period of the day, expressed as a percentage of the number of vehicles available for use;
    - (i) Subsidy per kilometre operated;
    - (j) Subsidy per passenger;
    - (k) Subsidy per vehicle category;
    - (l) Number of vehicles subsidised per category;
    - (m) Number of scheduled trips per vehicle category;
    - (n) Number of trips operated per vehicle category;
    - (o) Total number of penalties incurred;
    - (p) Monetary value of penalties (including escalation);

- (q) Passengers per kilometre operated;
- (r) Passengers per trip operated;
- (s) Employees per vehicle;
- (t) Scheduled kilometres;
- (u) Revenue kilometres operated per vehicle category;
- (v) Estimates of fare evasion and fraud levels,

and any reasons for changes to the above.

(ii) *Performance values in terms of KPI benchmarks*

The report is to include the results of the monthly performance evaluation conducted in terms of clause 38 of the contract and the KPI benchmark and score values detailed in Schedule 9. A scorecard will be completed and submitted for that purpose. Action to be taken by the Operator in the event of poor performance must also be reported on.

(iii) *Other Information*

- (a) Details of temporary minor timetable variations;
- (b) The results of service capacity assessments conducted during the month;
- (c) The number of tickets checked;
- (d) The results of all ticket inspections conducted during the month;
- (e) The activities undertaken by the Operator to resolve customer complaints;
- (f) Accidents where passengers have been killed or injured (apart from the requirements of the law to report these immediately;
- (g) Complaints and commendations;
- (h) Claims for compensation received by the Operator for injuries or death sustained by passengers or other persons (excluding Operator's employees) arising from the Operator's activities;
- (i) Electronic Ticketing System faults experienced and that require rectification by the Operator or the CA;
- (j) A summary of customer and quality assurance initiatives which will detail the customer and quality assurance initiatives that have been implemented by the Operator; and
- (k) Any other information that the CA or Operator deems relevant.

## **SCHEDULE 7: PENALTIES**

### **1. General**

- 1.1 Penalties shall be imposed against the Operator for each offence in accordance with this Schedule and the CA must advise the Operator on a weekly basis of penalties so imposed. Where penalties, excluding amounts withheld in terms of Items 7.1, 7.2, 12.2, 13, 16.1 or 17.1, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months or for any five months during the contract period, the CA may terminate the contract in terms of clause 48.3(h).
- 1.2 The Operator must 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 discovers that the Operator has failed to report trips not operated, operated late, operated early or provided other misleading information regarding the operation of the services, penalties for those offences will be increased by 10 percent and the CA will consider laying fraud charges against the Operator.
- 1.3 All penalties payable in terms of this Schedule quoted in fixed rand values shall be escalated annually, starting from the anniversary of the commencement date, by increasing them in terms of the average increase in the Consumer Price Index (CPI) for the previous five months.
- 1.4 Where any payment to the operator is withheld in terms of this Schedule, no escalation or interest will be payable to the Operator on the monies withheld and such monies will only be paid to the Operator after full compliance, unless specifically stated otherwise.
- 1.5 The Operator will not be penalized for trips departing late where the driver was waiting for passengers transferring from another vehicle in any public transport mode in terms of arrangements forming part of an integrated public transport network or integrated transport plan.

### **2. Failing to provide scheduled trips**

- 2.1 Where a trip has not been provided on a Tuesday, Wednesday, Thursday, Saturday or Sunday which is not a public holiday, a penalty of R2 000,00 per trip not provided will be imposed, and the variable contract rate will not be paid.
- 2.2 (a) Where a trip is not operated on the Thursday prior to an Easter weekend or the Tuesday after an Easter weekend, a penalty of R10

000,00 will apply, and the variable contract rate will not be paid.

(b) Where a trip is not operated on any Friday or Monday due to bus and/or driver availability problems stemming from private hires, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.

- 2.3 The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the operator will be penalized.
- 2.4 Despite the above, no penalty will be imposed where trips are cancelled for reasons specified in clause 15 of the contract.

### **3. Providing trips that depart late or early**

- 3.1 Subject to clause 15 of the contract, in the case of a trip that—
- (a) departs between six and 15 minutes late from the departure, transfer or monitoring point, a penalty of R300,00 will be imposed;
  - (b) departs more than 15 minutes late from such point, a penalty of R500,00 will be imposed;
  - (c) departs more than 30 minutes late from such point, the trip will be deemed not to have been operated and no revenue kilometres will be paid, but the R2 000,00 and R10 000 penalties in terms of items 2.1 and 2.2 will not be applied;
  - (d) departs early, a penalty of R500,00 will be imposed.
- 3.2 Where a trip departs late from an intermodal transfer point due to the late arrival by the public transport vehicle or train preceding the Operator's vehicle in the chain of a connecting service, and this is certified by the Representative, the Operator will not be penalised.

### **4. Vehicle breakdowns**

- 4.1 The Operator must provide a replacement vehicle for breakdowns as follows:
- (a) At the starting point of a route or within an eight kilometre radius of those points, within 30 minutes; and
  - (b) At other points, within 45 minutes;

provided that no breakdowns will be accepted as such inside depots.

- 4.2 Where a replacement vehicle is so provided, no penalty will be imposed and the variable contract rate will be paid.
- 4.3 If a replacement vehicle is provided, but not within the stated time, a

penalty of R500,00 will be imposed for each trip not operated. If no replacement vehicle is provided, penalties will be imposed for a trip not provided. In all cases, however, where there are more than two percent vehicle breakdowns per month, a penalty of R5 000,00 per breakdown over 2% will be imposed. This percentage will be based on the average number of trips per month totalled over the month in question.

**5. Failing to display correct destination and/or duty boards or to display any destination or duty boards**

- 5.1 Where destination or duty boards have not been installed or are incorrectly displayed a penalty of R400,00 per infringement will be imposed.
- 5.2 Where the Operator changes duty numbers in contravention of clause 14 of the contract, a penalty of R1 000,00 per incident will be imposed.
- 5.3 The Operator must report within 24 hours the fact that any vehicle 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 R1 000,00 per infringement will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the Operator will be penalised accordingly.

**6. Providing trips with vehicles not approved or in an unsatisfactory condition**

- 6.1 Vehicles must be roadworthy and comply at all times with the National Road Traffic Act and other relevant legislation. Where a vehicle fails to comply with any legal requirement, it must be withdrawn from service immediately until the defect is rectified, and penalties will be imposed for failing to operate unless a spare vehicle is provided that complies with all legal requirements and that complies with the specifications detailed in Schedules 2 and 3.

Any contract trips operated by a vehicle which is–

- (a) not on the approved contract fleet list whether contract compliant or not; or
- (b) is not contract compliant; or
- (c) is without a valid licence or roadworthy certificate; or
- (d) has been deemed to be unsafe for use,

will be deemed as not having operated the trips in question. No revenue kilometres will be paid and penalties in terms of item 7.1 will be imposed.

6.2 Where vehicles leave a depot, transfer point, terminus or starting point in an unsatisfactory condition the following penalties will apply:

- (a) dirty on the outside or inside or with wet seats, a penalty of R1 000,00 per vehicle will be imposed, but this will not apply to vehicles leaving overnight parking areas in rural areas;
- (b) not in a good state of repair or with a leaking roof, one or more broken or missing windows or in an unhygienic condition, a penalty of R1 000,00 per vehicle will be imposed;
- (c) with missing or broken seats, a penalty of R1 000,00 will be imposed;
- (d) with broken, missing or open doors, or doors that cannot be closed properly, a penalty of R1 000,00 per vehicle will be imposed.
- (e) operating without its head and/or tail lights on, a penalty of R100,00 per trip will be applied.

6.3 If a penalty is imposed in respect of a particular vehicle under item 6.2(a) to (d) more than three times in any 14 day period, the Operator must withdraw that vehicle and replace it until it has been repaired so as to comply with the specifications.

6.4 The standards that will be applied in respect of this item are as follows:

**(a) "Dirty"**

*Dirty Inside:*

A vehicle of which the seats have not been cleaned and the floor has not been swept and washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

*Dirty Outside:*

A vehicle which is full of dust or mud and had not been washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

**(b) "Not in a good state of repair"**

Includes anything that can cause injury to a passenger or the public e.g. loose strips on the floor, loose inspection covers, loose engine covers, broken steps, loose and dangerous luggage racks etc..

Also applicable where the body exterior needs attention e.g. accident damage that has not been repaired, body panels that have not been repainted, lights that are not working etc



**(c) “Leaking roof”**

A roof that leaks water or through which dust enters the vehicle.

**(d) “Broken windows”**

Windows that are cracked within the vision of the driver and windows that are so badly cracked that it could cause injury to a person. Also includes windows which are badly installed or of which the window rubbers have deteriorated to such an extent that they leak water or allow dust to enter the vehicle.

**(e) “Unhygienic condition”**

A vehicle that is so dirty from old accumulated dirt against the panels, floor and roof that it constitutes an unhygienic condition. Also includes a situation where cockroaches and/or other insects such as lice are found.

**(f) “Missing seat”**

A seat or row of seats that has been removed from the vehicle.

**(g) “Broken seat”**

A seat of which the seat clips have broken resulting in it being loose from the floor or seat frame.

**(h) “Wet seat”**

A seat that has been washed but not dried or a seat that is wet due to water leaks from the roof or windows.

**(i) “Broken door”**

A door that is hanging loose from the door hinges or of which the door clip/handle is not working.

**(j) “Missing door”**

A vehicle without a passenger or driver door.

**7. Failing to provide the right type, quality and age of vehicles**

- 7.1 Where the Operator fails to provide all of the vehicles of the right type, quality and specification as specified in Schedules 2 and 3 after the commencement date it shall be penalized in the amount of R5 000,00 per

unapproved bus per day, plus five percent of the total amount payable in respect of the relevant month's payment certificate, with a minimum of R25 000,00, will be withheld on a *pro rata* basis, for example if one of 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 similar to those specified in Form 4 of Schedule 1 (can be different manufacturer but must be same seat capacity and same engine capacity and quality), which in the opinion of the Representative are suitable.

- 7.2 Item 7.1 will also apply where the operator fails to provide the accessible vehicles or to adapt its vehicles to comply with the accessible vehicle requirements as required by clause 21 of the contract and as specified in Schedule 3 and by the date specified in that clause.
- 7.3 If the Operator does not comply with the specifications for rebuilt and rehabilitated buses in Schedule 2 within three months from the date that the monies were first withheld, it will forfeit such monies.

#### **8. Deviating from routes**

Where there is a deviation from a route the variable kilometre rate will not be paid.

#### **9. 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 R1 000,00 per incident will be imposed, except—

- (a) where the lawful capacity of the vehicle would have been exceeded; or
- (b) a passenger has refused to pay the fare; or
- (c) on grounds of violent, abusive or otherwise offensive conduct on the part of a passenger.

#### **10. Failing to provide information or provision of misleading information**

- 10.1 Any of the following conduct by the Operator amounts to the provision of misleading information and may be subject to the penalty provided in Item 10.2:

- (a) Deliberately recording or including (or deliberately failing to record or include) any matter in the operator's records, reports or financial statements which renders those documents untrue or misleading;
- (b) Failing to provide a financial report or an operational report or failing to provide a statement of financial position by the time specified in this Contract;

- (c) Failing to provide information as contemplated in clause 6 of the contract; and
- (d) Failing to co-operate and provide information as contemplated in clause 8.6 of the contract.

10.2 If, in the opinion of the CA the Operator has provided such or any other misleading information as contemplated in item 10.1, the CA may request that the necessary corrective action be taken. If the Operator fails to do so within seven days or as requested by the CA to the satisfaction of the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the corrective action was requested, will be forfeited.

10.3 The Operator must supply the CA with any additional information applicable to the operations or where the Operator is so requested by the CA in terms of this contract. If the Operator fails to do so within seven days or as requested by the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the information was requested will be forfeited.

#### **11. Failure to provide patronage information**

11.1 Once EFVE has been installed as required by clause 33 of the contract, the information derived from it must reflect at least eighty percent of observed patronage based on a joint on-board census carried out by the Representative and the Operator. While EFVE has not been so installed, the information on patronage must be observed by other methods, such as waybills. Information provided on patronage must be accurate.

11.2 If the information provided is less than 80% of observed patronage in any month, five percent of the gross certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited.

11.3 Compliance with this clause will be proved by comparing patronage observed by the monitors on at least 30% of the trips for the month in question with that reflected by EFVE. Should this sample not comply, the penalty will be levied for all of the trips provided on all routes in terms of the contract.

#### **12. Failing to install or to have operational EFVE**

12.1 The Operator shall install and commission EFVE and provide information therefrom as follows:

- Stage A1: install required electronic equipment (EFVE) on all vehicles

- within 30 days of the commencement date;
  - Stage A2: EFVE on vehicles to be commissioned, i.e. EFVE to be in full working order, drivers to be trained in its use and EFVE to be providing usable information within 60 days of the commencement date;
  - Stage B1: depot computer to be installed and commissioned within 30 days of the commencement date;
  - Stage B2: depot computer to be processing information obtained from EFVE on vehicles within 60 days of the commencement date.
- 12.2 Where the Operator fails to complete these Stages within the time indicated to the satisfaction of the CA, three percent 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 CA. Where moneys are so withheld for three 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 in respect of those vehicles in which those Stages have not been completed.
- 12.3 The four Stages will only be regarded as complete where EFVE in all buses and in the depot is fully operational and supplying all required information as specified in clause 33 of the contract.
- 12.4 Whether or not EFVE is installed, the onus will always be on the Operator to supply the correct information as specified in clauses 6 and 33 of the contract by using manual methods, intensive monitoring or other methods approved by the CA. This must be done from the beginning of the second month of operation to the satisfaction of the CA. Where this is not done, three percent of the gross certificate value payable to the Operator, before escalation, of the applicable month's payment certificate will be forfeited, where applicable over and above the penalties provided for above, and the CA may regard this as a breach of a material term of the contract.
- 12.5 If EFVE which has been installed and has been operational becomes defective and unable to supply the required information, the Operator must make it available for repair within three 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.
- 12.6 This clause is subject to the provisions of the contract which provide that

the CA may decide not to pay any claim without adequate documented proof of the required information and data.

**13. Failing to implement the BBBEE Codes of Good Practice**

If the Operator fails to comply with the targets and milestones of the BBBEE Codes of Good Practice at any time during the contract period three percent of the gross certificate value payable to the Operator, i.e. before escalation, will be withheld from each month's payment certificate. 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 compliance has been proved to the satisfaction of the CA. Where monies are so withheld for three months they will be forfeited.

**14. Use of unauthorised sub-contractor**

Where the Operator uses a sub-contractor without the approval of the CA in contravention of clause 18 of the contract, a penalty of five percent of the amount payable in terms of the payment certificate for the month in question will be forfeited for each month in which such contravention has taken place.

**15. Failing to obtain approval for a change in ownership control**

Where the Operator fails to obtain approval from the CA for a change in ownership control as required by clause 4.2 and 4.3 of the contract, a penalty of R10 000,00 will be imposed, if the CA decides not to terminate the contract.

**16. Failure to submit a Customer Complaints Policy, keep a Passenger Complaints Register or to respond to complaints**

- 16.1 Where the Operator fails to submit a Customer Complaints Policy to the CA in contravention of clause 23.4 of the contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until it is submitted to the satisfaction of the CA.
- 16.2 Where the Operator fails to keep a Passenger Complaints Register as required by clause 23.5 of the contract, a penalty of R5 000,00 per month will be imposed until the Register is kept to the satisfaction of the CA.
- 16.3 Where the Operator fails to respond to a complaint from a passenger as required by clause 23.4 of the contract or has not addressed complaints by the public to the satisfaction of the CA or Representative a penalty of R2 000,00 per incident will be imposed.

**17. Failing to submit fare evasion procedures or to check tickets**

- 17.1 Where the Operator fails to submit a fare evasion plan to the CA in contravention of clause 32.4(ii) of the contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until they are submitted to the satisfaction of the CA.
- 17.2 Where on inspection it appears that any of the Operator's drivers has failed to check a passenger's ticket or failed to check that the ticket was properly validated or that the ticket has not been defaced, a penalty of R250 per incident will be imposed.

**SCHEDULE 8: SPECIFICATIONS: ROUTES, TIME TABLES, FARES, STOPS  
AND ADDITIONAL RELATED INFORMATION**

*[To be completed in relation to the specific services/design]*

## SCHEDULE 9: PERFORMANCE MONITORING

### 1. KPI Performance Benchmarks and score values

- 1.1 The KPI benchmark values (standards) that will be applicable during the contract period as well as the values in terms of which scores will be allocated to the Operator for the purposes of monthly performance evaluations are summarised in Table 1 below.

**Table 1: KPI Benchmark and score values**

KPI	Benchmark value (Standard)	Score Values
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1
<b>Punctuality</b>		
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1
<b>Driver quality</b>		
• Passenger complaints	2%	≤2% = 1; >2% = 0
• Surveys	2%	≤2% = 1; >2% = 0
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1
<b>Vehicle quality</b>		
• General vehicle condition	2%	≤2% = 1; >2% = 0
• Technical vehicle condition:		
(i) breakdowns	2%	≤2% = 1; >2% = 0
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0 <100% = 0; 100% = 1
(iv) Roadworthy certificate pass rate	98%	<98% = 0; ≥98% = 1
<b>Safety</b>	1%	≤1% = 1; >1% = 0
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1
<b>Contract compliance</b>		
(i) information & reports	100%	<100% = 0; 100% = 1
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1
(iii) staff training	100%	<100% = 0; 100% = 1
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1

- 1.2 It should be noted that should remedial action be required in terms of the



driver and vehicle quality KPIs and the Operator fails to implement such action in subsequent months, a score of zero will be allocated for those months.

- 1.3 The format that will be used by the Representative/SMF to evaluate the Operator's monthly performance is given in Table 2 on the next page. The form must be signed by both the Operator and the Representative and will be submitted to the CA as part of the Representative's monthly monitoring report.

## **2. Customer Satisfaction Surveys**

- 2.1 The CA will undertake Customer Satisfaction Surveys during the contract period. These may be route focused or area focused as the CA deems necessary.
- 2.2 The surveys will entail face-to-face interviews with passengers alighting from vehicles. Questions relate to the journey that has just been made including overall satisfaction with journey, information, safety and security, cleanliness, reliability and staff behaviour.
- 2.3 The surveys will be summarised and conclusions drawn by the CA.
- 2.4 The final reports will be made available to the Operator and will be discussed at a meeting convened for this specific purpose. This meeting may be attended by commuter/community forum members with the prior written consent of the CA, and the Operator will be allowed to question the conclusions of the report.
- 2.5 At the Contract Performance Review of year seven, all Customer Survey reports will be considered and any continued negativity in them may negate the contract extension.

## **3. Periodic Performance Reviews**

- 3.1 The Operator must attend meetings with the CA as requested by the CA from time to time for the purposes of enabling it to conduct periodic reviews of the financial and operational performance of the Operator under this contract.
- 3.2 Any reviews conducted under clause 38.11 of the contract will not be more frequent than one review each quarter except where the circumstances or nature of the review requires follow up reviews or an extended review.
- 3.3 The CA must give the Operator not less than 10 business days' notice of any such meeting.
- 3.4 The persons attending the meetings on behalf of the Operator

Table 2: Format for monthly performance evaluations

KPI	Benchmark value (standard)	Score values	Month: .....	
			KPI value	Score
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1		
<b>Punctuality</b>				
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1		
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1		
<b>Driver quality</b>				
• Passenger complaints	2%	≤2% = 1; >2% = 0		
• Surveys	2%	≤2% = 1; >2% = 0		
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1		
<b>Vehicle quality</b>				
• General vehicle condition	2%	≤2% = 1; >2% = 0		
• Technical vehicle condition:				
(i) breakdowns	2%	≤2% = 1; >2% = 0		
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0		
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0 <100% = 0; 100% = 1		
(iv) RWC pass rate	98%	<98% = 0; ≥98% = 1		
<b>Safety</b>	1%	≤1% = 1; >1% = 0		
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1		
<b>Contract compliance</b>				
(i) information & reports	100%	<100% = 0; 100% = 1		
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1		
(iii) staff training	100%	<100% = 0; 100% = 1		
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1		
		<b>Maximum score = 19</b>	<b>Total score:</b>	
			<b>Signed:</b> <b>SMF Representative:</b> <b>Operator:</b> <b>Date:</b>	

must be of appropriate seniority and responsibility and must include those directors or senior managers of the Operator reasonably requested by the CA.

- 3.5 The officials attending the meetings on behalf of the CA must also be of appropriate seniority and responsibility to take the necessary decisions and an official at not lower than Director level must attend each meeting.
- 3.6 If requested to do so in a written agenda not less than 48 hours before the meeting, the Operator must prepare and present reports at the meetings in respect of those aspects of its performance requested by the CA.

#### **4. Contract Extension Review**

- 4.1 The contract extension review is based on the monthly KPI benchmark evaluations conducted throughout the contract period.
- 4.2 In addition to the conditions specified in clause 38.8 of the contract, the CA will evaluate the operator's ability to continue operating the services in a sustainable manner and to meet the KPI benchmarks during the contract extension.

**SCHEDULE 10: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES****1. The variable cost component**

- 1.1 The variable cost component is linked to the number of scheduled revenue kilometres to be operated by each of the vehicle types on the contract. A variable contract rate (price per kilometer) is therefore calculated per vehicle type.
- 1.2 Variable costs consist of the following cost elements:
- Fuel (diesel and petrol);
  - Tyres;
  - Maintenance and spares; and
  - Oil and lubricants
- 1.3 The Operator must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D. The information must be provided for each cost element for the first twelve months of the contract period.
- 1.4 Kilometres operated by additional vehicles will be charged for at the same rates for the type of vehicle concerned.
- 1.5 If a new vehicle type is introduced on the contract, an additional Table 1 must be completed and approved by the CA for inclusion as an addendum to the contract documents.

**2. The fixed cost component**

- 2.1 The fixed cost component will be linked to the number of vehicles of each vehicle type operated on the contract. A fixed contract rate (rate per vehicle) is therefore calculated per vehicle type.
- 2.2 Fixed cost consists of the following cost elements:
- Labour (wages and costs of drivers, management, the administration department and the traffic and engineering departments of the Operator's organisation);
  - Vehicle related costs (installments, depreciation, vehicle insurance, licence fees and operating licences and permits); and
  - Other general (overhead) costs;
- 2.3 To support the Operator's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C.

- 2.4 Upon award of the contract Tables 2A, 2B and 2C must be completed providing employee names and monthly salaries/wages and benefits and submitted to the CA.
- 2.5 The Operator must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs on Tables 3B, 3C, 3D and 3E. The information must be provided for the first year of contract.
- 2.6 The monthly repayments for vehicles will be considered to be over a 60 month period.
- 2.7 If a new vehicle type is introduced on the contract, an additional Table 3 must be completed and approved by the CA for inclusion as an addendum to the contract documents.
- 2.8 The Operator must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4.

### **3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is done in terms of Tables 5 to 7.

TABLE 1A: VARIABLE COST PROJECTION: BUS TRAINS

	MONTH												TOTAL YEAR 1
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>A. OPERATING KILOMETRES</b>													
DOT contract													
Special hires													
Other contracts													
Dead kilometres													
<b>B. OPERATING COST</b>													
Diesel @ R....../l													
Petrol @ R....../l													
Oil & lubricants													
Tyres & tubes													
Maintenance cost/spares													

TABLE 1B: VARIABLE COST PROJECTION: BUSES

	MONTH												TOTAL YEAR 1
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>A. OPERATING KILOMETRES</b>													
DOT contract													
Special hires													
Other contracts													
Dead kilometres													
<b>B. OPERATING COST</b>													
Diesel @ R....../l													
Petrol @ R....../l													
Oil & lubricants													
Tyres & tubes													
Maintenance cost/spares													

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TABLE 2A: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>MANAGEMENT</b>															
Managing director			-		-								0	-	-
General Manager			-		-								0	-	-
Financial Manager			-		-								0	-	-
Operations Manager			-		-								0	-	-
Engineering Manager			-		-								0	-	-
<b>ADMINISTRATIVE</b>															
PA to MD			-		-								0	-	-
Secretary to MD			-		-								0	-	-
Schedules Clerk, Ticket Clerk, Clerk			-		-								0	-	-
Senior Clerk			-		-								0	-	-
Data Capture Clerk			-		-								0	-	-
Telephonist, Telephonist/Receptionist			-		-								0	-	-
Gate Keeper, Security Guard, Night Watchman			-		-								0	-	-
Messenger			-		-								0	-	-
Typist/Clerk			-		-								0	-	-
Chef-Cook			-		-								0	-	-
Tea Person, Canteen Assistant			-		-								0	-	-
Planning Clerk, Register Clerk			-		-								0	-	-
Wage clerk/HR&IR Supervisor			-		-								0	-	-
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2B: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>DRIVERS</b>			-		-								0	-	
<b>TRAFFIC</b>			-		-								0	-	
Driving Instructor			-		-								0	-	
Senior Inspector			-		-								0	-	
Inspector			-		-								0	-	
Regulator, Transport Officer, Rank Despatcher, Point Controller			-		-								0	-	
Senior Regulator			-		-								0	-	
Despatcher, Route Despatcher, Sub-Depot Despatcher			-		-								0	-	
Sales Point Controller, Clipcard Seller, Season Ticket Seller			-		-								0	-	
Ticket Seller, Cashier Mobile, Driver Cashier Mobile			-		-								0	-	
Flycheck Driver, Chauffeur, Service Vehicle Driver			-		-								0	-	
Light Vehicle Driver, Mobile Driver			-		-								0	-	
Roster Clerk (Traffic), Traffic Clerk			-		-								0	-	
Private Hire Clerk, Special Hire Clerk			-		-								0	-	
Ticket Office Clerk, Cashier, Seiright Clerk			-		-								0	-	
Senior Ticket Office Clerk			-		-								0	-	
Senior Operations Clerk			-		-								0	-	
Senior Cashier			-		-								0	-	
Operations Clerk, Clerk (Traffic)			-		-								0	-	
Duty Staff Bus Driver			-		-								0	-	
Operator			-		-								0	-	
Hostess, Steward			-		-								0	-	
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2C: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>ENGINEERING</b>															
Foreman			-		-								0	-	-
Artisan (negotiated for)			-		-								0	-	-
Operatives (grades A, B, C and D)			-		-								0	-	-
Honorary Artisan			-		-								0	-	-
Trade Worker (Grades P16 to P14)			-		-								0	-	-
Trade Trainee (Grades P16 to P14)			-		-								0	-	-
Grade 5			-		-								0	-	-
Technician			-		-								0	-	-
Assistant Technician			-		-								0	-	-
Grade 4			-		-								0	-	-
Artisan's Assistant			-		-								0	-	-
General Hand			-		-								0	-	-
Trade Assistant (P19 to P17)			-		-								0	-	-
Works Staff, General Worker			-		-								0	-	-
Tyre Attendant			-		-								0	-	-
Tyre Programmer			-		-								0	-	-
Senior Engineering Clerk, Engineering Clerk			-		-								0	-	-
Stores Clerk, Stores Assistant			-		-								0	-	-
Driver Shunter, Technical Driver			-		-								0	-	-
Sighting Mechanic			-		-								0	-	-
Vehicle Checker (FOWL)			-		-								0	-	-
Fuel Attendant			-		-								0	-	-
Steam Jenny Operator, Steam Cleaner			-		-								0	-	-
Bus Cleaner, Cleaner, Bus Washer			-		-								0	-	-
Fork Lift Driver			-		-								0	-	-
Greaser			-		-								0	-	-
Workshop Cleaner, Cleaner, Yard Cleaner			-		-								0	-	-
Handyman, Handyman Estates			-		-								0	-	-
Labourer			-		-								0	-	-
Trimmer, Upholsterer			-		-								0	-	-
Assistant Handyman			-		-								0	-	-
Spray Painter, Painter, Signwriter			-		-								0	-	-
Assistant Painter			-		-								0	-	-
Stores Driver, Heavy Vehicle Driver			-		-								0	-	-
Data Typist, Data Input Clerk			-		-								0	-	-
Stores Data Clerk			-		-								0	-	-
Shedman (Grades A3 to A5)			-		-								0	-	-
Shunter Driver			-		-								0	-	-
Taco Mechanic, Taco Clerk			-		-								0	-	-
Brake Attendant			-		-								0	-	-
<b>TOTAL</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>0</b>	<b>0</b>	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured



**TABLE 3B: FIXED COST PROJECTION: BUS TRAINS**

[illegible]

**TABLE 3C: FIXED COST PROJECTION: BUSES**

[illegible]

TABLE 3D: FIXED COST PROJECTION: MIDIBUSES

	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL YEAR 1
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Instalments: New vehicles <sup>1</sup>													
Instalments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

TABLE 3E: FIXED COST PROJECTION: MINIBUSES

	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL YEAR 1
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Instalments: New vehicles <sup>1</sup>													
Instalments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

**Notes:**

1. To correlate with information provided in Table 3A

### TABLE 4: GENERAL COSTS PROJECTION

[illegible]





TABLE 6: SUMMARIZED FIXED AND VARIABLE COST 1ST YEAR

COST CATEGORY		Bus trains	Buses	Midibuses	Minibuses	TOTAL
<b>VARIABLE COSTS</b>						
Fuel (Diesel and petrol)	Table 1A-D					
Tyres	Table 1A-D					
Maintenance and spares	Table 1A-D					
Oil and lubricants	Table 1A-D					
<b>A. TOTAL VARIABLE COSTS</b>						
<b>FIXED COSTS</b>						
Installments	Table 3B-E					
Depreciation	Table 3B-E					
Insurance (vehicle insurance)	Table 3B-E					
License fees	Table 3B-E					
Operating licences and permits	Table 3B-E					
Drivers' wages and cost <sup>1</sup>	Table 2B					
Traffic wages and cost <sup>1</sup>	Table 2B					
Engineering wages and cost <sup>1</sup>	Table 2C					
Administrative salaries and cost <sup>1</sup>	Table 2A					
Management salaries and cost <sup>1</sup>	Table 2A					
General costs <sup>2</sup>	Table 4					
<b>B. TOTAL FIXED COSTS</b>						
<b>C. TOTAL COSTS (before profit)</b>						
<b>D. PROFIT ALLOCATION<sup>3</sup></b>						
<b>E. TOTAL COSTS YEAR 1 (C + D)</b>						

Note:

1. Wages/salaries and cost to be allocated based on number of vehicles in each vehicle type
2. General costs to be allocated pro-rata to number of vehicles per vehicle type
3. Profit to be allocated pro-rata to number of vehicles per vehicle type

TABLE 7: RATE CALCULATION					
		Bus trains	Buses	Midibuses	Minibuses
TOTAL VARIABLE COSTS	Table 6				
Min: Operating income	Table 5				
Plus: Pro-rata Profit					
Variable costs shortfall					
Number of kilometres					
Rate per kilometre (Rands)					
TOTAL FIXED COSTS	Table 6				
Min: Pro-rata Operating income	Table 5				
Plus: Pro-rata Profit					
Fixed costs shortfall					
Number of vehicles					
Fixed cost/vehicle (Rands)					
Note:					
1. Pro-rata Operating income means the income as based on the calculations in Table 3 per vehicle type					
2. Pro-rata Profit means the profit allocated based on the % split between the fixed and variable costs in terms of Total Cost (before profit) in Table 6					

**SCHEDULE 11: EFVE OPERATION****1. EFVE Support**

- 1.1 The EFVE is supported by software which is controlled, monitored and maintained by the CA.
- 1.2 The Operator must use EFVE hardware and software provided by the CA. The Operator must allow the CA access to the hardware and software for the purpose of maintenance and auditing as and when the CA deems necessary. The CA is responsible for software installation, testing, modification and enhancements.
- 1.3 The Operator shall not modify any part of the Ticketing System in any way.
- 1.4 The Operator must notify the CA immediately of any fault in the EFVE software or hardware.

**2. Revenue Management****2.1 Patronage Data Collection and Analysis**

- 2.1.1 The EFVE Ticketing System is the primary source of patronage data. The Operator must ensure on a daily basis the transfer of patronage data to the CA.
- 2.1.2 Accurate and timely collection of data is dependent upon proper operation of the EFVE Ticketing System. This Schedule includes a description of the assignation and use of ticket codes, the key data element in patronage reports.
- 2.1.3 A list of available Patronage Reports is available from the CA on request.

**2.2 Patronage Data Adjustment**

- 2.2.1 As patronage data might be used as basis for incentive payments, the CA will only adjust patronage data when there is a contract area-wide equipment failure. Any adjustment for such a failure is at the discretion of the CA. The CA will not adjust patronage data for individual EFVE Ticketing System equipment failure, fare evasion or ticket failure.
- 2.2.2 The CA will provide a summary report of equipment failure data, including vehicle control units and validators for the contract area.
- 2.2.3 The CA will provide the Operator with a summary of the adjustments made to the raw patronage data provided by the Operator in that month, by route and

day, not later than 15 business days after the end of each calendar month.

## **2.3 Fare Evasion and Ticket Failure**

2.3.1 The Operator must monitor and measure the incidence of fare evasion by ticket inspections.

2.3.2 For ticket failures, the Operator must ensure that drivers—

- (a) complete a Ticket Problem Slip;
- (b) write “invalid”, the date and driver identification number on the ticket; and
- (c) advise passengers of the possibility of a replacement ticket for unused trips as per the back of the Ticket Problem Slip.

2.3.3 The Operator must make every effort to ensure that concession tickets are not sold by drivers unless a CA-approved concession pass is produced by the passenger.

2.3.4 The Operator must ensure that passengers do not travel for a distance greater than that permitted by the passenger’s ticket. If this occurs then the driver must request the passenger either to—

- (a) buy and validate another ticket; or
- (b) disembark from the vehicle, and penalties will be imposed in terms of Schedule 7 for failing to comply with fare evasion procedures.

2.3.5 Random audits will be undertaken by the CA or Representative to ensure that steps are being taken to minimise fare evasion.

## **2.4 Inspectors**

2.4.1 The CA may task the SMF or appoint inspectors to conduct random inspections, including ticket inspections, to ensure passenger compliance with legislation and this contract.

2.4.2 All tickets inspected by an inspector must be passed through a Portable Reader Decoder (PRD) to determine date and time validity. The CA will supply the PRDs.

2.4.3 Each inspector must keep records of the number of tickets checked by route, whether the ticket was valid or not, non-validity type and action taken by the inspector.

2.4.4 Ticket offence reports and expiation notices (penalty notices issued to passengers) must be forwarded to the CA within five business days of them being issued for prosecution if required.

## **2.5 Ticket Production and Sales**

- 2.5.1 Smart cards or value cards must be used which will be purchased at terminals, transfer stations and other ticket outlets as directed by the CA. The Parties must negotiate on the cost implications involved before the contract rates are agreed upon.
- 2.5.2 The Operator must sell tickets and provide refund facilities at ticket outlets at terminals and transfer stations at the following terminals and transfer stations: .....unless the CA requires roving ticket sales or has granted an exemption in writing. The Operator must adhere to the CA's directions as regards roving ticket sales, if applicable
- 2.5.3 Ticket outlet opening hours to the public for sales shall be 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. Variations to these hours shall be at the discretion of the CA.
- 2.5.4 To allow for passengers not able to acquire tickets off-vehicle, the Operator must install in each vehicle ticket selling equipment as required by the CA which may be fixed or portable. Any contravention of this rule will constitute a serious breach of contract for which penalties will be applied.
- 2.5.5 Cash ticket sales on vehicles must be limited to a minimum, and will be phased out of the system within six months of implementing the integrated network.
- 2.5.6 The CA will supply tickets to the Operator for counter sales and for issue to all drivers for on-board sales.
- 2.5.7 The Operator must ensure that drivers have sufficient cash float to give change to passengers buying tickets.
- 2.5.8 The Operator must keep adequate ticket stock and records to ensure continuous supply for on-board and counter sales, and re-order tickets from the CA when necessary. No commission will be paid to Operators for ticket sales or refunds.
- 2.5.9 Faulty tickets presented for replacement refund action should be retained by the Operator and affixed to a Ticket Credit Form for reconciliation and audit purposes.

## **2.6 Fare Validation**

- 2.6.1 Fare validation will take place on board vehicles and/or at bus stops, terminals and transfer stations.
- 2.6.2 All vehicles must be provided with card readers to "validate" the smart cards.

2.6.3 Major stations will be equipped with card readers to allow quick boarding.

## **2.7 Ticketing System Maintenance**

2.7.1 The Operator must ensure that the Ticketing System is kept in a reasonable working condition, and take reasonable precautions to ensure that the Ticketing System is not damaged by its employees, agents, passengers or other persons.

2.7.2 The Ticketing System maintenance service to be undertaken by the Operator shall comprise—

- (a) First Level Corrective Maintenance;
- (b) First Level Preventative Maintenance; and
- (c) Second Level Repair Maintenance,

as described in this Schedule.

2.7.3 If the Ticketing System is faulty or does not operate, and such fault is not due to—

- (a) failure by the Operator to carry out First Level Corrective Maintenance, or
- (b) a jam or other fault of a class that is capable of being remedied by the Operator,

then the Operator must immediately notify the CA of such fault.

2.7.4 The Operator must give the CA full access to the Ticketing System to enable it to—

- (a) carry out service maintenance, repair and maintenance of the Ticketing System, other than First Level Corrective Maintenance;
- (b) carry out service maintenance and repair of the Ticketing System in response to a notification of a fault with the Ticketing System; and
- (c) undertake installation or removal of the Ticketing System or any part thereof when necessary.

## **2.8 Failure of Operator to meet Maintenance Obligations**

2.8.1 The Operator must pay all costs arising from the CA attending to remedy any fault of the Ticketing System which fault is due solely or partially to—

- (a) the failure by the Operator to carry out First Level Corrective Maintenance;
- (b) damage caused to the Ticketing System by the Operator, its employees and agents; or

- (c) damage to the Ticketing System by any person not authorised by the CA having access to it while it is in possession of the Operator.

## **2.9 Claims**

2.9.1 The Operator may not claim or be entitled to claim from the CA any sum for inconvenience, loss or damage to the Operator due to—

- (a) vandalism or willful damage to or misuse of the Ticketing System;
- (b) faults caused by or arising from inadequate equipment maintenance or repair;
- (c) any delay by the CA in attending to and replacing any faulty component of the Ticketing System;
- (d) the delay in conducting any inspection maintenance or repair of ticketing equipment;
- (e) the replacement or upgrading of the Ticketing System; or
- (f) faults or damage to the Ticketing System caused by industrial action, an act of God or other unforeseen events.

## **SCHEDULE 12: STYLE GUIDE FOR IMAGE AND MARKETING**

*[CA to prepare]*



## **SCHEDULE 13: JOURNEY ANALYSIS REPORT**

See next page.

# Journey Analysis Operator:

Date Range: 2010/02/20 to 2010/02/20

Contracts: ALL

Routes: ALL

Start Driver No Driver Name Bus Duty Jny Act. Start Sched. Dist. Arrive Actual Dist. Revenue Tickets Passes Pengers

Trips for 20/02/2010

<b>Contract: 0010</b>												
<b>Route: 0010</b>												
09:40	1	Galehole NS	942	120	940		9:20		0.00	0	0	0
<b>Route: 0030</b>												
05:30	1	Galehole NS	942	120	530		5:30		0.00	0	0	0
08:00	1	Galehole NS	942	120	800		47:90		R224.50	24	5	29
13:25	1	Galehole NS	549	120	1325		53:50		R124.00	11	0	11
<b>Route: 0040</b>												
07:00	140	Moleme MB	896	127	700		25:00		R145.00	14	7	21
07:00	117	Moholeng MI	455	127	700	06:54			R483.50	49	12	61
07:00	100	Kaekae S	3205	127	700		25:00		R0.00	0	0	0
13:15	140	Moleme MB	896	127	1315		25:00		R165.00	10	17	27
13:15	122	Mosmanekgosi TS	458	127	1315	14:00			R135.00	18	20	42
<b>Route: 0041</b>												
07:15	83	Meyer RJ	546	126	715		76:50		R375.00	50	47	97
13:20				126	1320				R799.50	53	0	53
<b>Route: 0070</b>												
04:30				132	430		100:00					
<b>Route: 0120</b>												
06:00	122	Mosmanekgosi TS	999	142	600		41:50		R78.00	13	0	13
13:30	140	Moleme MB	896	142	1330		41:50		R262.50	22	2	24
<b>Route: 0121</b>												
07:00	51	Galehole OS	654	111	700		43:50		R348.50	35	2	37
13:00	100	Kaekae S	654	111	1330				R207.00	18	0	18
<b>Route: 0190</b>												
06:30	147	Melore LB	72	146	630		99:30		R328.00	26	2	28
13:30	147	Melore LB	72	146	1330		99:30		R535.00	44	2	46
<b>Route: 0220</b>												
07:00	137	SamaneJO	731	150	700		85:20		R612.50	36	0	36
13:30	137	SamaneJO	731	150	1330		85:20		R736.00	45	0	45
<b>Route: 0240</b>												
07:00	59	Nkokou TG	546	141	700		74:00		R1,348.50	81	0	81
13:30	59	Nkokou TG	546	141	1330		74:00		R1,192.50	62	1	63
<b>Route: N010</b>												
08:10	122	Mosmanekgosi TS	999	142	810		9:20		R876.00	39	1	40
08:15	117	Moholeng MI	455	127	810		9:20		R2,068.50	101	2	103
08:20	100	Kaekae S	3205	127	820	07:01			R0.00	0	0	0
08:55				111	855		9:20		R0.00	0	0	0
09:10				126	910		9:20		R0.00	0	0	0
09:10				146	910		9:20		R0.00	0	0	0
10:10	137	SamaneJO	731	150	1010		9:20		R0.00	0	0	0
11:20	117	Moholeng MI	455	127	1120		9:20		R0.00	0	0	0
12:45	137	SamaneJO	731	150	1245		9:20		R0.00	0	0	0
12:50	140	Moleme MB	896	142	1250		9:20		R0.00	0	0	0
12:50	1	Galehole NS	549	120	1255		9:20		R0.00	0	0	0
12:55	140	Moleme MB	896	126	1255		9:20		R0.00	0	0	0
12:55	122	Mosmanekgosi TS	458	127	1255		9:20		R0.00	0	0	0
<b>Route: N030</b>												
05:00	1	Galehole NS	942	120	500		5:00		R0.00	0	0	0
06:55				120	655		47:90		R0.00	0	0	0
15:10				120	1510		5:00		R0.00	0	0	0
<b>Route: N041</b>												
14:05	122	Mosmanekgosi TS	458	127	1405	14:33	20:00		R0.00	0	0	0
<b>Route: N043</b>												
06:50				126	650		13:10		R0.00	0	0	0
15:55				126	1555		13:10		R0.00	0	0	0
<b>Grand Total:</b>												
									R7,453.80	489	82	571
									R7,453.80	489	82	571

**SCHEDULE 14: Occupational Health and Safety Agreement**

This is an agreement between:

The ..... Municipality/Provincial Administration

(being the contracting authority in the contract concluded between it and the Mandatary mentioned below for the provision of public transport services to which this agreement is appended and hereinafter referred to as the "Employer")

And

.....  
(being the supplier and the Operator in terms of the abovementioned contract and hereinafter referred to as the "Mandatary")

in respect of the abovementioned public transport services as more fully described in the contract referred to above

.....  
(hereinafter referred to as the "work")

WHEREAS section 37(1) of the Occupational Health and Safety Act 85 of 1993 (the OHS Act) provides that an employer shall be liable to be convicted and sentenced in respect of an act or omission by its mandatary or employee in certain circumstances;

AND WHEREAS the supplier, appointed by the Employer (contracting authority) to do work (as contemplated in the Act) is also liable in terms of section 37(3) of the OHS Act (and in its own right as employer) to comply with the provisions of the OHS Act applicable to its employees and mandataries;

AND WHEREAS section 37(2) of the OHS Act limits the employer's liability in terms of section 37(1) if the employer and mandatary have agreed in writing to the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of that Act

;

NOW THEREFORE, the Employer and Mandatary, hereby agree as follows:

1. The Mandatary hereby unconditionally accepts responsibility for compliance with the OHS Act in respect of the work in terms of section 37(2) of that Act.
2. The Mandatary hereby indemnifies the Employer against any patrimonial loss or damages which the Employer may suffer as a direct result of any claims and/or steps that may be instituted against the Employer due to non-compliance by the Mandatary (or employees and mandataries of the Mandatary) with the provisions of the OHS Act.
3. Without limiting the indemnity contemplated in 2 above, the Employer and Mandatary agree to the following arrangements and procedures to ensure compliance by the Mandatary with the provisions of the OHS Act:
  - 3.1 The Mandatary warrants that it has read and fully understands the requirements of the OHS Act and the regulations promulgated in terms

of that Act and has allowed for all costs to be incurred to ensure such compliance.

- 3.2 The Mandatary must prepare and submit to the Employer a Health and Safety Plan as is appropriate for the work within 10 business days of the date of signature of this agreement by the last Party.
- 3.3 Such Health and Safety Plan must at least cover the following:
  - 3.3.1 The management structure, site supervision and responsible persons, including a succession plan;
  - 3.3.2 The Mandatary's induction training programme for employees and sub-contractors;
  - 3.3.3 Health and safety precautions and procedures to be adhered to in order to ensure compliance with the OHS Act, Regulations and Safety Specifications;
  - 3.3.4 Regular monitoring procedures to be performed;
  - 3.3.5 Regular liaison, consultation and review meetings with all parties;
  - 3.3.6 Site security, welfare facilities and first aid; and
  - 3.3.7 Site rules and fire and emergency procedures.
4. The Mandatary must ensure that all sub-contractors and other persons engaged in the execution of the work also comply with the above requirements.
5. The Mandatary must inform the Employer immediately should the Mandatary at any time during the execution of the work find that it is not able to comply with the OHS Act or to perform this agreement or such compliance or performance will be detrimentally affected. The Mandatary must liaise with the Employer, who may, in its sole discretion, agree to release the Mandatary from the provisions of this agreement and/or the indemnity granted by the Mandatary herein, subject to the conditions which the Employer may impose.
6. The Mandatary hereby appoints Mr/Ms ..... as its representative and the responsible person on site for the duration of the contract in terms of section 8(2)(i) of the OHS Act as well as any regulations or prescriptions in terms of that Act.
7. The Mandatary's Registration number with the Compensation Commission is ..... If not so registered, the Mandatary must register with the Department of Labour within one month from the commencement date of the abovementioned contract and submit proof in this regard to the Employer.
8. Nothing in this agreement shall be interpreted as detracting from the

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Employer's responsibility to comply with its obligations in terms of the OHS  
Act, including but not limited to the Employer's facilities.  
SIGNED at.....on ..... 20....

\_\_\_\_\_  
(For and on behalf of the Employer)

SIGNED at.....on .....20....

(For and on behalf of the Mandatary)

***Introductory Note:***

*This document is published by the National Department of Transport as **Document 4** in a set of four documents as follows:*

- 1. Model Gross-Based Negotiated Contract Documents*
- 2. Model Gross-Based Tender and Contract Documents*
- 3. Model Net-Based Negotiated Contract Documents*
- 4. Model Net-Based Tender and Contract Documents*

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009) (“the Act”)**

**MODEL TENDER AND CONTRACT DOCUMENTS  
(NET-BASED) in terms of section 42(6)(b) of the Act**

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 OF 2009)**

**MODEL TENDER AND CONTRACT DOCUMENTS  
(NET-BASED)**

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

**CONTRACT NO. ....  
(Tendered contract in terms of section 42 of the  
National Land Transport Act, 2009)**

**Contents**

1. Volume 1: Tender Rules
2. Volume 2: Conditions of Contract
3. Volume 3: Forms

**Explanatory note:** This document is published in terms of section 42(6)(b) of the Act as a requirement for contracting authorities for subsidised service contracts, who will not be permitted to deviate from them unless agreed to in writing by the Minister. It is based on a net-based contracting model, i.e. the contracting authority will plan and manage the services and set fares, specifications etc. but the operator will keep the fares. The document is also published along with other documents to provide for negotiated contracts and to include a gross-based model as an alternative option. Contracting authorities may decide to use the gross- or net-based model according to which is more appropriate for the relevant situation.

**VOLUME 1: TENDER RULES****Contents**

1. Definitions
2. Tender notices
3. Charge for documents
4. Application of these Tender Rules
5. Agent
6. Validity period
7. Documents that must accompany the tender
8. Undertaking
9. Duties of tenderer
10. Data and other statistics
11. Information
12. Costs and losses incurred by the tenderer
13. Tender all-inclusive
14. Tender qualification
15. Alternative tenders
16. Combinations of tenders
17. Completion and signing of tender forms
18. Alterations to tender documents
19. Tender withdrawal or modification prior to the closing of tenders
20. Submission and closing of tenders
21. Opening of tenders
22. Tender withdrawal or modification after closing of tenders
23. Submission and closing of tenders
24. Disqualification of tenderers
25. Disqualification of tender
26. Tender acceptance
27. Ownership and confidential nature of documents
28. Additional qualification for tenderer
29. Signing of contract

**1. DEFINITIONS**

Words and expressions defined in the Conditions of Contract (Volume 2) also apply in these Tender Rules unless the context indicates otherwise.

**2. TENDER NOTICES**

Notices inviting tenders will be published in the Provincial/Municipal Tender Bulletin.



### **3. CHARGE FOR DOCUMENTS**

A charge as specified in the Tender Bulletin will be levied on collection of tender documents.

### **4. APPLICATION OF THESE TENDER RULES**

These Tender Rules and the instructions given in the official tender notice are binding on all tenderers submitting tenders to provide the services.

### **5. AGENT**

Where applicable foreign tenderers must state in their tender the name of their accredited agent in the Republic of South Africa in whom the necessary legal competence is vested and who has been duly appointed to sign contracts, and also indicate a street address to serve as their *domicilium citandi et executandi* in the Republic.

### **6. VALIDITY PERIOD**

The period for which tenders are to remain valid and binding is indicated in the tender notice and is calculated from the time the tender closes. Tenders are to remain in force and binding until the close of business on the last day of the period calculated, and if this day falls on a Saturday, Sunday or official public holiday, the tender must remain valid and binding until the close of business on the following working day, unless the Contracting Authority (CA) informs the tenderer in writing before this time that his tender is no longer valid. The CA may extend the period for which the tender is to remain valid for a further 30 days on written notice to the tenderer.

### **7. DOCUMENTS THAT MUST ACCOMPANY THE TENDER**

In addition to any documents that are specifically required, the following documents must be attached to the tender where applicable:

- (a) A valid, original tax clearance certificate, and in the case of a consortium or joint venture, such a certificate in respect of each party to such consortium, issued by the South African Receiver of Revenue (SARS). Submissions to SARS must be made on Form ST5.1 "Application for Tax Clearance Certificate" which is available from any SARS office.
- (b) Where applicable, duly completed and signed undertakings/declarations/certificates in the form set out in the applicable Forms provided in Volume 3. In the case of Form 19 "Declaration of Financial Support by Owner", every firm or entity that exercises ownership control over the tenderer must complete the form. In the case of doubt, the tenderer must ask the CA for written confirmation that completion thereof is or is not required.
- (c) All tenderers must complete the affidavit in Form 8 of Volume 3 regarding previous convictions for offences (if any) committed by the tenderer or any of its directors, members, trustees or office bearers.
- (d) All tenderers must attach a valid Verification Certificate from an accredited or recognised verification agency confirming their BBBEE status and the BBBEE

contribution level of the tenderer with the BBBEE Act and Codes of Good Practice.

## **8. UNDERTAKING**

By submitting a tender the tenderer undertakes to submit to the relevant Provincial Regulatory Entity/Operating Licensing Board for cancellation or amendment, as the case may be, all operating licences and permits that authorise any public transport services on the routes or in the area in which the services proposed in these tender documents are to take place that will or are likely to compete with such services.

## **9. DUTIES OF TENDERERS**

- 9.1 The tenderer must inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is tendering. No claims of any nature will be entertained on the basis of a tenderer's failure to make such inquiries.
- 9.2 The CA will arrange an information meeting, attendance at which is compulsory. A service area inspection will be held after the information meeting, attendance of which is not compulsory. Attendance at all other meetings of tenderers is compulsory. Details of such meetings are provided in the tender documents.
- 9.3 If any meeting of tenderers arranged by the CA, except the service area inspection, have not been attended by the tenderer himself or herself, or by an authorised representative of the tenderer who must be—
- (a) suitably qualified to comprehend the implications of the services to be provided; and
  - (b) in the direct employ of the tenderer; or
  - (c) a consultant or agent commissioned by the tenderer,
- this will disqualify the tenderer.
- 9.4 Minutes of the information meeting will be issued to tenderers as part of the addenda. Questions asked at such meeting and inspection will be minuted and replied to in addenda. Only replies minuted in such addenda will be binding on the CA.

## **10. DATA AND OTHER STATISTICS**

All data and statistics of whatever nature provided in these tender documents concerning existing or former services are provided in good faith as the best information available to the CA at the time of publication of this tender, to assist tenderers in tendering. No guarantee of the correctness of the data and statistics provided in these tender documents is given by the CA and no claims by tenderers or operators arising from incorrect data or statistics, regarding existing or potential numbers of passengers, or otherwise, or as a result of incorrect estimates made by the tenderer will be entertained. Tenderers must note that services required to be provided in terms of these tender documents might differ from existing or former services provided in the service area and passenger numbers may differ over time.

**11. INFORMATION**

- 11.1 The tenderer must submit with the tender all applicable information and data as may be required in terms of these tender documents, including that required in terms of the certificates, schedules and forms. The CA may if such details are insufficient, call for further information. The tenderer must furnish such additional information within seven working days of being called upon to do so or the tender will not be considered further.
- 11.2 The tenderer must make sufficient allowance in the relevant tendered rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in rule 11.1.
- 11.3 All written information submitted by the tenderer together with and in support of the tender will form part of the tenderer's offer.
- 11.4 Any explanation needed by a tenderer regarding the meaning or interpretation of the tender documents must be requested in writing from the CA with sufficient time allowed for a reply to reach all tenderers before the closing of tenders. Any such explanation provided to any tenderer concerning the tender documents will be furnished to all tenderers by way of written addenda as provided for in rule 11.6.
- 11.5 No oral representations or statements by any officer, employee or agent of the CA shall affect or modify any terms or obligations of these tender documents. The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA or its duly appointed agent.
- 11.6 If during the tender period the CA wishes to make additional information available to tenderers or to make amendments to the tender documents, this will be issued in the form of addenda. The addenda will be sequentially numbered, dated and hand delivered or sent by e-mail or telefax to the addresses of all tenderers who have already drawn tender documents. For this purpose all tenderers must provide their physical, postal and e-mail addresses and telephone and telefax numbers, if any. If any particulars are not provided, the CA will send addenda by the best available method in the CA's discretion. All addenda issued are regarded as part of the tender documents and tenderers must acknowledge receipt thereof in writing by hand, telefax or e-mail within 24 hours after receipt. Such acknowledgement of receipt must also be indicated on the covering page to the Tender Forms. Should receipt of all addenda not be so acknowledged the CA may reject the tender.

**12. COSTS AND LOSSES INCURRED BY THE TENDERER**

Neither the CA nor the departmental procurement structures of the relevant municipality or province will be liable for any costs or losses which may be incurred by any tenderer in the preparation and submission of a tender or attending meetings and in visiting the service area in connection therewith, and such costs and losses will be for the tenderer's own account.

**13. TENDER ALL INCLUSIVE**

- 13.1 The tenderer must before tendering satisfy itself as to the correctness and sufficiency of the tender and of the rates stated in Form 12 of the Tender Forms. Such rates shall, except as otherwise provided, cover all of the tenderer's obligations under the contract.

- 13.2 The tenderer must allow in the tender for full compensation for all general preliminaries, all expenses incurred in complying with the contract and its specifications, all other costs, positioning kilometres as well as everything else necessary for the execution of the contract in accordance with the tender documents. The tenderer's attention is drawn to the fact that the services may be varied during the contract period under clause 16 of the Conditions of Contract, which could lead to an increase or decrease of monthly revenue kilometres. Tenderers are advised that the services may have been rationalized and/or restructured and that routes, time tables, passenger numbers etc. may not necessarily be the same as those operated by previous operators in the service area. The tendered rates are intended to compensate the Operator fully for all costs and expenses and no claims of whatever nature will be entertained. Tendered rates will be fixed for the contract period, subject to clause 39.23 of the Conditions of Contract.
- 13.3 Monthly payments to the operator are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the tendered rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.
- 13.4 The tenderer must allow in the tender for increases and decreases in scheduled kilometres, for example due to changes in demand and seasonal factors and for reduced services during holiday periods, as contemplated in clauses 13.3 and 16 of the Conditions of Contract, as well as any other factors which the tenderer may consider relevant.
- 13.5 Tenderers are advised to take cognisance of the implications for their current and future labour forces of the length of the contract period, subject to clause 3 of the Conditions of Contract.

#### **14. TENDER QUALIFICATION**

Tenders must be submitted strictly in accordance with the tender documents, i.e. without qualifications. Where an alternative tender is submitted, it will be additional to the unqualified tender that must be submitted in terms of rule 15.2.

#### **15. ALTERNATIVE TENDERS**

- 15.1 The tender documents are drafted on the basis that the services are to be provided with the type of vehicles as specified in Schedule 2 of the Conditions of Contract and tendered to be used on Form 11.
- 15.2 No alternative tender will be considered unless a tender without any qualifications and strictly on the basis of the tender documents, is also submitted.
- 15.3 If the CA does not make provision for an alternative method of providing the services and the tenderer, in addition to its unqualified tender as required in terms of rule 15.2, desires to submit for consideration such alternative method or any other variation, separate tender forms and/or a statement must accompany the tender setting out the alternative or variation proposed. In such a case the following procedure must be observed:
- (a) Proposals involving modification of the services in whole or in part should be notified in confidence to the CA as early as possible during the tender period.

The CA may decide not to consider an alternative tender unless this prior notification has been given not later than 14 days after publication of the tender. The CA may, following receipt of the notification and after such consultation with the tenderer as the CA considers necessary, give a preliminary opinion as to the acceptability of the modifications proposed; this opinion will however not be binding on the CA. In their own interest tenderers are advised to provide as much information as possible about the modifications when submitting an alternative tender, including full time tables.

- (b) If the tenderer does decide to submit an alternative tender, it must be accompanied by supporting information to enable its technical acceptability and tendered rates to be assessed fully.
- (c) When an alternative tender is submitted it must be made in the form of an alternative offer, showing the financial or other implications of the qualification(s) on the unqualified tender.
- (d) Any alternative tender involving modifications to the services will be assessed on its merits.
- (e) A decision whether or not to adopt operationally acceptable modified services will be governed among other things by the amount of the overall saving which the CA can reliably be expected to achieve.

## 16. COMBINATIONS OF TENDERS

Tenderers may tender for the combination of two or more contracts where such combinations could result in the combined tender amount being reduced. In the case of a combination the savings to the CA will be in the form of reduced contract rates. For each combination a separate tender must be submitted in accordance with Form 12 of the Tender Forms on which the reduced rates must be specified.

## 17. COMPLETION AND SIGNING OF TENDER FORMS

- 17.1 All appropriate tender forms, schedules and certificates contained in Part 1 of Volume 3 (Tender Forms) must be fully and properly completed, signed and witnessed where indicated, in black ink, as provided for, and submitted with the other tender documents as part of the tenderer's tender. Every page of the Tender Forms which is not signed, and every page of the other tender documents, must be initialled by or on behalf of the tenderer. Persons signing or initialling must be duly authorised.
- 17.2 Form 12 of the Tender Forms must be fully priced and totalled in the currency of the Republic of South Africa to show the amount of the tender. It should be noted that the tender amount is only relevant for purposes of tender evaluation and determining whether the CA will have adequate funds to cover the contract payments, ***and will not necessarily reflect the actual amount payable to the successful tenderer over the period of the contract. Tenderers should also note that the kilometres indicated are only estimates and will not necessarily be the kilometres operated over the contract period.***
- 17.3 Where the space provided in the bound documents is insufficient, separate schedules may be drawn up in accordance with the given formats. These schedules must then be bound together with a suitable contents page and submitted with the tender documents. All such schedules must be signed, witnessed and initialled as specified in rule 17.1.
- 17.4 A tender submitted by a company, close corporation or other legal person must be accompanied by a resolution or agreement of the directors or members which must

be substantially in accordance with Form ... of the Tender Forms. The tender must be signed by a duly authorised person. A tender submitted by a partnership must be accompanied by a written partnership agreement.

- 17.5 A tender submitted by a consortium of two or more parties must be accompanied by a signed memorandum of understanding between the parties to such consortium in which is defined precisely the conditions under which the consortium will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several parties forming the consortium, the benefits that will accrue to each party and any other information necessary to permit a full appraisal of its functioning. In the contract documents the term "consortium" is intended to have the specific meaning of a form of partnership involving mainly companies or other legal persons, which will each be jointly and severally liable to the CA. Loose business arrangements will not be considered. Within 10 days after the contract is awarded, a final signed consortium agreement must be submitted to the CA, failing which the contract may be terminated. Such agreement shall be subject to the approval of the CA, who may likewise terminate the contract if the agreement is rejected and not amended to the satisfaction of the CA.
- 17.6 If all tender forms are not fully and properly completed, signed, witnessed and initialled the tender shall be void unless otherwise decided by the CA.
- 17.7 When a combined tender is submitted, a full set of tender forms for each combination is required, and each page must be clearly marked "Tender no. ... in combination with Tender no. ...". Volumes 1 to 3 must also be submitted, with each page initialled.

## **18. ALTERATIONS TO TENDER DOCUMENTS**

No unauthorised alteration or addition may be made to any part of the tender documents. If any such unauthorised alteration or addition is made the tender may be declared void unless otherwise decided by the CA.

## **19. TENDER WITHDRAWAL OR MODIFICATION PRIOR TO CLOSING OF TENDER**

A tenderer may not withdraw, modify or correct its tender after it has been delivered, unless the request for such withdrawal, modification or correction together with full details of such modification or correction is received at the address given for submission of tenders, in writing either by hand or mail, before the closing time and date set for the receipt of tenders. The original tender as amended by such written communication will be considered as the tenderer's offer.

## **20. SUBMISSION AND CLOSING OF TENDERS**

- 20.1 All the Tender Forms (Part 1 of Volume 3) with all supporting documents must be submitted to the CA strictly in accordance with these Tender Rules and the instructions given in the official tender notice published in the Tender Bulletin. Tenderers must check the numbers of the pages and satisfy themselves that none are missing or duplicated. The CA will not be liable in respect of claims arising from the fact that pages are missing or duplicated.
- 20.2 Each tender must be submitted in a separate sealed envelope and be clearly marked with the contract number, title and closing date and the name and address of the

tenderer, provided that a combined tender may be submitted in a single envelope marked with all relevant contract numbers. The envelope shall not contain documents relating to any tender other than that indicated on the envelope.

- 20.3 All tenders received will be kept unopened and in safe custody. If a tender is received in an open envelope, the envelope will be sealed. If a tender is received without the relevant information on the envelope, the envelope will be opened and the information ascertained and written on the envelope, thereafter the envelope will be resealed.
- 20.4 Tenders close at the date and time specified in the tender advertisement.
- 20.5 The CA may consider an extension of the closing date should circumstance justify it. It will normally only be extended if there is sufficient time to publish an amending notification before the original closing date.
- 20.6 No tenders forwarded by telegram, facsimile (fax), e-mail or similar methods shall be considered. However, photostat copies of tenders which are lodged in the prescribed manner and in which the relevant forms are signed in black ink after being copied, will be accepted as valid tenders. The tender forms must not be retyped or redrafted except in the case of an alternative tender where a separate tender must be submitted in accordance with Form 12 of the Tender Forms.

## **21. OPENING OF TENDERS**

- 21.1 Tenders will be opened in public as soon as practicable after the closing time.
- 21.1 The names of tenderers will be read out and tender amounts disclosed.

## **22. TENDER WITHDRAWAL OR MODIFICATION AFTER CLOSING OF TENDERS**

- 22.1 Except as provided in these rules no tenderer may withdraw, modify or amend its tender after the date and time set for the closing of tenders.
- 22.2 The CA may, but is not obliged, to correct arithmetical errors in the tender and thus adjust the tender amount. The tenderer will be informed of the effect of any corrections on the tender amount prior to the acceptance of the tender.
- 22.3 If there are tendered rates or coefficients which are in the opinion of the CA excessively low or high or not in proper balance with other rates, the CA may ask the tenderer for clarification and/or to amend such tendered rates or coefficients. Such excessively low or high rates or coefficients or imbalances may prejudice the tender. Any amendment of such rates shall be done without altering the tender amount. Should the tenderer fail to clarify or amend the tender in a manner acceptable to the CA, or at all, this may prejudice the tender.
- 22.4 Should a tenderer withdraw its tender after the closing time of tenders and within the period for which it has agreed that the tender shall remain open for acceptance, or fail to sign the contract when called upon to do so, the CA may without prejudice to its other rights, agree to the withdrawal of such tender or cancel the contract that may have been concluded between the tenderer and the CA and such tenderer must then pay to the CA any additional expense incurred by the CA or State having either to accept any less favourable tender or, if fresh tenders have to be invited, the

additional expenditure incurred by the invitation of fresh tenders and by the subsequent acceptance of any less favourable tender. The CA or State may also recover such additional expenditure by set-off against moneys which may be due or become due to such tenderer or on its behalf for the due fulfilment of this or any other tender or contract, and pending the ascertainment of the amount of such additional expenditure may retain such moneys, guarantee or deposit as security for any loss the CA or State may sustain by reason of the default.

- 22.5 Tenderers should note that should their tender be accepted and should they be unwilling or unable to commence the services on the commencement date due to circumstances that are within their control, and the CA decides to make alternative arrangements without cancelling the contract, they will be held liable for all attendant costs and damages.
- 22.6 When in circumstances contemplated in rule 22.4 the CA does not deem it desirable to invite fresh tenders, the CA may in its discretion accept another tender from those already received.

### **23. EVALUATION OF TENDERER**

- 23.1 The CA has the right to evaluate the tenderer fully in terms of its ability to perform the contract and the tenderer must assist the CA in all reasonable ways requested by the CA in this regard.
- 23.2 As part of the evaluation process the CA may inspect the tenderer's premises and facilities (including workshops and depots), as well as public transport vehicles to be used for the tender by means of which the tenderer proposes to provide the services. The tenderer must give full co-operation in this regard.
- 23.3 The CA may appoint a firm of chartered accountants or other consultants to report on the financial resources of any tenderer or any other relevant aspects, either at the time of evaluating the tender or after the awarding of the contract. The tenderer must provide all reasonable assistance in such an investigation.
- 23.4 Subject to the Preferential Procurement Policy Act 5 of 2000 and other applicable legislation and policy, at least the following evaluation criteria will be used to evaluate tenderers:

#### **Qualifying Criteria:**

- (a) Completion of tender forms
- (b) Correctness of tenders
- (c) Financial ringfencing in the case of a public entity.

#### **Financial Criteria:**

- (a) Cost of tender
- (b) Financial sustainability
- (c) Vehicle ownership/financing.

#### **Operational Criteria**

- (a) Previous operational record
- (b) Electronic equipment
- (c) Vehicle profile
- (d) Depots
- (e) Services and maintenance schedule
- (f) Additional/spare vehicle capacity.



**24. DISQUALIFICATION OF TENDERERS**

- 24.1 The CA may reject a tender from a person, firm or corporation who has committed an act contemplated in clause 47.3(d) to (l) of the Conditions of Contract in respect of this or a previous tender or contract, or a tender from a person, firm or corporation that is or was a shareholder, member or director of such a first-mentioned firm or corporation.
- 24.2 Any restriction imposed upon any person, firm or corporation may, for the purpose of these rules, be applied to any other undertaking with which such person, firm or corporation is associated. The expression "person, firm or corporation" includes an authorised employee or agent of such person, firm or corporation.
- 24.3 The CA may take into account any decision of any departmental procurement structures of a municipality, province or national state department or other organ of state with regard to the restriction of a tenderer in the evaluation process.
- 24.4 Decisions of the CA to disqualify any person, firm or corporation in terms of rules 24.1 to 24.3 and any revocation or variation of such decisions may be communicated by the CA to the departmental procurement structures of any other organ of state.

**25. DISQUALIFICATION OF TENDER**

The tender of any tenderer which does not conform to these Tender Rules and the instructions reflected in the official tender notice, if any, shall be void unless accepted by the CA.

**26. TENDER ACCEPTANCE**

- 26.1 All tenders duly submitted and accepted as valid tenders, will be taken into consideration by the CA unless these rules provide otherwise.
- 26.2 The CA will notify the successful tenderer by telefax or e-mail, and post of the fact that its tender has been accepted. In this regard the Post Office shall be regarded as the tenderer's agent, and delivery of such acceptance to the Post Office shall be treated as delivery to the tenderer. Any time period stipulated in this contract which is to be calculated from the time of the said notice must be calculated from the date of faxing, e-mailing or posting of such notice, as the case may be.
- 26.3 Once the tenderer has been advised in writing of the acceptance of its tender, the contract, as defined in the Conditions of Contract, will come into being, subject to the provisions in the various contract documents relating to, among other things, amendment or cancellation and any conditions stipulated in the letter of acceptance. After acceptance of a tender the successful tenderer will be called "the Operator" in the contract document.

**27. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

All tender and contract documents relating to this tender shall be regarded as confidential, shall remain the property of the CA and may not be sold or otherwise disposed of, subject to the Promotion of Access to Information Act 2 of 2000 and

provided that information contemplated in Chapter 4 of that Act will not be disclosed except where disclosure is compulsory in terms of law.

## **28. ADDITIONAL QUALIFICATION FOR TENDERER**

- 28.1 No tender will be considered if the company, close corporation, joint venture, partnership or consortium through which the services are to be performed (including, where appropriate, the business entity or undertaking of any person or entity exercising ownership control over the business or undertaking of the tenderer, or performing services on behalf of, or in the capacity as agent of the tenderer) does not operate according to business principles with financial ringfencing, as required by regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services (Notice R.877 of 31 August 2009) made in terms of the Act.
- 28.2 All tenderers will be measured in terms of their overall performance on all elements of BBBEE as per BBBEE Scorecard contained in the BBBEE Codes of Good Practice defined in the Conditions of Contract. Based on the overall performance, a tenderer will be given a BEE status and will be recognized at the corresponding BEE recognition level.
- 28.3 Tenderers must also comply with any other relevant provisions of the Act or abovementioned Regulations.

## **29. SIGNING OF CONTRACT**

- 29.1 After the acceptance of the tender, as contemplated in rule 26 the Operator must within seven days of being called upon to do so, sign the contract document (Form 20). The contract document will be prepared at the expense of the CA in accordance with Form 20 of the Tender Forms, with such amendments as are agreed to by the CA and the Operator. Such contract document shall incorporate the documents mentioned in clause 44 of the Conditions of Contract and shall have the purpose of consolidating all the terms of the agreement between the Parties. Where feasible, alterations made by means of addenda will be incorporated in the text of the relevant volumes. Two contract documents will be signed, one for each Party.
- 29.2 The fact that the contract document referred to in rule 29.1 has been signed will not derogate from the provisions of rule 26.3 which provides that a binding contract will come into being as soon as the tenderer has been advised in writing that its tender has been accepted.

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## 1. DEFINITIONS

- 1.1 In this contract, words in the singular also include words in the plural and *vice versa* where the context permits.
- 1.2 In this contract any word or expression to which a meaning has been assigned in the Act or the National Road Traffic Act has the meaning assigned to it by those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

**"accepted", "approved", "authorised", "directed", "ordered" and "rejected"** means accepted, approved, authorised, directed, ordered or rejected by the CA or Representative;

**"Act" or "the Act"** means the National Land Transport Act 5 of 2009;

**"agreed"** means agreed in writing by the CA or the Representative on the one hand and the Operator on the other hand;

**"authorised stop"** means a stop, rank or terminal authorised by the relevant municipality;

**"bi-articulated bus-train"** means a bus which—

- (a) consists of three sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 116 other persons; and
- (d) has a continuous passageway over the length thereof;

**"bus"** means a bus as defined in the Act (designed or modified to carry more than 35 persons including the driver) by means of which the Operator proposes to provide the services and includes a standards bus, double deck bus, bus-train and bi-articulated bus;

**"business day"** means any day other than a Saturday, Sunday or official public holiday;

**"Business Plan"** means the business plan contemplated in Schedule 4;

**"BBBEE Codes of Good Practice"** means Codes of Good Practice on Broad Based Black Economic Empowerment (BBBEE) gazetted for the bus industry in terms of

section 9 of the Broad-Based Black Economic Empowerment Act 53 of 2003 on 21 August 2009 (*Government Gazette* 32511);

**"bus-train"** means a bus-train as defined in the National Road Traffic Regulations, i.e. a bus which—

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over the length thereof;

**"CA"** means contracting authority;

**"capacity"** in respect of vehicles means the maximum number of persons that may lawfully be carried in the vehicle, including all seated and standing passengers, but excluding the driver as specified in the relevant roadworthy certificate or legislation;

**"commencement date"** means the date on which the services to be provided by the Operator will commence as stated in clause 3 or the letter of acceptance of the tender, or such other date as may be agreed between the Parties in writing;

**"contract"** or **"this contract"** means this contract between the CA and the Operator resulting from the acceptance of the tenderer's tender by the CA, including the Schedules;

**"contracting authority"** means—

- (a) the ..... Municipality/Province; or
- (b) its successors in title; or
- (c) a municipal entity or provincial public entity established by that authority or any other agent appointed by it;

**"contract rates"** means the fixed and variable contract rates tendered by the successful tenderer and accepted by the CA as being the rates applicable to this contract;

**"clause"** means a clause of these terms and conditions of this contract;

**"day"** includes all days, i.e. weekdays, Saturdays, Sundays and public holidays;

**"date of first registration"** means in relation to a vehicle the date of first registration—

- (a) pursuant to the original manufacture of the vehicle; or
- (b) the date of manufacture shown on its compliance plate or chassis compliance plate,

**"Deputy"** or **"Representative's Deputy"** means the person appointed as such by the CA, or by the Supervising and Monitoring Firm (SMF) with the written consent of the CA, to perform the functions of such Deputy as set out in this contract;

**"double deck bus"**, means a bus which consists of two decks connected to form a unit with a capacity of up to 90 seated persons;

**"duty"** means a document providing written instructions to a driver of a vehicle specifying the various trips to be operated;

**"duty board"** means a board that displays the duty number of a particular vehicle for identification purposes;

**"early trip"** means a trip where the vehicle concerned departs from the departure point or any intermediate timing point specified in the time table, before the time listed in the time table;

**"EFVE"** means fully operational electronic fare validation and collection equipment which is designed and intended to be used to record information electronically about a ticket when the ticket is inserted into the equipment, or presented to the equipment for scanning, as more fully described in the Electronic Fare Collection Guidelines issued by the Department in November 2007, as amended from time to time and subject to the Regulations relating to Integrated Fare Systems published under Notice R.511 in Government Gazette no. 34363 of 17 June 2011;

**"end of term period"** means the last 12 months of the term of this contract or, if a termination notice is given by the CA, the period between the date that the termination notice is given and the termination date;

**"fare evasion"** occurs where a person uses public transport without a valid ticket and includes, but is not limited to—

- (a) using such transport with no ticket or concession, or with a ticket or concession that has expired or is defaced, altered or fraudulent;
- (b) using a ticket in the wrong zone or route or overriding the zone; and/or
- (c) using a ticket that was not validated;

**"financial records"** means proper books of account and all other financial and planning records of the Operator and any sub-contractors relating to the services that would ordinarily be maintained and compiled in terms of generally acceptable accounting practice including, but not limited to—

- (a) Cash flow records;
- (b) Financial modelling reports;
- (c) Notes, documents and data supporting the records and reports contemplated in (a) and (b) including management information systems, electronic ticketing system information, ledgers, spreadsheets, payroll registers, customer invoices, supplier invoices, bank statements, tax returns and insurance policies; and
- (d) Audited financial statements prescribed by any applicable legislation;

**"financial report"** means a detailed report and analysis by the Operator and any sub-contractors of their financial performance under this contract including copies of their most recent financial records referred to in the definition of "financial records", which must be their audited records where the law requires auditing;

**"fixed contract rate"** means the amount paid per peak vehicle per month to compensate the Operator for fixed or capital costs in terms of clause 39 as calculated

in accordance with Schedule 9, and shall be fixed for the duration of the contract, but subject to escalation in terms of clause 37 and subject to Item 2.8 in Schedule 9;

**“form”** means a form shown in Volume 3;

**“item”** means a paragraph of the relevant schedule to this contract;

**“maxi-bus”** means a bus with three axles and a seating capacity of between 71 and 90 passengers, including the driver;

**“MFMA”** means the Local Government: Municipal Finance Management Act 56 of 2003;

**“midibus”**, means a midibus as defined in the Act (designed or modified to carry from 17 to 35 persons including the driver);

**“minibus”**, means a minibus as defined in the Act (designed or modified to carry from 10 to 16 seated persons including the driver);

**“month”** means a calendar month;

**“multi-journey ticket” or “MJT”** means a ticket or token for a number of inbound and outbound trips on a specified route, valid for a period expiring on the date specified thereon or in the case of electronic payment methods the stored value of the payment instrument concerned;

**“National Road Traffic Act”** means the National Road Traffic Act 93 of 1996;

**“National Road Traffic Regulations”** means the National Road Traffic Regulations, 2000 promulgated under the National Road Traffic Act;

**“OEM”** means the original equipment manufacturer;

**“operating licence”** means an operating licence as defined in the Act, and includes a permit as defined in the Act, which is necessary to enable the Operator to provide the services in terms of this contract, and where the Operator is already in possession of such licence or a permit before the commencement date, includes any renewal, amendment or transfer thereof necessary to enable the Operator to provide the services;

**“operational records”** means those records of the Operator and any sub-contractors relating to the operational aspects of the services of a kind that would ordinarily be maintained and which will at least include the following:

- (a) Revenue kilometres operated;
- (b) kilometres operated for dedicated school services;
- (c) trip cancellations and services not operated, including reasons;
- (d) environmental incidents and emergencies;
- (e) passengers conveyed;
- (f) any records relating to the operational aspects of the conduct of the services required by any legislation; and
- (g) accidents involving injuries or fatalities.

**“operational report”** means a detailed report and analysis by the Operator and any sub-contractor of its operational performance under this contract including, but not limited to—

- (a) an analysis of trips not operated, trips cancelled and trips operated late and early;
- (b) an analysis of revenue kilometres completed;
- (c) an analysis of kilometres operated for dedicated scholar services;
- (d) an analysis of the condition of vehicles operated and inspected and details of vehicles found not to be contract compliant;
- (e) an analysis of the actual availability of vehicles for scheduled services;
- (f) an analysis of the passengers transported subdivided as required by the CA;
- (g) an analysis of cash and MJT tickets cancelled;
- (h) details of complaints received; and
- (i) any other information required by the CA,

which report must be in the form required by the CA and which enables the CA to measure the Operator's performance against any applicable performance benchmarks;

**“Operator”** means the person, company, close corporation, trust, joint venture, partnership or consortium whose tender has been accepted by the CA as described in the Tender Forms and includes the Operator's executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the CA, any cessionary, delegate or sub-contractor of the Operator or substitute Operator;

**“ownership control”** means the ability to exercise or to influence substantially the exercise, of any of the financial and operating policies of an operator so as to obtain a benefit from its activities;

**“Party”** or **“Parties”** means the CA and/or the Operator, as the context indicates;

**“passenger kilometre capacity”** means the capacity of a vehicle in terms of passenger kilometres over a specific route distance calculated by multiplying the legally seated capacity of the vehicle by the trip kilometres;

**“payment certificate”** means the claim form certified by the Representative and subject to the approval of the CA, being the total of the forms and certificates required by the CA to be completed, signed and submitted by the Operator in support of its monthly claim, and which is in accordance with Form 1 in Volume 3;

**“peak vehicle”** means a vehicle required by the Operator to provide services during the peak periods described in the time table;

**“PFMA”** means the Public Finance Management Act 1 of 1999;

**“positioning kilometres”** or **“dead kilometres”** means kilometres travelled by a vehicle with or without passengers—

- (a) from a depot to the starting point of a scheduled trip;
  - (b) from the end of a scheduled trip to a depot; or
  - (c) from the end of a scheduled trip to the starting point of the next scheduled trip;
- for which the Operator is not entitled to be compensated in terms of this contract;



**“public transport vehicle”** means a bus, midibus or minibus;

**“rapid transport bus”** or **“rapid transport bus train”** means a bus authorised to operate along a rapid transport lane in a bus rapid transport system, and which has a regulated floor height and door configuration designed to facilitate speedy access of passengers to and from dedicated loading facilities, and includes the sub-categories set out under the same definitions in the National Road Traffic Regulations;

**“Rebuilt bus”** means a bus rebuilt in accordance with the specifications set out in Schedule 1;

**“Rehabilitated bus”** means a bus rehabilitated in accordance with the specifications set out in Schedule 1;

**“Representative”** means the person appointed as such by the CA, or by the SMF with the written consent of the CA, to supervise and monitor the services and to perform the functions of Representative in this contract, or a person authorised by the CA to act on its behalf. “Representative” also includes the Representative’s delegate contemplated in clause 34. If no such person is formally appointed, the word “Representative” means any person duly appointed by the CA to represent it and notified to the Operator in writing;

**“revenue kilometres”** means scheduled kilometres actually operated on approved routes for which the Operator is entitled to be compensated in terms of this contract;

**“route”** means a fixed path from origin to destination along a series of roads with intermediate stops as specified in Schedule 7 or otherwise agreed to between the Parties;

**“scheduled kilometres”** means those kilometres which are authorised in accordance with the time table, as approved and amended from time to time and which will become revenue kilometres if operated;

**“scheduled trips”** means those trips which are authorised in accordance with the time table, as approved and amended from time to time;

**“separate agreement”** means a new agreement between the CA and the Operator for operating additional services which were not contemplated in this contract, are not required for the proper fulfilment of the this contract and do not amount to variations in terms of clause 16;

**“service area”** means the residential, business, industrial and other areas served by the routes, as described in Schedule 7, in which the services will be operated;

**“services”** means the services for the transportation of passengers along the routes by specified vehicles at specified times and frequencies and stopping at specified locations, which are to be provided in terms of this contract;

**“SMF” (Supervising and Monitoring Firm)** means a firm appointed by the CA if it so decides to act on its behalf for the supervision and monitoring of the services;

**“specifications”** means the specifications set out in Schedule 7 in which the services including routes, distances, fares, timetables, stops and any additional related information are described, and includes the vehicle specifications set out in Schedule 2;

**"standard bus"** means a bus with a capacity of from 36 to 70 seated persons, and the number of standing passengers authorised by the relevant roadworthy certificate issued in terms of the National Road Traffic Act;

**"sub-contractor"** means an operator that has the approval of the CA to provide an agreed portion of the services as shown in Schedule 8;

**"substitute operator"** means an operator appointed on a temporary basis in terms of clause 19;

**"tender"** means a written offer on the official tender forms issued pursuant to an invitation to tender;

**"tender amount"** means the total amount in a tenderer's tender for the provision of the specified services as shown on Tender Form 12, which amount is only relevant for evaluation purposes and to determine whether the CA will have adequate funds to cover the contract payments and is subject to adjustment in respect of—

- (a) arithmetical errors that may occur in the priced schedules and are corrected;
- (b) acceptance of alternative offers;

**"tender documents"** means the documents comprising, among others, the Tender Rules, Conditions of Contract, Tender Forms and addenda, inviting tenders for the operation of the services;

**"tendered rates"** means the amounts per revenue kilometre tendered for providing the services (variable contract rates) and the amounts per vehicle (fixed contract rates) as shown in Tender Form 12;

**"tenderer"** means the person, close corporation, company, joint venture, partnership, trust or consortium submitting a *bona fide* offer to provide the services specified in the tender documents, but excludes any assignee of the tenderer without the written consent of the CA;

**"ticketing system"** means electronic equipment as part of the EFVE for the collection of fares and validation of tickets, passes, smart cards or value cards;

**"time table"** means a schedule of passenger carrying trips approved by the CA, indicating all departure times from points of origin and specified intermediate points (not necessarily all authorised stops) as well as arrival times at destinations on each route for specified days, subject to any variation thereof in terms of clause 16;

**"trip"** means the operation of a vehicle, carrying fare paying passengers, travelling in a single direction on a route as set out in the authorised time table, including any variations approved by the CA or Representative in writing in terms of clause 16;

**"unsuitable vehicle"** means a vehicle which is materially different from those specified in Schedule 2 and Form 11 in terms of age, make, model or otherwise, or which the CA and/or Representative in their discretion deem to be unsuitable to provide the services adequately or which does not comply with the National Road Traffic Act or other applicable legislation;

"**variable contract rates**" means the rates per revenue kilometre agreed upon between the Parties as being the rates used to calculate payments to the Operator under clause 39 and as described in Schedule 9;

"**vehicle**" means a public transport vehicle; and

"**waybill**" means a document provided by the Operator that details duty, route and trip details (including details of passengers carried and tickets issued and cancelled per trip and revenue collected) as shown in Form 24.

## 2. PREAMBLE

### WHEREAS:

- 2.1 The CA has developed an integrated public transport network/integrated transport plan to provide better public transport service to the travelling public in its area. *[In the case of a province "has concluded an agreement with the .....Municipality dated ..... which is attached hereto as Schedule .... and in terms of which the Province will manage this contract and the services provided in terms thereof on behalf of the Municipality"]*
- 2.2 The CA has contracted the Operator to provide the services pursuant to acceptance of the Operator's tender, subject to the terms and conditions of this contract.

### **3. COMMENCEMENT DATE AND DURATION**

- 3.1 The Operator must commence the services on ..... 20... or as otherwise agreed between the Parties in writing. *[Note: where possible the commencement date should coincide with the start of the municipality's financial year (even where the CA is the province acting on its behalf.)]*
- 3.2 The contract shall run for seven years, but the CA may, in its sole discretion, and depending on the performance of the Operator as gauged by the method shown in Schedule 8, extend the contract for a further period of not more than five years. The CA must, irrespective of its decision to so extend the contract or terminate it, notify the Operator in writing of its decision no later than the start of the end of term period. Should the CA have decided to extend the contract for a further period of five years, the Operator must confirm in writing that it will continue for the extended period or terminate its services at the expiry of the initial contract period no later than twelve months before the expiry of the initial period. This will allow the CA to secure the services of a new service provider through a tendering process.
- 3.3 Should the CA decide to extend the contract period in terms of clause 3.2, the parties must negotiate new contract rates for the period of the extension as soon as possible after the Operator is notified of the CA's decision. Once new rates have been agreed upon, they will apply as from the start of the extended five-year period of the contract and for the purposes of clause 37 (Escalation) the base month shall be the month prior to the month in which the extended five-year period starts. Should the Parties not have agreed on new rates within 90 days of the start of the end of term period, the CA may, despite a previous decision to extend the contract, terminate the contract on giving the operator not less than 90 days written notice.
- 3.4 It is recorded that the CA may request tenders for the provision of the services in substantially the same service area as required by the Act before the start of the end of term period for a period commencing on termination of this contract. If this is done, any new contract awarded shall amount to a totally new contract based on the terms and conditions set out in the relevant tender documents.
- 3.5 If the subsequent contract is awarded to a different operator, the Operator undertakes to give its full support and co-operation in effecting the transition of the services to that other operator including, but not limited to, submitting the relevant operating licences to the applicable regulatory entity for cancellation or amendment.
- 3.6 Nothing in this contract is intended to give to, nor shall give the Operator a legitimate expectation regarding any extension of this contract, being either an extension contemplated in clause 3.2 or otherwise, or an expectation to be appointed as the operator in any extended or subsequent contract. The appointment of an operator for any extended period or subsequent contract being in the sole and absolute discretion of the CA.

### **4. INDEPENDENT CONTRACTOR**

- 4.1 The Operator shall act as an independent contractor and not as an employee or agent of the CA and does not have the authority to bind the CA contractually to any

other party. The CA shall not be liable to pay any retrenchment or severance benefits to any of the employees of the Operator on dismissal or on expiry of the contract period and the Operator hereby unequivocally and unconditionally indemnifies the CA against any such claim.

- 4.2 The Operator must obtain the prior written approval of the CA for any changes in ownership control, which approval will not be withheld unreasonably.
- 4.3 If approval is granted for a change of ownership control, the Operator must provide the CA within seven days with the particulars of any such change as shown in Form 22 in respect of the new person or entity exercising such control. Failure to do so will result in imposition of a penalty in accordance with Schedule 6 or alternatively the CA may terminate the contract in terms of clause 47.

## **5. DATA AND OTHER STATISTICS**

- 5.1 All data and statistics of whatever nature provided by the CA concerning existing or former services are provided in good faith as the best information available to the CA at the relevant time, to assist the Operator. No guarantee of the correctness of the data and statistics is given by the CA and no claims by the Operator arising from incorrect data or statistics or as a result of incorrect estimates made by the Operator, regarding existing or potential numbers of passengers, or otherwise, will be entertained. The Operator must note that services required to be provided in terms of this contract might differ from existing or former services provided in the service area and passenger numbers may differ over time.
- 5.2 It is the duty of the Operator to inform and satisfy itself fully as to the nature and extent of the services and conditions in respect of which it is contracting. No claims of any nature will be entertained on the basis of a failure to make such enquiries.
- 5.3 Six months after the commencement date the CA must arrange a meeting with the Operator to compare the passenger base load figures and scheduled weekly kilometres provided by the CA before that date with the actual loads and scheduled weekly kilometres achieved since that date. If there is a deviation of more than 10% (ten percent) which is either positive or negative, the Parties must re-negotiate the contract rates to take account of the variation. If the Parties are unable to agree on new contract rates within 14 days after the date of the meeting, either Party may declare a dispute in terms of clause 41.

## **6. INFORMATION**

- 6.1 The Operator must submit all applicable information and data as may be required in terms of the contract documents within the required time frames. The CA may if it regards the information supplied as insufficient, call for further information. The Operator must furnish such additional information within seven days of being called upon to do so, in writing failing which penalties will be imposed in accordance with Schedule 6.
- 6.2 Any explanation desired by the Operator regarding the meaning or the interpretation of this contract must be requested in writing from the CA and the CA must respond in writing within seven business days. No oral explanations will be binding unless

confirmed in writing. Such an explanation will not be regarded as an amendment of this contract unless the parties agree to it in writing as contemplated in clause 46.2, and will not amount to a variation unless made in terms of clause 16.

- 6.3 No oral representations or statements by the Representative or any other officer, employee or agent of the CA shall affect or modify any terms or obligations of this contract.
- 6.4 The CA will not be responsible for any oral instructions, nor for any written information provided by any person other than the CA, the Representative or a dedicated official or agent of the CA appointed by the CA to manage the contract..
- 6.5 The Operator must retain all information and records pertaining to this contract and keep them available to the CA for inspection for the duration of this contract and for at least three years after the expiry or termination of this contract.

## **7. CONTRACT RATES ALL-INCLUSIVE**

- 7.1 In terms of the Tender Rules, the Operator has satisfied itself as to the correctness and sufficiency of the contract rates which shall (except in so far as is otherwise provided) cover all of the Operator's obligations under this contract.
- 7.2 The contract rates are calculated to cover full compensation for all general preliminaries, expenses incurred in complying with the conditions and Specifications, other costs, dead kilometres as well as everything else necessary for the execution of this contract. No claims of whatever nature will be entertained based on the fact that they are too low or do not cater for all eventualities or that they were incorrectly calculated.
- 7.3 The Operator must also make sufficient allowance in the contract rates for all costs in connection with the preparation and furnishing of any information that may be required by the CA as contemplated in clause 6.1.
- 7.4 The Operator's attention is drawn to the fact that the services may be varied during the contract period under clause 16, which could lead to an increase or decrease of monthly scheduled kilometres.
- 7.5 The Operator is advised that the services may have been rationalized and that routes, time tables etc. may not necessarily be the same as those operated previously.
- 7.6 Scheduling of vehicles for optimal use thereof, subject to the agreed timetables, will be the responsibility of the CA. Contract rates will be fixed for the contract period, subject to clauses 5.3 and 39.23.
- 7.7 Monthly payments to the operator, as well as fares paid by passengers, are not subject to Value Added Tax (VAT). VAT is payable by the Operator on certain items such as tyres and lubricants, and the contract rates must provide for this. Any possible future increases in the rate of VAT will be reflected automatically in the escalation factor.

## 8. INVESTIGATION OF OPERATOR

- 8.1 The CA or its authorised agents may inspect the Operator's premises and facilities (including workshops and depots), as well as vehicles by means of which the Operator provides or proposes to provide the services, at any reasonable time. The Operator must give full co-operation in this regard.
- 8.2 The CA may appoint chartered accountants or other consultants to report on the financial resources or any operational aspects of the Operator at any time during the contract period or, if necessary, thereafter.
- 8.3 The Operator must provide all reasonable assistance in such an investigation and on request by such accountants or consultants provide documentation or other information within seven days, failing which penalties will be imposed in accordance with Schedule 6.
- 8.4 The CA may require that the Operator's passenger revenue and cash handling procedures, be audited by an independent third party within a reasonable period specified by the CA.
- 8.5 The Operator must permit the CA or any agent of the CA to inspect at any reasonable time and ensure that any sub-contractor permits the CA to inspect—
- (a) the books, records and other material kept by or on behalf of the Operator or any sub-contractor (including any records relating to employees); and
  - (b) the Operator's or sub-contractor's premises, depots and contract vehicles, in order to—
  - (c) check or audit any information supplied to the CA under this contract; or
  - (d) monitor the performance of the Operator or sub-contractor or compliance by them with their obligations under this contract.
- 8.6 If, at any time during the contract period, the CA believes reasonably that the solvency of the Operator is in doubt and that the situation is likely to affect adversely the continuity of the services, the CA may request the Operator to provide a statement of financial position certified by its directors, members, trustees or auditors. The Operator must comply with the CA's request within seven days or a period mutually agreed upon.
- 8.7 If any survey or inspection conducted in terms of this contract reveals that information previously supplied to the CA was in any material respect inaccurate, the Operator shall be liable for any damages suffered by the CA as a result thereof which will be dealt with *mutatis mutandis* in the manner set out in clause 39.22 and will be in addition to the CA's rights to impose a penalty as provided for in Schedule 6 or to terminate the contract in terms of clause 47.

## 9. MANAGEMENT OF THE SERVICES

- 9.1 The CA shall—
- (a) Determine the routes, trips, fares and timetable of the services;
  - (b) Determine the operating hours for each day, which may differ for Fridays, Saturdays, Sundays, public holidays and school holidays;

- (c) Prescribe other terms, conditions or operational rules deemed necessary for the provision of the services;
- (d) Provide instructions and directions to the Operator; and
- (e) In its sole and absolute discretion, amend the schedules, routes or timetable in the case—
  - (i) of an emergency;
  - (ii) where financial or budgetary restrictions demand an amendment to the services; or
  - (iii) of other events beyond the reasonable control of the CA.

9.2 The Operator shall at all times comply with the instructions, directions, terms, conditions and operating rules provided to it by the CA or its designated representatives.

9.3 The Operator may not deviate from the timetable and must ensure at all relevant times that it provides sufficient vehicles and trained drivers, mechanics and other staff to enable it to comply with the specifications and to provide the services adequately, and to be on standby to avoid any interruption or delay in providing the services.

9.4 The Operator must during the full period of the contract ensure at all times that it maintains adequate levels of fuel, in order to ensure efficient and uninterrupted delivery of the services. If the Operator uses off-premises fuel storage facilities, it must put in place adequate contingency arrangements to the satisfaction of the CA to ensure adequate and timeous delivery of fuel. However the Operator will not incur penalties where failure to provide services is due to fuel shortages that are beyond the Operator's control.

9.5 The CA or its representatives may conduct random spot checks to ensure compliance with clauses 9.3 and 9.4.

## **10. BUSINESS PLANNING, RECORDS AND REPORTING**

10.1 The Operator must within the time periods stated in this contract or, where no time period is indicated, within the time required by the CA, submit the Contract Management Plans, Business Plans, Operational Reports and other information set out in Schedule 4, and must assist the SMF to provide the reports and other information set out in Schedule 5.

10.2 The Operator and any companies holding shares in the Operator must at all times comply with good governance principles as contemplated in the King III Report and must comply with the Companies Act, 2008 and other applicable legislation regarding good governance, business planning, records and reporting. Should the articles of association, shareholders' agreement, founding statement, constitution or like document(s) of the Operator or any companies holding shares in the Operator be amended, the Operator must supply the CA with copies of those documents within seven days of the amendment, failing which the Operator will be deemed to have failed to comply with clause 4.3 and a penalty will be imposed as contemplated in that clause.



## 11. PROVISION OF SERVICES

- 11.1 The Operator must, on each day on which the services specified by the CA in Schedule 7 are to be provided, operate those services in accordance with the routes, vehicles, timetables and fare tables set out in that Schedule, and any other conditions set out in this contract, and not make any change to the service without obtaining the prior written approval of the CA in terms of clause 16, except in the case of emergency or another event contemplated in clause 15.
- 11.2 It is the responsibility and prerogative of the CA to develop and plan the services in accordance with its obligation in terms of the Act. This includes, among others the planning and specification of routes, timetables, vehicle types to be used, fare structures and scheduling of services to ensure optimal utilization of vehicles and capital cost.
- 11.3 The CA may also prescribe minimum service levels and assess performance, and may, where appropriate, vary the services in terms of clause 16.
- 11.4 The CA may, after consulting the Operator, issue protocols and standard operating procedures from time to time indicating how the services are to be provided, or where applicable how the Operator must work together with other operators of public transport modes. If such protocols or operating procedures will result in additional costs for the Operator that do not amount to variations under clause 16, the Parties must agree on additional compensation for the Operator.
- 11.5 The Operator accepts that the routes assigned to it in the Specifications may not always be for its exclusive use and may also be used by other public transport operators, as directed or decided by the CA. If other operators are allowed to compete with the Operator at a later stage and this is likely to impact adversely on the Operator's income, the Parties may negotiate additional compensation for the Operator. This will not apply to other bus and taxi operators operating the routes on the commencement date.
- 11.6 The Operator must exercise the highest degree of skill, care and diligence in the provision of the services and operate the services strictly in accordance with the specifications, as well as the other relevant provisions of this contract, to the satisfaction of the CA. The Operator must comply with and strictly adhere to the instructions and directions of the CA and Representative regarding the operation of the services, subject to clause 15. The Operator must take instructions and directions only from authorised officials and agents of the CA, identified in terms of clause 34.
- 11.7 Depending on the requirements of this contract as to which type or combination of types of vehicles are to be provided by the Operator, the Operator must provide for each trip a vehicle having the passenger capacity as specified in the definitions of "minibus", "midibus", "standard bus", "double deck bus" and/or "bus-train", as the case may be and that conforms fully with the requirements and attributes of clause 24 and Schedule 2.
- 11.8 The Operator may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question or on grounds of violent, abusive or otherwise illegal or offensive conduct on the part of that person or other grounds contemplated in the Act or the National Road Traffic Act, or because the person refuses to pay the fare or present an invalidated ticket.

- 11.9 Should the Operator become aware of circumstances or problems which have prevented, are preventing or will prevent the Operator from providing the services as specified, the Operator must, as soon as is reasonably possible but not later than eight hours after becoming so aware, advise the CA of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced thereby, if applicable. Such advice must be confirmed in writing within 24 hours. The Operator must in such circumstances comply with clause 15.
- 11.10 In addition to any statutory obligations, the Operator must immediately after its occurrence, report to the CA or Representative any accident in which persons have been injured or killed. This must be followed by a written report containing full details of the occurrence within four business days of the occurrence.

## **12. OPERATING LICENCES AND PERMITS**

- 12.1 The Operator must promptly do everything in its power to obtain and maintain in force all operating licences or permits, including licences and permits required by local authorities, pay all fees and levies and issue all notices as may be necessary for or be connected with the due operation of the services in accordance with the Act and other applicable legislation.
- 12.2 The Operator must apply for the necessary operating licences or amendments not later than seven days after this contract was concluded in terms of regulation 16 of the National Land Transport Regulations, 2009 and provide all necessary information and assistance to the CA and competent regulatory entity to obtain the necessary operating licences, or amendments to existing permits or operating licences, or approval of fare increases, as the case may be, covering the contract routes in terms of section 56 of the Act both for the Operator and any sub-contractors, unless it is already in possession of such licences, permits, amendments or approvals. In terms of that section the operating licences will be for the duration of the contract period only and will be specific to the contract. When such licences are issued, the Operator must supply copies to the CA within five days.
- 12.3 The Operator must take all reasonable steps to obtain the granting and issuing of the operating licences or amendments referred to in clause 12.2 as expeditiously as possible. If for any reason the necessary operating licences or amendments have not been granted and issued by a date being 14 days prior to the commencement date and the CA in its discretion after consultation with the Operator decides that it is unlikely that the Operator will obtain the licences in time to enable it to provide the services on the commencement date, the CA may—
- (a) cancel the contract after having given seven days' notice of its intention to do so, in which event the Parties shall be entitled to restitution with no claims against each other, unless the Operator was in bad faith (*mala fide*) or the failure to obtain operating licences timeously or at all, was due to its fault or negligence; or
  - (b) postpone the commencement date on written notice to the Operator, in which event, if the Operator is providing services before the commencement date on some or all of the routes in question in terms of another contract or arrangement, the Operator must continue providing the services according to that contract or arrangement until the operating licences are obtained.
- 12.4 Should another operator or interested person oppose, challenge or appeal against the granting of such operating licences, the Operator must do everything necessary

to defend or counter the opposition, challenge or appeal, subject to the directions of the CA, and the costs thereof shall be borne by the CA, provided that if the opposition, challenge or appeal arises as a result of the Operator's failure to do all things reasonably necessary as contemplated in this clause, the Operator shall bear all costs associated therewith.

12.5 The Operator must forthwith upon the occurrence of any of the following events notify the CA in writing of the details thereof:

- (a) Any revocation, suspension or refusal to renew any licence or permit necessary for the provision of the services, and
- (b) The imposition of any condition upon such licence or permit or any other circumstance which would prevent the Operator from providing the services in accordance with the contract.

### **13. TIMETABLES**

13.1 Subject to this clause and clause 16, the services reflected in the timetables provided in Schedule 7 are the services that the CA requires the Operator to operate as on the commencement date.

13.2 Due to the lapse of time between the drafting of the tender and contract documents and the commencement date, as well as possible changing circumstances, variations to the timetables may be necessary before commencement of the services. If this is the case, the Parties must agree on appropriate timetables at least 15 business days before the commencement date. If this is not done the timetables in Schedule 7 as at the date of signing of this contract shall be operated on the commencement date until further notice from the CA.

13.3 The CA will formulate a proposed timetable to apply during holiday periods, after consulting the Operator, at least 14 days prior to public holidays and/or holiday periods. Such time table will be binding on the Operator for such holiday period.

### **14. SUBMISSION OF DUTIES**

14.1 Subject to clause 13, the Operator must submit a document to the CA containing all the duties and timetables to be operated for each category of operating day and vehicle on a weekly basis not later than 8:00 each Wednesday morning.

14.2 No changes may be effected to the duty numbers without seven days' prior written notification to the Representative, and passengers.

### **15. TEMPORARY INTERRUPTION OF SERVICES**

15.1 Cancellation of scheduled trips that form part of a reduced service during holiday periods is permitted if the CA or Representative approves them in writing at least 14 days in advance.

15.2 Cancellation of scheduled trips other than that due to a strike or stay away action that is reasonably beyond the Operator's control or could not be prevented by the

Operator, is not permitted unless the CA or Representative approves them in writing at least 14 days in advance.

- 15.3 Cancellation of other scheduled trips by the Operator is not permitted unless in the opinion of the CA or Representative the cancellation—

- (a) is due to unforeseen emergencies, road closures, obstructions, floods or weather conditions or other circumstances or problems contemplated in clause 11.8; or
- (b) results from immediate danger to life or of personal injury and/or serious damage to property, and

the CA or Representative have approved the cancellation in advance, and if such approval was granted telephonically or by the SMS, the approval has been confirmed in writing by the CA within 48 hours of having been given.

- 15.4 Cancellation of scheduled trips by the Operator must be agreed to in writing by the CA or Representative.
- 15.5 The discretion on whether a scheduled trip is validly cancelled or not shall lie solely with the CA, and the Operator may declare a dispute under clause 41 if dissatisfied with the CA's decision .
- 15.6 Where the Representative directs the Operator to provide services in circumstances where the Operator is of the opinion that there is immediate danger to life or of personal injury or of serious damage to property, due to violence, conflict, serious intimidation of drivers or boycott action, either against the Operator's firm or generally, the matter shall be referred to the CA for decision within 24 hours and the CA's decision will be final. If the CA decides that there was not in fact such danger, the Operator will be penalized under Schedule 6 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.7 Where the Operator is of the opinion that scheduled trips should be cancelled due to boycott action, either against the Operator's firm or generally, the Operator must, through the Representative, refer the matter to the CA for decision. If the CA decides that such cancellation is justified the variable contract rate will not be paid for services not provided but the fixed contract rate will still be paid: if not, the Operator shall be penalized in accordance with Schedule 6 for not providing the services. Should the Operator be dissatisfied with the CA's decision, the Operator may declare a dispute under clause 41.
- 15.8 The Operator must inform the Representative immediately of any proposed cancellation of any scheduled trips in terms of this clause and the Parties must then meet on an urgent basis to agree to the deviation, if any, to be allowed, and the re-commencement of the services. If they fail to reach agreement within three hours of having met for the first time, the CA's decision will be final and binding on the parties.
- 15.9 For the purposes of this clause "emergency" means a situation which is beyond the control of the Operator, for example strikes, stayaways, riots, *vis major*, etc., and which makes the provision of the services or part thereof impossible.

## 16. VARIATIONS

- 16.1 The Operator must comply with the services set out in the Specifications in Schedule 7 in respect of routes, time tables, vehicles and fare structures.
- 16.2 The CA or Representative may after consultation with the Operator make the following variations to the services within the service area:
- (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 necessarily 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; and
  - (f) to make alterations in connection with vehicle capacities as contemplated in clause 16.3, and no such variation shall in any way invalidate or vitiate the contract. The Representative must notify the Operator in writing of any such variations made to the existing services and the Operator must comply with any such variations. The Operator must give passengers not less than seven days' notice of such variations, including any intended changes to the time table unless a shorter period is approved by the Representative.
- 16.3 The Operator may apply in writing to the CA for a variation in the types of vehicles which are used to provide 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 CA consenting to such a variation the financial implications thereof on the contract rates (if any) and time table shall be agreed upon in writing. The decision of the CA in this regard shall be final and be communicated to the Operator in writing within 14 days of receipt of the request.
- 16.4 If it appears to the Operator that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Operator must apply to the CA for permission to introduce additional trips to cater for such passengers and such permission will not be unreasonably withheld. If written permission is granted and additional trips introduced, the CA shall compensate the Operator therefore at the applicable variable and fixed contract rates as from the first day of the month following the approval and all costs incurred by the Operator prior to that day shall be for the Operator's own account.
- 16.5 If it appears to the Operator or Representative that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the CA may at the request of the Operator or Representative approve that—
- (a) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
  - (b) the Operator continues operating the vehicle, in which case the Operator will be paid at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity as the CA might consider appropriate for the circumstances for the relevant kilometres. If the CA does not approve the

application it may remove the trip or route from the time table in terms of clause 16.2.

- 16.6 Where a variation is made or approved in terms of this clause, any cost to the Operator occasioned by such variation will be catered for in the fixed and variable contract rates calculated as indicated in Schedule 9.
- 16.7 Where approved variations in terms of this clause result in the amount of revenue kilometres that the Operator had to operate on the commencement date being increased or decreased by more than 15% during peak periods, the fixed contract rate will be renegotiated based on the principles in Schedule 9. If the Parties cannot agree on a new rate, the matter will be treated as a dispute under clause 41, and the Operator will continue to be remunerated based on the tendered rates that applied on the commencement date until a new fixed contract rate is determined. The new rate will then apply retrospectively as from the date that the variation was implemented, and the difference will be made up in the next monthly payment following the resolution of the dispute.
- 16.8 If the CA requires services to be provided in areas outside the service area or on special occasions these will be negotiated under a separate agreement the terms of which will have no bearing on this contract and may not impact negatively on the Operator's obligations in terms of this contract.
- 16.9 Services provided in terms of clause 16.7 will be provided at rates as set out in Schedule 9 and as requested by the CA in writing, subject to the availability of vehicles and staff as agreed to by the Operator, keeping in mind that, once agreed to, such commitments shall in no way relieve the Operator from operating the scheduled trips as provided in the timetable applicable to this contract.

## **17. CESSION AND DELEGATION**

- 17.1 The Operator may not cede its rights or delegate its obligations under this contract or any part thereof, or any benefit or interest therein, to another person, whether as security or otherwise, without the prior written consent of the CA. The CA may regard a contravention of this sub-clause as a material breach of contract justifying termination thereof in terms of clause 47.
- 17.2 It shall be in the sole discretion of the CA to grant or refuse such consent, which shall not be withheld unreasonably.
- 17.3 The CA may at any time during the currency of this contract cede its rights or delegate its obligations in terms thereof to a municipal entity or provincial public entity as defined in the MFMA or PFMA, as the case may be.

## **18. SUB-CONTRACTING**

- 18.1 To implement government policy relating to the promotion of small business and BBBEE, the Operator must sub-contract the services as specified in the timetables.
- 18.2 The Operator must, within seven days of signing this contract, advertise the services to be sub-contracted in local newspapers for not less than 14 days, and after receiving the names of interested parties submit these to an evaluation committee, to

- be established for this purpose, consisting of representatives of the Operator and the CA for discussion. The CA must consider the views of such committee, but the CA must make the final decision.
- 18.3 The sub-contracting envisaged in clause 18.1 must be implemented from not later than three months after the commencement date and until termination of the contract.
- 18.4 The sub-contractor—
- (a) must be 100% owned by persons previously disadvantaged by unfair discrimination who are not also shareholders of the Operator and who are not agents, employees of or fronts for the Operator;
  - (b) must have a management structure on which at least 60% of managers are such persons and have active involvement in the daily management of the sub-contract; and
  - (c) may not be directly or indirectly owned, controlled or managed by any person who is a shareholder, employee or agent of the Operator or CA or who is the partner or immediate family member of such a shareholder, employee or agent.
- 18.5 The Operator must communicate any change in shareholding or ownership in the sub-contractor to the CA in writing within seven days of the change coming to its notice.
- 18.6 The CA may set selection criteria for sub-contractors and directives for the Operator in the use and management of sub-contractors, and the Operator must comply with such criteria and directives. Such criteria or directives may include, but need not be limited to, requirements regarding the use of experienced management assistance by the sub-contractor.
- 18.7 The Operator must conclude a written sub-contracting agreement in the form set out in Schedule 14 with each sub-contractor.
- 18.8 The Operator may not amend the sub-contracting agreement without the prior written approval of the CA. If the Operator does so penalties will be imposed in accordance with Schedule 6.
- 18.9 The Operator must, if required in writing by the CA, provide proof of registration or payment by its intended sub-contractors of insurance premiums and taxes and levies required by law and provide a tax clearance certificate from the SA Revenue services for each sub-contractor.
- 18.10 If consent is given for a sub-contract under this clause no contract between the CA 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.
- 18.11 Where applicable, the Operator must ensure that each sub-contractor is formalised into a business entity approved by the CA within six months of the commencement date of the contract.

- 18.12 The Operator must ensure that a monthly payment certificate, the format of which is approved by the CA is compiled in respect of payments from the Operator to the sub-contractor and attached to the Operator's monthly payment certificate. The Operator's payment certificate will not be processed for payment if such certificate is not attached.
- 18.13 The Operator must ensure that payment into the dedicated bank account of the sub-contractor is effected by electronic funds transfer within two working days of receiving payment from the CA, failing which the CA may deduct the amounts owing from any future payment to the Operator and pay them directly to the sub-contractor, in addition to any other rights that the CA may have.
- 18.14 The CA may at any time withdraw consent for a sub-contract after giving not less than 30 days' notice to the Operator where the sub-contractor does not meet the CA's qualification criteria for sub-contractors or commits an act or omission contemplated in clause 47.
- 18.15 In the event that consent for a sub-contract is withdrawn no claim against the CA 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 CA against any claims and costs so incurred.

## **19. SUBSTITUTE OPERATOR**

- 19.1 The Operator may appoint a substitute operator on a temporary basis in the circumstances contemplated in clause 19.2, and subject to this clause.
- 19.2 Before the Operator appoints any substitute operator it must obtain the written consent of the CA who must approve the substitute operator as fit and proper to provide the services.
- 19.3 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 must make all reasonable attempts to provide the services, including the option of finding licensed substitute operators to cover all scheduled trips. If there is no time to obtain prior written authority from the CA before the appointment of the substitute operator, the Operator must inform the Representative of the particulars of such substitute operator the same day and the CA will approve or refuse consent within three days.
- 19.4 Where a substitute operator has been providing the services for 30 days or more, the CA may cancel this contract and direct that the Operator and/or substitute operator leave the service area, and may appoint another operator of the CA's choosing as a stopgap measure while the required procedures are followed to award a new contract.
- 19.5 If the Operator is not able for any reason to provide scheduled trips for any consecutive period of 24 hours and fails to arrange for a substitute operator, it must immediately inform the Representative to this effect to enable the CA 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, the Operator shall



be liable for all the associated extra costs, and penalties in terms of Schedule 6 will be imposed for scheduled trips not operated.

## **20. SERVICES OUTSIDE OF THIS CONTRACT**

20.1 In addition to the services which the Operator is obliged to provide in terms of this contract, it may, with the prior approval of the CA, operate any other passenger transport service with vehicles owned by the Operator and specified for use in this contract, provided that—

- (a) the operation of such service does not in any way interfere with the full and complete performance by the Operator of its obligations under this contract;
- (b) the additional services do not operate in competition with the services specified in this contract; and
- (c) the Operator will compensate the CA in an amount to be agreed upon and deducted from the relevant monthly claim or claims, to compensate for the fact that the subsidy paid under the contract partially covers vehicle costs.

20.2 The Operator may not operate any other passenger transport service outside of this contract with vehicles owned by the CA, unless the CA agrees in writing in advance.

*[Note: As an alternative the Operator can be prohibited from doing private hires with vehicles owned by the CA.]*

20.3 Where approval has been granted in terms of clause 20.2 the Operator will pay the CA a fee for the use of its vehicles in an amount to be agreed upon.

20.4 The Operator must provide the CA with a detailed summary with each monthly payment certificate, in the form approved by the CA, of all kilometres travelled in connection with other services on a monthly basis to enable the CA to determine the amount payable to it under this clause. That amount shall be recoverable as a debt due to the CA which may be off-set against any monthly payment due to the Operator.

20.5 Where the CA requests the Operator to provide services on its behalf outside of the scope of this contract, this will be done in terms of a separate contract, unless otherwise agreed.

## **21. ACCESSIBLE PUBLIC TRANSPORT**

21.1 The Operator must within three months after the commencement date, provide the number of vehicles that accommodate special categories of passengers, as defined in the Act, including providing for wheelchairs and upgrade the fleet to be compliant in this regard, as required by the Vehicle Specifications outlined in Schedule 2. Should the Operator fail to provide such vehicles penalties as set out in Schedule 6 will apply each month until compliance takes place.

21.2 In the case of a rapid transport bus or rapid transport bus train as defined in the National Road Traffic Regulations, there are different requirements, which are obtainable from the Department. The Operator must comply with these requirements

and should it fail to do so the penalties as set out in Schedule 6 will apply each month until compliance takes place.

## **22. DISPLAY OF VEHICLE AND DUTY NUMBERS**

All vehicles used for the provision of the services must display fleet numbers and duty numbers as specified in Schedule 2.

## **23. INFORMATION TO AND FROM PASSENGERS**

- 23.1 The Operator must ensure that up-to-date timetables and fares tables are available on all vehicles and at other places required by the CA and must comply fully with the Consumer Protection Act 68 of 2008 in this regard.
- 23.2 The CA may operate an information centre, a shopfront information service and a customer call centre. The Operator must maintain close links with these services and provide accurate, timely information as required by the CA. In addition the Operator must facilitate a "help desk" facility to respond to enquiries and to communicate directly with customers, especially about service changes, as directed by the CA.
- 23.3 The Operator must participate in passenger liaison and information dissemination processes established by the CA and attend monthly or more frequent meetings in this regard. All complaints received by the CA will be forwarded to the Operator for a written response within fourteen working days, failing which a penalty will be imposed in terms of Schedule 6. Such response must include a report on the incident in the format provided in Form 3 with, where required by the CA or its Representative, a program for the prevention of similar incidents.
- 23.4 The Operator must in the first instance manage all customer complaints relating to the services. The Operator must formulate a Customer Complaints Policy within 30 days of the commencement date for approval by the CA. Failure to do so will result in penalties being imposed in terms of Schedule 6. Once approved, the Operator must comply with the Policy. The Operator must also provide the CA and its agents and representatives with every assistance in dealing with passenger complaints received by the CA, and must take such remedial measures as may be agreed between the Parties without prejudice to the right of the CA to take action under other relevant provisions of this contract where persistent failure to deal with complaints is adjudged by the CA to contravene those conditions.
- 23.5 Where the Operator receives complaints directly from the public, it must report these to the Representative, in writing, within fourteen working days, with details of the complaint, the date and time of the event leading to the complaint and the date of receipt of the complaint itself, the nature of the complaint and the immediate actions taken to address it. The Operator must keep a Passenger Complaints Register to record these complaints and details for the duration of the contract. The CA may provide a *pro forma* register which the Operator must use. Failure to comply with this clause will result in the imposition of a penalty in terms of Schedule 6.

## 24. VEHICLES

- 24.1 The Operator must submit a statement on Tender Form 11 showing the vehicles per vehicle category that will be available for the services on the commencement date and whether the vehicles will be purchased or leased. The numbers and types of vehicles must comply with those specified in Schedule 2. Copies of signed purchase and lease agreements must be provided to the CA 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 others, to assess the Operator's capacity to operate services of the magnitude concerned and whether the vehicles comply with Schedule 2.
- 24.2 Only vehicles shown in the completed Form 11 may be used to provide the services, unless the written consent of the CA is obtained in advance to replace vehicles with others of the same or better quality and age, to enable the CA to assess whether the vehicles are acceptable. Where such consent has not been obtained, the revenue kilometres operated by such vehicles will not be paid, the Operator will not be allowed to claim fixed cost for the vehicles and the Operator will be penalised in terms of Schedule 6.
- 24.3 The number of vehicles must make allowance for at least ten percent (10%) spare capacity. This spare capacity must be maintained at all times during the period of the contract. When applying for operating licences or amendments thereof under clause 12 the Operator must ensure that application is made for sufficient vehicles to comply with this requirement.
- 24.4 All vehicles must conform to the requirements and regulations of the National Road Traffic Act and other applicable legislation and applicable SABS specifications.
- 24.5 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 Schedule 2 at all times. When so ordered by the CA, the Operator must remove from the services any unsuitable vehicles. The approval or disapproval of any vehicle by the CA shall not in any way release the Operator from its obligations in terms of the contract.
- 24.6 A detailed fleet list of the vehicles per vehicle category that will be available for the services on the commencement date, in the format required by the CA, must be submitted to the CA not later than fourteen days before the commencement date.
- 24.7 If the Operator, without the written authority of the CA, fails to provide the right type, with reference to quality and age, of vehicles as specified in Schedule 2 and listed on Tender Form 11 within three months of the commencement date or, at a later stage in the contract period, within 30 days after being instructed to do so by the CA, then a penalty will be imposed in terms of Schedule 6.
- 24.8 The Operator must ensure that each vehicle—
- (a) is operated and maintained in accordance with the manufacturer's specifications, recommendations and service standards and is serviced at the times required or recommended by that manufacturer; and
  - (b) is properly licensed and has a current roadworthy certificate issued in compliance with the National Road Traffic Act.
- 24.9 The CA may inspect the vehicles at any time during the contract period and at any location. It may require the Operator to produce specific vehicles at the CA's cost for

a more comprehensive inspection at the nearest acceptable testing station directed by the CA with due regard to the fact that the vehicle should be detained for as short a period as possible.

- 24.10 The Operator must withdraw a vehicle failing an inspection contemplated in clause 24.9 from service until repaired and successfully re-tested at a location to be determined by the CA. The inspection fees will be for the account of the Operator.
- 24.11 The Operator must allow for the storage of small items of bags and equipment on vehicles in such a manner that the legal width of gangways is maintained.
- 24.12 All vehicles used on the contract must be fitted, either permanently or temporarily as decided by the CA, with communication equipment capable of transmitting and receiving messages between vehicle(s) and a base station. This equipment must comply with the specifications and requirements set out in Schedule 2.
- 24.13 The Operator will be held responsible where any vehicle may not be used, or where the licence of a vehicle may not be renewed due to demerit points being awarded against the Operator or its drivers in terms of the Administrative Adjudication of Road Traffic Offences Act 46 of 1998 (AARTO Act), and if the Operator fails to supply sufficient and compliant replacing vehicles this will be regarded as a breach of this clause and penalties will be imposed accordingly.

*[Note: If the CA is to own the vehicles, this clause will have to be adapted and a number of additional clauses provided, including, but not limited to the following:*

- *Operator responsible to look after the vehicles as from date of possession and is liable for any damage etc. due to its fault unless covered by insurance.*
- *Operator may not lend out or alienate the vehicles in any way (or can do so with prior written consent of CA and on stated terms and conditions).*
- *Provisions for maintenance of the vehicles – either that the Operator must ensure they are delivered to the supplier or supplier's agent for servicing and repairs, or that the Operator must maintain them, as the case may be.*
- *Operator must provide written reports/proof that maintenance is carried out. Operator liable for damage caused by lack of maintenance.*
- *If/when the contract is terminated vehicles to be returned to the CA in a good condition and state of repair.*
- *Operator liable for damage to vehicles that is not covered by insurance unless not due to Operator's fault.*
- *Operator must keep vehicle log for each vehicle.*
- *CA may inspect vehicles at any time.]*

## **25. INDEMNITY AND INSURANCE**

- 25.1 The Operator must take steps to ensure the safety of passengers, the general public and property. The CA shall not be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Operator or its agents, employees or sub-contractors, and the Operator hereby indemnifies the CA against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges and expenses whatsoever in this regard.
- 25.2 The Operator must effect and maintain throughout the duration of the contract, at its own expense, public liability insurance and SASRIA cover for at least ten million rand (R10m), all risks insurance and supplementary insurance in respect of civil commotion, riot and strikes, and full comprehensive vehicle insurance based on the realistic market value of the vehicle(s) for the amounts and deductibles, if any, determined by the CA by notice in writing to the Operator from time to time, with an insurer chosen by the Operator and acceptable to the CA, registered as required by applicable legislation. Proof of such insurance must be submitted to the CA prior to the commencement date and the Operator must advise the CA in writing of any changes thereto. Proof of payment of monthly premiums must be attached to the monthly payment certificate.
- 25.3 If the Operator for any reason fails to take out or maintain such insurance, the CA may pay any premium due on such policy on the Operator's behalf and set such amount off against any amount due to the Operator in terms of this contract, plus an administration fee of ten percent of each premium so paid. This right is in addition to any other remedy that the CA may have.

## **26. DEPOTS**

- 26.1 The Operator must provide and be responsible for the depots owned by the Operator unless otherwise agreed.
- 26.2 During the lifespan of the contract and depending on the availability of funding the CA may purchase the depots and lease them back to the Operator as part of a separate agreement.
- 26.3 All maintenance facilities as required by the Operator must be provided in the depots at the cost of the Operator while the Operator owns the depots. Such facilities must be adequate for the type of operations, as required by the CA. *[Note: To be adapted if there are no facilities at depots and the Operator outsources vehicle maintenance.]*

## **27. LEASE OF DEPOTS**

### **A. Where the CA owns the depots:**

- 27.1 The CA hereby lets and the Operator hereby hires the following depots on the terms and conditions set out in the Lease Agreement, attached hereto for information purposes:
- Depot A situated at ... ..
  - Depot B situated at ... ..

*[This clause is applicable where the CA will acquire or build the depots and lease them to the Operator, possibly at no rental or a nominal rental. The lease agreement must set out full details of the lease of the depots, including a duty on the Operator to maintain them, take out insurance for them, restore them in good condition on termination of the Agreement, etc.]*

**B. Where the Operator owns the depots and sells them to the CA:**

27.1 The Operator hereby sells and the CA hereby purchases the following depots on the terms and conditions set out in the Sale Agreement attached hereto for information purposes:

- Depot A situated at ... ..
- Depot B situated at ... ..

27.2 The monthly instalments payable to the Operator by the CA shall be added to each monthly claim and paid to the Operator as part of the monthly payment certificate.

27.3 The CA hereby lets and the Operator hereby hires the abovementioned depots on the terms and conditions set out in the Lease Agreement attached as Schedule ....

*[This clause is applicable where the CA will purchase the depots and lease them back to the Operator. In this case both purchase and lease agreement are required – they can be combined into one document. It should be noted that it may be possible for the CA to expropriate the property on which the depot is situated if the Operator refuses to sell. It will then have to pay market related compensation. It may be the case that another operator or a related company of the Operator owns the depots. In that case appropriate agreements will have to be concluded, e.g CA buys or leases them.]*

**28. STAFF**

28.1 The Operator must provide a staff complement able to provide the services to be rendered in terms of this contract. Subject to section 197 of the Labour Relations Act 66 of 1995 (as amended) in respect of the previous operation of services, the Operator must source the required employees from the operator of that previous contract and guarantee the jobs of those employees. Those jobs relate to the number of actual employees required by the Operator to execute this contract and exclude sub-contracting requirements, set-asides, reduction in the scope of the services and other measures taken by organs of state over which the Operator has no or little control, in respect of both the previous contract and this contract.

28.2 The Operator must conduct business in full compliance with all applicable labour legislation.

28.3 The Operator must ensure that all staff are properly trained, experienced and otherwise fit and proper for the duties to be performed by them under this contract.

28.4 The Operator must, and ensure that each sub-contractor does, ensure that all staff are provided with appropriate training in particular in the following areas:

- (a) Service requirements of passengers with disabilities;

- (b) management of confrontational or difficult passengers;
  - (c) occupational health and safety issues;
  - (d) customer care;
  - (e) role of a bus driver;
  - (f) inspection, dispatch and supervision of services;
  - (g) contract management; and
  - (h) compilation of claims.
- 28.5 If the Operator becomes aware that any member of staff is not fit and proper to execute his/her duties effectively, the Operator must take appropriate action to ensure that its ability to perform its obligations under this contract is not at risk.
- 28.6 The Operator must at all times and at its own expense provide and pay the remuneration of a fully competent, proficient and appropriately licensed driver for each vehicle used on the contract who in all ways complies with the provisions of applicable legislation. All such drivers must maintain the highest standards of courtesy and consideration to the public and to the CA's employees and agents. No driver may smoke, drink alcohol or take prohibited drugs on any vehicle, or be in any way under the influence thereof, whilst driving a vehicle in terms of the contract and must at all times adhere to the rules of the road and other prescriptions of the National Road Traffic Act.
- 28.7 The Operator must ensure that each driver holds the necessary professional driving permit required to drive public transport vehicles and—
- (a) has a thorough and detailed knowledge of the fares, routes and timetables;
  - (b) is provided with training in accordance with appropriate industry practice, as reasonably required by the CA;
  - (c) is attired in a clean, well maintained and appropriate uniform as required by the CA;
  - (d) has been the subject of appropriate security checks by the Operator as required by the CA;
  - (e) is familiar and well trained in the use of the EFVE system; and
  - (f) has a detailed knowledge and understanding of the driver's obligations regarding fare evasion and ticket failures.
- 28.8 The Operator must supply sufficient, competent management and support staff to manage the contract and oversee operations in accordance with Form 16.
- 28.9 If the Operator becomes aware that any driver is not fit and proper for any of the reasons referred to above, the Operator must source another/other drivers who are qualified to ensure that its ability to perform its obligations under this contract is not at risk in any material way.
- 28.10 The CA may require members of staff employed by the Operator and who perform their duties in view of the public to wear uniforms at all times while on duty, and the Operator must ensure that those staff members wear such uniforms as prescribed by the CA.
- 28.11 If the CA prescribes uniforms in terms of clause 28.10 the CA will supply the uniforms at its cost. The Operator must ensure that the uniforms are kept in good condition and worn in a professional manner and in accordance with the standards required by the CA, and must replace uniforms from time to time with the prior approval of the CA and at the cost of the CA.

- 28.12 The Operator must sign the Occupational Health and Safety Agreement attached as Schedule 13.

## **29. PUBLIC TRANSPORT STOPS**

- 29.1 The Operator may only use bus stops, including intermediate stops, authorized by the CA in its capacity as planning authority, or where the CA is a province, by the relevant municipality.
- 29.2 All vehicles operating along the routes must stop at authorised stops if there are passengers waiting or passengers wishing to alight, except where—
- a) the stop is not part of the route being operated;
  - b) the vehicle is operating express services and displays a sign to that effect;
  - c) the vehicle is not in service; or
  - d) the vehicle is full and displays a sign to that effect.
- 29.3 Vehicles must stop at any stop where requested to do so by an authorised representative of the CA or an authorised officer as defined in the Act, or where a passenger wishes to alight in an emergency.
- 29.4 At any stops, and the transfer points identified in Schedule 7, drivers must not allow passengers to board or alight until the vehicle has arrived at the stop sign to facilitate queuing and boarding.
- 29.5 Vehicles must not be parked at stops, other than while loading or unloading, so as to avoid causing delays to other traffic.
- 29.6 Where stops are used for transferring between modes or as timing points vehicles must not be delayed for longer than required by such actions.

## **30. ADVERTISING ON VEHICLES**

Advertising on vehicles is allowed only with the written consent of the CA and must comply with Schedule 3.

## **31. IMAGE AND MARKETING**

- 31.1 The Operator must contribute to and conform to the style guide provided in Schedule 11, which will define the use of graphics, information signage, timetables, advertising material and vehicle livery.
- 31.2 The CA wishes to develop a co-operative relationship to enhance the marketing of public transport. This will focus on the generic benefits of public transport and the marketing of special events. The Operator must participate in agreed marketing programs and initiate and conduct them as directed by the CA. If there are costs involved for the Operator that are not envisaged elsewhere in this contract, the CA will bear those costs.



## 32. FARES

- 32.1 The primary method of fare payment and access to the integrated public transport services will be through contactless bank issued EMV (Europay Master Visa) dual interface smart cards hosting the Department's AFC Data Structure as more fully described in the Electronic Fare Collection Guidelines published by the Minister as well as Schedule 10 and the Regulations referred to in the definition of EFVE in clause 1. Commuters must also be able to pay for single fares in cash on board the vehicles.
- 32.2 The fares to be charged by the Operator on all routes described in the Specifications shall be set by the CA after consulting the Operator, and the Operator must comply with the Act and other applicable legislation in this regard. The Operator may request fare increases, and the CA must consider these requests in the light of prevailing economic circumstances and other factors that the CA considers relevant. Should the CA not approve the request it must provide the Operator with full reasons, and the Operator may declare a dispute under clause 41.
- 32.3 All fares collected and tickets handled by the Operator for the purpose of providing the services belong to the Operator, but the Operator must, at all times—
- (a) in collecting the fares, handling tickets and dealing with the fares collected, act with the utmost good faith;
  - (b) in all other respects, use its best endeavours to ensure that passengers pay correct fares; and
  - (c) in collecting fares and handling tickets, comply strictly with the fare schedules published by the CA from time to time.
- 32.4 The Operator must make all efforts to minimise fare evasion as directed by the CA and in this regard provide the CA with a Fare Evasion Plan not later than 14 days before the commencement date.
- 32.5 Fares will be increased at least once per annum as determined by the CA. The increase maybe based on the annual published Consumer Price Index (CPI) coupled with increases or decreases in the price of fuel and spares and other factors that the CA considers relevant, but will not be less than the CPI increase. The CA will give passengers notice of change of fares in the manner decided by it, at least 30 days prior to the date of the change after consulting affected passengers.
- 32.6 Whenever there is an increase or reduction in the price of the fuel used by the Operator, fares may be adjusted to reflect the increase or decrease in the manner and from the date determined by the CA.
- 32.7 Without limiting the CA's rights, the CA or an agent appointed by it may audit the Operator's performance of its obligations under this clause at any time.

### **33. ELECTRONIC FARE VALIDATION AND COLLECTION EQUIPMENT (EFVE) TICKETING SYSTEM AND FARE COLLECTION**

*[Note: In an integrated system as well as a gross system the CA will have to take more control of the ticketing system used and the fares set. In the clauses below it is assumed that the CA will take the responsibility for providing and maintaining the equipment.]*

- 33.1 The CA shall supply the EFVE Ticketing System and electronic equipment relating thereto at stations and transfer points.
- 33.2 The Operator must ensure that all vehicles are equipped with the Ticketing System as required by the CA in a timely manner on or before the date stipulated by the CA, prior to the time that the vehicle is required for use in providing the services.
- 33.3 The Operator must—
- (a) only use the EFVE Ticketing System, tickets and fares approved by the CA;
  - (b) not use the EFVE Ticketing System for the purpose of providing services other than those contracted with the CA without the consent of the CA;
  - (c) not give access to the EFVE Ticketing System to any party other than the CA and its authorised agents for any purpose whatsoever;
  - (d) not attempt to access or modify raw patronage or revenue data stored in the EFVE Ticketing System;
  - (e) not at any time permit a vehicle to leave a depot should there be any defect in the EFVE or if it becomes defective during operation, replace the vehicle immediately and if replacement is not possible, use a manual waybill system;
  - (f) use a common time obtained from the CA for recorded information and ensure that its staff regularly update the ticketing hardware time; and
  - (g) make its staff available for training in such equipment as and when required by the CA.
- 33.4 The Operator must ensure that passengers validate tickets upon boarding except when passengers are transferring to a replacement vehicle in the event of breakdown (in this situation the Operator must ensure that passengers do not validate their tickets).  
*[Note: If the CA outsources the ticketing function this clause will have to be adapted accordingly.]*
- 33.5 The Operator shall provide assistance to passengers, as required, seeking to validate their ticket.
- 33.6 The CA shall provide the Operator with a copy of the Manual of Ticketing and Revenue Procedures not later than seven days before the commencement date.
- 33.7 All cash collected by the Operator in respect of the services through on-board collection, vending machines, portable validators and over-the counter-ticket sales is the property of the Operator.
- 33.8 Should the EFVE become obsolete during the life of this contract and be replaced by a new or upgraded EFVE, the Operator must, at the cost of the CA—
- (a) participate in project teams associated with the planning for a new or upgraded system;

- (b) assist the CA with implementation of the new or upgraded system;
- (c) make staff available for training on the operation of the new or upgraded system;
- (d) make vehicles and depot facilities available to the CA for installation of new or upgraded equipment; and
- (e) provide any other reasonable assistance the CA requests.

33.9 Should the CA decide to implement new monitoring methods or equipment it may provide additional or different equipment, at the cost of the CA, at any time during the contract period. The CA will then negotiate with the Operator who must give full co-operation to the CA in this regard and see to it that the additional or new equipment is installed in all vehicles as required by the CA within the time so required. In this regard clause 33.10 will apply with the necessary changes.

33.10 All other issues related to the EFVE operation, support, maintenance, etc. will be dealt with as more fully described in Schedule 10.

#### **34. MONITORING AND CONTROL**

34.1 This contract includes allowance for performance incentives and penalties. In order to manage these and ensure that service quality is maintained, as well as to facilitate the payment of the Operator's claims, the CA may appoint an independent Supervision and Monitoring Firm (SMF) which shall—

- (a) Administer and supervise the contract to ensure contract compliance;
- (b) Monitor the operation of the services according to an approved monitoring strategy;
- (c) Impose penalties for non-compliance where necessary and calculate performance values;
- (d) Arrange and chair weekly penalty meetings and monthly contract meetings;
- (e) Arrange and chair meetings (other than monthly contract meetings) with the Operator;
- (f) Verify and certify the Operator's payment certificates;
- (g) Measure the Operator's performance against KPI benchmarks;
- (h) Identify and assist the CA and Operator with routing and scheduling problems when necessary;
- (i) Where appropriate, adjust services in terms of clause 16;
- (j) Report any unusual events to the contract manager appointed by the Operator as soon as it becomes aware of them. This will not excuse or exonerate the Operator from any of its obligations in terms of this contract relating to such events; and
- (k) Execute any other functions allocated by the CA.

34.2 Work to be carried out by the Representative and SMF in terms of clause 34.1 is detailed in Schedule 5.

34.3 The CA may decide not to appoint a SMF in which case it will designate officials to perform the functions of the Representative and/or SMF.

34.4 The Representative and SMF have no authority to release the Operator from any of its obligations in terms of the contract, nor are they empowered, except as stipulated in this contract, to issue any order that would impede the Operator, give rise to additional expenditure for the CA or result in an amendment to the services.

- 34.5 Despite any contrary provisions in this contract, the CA may reverse or amend a direction or decision of the Representative or SMF and make or issue new ones. Any such reversed, amended or new direction or decision shall for the purposes of this contract be deemed to have been issued by the Representative.
- 34.6 The CA, Representative and SMF may investigate any complaints, objections or representations made by passengers, local authorities or other interested persons relating to the services.
- 34.7 Should the Operator become aware that any of its employees have threatened the Representative or his/her delegates, the Representative's Deputy or employees of the SMF or CA the Operator must take immediate disciplinary or other appropriate steps to prevent a recurrence.
- 34.8 All communications between the Operator and the CA shall take place via the Representative except where specifically provided otherwise.
- 34.9 The Operator must inform all its employees of the identity, powers and duties of the Representative, Deputy and monitoring staff. For purposes of identification the SMF must provide its staff with a unique personal identity card with photograph.
- 34.10 With the objective of ensuring that services are provided as specified, the CA may direct that all buses be fitted with on-board Global Positioning System Tracking devices or other monitoring equipment. Provision for the installation of this equipment must be made in the costing of the services where vehicles will be solely owned by the Operator.
- 34.11 The CA will, through the Representative and, once installed, using the electronic monitoring equipment installed in the vehicles, monitor the services on a daily basis to optimize service provision to users through adjustment of timetables, quality of vehicles, customer relations and other aspects.

## **35. PENALTIES**

- 35.1 The services shall be fully monitored in the first three months of operation and all offences listed, but penalties will not be imposed in the first, second and third months. Thereafter penalties shall be imposed as set out in Schedule 6. In both cases revenue kilometres will only be paid for trips which have been operated.
- 35.2 The fact that a penalty has been imposed will not affect or prejudice any other remedy that the CA may have, and will not preclude the CA from exercising its other rights or remedies in terms of this contract for non-fulfilment by the Operator of its obligations.

## **36. COSTING OF SERVICE PROVISION**

- 36.1 This Contract is priced on the basis of a two part cost structure (a variable and fixed cost component) for every vehicle type to be used on the contract.
- 36.2 The various cost elements and the manner in which the variable and fixed cost per vehicle type is calculated is more fully described in Schedule 9.

- 36.3 The variable cost component of this contract will be subject to escalation as indicated in clause 37.
- 36.4 The fixed cost component of the contract will be subject to escalation as indicated in clause 37.

### 37. ESCALATION AND CALCULATION OF MONTHLY PAYMENT

- 37.1 The fixed and variable contract rates shall be escalated monthly, in the manner set out in clause 37.2, but will be limited to the percentage increase in the Public Transport Operations Grant allocated to the CA by the Grant Framework published in terms of the Division of Revenue Act for the financial year in question.
- 37.2 The fixed and variable contract rates shall be escalated monthly, in the following manner:
- 37.2.1 The escalation formula set out in this clause is designed to compensate for variations in input costs affecting the agreed rates for the provision of the services.
- 37.2.2 The fixed costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the adjustment factor Y determined according to the formula set out below and:

$$Y = (1 - x) \left[ \left( a \times \frac{L_t}{L_o} \right) + \left( b \times \left( \frac{CPI_t}{CPI_o} \right) \right) \right]$$

Where  $a + b = 1$

And in which the symbols have the following meanings:

"x" is the proportion of fixed costs not subject to adjustment and its value is 2% (0,02).

"a" is the coefficient deemed to represent the proportionate value of labour costs linked to labour categories as determined by the Bargaining Council. A value of ... .. ( ... %) shall be applied for this contract.

"b" is the coefficient deemed to represent the proportionate value of the other fixed costs. A value of ... .. ( ... %) shall be applied for this contract.

"L" is the labour index for all hourly paid employees as published in Table C-3-Steel and Engineering Industries Federation of South Africa (SEIFSA) "Index of actual Labour Cost", SEIFSA Price and Index Pages.

"CPI" is the Consumer Price Index as published monthly by Statistics South Africa.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

- 37.2.3 The variable costs, after deduction of 50% (fifty percent) of the value of the penalties applicable to the particular month, will be escalated by the variable cost adjustment factor Z determined according to the formula as set out below:

$$Z = (1 - x) \left[ \left( c \times \frac{F_t}{F_o} \right) + \left( d \times \left( \frac{PPI_t}{PPI_o} \right) \right) \right]$$

Where  $c + d = 1$

And in which the symbols have the following meanings:

"x" is the proportion of variable costs not subject to adjustment and its value is 2% (0,02).

"c" is the coefficient deemed to represent the proportionate value of fuel. A value of ... .. (%) shall be applied for this contract.

"d" is the coefficient deemed to represent the proportionate value of the other variable costs. A value of ... .. (%) shall be applied for this contract.

"F" is the "Fuel Index" and shall be determined as:

$$F = \alpha \times \frac{P_t}{P_o} + \beta \times \frac{D_t}{D_o} \text{ where } \alpha + \beta = 1$$

$P_o$ ,  $P_t$ ,  $D_o$  and  $D_t$  are the actual monthly petrol and diesel prices as published by the Department of Minerals and Energy on a monthly basis and are available on the following web address: [http://www.dme.gov.za/energy/liquid\\_prices.stm](http://www.dme.gov.za/energy/liquid_prices.stm)

$\alpha$  and  $\beta$  are the coefficients representing the proportion of petrol and diesel respectively, used in operating the fleet. The Operator must provide values for these, which will be adjusted in accordance with adjustments to the fleet.

"PPI" is the Producer Price Index for Imported Goods as published monthly by Statistics South Africa in P0142.1.

The suffix "o" above denotes the basic indices and prices applicable to the base month. The base month shall be the month prior to the month in which the commencement date falls.

The suffix "t" denotes the current indices and prices. The current indices and prices are applicable to the month in which the last day of the period falls to which the relevant payment certificate relates.

- 37.2.4 If any index or price relevant to any particular certificate is not known at the time the value of the certificate is calculated, the latest published figures shall be used. Any correction that may be necessary shall be made by increasing or decreasing the subsequent monthly payments to the Operator.

- 37.2.5 The amount payable to the Operator "Ac" shall be determined by the formula:

$$Ac = Y \times (F - 50\%P) + Z \times (V - 50\%P)$$

The symbols in the formula have the following meanings:

"Y" is the fixed cost escalation factor as determined in terms of clause 37.2.2.

"F" is the total fixed cost component of the claim, reflecting the fleet available for service as certified by the Representative and will be determined by multiplying the fixed cost per bus as determined in terms of Schedule 9 by the number of buses operated (peak plus 10% spare capacity).

"Z" is the variable cost escalation factor as determined in terms of clause 37.2.3

"V" is the total variable cost component as certified by the Representative in the certificate under consideration and will be determined by multiplying the variable cost rate per kilometre as determined in terms of Schedule 9 by the number of scheduled kilometres actually operated.

"P" is the total value of penalties imposed for the period of the certificate under consideration.

## 38. PERFORMANCE MONITORING

38.1 The underlying policy objectives of performance monitoring are to—

- (a) measure the reliability, punctuality and general operational efficiency of the services by means of a review of key performance indicators (KPIs);
- (b) measure the customer satisfaction with the services rendered;
- (c) encourage improved service provision and quality by providing for a remedial process where performance problems are identified and addressed; and
- (d) provide for a mechanism where compliance with KPIs can be used as a motivation for possible subsequent extension of the contract after the initial contract period up to the maximum period allowed by the Act.

38.2 The first six months from the commencement date will be considered as an establishment phase, and performance during that period will not be used in the performance measurement process, although penalties will be imposed after the third month in accordance with clause 35 and Schedule 6. Thereafter, the performance of the Operator will be assessed on a monthly basis according to the following KPIs established by the CA:

- a) **Reliability** which measures the operator's ability to operate the contract timetable in terms of the percentage of scheduled trips actually operated. Trips not operated due to circumstances beyond the operator's control (e.g. accidents, traffic and strikes) are not taken into account for calculation purposes;
- b) **Punctuality** which measures the operator's ability to operate on-time. It is calculated in terms of the percentage of on-time departures and arrivals at terminal points and selected intermediate points;
- c) **Driver quality** which measures the technical ability (driving skills) and attitude of drivers as well as consideration for passengers. It is assessed through the following:
  - (i) complaints reported by passengers in which case it is calculated as the percentage of trips operated for which complaints were received; and

- (ii) surveys whilst vehicles are in service to evaluate vehicle handling and customer interaction. In this instance it is calculated as the percentage of surveys that indicates that remedial action is required.

The data collated is shared with the operator in order to take action and address any areas of weakness that are identified. Remedial action taken by the operator is also monitored;

- d) **Vehicle availability** which measures the operator's ability to have available and operate the number of vehicles to operate the contract timetable. It is calculated as the percentage of scheduled trips that were not operated due to insufficient buses and/or spare capacity ;
- e) **Vehicle quality** which measures the operator's ability to maintain and operate the quality of vehicles required in terms of Schedule 2. It is evaluated in terms of both the general and technical condition of vehicles;

- (i) General vehicle condition relates to the general appearance of vehicles that is assessed through inspections or monitoring at terminals and intermediate timing and monitoring points. It is calculated as the percentage of trips operated that incurred penalties related to unsatisfactory vehicles as per item 6.2 of Schedule 6;

- (ii) Technical vehicle condition relates to the technical performance/quality of vehicles. It is calculated as the number of scheduled trips that were not operated due to breakdowns caused by poor vehicle maintenance or failure to adhere to maintenance procedures. It is also assessed through technical bus inspections at depots by suitably qualified staff. Defects are noted and given a score, with higher scores for more serious defects. The key measure is the average number of points per vehicles, with a target of zero. The evaluation also includes an assessment of maintenance procedures and the operator's vehicle pass rate at roadworthy certificate tests.

The results of the assessments are made available to the Operator in order to take action and address any areas of weakness that are identified. Action taken is also monitored;

- f) **Safety** relates to the operator's ability to provide a safe service. Failure can result in the loss of this contract whilst unsatisfactory performance can also lead to the failure to win new contracts. It is measured as the percentage of trips operated that were involved in accidents directly caused by either poor driving skills or judgement of drivers, poor vehicle maintenance, insufficient or poor safety policies, procedures and risk assessments or failure to implement or adhere to such policies and procedures. Checks on safety policies, procedures and risk assessments are conducted through visits to operating premises and interviews with operational staff. These visits are followed by a report highlighting areas of concern and an action plan. This plan is then reviewed in consultation with the Operator and forms the basis of the next inspection.
- g) **Revenue protection** measures the operator's commitment to implement fare evasion procedures and its ability to ensure that the observed fare evasion is kept below 2%. It is assessed through random audits conducted by the CA or SMF;



- h) **Passenger satisfaction** is measured through passenger satisfaction surveys to assess and monitor passengers' satisfaction with the quality of services provided and identify areas for improvement;
  - i) **Contract compliance** relates to the operator's ability to comply with the contract specifications. Areas that will be specifically focused on include the following:
    - (i) Submission of information and reports;
    - (ii) Adherence to decisions taken and instructions given by the CA and the SMF;
    - (iii) Training of staff; and
    - (iv) Revenue collection which entails the fitting and maintenance of ticketing equipment.
- 38.3 The KPI performance benchmarks (standards) against which the Operator's performance will be measured are summarised in Schedule 8.
- 38.4 The Operator's performance in terms of the KPI benchmarks will be reported on by the SMF in its monthly monitoring reports and at monthly contract meetings.
- 38.5 The CA will commission annual customer satisfaction surveys, as more fully described in Schedule 8, to obtain customers' viewpoints on aspects related to, but not limited to—
- a) service delivery;
  - b) railway stations and other public transport stops and their proximity to points of origin and destination;
  - c) passenger comfort;
  - d) ticketing;
  - e) information services (including timetables);
  - f) personal safety;
  - g) value for money;
  - h) staff service; and
  - i) accessibility.
- 38.6 The contract may be renewed by the CA for a further period of five years in terms of clause 3.2 if the Operator, on the CA's assessment, has met the conditions as set out in clause 38.8.
- 38.7 The extension of the contract for years eight to twelve will be subject to a Contract Performance Review that will take place during the first three months of year seven of this contract based on the monthly reviews contemplated in clause 38.2. Detailed information on the review process is given in Schedule 8.
- 38.8 Extension of this contract for a subsequent term will only be considered if the CA is satisfied that—
- (a) The Operator has met the Reliability Benchmark in all of the 78 months considered for assessment;
  - (b) The Operator has met the Punctuality Benchmark in at least 70 of the 78 months considered for assessment;
  - (c) The Operator has met the Customer Experience Benchmark in at least 52 of the 78 months considered for assessment;

- (d) The Operator has on average over the 78 months considered for assessment met at least 95% of the Performance Benchmarks; and
  - (e) The Operator has not been issued with a letter for breach of any of the contract conditions during the course of the contract that has not been remedied or waived in accordance with the requirements of this contract to the CA's reasonable satisfaction.
- 38.8 The details of the performance assessment regime may be varied from time to time by the CA in consultation with the Operator.
- 38.9 If the Operator fails to meet any KPI benchmark, the Operator must, at its own cost—
- (a) investigate and report to the CA within five business days the underlying causes of the failure to meet the performance benchmark; and
  - (b) on being required to do so by the CA, take the necessary action to address the reasons for not achieving the performance benchmarks.
- 38.10 The Parties must meet periodically and at least annually to review the Operator's performance against the performance benchmarks and, if appropriate, discuss what steps the Operator should take to improve such performance. Information regarding these reviews is given in Schedule 8.

### **39. PAYMENT FOR SERVICES AND SUPPORTING DOCUMENTATION**

- 39.1 The Operator shall be paid monthly for providing the services set out in Schedule 7 and for approved variations in accordance with clause 16, in an amount calculated by multiplying the total revenue kilometres operated by vehicle class by the applicable variable contract rates, plus an amount calculated by multiplying the number of peak vehicles per class operated by the applicable fixed contract rates, less any penalties.
- 39.2 The Operator will not be paid for positioning or dead kilometres.
- 39.3 The amount payable as calculated in clause 39.1 will be escalated in terms of clause 37, after which amounts to be withheld under clause 35 and Schedule 6 will be deducted. Actual route distances as set out in Schedule 7 or agreed between the Operator and the Representative shall be used to calculate revenue kilometres for each trip.
- 39.4 The onus is on the Operator to prove that trips have been operated. The Operator must note that regulator sheets and depot departure documents are not considered as evidence of a trip having operated in accordance with the timetable.
- 39.5 Not later than seven days after the end of each month, the Operator must submit to the Representative a monthly claim form in the format prescribed by the CA in Form 1.
- 39.6 To support the calculation of the Operator's monthly claims and to enable proper monitoring of performance, the Operator must supply the CA monthly with the following written statistical data and information for each driver's duty/shift or part thereof as part of a journey analysis report in the format set out in Schedule 12:

- (a) The scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
- (b) detail of trips not operated and reasons therefore;
- (c) revenue kilometres of each trip;
- (d) cash and multi-journey ticket (MJT) passenger numbers for each trip;
- (e) the number of each type of MJT presented on each trip;
- (f) the value of the cash fares collected;
- (g) the value of MJT fares collected;
- (h) the number of each passenger type not required to pay for the trip being made (e.g pensioner, scholar, under-age child);
- (i) waybills in the format shown in Form 24 if the EFVE is not yet installed or has failed; and
- (j) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract;

The Operator must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the contract period.

- 39.7 The Operator must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 39.8 Claim forms must be prepared by the Operator, and checked and certified as correct and payable by the Representative.
- 39.9 The monthly claim forms will only be certified by the Representative if he/she is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.
- 39.10 The Representative may, before submitting a claim form to the CA as a payment certificate, make any correction or modification to that certificate or any previous payment certificate(s) and may withhold certification in respect of any part of the services not being operated to his/her satisfaction.
- 39.11 The Representative must submit the payment certificate to the CA as soon as possible, but not later than seven days after receipt thereof, error free, from the Operator. Where the Representative has amended a claim form or payment certificate, he/she must supply a copy of the amended form or certificate to the Operator.
- 39.12 The CA must effect payment to the Operator as soon as possible but not later than 14 days after receipt of the error free payment certificate from the Representative. All payments will be made directly into the bank account of the Operator, details of which must be supplied by the Operator. The CA may reject any payment certificate submitted by the Representative that contains errors. The rejected certificate must be returned to the Representative for correction and no discussions in this regard will be entered into between the CA and the Operator.
- 39.13 Should the Operator, for whatever reason, owe an amount to the CA, the CA may set it off against any moneys that may be owing to the Operator by the CA in terms of a monthly payment certificate.
- 39.14 The certification or approval of a payment certificate by the Representative and/or the CA shall not be deemed to be approval of, or waiving of rights regarding any services

or other matter in respect of which it was issued, or be taken to be an admission of the due performance of the contract or any part thereof, or of the accuracy of any claim made by the Operator, and no certificate shall revoke or prejudice any of the rights and powers of the CA and the Representative. No such certificate shall deprive the CA or the Representative of any right they may have regarding wrongful acts or breach of contract on the part of the Operator that may appear or become known later.

- 39.15 To collect and supply that portion of the required data and information as listed in clauses 33 and 34 which is capable of being electronically collected, the Operator must, within 30 days after the equipment has been made available to the Operator, ensure that the EFVE equipment selected, provided and paid for by the CA and tracking devices are installed and in use on all vehicles.
- 39.16 While EFVE and tracking devices have not yet been installed, the onus will be on the Operator to supply the correct information by means of manual waybills. The CA may decide not to pay any claim without adequate documented proof of the required data and information: Provided that if the equipment has not been made available to the Operator, the Operator is entitled to additional remuneration for costs related to employing additional temporary staff or having to pay overtime of permanent staff to compensate for having to provide the information manually in amounts to be agreed between the parties.
- 39.17 If the Operator fails to install the EFVE and/or tracking equipment, ensure that it is in a working condition, supply it timeously to the supplier for maintenance, or to provide the required information in either electronic format or by means of manual waybills, penalties shall be imposed in terms of Schedule 6.
- 39.18 In the event that EFVE and tracking devices become defective, the alternative method of presenting the required data and information will be by using hand-written emergency waybills that are signed by the driver as to the correctness of the detail and also by the depot supervisor certifying that the EFVE malfunctioned. The emergency waybill must detail all of the information required in Form 5. These signed and certified waybills must be presented to the Representative within 24 hours of each occurrence.
- 39.19 The software which is used to record the daily and monthly summarised trip information must be capable of generating an Excel file.
- 39.20 In addition to any information requested in terms of clause 39.6, the CA may at any time request the Operator to provide any information regarding the operation of the contract, including, but not limited to, cost elements that influence the provision of services, imposition of fares, installation of EFVE and tracking devices and any other matter that may affect payments to the Operator. The Operator must comply with such a request within seven days, or such other period as the CA may determine, which may be less than seven days where information is urgently required. Failure to do so will result in penalties being imposed in terms of Schedule 6.
- 39.21 Where the Operator is performing more than one negotiated contract, subsidised service contract, current tendered contract or interim contract contemplated in Chapter 5 of the Act, all information must be provided separately per contract, i.e. consolidated information in respect of more than one such contract will not be acceptable.

39.22 If in the opinion of the CA the Operator provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Operator or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Operator. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—

- (a) the CA may immediately appoint auditors to check and verify all books and records of the Operator and the Operator hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
- (b) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
- (c) the onus of proof shall be on the Operator to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to respond to the allegations, which are set out in the notice. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the CA may proceed with the action as set out above.

39.23 The CA may, with the consent of the accounting officer of the CA as required by the MFMA/PFMA and any other relevant person or body, amend the contract rates in the case of extraordinary circumstances. Such amendment will take effect from the date, as determined by the CA, upon which such circumstances arose. For the purposes of this sub-clause "extraordinary circumstances" shall include, but not be limited to—

- (a) the fact that road or other physical conditions have deteriorated or improved to an unforeseeable extent; or
- (b) any other unforeseeable circumstance that is extraordinary in the opinion of the CA, but excludes natural growth in patronage and service requirements;

provided that the CA may not act in terms of this sub-clause unless it has notified the Operator in writing of its intention to do so, and has allowed the Operator not less than seven days to comment on the proposed amended rates, which are set out in the notice together with the reasons for the proposed change. If the Operator fails to respond within that time or provides reasons that are unacceptable to the CA, the contract rates will be amended as from the date of expiry of the said period of seven days. If the Operator is dissatisfied with the amended rates it may declare a dispute under clause 41.

39.24 The CA may, in its sole discretion, pay to the Operator a single lump sum to defray establishment costs, over and above other amounts payable to the Operator in terms of this contract, in an amount determined by the CA, provided that—

- (a) The Operator was not the operator of a previous contract for services in the area for a period immediately preceding the contract period;
- (b) The CA is of the opinion that such payment is fair and justified in the circumstances;

- (c) The Operator has complied with clause 39.25;
- (d) The amount must be refunded to the CA if the contract is terminated within 180 days after the commencement date for any reason that can be ascribed to the Operator; and
- (e) The funds available to the CA to finance the contract allow for the payment of such costs, as decided by the CA.

39.25 The Operator must, if it wishes to claim establishment costs, not later than 30 days before the commencement date, submit a properly completed Form 11 and supply the information required by that Form to enable the CA to evaluate the request for payment of establishment costs. The CA will inform the Operator not later than 14 days before the commencement date whether the claim was successful or not.

39.26 If the Operator's claim for establishment costs is successful, the costs will be paid to the Operator not later than seven days before the commencement date.

39.27 Should the CA fail to pay a monthly claim of the Operator within the 30 day period contemplated in clause 39.12, the CA will pay interest at the rate prescribed from time to time in terms of the Prescribed Rate of Interest Act 55 of 1975 on the outstanding amount or amounts until the date of payment, subject to the Operator having provided all of the required information and having submitted an error-free claim form to the Representative, and subject to the other provisions of this clause." *[Note: still to be discussed with National Treasury and approved by Senior Management of the Department]*

#### **40. RELAXATION**

40.1 Except as otherwise stated, no latitude, extension of time or other indulgence which may be given or allowed by either Party to the other will operate as a waiver or a novation, or otherwise affect any of that Party's rights in terms of or arising from this contract or stop such Party from enforcing strict compliance with the terms of this contract.

40.2 A failure by either Party to enforce any provision of this contract shall not constitute a waiver of that provision or affect that Party's right to require performance thereof at any time in the future.

#### **41. SETTLEMENT OF DISPUTES**

41.1 The Operator may appeal to the CA against the imposition of any penalty in terms of clause 35 or Schedule 6 or against any variation in terms of clauses 16 or 39.23, by giving written notice to the CA within 14 days of the penalty or variation coming to its knowledge. If the Operator is not satisfied with the CA's decision, it may declare a dispute in terms of clause 41.2.

41.2 Should any dispute or difference of any nature whatsoever arise between the Parties in connection with or arising from this contract, whether a dispute contemplated in clause 41.1 or otherwise, the Party declaring the dispute or difference must notify the other Party in writing, and the Parties must attempt to resolve the matter within 21 days of the notice. If no resolution can be achieved within that period, the dispute or difference must be settled by way of mediation in the manner provided for in regulation 7 of the National Land Transport Regulations on Contracting for Public

Transport Services, 2009 published under Notice R.877 of 31 August 2009 in *Government Gazette* 32535 or, where applicable, by arbitration under regulation 8 of those Regulations, reading in the necessary changes, unless the Parties agree in writing to another dispute resolution procedure.

- 41.3 Where the proceedings contemplated in clauses 41.1 and 41.2 are deemed to be inappropriate by a Party to the dispute, nothing in this Contract will prevent a Party from approaching a court for urgent relief.
- 41.4 The Operator must despite any dispute, difference or settlement procedure continue to provide the services in accordance with this contract.
- 41.5 This clause shall survive the termination or cancellation of this contract.

## **42. OWNERSHIP AND CONFIDENTIAL NATURE OF DOCUMENTS**

The Parties must keep confidential and not disclose without prior written consent of the other Party any information supplied by either Party, or that is contained in the contract documents, being information contemplated in Chapter 4 of the Promotion of Access to Information Act 2 of 2000, except where obliged to do so in terms of law. All contract documents shall remain the property of the CA and may not be sold or otherwise disposed of. Also, all documents and data prepared by the Operator in connection with the services which are lodged with the CA shall become the property of the CA.

## **43. CHOICE OF LAW**

The law of the Republic of South Africa shall be applicable to this contract and any matter arising there from. The Operator must abide by all applicable statutes, regulations, ordinances, by-laws and other laws and binds itself to accept the jurisdiction of the courts of law of the Republic of South Africa in respect of any matter arising out of this contract.

## **44. CONTRACT DOCUMENTS**

- 44.1 All of the documents constituting this contract are to be read in conjunction with each other.
- 44.2 The several documents constituting the contract are to be regarded as mutually explanatory. In the case of ambiguities or discrepancies in these documents, or in the case of uncertainty as to the meaning or intention of any part of these documents, the Operator must refer this to the Representative so that it may be explained and rectified. The Operator is responsible for the consequences arising from neglect to take this precaution. When the Representative is notified of such ambiguities, discrepancies or uncertainties, he/she must, in consultation with the CA, issue instructions to the Operator directing what is to be done: provided always that if the Operator is of the opinion that the Representative's instructions will result in additional expenses for the Operator which the Operator could not reasonably have anticipated, the Operator may declare a dispute in accordance with clause 41.

- 44.3 In case of a conflict the order of precedence of the documents shall be as follows subject to any amendments in writing contemplated in clause 46:

- (a) These Conditions of Contract;
- (b) Tender Rules;
- (b) Schedules 1 to 13; and
- (c) Forms (Volume 3).

These documents, together with any such amendments, constitute the contract documents.

#### 45. **DOMICILIA AND COMMUNICATION**

- 45.1 The *domicilium citandi et executand* in the RSA of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this contract shall be:

The CA: .....  
The Operator: .....

The postal addresses of the Parties are:

CA: .....  
Operator: .....

The telefax numbers of the Parties are:

CA: .....  
Operator: .....

The e-mail addresses of the Parties are:

CA: .....  
Operator: .....

- 45.2 The Parties must give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

- 45.3 Communication must be maintained by using the following methods:

- (a) hand delivery to a responsible person during ordinary business hours at the domicilium address mentioned in clause 45.1;
- (b) prepaid registered post;
- (c) telefax; or
- (d) electronic mail (e-mail).

- 45.4 Any notice given in terms of this contract must be in writing and shall be deemed to have been received by the addressee, unless the contrary is proved—

- (a) on the date of delivery, if delivered by hand;
- (b) on the eighth day following the date of posting, if sent by prepaid registered post; or



- (c) on the day after dispatch, if sent by telefax or e-mail, provided that the recipient has acknowledged receipt by telefax or e-mail on that day.

#### **46. ENTIRE CONTRACT**

- 46.1 On acceptance of the tender the documents mentioned in clause 44 and approved alterations thereto shall constitute the full agreement between the Parties, and no other representations or terms shall form part thereof unless reduced to writing and signed by or on behalf of the Parties.
- 46.2 No amendment of this contract or of any provisions or terms thereof, and no extension of time or waiver or relaxation or suspension of any of the provisions or terms of this contract shall be of any force or effect unless reduced to writing and signed by both parties hereto.

#### **47. BREACH**

- 47.1 Where the CA discovers that—

- (a) the Operator has committed an act of insolvency or is insolvent;
- (b) the Operator has made a compromise with its creditors or assigned in favour of its creditors;
- (c) the Operator has agreed to carry out the contract under the supervision of a committee representing its creditors;
- (d) the Operator has been sequestrated or gone into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or the Operator has been placed under judicial management or becomes subject to business rescue proceedings in terms of Chapter 6 of the Companies Act 71 of 2008; or
- (e) judicial execution has been levied on the Operator's goods,

the CA may, subject to the Companies Act, 2008, demand in writing that the Operator deposit in cash with the CA not more than ten percent of the amounts estimated to be due to the Operator over the remainder of the contract period (excluding an extension for the five year period contemplated in clause 3.2). The CA will hold the said amount in trust as a pledge for the remainder of the contract period to cover any failure by the Operator to fulfil its obligations under this contract and/or any damages the CA may suffer, and will repay it to the Operator within 14 days after expiry or termination of the contract, after deduction of any amounts owing by the Operator to the CA. The Operator must comply with such a demand within seven days of receipt thereof, failing which the CA may terminate the contract.

- 47.2 Where the penalties imposed in terms of Schedule 6 amount to more than ten percent in a particular consecutive four-week period of the total amount payable in respect of that period, the CA may deliver a written notice to the Operator informing it that this contract will be terminated on further written notice if such penalties so exceed ten percent in any subsequent four-week period. If such a notice is sent and the penalties do again exceed that percentage in any subsequent four-week period, the CA may terminate the contract forthwith on further written notice and without granting the Operator any further opportunity to rectify the matter.

## 47.3 Where—

- (a) the Operator delegates, cedes or sub-contracts the contract or part thereof without having obtained the CA's consent in writing; or
- (b) the Operator has approached anyone including any official or agent of the CA, the Representative or any person in the service of the SMF before or after tenders have been called for, with the aim of influencing the award of the contract in its favour; or
- (c) the Operator, when advised that its tender has been accepted, has given notice of its inability to sign or execute the contract; or
- (d) the Operator has entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from tendering for this contract, or as to the amount of the tender to be submitted; or
- (e) the Operator has disclosed to any other person, firm or company the exact or approximate amount of its proposed tender before the closing date for tenders, except where disclosure, in confidence, was necessary in order to obtain insurance premium quotations required for the preparation of the tender; or
- (f) the Operator has deliberately furnished inaccurate information in its tender either as regards its previous experience or the vehicles at its disposal for the services, or with regard to any other material information; or
- (g) the Operator's operating licences necessary to provide the services are withdrawn or suspended; or
- (h) the Operator fails at any stage to comply with the requirements of the Act; or
- (i) the Operator has offered, promised or given a bribe or other gift or remuneration to any officer or employee in the service of the CA in connection with the tender process or the obtaining or execution of this contract; or
- (j) the Operator has acted in a fraudulent manner in obtaining or executing any contract; or
- (k) the Operator has abandoned any of his or her obligations in terms of this contract; or
- (l) the Operator is discovered to have provided incorrect, false or fraudulent information at any stage;
- (m) the Operator consistently fails to observe the specifications set out in any of the Schedules whether or not penalties have been imposed, with the result that the quality of the services is unacceptable to the CA; or
- (n) the ownership control in the Operator has changed without the consent of the CA,

the CA may, without prejudice to any other rights it may have, terminate this contract and, if appropriate, claim damages from the Operator, in addition to any other lawful remedy the CA may have. For the purpose of paragraph (m), the Operator will be regarded as having consistently failed to observe the specifications where the CA provides a written certificate to that effect. If the Operator disagrees with the CA's opinion, he or she may declare a dispute under clause 41.

47.4 Where the Operator has breached or failed to comply with any term of the contract as contemplated in clause 47.3, or commits another breach of the terms or conditions of this contract other than one contemplated in clause 47.2 (excessive penalties – in which case that sub-clause applies), the CA may give the Operator at least 30 days' written notice to rectify the matter, and, if the Operator has not remedied the breach within the said 30 days, without prejudice to any other rights the CA may have, the CA may—

- (a) (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
  - (iii) claim any other lawful remedy the CA may have, or
- (b) without prejudice to its rights under paragraph (a) or to any other rights of the CA in terms of this contract, the CA may, without terminating the contract, take steps itself or have steps taken by others on its behalf to give effect to the CA's orders not carried out by the Operator, and notify the Operator in writing that—
  - (i) such steps have been taken; and
  - (ii) that the Operator must satisfy the CA by written proof within a time stated in the notice that the Operator will be able to resume the services to the CA's satisfaction by a stated date; and
  - (iii) the Operator must resume the services to the satisfaction of the CA by that date;
  - (iv) if the Operator fails to comply with either (ii) or (iii), the CA may act under paragraph (a).

47.5 The CA may terminate the contract on three months' written notice of such termination being given to the Operator, where—

- (a) there has been some defect, error or failure to comply with applicable laws or rules in the tender process or in awarding the contract that requires the contract to be terminated; or
- (b) applicable transport planning shows that the services are no longer required or are no longer required in their present form or that another transport mode will be more suitable; or
- (b) national, provincial or local transport policy requires it.

In such a case the CA must pay to the Operator such damages as the Operator is able to prove, provided that such damages shall not exceed ten percent 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.

47.6 Where the contract is terminated under this clause the CA may require the Operator to continue providing the services for a maximum of 30 days after the date of termination, but subject to section 41(3) and 42(5) of the Act.

47.7 Where the contract is terminated—

- (a) the Operator must leave the service area at the expiry of the period contemplated in clause 47.6, or on the date of termination of this contract, as required by the CA, despite the fact that a dispute may have been declared under clause 41, or that any Party has applied to a court for relief, and whether or not the Operator disputes the validity of the relevant notice of termination;
- (b) the Operator undertakes not to operate services in the service area after the expiry of the period contemplated in clause 47.6, or on the date of termination of this contract, as the case may be, despite the fact that the Operator may hold operating licences or permits authorising such operation, and undertakes to submit any such licences or permits to the relevant regulatory entity for cancellation; and
- (c) the CA may employ another operator to complete the contract or any part thereof at its option.

- 47.8 Should the amounts the CA must pay to have the services provided for the remainder of the period of this contract, where it is terminated as contemplated in this clause, exceed the sum that would have been payable to the Operator on due completion by it, the Operator shall upon demand pay to the CA the difference and it shall be deemed a debt due by the Operator to the CA and shall be recoverable accordingly.
- 47.9 Termination of the contract shall be without prejudice to any rights of the CA in respect of any antecedent breach of contract by the Operator.
- 47.10 In the event of the CA breaching any terms or conditions of the contract, the Operator may give the CA at least 30 days' written notice of such breach, calling upon the CA to remedy the same. Should the CA fail to remedy the breach in accordance with the notice, this contract may either be terminated by the Operator giving a further 14 days' written notice, during which the Operator must still provide the services under the contract, or at the option of the Operator, it may institute a claim for damages and/or sue for specific performance against the CA, or claim any other lawful remedy that the Operator may have against the CA, without prejudice to any other rights the Operator may have.
- 47.11 Should more than 30% of the monthly scheduled kilometres not be provided for three consecutive months due to reasons contemplated in clause 15, either party may terminate the contract, but not less than 30 days after the end of the third such month. Neither party shall have any claim against the other arising out of such termination.
- 47.12 In the case of termination of this contract in terms of this clause, except for clause 47.10, the CA 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 CA on request.

#### **48. GENERAL MATTERS**

- 48.1 This document and its annexures constitute the entire contract between the Parties and neither Party may rely on any representation, undertaking, term or condition that is not included in this document.
- 48.2 No agreement to vary, add to or cancel this contract shall be of any force or effect unless reduced to writing and signed on behalf of the Parties.
- 48.3 This contract will be signed as two identical originals, which both together will constitute the entire agreement between the Parties.

#### **49. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this contract.

**50. SCHEDULES**

1. Specifications for rebuilt and rehabilitated buses
2. Vehicle specifications
3. Specifications for advertising on vehicles
4. Contract management plan, business plan and monthly and annual reports
5. Duties to be performed by the Representative, Deputy and SMF
6. Penalties
7. Specifications: Routes, distances, services, fares, timetables, stops and additional related information
8. Performance monitoring
9. Calculation of fixed and variable contract rates
10. EFVE operation
11. Style Guide for Image and Marketing
12. Journey Analysis Report
13. Occupational Health and Safety Agreement
14. Pro forma sub-contracting agreement

## **SCHEDULE 1: SPECIFICATIONS FOR REBUILT AND REHABILITATED BUSES**

### **1. Rebuilt bus**

**“Rebuilt bus”** means that a new body has been built on a rebuilt chassis, that all the compulsory vehicle standards applicable to the body as laid down by the latest requirements of the South African Bureau of Standards (SABS), the Standards Act 29 of 1993 and /or the National Road Traffic and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the bus complies with the following:

#### **A. Body rebuilt by a registered and SABS-approved bus body builder**

- (a) Body superstructure conforming to SABS 1563: 1992 roll-over protection requirements;
- (b) New lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (c) Rear reflectors and side reflectors (where fitted) conforming to SABS 1046;
- (d) Chevron conforming to SABS 1329;
- (e) Seats and anchorages conforming to SABS 1564;
- (f) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (g) Class II rear view mirrors conforming to SABS 1436;
- (h) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (i) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (j) Minimum ceiling height 1,75m;
- (k) Individual axle mass loads to be established and mass distribution to be within permissible limits, seated and standing passengers to be based on 68kgs per passenger, with luggage based on 100kgs per cubic metre;
- (l) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (m) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

#### **B. Electrical**

- (a) New wiring harness to be fitted; and

- (b) Wiring and electrical connectors to conform to SAE J 1292: (Per SABS)

C. **Mechanical**

- (a) Chassis stripped and cleaned (either shot-blasted or sand-blasted);
- (b) Chassis cracks are not permitted. Cracked components to be replaced; loose rivets or bolts to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Full paint treatment to be applied to chassis;
- (e) Reconditioned or new engine, fuel pump, compressor, gearbox, radiator alternator, starter motor, steering pump and box, differential, front and rear axles, steering components, to be fitted, to OEM specifications;
- (f) Springs to be scragged and shock absorbers to be replaced;
- (g) New colour-coded air hoses to be fitted throughout, with reconditioned brake valves;
- (h) Air reservoirs and fuel tanks to be cleaned;
- (i) Fuel pipes to be renewed;
- (j) New tyres to be fitted to front wheels and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (k) In the event of a bus-train the articulation component must be SABS approved and items such as coupling, turn table, bellows, etc must be replaced/reconditioned to OEM specifications.

A Rebuilt Bus shall be deemed to be three years old on the date of the completion of the rebuilding.

Midibuses and minibuses may not be rebuilt.

2. **Rehabilitated bus**

**“Rehabilitated bus”** means that only the floor and the inner and outer cladding of the body must be removed to facilitate close *in situ* examination and repair of the superstructure framing, that new cladding and floor is fitted and that all the compulsory requirements (excepting rollover conforming to SABS 1563) as laid down by the latest requirements of the SABS, the Standards Act 29 of 1993 and /or the National Road Traffic Act and National Road Traffic Regulations are met in each and every instance and that a roadworthy certificate is mandatory for each vehicle to be used, and that the vehicle complies with the following:

A. **Body rehabilitated by a registered bus body builder**

- (a) Lights conforming to SABS 1046: head lights, front position, front end outline, identification, front rear and side indicators, rear position and stop, reverse, high-mounted stop, rear end outline, number plate;
- (b) Rear reflectors , and side reflectors (where fitted) conforming to SABS 1046;
- (c) Chevron conforming to SABS 1329;
- (d) Seats and anchorages conforming to SABS 1564;

- (e) Seat belts on all unprotected seats conforming to SABS 1080/1430;
- (f) Class II rear view mirrors conforming to SABS 1436;
- (g) Laminated windscreen/s to SABS 1191, and shatterproof windows to SABS 1193; partitions conforming to SABS 1193/1472;
- (h) Emergency exits to have an unimpeded opening of 800mm x 400mm or 700mm x 500mm above and/or between backrests, decals facing inside and outside to be fitted to all emergency exits (50mm letter size);
- (i) Minimum ceiling height 1,75m;
- (j) Notices with permissible number of seated and standing passengers, and luggage where applicable (75mm letter size); and
- (k) Steps and floors to be covered with non-slip material; engine bonnets to be secure and correctly fitted.

**B. Electrical**

Electrical wiring to be reworked and be in safe working order.

**C. Mechanical**

- (a) Chassis to be inspected *in situ*;
- (b) Chassis cracks are not permitted. Cracked chassis members to be replaced to OEM specifications;
- (c) Bent chassis members to be straightened;
- (d) Springs to be scragged and shock absorbers to be replaced;
- (e) Air reservoirs and fuel tanks to be cleaned;
- (f) Fuel pipes to be renewed;
- (g) New tyres to be fitted to front wheels, and new or newly retreaded tyres to rear wheels, all with the same tread patterns; and
- (h) In the event of a bus-train the articulation components must be reconditioned to OEM specifications.

A Rehabilitated Bus shall be deemed to be eight years old on the date of completion of the rehabilitation. *[Note: This may have to be revised or qualified given the 12 year contract period, e.g. to state that one rehabilitation during that period will be sufficient.]*

Midibuses and minibuses may not be rehabilitated.



## SCHEDULE 2: VEHICLE SPECIFICATIONS

The Operator must provide at least the following numbers and types of vehicles by the commencement date to operate the services as indicated on the timetables in Schedule 7, in addition to the 10% spare capacity required by clause 24.2 of the Conditions of Contract:

... .... minibuses

... .. midibuses;

... .... standard buses;

... .. maxi-buses;

... .. bus-trains; and

... .... bi-articulated bus trains.

The Operator may choose to provide larger vehicles than those specified, if they meet the requirements of this Schedule and Schedule 2, but the Operator will not receive additional compensation for such larger vehicles unless their introduction is necessitated by additional revenue kilometres approved as a variation under clause 16 of the Conditions of Contract and is approved by the CA in writing, and subject to Item 2.8 of Schedule 9.

All vehicles used to provide the services in terms of this contract must comply with the following specifications:

### 1. Accessibility requirements

- 1.1 All vehicles must adhere to and comply with the following accessibility requirements by the date contemplated in clause 21 of the Conditions of Contract:
- door opening to be 850mm wide with 1450mm head clearance;
  - first step to be a maximum of 250mm above ground (retractable first step is also permissible), following steps with a maximum height of 230mm and a minimum depth of 250mm;
  - use of high-contrast colours on steps, grab rails, seat frames and edges of stairs, which conform to the requirements of SANS 10400 (S) for persons with disabilities and which increase the visual clarity of the interior;
  - sufficient grab rails or handles adjacent to the entry and exit points, seats and by all steps shall be fitted with 25 to 35mm diameter and at a comfortable height from finished floor level for all special needs

passengers, with suitable visual clarity. The aim is to ensure that special needs passengers can enter the vehicle, gain access to their seat, and leave the vehicle in safety, comfort and convenience;

- 1.2 In addition to the requirements of Item 1.1, the tenderer may tender to provide vehicles that are more universally accessible to all special categories of passengers. The additional costs involved must be reflected in the tendered rates. In such a case the tenderer's proposals and rates will be evaluated as part of the tender evaluation process. This could include providing for the following:

**Equipment and reserved seating:**

- equipment to display the route and destination externally on the front and side of the vehicle shall be provided internally, where it is visible to passengers. Lettering on all signs inside the vehicle to be at least 25mm for a viewing distance of 7,5m unless different sizes are required for specific signs; and
- reserved seating next to the entrances for persons with disabilities, elderly people, pregnant women or passengers with any other mobility difficulties.

**Steps:**

- The rise of each tread step must be the same height and not exceed 170mm.
- Solid risers must be provided in all accessible routes.
- A stairway must be provided with handrails on both sides of the stairway. The stairway may not include any winders as defined in SANS 10400-M.
- No spiral stairway may form part of an accessible route.
- Nosings must effectively contrast with their immediate surroundings. The minimum dimensions of each nosing must be 40mm by 40mm.

**Grabrails:**

The tube of any grabrail must have an outside diameter between 32mm and 38mm.

**Visual clarity:**

Colour, tone and luminance contrast should be used to aid the identification of critical surfaces. Externally, critical surfaces include guiding walls, steps, rails and textured guidance surfaces. Internally, critical surfaces that require an effective light reflective value (LRV) are ceilings, walls floors, stairways, doors and significant fixtures and fittings.

LRV is measured by a spectrophotometer being the light reflected from a surface in standard conditions and expressed on a scale of 0 to 100 where black is about 5 and white about 90.

- 1.3 The Operator must comply with any regulations that may be made in terms of section 8(1)(y) of the Act at the Operator's cost.

## 2. Vehicle standards

- 2.1 All vehicles must conform to the requirements and regulations of the National Road Traffic Act or other applicable legislation and applicable SABS standards as from the commencement date.
- 2.2 No vehicle older than 15 years may be used to provide the services during the contract period unless it is rebuilt or rehabilitated.
- 2.3 The age of a vehicle is determined from the date of first registration of the chassis and the operator must provide proof of this. If the operator proposes to use vehicles that have been rebuilt or rehabilitated as defined in Schedule 1, 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 to ensure compliance.
- 2.4 In accordance with Schedule 1, a fully rebuilt vehicle shall be deemed to be three years old on the date of the completion of the rebuilding and a rehabilitated vehicle shall be deemed to be eight years old on the date of the completion of the rehabilitation. No vehicle with a chassis age of more than twenty-seven years may be used during the contract period.
- 2.5 Details of the existing or proposed vehicles to be used on the services must be provided on Form 11.
- 2.6 Vehicles must conform to the following requirements:

	Vehicle type			
	Minibus	Midibus	Standard bus	Bus-train
Minimum seated capacity for contract	16	35	65	To be verified
Maximum standing capacity	None	None	27	To be verified
Minimum engine power	To be verified	To be verified	150kW	To be verified

## 3. Livery

All vehicles operated on the contract must be painted in a uniform livery as approved by the CA. The vehicles must be clearly identifiable by the community and the SMF to the satisfaction of the CA.

**4. Route and destination equipment**

- 4.1 A removable/changeable duty number board must be displayed behind the right lower front windscreen visible from outside. The letter size must 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.
- 4.2 A board or scroll stating the destination of each trip must be displayed on the front of the vehicle. The wording must be clearly discernible at a distance of 150 metres. The letter size must be at least 150mm and be adequately legible (readable) in all lighting conditions, including early morning and at night. The colour of the letters must contrast with the background colour of the board or scroll to facilitate legibility.
- 4.3 Electronic destination equipment is permitted and must be approved by the CA.

**5. Communication equipment**

To be specified by the CA.

**6. Monitoring equipment**

To be specified by the CA.

**SCHEDULE 3: SPECIFICATIONS FOR ADVERTISING ON VEHICLES**

1. All advertising on vehicles must be legal, decent, honest, truthful and be designed with due sense of social responsibility.
2. Advertising must be in accordance with marketing laws and regulations and also respect generally accepted advertising standards and codes of ethics.
3. It must be evident from the advertising who the advertiser is.
4. Advertising must not prompt acts of violence nor include illustrations or descriptions of murder, violence or abuse and must not play on superstition and fear in an improper way.
5. Advertising must not discriminate with respect to race, gender, religion or nationality, nor offend people's religious or political beliefs.
6. Advertising must not prompt disruptive behaviour with respect to safety in the home, at work or in traffic, or promote other dangerous, irresponsible, unhealthy and environmentally damaging behaviour.
7. There must be no advertising (direct or indirect) for religious or political views or movements, nor for products offered by such. However, advertising of information relevant to society in general is allowed, e.g. about the environment, health and education.
8. Advertising which targets children and youth must not be designed in such a way that it is psychologically or morally harmful. Advertising may not be designed so as to exploit children and youth's natural innocence and loyalty, as well as their particular trust in their parents, teachers etc. It may not undermine the authority and responsibility of the latter.
9. It is the Operator's responsibility to ensure that advertising is legal and meets the above conditions.
10. Advertising on more than one vehicle must be done in a uniform manner as approved by the CA.
11. All advertisements must be submitted to the CA for pre-assessment as to whether the particular advertisement meets the above conditions. The CA may also assess future or existing advertisements of its own accord. The Operator must respect the decisions and instructions of the CA in this respect, and must accept that non-compliance could lead to declaration of a dispute or an application for an interdict and/or a claim for compensation.
12. Where the CA owns the vehicles, it is entitled to 30% of the gross advertising revenue and fees received by the Operator from an advertiser. The CA may set off the advertising revenue due to it under this clause against the payments for services to be made to the Operator.

## **SCHEDULE 4: CONTRACT MANAGEMENT PLAN, BUSINESS PLAN AND MONTHLY AND ANNUAL REPORTS**

### **1. Contents of Contract Management Plan**

The Contract Management Plan must provide information on the following matters:

- (i) The management structure proposed to manage the contract, including details of—
  - (a) Which staff categories will be full time and which will be part time;
  - (b) The number and categories of staff not covered in terms of the bargaining council arrangements, (i.e. mostly staff on managerial level);
  - (c) The numbers involved in each staff category, as defined by the bargaining council and set out in such a format that it can be audited; and
  - (d) Recruitment and training of necessary personnel, if these are not already available.
- (ii) Details of how the Operator proposes to meet its reporting requirements under this contract, with full details of management control and information systems to be set up to ensure that its requirements are met in terms of this contract.
- (iii) How the Operator proposes to handle penalty verification and contesting of penalties as required.
- (iv) Details of—
  - a) Arrangements for the financing and acquisition of the required vehicles as specified in Form 4;
  - b) Procurement of offices, depots, workshops and stores; and
  - c) Arrangements for fuel supply.
- (v) How the vehicles will be maintained with details on whether maintenance will be done in-house or not. In this case details must be provided on—
  - Available staff specifying categories of staff numbers in each category;
  - Inspection and maintenance strategies to be implemented; and
  - Maintenance contracts with vehicle suppliers. Details on what is actually to be attended to by vehicle suppliers and if issues are excluded from this how those aspects will be addressed, taking into account the aspects mentioned under (a) above.

- (vi) Details of the fleet replacement program, if vehicles will be replaced during the term of the contract, as proposed in Form 4.
- (vii) The contingency plans that the Operator will implement if unable to provide the services.
- (viii) The plans that the Operator will implement in emergencies.
- (ix) How the Operator plans to meet the Key Performance Indicators, including details of–
  - the method of advising the CA or Representative of any missed trips; and
  - complaints handling and the Operator's defects register.
- (x) Details of the establishment of liaison groups with employers of commuters and communities where passengers reside if such liaison groups have not been established or are not functioning.

## **2. Finalisation of Contract Management Plan**

- (i) Within 10 working days of submission of a draft Contract Management Plan under Item 1 the CA must provide comments on the draft Contract Management Plan, suggesting areas for consideration or amendment.
- (ii) The Operator must review and update the draft Contract Management Plan to address any comments raised by the CA and re-submit it to the CA for final approval within 10 working days of receiving the CA's comments. The Plan must then be signed by the Parties and a signed copy be retained by each party.

## **3. Compliance with the Contract Management Plan**

In providing the services, the Operator must comply with the provisions of the Contract Management Plan.

## **4. Business Plans**

*[Note: The submission of the business plans should preferably coincide with the MTEF cycles as this will be used to submit information to Treasury regarding financing requirements if needed. This whole section is necessary because of the new role players and to ensure that they are provided with sufficient information/reports to manage the processes involved.*

*The Business Plan will assist the CA in obtaining additional funding from Treasury, should this be required.]*

- 4.1 No later than 30 days after the commencement date and 30 days after the anniversary of that date each year during the duration of the contract the Operator must prepare and submit to the CA a draft Business Plan for the services operated in terms thereof for a period covering the following three years,

whether or not that three year period extends beyond the termination of the contract.

4.2 The Business Plan must–

- a) Include a detailed 3 year financial forecast for the Operator and each sub-contractor based on the costs and revenue projections which were originally provided to the CA;
- b) Comply with and incorporate (where applicable) the information and reporting requirements or other reasonable requirements prescribed by the CA from time to time;
- c) Identify any differences from the previous Business Plan, together with the reasons for those differences
- d) Include a reconciliation demonstrating that the sub-contractor's revenues and costs forecasts in respect of the services have been incorporated into the Operator's forecast; and
- e) Include details of any amendments to sub-contracting arrangements.

4.3 Within 15 working days of submission of a draft Business Plan under Item 4.2 the CA and the Operator must meet to discuss the Business Plan.

4.4 Within 10 working days of the meeting mentioned in Item 4.3 the CA must provide comments on the draft Business Plan, suggesting areas for consideration or amendment.

4.5 The Operator must review and update the draft Business Plan in response to comments received and address and incorporate any suggested areas for consideration or amendment within a further 10 working days and re-submit to - the CA–

- (a) The final updated Business Plan with a statement of reasons why the CA's comments have not been accepted, if that is the case; and
- (b) An extract of the resolution of the board of directors or owners of the Operator and each sub-contractor approving the Business Plan.

4.6 The Business Plan for the financial year ending ..... will be that part of the initial Business Plan that relates to the period from the commencement date to .....

**5. Monthly Operational Reports**

5.1 The Operator must provide the CA with a monthly operational report outlining the monthly operations of the Operator and each sub-contractor within 15 business days of the end of the month. The monthly report will provide information outlined in Items 5.3 to 5.5 below.

5.2 The CA may require the Operator in writing to provide a breakdown of statistical information by time period and/or by route.



5.3 The Operator must submit monthly management accounts with the monthly operational report. The CA will review the information submitted from time to time which must include, but will not be limited to–

- a) Actual results vs budgets and forecasts;
- b) Details of debtors and creditors and the age of the debt;
- c) Cash flow statements; and
- d) Details of capital expenditure planned in next three months with details of financing.

5.4 The CA must keep all information provided by the Operator confidential and may not disclose it to any other person or body without the prior written consent of the Operator.

## **6. Annual Reporting**

6.1 The Operator must maintain, and ensure that each sub-contractor maintains, those financial, operational and financial planning records that would ordinarily be maintained by a skilled and experienced public transport operator and as required in terms of generally accepted accounting practice.

6.2 The Operator must provide, and ensure that each sub-contractor provides to the CA as soon as practicable (and in any event not later than three months) after the end of each 12 month period after the commencement date an annual report that includes–

- (a) a general description of the activities undertaken by the Operator during the previous year, as well as any significant initiatives to be introduced in the current year.
- (b) A Training and Staff Development Report which will identify programs and courses that Operator's staff participated in.
- (c) Certified true copies of its audited accounts for that specific period together with all related directors' and auditor's reports, including:
  - (i) A balance sheet at the end of the reporting period;
  - (ii) Profit and loss statement for the reporting period;
  - (iii) Statement of retained earnings for the period; and
  - (iv) A cash flow statement for the reporting period.
- (d) A commentary on–
  - (i) material variations between actual results and budget year to date;
  - (ii) progress against Key Performance Indicators;
  - (iii) acquisitions and disposals of contract vehicles and depots;
  - (iv) details of its indebtedness (whether actual or contingent) in respect of financial commitments (including any lease or hiring

- agreement);
    - (v) financial viability; and
    - (vi) material variations between actual results and the forecasts contained in any forecasts done during the negotiations between the Parties to conclude this contract.
  - (e) Details of the number of employees, their roles and the minimum, average and maximum wage paid for each staff category.
- 6.3 The accounts referred to in paragraph (c) must be prepared consistently in accordance with generally accepted accounting practice and/or International Financial Reporting Standards (IFRS) and the Operator's normal accounting policies, details of which must be supplied, on request, to the CA.
- 6.4 Any changes to the Operator's accounting policies should be notified to the CA on submission of the accounts. The Operator must draw the CA's attention to any differences between its normal accounting policies and generally accepted accounting procedures.
- 6.5 Each set of accounts delivered under paragraph (c) must give a true and fair view of the state of affairs for the period covered by the accounts.
- 6.6 The Operator must ensure that the records kept and accounts submitted under this item relate only to the business conducted under this contract and are separate from the financial and planning records and accounts of its other operations and contracts, if any.

**SCHEDULE 5: DUTIES TO BE PERFORMED BY THE REPRESENTATIVE, DEPUTY AND SMF**

1. The function of the SMF's Representative, or if no Representative is appointed, an official appointed by the CA for the purpose, is to administer and supervise the contract in accordance with the provisions thereof. In this regard the Representative shall perform all the duties of the Representative as described in the contract and at all times endeavour to be just to both the CA and the Operator. Insofar as it is not in conflict with the duty to be just to both Parties, the Representative must ensure that the CA's interests in the contract are protected.
2. It is the duty of the Representative to supervise the operation of the services as provided by the Operator on behalf of the CA, to monitor such services to ensure compliance with the Specifications and to arrange and chair monthly project meetings.
3. The Representative may from time to time, with the written consent of the CA, delegate in writing to an authorised person any of the powers and functions vested in it, and must furnish the Operator with a copy of all such written delegations of powers and functions. Any written direction or written approval given to the Operator by such a delegate in accordance with such delegation (but not otherwise) shall be binding on both the Operator and the CA in the same way as if it had been given by the Representative, provided always that—
  - (a) failure of a person authorised by the Representative to make a ruling or issue an instruction shall not prejudice the power of the Representative to make such ruling or issue such instruction later; and
  - (b) should the Operator be dissatisfied with any decision of a person authorised by the Representative, it may refer the matter to the Representative within seven (7) days, who must thereupon confirm, vary or reverse the decision.

The Representative shall remain liable to fulfil all of his/her duties in terms of the contract notwithstanding the appointment of a delegate.

4. It is also the duty of the Representative's Deputy to supervise the operation of the services as provided by the Operator on behalf of the CA and to monitor such services to ensure compliance with the Specifications. Other functions of the Deputy include, among other things, to arrange and chair meetings with the Operator other than monthly project and weekly penalty meetings, to develop a monitoring strategy, to supervise the monitoring staff and audit the quality of their monitoring activities, and to ensure that all relevant information required by the CA is forwarded in accordance with the formalities prescribed.
5. The monitors will conduct monitoring on routes and at termini, ranks and intermediate monitoring points.
6. Monitoring on route establishes the following:
  - (a) route and stop adherence;

- (b) passenger demand along the route;
  - (c) drivers' driving skills, adherence to traffic regulations and consideration for passengers; and
  - (d) the accuracy of EFVE by comparing actual passenger numbers with EFVE data and reports.
7. Monitoring at termini, ranks and intermediate monitoring points establishes the following:
- (a) the actual departure and/or arrival time to determine conformance with the contract timetable;
  - (b) whether the correct shift number is displayed;
  - (c) whether the correct destination is displayed on the destination board;
  - (d) whether vehicles are in a satisfactory condition with respect to general vehicle condition;
  - (e) the validity of licences; and
  - (f) the number of passengers and their perceptions.
8. Technical bus inspections will be carried out by suitably qualified staff at the depot(s) on a weekly basis. Defects identified will be classified in terms of the following types:
- (a) Type A defect: a warning;
  - (b) Type B defect: defect to be repaired within two days; and
  - (c) Type C defect: defect to be repaired before resuming contract trips or duties (shifts).
9. The standards that will be applicable to standard and bus-trains as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:
- (a) Reject if the licence of the motor vehicle has expired. [See Chapter III Regulation 4(3) of the NRTA Regulations.] The Operator has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.
  - (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145(1), which requires a bus' RWC to be valid for six months only. The twenty-one days' grace to display licences does not apply to RWCs.
  - (c) Reject if there is no valid operating licence/permit kept in the vehicle in terms of the National Land Transport Act 5 of 2009 (NLTA) and Regulations for the prescribed routes/services.
  - (d) Reject if number plate(s) are not compliant with SANS 1116-2 and 1116-4; not securely fitted; legibility/reflectivity affected/damaged/tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
  - (e) Reject if windscreen(s) are chipped/cracked within driver's control zone vision; windscreen clouded/defective; not identifiable as safety glass. (SANS 1191)

- (f) Reject if mirrors are chipped/cracked/discoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitutes a danger to passengers.
- (h) Chevrons must conform to SANS 1329 and reflectors to SANS 1046; chevrons, reflectors and contour markings as prescribed in the National Road Traffic Act (NRTA) and SANS 10047.
- (i) All glass must conform to NRTA Regulation 202; Such window/glass is permanently marked with the trade mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) emergency exit for every twelve (12) passengers; Emergency exits to be clearly identified with 50mm lettering facing inside and outside.
- (j) Reject if head lights (high and low beam) beams are not similar in intensity, do not work, lenses are missing/broken and or clouded/discoloured and if any park light, stop light, tail light, number plate light or indicator/hazard light does not work, lenses are missing/broken or clouded/discoloured. If any stop light or indicator light when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046).
- (k) Reject if any equipment that was required for the vehicle when it was new has been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the driver or if wiper blades have cracks.
- (m) Reject if the vehicle is not fitted with a destination indicator of any type, electronic type, manual roller type or board, however, if electronic/roller type it must be in working order. The lettering height must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Regulation 264A)
- (n) Reject if the bonnet cover does not seal and if, in the case of standard buses and bus-trains, the vehicle is not fitted with handrails at the steps and passageway and the step light(s) on the steps is/are not functioning;
- (o) Reject if cross-ply and radial tyres are mixed or a different size on the same axle; if inflated duals make wall contact; if the casings are damaged; Reject if tread depth is below 3 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked. Any wheel rim does not comply with load tables - SANS 1550-3. Reject if the wheel flaps are not fitted or in a good condition or do not comply with SANS 1496.
- (q) Reject if any steering drop arm/tie rod end/drag link/linkages play exceeds 1 mm. (Bushes, end's side play, etc.); if there is any sign of welding; distortion; mechanism does not operate smoothly

- throughout the range, any fastener, retaining device or locking device is missing/loose or not correctly fitted; proper movement is obstructed by another part of vehicle.
- (r) Reject if the information display/self-adhesive tamper proof label is not clearly imprinted with those items specified in clause 5.2.4 of SANS 20047; reject if there is no manufacturers plate fitted with the prescribed data in clause 5.2.4 of SANS 20047.
  - (s) Reject if hydraulic pipes are chafing, not correctly clamped or signs of leaks.
  - (t) Reject if steering stops are missing, not correctly fitted/adjusted or obstructed by another part.
  - (u) Reject if steering wheel play exceeds 45 degrees or the manufacturer's recommendation or the wheel hub or any spoke is broken or damaged or there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or is not secure; missing fasteners; modifications not in line with manufacturer's specifications.
  - (v) Reject if the low air warning devices (audio or light) are missing or do not function when air pressure is below 4.1 bar. (SANS 10047 - 5.31(c) read with NRTA Regulation 156(2))
  - (w) Reject if the maximum air pressure is below 7.3 Bar and if the time between starting the engine with reservoirs empty and reaching the operating speed exceeds the time limits as specified (SANS 20013, SANS 1207 or SANS 1051).
  - (x) Reject if the fire extinguisher does not conform to NRTA Regulation 260 or emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
  - (y) Reject if driver's door lock does not work correctly from inside or outside; hinges, catches or pillars of the door are not secure when closed.
  - (z) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
  - (aa) Reject if no partition is fitted behind the driver.
  - (bb) Reject if a control is functional incomplete/fractured/broken or obstructed/impeded in its travel or the steering wheel (with wheels in a straight position) obscures the speedometer or the low air-pressure warning device or both; a control is so positioned that when operated it will impair proper control of the vehicle; if any pedal, does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective. Gear lever/linkage/boot are defective/loose/damaged.
  - (cc) Reject if the exhaust brake is not working. Retarder (if fitted) reject if not working, if mounting bolts are loose, excessive bearing play, signs of corrosion/fractures, etc. (SANS 1051-4).
  - (dd) Reject if hand brake is not effective. Reject if the brake operating cylinders or diaphragms with excessive travel are found. (limit of 55 mm or half the cylinder length) (SANS 1051-5).

- (ee) Reject if excessive oil/water is in the air system, air reservoir or with no provision for draining automatically or manually, any reservoir not secured. (SANS 1051-3).
- (ff) Reject if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
- (gg) Reject: If with the foot brake fully applied and whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visibly clogged air cleaners/valves. (SANS 1051).
- (hh) Reject if any brake linings on one or more wheels are worn below the low wear indicator or are contaminated with oil or unnecessary free play is present. (SANS 1051).
- (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters not functioning or have parts missing; defective/missing brake boosters or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked/fractured or excessively worn / oval. (SANS 1051-6).
- (ji) Reject if any air valve (foot brake, four way, load sensing, etc.) shows any signs of malfunctioning, air leaks, oil discharge, loose or defective.
- (kk) Reject if the number of passengers displayed in the vehicle does not correspond with the licence disc and actual seats fitted (Regulation 245A) (Lettering size to be 75mm).
- (ll) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the battery/battery carrier/fittings are not secure. (SANS 10047 - Clause 5.38).
- (mm) Reject if the passenger seats and frames are loose, broken/torn and or danger to passengers. (SANS 10047 and SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
- (nn) Reject if the twist locks, screws or fasteners are not in good working order. Reject if the inspection covers in the passenger isle are not properly secured causing a danger to passengers.
- (oo) Reject if any seat facing has its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (pp) Reject if the vehicle is fitted with twist locks and the twist locks are not in good working order.
- (qq) Reject if the vehicle is not weatherproof (water, dust leaks, etc.).
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047).
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 and 1563).
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts or they are not as per the ALB Plate (or in breach of contract specifications).
- (uu) Reject if any "U" bolts are loose, broken or missing or if spring cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear.)

- (ww) Reject if any spring hanger/brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding or if the "Fox Clamps" are missing or loose.
- (xx) Reject if the vehicle is fitted with a load sensing valve and it is not functional, loose, damaged, etc. (SANS 1207, SANS 20013 read with SANS 10047).
- (yy) Reject if any shock absorber is missing/broken/leaking oil (air) or loose and or mountings worn/loose/missing.
- (zz) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (aaa) Reject if any excessive cracks, deformation or corrosion of any chassis/cross member occur; repairs will only be accepted if in compliance with the manufacturer's specifications (SANS 1563).
- (bbb) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if hub seals and or "O" rings are leaking oil.
- (ccc) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc.) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks or pipes are damaged, chafed or not secure.
- (ddd) Reject if any engine or gearbox mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired (SANS 1563).
- (eee) Reject if flange bolts loose/broken; worn centre bearing/housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (fff) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (ggg) Reject if the engine misfires, lacks power to the extent that it would hinder traffic or if engine failure appears imminent (i.e. engine knock, etc.).
- (hhh) Reject if in the case of a bus-train, the Operator fails to produce a certificate to certify that it has separated the two parts of the bus-train and examined the ball coupling and repaired, replaced or adjusted it, as necessary (SANS 10047 - 5.9.3.(g) read with the NRTA and its Regulations).

10. The standards that will be applicable to mini and midibuses as per SANS 10047 read with the National Road Traffic Regulations (NRTA Regulations) and other applicable SANS standards are as follows:

- (a) Reject if the Licence of the motor vehicle has expired. [See Chapter III Regulation 4 (3) of the NRTA Regulations] The operator



has twenty-one days to display the licence; however, proof of roadworthiness and licence receipt must be dated before the period of validity has expired.

- (b) Reject if the roadworthy certificate (RWC) has expired in terms of NRTA Regulation 145 (1). Please note that the twenty-one days does not apply to RWCs.
- (c) Reject if there is no valid Operating Licence / Permit displayed in the vehicle in terms of the NLTA & Regulations for the prescribed routes / services.
- (d) Reject if number plate(s) are not compliant with SANS 1116-2 & 1116-4; not securely fitted; legibility / reflectivity affected / damaged / tampered with; number not corresponding with licence disc; number plate obstructed; number plate has sharp edges, etc.
- (e) Reject if windscreen(s) are chipped / cracked within driver's control zone vision; windscreen clouded / defective; not identifiable as safety glass. (SANS 1191)
- (f) Reject if mirrors are chipped / cracked / discoloured within driver's vision; mounting brackets loose. (SANS 1436)
- (g) Reject if any part of the passenger door mechanism is faulty and cannot close properly whilst the bus is in motion and constitute a danger to passengers.
- (h) Chevrons must conform to SANS 1329 & Reflectors to SANS 1046; Chevrons, Reflectors & Contour Markings as prescribed in the NRTA & SANS 10047: Reject if the vehicle is not fitted with a "100" km per hour sticker on the rear of the vehicle.
- (i) All glass must conform to NRTA Regulation 202; Such window / glass is permanently marked with the Trade Mark and clearly identifiable as safety glass(SANS 1192/1193); Reject if any window pane, or transparent partition is not in a sound, unbroken and clear condition (SANS 1472); Emergency Exits to have unimpeded openings of 800 mm x 400 mm or 700 mm x 500mm; At least one (1) Emergency Exit for every twelve (12) passengers; Emergency Exits to be clearly identified with 50mm Lettering facing inside & outside.
- (j) Reject if head lights' beams (high and low beams) are not similar in intensity, does not work, lenses are missing / broken and or clouded / discoloured and if any park light, stop light, tail light, number plate light or indicator / hazard light does not work, lenses are missing / broken or clouded / discoloured or if any stop light or indicator light, when in use is not visible from 30 meters in normal sunlight. (SANS 10047 read with SANS 1046)
- (k) Reject if any equipment that was required for the vehicle when it was new has not been removed, or replaced with unsatisfactory equipment, or has been degraded.
- (l) Reject if the wiper mechanism or the blade or the control is not sufficiently operational to ensure a clear view for the Driver. Wiper blades have cracks.
- (m) Reject if it is not fitted with a destination indicator of any type; electronic type, manual roller type or board, however, if electronic / roller type is used it must be in working order. The lettering height

must be 150 mm and the destination must be clearly discernible at 150 meters (NRTA Reg. 264A)

- (n) Reject if it is not fitted with handrails at the steps; if the step light(s) on the steps is not functioning and if the bonnet cover does not seal.
- (o) Reject if the vehicle is not fitted with commercial rated tyres and of sizes 185R or 195R. Reject if tread depth is below 2 mm on any one tyre; if tyres are not correctly sized or correct carrying capacity; if any tyre is under inflated in excess of 10%. Reject if front tyres are not new.
- (p) Reject if any wheel stud/nut or half-shaft bolt is loose or missing, wheel is bent or cracked or if any wheel rim does not comply with load tables - SANS 1550-3.
- (q) Reject if any steering drop arm / tie rod end / drag link / linkages, play exceeds 1 mm. (Bushes, End's Side Play, etc); if there is any sign of welding; distortion; mechanism does not operate smoothly throughout the range, any fastener, retaining device or locking device is missing / loose or not correctly fitted or if proper movement is obstructed by another part of the vehicle.
- (r) Reject if the information display /self adhesive tamper proof label is not clearly imprinted with those items specified in Clause 5.2.4 of SANS 20047; reject if there is no Manufacturers Plate fitted with the prescribed data in Clause 5.2.4 of SANS 20047.
- (s) Reject if hydraulic pipes are chaffing, not correctly clamped or show signs of leaks (only in the case of Midi-Buses with Air Brake Systems).
- (t) Reject if steering stops are missing, not correctly fitted / adjusted or obstructed by another part.
- (u) Reject if steering wheel play exceeds 45 degrees or the Manufacturer's recommendation or the wheel hub or any spoke is broken or damages or if there is relative movement between the shaft and steering wheel; the centre of the steering wheel exhibits excessive up and down movement in line with the column; a flexible coupling or universal joint is excessively worn or not secure; fasteners are missing or if modifications are not in line with manufacturers' specifications.
- (v) Reject if the low air warning devices (audio and or light) are missing or do not function when air pressure is below 4.1 bar. (Only in the case of Midi-Buses with Air Brake Systems). [SANS 10047 - 5.31© read with NRTA Regulation 156 (2)]
- (w) Reject if the fire extinguisher does not conform to NRTA Regulation 260 and emergency triangles do not conform to NRTA Regulation 214 (SANS 1329).
- (x) Reject if driver's door lock does not work correctly from inside or outside or if hinges, catches or pillars of the door is not secure when closed.
- (y) Reject if driver's seat is not adjustable, loose or badly worn to the degree that it may cause the driver to lose control.
- (z) Reject if no partition is fitted behind the driver.
- (aa) Reject if a control is functional incomplete / fractured / broken or obstructed / impeded in its travel or the steering wheel (with wheels

- in a straight position) obscures the speedometer or the low air-pressure warning device or both or if a control is so positioned that when operated it will impair proper control of the vehicle. Reject if any pedal does not have the manufacturer's anti-slip provision (which could include a grooved metal surface) or the pedal surfaces are smooth; if the speedometer or any other meter or gauge, switch or control is missing, loose or defective or if the gear lever / linkage / boot is defective / loose / damaged.
- (bb) Reject if the vehicle is not fitted with a tamper proof speed governor, with 100 km per hour set as the maximum.
  - (cc) Reject if the vehicle does not qualify as per the specifications of the Taxi Recapitalisation Program.
  - (dd) Reject if hand brake is not effective. SANS 1051-5
  - (ee) Reject if excessive oil / water is in the air system or air reservoir or with no provision for draining automatically or manually or if any reservoir is not secured. SANS 1051-3 (Only in the case of Midi-Buses with Air Brake Systems)
  - (ff) Reject if not fitted with a *Type 2 Braking System*; if any brake pipes are excessively chafed, corroded, damaged, inadequately secured, kinked, or so positioned as to be liable to be damaged.
  - (gg) Reject: If with the foot brake being fully applied, whilst being held down, the air pressure gauges drops more than 10% in 3 minutes; or if any air leaks are audible; or if there are visible clogged air cleaners/valves. SANS 1051 (Only in the case of Midi-Buses with Air Brake Systems)
  - (hh) Reject if any brake linings / pads on one or more wheels are worn below the low wear indicator or is contaminated with oil or unnecessary free play is present. SANS 1051
  - (ii) Reject if clearance between brake drum and lining exceeds 1 mm; or slack adjusters are not functioning or have parts missing; defective / missing brake booster's or brake boosters not as per manufacturer's specifications; reject if brake drums are cracked / fractured or excessively worn / oval. SANS 1051-6 (Only in the case of Midi-Buses with Air Brake Systems)
  - (jj) Reject if the number of passengers displayed in the vehicle does not correspond with the Licence Disc & actual seats fitted (Reg. 245A) (Lettering size to be 75mm)
  - (kk) Reject if any electrical wiring are loose, damaged, not properly insulated, chafing and or hazardous. Reject if the Battery / battery carrier / fittings are not secure. (SANS 10047 - Clause 5.38)
  - (ll) Reject if the passenger seats & frames are loose, broken / torn and or danger to passengers. (SANS 10047 & SANS 1564 for anchorage) Gap between backrest and seat to be 200mm.
  - (mm) Reject if the seat frames are not fitted onto the vehicle as prescribed in SANS 10047. (Caution: Mini & Midibuses converted from Goods vehicle to a Passenger vehicle, must supply a SABS certificate that approved the seat mountings)
  - (nn) Reject if the vehicle is not fitted with seatbelts for every seat on board the vehicle and or if seatbelts are frayed.
  - (oo) Reject if the twist locks, screws or fasteners are not in a good working order. (Only in the case of Midi-Buses)

- (pp) Reject if any seat facing or have its side towards an entrance and if a rail or partition is not provided between the seat and the entrance (or side of seat).
- (qq) Reject if the vehicle is not weather proof. (water, dust leaks, etc.)
- (rr) Reject if any bumper, protective device, bonnet or similar fittings is not secure or has sharp edges. (SANS 10047)
- (ss) Reject if the passenger steps support structure is cracked or damaged, if steps are badly rusted or if there are jagged edges which may cause injury. (SANS 10047 & 1563)
- (tt) Reject if any spring has broken blades or sagging, broken centre bolts.
- (uu) Reject if any "U" Bolts are loose, broken or missing. Spring Cradles are cracked or loose.
- (vv) Reject if any shackle pin wear exceeds 5% of pin diameter. (Check shackle pin and shackle bearing wear)
- (ww) Reject if any spring hanger / brackets are fractured or worn or any signs of welding, if fractured or wear exceeds 4mm and or signs of welding, if the "Fox Clamps" are missing or loose.
- (xx) Reject if any shock absorber is missing / broken / leaking oil (air) or loose and or mountings worn / loose / missing.
- (yy) Reject if a stabilizer bar or arm or an anti-roll bar is missing, bent, welded, stabilizer bushes are worn, stabilizer mountings are in poor condition, signs of damage.
- (zz) Reject if any excessive cracks, deformation or corrosion of any Chassis / Cross Member occur; repairs will only be accepted, if in compliance of the Manufacturer's Specifications.(SANS 1563)
- (aaa) Reject if axle is cracked, welded or king pin wear exceeds 6 mm measured at the outer diameter of the wheel, or if wheel bearing play exceeds 0.25 mm. Reject if Hub Seals and or "O" rings are leaking oil.
- (bbb) Reject if there is any evidence of excessive oil spray or any (engine, gearbox, steering box, rear axle, etc) excessive oil, fuel or water leaks to the extent that it visibly drips during inspection; reject if the fuel tank is not secure or any part of it has been repaired in an unsatisfactory manner which could cause it to leak; the filler cap is missing or defective causing fuel spillage or leaks. Pipes are damaged, chafed or not secure.
- (ccc) Reject if any Engine and or Gearbox Mounting is missing, loose, broken or has deteriorated to the extent that the effectiveness is impaired.(SANS 1563)
- (ddd) Reject if flange bolts loose / broken; worn centre bearing / housing; damaged flexible mounting of bearing housing; worn spline joint; worn universal joints; there is a damaged or bent shaft; there is excessive vibration or abnormal noise; the clutch slips or gives excessive shudder; defective gear selection.
- (eee) Reject if the exhaust system is not secured, the system is within 25 mm of any hydraulic brake system pipe, noise limits are exceeded, emits excessive smoke.
- (fff) Reject if the engine misfire, lacks power to the extent that it would hinder traffic and / or if engine failure appears imminent.(i.e. engine knock, etc)

11. The weekly technical bus inspections will also entail an inspection of the Operator's maintenance records and procedures and its vehicle pass rate for RWCs.
12. Other duties to be performed by the SMF's staff include the following:
  - (a) random inspections of passenger travel passes or tickets, on or off the vehicles;
  - (b) weekly inspection of infrastructure at termini;
  - (c) monitoring of the operational records of the Operator in respect of this contract;
  - (d) monitoring of EFVE fitting and maintenance; and
  - (e) dealing with complaints (complaints will be passed up the chain of management as necessary).
13. The Representative must submit monthly monitoring reports to the CA detailing the results of the tasks carried out in terms of Items 6 to 9 of this Schedule. In addition, the report must at least also contain the information set out below, and the Operator must give its full co-operation to ensure that the Representative/SMF is in a position to do so:

(i) *Operational Statistics*

- (a) Timetabled trips;
- (b) Timetabled trips not operated;
- (c) Timetabled trips departing early at any time point;
- (d) Timetabled trips arriving more than five minutes late at any time point;
- (e) Vehicle failures and reasons;
- (f) Timetabled trips delayed or missed due to vehicle failure;
- (g) The average number of vehicles available for service during the peak period (morning or evening, whichever has the greater vehicle requirement), expressed as a percentage of the total number of vehicles operated by the Operator;
- (h) Number of buses operated during the busiest peak period of the day, expressed as a percentage of the number of vehicles available for use;
- (i) Subsidy per kilometre operated;
- (j) Subsidy per passenger;
- (k) Subsidy per vehicle category;
- (l) Number of vehicles subsidised per category;
- (m) Number of scheduled trips per vehicle category;
- (n) Number of trips operated per vehicle category;
- (o) Total number of penalties incurred;
- (p) Monetary value of penalties (including escalation);
- (q) Passengers per kilometre operated;
- (r) Passengers per trip operated;
- (s) Employees per vehicle;
- (t) Scheduled kilometres;
- (u) Revenue kilometres operated per vehicle category;

- (v) Estimates of fare evasion and fraud levels,  
and any reasons for changes to the above.

(ii) *Performance values in terms of KPI benchmarks*

The report is to include the results of the monthly performance evaluation conducted in terms of clause 38 of the Conditions of Contract and the KPI benchmark and score values detailed in Schedule 8. A scorecard will be completed and submitted for that purpose. Action to be taken by the Operator in the event of poor performance must also be reported on.

(iii) *Other Information*

- (a) Details of temporary minor timetable variations;
- (b) The results of service capacity assessments conducted during the month;
- (c) The number of tickets checked;
- (d) The results of all ticket inspections conducted during the month;
- (e) The activities undertaken by the Operator to resolve customer complaints;
- (f) Accidents where passengers have been killed or injured (apart from the requirements of the law to report these immediately;
- (g) Complaints and commendations;
- (h) Claims for compensation received by the Operator for injuries or death sustained by passengers or other persons (excluding Operator's employees) arising from the Operator's activities;
- (i) Electronic Ticketing System faults experienced and that require rectification by the Operator or the CA;
- (j) A summary of customer and quality assurance initiatives which will detail the customer and quality assurance initiatives that have been implemented by the Operator; and
- (k) Any other information that the CA or Operator deems relevant.

## SCHEDULE 6: PENALTIES

### 1. General

- 1.1 Penalties shall be imposed against the Operator for each offence in accordance with this Schedule and the CA must advise the Operator on a weekly basis of penalties so imposed. Where penalties, excluding amounts withheld in terms of Items 7.1, 7.2, 12.2, 13, 16.1 or 17.1, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months or for any five months during the contract period, the CA may terminate the contract in terms of clause 47.3(m) of the Conditions of Contract.
- 1.2 The Operator must 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 discovers that the Operator has failed to report trips not operated, operated late, operated early or provided other misleading information regarding the operation of the services, penalties for those offences will be increased by 10 percent and the CA will consider laying fraud charges against the Operator.
- 1.3 All penalties payable in terms of this Schedule quoted in fixed rand values shall be escalated annually, starting from the anniversary of the commencement date, by increasing them in terms of the average increase in the Consumer Price Index (CPI) for the previous five months.
- 1.4 Where any payment to the operator is withheld in terms of this Schedule, no escalation or interest will be payable to the Operator on the monies withheld and such monies will only be paid to the Operator after full compliance, unless specifically stated otherwise.
- 1.5 The Operator will not be penalized for trips departing late where the driver was waiting for passengers transferring from another vehicle in any public transport mode in terms of arrangements forming part of an integrated public transport network or integrated transport plan.

### 2. Failing to provide scheduled trips

- 2.1 (a) Where a trip is not operated on the Thursday prior to an Easter weekend or the Tuesday after an Easter weekend, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.
- (b) Where a trip is not operated on any Friday or Monday due to bus and/or driver availability problems stemming from private hires, a penalty of R10 000,00 will apply, and the variable contract rate will not be paid .

- 2.2 Where a trip is not operated on a day directly before or after a weekend (i.e. a Friday or Monday) or long weekend a penalty of R10 000,00 will apply, and the variable contract rate will not be paid.
- 2.3 The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the operator will be penalized.
- 2.4 Despite the above, no penalty will be imposed where trips are cancelled for reasons specified in clause 15 of the Conditions of Contract.

### **3. Providing trips that depart late or early**

- 3.1 Subject to clause 15 of the Conditions of Contract, in the case of a trip that—
- (a) departs between six and 15 minutes late from the departure, transfer or monitoring point, a penalty of R300,00 will be imposed;
  - (b) departs more than 15 minutes late from such point, a penalty of R500,00 will be imposed;
  - (c) departs more than 30 minutes late from such point, the trip will be deemed not to have been operated and no revenue kilometres will be paid, but the R2 000,00 and R10 000 penalties in terms of items 2.1 and 2.2 will not be applied;
  - (d) departs early, a penalty of R500,00 will be imposed.
- 3.2 Where a trip departs late from an intermodal transfer point due to the late arrival by the public transport vehicle or train preceding the Operator's vehicle in the chain of a connecting service, and this is certified by the Representative, the Operator will not be penalised.

### **4. Vehicle breakdowns**

- 4.1 The Operator must provide a replacement vehicle for breakdowns as follows:
- (a) At the starting point of a route or within an eight kilometre radius of those points, within 30 minutes; and
  - (b) At other points, within 45 minutes;
- provided that no breakdowns will be accepted as such inside depots.
- 4.2 Where a replacement vehicle is so provided, no penalty will be imposed and the variable contract rate will be paid.
- 4.3 If a replacement vehicle is provided, but not within the stated time, a penalty of R500,00 will be imposed for each trip not operated. If no replacement vehicle is provided, penalties will be imposed for a trip not provided. In all cases, however, where there are more than two percent vehicle breakdowns per month, a penalty of R5 000,00 per breakdown over 2% will be imposed. This percentage will be based on the average number of trips per month totalled over the month in question.



**5. Failing to display correct destination and/or duty boards or to display any destination or duty boards**

- 5.1 Where destination or duty boards have not been installed or are incorrectly displayed a penalty of R400,00 per infringement will be imposed.
- 5.2 Where the Operator changes duty numbers in contravention of clause 14 of the Conditions of Contract, a penalty of R1 000,00 per incident will be imposed.
- 5.3 The Operator must report within 24 hours the fact that any vehicle 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 R1 000,00 per infringement will be imposed. The onus will be on the Operator to prove that the trips have been operated, failing which the variable contract rate will not be paid and the trip will be deemed as not operated and the Operator will be penalised accordingly.

**6. Providing trips with vehicles not approved or in an unsatisfactory condition**

- 6.1 Vehicles must be roadworthy and comply at all times with the National Road Traffic Act and other relevant legislation. Where a vehicle fails to comply with any legal requirement, it must be withdrawn from service immediately until the defect is rectified, and penalties will be imposed for failing to operate unless a spare vehicle is provided that complies with all legal requirements and that complies with the specifications detailed in Schedules 1 and 2.

Any contract trips operated by a vehicle which is–

- (a) not on the approved contract fleet list whether contract compliant or not; or
- (b) is not contract compliant; or
- (c) is without a valid operating licence, permit or roadworthy certificate; or
- (d) has been deemed to be unsafe for use,

will be deemed as not having operated the trips in question. No revenue kilometres will be paid and penalties in terms of item 7.1 will be imposed.

- 6.2 Where vehicles leave a depot, transfer point, terminus or starting point in an unsatisfactory condition the following penalties will apply:
- (a) dirty on the outside or inside or with wet seats, a penalty of R1 000,00 per vehicle will be imposed, but this will not apply to vehicles leaving overnight parking areas in rural areas;
  - (b) not in a good state of repair or with a leaking roof, one or more broken or missing windows or in an unhygienic condition, a penalty of R1 000,00 per vehicle will be imposed;
  - (c) with missing or broken seats, a penalty of R1 000,00 will be imposed;
  - (d) with broken, missing or open doors, or doors that cannot be closed properly, a penalty of R1 000,00 per vehicle will be imposed.
  - (e) operating without its head and/or tail lights on, a penalty of R100,00 per trip will be applied.

6.3 If a penalty is imposed in respect of a particular vehicle under item 6.2(a) to (d) more than three times in any 14 day period, the Operator must withdraw that vehicle and replace it until it has been repaired so as to comply with the specifications.

6.4 The standards that will be applied in respect of this item are as follows:

**(a) “Dirty”**

*Dirty Inside:*

A vehicle of which the seats have not been cleaned and the floor has not been swept and washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

*Dirty Outside:*

A vehicle which is full of dust or mud and had not been washed since the last trip operated the previous day. This will not apply to vehicles leaving overnight parking areas that are not depots.

**(b) “Not in a good state of repair”**

Includes anything that can cause injury to a passenger or the public *e.g.* loose strips on the floor, loose inspection covers, loose engine covers, broken steps, loose and dangerous luggage racks etc.

Also applicable where the body exterior needs attention *e.g.* accident damage that has not been repaired, body panels that have not been repainted, lights that are not working etc.

**(c) “Leaking roof”**

A roof that leaks water or through which dust enters the vehicle.

**(d) “Broken windows”**

Windows that are cracked within the vision of the driver and windows that are so badly cracked that it could cause injury to a person. Also includes windows which are badly installed or of which the window rubbers have deteriorated to such an extent that they leak water or allow dust to enter the vehicle.

**(e) “Unhygienic condition”**

A vehicle that is so dirty from old accumulated dirt against the panels, floor and roof that it constitutes an unhygienic condition. Also includes a situation where cockroaches and/or other insects such as lice are found.

**(f) “Missing seat”**

A seat or row of seats that has been removed from the vehicle.

**(g) “Broken seat”**

A seat of which the seat clips have broken resulting in it being loose from the floor or seat frame.

**(h) "Wet seat"**

A seat that has been washed but not dried or a seat that is wet due to water leaks from the roof or windows.

**(i) "Broken door"**

A door that is hanging loose from the door hinges or of which the door clip/handle is not working.

**(j) "Missing door"**

A vehicle without a passenger or driver door.

**7. Failing to provide the right type, quality and age of vehicles**

- 7.1 Where the Operator fails to provide all of the vehicles of the right type, quality and specification as specified in Schedules 1 and 2 after the commencement date it shall be penalized in the amount of R5 000,00 per unapproved bus per day, plus five percent of the total amount payable in respect of the relevant month's payment certificate, with a minimum of R25 000,00, will be withheld on a *pro rata* basis, for example if one of 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 similar to those specified (can be different manufacturer but must be same seat capacity, and same engine capacity) in Schedule 2 of the same quality, which in the opinion of the Representative are suitable.
- 7.2 Item 7.1 will also apply where the operator fails to provide the accessible vehicles or to adapt its vehicles to comply with the accessible vehicle requirements as required by clause 21 of the Conditions of Contract and as specified in Schedule 2 and by the date specified in that clause.
- 7.3 If the Operator does not comply with the specifications for rebuilt and rehabilitated buses in Schedule 1 within three months from the date that the monies were first withheld, it will forfeit such monies.

**8. Deviating from routes**

Where there is a deviation from a route the variable kilometre rate will not be paid.

**9. 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 R1 000,00 per incident will be imposed, except—

- (a) where the lawful capacity of the vehicle would have been exceeded; or
- (b) a passenger has refused to pay the fare; or

- (c) on grounds of violent, abusive or otherwise offensive conduct on the part of a passenger.

**10. Failing to provide information or provision of misleading information**

- 10.1 Any of the following conduct by the Operator amounts to the provision of misleading information and may be subject to the penalty provided in Item 10.2:

- (a) Deliberately recording or including (or deliberately failing to record or include) any matter in the operator's records, reports or financial statements which renders those documents untrue or misleading;
- (b) Failing to provide a financial report or an operational report or failing to provide a statement of financial position by the time specified in this Contract;
- (c) Failing to provide information as contemplated in clause 6 of the Conditions of Contract; and
- (d) Failing to co-operate and provide information as contemplated in clause 8.6 of those Conditions of Contract.

- 10.2 If, in the opinion of the CA the Operator has provided such or any other misleading information as contemplated in item 10.1, the CA may request that the necessary corrective action be taken. If the Operator fails to do so within seven days or as requested by the CA to the satisfaction of the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the corrective action was requested, will be forfeited.

- 10.3 The Operator must supply the CA with any additional information applicable to the operations or where the Operator is so requested by the CA in terms of this contract. If the Operator fails to do so within seven days or as requested by the CA, three percent of the gross certificate value payable to the Operator (i.e. after escalation) of the month in which the information was requested will be forfeited.

**11. Failure to provide patronage information**

- 11.1 Once EFVE has been installed as required by clause 33 of the Conditions of Contract, the information derived from it must reflect at least eighty percent of observed patronage based on a joint on-board census carried out by the Representative and the Operator. While EFVE has not been so installed, the information on patronage must be observed by other methods, such as waybills. Information provided on patronage must be accurate.

- 11.2 If the information provided is less than 80% of observed patronage in any month, five percent of the gross certificate value payable to the Operator, i.e. after escalation, of the applicable month's payment certificate will be forfeited.

- 11.3 Compliance with this clause will be proved by comparing patronage observed by the monitors on at least 30% of the trips for the month in question with that reflected by EFVE. Should this sample not comply, the penalty will be levied for all of the trips provided on all routes in terms of the contract.

**12. Failing to install or to have operational EFVE**

- 12.1 The Operator shall install and commission EFVE and provide information therefrom as follows:
- Stage A1: install required electronic equipment (EFVE) on all vehicles within 30 days of the commencement date;
  - Stage A2: EFVE on vehicles to be commissioned, i.e. EFVE to be in full working order, drivers to be trained in its use and EFVE to be providing usable information within 60 days of the commencement date;
  - Stage B1: depot computer to be installed and commissioned within 30 days of the commencement date;
  - Stage B2: depot computer to be processing information obtained from EFVE on vehicles within 60 days of the commencement date.
- 12.2 Where the Operator fails to complete these Stages within the time indicated to the satisfaction of the CA, three percent 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 CA. Where moneys are so withheld for three 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 in respect of those vehicles in which those Stages have not been completed.
- 12.3 The four Stages will only be regarded as complete where EFVE in all buses and in the depot is fully operational and supplying all required information as specified in clause 33 of the Conditions of Contract.
- 12.4 Whether or not EFVE is installed, the onus will always be on the Operator to supply the correct information as specified in clauses 6 and 33 of the Conditions of Contract by using manual methods, intensive monitoring or other methods approved by the CA. This must be done from the beginning of the second month of operation to the satisfaction of the CA. Where this is not done, three percent of the gross certificate value payable to the Operator, before escalation, of the applicable month's payment certificate will be forfeited, where applicable over and above the penalties provided for above, and the CA may regard this as a breach of a material term of the contract.
- 12.5 If EFVE which has been installed and has been operational becomes defective and unable to supply the required information, the Operator must make it available for repair within three 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.
- 12.6 This item is subject to the provisions of the contract which provide that the CA may decide not to pay any claim without adequate documented proof of the required information and data.

**13. Failing to implement the BBBEE Codes of Good Practice**

If the Operator fails to comply with the targets and milestones of the BBBEE Codes of Good Practice at any time during the contract period three percent of the gross certificate value payable to the Operator, i.e. before escalation, will be withheld from each month's payment certificate. 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 compliance has been proved to the satisfaction of the CA. Where monies are so withheld for three months they will be forfeited.

**14. Use of unauthorised sub-contractor**

Where the Operator uses a sub-contractor without the approval of the CA in contravention of clause 18 of the Conditions of Contract, a penalty of five percent of the amount payable in terms of the payment certificate for the month in question will be forfeited for each month in which such contravention has taken place.

**15. Failing to obtain approval for a change in ownership control**

Where the Operator fails to obtain approval from the CA for a change in ownership control as required by clause 4.2 and 4.3 of the Conditions of Contract, a penalty of R10 000,00 will be imposed, if the CA decides not to terminate the contract.

**16. Failure to submit a Customer Complaints Policy, keep a Passenger Complaints Register or to respond to complaints**

16.1 Where the Operator fails to submit a Customer Complaints Policy to the CA in contravention of clause 23.4 of the Conditions of Contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until it is submitted to the satisfaction of the CA.

16.2 Where the Operator fails to keep a Passenger Complaints Register as required by clause 23.5 of the Conditions of Contract, a penalty of R5 000,00 per month will be imposed until the Register is kept to the satisfaction of the CA.

16.3 Where the Operator fails to respond to a complaint from a passenger as required by clause 23.4 of the Conditions of Contract or has not addressed complaints by the public to the satisfaction of the CA or Representative a penalty of R2 000,00 per incident will be imposed.

**17. Failing to submit fare evasion procedures or to check tickets**

17.1 Where the Operator fails to submit a fare evasion plan to the CA in contravention of clause 32.4(ii) of the Conditions of Contract, a penalty of two percent per month of the amount payable in respect of that month's payment certificate will be imposed until they are submitted to the satisfaction of the CA.

- 17.2 Where on inspection it appears that any of the Operator's drivers has failed to check a passenger's ticket or failed to check that the ticket was properly validated or that the ticket has not been defaced, a penalty of R250 per incident will be imposed.

**18. Failing to pay a sub-contractor**

If the Operator fails to pay a sub-contractor within the time specified in clause 18 of the contract, a penalty of R50 000,00 or five percent of the amount payable to the sub-contractor, whichever is the highest, will be imposed in the month following the failure to pay. Should three failures in any 12 months occur the penalty will be increased to R150 000,00 or 100% of the amount payable to the sub-contractor, whichever is the highest.

**19. Amending a sub-contracting agreement without approval**

Where the Operator amends a sub-contracting agreement without the prior approval of the CA in contravention of clause 18.8 of the contract, a penalty of R10 000,00 per month will be imposed until the contract is amended or replaced to conform to the *pro forma* contract in Schedule 11 to the satisfaction of the CA.

**SCHEDULE 7: SPECIFICATIONS: ROUTES, DISTANCES, SERVICES, FARES, TIME TABLES, STOPS AND ADDITIONAL RELATED INFORMATION**

*[To be completed in relation to the specific services/design]*



**SCHEDULE 8: PERFORMANCE MONITORING****1. KPI Performance Benchmarks and score values**

- 1.1 The KPI benchmark values (standards) that will be applicable during the contract period as well as the values in terms of which scores will be allocated to the Operator for the purposes of monthly performance evaluations are summarised in Table 1 below.

**Table 1: KPI Benchmark and score values**

KPI	Benchmark value (Standard)	Score Values
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1
<b>Punctuality</b>		
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1
<b>Driver quality</b>		
• Passenger complaints	2%	≤2% = 1; >2% = 0
• Surveys	2%	≤2% = 1; >2% = 0
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1
<b>Vehicle quality</b>		
• General vehicle condition	2%	≤2% = 1; >2% = 0
• Technical vehicle condition:		
(i) breakdowns	2%	≤2% = 1; >2% = 0
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0
(iv) Roadworthy certificate pass rate	98%	<100% = 0; 100% = 1
<b>Safety</b>	1%	≤1% = 1; >1% = 0
<b>Passenger satisfaction</b>	95%	<95% = 0; ≥95% = 1
<b>Contract compliance</b>		
(i) information & reports	100%	<100% = 0; 100% = 1
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1
(iii) staff training	100%	<100% = 0; 100% = 1
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1

- 1.2 It should be noted that should remedial action be required in terms of the driver and vehicle quality KPIs and the Operator fails to implement such action in subsequent months, a score of zero will be allocated for those months.

- 1.3 The format that will be used by the Representative/SMF to evaluate the Operator's monthly performance is given in Table 2 on the next page. The form must be signed by both the Operator and the Representative and will be submitted to the CA as part of the Representative's monthly monitoring report.

## **2. Customer Satisfaction Surveys**

- 2.1 The CA will undertake Customer Satisfaction Surveys during the contract period. These may be route focused or area focused as the CA deems necessary.
- 2.2 The surveys will entail face-to-face interviews with passengers alighting from vehicles. Questions relate to the journey that has just been made including overall satisfaction with journey, information, safety and security, cleanliness, reliability and staff behaviour.
- 2.3 The surveys will be summarised and conclusions drawn by the CA.
- 2.4 The final reports will be made available to the Operator and will be discussed at a meeting convened for this specific purpose. This meeting may be attended by commuter/community forum members with the prior written consent of the CA, and the Operator will be allowed to question the conclusions of the report.
- 2.5 At the Contract Performance Review of year seven, all Customer Survey reports will be considered and any continued negativity in them may negate the contract extension.

## **3. Periodic Performance Reviews**

- 3.1 The Operator must attend, and ensure that any sub-contractors attend, meetings with the CA as requested by the CA from time to time for the purposes of enabling it to conduct periodic reviews of the financial and operational performance of the Operator under this contract.
- 3.2 Any reviews conducted under clause 38.11 of the Conditions of Contract will not be more frequent than one review each quarter except where the circumstances or nature of the review requires follow up reviews or an extended review.
- 3.3 The CA must give the Operator not less than 10 business days' notice of any such meeting.
- 3.4 The persons attending the meetings on behalf of the Operator, or sub-contractors, as the case may be, must be of appropriate seniority and responsibility and must include those directors or senior managers of the Operator reasonably requested by the CA.
- 3.5 The officials attending the meetings on behalf of the CA must also be of appropriate seniority and responsibility to take the necessary decisions and an official at not lower than Director level must attend each meeting.
- 3.6 If requested to do so in a written agenda not less than 48 hours before the

meeting, the Operator must prepare and present reports at the meetings in respect of those aspects of its performance requested by the CA.

Table 2: Format for monthly performance evaluations

KPI	Benchmark value (standard)	Score values	Month: .....	
			KPI value	Score
<b>Reliability</b>	98%	<98% = 0; ≥98% = 1		
<b>Punctuality</b>				
• On-time departures at terminals & intermediate points	95%	<95% = 0; ≥95% = 1		
• On-time arrivals at terminals & intermediate points	90%	<90% = 0; ≥90% = 1		
<b>Driver quality</b>				
• Passenger complaints	2%	≤2% = 1; >2% = 0		
• Surveys	2%	≤2% = 1; >2% = 0		
<b>Bus availability</b>	98%	<98% = 0; ≥98% = 1		
<b>Vehicle quality</b>				
• General vehicle condition	2%	≤2% = 1; >2% = 0		
• Technical vehicle condition:				
(i) breakdowns	2%	≤2% = 1; >2% = 0		
(ii) technical bus inspections	0 serious defects/bus 1 other defect/bus	0 = 1; >0 = 0		
(iii) maintenance procedures	100%	≤1 = 1; >1 = 0		
(iv) RWC pass rate	98%	<100% = 0; 100% = 1		
<b>Safety</b>				
	1%	<98% = 0; ≥98% = 1		
	95%	≤1% = 1; >1% = 0		
<b>Passenger satisfaction</b>		<95% = 0; ≥95% = 1		
<b>Contract compliance</b>				
(i) information & reports	100%	<100% = 0; 100% = 1		
(ii) adherence to CA & SMF instructions	100%	<100% = 0; 100% = 1		
(iii) staff training	100%	<100% = 0; 100% = 1		
(iv) fit and maintain ticketing equipment	100%	<100% = 0; 100% = 1		
<b>Maximum score = 19</b>		<b>Total score:</b>		
		<b>Signed:</b>		
		<b>SMF Representative:</b>		
		<b>Operator:</b>		
		<b>Date:</b>		

**4. Contract Extension Review**

- 4.1 The contract extension review is based on the monthly KPI benchmark evaluations conducted throughout the contract period.
- 4.2 In addition to the conditions specified in clause 38.8 of the Conditions of Contract, the CA will evaluate the operator's ability to continue operating the services in a sustainable manner and to meet the KPI benchmarks during the contract extension.

**SCHEDULE 9: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES****1. The variable cost component**

- 1.1 The variable cost component is linked to the number of scheduled revenue kilometres to be operated by each of the vehicle types on the contract. A variable contract rate (price per kilometre) is therefore calculated per vehicle type.
- 1.2 Variable costs consist of the following cost elements:
- Fuel (diesel and petrol);
  - Tyres;
  - Maintenance and spares; and
  - Oil and lubricants
- 1.3 The Operator must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D of Form 12. The information must be provided for each cost element for the first twelve months of the contract period.
- 1.4 Kilometres operated by additional vehicles will be charged for at the same rates for the type of vehicle concerned.
- 1.5 If a new vehicle type is introduced on the contract, an additional Table 1 must be completed and approved by the CA for inclusion as an addendum to the contract documents.

**2. The fixed cost component**

- 2.1 The fixed cost component will be linked to the number of vehicles of each vehicle type operated on the contract. A fixed contract rate (rate per vehicle) is therefore calculated per vehicle type.
- 2.2 Fixed cost consists of the following cost elements:
- Labour (wages and costs of drivers, management, the administration department and the traffic and engineering departments of the Operator's organisation);
  - Vehicle related costs (instalments, depreciation, vehicle insurance, licence fees and operating licences and permits); and
  - Other general (overhead) costs;
- 2.3 To support the Operator's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C of Form 12.
- 2.4 Upon award of the contract Tables 2A, 2B and 2C must be completed providing employee names and monthly salaries/wages and benefits and submitted to the CA.
- 2.5 The Operator must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs

on Tables 3B, 3C, 3D and 3E of Form 12. The information must be provided for the first year of contract.

- 2.6 The monthly repayments for vehicles will be considered to be over a 60 month period.
- 2.7 If a new vehicle type is introduced on the contract, an additional Table 3 must be completed and approved by the CA for inclusion as an addendum to the contract documents.
- 2.8 The Operator must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4 of Form 12.

**3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is done in terms of Tables 5 to 7 of Form 12.

**SCHEDULE 10: EFVE OPERATION**

This Schedule is subject to the Regulations Relating to Integrated Fare Systems, 2011 promulgated under Notice R.511 in *Government Gazette* No. 34363 dated 17 June 2011.

**1. EFVE Support**

- 1.1 The EFVE is supported by software which is controlled, monitored and maintained by the CA.
- 1.2 The Operator must use EFVE hardware and software provided by the CA. The Operator must allow the CA access to the hardware and software for the purpose of maintenance and auditing as and when the CA deems necessary. The CA is responsible for software installation, testing, modification and enhancements.
- 1.3 The Operator shall not modify any part of the Ticketing System in any way.
- 1.4 The Operator must notify the CA immediately of any fault in the EFVE software or hardware.

**2. Revenue Management****2.1 Patronage Data Collection and Analysis**

- 2.1.1 The EFVE Ticketing System is the primary source of patronage data. The Operator must ensure on a daily basis the transfer of patronage data to the CA.
- 2.1.2 Accurate and timely collection of data is dependent upon proper operation of the EFVE Ticketing System. This Schedule includes a description of the assignation and use of ticket codes, the key data element in patronage reports.
- 2.1.3 A list of available Patronage Reports is available from the CA on request.

**2.2 Patronage Data Adjustment**

- 2.2.1 As patronage data might be used as basis for incentive payments, the CA will only adjust patronage data when there is a contract area-wide equipment failure. Any adjustment for such a failure is at the discretion of the CA. The CA will not adjust patronage data for individual EFVE Ticketing System equipment failure, fare evasion or ticket failure.
- 2.2.2 The CA will provide a summary report of equipment failure data, including vehicle control units and validators for the contract area.
- 2.2.3 The CA will provide the Operator with a summary of the adjustments made to the raw patronage data provided by the Operator in that month, by route and day, not later than 15 business days after the end of each calendar month.



## **2.3 Fare Evasion and Ticket Failure**

- 2.3.1 The Operator must monitor and measure the incidence of fare evasion by ticket inspections.
- 2.3.2 For ticket failures, the Operator must ensure that drivers—
- (a) complete a Ticket Problem Slip;
  - (b) write “invalid”, the date and driver identification number on the ticket; and
  - (c) advise passengers of the possibility of a replacement ticket for unused trips as per the back of the Ticket Problem Slip.
- 2.3.3 The Operator must make every effort to ensure that concession tickets are not sold by drivers unless a CA-approved concession pass is produced by the passenger.
- 2.3.4 The Operator must ensure that passengers do not travel for a distance greater than that permitted by the passenger’s ticket. If this occurs then the driver must request the passenger either to—
- (a) buy and validate another ticket; or
  - (b) disembark from the vehicle, and penalties will be imposed in terms of Schedule 6 for failing to comply with fare evasion procedures.
- 2.3.5 Random audits will be undertaken by the CA or Representative to ensure that steps are being taken to minimise fare evasion.

## **2.4 Inspectors**

- 2.4.1 The CA may task the SMF or appoint inspectors to conduct random inspections, including ticket inspections, to ensure passenger compliance with legislation and this contract.
- 2.4.2 All tickets inspected by an inspector must be passed through a Portable Reader Decoder (PRD) to determine date and time validity. The CA will supply the PRDs.
- 2.4.3 Each inspector must keep records of the number of tickets checked by route, whether the ticket was valid or not, non-validity type and action taken by the inspector.
- 2.4.4 Ticket offence reports and expiation notices (penalty notices issued to passengers) must be forwarded to the CA within five business days of them being issued for prosecution if required.

## **2.5 Ticket Production and Sales**

- 2.5.1 Smart cards or value cards must be used which will be purchased at terminals, transfer stations and other ticket outlets as directed by the CA. This must not be costed as part of the tendered rates, and the parties will negotiate on the cost implications involved, if any, in which case the contract rates may be adjusted to reflect this cost.

- 2.5.2 The Operator must sell tickets and provide refund facilities at ticket outlets at terminals and transfer stations at the following terminals and transfer stations: .....unless the CA requires roving ticket sales or has granted an exemption in writing. The Operator must adhere to the CA's directions as regards roving ticket sales, if applicable.
- 2.5.3 Ticket outlet opening hours to the public for sales shall be 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. Variations to these hours shall be at the discretion of the CA.
- 2.5.4 To allow for passengers not able to acquire tickets off-vehicle, the Operator must install in each vehicle ticket selling equipment as required by the CA which may be fixed or portable. Any contravention of this rule will constitute a serious breach of contract for which penalties will be applied.
- 2.5.5 Cash ticket sales on vehicles must be limited to a minimum, and will be phased out of the system within six months of implementing the integrated network.
- 2.5.6 The CA will supply tickets to the Operator for counter sales and for issue to all drivers for on-board sales.
- 2.5.7 The Operator must ensure that drivers have sufficient cash float to give change to passengers buying tickets.
- 2.5.8 The Operator must keep adequate ticket stock and records to ensure continuous supply for on-board and counter sales, and re-order tickets from the CA when necessary. No commission will be paid to Operators for ticket sales or refunds.
- 2.5.9 Faulty tickets presented for replacement refund action should be retained by the Operator and affixed to a Ticket Credit Form for reconciliation and audit purposes.

## **2.6 Fare Validation**

- 2.6.1 Fare validation will take place on board vehicles and/or at bus stops, terminals and transfer stations.
- 2.6.2 All vehicles must be provided with card readers to "validate" the smart cards.
- 2.6.3 Major stations will be equipped with card readers to allow quick boarding.

## **2.7 Ticketing System Maintenance**

- 2.7.1 The Operator must ensure that the Ticketing System is kept in a reasonable working condition, and take reasonable precautions to ensure that the Ticketing System is not damaged by its employees, agents, passengers or other persons.
- 2.7.2 The Ticketing System maintenance service to be undertaken by the Operator shall

comprise—

- (a) First Level Corrective Maintenance;
- (b) First Level Preventative Maintenance; and
- (c) Second Level Repair Maintenance,

as described in this Schedule.

2.7.3 If the Ticketing System is faulty or does not operate, and such fault is not due to—

- (a) failure by the Operator to carry out First Level Corrective Maintenance, or
- (b) a jam or other fault of a class that is capable of being remedied by the Operator,

then the Operator must immediately notify the CA of such fault.

2.7.4 The Operator must give the CA full access to the Ticketing System to enable it to—

- (a) carry out service maintenance, repair and maintenance of the Ticketing System, other than First Level Corrective Maintenance;
- (b) carry out service maintenance and repair of the Ticketing System in response to a notification of a fault with the Ticketing System; and
- (c) undertake installation or removal of the Ticketing System or any part thereof when necessary.

## **2.8 Failure of Operator to meet Maintenance Obligations**

The Operator must pay all costs arising from the CA attending to remedy any fault of the Ticketing System which fault is due solely or partially to—

- (a) the failure by the Operator to carry out First Level Corrective Maintenance;
- (b) damage caused to the Ticketing System by the Operator, its employees and agents; or
- (c) damage to the Ticketing System by any person not authorised by the CA having access to it while it is in possession of the Operator.

## **2.9 Claims**

The Operator may not claim or be entitled to claim from the CA any sum for inconvenience, loss or damage to the Operator due to—

- (a) vandalism or willful damage to or misuse of the Ticketing System;
- (b) faults caused by or arising from inadequate equipment maintenance or repair;
- (c) any delay by the CA in attending to and replacing any faulty component of the Ticketing System;
- (d) the delay in conducting any inspection maintenance or repair of ticketing equipment;
- (e) the replacement or upgrading of the Ticketing System; or

- (f) faults or damage to the Ticketing System caused by industrial action, an act of God or other unforeseen events.

## **SCHEDULE 11: STYLE GUIDE FOR IMAGE AND MARKETING**

*[CA to prepare]*

## **SCHEDULE 12: JOURNEY ANALYSIS REPORT**

See next page.

## Journey Analysis

Operator:

Date Range: 2010/02/20 to 2010/02/20  
 Contracts: ALL  
 Routes: ALL

Start	Driver No	Driver Name	Bus	Duty	Jny	Act. Start	Sched Dist.	Arrive	Actual Dist	Revenue	Tickets	Passes	Psngrs
<b>Trips for 20/02/2010</b>													
<b>Contract: 20/02/2010</b>													
<b>Route: 0010</b>													
09:40	1	Galehole NS	942	120	940		9:20		0.00	R0.00	0	0	0
<b>Route: 0030</b>													
05:30	1	Galehole NS	942	120	530		53:50		0.00	R224.50	24	5	29
08:00	1	Galehole NS	942	120	800		47:90		0.00	R124.00	11	0	11
13:25	1	Galehole NS	549	120	1325		53:50		0.00	R443.00	44	11	44
<b>Route: 0040</b>													
07:00	140	Moleme MB	896	127	700		35:00		0.00	R0.00	0	0	0
07:00	140	Moleme MB	495	127	700	06:54	35:00		0.00	R25.00	10	17	27
07:00	100	Kaekae S	3205	127	700		25:00		0.00	R165.00	22	20	42
13:15	140	Moleme MB	896	127	1315		25:00		0.00	R0.00	0	0	0
13:15	122	Mosimanekegosi TS	458	127	1315	14:00	25:00		0.00	R135.00	18	10	28
<b>Route: 0041</b>													
07:15				126	715		76:50		0.00	R375.00	50	47	97
13:20	83	Meyer RJ	546	126	1320		76:50		0.00	R799.50	53	0	53
<b>Route: 0070</b>													
04:30				132	430		100:00						
<b>Route: 0120</b>													
06:00	122	Mosimanekegosi TS	999	142	600		41:50		0.00	R78.00	13	0	13
13:30	140	Moleme MB	896	142	1330		41:50		0.00	R262.50	22	2	24
<b>Route: 0121</b>													
07:00	51	Galehole OS	654	111	700		43:50		0.00	R207.00	18	0	18
13:30	100	Kaekae S	654	111	1330		43:50		0.00	R328.00	26	2	28
<b>Route: 0190</b>													
06:30	147	Melore LB	72	146	630		99:30		0.00	R806.00	40	6	46
13:30	147	Melore LB	72	146	1330		99:30		0.00	R387.30	36	11	47
<b>Route: 0220</b>													
07:00	137	SamaneJO	731	150	700		85:20		0.00	R612.50	36	0	36
13:30	137	SamaneJO	731	150	1330		85:20		0.00	R736.00	45	0	45
<b>Route: 0240</b>													
07:00	59	Nkokou TG	546	141	700		74:00		0.00	R1192.50	62	1	63
13:30	59	Nkokou TG	546	141	1330		74:00		0.00	R876.00	39	1	40
<b>Route: 0010</b>													
08:10	122	Mosimanekegosi TS	999	142	810		9:20		0.00	R0.00	0	0	0
08:15				141	815		9:20		0.00	R0.00	0	0	0
08:20	117	Mohleng MI	455	127	820		9:20		0.00	R0.00	0	0	0
08:20	100	Kaekae S	3205	127	820	07:01	9:20		0.00	R0.00	0	0	0
08:20				127	825		9:20		0.00	R0.00	0	0	0
09:10				126	910		9:20		0.00	R0.00	0	0	0
09:10				146	910		9:20		0.00	R0.00	0	0	0
10:10	137	SamaneJO	731	150	1010		9:20		0.00	R0.00	0	0	0
11:20				111	1120		10:90		0.00	R0.00	0	0	0
12:15	137	SamaneJO	731	150	1215		9:20		0.00	R0.00	0	0	0
12:45				141	1245		9:20		0.00	R0.00	0	0	0
12:50	140	Moleme MB	896	142	1250		9:20		0.00	R0.00	0	0	0
12:50	140	Moleme MB	896	142	1250		9:20		0.00	R0.00	0	0	0
12:50	1	Galehole NS	549	126	1250		9:20		0.00	R0.00	0	0	0
12:55				126	1255		9:20		0.00	R0.00	0	0	0
12:55	140	Moleme MB	896	127	1255		9:20		0.00	R0.00	0	0	0
12:55	122	Mosimanekegosi TS	458	127	1255		9:20		0.00	R0.00	0	0	0
<b>Route: 0030</b>													
05:00				120	500		5:00		0.00	R0.00	0	0	0
06:55	1	Galehole NS	942	120	655		47:90		0.00	R0.00	0	0	0
15:10				120	1510		5:00		0.00	R0.00	0	0	0
<b>Route: 0041</b>													
14:05	122	Mosimanekegosi TS	458	127	1405	14:33	20:00		0.00	R0.00	0	0	0
<b>Route: 0043</b>													
06:50				126	650		13:10		0.00	R0.00	0	0	0
15:55				126	1555		13:10		0.00	R0.00	0	0	0
<b>Grand Total:</b>													
										R7,453.80	489	82	571
										R7,453.80	489	82	571

**SCHEDULE 13: OCCUPATIONAL HEALTH AND SAFETY AGREEMENT**

This is an agreement between:

The ..... Municipality/Provincial Administration

(being the contracting authority in the contract concluded between it and the Mandatary mentioned below for the provision of public transport services to which this agreement is appended and hereinafter referred to as the "Employer")

And

.....  
(being the supplier and the Operator in terms of the abovementioned contract and hereinafter referred to as the "Mandatary")

in respect of the abovementioned public transport services as more fully described in the contract referred to above

.....  
(hereinafter referred to as the "work")

WHEREAS section 37(1) of the Occupational Health and Safety Act 85 of 1993 (the OHS Act) provides that an employer shall be liable to be convicted and sentenced in respect of an act or omission by its mandatary or employee in certain circumstances;

AND WHEREAS the supplier, appointed by the Employer (contracting authority) to do work (as contemplated in the Act) is also liable in terms of section 37(3) of the OHS Act (and in its own right as employer) to comply with the provisions of the OHS Act applicable to its employees and mandataries;

AND WHEREAS section 37(2) of the OHS Act limits the employer's liability in terms of section 37(1) if the employer and mandatary have agreed in writing to the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of that Act

;

NOW THEREFORE, the Employer and Mandatary, hereby agree as follows:

1. The Mandatary hereby unconditionally accepts responsibility for compliance with the OHS Act in respect of the work in terms of section 37(2) of that Act.
2. The Mandatary hereby indemnifies the Employer against any patrimonial loss or damages which the Employer may suffer as a direct result of any claims and/or steps that may be instituted against the Employer due to non-compliance by the Mandatary (or employees and mandataries of the Mandatary) with the provisions of the OHS Act.
3. Without limiting the indemnity contemplated in 2 above, the Employer and Mandatary agree to the following arrangements and procedures to ensure compliance by the Mandatary with the provisions of the OHS Act:



- 
- 3.1 The Mandatary warrants that it has read and fully understands the requirements of the OHS Act and the regulations promulgated in terms of that Act and has allowed for all costs to be incurred to ensure such compliance.
  - 3.2 The Mandatary must prepare and submit to the Employer a Health and Safety Plan as is appropriate for the work within 10 business days of the date of signature of this agreement by the last Party.
  - 3.3 Such Health and Safety Plan must at least cover the following:
    - 3.3.1 The management structure, site supervision and responsible persons, including a succession plan;
    - 3.3.2 The Mandatary's induction training programme for employees and sub-contractors;
    - 3.3.3 Health and safety precautions and procedures to be adhered to in order to ensure compliance with the OHS Act, Regulations and Safety Specifications;
    - 3.3.4 Regular monitoring procedures to be performed;
    - 3.3.5 Regular liaison, consultation and review meetings with all parties;
    - 3.3.6 Site security, welfare facilities and first aid; and
    - 3.3.7 Site rules and fire and emergency procedures.
  4. The Mandatary must ensure that all sub-contractors and other persons engaged in the execution of the work also comply with the above requirements.
  5. The Mandatary must inform the Employer immediately should the Mandatary at any time during the execution of the work find that it is not able to comply with the OHS Act or to perform this agreement or such compliance or performance will be detrimentally affected. The Mandatary must liaise with the Employer, who may, in its sole discretion, agree to release the Mandatary from the provisions of this agreement and/or the indemnity granted by the Mandatary herein, subject to the conditions which the Employer may impose.
  6. The Mandatary hereby appoints Mr/Ms .....as its representative and the responsible person on site for the duration of the contract in terms of section 8(2)(i) of the OHS Act as well as any regulations or prescriptions in terms of that Act.
  7. The Mandatary's Registration number with the Compensation Commission is ..... If not so registered, the Mandatary must register with the Department of Labour within one month from the commencement date of the abovementioned contract and submit proof in this regard to the Employer.
  8. Nothing in this agreement shall be interpreted as detracting from the Employer's responsibility to comply with its obligations in terms of the OHS Act, including but not limited to the Employer's facilities.

SIGNED at.....on ..... 20....

.....

(For and on behalf of the Employer)

SIGNED at.....on .....20....

.....

(For and on behalf of the Mandatary)

**SCHEDULE 14: PRO FORMA SUB-CONTRACTING AGREEMENT****AGREEMENT**

This is an agreement between:

.....

(Registration number ..... ("the Operator"), herein represented by .....

in his/her capacity as .....

And

.....

(Identity/Registration number ..... ("the Sub-Contractor"), herein represented by .....

in his/her capacity as .....

**Contents****Recordal**

1. Definitions
2. Provision of services
3. Commencement date and duration
4. Payment for services
5. Escalation
6. Vehicles
7. Fares
8. Cession and delegation
9. Access and disclosure
10. Accounting matters
11. Powers and duties of the Operator and CA
12. Services outside of this Agreement
13. Timetables
14. Variations
15. Penalties
16. Confidentiality
17. Disputes
18. Termination of this Agreement
19. *Domicilia* and communication
20. Independent contractor
21. Insurance
22. Change in shareholding
23. Costs

**Schedules**

1. Timetables
2. Route descriptions and maps
3. Fare tables
4. Vehicle specifications
5. Penalties
6. Contract rates

**WHEREAS:**

The Operator has concluded a contract with the ..... Municipality/Provincial Administration to provide public transport services in the ..... area;

The Operator and Sub-Contractor have agreed that the Sub-Contractor will provide a part of those services as specified in this Agreement;

The Sub-Contractor agrees to provide the said services in terms of this Agreement:

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:****1. DEFINITIONS**

In this Agreement any word or expression to which a meaning has been assigned in the Main Contract or the National Land Transport Act, 2009 (Act No. 5 of 2009) ("the Act") or the National Road Traffic Act, 1996 (Act No. 93 of 1996) shall have the meaning assigned to it by the Main Contract and those Acts, as amended from time to time, and the following words and expressions shall have the following meanings, except where the context indicates otherwise:

"Act" or "the Act" means the National Land Transport Act, 2009 (Act No. 5 of 2009);

"Agreement" or "this Agreement" means this Agreement between the Operator and the Sub-Contractor, together with all Schedules thereto;

“CA” means the Contracting Authority contemplated in the Main Agreement;

“contract rates” means the rates per kilometre payable to the Sub-Contractor in terms of this Agreement as set out in Schedule 6;

“dead kilometres” means kilometres travelled by a vehicle with or without passengers—

- a) from a depot to the starting point of a scheduled trip;
- a) from the end of a scheduled trip to a depot; or
- b) from the end of a scheduled trip to the starting point of the next scheduled trip;

“Main Contract” means the abovementioned contract between the ..... Municipality/Province and the Operator concluded at ..... on .....;

“Operator” means ....., being the Operator in the Main Contract;

“Party” or “Parties” means the Operator or the Sub-Contractor or both of them, as the context indicates; and

“services” means the public transport services to be provided in terms of this Agreement.

## **2. PROVISION OF SERVICES**

- 2.1 The Sub-Contractor undertakes to operate the services in accordance with this Agreement as set out in Schedule 1: Timetables, Schedule 2: Route Descriptions and Maps and Schedule 3: Fare Tables.
- 2.2 All bus stops, including intermediate stops must be authorised by the CA and any relevant municipality with due consideration to by-laws and regulations of such municipality.
- 2.3 Cancellation of scheduled trips is not allowed unless authorised in writing by the Operator.
- 2.4 The Sub-Contractor must exercise the highest degree of skill, care and diligence in providing the services and operate the services strictly in accordance with this Agreement, to the satisfaction of the Operator. The Sub-Contractor must comply with and strictly adhere to the Operator’s reasonable instructions and directions regarding

the operation of the services. The Sub-Contractor must take instructions and directions only from the Operator and the CA or the monitoring staff or duly authorised employees or agents of the CA.

- 2.5 Should the Sub-Contractor not carry out the Operator's written instructions regarding any matter relating to this Agreement, the Operator may, within 14 days after having notified the Sub-Contractor of its intention to do so, take steps itself or have steps taken by others on its behalf to give effect to the Operator's orders not carried out by the Sub-Contractor, without terminating this Agreement and without prejudice to any other rights of the Operator: Provided that if the Operator issues more than three such notices during the period of this Agreement it may terminate the Agreement.
- 2.6 The Sub-contractor may not refuse to convey a person on a trip or part thereof unless the passenger capacity will be exceeded at the time in question, or on the grounds of violent, abusive or otherwise offensive conduct on the part of that person or other grounds contemplated in applicable road traffic legislation, or because the person refuses to pay the fare.
- 2.7 Should the Sub-Contractor become aware of circumstances or problems which have prevented, are preventing or will prevent him or her from providing the services as specified, he/she must, as soon as is reasonably possible after becoming so aware, advise the Operator of such circumstances or problems and also indicate the manner in which the provision of the services were, are or are going to be influenced thereby, if applicable. Such advice must be confirmed in writing as soon as reasonably possible.
- 2.8 If the Sub-Contractor is not able to provide a trip due to a vehicle or driver not being available, he/she must make a prior arrangement with the Operator to hire or borrow a vehicle and/or driver from the Operator.
- 2.9 The Sub-Contractor must screen all drivers to be used to provide the services, who must be in possession of the required professional driving permits, and must comply with the reasonable requirements of the Operator and CA.

### **3. COMMENCEMENT DATE AND DURATION**

- 3.1 This Agreement shall commence on ..... and terminate on ....., subject to earlier termination in terms of clause 18.
- 3.2 The Sub-Contractor shall commence the services on .....
- 3.3 Upon expiry or termination of this Agreement or if the Main Contract is cancelled or terminated and the services under the Main Contract are operated for the CA in terms of a new or different contract, the Sub-contractor shall give his/her full co-operation to effect the transition of the services to the new operator and will continue to operate the services until this Agreement expires or is terminated.

### **4. PAYMENT FOR SERVICES**

- 4.1 The Operator will pay the Sub-Contractor monthly for providing the services at the rates per kilometre for revenue kilometres actually provided by the Sub-Contractor,

either in terms of the services specified in Schedule 1 or approved variations in accordance with clause 14.

- 4.2 The Sub-Contractor shall be paid in an amount calculated by multiplying the total revenue kilometres by the contract rates, less any penalties.
- 4.3 The amount payable as calculated in terms of clause 4.2 will be escalated in terms of clause 5, after which amounts to be withheld under clause 15 will be deducted. Actual route distances as shown in Schedule 1 shall be used to calculate revenue kilometres for each trip, provided always that the onus is on the Sub-Contractor to prove that trips have been operated. The Sub-Contractor will not be paid for dead kilometres.
- 4.4 Not later than seven days after the end of each month, the Sub-Contractor must submit to the Operator a monthly claim form in the format prescribed by the CA.
- 4.5 To support the calculation of the Sub-Contractor's monthly claims and to enable proper monitoring of performance, the Sub-Contractor must supply the Operator monthly with the following written statistical data and information for each driver's duty/shift or part thereof in the format required by the CA:
- (i) the scheduled and actual departure and arrival time of each trip, late and early trips, with proper identification of trip;
  - (ii) detail of trips not operated and reasons therefor;
  - (iii) revenue kilometres of each trip;
  - (iv) cash and multi-journey ticket (MJT) passenger numbers for each trip;
  - (v) the number of each type of MJT presented on each trip;
  - (vi) the value of the cash fares collected;
  - (vii) the value of MJT fares collected;
  - (viii) the number of each passenger type not required to pay for the trip being made (*i.e* pensioner, scholar, under-age child); and
  - (ix) any other information that may be required from time to time by the CA which may be relevant to the operation of the contract.

The Sub-Contractor must retain the abovementioned data and information and keep it available to the CA for inspection for at least three years after the end of the period of the Agreement.

- 4.6 The Sub-Contractor must total the revenue kilometres operated on each route for the particular month without rounding off any figures.
- 4.7 Claim forms must be prepared by the Sub-Contractor, and checked and certified as correct and payable by the Operator.
- 4.8 The monthly claim forms will only be certified by the Operator if it is satisfied with the contents and correctness thereof and all the information has been supplied as specified in this clause.

- 4.9 The Operator must submit the payment certificate to the CA as soon as possible, but not later than three working days after receipt thereof, error free, from the Sub-Contractor.
- 4.10 The Operator must pay the Sub-Contractor as soon as possible but not later than two business days after receipt of payment from the CA by payment into the dedicated bank account of the Sub-Contractor by electronic funds transfer. The CA may reject any payment certificate submitted by the Sub-Contractor that contains errors. The rejected certificate must be returned to the Operator for correction and no discussions in this regard will be entered into between the CA and the Sub-Contractor unless the CA decides otherwise.
- 4.11 The CA may refuse to pay the Sub-Contractor's claim without adequate documented proof of the required data and information that may be requested by the CA.
- 4.12 In addition to any information requested in terms of clause 4.11, the CA may at any time request the Operator to provide any information regarding the operation of this Agreement. The Sub-Contractor must comply with such a request submitted to the Sub-Contractor by the Operator within seven days, or such other period as the CA may allow. Failure to do so will result in penalties being imposed under clause 15.
- 4.13 If in the opinion of the CA the Sub-Contractor provides incorrect, false or fraudulent information linked to any claim which may prejudice the CA, then in addition to any other remedies the CA may have or action it may take, all future payments to the Sub-Contractor or a portion thereof as determined by the CA may be withheld until the amount (*quantum*) of the CA's damages can be determined. Thereafter the CA may deduct the outstanding amount of such damages from any moneys due to the Sub-Contractor. However, the services shall continue subject to the provisions of the contract. If the CA suspects that such incorrect, false or fraudulent information is being provided—
- (i) the CA may immediately appoint auditors to check and verify all books and records of the Sub-Contractor and the Sub-Contractor hereby accepts liability for all auditors', attorney and own client and other costs so incurred, unless it is found that no incorrect, false or fraudulent information has been provided as contemplated above;
  - (ii) a certificate under the hand of the responsible officer of the CA shall be *prima facie* proof of the amount (*quantum*) of damages suffered by the CA; and
    - b) the onus of proof shall be on the Sub-Contractor to prove that its officials, servants or agents did not act in a collusive manner or with fraudulent intent or in a negligent manner.



## **5. ESCALATION**

- 5.1 The contract rates will be escalated on the same basis applicable to the contract rates in terms of the Main Agreement.
- 5.2 The Operator must inform the Sub-Contractor timeously of any escalation applicable to such rates to enable the Sub-Contractor to complete his/her monthly claim certificates accordingly.

## **6. VEHICLES**

- 6.1 The Sub-Contractor must provide the services with the vehicles specified in Schedule 4.
- 6.2 Vehicles must at all times comply with the specifications set out in Schedule 4.
- 6.3 When so ordered by the Operator the Sub-Contractor shall remove from the service any unsuitable vehicles. The approval or disapproval of any vehicle by the Operator shall not in any way release the Sub-Contractor from his/her obligation in terms of this Agreement.
- 6.4 The Sub-contractor shall equip, maintain and identify the vehicles in accordance with Schedule 4 and the destination and shift number shall be correctly displayed at the front of each vehicle for every trip.
- 6.5 Any accident damage must be repaired forthwith so that the vehicle complies with Schedule 4.
- 6.6 All vehicles must be clean inside and outside when they leave a depot.
- 6.7 No vehicles with hard seats will be permitted and all vehicles shall be painted in a uniform corporate appearance unless the Operator or CA decide otherwise.

*[Note: If the Sub-Contractor will lease or borrow vehicles from the Operator, the Agreement will have to provide for terms and conditions in that regard.]*

## **7. FARES**

- 7.1 The onus of collecting fares will be on the Sub-Contractor and all fares collected by the Sub-contractor shall be paid to the Operator in the manner required by the Operator for transfer to the CA.
- 7.2 The cash and multi journey ticket fares to be charged by the Sub-Contractor on all routes operated in terms of this Agreement are subject to approval by the Operator and the CA and the onus will be on the Sub-contractor to comply with the Act in this regard, and if fares form part of the conditions of the Sub-Contractor's operating licences or permits, apply to the relevant Provincial Regulatory Entity for amendment thereof.
- 7.3 When so directed by the Operator or CA, the Sub-Contractor must implement fare increases as directed by them. The Sub-Contractor must give notice of change of

fees to the passengers in the manner stipulated by the Operator or CA at least 28 days prior to the change.

- 7.4 The approved fare table shall be available in each vehicle and the Sub-Contractor must maintain proper records of fares as required by the CA.
- 7.5 Failure of the Sub-Contractor to issue valid tickets in respect of fares collected, is regarded as a material breach of contract and may lead to termination of this Agreement in terms of clause 18.

## **8. CESSION AND DELEGATION**

- 8.1 The Sub-Contractor may not cede its rights or delegate its obligations in terms of this Agreement, or further sub-contract the services or dispose of any or all of its rights, title, obligation or interest in and to this Agreement to any other party without the prior written consent of both the Operator and the CA.
- 8.2 The Sub-Contractor may not contract out any support service, including but not limited to inspection, statistical analyses, tyre maintenance, salary and wage administration and any like service without the prior written consent of both the Operator and CA, which consent shall not be unreasonably withheld.
- 8.3 Failure to comply with this clause may be regarded as a material breach of this Agreement and entitle the Operator to terminate it in terms of clause 18.
- 8.4 Where the Operator has granted consent for a further sub-contract, it may at any time withdraw such consent on 30 days' written notice, and in that event no claim against the Operator by the Sub-Contractor or any other person on the grounds of the granting of such consent or the withdrawal thereof shall be entertained, and the Sub-Contractor indemnifies the Operator against any claims and cost incurred.

## **9. ACCESS AND DISCLOSURE**

- 9.1 The Operator and the CA, and any person duly authorised by them shall at all reasonable times have access to all vehicles, workshops, offices and depots of the Sub-Contractor for the purpose of monitoring service quality, patronage and ticket and general inspection, and the Sub-Contractor shall provide for and render every assistance regarding such access or in obtaining the right thereto.
- 9.2 The Sub-Contractor must inform all his/her employees of the identity, powers and duties of the Operator and monitoring staff appointed by the CA. For purposes of identification the Operator must provide such staff with a unique personal identity card and photograph.
- 9.3 The Sub-Contractor must, at the request of the Operator or the CA, produce proof of the validity of all licences, permits and other requirements necessary to perform this Agreement. Such proof shall be furnished not later than seven days from the date of receipt of a written request.

## **10. ACCOUNTING MATTERS**

The Sub-Contractor must keep proper accounting and financial records in respect of this Agreement in accordance with generally accepted accounting practice and have such records audited annually. The Sub-Contractor must also annually, within six months of the end of his/her financial year, submit to the Operator copies of such financial statements, together with the auditors' report and such operating data as the Operator may require. All accounting records and waybills must be kept for at least three years after termination or expiration of this Agreement, and may be kept on microfilm.

## **11. POWERS AND DUTIES OF OPERATOR AND CA**

- 11.1 The Operator and the CA and their agents or representatives shall have the right to investigate any complaint, objection or representation made by passengers, local authorities or other interested persons relating to the services.
- 11.2 Should the Sub-Contractor become aware that any of his/her employees have threatened any such agent or representative, or the monitoring staff whilst carrying out their duties, he/she shall be obliged to take immediate disciplinary action against such employees.
- 11.3 The Sub-Contractor must meet with the Operator and representatives of the CA at least on a monthly basis to discuss issues related to this Agreement.

## **12. SERVICES OUTSIDE OF THIS AGREEMENT**

In addition to the services that the Sub-Contractor must provide in terms of this Agreement, he/she may operate, with prior written approval from the Operator, any other passenger transport services, provided that the operation thereof will in no way interfere with or inhibit his/her ability to provide the services in terms of this Agreement.

## **13. TIMETABLES**

- 13.1 The full route description and standard day timetables for each route to be provided in terms of this Agreement are set out in Schedule 1.
- 13.2 The Operator shall formulate a proposed timetable to apply during holiday periods at least 14 days prior to public holidays and/or holiday periods. Such a timetable will be binding on the Sub-Contractor for such holiday period.
- 13.3 Permanent changes to the passenger numbers being carried may necessitate changes to the timetables and the number of vehicles required to operate the service. The Sub-Contractor will be required to adjust his/her operations to meet the new circumstances, subject to clause 14 (variations).
- 13.4 No changes to the route descriptions and timetables are permitted unless prior written authority is given by the Operator authorising such a change.

## 14. VARIATIONS

14.1 The Operator may make the following variations to the services within the service area, provided that the prior consent of the CA is required 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 or authorised stops, in consultation with the relevant local authority and/or traffic authority where applicable and
- e) to change the timetable of any portion of the service.

No such variation shall in any way invalidate or vitiate this Agreement. The Operator must notify the Sub-Contractor in writing of any variations made to the existing services and the Sub-Contractor must comply with any such variations. Not less than seven days’ notice, unless a shorter period is approved by the Operator, of any intended changes to the timetable must be given to passengers by the Sub-Contractor.

14.2 The Sub-Contractor may apply in writing to the Operator 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 Operator consenting to such a variation the financial implications thereof on the contract rates and timetables shall be agreed upon in writing. The decision of the Operator in this regard shall be final and be communicated to the Sub-Contractor in writing.

14.3 If it appears to the Sub-Contractor that the passenger demand on a particular route or trip regularly exceeds vehicle passenger capacities, the Sub-Contractor may apply to the Operator for permission to introduce additional trips to cater for such passengers. If written permission is granted and additional trips introduced, the Operator shall compensate the Sub-Contractor therefor at the variable contract rate as from the first day of the month following the approval and all costs incurred by the Sub-Contractor prior to that day shall be for the Sub-Contractor’s own account.

14.4 If it appears to the Sub-Contractor that the passenger demand on a particular route or trip is regularly less than fifty percent of the possible passenger kilometre capacity for a legally seated vehicle, the Operator may at the request of the Sub-Contractor approve that—

- (i) the vehicle on the particular route or trip be replaced with an alternative type of vehicle at the applicable fixed and variable contract rate for the vehicle with the lower seating capacity for the relevant kilometres; or
- (ii) the Sub-Contractor continues operating the vehicle, in which case the Sub-Contractor will be paid at the applicable fixed and variable contract rate for the

vehicle with the lower seating capacity as the Operator might consider appropriate for the circumstances for the relevant kilometres.

If the Operator does not approve the application it will remove the trip or route from the timetable.

## **15. PENALTIES**

The services shall be fully monitored in the first month of operation and all offences listed, but penalties will not be imposed in the first month. Thereafter penalties shall be imposed as set out in Schedule 5 and be deducted from each monthly claim. In all cases revenue kilometres shall only be paid for trips which have actually been operated.

## **16. CONFIDENTIALITY**

The Parties shall keep confidential and not disclose without prior written consent of the other Party any trade, business or confidential information supplied by either Party in terms of or in executing this Agreement except where obliged to do so in terms of legislation or by a court of law.

## **17. DISPUTES**

Should any dispute or difference arise between the Parties in connection with or arising from this Agreement the Party declaring the dispute or difference shall notify the other Party in writing, and the Parties shall attempt to resolve the matter by agreement within 21 days of receipt of the notice by the latter Party. If no resolution can be achieved within such period, the dispute or difference may be settled by way of mediation or arbitration if the Parties agree, in accordance with agreed procedures.

## **18. TERMINATION OF THE AGREEMENT**

18.1 The Operator may, after not less than seven days' written notice to the Sub-Contractor or his/her executor, if applicable, terminate this Agreement and if appropriate claim damages or alternatively, at its option, the Operator may institute a claim for damages and/or sue for specific performance against the Sub-Contractor or claim any other lawful remedy if—

- a) application is made for the sequestration of the Sub-Contractors' estate;
- b) the Sub-Contractor publishes a notice of surrender of his/her estate or presents a petition for the acceptance of the surrender of his/her estate insolvent;
- c) the Sub-Contractor makes a compromise with his/her creditors or assigns in favour of his/her creditors;
- d) the Sub-Contractor agrees to carry out this Agreement under the supervision of a committee representing his/her creditors;
- e) 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);
- f) judicial execution is levied on the Sub-Contractors' goods;

- g) the Sub-Contractor cedes or assigns this Agreement or part thereof without the Operator's written consent;
- h) the penalties imposed in terms of Schedule 5 excluding amounts withheld in terms thereof, amount to more than 10 percent per month of the total amount payable in respect of the monthly payment certificates for any three consecutive months;
- i) the Operator has issued more than three notices contemplated in clause 2.5 or the Sub-Contractor :
  - aa) has offered, promised, or given a bribe or other gift or remuneration to any officer or employee in the service of the Operator or the CA in connection with the obtaining or execution of this Agreement,
  - bb) has acted in a fraudulent manner or in bad faith in obtaining or executing a contract with any Government department, provincial administration, public body, company or person;
  - cc) has abandoned his/her obligations in terms of this Agreement
  - dd) has without reasonable excuse failed to commence the services on the commencement date or has suspended the services after receiving from the Operator written notice to proceed,
  - ee) has acted in a manner that is dishonest, contrary to the public interest or in any other way undesirable for the purposes of this Agreement,
  - ff) is discovered to have provided incorrect, false or fraudulent information as contemplated in clause 14.5;
  - gg) has breached any material term of the Agreement not mentioned above; or
  - hh) is deceased, in the case of the Sub-Contractor being a natural person;
  - ii) is guilty of not issuing valid tickets as described in clause 7.5;
  - jj) is fomenting labour unrest with the Operator's staff; or
  - kk) has failed to notify the Operator and CA of a change in its ownership control in terms of clause 22.

#### 18.2 If the Sub-Contractor—

- a) consistently fails to observe the terms of this Agreement despite the fact that penalties have been imposed, with the result that the quality of the services is unacceptable to the Operator or CA;
- b) fails to submit copies of annual financial statements and auditors report and other data as required by clause 10;
- c) has failed to take out or maintain insurance as required by clause 21,

the Operator may give the Sub-Contractor no less than 14 days' written notice to rectify the matter. If the Sub-Contractor does not rectify the matter as specified in the notice, the Operator may after seven days' written notice to the Sub-Contractor, terminate the Agreement and if appropriate claim damages, alternatively at its option the Operator may institute a claim for damages and/or sue for specific performance against the Sub-Contractor or enforce any other lawful remedy.

- 18.3 On termination of this Agreement in terms of this clause, should the amounts the Operator must pay to complete the contract exceed the sum that would have been payable to the Sub-Contractor on due completion by him/her, the Sub-Contractor shall upon demand pay the Operator the difference which will be deemed a debt due by the Sub-Contractor to the Operator and shall be recoverable accordingly.

- 18.4 Termination of this Agreement shall be without prejudice and any rights of the Operator in respect of any antecedent breach of contract by the Sub-Contractor.
- 18.5 In the event of the Operator breaching any terms or conditions of this Agreement, the Sub-Contractor may give the Operator not less than 14 days' written notice of such breach, calling upon the Operator to remedy the same. Should the Operator fail to remedy the breach in accordance with the notice this Agreement may either be terminated after a further seven days' written notice or at the option of the Sub-Contractor, the Sub-Contractor may institute a claim for damages and/or sue for specific performance against the Operator or claim any other lawful remedy that the Sub-Contractor may have against the Operator.
- 18.6 This Agreement will terminate automatically if the Main Contract is terminated for any reason, with effect from the date that the Main Contract is terminated.
- 18.7 The Operator may for any reason other than those contemplated above terminate this Agreement on not less than three months' written notice of such termination given to the Sub-Contractor. In such case it will be obliged to pay the Sub-Contractor such damages as the Sub-Contractor is able to prove, provided that such damages shall not exceed ten percent of the value of the uncompleted services. Apart from the foregoing, the Sub-Contractor shall not be entitled to claim any other amounts whatsoever in respect of such termination of contract.
- 18.8 In the case of termination of this Agreement the Operator or CA may immediately appoint auditors to check and verify all relevant books, records and other data of the Sub-Contractor relating to the Agreement and the Sub-Contractor shall give full co-operation in this regard.

## 19. DOMICILIA AND COMMUNICATION

- 19.1 The *domicilia citandi et excutandi* of the Parties for the service of notices and legal documents for all purposes arising out of or in connection with this Agreement shall be:

**The Operator** .....

**The Sub-contractor** .....

- 19.2 The other particulars of the Parties are :

**The Operator** Telephone number :  
Telefax number :

**The Sub-contractor** Telephone number :  
Telefax number :

- 19.3 The Parties shall give notice in writing of any change of the abovementioned *domicilia* and other relevant particulars, at least 14 days prior to such new particulars becoming effective.

19.4 Communication shall be maintained by using the following methods:

- a) hand delivery,
- b) registered mail,
- c) Telefax, telegram or telex or,
- d) Courier

19.5 Any notice given in terms of this contract shall be in writing and shall be deemed to have been received by the addressee:

- a) on the date of delivery, if delivered by hand,
- b) on the eighth day following date of posting, if sent by prepaid registered mail
- c) on the day after dispatch, if sent by telefax, telegram or telex, provided that the other Party has acknowledged receipt by the same method; or
- d) on the day after dispatch, if delivered by courier

## **20. INDEPENDENT CONTRACTOR**

The Sub-Contractor shall act as an independent contractor and not as an employee or agent of the Operator and has no authority to bind the Operator contractually to any other party. In particular, the Operator shall not be liable to pay any retrenchment or severance pay to any of the employees of the Sub-Contractor on dismissal.

## **21. INSURANCE**

21.1 The Sub-Contractor must take steps to ensure the safety of the passengers and property. The Operator shall not be liable for any loss or damages resulting from damage to property or the death of or injury to any person which is caused by an intentional or negligent act or omission of the Sub-Contractor or his/her agents or employees and the Sub-Contractor hereby indemnifies the Operator against all claims, demands, lawsuits, damages, costs (including attorney and client costs), charges expenses whatsoever in this regard.

21.2 The Sub-Contractor must take out and maintain throughout the duration of the Agreement, at his/her own expense public liability insurance for at least ten million rand (R10m), and other insurance and in such amounts as the Operator may from time to time direct with an insurance company, chosen by the Sub-Contractor and acceptable to the Operator, properly registered in the Republic. Proof of such insurance must be submitted to the Operator prior to the commencement of the services and the Sub-Contractor must advise the Operator in writing of any changes thereto and provide the Operator with proof of payment of monthly premiums on demand.

## **22. CHANGE IN SHAREHOLDING**

The Sub-Contractor must notify the Operator and CA in writing within seven days of any change in its shareholding or ownership, providing full details. Failure to do so will result in the imposition of a penalty in accordance with Schedule 5, and entitle the Operator to terminate this Agreement.



**23. COSTS**

Each Party will bear its own costs in relation to the drafting and negotiation of this Agreement.

**Signed** at ..... on this ..... day of .....

For: ..... (Operator)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**Signed** at ..... on this .... day of .....

For: ..... (Sub-Contractor)

Full names: .....

Capacity: .....

Authority: .....

Witness 1: .....

Full names: .....

Witness 2: .....

Full names: .....

**SCHEDULES**

.....

**VOLUME 3: FORMS****Part 1: Tender Forms**

- Form 1: Tenderer's address form for the delivery of addenda
- Form 2: Certificate of tenderer's attendance at Information Meeting
- Form 3: Form of Tender
- Form 4: Tax Clearance Certificate
- Form 5: Certificate of authority for signatory in respect of legal persons
- Form 6: Certificate of non-collusive tender in respect of a single tenderer
- Form 7: Certificate of authorisation for signatory and declaration of joint and several liability in respect of a consortium
- Form 8: Affidavit regarding previous convictions for offences
- Form 9: Declaration of interest
- Form 10: Schedule of existing public transport services operated by tenderer
- Form 11: Schedule of existing or proposed vehicles
- Form 12: Calculation of fixed and variable contract rates and contract amount
- Form 13: Claim for establishment costs
- Form 14: Operating licences or permits held by the tenderer
- Form 15: Proposed organisation structure of tenderer
- Form 16: Schedule of employees to be used on the contract
- Form 17: Declaration and undertaking in terms of regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services
- Form 18: Certificate of conditions of a loan, guarantee or other financial assistance provided to the tenderer
- Form 19: Declaration of financial support by owner

**Part 2: Contract Forms – To be completed only after tender is accepted**

Form 20: Contract

Form 21: *Pro forma* Payment Certificate

Form 22: Notification of change in ownership control of the Operator

Form 23: Incident Report

Form 24: Waybill

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 1: TENDERER'S ADDRESS FORM FOR THE DELIVERY OF ADDENDA**

[To be completed by all tenderers submitting tenders.]

PARTICULARS OF TENDERER:

Name of tenderer: .....

Address of tenderer: .....  
.....  
.....

Name of contact person: .....

Telephone number: .....

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA:

I acknowledge receipt of the following addenda:

1. Addendum No. .... dated ..... (Number of pages received ..... )
2. Addendum No. .... dated ..... (Number of pages received ..... )
3. Addendum No. .... dated ..... (Number of pages received ..... )
4. Addendum No. .... dated ..... (Number of pages received ..... )
5. Addendum No. .... dated ..... (Number of pages received ..... )

..... Name .....

TENDERER/SIGNATORY

ON BEHALF OF TENDERER .....

DATE

WITNESSES:

1. .... Name: .....
2. .... Name: .....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 2: CERTIFICATE OF TENDERER'S ATTENDANCE AT THE INFORMATION  
MEETING**

This is to certify that I, .....  
being the Tenderer/representative of the Tenderer\*, of (address) .....  
.....  
and with telephone number ..... attended the information meeting held on  
..... (date).

.....  
TENDERER/TENDERER'S REPRESENTATIVE\*

.....  
DATE

CAPACITY OF REPRESENTATIVE: .....

CONFIRMATION OF ATTENDANCE:

.....  
for CONTRACTING AUTHORITY DATE

.....  
NAME OF SIGNATORY

WITNESSES:

1. .... Name: .....

2. .... Name: .....

\* *Delete whichever is not applicable*

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 3: FORM OF TENDER**

1. I/we, having examined the tender documents for the provision of the above services, including all addenda issued after the date the tender documents were collected, hereby tender to render all or any of the services described in the attached documents to the ..... Municipality/Provincial Administration on the terms and conditions and in accordance with the specifications stipulated in the tender documents (and which shall be taken as part of, and incorporated into, this tender at the rates and on the terms inserted therein, which according to Form 12 of the Tender Forms give a total tender amount of R.....  
.....(words)
  
2. I/we agree that—
  - (a) the offer herein shall remain binding upon me/us and open for acceptance by the Contrating Authority (CA) during the validity period indicated and calculated from the closing time of the tender until ..... or such period for which it may be extended.
  - (b) if I/we withdraw my/our tender within the period for which I/we have agreed that the tender shall remain open for acceptance, or fail to sign the contract when called upon to do so, the CA may, without prejudice to its other rights, agree to the withdrawal of my/our tender or cancel the contract that may have been entered into between me/us and the CA and I/we will then pay to the CA any additional expense incurred by the CA having either to accept any less favourable tender or, if fresh tenders have to be invited, the additional expenditure incurred by the invitation of fresh tenders and by the subsequent acceptance of any less favourable tender; the CA 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 fulfillment 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 as security for any loss the CA may sustain by reason of my/our default;
  - (c) if my/our tender is accepted the acceptance may be communicated to me/us by letter or order by ordinary post or registered post and that the Post Office shall be regarded

CONTINUES ON PAGE 642—PART 5



# Government Gazette Staatskoerant

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REPUBLIEK VAN SUID-AFRIKA

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**PART 5 OF 5**

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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

as my/our agent, and delivery of such acceptance to the Post Office shall be treated as delivery to me/us;

- (d) the law of the Republic of South Africa shall govern the contract created by the acceptance of my/our tender and the we choose *domicilium citandi et executandi* in the Republic at (full physical address of this place) .....

3. I/we undertake to give notice in writing of any change of the above *domicilium citandi et executandi* and related particulars, at least fourteen (14) days prior to such new particulars becoming effective.
4. I/we undertake to acknowledge receipt of all communications from the CA.
5. I/we acknowledge that any notice given in terms of this tender must be in writing and shall be deemed to have been received by the addressee—
  - (a) on the date of delivery if delivered by hand;
  - (b) on the eighth (8th) day following the date of posting, if posted by pre-paid mail;
  - (c) on the day after dispatch, if sent by courier, telefax, telegram or telex.
6. I/we have prepared this tender based on the specifications provided.
7. I/we furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our tender; that the rates quoted cover all the work/item(s) specified in the tender documents and that the rates cover all my/our obligations under a resulting contract and that I/we accept that any mistakes regarding rates and calculations will be at my/our risk.
8. I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principal(s) liable for the due fulfilment of this contract.
9. I/we understand that the CA is not bound to accept the lowest or any particular tender it may receive, and that it or the CA will not defray any expenses incurred by me/us in tendering.
10. If my/our tender is accepted, I/we undertake to sign the *pro forma* contract (Form 20) included in this document within seven (7) days of being called upon to do so by the CA.
11. If my/our tender is accepted, and until the *pro forma* contract (Form 20) is prepared and executed, this tender, together with the written acceptance thereof, shall constitute a binding



contract between me/us and the CA and shall be deemed for all purposes to be the contract agreement, together with the other documents listed in clause 44 of the Conditions of Contract, insofar as they are applicable.

12. I/we undertake to commence the services on the commencement date.
13. I/we undertake to provide proof of insurance in terms of clause 25 of the Conditions of Contract.
14. I/we declare that I/we have \*participated/ not participated\* in the submission of any other offer for the operation of the services described in the attached documents. If in the affirmative state the name(s) of the tenderer(s) involved:  
 .....  
 .....  
 .....
15. Are you duly authorised to sign this tender? \*YES/NO
16. Has the Declaration of Interest (Form 9) been duly completed and included with the other tender forms? \*YES/NO

**\* Delete whichever is not applicable**

SIGNATURE(S) OF TENDERER OR ASSIGNEE(S).....

DATE.....

Capacity and particulars of the authority under which this tender is signed:

Name of the Tenderer (in block letters): .....

Postal address (in block letters):.....

Telephone Number(s): .....

Facsimile number(s): .....

Tender number: .....

Name of contact person (block letters): .....

Tenderer's tax reference number: .....

**NB: ALL TENDERS AND SUPPORTING DOCUMENTS MUST BE SEALED IN AN ENVELOPE CLEARLY MARKED WITH:**

**TENDER No. ....**

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

.....  
.....

and must be placed in the tender box at the Office of the Tender Board/CA, situated at

.....  
.....

Not later than 11:00 on ..... when all tenders will be opened in public and the names of the tenderers shall be read out and the tender amounts disclosed.

### **IMPORTANT CONDITIONS**

1. Failure on the part of the tenderer to sign this Tender Form 3 and thus to acknowledge and accept the conditions in writing or to complete the attached forms, questionnaires and specifications in all respects, may invalidate the tender.
2. Tenders must be submitted on the official forms.
3. Despite clause 44 of the Conditions of Contract, if any of the conditions on this Tender Form 3 are in conflict with any special conditions, stipulations or provisions

incorporated in the tender, such special conditions, stipulations or provisions will apply.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 4: TAX CLEARANCE CERTIFICATE**

***Note:***

A valid and current tax clearance certificate for the Operator issued by the SA Revenue Services must be attached.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 5: CERTIFICATE OF AUTHORITY FOR SIGNATORY IN RESPECT OF LEGAL  
PERSONS**

Signatories for companies, close corporations, trusts or other legal persons must establish their authority by attaching a copy of the relevant resolution of the board of directors/members or authority as applicable, duly signed and dated. An example is shown below.

"The board of directors/members/..... (other)\* of ..... resolved at a meeting held at ..... on the ..... day of ..... 20 ..... that Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with tender(s) number(s) ..... on behalf of the company/close corporation/..... (other)\*.

SIGNED AT ..... ON THIS THE ..... DAY OF ..... 20 .....

.....  
ON BEHALF OF THE COMPANY/CLOSE CORPORATION/TRUST/OTHER\*  
CAPACITY

.....  
SIGNATURE

.....  
NAME OF SIGNATORY

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

\* *Delete whichever is not applicable*

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 6: CERTIFICATE OF NON-COLLUSIVE TENDER**

I/we certify that this is a *bona fide* tender.

I/we also certify that I/we have not done and I/we undertake that I/we shall not do any of the following acts at any time before the hour and date specified for the closure of submission of tenders for this contract:

- (a) Fix or adjust the amount of this tender by, or under, or in accordance with any agreement or arrangement with any other person or, where applicable, any person outside the consortium;
- (b) communicate to a person or, where applicable, any person outside the consortium, other than the person calling for these tenders, the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender;
- (c) cause or induce any other person or, where applicable, any person outside the consortium, to communicate to me/it the amount or approximate amount of any rival tender for this contract;
- (d) enter into any agreement or arrangement with any other person or, where applicable, any person outside the consortium, to the effect that such person will refrain from tendering for this contract, or as to the amount of any tender to be submitted or the conditions on which a tender is made, nor cause or induce any other person to enter into any such agreement or arrangement;
- (e) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person or, where applicable, any person

outside the consortium, for doing or having done or causing or having caused to be done in relation to any tender or proposed tender for this contract, any act or thing of the sort described above.

In this certificate, the term—

"person" includes any persons, body of persons or association, whether corporate or not; and

"agreement or arrangement" includes any agreement or arrangement, whether formal or informal and whether legally binding or not.

"person outside the consortium" means a person other than a director, member, partner or employee of the tenderer, a partnership, company, close corporation, trust or other entity being part of the consortium, or any employee of such a person, partnership, company, close corporation, trust or other entity.

SIGNED AT ..... ON THIS THE ..... DAY OF .....20 .....

.....  
TENDERER/SIGNATORY ON BEHALF OF TENDERER

.....  
NAME OF SIGNATORY

WITNESSES:

1. .... Name: .....

2. .... Name: .....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 7: CERTIFICATE OF AUTHORITY FOR SIGNATORY AND DECLARATION OF  
JOINT AND SEVERAL LIABILITY IN RESPECT OF A CONSORTIUM**

Signatories for consortia must establish their authority by attaching a copy of the relevant resolution/agreement of the parties to such consortium, duly signed and dated.

We, the undersigned, .....  
carrying on business as a consortium under the name and style of .....  
.....  
resolved/agreed at a meeting held at ..... on the ..... day of .....  
20.... that:

1. with regard to tenders by the consortium to the CA, we bind ourselves or respective corporations, or companies *in solidum* for any indebtedness, obligation or liability which may become due, owing and payable to the CA by the consortium. We undertake immediately to discharge the debt, obligation or liability to the CA on demand. We renounce the *beneficium ordinis seu excussionis et divisionis* and all other legal exceptions that could be raised or pleaded in answer to any claim by the CA, thus allowing the CA to enforce this undertaking against any one or more of us and cause execution to be levied against our assets without any prior or simultaneous action against the consortium or any other of us;
2. we individually indemnify the CA and will immediately pay to the CA on demand the amount of any claim which may be owing by the consortium. We undertake that our liabilities to the CA in terms hereof, shall not be affected by any change in the composition of the consortium from time to time unless the CA has expressly released us therefrom in writing. Any amounts and due dates of any liability, obligations or debt owed by the consortium shall be proved by a certificate signed by any official of the CA;



3. the CA may regard this consortium as a legal person and that we will give due notice in writing in the event of any alteration in the composition of the consortium. Such notice will be binding on the consortium if given in its name by any of the signatories hereto. Should any conflicting instructions be given at any time by different parties, the CA shall be entitled to act or decline to act on any of the instructions in its absolute discretion, which decision by the CA shall be final and binding on the consortium; and
4. Mr/Ms ..... (the signatory), whose signature appears below, has been duly authorised to sign all documents in connection with tender(s) number(s) ..... on behalf of the consortium.

SIGNED AT ..... ON THIS THE ..... DAY OF .....20 .....

SIGNATURES OF ALL PARTIES TO THE CONSORTIUM:

1. ....  
for: .....
2. ....  
for: .....
3. ....  
for: .....

.....

SIGNATORY

WITNESSES:

1. .... Name: .....
2. .... Name: .....

**\* *Delete whichever is not applicable***

FULL NAMES OF COMPANIES, CLOSE CORPORATIONS, PARTNERSHIPS AND/OR  
NATURAL PERSONS FORMING THE CONSORTIUM:

1. ....

2. ....

3. ....

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 8: AFFIDAVIT REGARDING PREVIOUS CONVICTIONS FOR OFFENCES**

*[To be completed by or on behalf of the tenderer.]*

I, the undersigned, ....., chief executive officer/managing director/managing member/other (specify) ..... of ..... ("the tenderer") hereby make oath/affirmation and say:

The tenderer and/or any director, member or other office bearer of the tenderer have/have not\* been convicted of any of the following offences (state date of conviction and the court involved):

- An offence under the National Land Transport Act 5 of 2009, the National Land Transport Transition Act 22 of 2000 or any other law for operating public transport without the necessary operating licence or permit  
.....
- Any offence involving dishonesty or tax evasion  
.....
- An offence under the National Road Traffic Act 93 of 1996, the Road Traffic Act 29 of 1989 or other road traffic legislation for which a fine of more than R2000 or imprisonment for more than three months was imposed  
.....
- An offence listed in Schedule 1 of the Criminal Procedure Act 51 of 1977.  
.....
- Possession of an unlicensed firearm or dangerous weapon as defined in the Dangerous Weapons Act 71 of 1968, or illegal possession of explosives  
.....  
.....
- A conspiracy, incitement or attempt to commit an offence mentioned above  
.....

*[If space is insufficient, provide details on a separate sheet.]*

SIGNED and sworn to/affirmed before me at ..... on this ..... day of ..... 20..... by the deponent who acknowledged that he/she knows and understands the contents of this affidavit.

.....

Commissioner of Oaths

\* ***Delete whichever is not applicable.***

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 9: DECLARATION OF INTEREST**

Any natural or legal person, including a person employed by the State, whether a national department, provincial administration or municipality (called “the State” in this document) or a person who acts on behalf of the State or a person having a kinship with a person employed by the State, including blood relationship, may make an offer or offers in terms of this tender invitation. In view of possible allegations of favouritism should the resulting tender, or part thereof, be awarded to persons employed by the State, or to persons who act on behalf of the State or to persons connected with or related to them, it is required that the tenderer or his or her authorized representative declares his or her position *vis-à-vis* the evaluating authority and/or his or her interest, where—

- the tenderer is employed by the State or acts on behalf of the State; and/or
- the natural or legal person on whose behalf the tender document is signed has a relationship with a person who is involved with the evaluation of the tender or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation of the tender.

In order to give effect to the above, the following questionnaire must be completed and submitted with the tender:

1. Are you or any person connected with the tenderer employed by the State, the CA or the Tender Board?

YES/NO\*

If so, state particulars: .....

.....

.....

2. Do you, or any person connected with the tenderer, have any relationship (family, friend or other) with a person employed by the State, the CA or the Tender Board or their administration who may be involved with the evaluation or adjudication of this tender?

YES/NO\*

If so, state particulars: .....  
.....  
.....

3. Are you, or any person connected with the tenderer, aware of any relationship (family, friend or other) between the tenderer and any person employed by the State, the CA or the Tender Board or their administration who may be involved with the evaluation or adjudication of this tender?

YES/NO\*

If so, state particulars: .....  
.....  
.....

SIGNED AT ..... ON THIS THE ..... DAY OF  
.....20 .....

..... Name: .....

TENDERER/SIGNATORY  
ON BEHALF OF TENDERER

.....  
POSITION OF DECLARANT

WITNESSES:

1. .... Name: .....

2. .... Name: .....

\* *Delete whichever is not applicable*

.....MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 10: SCHEDULE OF EXISTING PUBLIC TRANSPORT SERVICES**  
**OPERATED BY TENDERER**

In the table provided below the Operator must provide details of existing public transport services operated by the Operator, if any:

Service Area	Number of Routes	Number & Type of Vehicles	Approx. Total Daily km	Average Daily Passengers

*\* Delete whichever is not applicable*

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 11: SCHEDULE OF EXISTING OR PROPOSED VEHICLES**

***Note:***

1. All vehicles used must be registered, licensed and roadworthy as required by the National Road Traffic Act, 1996.
2. The Operator must only supply details of those vehicles that are intended for use on this contract.
3. Certificates of homologation for all vehicle types to be used during the contract period must be attached to this Form.
4. A copy of the last vehicle licence issued must be attached for vehicles that are currently owned by the Operator.
5. Where vehicles are to be purchased or leased a copy of the vehicle licence and proof that they have been registered in terms of the National Traffic Information System (NaTIS) must be produced before the commencement date.
6. In Table A provided below the Operator must provide details of its current vehicle fleet to be used on this contract, including spare vehicles.
7. In Table B provided below the Operator must provide details of new or additional vehicles that are to be acquired for this contract.



**TABLE A: CURRENT FLEET TO BE USED ON CONTRACT**

[illegible]

AVERAGE AGE CALCULATION: CHASSIS ..... BODIES .....

\* Copies of agreements to be provided if requested



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 12: CALCULATION OF FIXED AND VARIABLE CONTRACT RATES AND  
CONTRACT AMOUNT**

***Note:***

**1. The variable cost component**

A variable contract rate(price per kilometre) is to be calculated per vehicle type.

The Tenderer must provide detailed information on each of the cost elements for each vehicle type in Tables 1A, 1B, 1C and 1D. The information must be provided for each cost element for the first twelve months of the contract period.

**2. The fixed cost component**

A fixed contract rate(rate per vehicle) is to be calculated per vehicle type.

To support the Tenderer's costing of labour to be used in the provision of the services the Operator must supply detailed information on the cost of salaries/wages and benefits for the first year of contract. The information must be provided in Tables 2A, 2B and 2C.

The Tenderer must provide information on the depreciation and financing cost of the vehicles to be operated per vehicle type on Table 3A and summarise the fixed costs on Tables 3B, 3C, 3D and 3E. The information must be provided for the first year of contract.

The Tenderer must provide information on general costs to be incurred on each aspect in the first twelve months of contract on Table 4.

**3. Calculation of the fixed and variable contract rates**

The calculation of the fixed and variable contract rates is to be done in terms of Tables 5 to 7.

TABLE 1A: VARIABLE COST PROJECTION: BUS TRAINS
--

[illegible]

TABLE 1B: VARIABLE COST PROJECTION: BUSES
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[illegible]

TABLE 1C: VARIABLE COST PROJECTION: MIDI BUSES

[illegible]

TABLE 1D: VARIABLE COST PROJECTION: MINI BUSES

[illegible]

TABLE 2A: STAFF DETAILS FOR 12 MONTH PERIOD															
POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>MANAGEMENT</b>			-		-								0	-	
Managing director			-		-								0	-	
General Manager			-		-								0	-	
Financial Manager			-		-								0	-	
Operations Manager			-		-								0	-	
Engineering Manager			-		-								0	-	
			-		-								0	-	
<b>ADMINISTRATIVE</b>			-		-								0	-	
PA to MD			-		-								0	-	
Secretary to MD			-		-								0	-	
Schedules Clerk, Ticket Clerk, Clerk			-		-								0	-	
Senior Clerk			-		-								0	-	
Data Capture Clerk			-		-								0	-	
Telephonist, Telephonist/Receptionist			-		-								0	-	
Gate Keeper, Security Guard, Night Watchman			-		-								0	-	
Messenger			-		-								0	-	
Typist/Clerk			-		-								0	-	
Chief-Cook			-		-								0	-	
Tea Person, Canteen Assistant			-		-								0	-	
Planning Clerk, Register Clerk			-		-								0	-	
Wage clerk/HR&IR Supervisor			-		-								0	-	
			-		-								0	-	
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2B: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allow- ance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>DRIVERS</b>													0	-	
			-		-								0	-	
<b>TRAFFIC</b>													0	-	
Driving Instructor			-		-								0	-	
Senior Inspector			-		-								0	-	
Inspector			-		-								0	-	
Regulator, Transport Officer, Rank Despatcher, Point Controller			-		-								0	-	
Senior Regulator			-		-								0	-	
Despatcher, Route Despatcher, Sub-Depot Despatcher			-		-								0	-	
Sales Point Controller, Clipcard Seller, Season Ticket Seller			-		-								0	-	
Ticket Seller, Cashier Mobile, Driver Cashier Mobile			-		-								0	-	
Flycheck Driver, Chauffeur, Service Vehicle Driver			-		-								0	-	
Light Vehicle Driver, Mobile Driver			-		-								0	-	
Roster Clerk (Traffic), Traffic Clerk			-		-								0	-	
Private Hire Clerk, Special Hire Clerk			-		-								0	-	
Ticket Office Clerk, Cashier, Setright Clerk			-		-								0	-	
Senior Ticket Office Clerk			-		-								0	-	
Senior Operations Clerk			-		-								0	-	
Senior Cashier			-		-								0	-	
Operations Clerk, Clerk (Traffic)			-		-								0	-	
Duty Staff Bus Driver			-		-								0	-	
Operator			-		-								0	-	
Hostess, Steward			-		-								0	-	
<b>TOTAL</b>	0	R 0.00	0	R 0.00	0	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	0	0	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 1I, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured

TABLE 2C: STAFF DETAILS FOR 12 MONTH PERIOD

POSITION	QTY	Average salary/wage	Total Basic Salary/wages	Over time	Sub Total	Housing	Medical fund <sup>1</sup>	Car allowance	UIF <sup>1</sup>	Provident Fund <sup>1</sup>	Leave provision	Other benefits <sup>2</sup>	Sub Total	Total cost to company	Status <sup>3</sup>
<b>ENGINEERING</b>															
Foreman	-		-		-								0	-	-
Artisan (negotiated for)	-		-		-								0	-	-
Operatives (grades A, B, C and D)	-		-		-								0	-	-
Honorary Artisan	-		-		-								0	-	-
Trade Worker (Grades P16 to P14)	-		-		-								0	-	-
Trade Trainee (Grades P16 to P14)	-		-		-								0	-	-
Grade 5	-		-		-								0	-	-
Technician	-		-		-								0	-	-
Assistant Technician	-		-		-								0	-	-
Grade 4	-		-		-								0	-	-
Artisan's Assistant	-		-		-								0	-	-
General Hand	-		-		-								0	-	-
Trade Assistant (P19 to P17)	-		-		-								0	-	-
Works Staff, General Worker	-		-		-								0	-	-
Tyre Attendant	-		-		-								0	-	-
Tyre Programmer	-		-		-								0	-	-
Senior Engineering Clerk, Engineering Clerk	-		-		-								0	-	-
Stores Clerk, Stores Assistant	-		-		-								0	-	-
Driver Shunter, Technical Driver	-		-		-								0	-	-
Seintight Mechanic	-		-		-								0	-	-
Vehicle Checker (FOWL)	-		-		-								0	-	-
Fuel Attendant	-		-		-								0	-	-
Steam Jenny Operator, Steam Cleaner	-		-		-								0	-	-
Bus Cleaner, Cleaner, Bus Washer	-		-		-								0	-	-
Fork Lift Driver	-		-		-								0	-	-
Greaser	-		-		-								0	-	-
Workshop Cleaner, Cleaner, Yard Cleaner	-		-		-								0	-	-
Handyman, Handyman Estates	-		-		-								0	-	-
Labourer	-		-		-								0	-	-
Trimmer, Upholsterer	-		-		-								0	-	-
Assistant Handyman	-		-		-								0	-	-
Spray Painter, Painter, Signwriter	-		-		-								0	-	-
Assistant Painter	-		-		-								0	-	-
Stores Driver, Heavy Vehicle Driver	-		-		-								0	-	-
Data Typist, Data Input Clerk	-		-		-								0	-	-
Stores Data Clerk	-		-		-								0	-	-
Shedman (Grades A3 to A5)	-		-		-								0	-	-
Shunter Driver	-		-		-								0	-	-
Taco Mechanic, Taco Clerk	-		-		-								0	-	-
Brake Attendant	-		-		-								0	-	-
<b>TOTAL</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>0</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>R 0.00</b>	<b>0</b>	<b>0</b>	

## Notes:

1. Company contribution to these aspects
2. Cost of other benefits such as canteen subsidies, clinics, etc which is provided as part of current normal employment conditions
3. Indicate by eg 3W, 1B, 11, 1C meaning 3 White, 1 Black, 1 Indian, 1 Coloured



### TABLE 3A: FLEET FINANCE DETAILS

[illegible]



TABLE 3D: FIXED COST PROJECTION: MIDIBUSES

	MONTH												TOTAL YEAR
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Installments: New vehicles <sup>1</sup>													
Installments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

TABLE 3E: FIXED COST PROJECTION: MINIBUSES

	MONTH												TOTAL YEAR
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>VEHICLE RELATED COST</b>													
Licensing													
Operating licenses/permits													
Insurance: Comprehensive													
Installments: New vehicles <sup>1</sup>													
Installments: Used vehicles <sup>1</sup>													
Vehicle depreciation <sup>1</sup>													
<b>TOTAL</b>													

## Notes:

1. To correlate with information provided in Table 3A





TABLE 6: SUMMARIZED FIXED AND VARIABLE COST 1ST YEAR

COST CATEGORY		Bus trains	Buses	Midibuses	Minibuses	TOTAL
<b>VARIABLE COSTS</b>						
Fuel (Diesel and petrol)	Table 1A-D					
Tyres	Table 1A-D					
Maintenance and spares	Table 1A-D					
Oil and lubricants	Table 1A-D					
<b>A. TOTAL VARIABLE COSTS</b>						
<b>FIXED COSTS</b>						
Installments	Table 3B-E					
Depreciation	Table 3B-E					
Insurance (vehicle insurance)	Table 3B-E					
License fees	Table 3B-E					
Operating licences and permits	Table 3B-E					
Drivers' wages and cost <sup>1</sup>	Table 2B					
Traffic wages and cost <sup>1</sup>	Table 2B					
Engineering wages and cost <sup>1</sup>	Table 2C					
Administrative salaries and cost <sup>1</sup>	Table 2A					
Management salaries and cost <sup>1</sup>	Table 2A					
General costs <sup>2</sup>	Table 4					
<b>B. TOTAL FIXED COSTS</b>						
<b>C. TOTAL COSTS (before profit)</b>						
<b>D. PROFIT ALLOCATION<sup>3</sup></b>						
<b>E. TOTAL COSTS YEAR 1 (C + D)</b>						

Note:

1. Wages/salaries and cost to be allocated based on number of vehicles in each vehicle type
2. General costs to be allocated pro-rata to number of vehicles per vehicle type
3. Profit to be allocated pro-rata to number of vehicles per vehicle type

TABLE 7: RATE CALCULATION					
		Bus trains	Buses	Midibuses	Minibuses
<b>TOTAL VARIABLE COSTS</b>	<i>Table 6</i>				
Min: Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Variable costs shortfall</b>					
Number of kilometres					
Rate per kilometre (Rands)					
<b>TOTAL FIXED COSTS</b>	<i>Table 6</i>				
Min: Pro-rata Operating income	<i>Table 5</i>				
Plus: Pro-rata Profit					
<b>Fixed costs shortfall</b>					
Number of vehicles					
Fixed cost/vehicle (Rands)					
<b>Note:</b>					
1. Pro-rata Operating income means the income as based on the calculations in Table 3 per vehicle type					
2. Pro-rata Profit means the profit allocated based on the % split between the fixed and variable costs in terms of Total Cost (before profit) in Table 6					

Based on the information in the above Tables, the following rates are hereby tendered:

Variable contract rate: R..... per kilometre

Fixed contract rate: Vehicle type: ..... R..... per vehicle

Vehicle type: ..... R..... per vehicle

Vehicle type: ..... R..... per vehicle

#### **CALCULATION OF CONTRACT AMOUNT**

Based on the Tables completed above and the rates tendered above, the estimated Contract Amount is calculated as follows:

Estimated kilometres over the contract period: ..... km

..... km X R..... (variable contract rate) = R....

.....km X R..... (fixed contract rate for ..... vehicles) = R....

.....km X R..... (fixed contract rate for ..... vehicles) = R....

.....km X R..... (fixed contract rate for ..... vehicles) = R....

.....km X R..... (fixed contract rate for ..... vehicles) = R....

Add establishment costs (if any) as calculated on Form 13 = R .....

**TOTAL (CONTRACT AMOUNT) R .....**



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 13: CLAIM FOR ESTABLISHMENT COSTS**

***Note:***

1. Should the tenderer wish to claim establishment cost, the Table provided below must be completed and submitted.

<b>Budgeted Establishment Cost (Page 1)</b>				
<b>Total</b>		<b>R</b>		
	<b>Cost/unit</b>	<b>Quantity</b>	<b>Total</b>	
<b>Office Development</b>			<b>R</b>	<b>-</b>
Pay lease deposit (3 months)	R		R	-
Municipal/Utility deposit (if net lease)	R		R	-
<b>Office Furniture and Equipment</b>			<b>R</b>	<b>-</b>
<b>Board room</b>			<b>R</b>	<b>-</b>
Table	R		R	-
Chairs	R		R	-
Flip chart	R		R	-
Pens	R		R	-
Cupboard	R		R	-
Dustbin	R		R	-
<b>Meeting room(s)</b>			<b>R</b>	<b>-</b>
Table	R		R	-
Chairs	R		R	-
Cupboard	R		R	-
Dustbin	R		R	-
<b>Management office(s)</b>			<b>R</b>	<b>-</b>
Desk	R		R	-
Comfortable chair	R		R	-
Chairs	R		R	-
Credenza	R		R	-
Filing cabinet	R		R	-
Printer (small)	R		R	-
Dustbin	R		R	-
<b>Open plan</b>			<b>R</b>	<b>-</b>
Work stations	R		R	-
Work station chairs	R		R	-
Work table	R		R	-
Filing cabinets	R		R	-
Printer, Copier, Fax Scanner (large)	R		R	-
Flip chart	R		R	-
Dustbins	R		R	-
Safe (fire proof)	R		R	-
Crockery	R		R	-
Kettle	R		R	-
Microwave	R		R	-
Fridge	R		R	-
Office cleaning material	R		R	-
Office cleaning equipment	R		R	-
Fire extinguisher	R		R	-
First aid	R		R	-
<b>Training room</b>			<b>R</b>	<b>-</b>
Tables/desks	R		R	-
Chairs	R		R	-
White boards	R		R	-
Flip chart	R		R	-
Dustbins	R		R	-

<b>Budgeted Establishment Cost (Page 2)</b>				
<b>Reception</b>			<b>R</b>	<b>-</b>
Desk	R		R	-
Office chair	R		R	-
Dustbin	R		R	-
Client seating	R		R	-
Coffee table	R		R	-
<b>Computer Hardware and Accessories</b>			<b>R</b>	<b>-</b>
Desktop computer and monitor	R		R	-
Keyboard and mouse	R		R	-
Printer (colour)	R		R	-
Modem	R		R	-
Notebook computer	R		R	-
Server	R		R	-
Air conditioner	R		R	-
Cabling	R		R	-
Wireless	R		R	-
Surge protector	R		R	-
Computer locks	R		R	-
UPS	R		R	-
<b>Computer Software Systems</b>			<b>R</b>	<b>-</b>
Windows server	R		R	-
Microsoft Office Suite (Professional)	R		R	-
Virus protection software	R		R	-
Accounting software	R		R	-
Payroll software	R		R	-
Inventory management	R		R	-
Vehicle management system	R		R	-
Vehicle tracking system	R		R	-
<b>Communications</b>			<b>R</b>	<b>-</b>
Telephone lines	R		R	-
Internet connection	R		R	-
Toll-free line	R		R	-
Desk telephone	R		R	-
Fax machine	R		R	-
Answering machine/service	R		R	-
Speakerphone	R		R	-
Cellular telephone with internet features	R		R	-
Alarm system	R		R	-
Internal communication system	R		R	-
Two way radio	R		R	-
Intercom (at door)	R		R	-
<b>General Office Supplies</b>			<b>R</b>	<b>-</b>
Business cards	R		R	-
Envelopes (standard)	R		R	-
Envelopes (large)	R		R	-
Stationery (other)	R		R	-
Postage stamps	R		R	-
Printer cartridges (e.g. HPLaserjet)	R		R	-
CDs	R		R	-
Pencils and pens	R		R	-
Printer paper (per ream)	R		R	-
<b>Vehicles</b>			<b>R</b>	<b>-</b>
Operating licences	R		R	-

Budgeted Establishment Cost (Page 3)				
<b>Staff Uniforms and Protective Clothing*</b>			<b>R</b>	<b>-</b>
<b>Driver</b>			<b>R</b>	<b>-</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suits	R		R	-
Other (specify)	R		R	-
<b>Depot Services Staff</b>			<b>R</b>	<b>-</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suite	R		R	-
Other (specify)	R		R	-
<b>Route Controllers</b>			<b>R</b>	<b>-</b>
Uniform	R		R	-
Shoes	R		R	-
Safety vest	R		R	-
Rain suite	R		R	-
Other (specify)	R		R	-
<b>Inventory</b>			<b>R</b>	<b>-</b>
Tyres	R		R	-
Lubricants	R		R	-
Cleaning material	R		R	-
<b>Roaming Bakkie Kit Out</b>			<b>R</b>	<b>-</b>
Tools	R		R	-
Compressor	R		R	-
Generator	R		R	-
Light	R		R	-
<b>Depot kit out</b>			<b>R</b>	<b>-</b>
Pay deposit	R		R	-
Cleaning material opening inventory	R		R	-
Fuel opening inventory	R		R	-
Parts opening inventory	R		R	-
Lubricants opening inventory	R		R	-
Workshop tools	R		R	-
Other (specify)	R		R	-
<b>General</b>			<b>R</b>	<b>-</b>
Post box	R		R	-
Other				
<b>* Only if CA requires this from start of operations. Replacement uniforms to be included in costing for subsequent years</b>				



.....MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 15: PROPOSED ORGANISATION STRUCTURE OF TENDERER**

The management organisation structure that is proposed to be established by the tenderer to manage the contract must be indicated by means of an organogram.

Tenderers must state which staff categories will be full time and which will be part time.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 16: SCHEDULE OF EMPLOYEES TO BE USED ON THE CONTRACT**

<b>BARGAINING UNIT JOB CATEGORIES</b>		
<b>JOB CATEGORY</b>	<b>NUMBER</b>	<b>MINIMUM WAGE*</b>
<b>A. TRAFFIC</b>		
Driving Instructor		
Senior Inspector		
Inspector		
Driver/Conductor, Conductor, OMO		
Regulator, Transport Officer, Rank Despatcher, Point Controller		
Senior Regulator		
Despatcher, Route Despatcher, Sub-Depot Despatcher		
Sales Point Controller, Clipcard Seller, Season Ticket Seller		
Ticket Seller, Cashier Mobile, Driver Cashier Mobile		
Flycheck Driver, Chauffeur, Service Vehicle Driver		
Light Vehicle Driver, Mobile Driver		
Roster Clerk (Traffic), Traffic Clerk		
Private Hire Clerk, Special Hire Clerk		
Ticket Office Clerk, Cashier, Setright Clerk		
Senior Ticket Office Clerk		
Senior Operations Clerk		
Senior Cashier		

Operations Clerk, Clerk (Traffic)		
Duty Staff Bus Driver		
Operator		
Hostess, Steward		
<b>ENGINEERING</b>		
Artisan (negotiated for)		
Operatives (grades A, B, C and D)		
Honorary Artisan		
Trade Worker (Grades P16 to P14)		
Trade Trainee (Grades P16 to P14)		
Grade 5		
Technician		
Assistant Technician		
Grade 4		
Artisan's Assistant		
General Hand		
Trade Assistant (P19 to P17)		
Works Staff, General Worker		
Tyre Attendant		
Tyre Programmer		
Senior Engineering Clerk, Engineering Clerk		
Stores Clerk, Stores Assistant		
Driver Shunter, Technical Driver		
Setright Mechanic		
Vehicle Checker (FOWL)		



Fuel Attendant		
Steam Jenny Operator, Steam Cleaner		
Bus Cleaner, Cleaner, Bus Washer		
Fork Lift Driver		
Greaser		
Workshop Cleaner, Cleaner, Yard Cleaner		
Handyman, Handyman Estates		
Labourer		
Trimmer, Upholsterer		
Assistant Handyman		
Spray Painter, Painter, Signwriter		
Assistant Painter		
Stores Driver, Heavy Vehicle Driver		
Data Typist, Data Input Clerk		
Stores Data Clerk		
Shedman (Grades A3 to A5)		
Shunter Driver		
Taco Mechanic, Taco Clerk		
Brake Attendant		
<b>C ADMINISTRATION</b>		
Schedules Clerk, Ticket Clerk, Clerk		
Senior Clerk		
Data Capture Clerk		
Telephonist, Telephonist/Receptionist		
Gate Keeper, Security Guard, Night Watchman		

Messenger		
Typist/Clerk		
Chef-Cook		
Tea Person, Canteen Assistant		
Planning Clerk, Register Clerk		
<b>TOTAL</b>		

**\*NOTE:**

1. These wages are the minimum that will be paid per month to employees required to operate this tender.
2. The Tenderer is advised that minimum wages must be in accordance with the latest Main Agreement of the South African Road Passenger Bargaining Council (SARPBAC), (see clause 28 of the Conditions of Contract).
3. The information provided on this form must correspond with the information provided in Tables 2A, 2B and 2C on Form 12.

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 17: DECLARATION AND UNDERTAKING IN TERMS OF REGULATION 5 OF THE  
NATIONAL LAND TRANSPORT REGULATIONS ON CONTRACTING FOR PUBLIC  
TRANSPORT SERVICES**

*[To be signed by the person specified in Form 1 as authorised to sign tender documents on behalf of the tenderer.]*

I, ..... in my capacity as ..... of ..... [the tenderer], and duly authorised to make this declaration, hereby confirm that I am aware of and understand the requirements of regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 promulgated in terms of the National Land Transport Act 5 of 2009 ("the Act"), pertaining to the requirements for qualification as a tenderer for a subsidised service contract.

I confirm that ..... [the tenderer]—

- (a) conducts his/her/its public transport operations according to business principles with financial ringfencing, as required by the abovementioned regulation 5; and
- (b) is liable to pay income tax; and
- (c) has not received for the purposes of the present tender and any contract which may be awarded to the tenderer as a consequence of the present tender, and will not for the duration of any contract which may be awarded to it pursuant to that tender, receive any unfair advantage as regards access to financial or other support or resources from any organ of state, unless such advantage is part of subsidies paid in terms of an existing contract as defined in the Act.

I am aware that should any aspect of the above declaration be proved false or incorrect, it may result in the disqualification of the tenderer, or in termination of any contract awarded to the tenderer pursuant to the above tender.

.....  
Authorised signatory

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 18: CERTIFICATE OF CONDITIONS OF A LOAN, GUARANTEE OR OTHER FINANCIAL  
ASSISTANCE PROVIDED TO THE TENDERER**

**Instructions:**

*The purpose of this form is to illustrate to the evaluating committee what forms of assistance are provided to the tenderer by third parties. The evaluating committee will use the form to determine provisionally whether a tenderer is the recipient of an unfair advantage as contemplated in regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 made in terms of the National Land Transport Act 5 of 2009.*

*This form must be completed by any entity that provides or intends to provide assistance to the tenderer, including but not limited to:*

- *its banker;*
- *any ultimate holding company/entity;*
- *any direct holding company/entity;*
- *any subsidiary company/entity or;*
- *any fellow subsidiary company/entity.*

*The types of assistance to be listed include, but are not limited to:*

- *Bank overdrafts*
- *Guarantees*
- *Suretyships*
- *Lease of the bus fleet*
- *Hire of the bus fleet*
- *Funds advanced to the tenderer*
- *Expenditure paid on behalf of the tenderer*
- *Loan accounts (current and long term)*

*Tenderers are urged to ensure that this form is completed by any organisation which provides or intends to provide assistance to the tenderer. If in doubt, tenderers must discuss the question with the CA through the main contact person as indicated in the tender documents.*

*In the case of the tenderer's banker, the form must be signed by the bank manager. In the case of any other organisation, the form must be signed by a person with the necessary authority (e.g. the chief financial officer or equivalent, or the chief executive officer or equivalent). If in doubt, tenderers must discuss the question with the CA through the main contact person as indicated in the tender documents.*

I, ....., in my capacity as Branch Manager/Chief Executive Officer of ..... ("the Financier"), and duly authorised to provide this certificate on behalf of the Financier, hereby confirm that the Financier has provided ..... (the tenderer) with financial assistance in the form of (mark applicable one(s) with an X):

Loans .....  
 Guarantees .....  
 Suretyships .....  
 Facility(ies) .....  
 Other (specify) .....

Particulars of any and all material financial assistance provided to the tenderer and the terms and conditions thereof are set out below:

# 1. Description

a) Present value of assistance

b) Future value of assistance already negotiated

c) Date of expiry of assistance

d) Repayment terms

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

## **2. Description**

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

**3. Description**

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

**4. Description**

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

f) Name(s) of entity(ies) providing security, directly or indirectly

.....  
.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....  
.....  
.....

*[Particulars may be attached by means of an annexure.]*

I confirm that the Financier's decision to provide all facets of the above financial assistance to the tenderer was based solely on commercial considerations, following an evaluation of the operations and financial position of the tenderer.

I specifically record that except as indicated above, the decision to provide financial assistance to the tenderer was not directly or indirectly influenced by the intervention of any organ of state.

I confirm that the above particulars accurately represent all of the material aspects of the agreement between the Financier and the tenderer, and that no undisclosed terms, conditions or warranties apply.

.....

Branch Manager/CEO

.....

Full names

.....

Date

Official stamp of Financier:



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 19:DECLARATION OF FINANCIAL SUPPORT BY OWNER**

***Instructions:***

1. *This form must be completed for each participant in a consortium/joint venture and all sub-contractors to the Operator/consortium/joint venture that are known at the time of tendering.*
2. *This form must be completed by each person/entity exercising ownership control over the tenderer or each consortium/joint venture member.*
3. *If there is any uncertainty regarding the entities within a group of entities that must sign this declaration, tenderers must ask the CA for guidance.*

I, ....., in my capacity as Chief Executive Officer of ..... ("the Owner"), and duly authorised to make this declaration, hereby confirm that the Owner exercises ownership control over ..... ("the tenderer") as contemplated in regulation 5 of the National Land Transport Regulations on Contracting for Public Transport Services, 2009 made in terms of the National Land Transport Act5 of 2009.

I further confirm that the Owner has made or provided financial assistance or support to the tenderer by means of the following:

1. ....
2. ....
3. ....
4. ....

*(including investments, grants, subsidies, concessions, loans, guarantees or other means)*

Material particulars of such assistance are set out below:

**1. Description**

.....  
a) Present value of assistance

.....  
b) Future value of assistance already negotiated

.....  
c) Date of expiry of assistance

.....  
d) Repayment terms

.....  
e) Security (nature, value)

.....  
f) Name(s) of entity(ies) providing security, directly or indirectly

.....  
g) Cost of assistance (e.g. interest at prime rate)

.....  
h) Other material terms and conditions pertaining to the assistance

**2. Description**

.....  
a) Present value of assistance

.....  
b) Future value of assistance already negotiated

.....  
c) Date of expiry of assistance

.....  
d) Repayment terms

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

### 3. Description

.....

a) Present value of assistance

.....

b) Future value of assistance already negotiated

.....

c) Date of expiry of assistance

.....

d) Repayment terms

.....

e) Security (nature, value)

.....

f) Name(s) of entity(ies) providing security, directly or indirectly

.....

.....

g) Cost of assistance (e.g. interest at prime rate)

.....

h) Other material terms and conditions pertaining to the assistance

.....

.....

.....

**4. Description**

.....  
a) Present value of assistance

.....  
b) Future value of assistance already negotiated

.....  
c) Date of expiry of assistance

.....  
d) Repayment terms

.....  
e) Security (nature, value)

.....  
f) Name(s) of entity(ies) providing security, directly or indirectly

.....  
g) Cost of assistance (e.g. interest at prime rate)

.....  
h) Other material terms and conditions pertaining to the assistance

.....  
I specifically record that, except as indicated above, the decision to provide financial assistance to the tenderer was not directly or indirectly influenced by the intervention of any organ of state.

I confirm that the above particulars accurately represent all of the material aspects relating to the financing arrangements between the Owner and the tenderer, and that no undisclosed terms, conditions or warranties apply.

.....  
Chief Executive Officer

.....  
Date

**FORMS TO BE COMPLETED**

**ONLY AFTER THE TENDER IS ACCEPTED**

## ..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 20: CONTRACT**

THIS CONTRACT IS CONCLUDED BETWEEN the .....Municipality/Provincial Administration  
(hereinafter called "the Contracting Authority" (CA)) of the one part, herein represented by .....

.....  
in his/her capacity as .....

AND .....

( called "the Operator") of the other part, herein represented by .....

.....  
in his/her capacity as .....

WHEREAS the CA is desirous that certain passenger transport services be provided as detailed in the tender documents for Tender No ..... and a tender by the Operator for the provision of the said services has been accepted;

NOW THIS CONTRACT WITNESSES AS FOLLOWS:

1. The Operator shall provide the services in accordance with the contract documents listed in clause 44 of the Conditions of Contract.
2. This contract is awarded for a period of .....(....) years from date of commencement.
3. In the event of discrepancies or differences between or in any documents forming part of, or connected with, or bearing upon the contract, they shall be determined and resolved in accordance with clause 44 of the Conditions of Contract.
4. In consideration of the payment made by the CA to the Operator, as hereinafter mentioned, the Operator hereby undertakes to provide the said services in conformity in all respects with the provisions of the contract.
5. The CA hereby undertakes to pay the Operator in consideration of the said provision of services the amounts at the times and manner prescribed by the contract. The amounts to be paid by the CA to the Operator for the due and faithful performance of the contract shall be at the rates shown in Form 12 of the Tender Forms.

6. The operator undertakes to surrender the public permits/operating licences to the relevant Provincial Operating Entity/Operating Licensing Board as required by section 48(1)(b) of the National Land Transport Act 5 of 2009 and other applicable legislation for cancellation or amendment, as the case may be, at the end of the contract period, or if the contract is terminated in terms of clause 47 of the Conditions of Contract, and undertakes not to oppose any applications for operating licences made by other operators who may obtain contracts from the CA to continue the services insofar as they relate to the area or routes in question.

SIGNED AT ..... ON THIS THE ..... DAY OF ..... 20....

.....  
EMPLOYER

Name: .....

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

.....  
for OPERATOR (duly authorised thereto)

Name: .....

WITNESSES:

1. ....

Name: .....

2. ....

Name: .....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION

TENDER NO. ....

**FORM 21: *PRO FORMA* PAYMENT CERTIFICATE**



..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 22: NOTIFICATION OF CHANGE IN OWNERSHIP CONTROL OF THE OPERATOR**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... \*Municipality/Provincial Administration hereby give notice in terms of clause 4.3 of the Conditions of Contract, that the ownership control of the said Operator \*has changed/will change as follows with effect from ..... 20....:

The new \*shareholders/members/beneficiaries of the Operator \*are/will be the following:

1. .... [full names] Identity number .....
2. .... [full names] Identity number .....
3. .... [full names] Identity number .....

Details of the reasons for the change in ownership control are as follows: .....

.....  
.....

Other relevant information:

.....  
.....

Signed at ..... on ..... 20....

.....

For Operator

As witnesses:

1. ....
2. ....

**\* Delete whichever is not applicable**

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 23: INCIDENT REPORT**

I ..... the undersigned, being the duly authorised representative of the Operator in terms of Contract No. .... with the ..... Municipality/Provincial Administration hereby provide the following Incident Report in terms of clause 23.3 of the Conditions of Contract:

Complaint/incident lodged/reported by: .....

Date of complaint/incident: .....

Full description of complaint/incident (full details are required):

.....  
.....

Steps taken to address/solve the situation (full details are required):

.....  
.....

Program/proposed steps to prevent a repeat of the situation:

.....  
.....

Other relevant information:

.....  
.....

Signed at ..... on ..... 20.....

.....

For Operator

As witnesses:

1. ....

2. ....

..... MUNICIPALITY/PROVINCIAL ADMINISTRATION  
TENDER NO. ....

**FORM 24: WAYBILL**

***Note:***

The information is to be provided as per the format below:

**CASH WAYBILL**NIPPER  
PERFORATION**B 582541**

DRIVER: \_\_\_\_\_ COY No. \_\_\_\_\_ DATE: \_\_\_\_\_ 20 \_\_\_\_\_

TIME CASHED UP: \_\_\_\_\_ DUTY No. \_\_\_\_\_

TICKET					INSPECTOR'S SIGNATURE			
DENOMINATION	OPENING No.	CLOSING No.	QUANTITY SOLD	VALUE		TIME		
				R	C			
						TICKET VALUE CHECKED		
						TICKET VALUE.....		R.....
						WAYBILL CHECKER		
						COY No. ....		
						CASH RECEIVED		
						AMOUNT .....		R.....
						CASHIER		
						COY No. ....		
						DRIVER'S SURPLUS / SHORTAGE		R.....
						WAYBILL RE-CHECKED		
						TICKET VALUE.....		R.....
						WAYBILL RE-CHECKER		
						COY No. ....		
						WAYBILL CHECKER SHORTAGE / SURPLUS		R.....
Module Number .....								
Defect .....								
Etm Number .....								
Bus Number .....								
TOTAL VALUE R								

DRIVER'S SIGNATURE .....