

**SUPPLY, OPERATION, IMPLEMENTATION, AND MAINTENANCE AGREEMENT FOR THE
E-MOBILITY SYSTEM IN PETRA DEVELOPMENT AND TOURISM REGION (PDTRA)
(Development of Transportation System in Petra)**

Between

Petra Development and Tourism Regional Authority

And

[•]

Date: [•]

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THIS SUPPLY, OPERATION, IMPLEMENTATION, AND MAINTENANCE AGREEMENT FOR THE E-MOBILITY SYSTEM IN PETRA DEVELOPMENT AND TOURISM REGION (PDTRA) (the “**Agreement**”) is made on [•]

BETWEEN

1. The Petra Development and Tourism Regional Authority, which exists pursuant to Law No. (15) of 2009 and whose registered address is at Wadi Musa, Al-Betrā' District, Ma'an Governorate, Jordan (“**PDTRA**”); and
2. [•], a company incorporated in Jordan, with company registration number [•] and whose registered address is at [•] (the “**Operator**”);

PDTRA and the Operator being individually referred to herein as a “**Party**” and collectively as the “**Parties**”.

WHEREAS:

- A. PDTRA intends to establish a mobility system for Petra based on electric buses;
- B. PDTRA intends to enter into a long-term agreement with a suitable operator (selected through a competitive bidding process), who will provide the Services as defined in this Agreement;
- C. PDTRA wishes to appoint the Operator to provide the Services, and the Operator wishes to accept such appointment and carry out the Services in accordance with the terms and conditions of this Agreement.

NOW THE AGREEMENT PROVIDES:

PART A – GENERAL

1. Preliminary Matters

1.1 Definitions and Interpretation

- 1.1.1 The defined words and expressions set out in clause 1 of Annex A (*Definitions and Interpretation*) hereof and the provisions relating to the construction and interpretation of the Agreement set out in clause 2 of Annex A (*Definitions and Interpretation*) hereof shall apply to the Agreement.
- 1.1.2 In the event of any inconsistency between the provisions of the body of this Agreement and the Annexes, or between any of the Annexes, the conflict shall be resolved according to the following descending order of priority:
 - (a) the body of this Agreement, including Annex A (*Definitions and Interpretation*);
 - (b) Annex B (*Technical Specifications Schedule*);
 - (c) Annex C (*Operational Specifications Schedule*);
 - (d) Annex D (*Payment Calculation Schedule*); and
 - (e) Annex E (*Property Use Agreement*);
 - (f) Annex F (*Performance Guarantee*);
 - (g) Annex G (*Parent Company Guarantee*).

1.2 Effect of this Agreement

- 1.2.1 The Parties hereby agree that, save for the Surviving Provisions, which shall take effect immediately after signature of this Agreement by the Parties, this Agreement shall be binding upon them as of the Effective Date.

- 1.2.2 Subject to the issuance of a notice by PDTRA in accordance with clause 1.3.4 and without prejudice to the rights of PDTRA under clause 1.3.5, PDTRA's signing of this Agreement shall indicate its appointment of the Operator to provide the Services and such appointment shall be effective as of the Effective Date.
- 1.2.3 The Operator hereby accepts the appointment by PDTRA and agrees to provide the Services in accordance with the terms and conditions of this Agreement.
- 1.3 Conditions Precedent
- 1.3.1 The Conditions Precedent which are required to be satisfied by the Operator (and/or waived by PDTRA as applicable) are as follows:
- (a) the Operator has provided to PDTRA a true copy of its registration with the Companies Controller Department of the Ministry of Industry and Supply of the Kingdom of Jordan, as well as its "to whom it may concern letter" and any amendments thereto reflecting the Operator's board members and authorised signatories and any amendments thereto; and
 - (b) The Operator has provided to PDTRA true and complete copies of the memorandum and articles of association of the Operator; and
 - (c) The Operator has provided to PDTRA a true and complete copy of its commercial registration certificate and any amendments thereto; and
 - (d) The Operator has provided to PDTRA a true and complete copy of its registration certificate with the Social Security Corporation; and
 - (e) The Operator has provided to PDTRA a true and complete copy of its registration certificate with the Income and Sales Tax Department; and
 - (f) The Operator has signed the Property Use Agreement; and
 - (g) The Operator has provided to PDTRA the Performance Guarantee in accordance with clause 3 (*Performance Guarantee*); and
 - (h) The Operator has provided to PDTRA, from each of its Parent Companies, a signed Parent Company Guarantee in accordance with clause 4 (*Parent Company Guarantee*).
- 1.3.2 The Operator shall use its best endeavours to procure the fulfilment of each of the Conditions Precedent.
- 1.3.3 PDTRA shall be entitled, by written agreement, to waive any of the Conditions Precedent (only to the extent that a Condition Precedent is capable of waiver under the Applicable Law).
- 1.3.4 Within thirty (30) days of the Conditions Precedent being met (PDTRA may amend this period as it deems appropriate), PDTRA shall send a notice confirming the same to the Operator, the issuance of such notice not to be unreasonably withheld.
- 1.3.5 In the event that a Condition Precedent remains unfulfilled (and is not waived) for a period of ninety (90) days as of the Effective Date, then, save and except the Surviving Provisions, PDTRA shall be entitled to consider this Agreement null and void *ab initio* and PDTRA shall be discharged from any and all liability that may have arisen or that may arise under this Agreement.

2. Readiness and Commencement

2.1 Readiness

- 2.1.1 In the notice referred to in clause 1.3.4, PDTRA shall indicate the Vehicle Delivery Date and the Readiness Date, which, unless otherwise agreed between the Parties, shall be no less than thirty (30) days after the Vehicle Delivery Date.
- 2.1.2 On or before the Readiness Date, the Operator shall provide to PDTRA:

- (a) A proof of transfer of the legal title and ownership of the Vehicles and Charging Equipment to PDTRA;
- (b) A true and complete copy of the vocational licence for the Operator's offices in Jordan; and
- (c) A list of the Drivers, together with a true and complete copy of the Passenger Service Vehicle Licence for each Driver and evidence of each Driver having undergone a security check and having followed adequate training in accordance with the Operational Specifications Schedule; and
- (d) Evidence of the maintenance staff having undergone a security check and having followed adequate training in accordance with the Operational Specifications Schedule; and
- (e) The Service Delivery Plan in accordance with clause 9.1.3; and
- (f) Evidence of availability of funds in accordance with clause 27.2.2; and
- (g) Certificates of insurance in accordance with clause 38; and
- (h) True and complete copies of agreements in accordance with clause 16.1.3.

2.1.3 In the event that the Operator fails to provide the complete set of documentation required under clause 2.1.2 within thirty (30) days of the Readiness Date, the Operator shall be liable to pay to PDTRA a compensation amount of one thousand Jordanian Dinars (JOD 1,000) for each day of delay beyond the aforementioned thirty (30) days and PDTRA shall be entitled to call upon the Performance Guarantee for fulfilment of such amount.

2.2 Commencement of the Services and Term

2.2.1 Within fourteen (14) days of receipt of the complete set of documentation required under clause 2.1.2, PDTRA shall issue a Service Notice indicating the Planned Commencement Date, which, unless otherwise agreed by the Parties, shall be no less than fourteen (14) days and no more than thirty (30) days after the issuance of such Service Notice.

2.2.2 In the event that the Operator fails to provide the Services within thirty (30) days of the Planned Commencement Date, the Operator shall be liable to pay to PDTRA a compensation amount of one thousand Jordanian Dinars (JOD 1,000) for each day of delay beyond the aforementioned thirty (30) days and PDTRA shall be entitled to call upon the Performance Guarantee for fulfilment of such amount.

2.2.3 The Operator shall continuously provide the Services in accordance with this Agreement, as may be amended from time to time, for a term of twelve (12) years commencing from the Commencement Date, unless this Agreement is terminated earlier in accordance with its terms.

3. Performance Guarantee

- 3.1 The Operator shall provide the PDTRA with a valid and enforceable Performance Guarantee that remains in effect until the Operator has fulfilled all of its obligations under the Agreement and throughout the term of the Agreement. As a condition precedent, the Operator shall deliver to the PDTRA a duly executed Performance Guarantee in the form attached to this Agreement as Appendix (9) (Performance Guarantee), in the amount of four hundred thousand Jordanian Dinars (JOD 400,000) or ten percent (10%) of the financial offer value for the supply of the buses, whichever is higher. The Performance Guarantee shall be valid for three (3) years and must be renewed or replaced no later than sixty (60) days prior to its expiry, or for the first time on any day after the Readiness Date, whichever occurs earlier. The renewed or replacement Performance Guarantee must be delivered to the PDTRA no later than forty-five (45) days before the expiry date of the then-current Performance Guarantee. The PDTRA shall return the previously provided Performance Guarantee to the Operator within thirty (30) days from the date of receipt of the replacement Performance Guarantee.
- 3.2 Subsequent to the delivery of the initial Performance Guarantee, the Operator shall thereafter ensure that the amount of the renewed or replacement Performance Guarantee is the greater of one hundred thousand Jordanian Dinars (JOD 100,000) and the two (2)-year monthly average of payments due to the Operator multiplied by three (3). For purposes of this clause, the two (2) years to be used in determining the two (2)-year monthly average shall be the twenty-four (24)-month period immediately preceding the month before the month in which the determination is being made.
- 3.3 The Performance Guarantee shall be issued by a bank duly registered in Jordan and approved by PDTRA.
- 3.4 If the Operator fails to provide PDTRA with a replacement Performance Guarantee as required under this Agreement, PDTRA may, without prejudice to any other right it may have under the Applicable Law, a Parent Company Guarantee or the terms of this Agreement, immediately liquidate partially or fully the Performance Guarantee.
- 3.5 If the Performance Guarantee is partially liquidated, the Operator is obliged to replenish the Performance Guarantee in full within seven (7) days of the date of any liquidation thereof. If the Operator fails to replenish the Performance Guarantee in accordance with this clause, this shall constitute a material breach of this Agreement and PDTRA shall be entitled to liquidate the remainder of the Performance Guarantee and terminate this Agreement pursuant to clause 31 (*Breach and Termination*).
- 3.6 Subject to the fulfilment by the Operator of all of its obligations under this Agreement, the Performance Guarantee shall be released by PDTRA within thirty (30) days after the Termination Date upon written request by the Operator.
- 3.7 All fees, taxes and expenses associated with preparing, providing, issuing, extending, replacing, replenishing or stamping (if applicable) of the Performance Guarantee shall be borne by the Operator.

4. Parent Company Guarantee

- 4.1 The Operator shall, at its own expense, procure and maintain, and again in the event of a Change in Ownership, a Parent Company Guarantee for the benefit of PDTRA from each of its Parent Companies. [ONLY APPLICABLE IF THE OPERATOR IS NOT THE WINNING BIDDER ITSELF BUT A NEW ENTITY ESTABLISHED AND FULLY OWNED BY THE WINNING BIDDER]

5. Payment for Services

- 5.1 Payment to the Operator for the provision of the Services shall be made in accordance with the Payment Calculation Schedule.

- 5.2 PDTRA shall be entitled to set off any amount which may be due by the Operator to PDTRA against any amounts payable to the Operator without any notice whatsoever.
- 5.3 Any payment to the Operator shall not constitute a waiver of any right held by PDTRA in respect of a breach of this Agreement by the Operator.
- 6. Tax Clearance**
- 6.1 The Operator shall be responsible for paying stamp duties and any other similar tax expenses which may arise from the conclusion of this Agreement in accordance with Applicable Law.
- 6.2 The Operator shall at all times be in possession of a valid tax clearance certificate and shall provide the same to PDTRA on an annual basis.
- 6.3 PDTRA may cease all payments to the Operator in respect of any period during which the Operator is not in compliance with the provisions of clause 6.1. Upon such compliance by the Operator, PDTRA shall effect payment of all amounts that had been withheld pursuant to this clause 6.

PART B – THE VEHICLES, CHARGING EQUIPMENT AND STOPS

7. Delivery

- 7.1 The Operator shall procure the Vehicles, Charging Equipment and Stop Shelters at its own cost, in accordance with the specifications set out in the Technical Specifications Schedule, and shall deliver them by the Vehicle Delivery Date. If any Charging Equipment is to be installed in a location other than the Depot, the Operator will inform PDTRA in advance of the Vehicle Delivery Date.
- 7.2 At any time before the Vehicle Delivery Date, PDTRA shall be entitled to conduct inspections at the production facility of the Vehicle Supplier where the Vehicles are being produced and the Operator shall provide its best efforts to facilitate such inspections and provide access to the relevant production facility of the Vehicle Supplier.
- 7.3 Before the Vehicle Delivery Date, the Operator shall provide PDTRA with a certificate issued by the Vehicle Supplier showing that each Vehicle and Charging Equipment has been tested and commissioned and confirming the compliance of each Vehicle and Charging Equipment with the Technical Specifications Schedule.
- 7.4 Before the Vehicle Delivery Date, the Operator shall provide PDTRA with a certificate confirming the bill of lading and certificate of origin, showing that each Vehicle and Charging Equipment has been successfully shipped and confirming compliance of each Vehicle and Charging Equipment with the Technical Specifications Schedule.
- 7.5 At the time of delivery of the Vehicles, Charging Equipment and Stop Shelters, the Operator and PDTRA shall jointly carry out an inspection of the Vehicles, Charging Equipment and Stop Shelters. The state and condition of each Vehicle, Charging Equipment and Stop Shelter shall be recorded in writing and signed by the Operator and PDTRA. The document will include an inventory sheet. PDTRA may share the results of the inspections. For the avoidance of doubt, the results of such inspection shall not relieve the Operator from its obligation to deliver the Vehicles, Charging Equipment and Stop Shelters in accordance with the Technical Specifications Schedule.
- 7.6 If, beyond the date mentioned in clause 1.1, PDTRA, in consultation with the Operator, deems it necessary to increase the number of Vehicles, Charging Equipment or Stop Shelters in order to respond to an increased demand or an anticipated increase in demand for the Services or for economic, operational or any other reasons, then PDTRA may request that the Operator procure additional Vehicles, Charging Equipment or Stop Shelters in accordance with the specifications set out in the Technical Specifications Schedule and the Parties shall negotiate in good faith in respect of the same.

PART C – OPERATOR RESPONSIBILITIES

8. General Obligations

- 8.1 For the duration of this Agreement, unless agreed otherwise in writing by the Parties, the Operator shall use the Vehicles solely for the provision of the Services in accordance with this Agreement.
- 8.2 The Operator shall ensure that the Vehicles at all times are in compliance with the Operational Specifications Schedule, the requirements of any applicable specifications and the Applicable Law.
- 8.3 Unless expressly specified in this Agreement, the Operator shall solely be responsible for all costs and/or expenses associated with the fit-out, furnishing, administration, office space and/or any and all operational costs associated with its operations until the Termination Date.

9. Operations of the Vehicle Operating Company

- 9.1 In respect of the Dispatch Schedule and Service Delivery Plan:
 - 9.1.1 PDTRA shall, no later than fourteen (14) days prior to the Planned Commencement Date, provide to the Operator the initial Dispatch Schedule. PDTRA may thereafter provide a new Dispatch Schedule to the Operator at any time. The relevant Dispatch Schedule shall be provided to the Operator no later than fourteen (14) days prior to the beginning of the calendar month for which they are intended to be implemented.
 - 9.1.2 PDTRA shall not be entitled to provide a Dispatch Schedule which results in more than ninety-five percent (95%) of all Vehicles being put into service at any time. The remaining five percent (5%) shall constitute the notional reserve fleet for the purposes of scheduled maintenance, repair, Driver training and immediate replacement for any Vehicles out of service so as to ensure the seamless and continued provision of the Services in accordance with this Agreement.
 - 9.1.3 On or before the Readiness Date, the Operator shall prepare and submit for PDTRA's approval the Service Delivery Plan. Such Service Delivery Plan shall, at a minimum, detail the Operator's plans for rendering the Services in accordance with the Operational Specifications Schedule.
 - 9.1.4 PDTRA shall be entitled to request periodic revisions to the Service Delivery Plan so that it accurately reflects the requirements for effectively performing the Services. The Operator shall make such revisions (within the time specified by PDTRA) and submit such revisions for PDTRA's approval. The Operator shall not be entitled to modify an approved Service Delivery Plan unless it receives PDTRA's prior written approval to do so.
 - 9.1.5 The Operator shall provide the Services strictly in accordance with the Operational Specifications Schedule, the approved Service Delivery Plan and any further instructions of PDTRA given pursuant to this Agreement.
 - 9.1.6 Notwithstanding the Operator's obligations regarding servicing and maintenance of Vehicles, the Operator shall be entitled to apply to PDTRA in writing for a variation in the types of Vehicles which are to be used to provide the Services on the basis of a change in passenger demand or the utilisation of better-suited Vehicles with a different capacity than the Capacity, having regard to Vehicles then at the Operator's disposal. PDTRA shall, in its sole discretion, be entitled to grant or refuse such request having regard to, among other things, the financial implications thereof. PDTRA's decision shall be communicated to the Operator within fourteen (14) days of the Operator's written request being received by PDTRA and shall be final and binding on the Operator. For the avoidance of doubt, PDTRA shall not be deemed as having granted such request in the event it does not communicate its decision as regards the Operator's request within the aforementioned fourteen (14)-day period.
 - 9.1.7 The Operator may not refuse to convey a person on a Trip (excluding a Trip in relation to Scheduled Positioning Kilometres) or part thereof unless:

- (a) The Capacity will be exceeded at the time in question; or
- (b) Such person is or becomes violent, offensive, and abusive, engages in illegal conduct or represents a threat to other occupants of the Vehicle.

Where such an incident occurs, the Operator shall be obliged to log a report with PDTRA within fifteen (15) minutes of the occurrence (or as soon as practicable thereafter), detailing the nature and location of the incident and, where applicable, details of the parties involved.

9.2 Skill and care in rendering uninterrupted Services

- 9.2.1 The Operator shall exercise the highest degree of skill, care and diligence in the provision of the Services to the reasonable satisfaction of PDTRA.
- 9.2.2 Without limiting the generality of the foregoing, the Operator shall provide the Services at a standard which would reasonably avoid the incurring of Performance Deduction Percentages as contemplated in the Operational Specifications Schedule.
- 9.2.3 The Operator acknowledges and accepts that it is imperative for the success of the Project that the Services be rendered without interruption or delay and undertakes to do all things reasonably necessary to ensure such uninterrupted, prompt and efficient service.

9.3 Compliance with standard operating and control procedures and requirements

- 9.3.1 The Operator shall at all times comply with any standard operating and control procedures and requirements for the day-to-day administration, monitoring, control and performance of this Agreement as may be reasonably determined by PDTRA from time to time and the specific circumstances under which the Project operates from time to time, which shall include the Operational Specifications Schedule.

10. Drivers

- 10.1 The Operator shall hire Drivers with a valid Jordanian Passenger Service Vehicle Licence and who are suitably qualified, and shall ensure that all Drivers employed to provide the Services remain suitably qualified and trained and meet the requirements set out in the Operational Specifications Schedule and the Applicable Law.
- 10.2 Notwithstanding any Performance Deduction Percentages that may be applied pursuant to this Agreement, in relation hereto, where a Driver operates a Vehicle in contravention of the Applicable Law and/or the requirements of the Operational Specifications Schedule, PDTRA shall be entitled to demand (and the Operator shall be obliged to promptly comply with such demand) that such Driver be immediately removed from the Vehicle and replaced with another Driver who is suitably qualified.

11. Employment

- 11.1 The Operator shall recruit and employ all Employees necessary to provide the Services, including Drivers, mechanics, washers/cleaners, inspectors and all other administrative and management staff.
- 11.2 The Operator shall, in recruiting staff, comply with its obligations in accordance with this Agreement and the Applicable Law and shall, where appropriate, provide any training required (including but not limited to driving, customer service, emergency management and services) to render such persons suitable to provide the Services required under this Agreement.
- 11.3 The Operator shall provide employment opportunities to persons with disabilities in accordance with the Applicable Law.
- 11.4 The Operator shall provide employment opportunities to persons in surrounding areas of the Project in accordance with the Applicable Law.

- 11.5 The Operator shall develop internal policies to promote a good working environment for women and persons with disabilities, which should be in line with the Applicable Law, and offices and facilities hired and/or used by the Operator shall be universally accessible for women, children and persons with disabilities.
- 11.6 Gender Action Plan
- 11.6.1 The Operator shall provide equal employment opportunities without discrimination on the ground of gender and shall attempt to ensure that at least thirty percent (30%) of its Employees are female.
- 11.6.2 Should the percentage of female Employees employed at any time fall below the threshold referred to above, PDTRA shall be entitled to request that the Operator provide PDTRA within seven (7) days with a brief statement setting out:
- (a) The reasons for failing to maintain this thresholds;
 - (b) All steps the Operator has taken to meet and maintain these thresholds (including providing applicable training to available but unqualified potential staff); and
 - (c) Any other factors which the Operator considers relevant in assisting PDTRA to exercise its discretion under clause 11.6.3.
- 11.6.3 After consideration of the Operator's statement and such further information as PDTRA may request, PDTRA shall be entitled, in its sole discretion, to waive all or part of any applicable Performance Deduction Percentages under the Operational Specification Schedule.

12. Uniforms

- 12.1 The Operator shall ensure that its Employees are appropriately attired in the Uniforms prescribed in the Operational Specifications Schedule (as may be amended from time to time).
- 12.2 The Operator shall ensure that the Uniforms are clean, kept in good condition and worn in a professional manner at all relevant times in accordance with the high standards required by PDTRA in relation to the branding of the Project.

13. Image and Marketing

- 13.1 The Operator shall not use any image, brand name, company name, markings, graphics and/or signage of PDTRA for any purpose except with the written approval of PDTRA.
- 13.2 The Operator shall comply with instructions from PDTRA from time to time regarding branding in terms of the use of graphics, brand name, company name, information, signage, information, advertising and Vehicle livery, and shall cooperate with and participate in agreed marketing programmes as directed by PDTRA.
- 13.3 The Operator shall be entitled to, with PDTRA's prior written approval of the content, affix or display advertising material in agreed designated areas on the interior or exterior of the Vehicles and generate revenues out of such advertising activity in accordance with the Technical Specifications Schedule and the Operational Specifications Schedule. For the avoidance of doubt, certain content (for example illegal, vulgar or culturally insensitive content or content relating to the advertising of any other mode of transportation) are strictly prohibited and will not be approved by PDTRA.

14. On-board Systems and Equipment

- 14.1 The Operator shall:
- 14.1.1 At all times comply with the specifications and instructions for the operation, care and use of the On-board Systems and Equipment as prescribed by PDTRA by notice from time to time;

- 14.1.2 Not allow the On-board Systems and Equipment to be used for any purpose other than to fulfil its obligations in respect of the provision of the Services as set out in this Agreement;
- 14.1.3 Keep detailed record of all defects and repairs of the On-board Systems and Equipment for inclusion in regular reports to PDTRA as may be prescribed by PDTRA from time to time;
- 14.1.4 Bear the cost of repair to, or replacement of, the On-board Systems and Equipment as necessary;
- 14.1.5 not permit any Vehicle to leave the Depot for the purpose of performing a Trip with unrepaired and/or defective On-board Systems and Equipment, unless the Operator has reported the defect to PDTRA and PDTRA has instructed the Operator to utilise the relevant Vehicle on a specific Route;
- 14.1.6 ensure that all Drivers immediately report any malfunctioning and/or defects in any of the On-board Systems and Equipment detected during any Trip or maximum at end of the Trip, to PDTRA; each such report must be made to the Operator by the relevant Driver by no later than the time of the relevant Vehicle's arrival at the next Stop according to the Dispatch Schedule; the Operator shall immediately report such malfunction and/or defect to PDTRA and shall subsequently provide a written report of the same to PDTRA; after reporting a defect, the Operator and the Driver shall adhere to any instruction given by PDTRA, which may include immediate cessation of use of the relevant Vehicle;
- 14.2 PDTRA Risk and ownership of the On-board Systems and Equipment
 - 14.2.1 Ownership of the On-board Systems and Equipment shall at all times, unless later agreed otherwise in writing, remain vested in PDTRA.
 - 14.2.2 The Operator shall not be entitled to remove, sell or otherwise dispose of or encumber in any way whatsoever the On-board Systems and Equipment or any part thereof during the term of this Agreement.
- 15. Monitoring of the Services**
 - 15.1 PDTRA shall be entitled to monitor the Services through whichever means it deems adequate, including electronic monitoring and tracking systems, spot inspections or audits.
 - 15.2 PDTRA shall be entitled to conduct audits of the Operator's operations at any time without notice in order to ensure the continued compliance with this Agreement and that the Operator continues to achieve the various indicated KPIs. Such audits may be conducted in relation to the Vehicles, the Depot, the Staging Area, the Employees, the Operator's offices (including service and performance records) and any other place where any element of the Services is being performed or administered.
 - 15.3 PDTRA shall be entitled to require regular written reports by the Operator in such reasonable form, detail and frequency as may be determined by PDTRA or to call meetings with the Authorised Representative of the Operator on reasonable notice, for any purposes regarding the performance of the Services and/or the implementation of this Agreement.
 - 15.4 An Authorised Representative of PDTRA shall at all reasonable times be given access to the Vehicles, the Staging Area, Stops, Employees and any place where the Services (or any portion thereof) are being performed to satisfy itself as to the Operator's compliance with its obligations under this Agreement and for purposes of assessing the Operator's performance against agreed KPIs.
- 16. Provision of Financial Information**
 - 16.1 For the duration of this Agreement, the Operator shall deliver to PDTRA:
 - 16.1.1 Audited annual financial statements of the Operator within ninety (90) days after the end of each relevant Financial Year;

- 16.1.2 Unaudited management accounts of the Operator (comprising a profit and loss account, balance sheet and cash flow statement) within thirty (30) days after the end of each six (6)-month period of a Financial Year; without detracting from PDTRA's rights under this Agreement, and in order to assist the Operator in taking proactive steps to ensure the sustainability of its operations and identify any negative trends which may likely impact the Services, PDTRA may provide the Operator with such feedback as it may consider appropriate from time to time arising from its consideration of the Operator's management accounts submitted in accordance with this clause 16.1.2; and
- 16.1.3 Copies of agreements with the Vehicle Supplier and lenders and of all other agreements related to the provision of the Services of a monetary value exceeding five hundred thousand Jordanian Dinars (JOD 500,000) or its equivalent in another currency within any Financial Year, within fourteen (14) days of the Operator entering into such agreement.
- 16.2 The Operator shall provide PDTRA with all information as PDTRA may be required to provide to any Regulatory Bodies, from time to time.
- 16.3 The Operator shall prepare and maintain its accounts in Jordanian Dinars and shall at its own cost retain a firm of independent accountants of recognised international standing and expertise, acceptable to PDTRA, as auditors of the Operator. The Operator's financial statements shall be prepared in accordance with IFRS (International Financial Reporting Standards as applied in the Kingdom of Jordan from time to time), and shall fairly reflect the financial position of the Operator as at the date and for the period for which such statements are prepared.
- 16.4 The Operator shall furnish to PDTRA, within seven (7) days of receipt by it of written demand from PDTRA, all such additional information as may be reasonably required by PDTRA from time to time.
- 16.5 The Operator shall notify PDTRA in writing, immediately (but in all events within seven (7) days) upon the occurrence of any of the following events:
- 16.5.1 If at any time the Operator becomes Financially Distressed; or
- 16.5.2 If the Operator considers or resolves to seek any insolvency, bankruptcy or similar protection under the Applicable Law.
- 16.6 If the Operator notifies PDTRA pursuant to clause 16.5, such notice shall set out the full details of the Financial Distress or the actual or proposed action, and PDTRA shall be entitled, without derogating from and/or diminishing any rights and/or entitlements it may have under this Agreement, under the Applicable Law or otherwise, to do all things it deems necessary in order prevent any potential disruption to the Services.
- 17. Incident Reporting**
- 17.1 Should the Operator become aware of events or circumstances which have prevented, are preventing or will prevent the Operator from providing the Services, the Operator shall immediately after becoming so aware, advise PDTRA of such events or circumstances and also indicate the manner in which the provision of the Services were, are or are going to be impacted.
- 17.2 In addition to any obligations under the Applicable Law, the Operator shall immediately after its occurrence notify PDTRA or its Authorised Representative of any accident relating to the Services (whether or not a Vehicle has been involved and including accidents at the Depot) in which persons have been injured or killed.
- 17.3 The Operator shall be required to report all other incidents as may be further defined by a Protocol, excluding such incidents as described in clause 17.2, to PDTRA in writing within three (3) days of the Operator becoming aware of the incident or where a prudent operator should have reasonably become aware of the incident.

17.4 The Operator shall report:

17.4.1 Any acts of vandalism or damage to the Stops;

17.4.2 The obvious need for cleaning of Stops; and

17.4.3 The use of the Stops by trespassers,

To PDTRA within three (3) days of becoming aware of their occurrence or where a prudent operator should have reasonably become aware of their occurrence.

18. Other Responsibilities

18.1 The Operator shall be responsible for the safe disposal of waste in accordance with the Applicable Law.

18.2 The Operator shall at its own cost comply with all labour, employment (including those related to registration with and contributions to the Jordan Social Security Corporation), occupational health and safety laws, regulations and standards applicable to the Services.

18.3 The Operator shall be liable for and pay all traffic fines incurred as a result of the use of the Vehicles.

18.4 The Operator shall timely pay the cost of all electricity, water and other utilities consumed at the Depot, Staging Area and other facilities used for the provision of the Services.

18.5 The Operator shall be responsible for the provision of Charging Equipment at the Depot and/or the Staging Area and relevant civil works for the provision of the same. The Operator shall be responsible for obtaining any required licence under the Applicable Law for the installation of the Charging Equipment. PDTRA shall facilitate the Operator's efforts in this regard.

18.6 The Operator shall wash the Vehicles on a daily basis.

18.7 Employees of the Operator are prohibited from bringing any alcoholic beverages, drugs, or weapons to the Vehicles, the Stops, the Depot and/or the Staging Area, and are prohibited from operating under the influence of drugs or alcohol.

18.8 The Operator is prohibited from selling or trading food, beverages or any other goods or services in the Vehicles, the Stops, the Depot and/or the Staging Area without prior written approval from PDTRA.

PART D – MAINTENANCE

19. General Obligations

19.1 The Operator shall, at all times during the term of this Agreement, ensure that all Vehicles utilised in rendering of the Services are kept in a state of good repair and maintained in accordance with the Vehicle Supplier requirements and/or recommendations and the provisions of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Operator shall:

19.1.1 Be liable for any damage caused to the Vehicles in accordance with its obligations under this Agreement; and

19.1.2 At all times, unless expressly stated otherwise in this Agreement, be responsible for the service, maintenance and upkeep of the Vehicles.

20. Maintenance of the Vehicles and Charging Equipment

20.1 The Operator shall at all times be required to service, maintain and repair the Vehicles and Charging Equipment at its own cost and in strict accordance with the specifications, requirements and/or recommendations of the Vehicle Supplier as notified to the Operator from time to time. The Operator shall not do anything which has the effect of voiding any warranty given by a Vehicle Supplier in respect of any of the Vehicles or Charging Equipment.

- 20.2 PDTRA shall be entitled to conduct unscheduled inspections of each Vehicle and Charging Equipment to ensure that it continues to be in compliance with the Operational Specifications Schedule and in satisfactory operational condition (fair wear and tear excluded). If any Vehicle or Charging Equipment is found not to be in compliance with the Operational Specifications Schedule or in unsatisfactory condition, PDTRA shall have the right to inform the Operator of the same and the Operator shall then, within a time determined by PDTRA, effect the required repairs/replacement at its own cost.
- 20.3 If at any time a Vehicle or Charging Equipment is in need of service, maintenance and/or repair and the Operator, in the opinion of PDTRA, fails to make such repair within a reasonable time, PDTRA shall notify the Operator of such failure and shall indicate in that notice the type of service, maintenance and/or repair that is required and the period within which such service, maintenance and/or repair must be completed. If such service, maintenance and/or repair is not completed within the time specified in PDTRA's notice, PDTRA shall be entitled to effect such service, maintenance and/or repair at the cost and expense of the Operator in which case PDTRA may, in its discretion, liquidate partially or fully the Performance Guarantee.
- 20.4 The Operator shall maintain a complete and detailed record of all service, maintenance and/or repairs (including the cost of any such service) for each Vehicle and Charging Equipment and shall, upon reasonable notice of no more than twenty-four (24) hours, make such records available to PDTRA for audit and/or inspection.

21. Spare Parts

- 21.1 The Operator is required to provide a suitably stocked and secure spare parts store as well as suitably qualified staff members to manage such store in accordance with the Operational Specifications Schedule at its own cost and expense.
- 21.2 Unless expressly agreed otherwise, the Operator shall be responsible for the provision of all spare parts required for the performance of the Services.

22. Tools and Equipment

- 22.1 The Operator is required to provide the required tools and equipment to maintain the Vehicles and/or otherwise to provide the Services in accordance with the Operational Specifications Schedule. All tools and equipment supplied by the Operator shall become property of PDTRA on the Termination Date without any additional without additional financial consideration and in a good condition and accordance with standards applied to the Services.

23. Electricity Access

- 23.1 The Operator shall, for the duration of the Agreement, ensure that it maintains, at its own cost, an adequate supply of electricity in order to ensure a seamless and uninterrupted delivery of the Services.
- 23.2 The Operator shall provide PDTRA, upon its request, electricity consumption data per Vehicle. The electricity consumption data shall be presented in a programmed automated report.

PART E – AUTHORISED REPRESENTATIVES, PROTOCOLS AND SERVICE NOTICES

24. Authorised Representative

- 24.1 PDTRA and the Operator shall notify each other, by no later than seven (7) days after the date of signing of this Agreement, of the identity and contact details of their Authorised Representatives. Each Party shall be entitled to replace such Authorised Representative by notice to the other Party.
- 24.2 Unless it is stated otherwise in the notice of a Party, a Party's Authorised Representative shall be entitled to bind such Party for any and all purposes connected with this Agreement.
- 24.3 All Service Notices and other notices required under or pursuant to this Agreement, unless expressly stated otherwise in this Agreement (or instructed in writing by the Party to whom notice is to be given), shall be directed to the Authorised Representative of such Party.

- 24.4 Without derogating from the generality of this clause 24, PDTRA and the Operator, as the case may be, shall be entitled to appoint further Authorised Representative(s) for specific matters as detailed in its notification of such Authorised Representative.

25. Service Notices, Protocols and Amendments

- 25.1 PDTRA shall be entitled to amend the Routes and Stops (including addition and deletion of Routes and Stops) and the Dispatch Schedule or to give notice of an Event Service or a Charter Service, from time to time, in accordance with clause 25.2. Such amendments shall be subject to the availability of required Vehicles and the provisions of this Agreement in respect of applicable notice periods.
- 25.2 In the event that PDTRA wishes to amend the items listed in clause 25.1, it shall do so by delivery of a Service Notice to the Operator, in which case the following notice periods shall apply:

Amendment	Service Notice Period shall not be less than
Routes, Stops and/or Dispatch Schedule leading to the number of Scheduled Kilometres not being increased by more than thirty percent (30%)	Fourteen (14) days
Routes, Stops and/or Dispatch leading to the number of Scheduled Kilometres being increased by more than thirty percent (30%)	Sixty (60) days
Event Services	Three (3) days
Charter Services	One (1) day

- 25.3 Notwithstanding clause 25.2:

- 25.3.1 where amendments due to an emergency are required by PDTRA in circumstances where the requisite notice periods cannot be adhered to, but except in relation to Event Services or Charter Services, PDTRA shall be entitled to issue such instructions as it may deem necessary without complying with the provisions of clause 25.2; or
- 25.3.2 where amendments due to urgent operational requirements are required by PDTRA, the provisions of clause 25.3.1 shall apply *mutatis mutandis*, save that PDTRA shall provide at least seven (7) days' notice of such amendment; or
- 25.3.3 in cases where the urgent operational requirements demand less than seven (7) days' notice, PDTRA shall first consult with the Operator, and

The Operator shall be obliged to comply with such notice except in circumstances where it, on reasonable grounds, does not have the required Vehicles and necessary Drivers available.

- 25.4 PDTRA shall be entitled to issue reasonable Protocols or amend previously issued Protocols on twenty-four (24) hours' notice to the Operator in the case of urgent matters and on seven (7) days' notice in respect of all other matters.
- 25.5 Should PDTRA issue a Service Notice or Protocol in accordance with this Agreement and the implementation of such Service Notice or Protocol is likely to result in a material increase or decrease in the Operator's costs and/or expenses (which are not already remunerated through the payments made or to be made to the Operator):
- 25.5.1 the Operator shall be obliged to implement the Service Notice or Protocol, as the case may be, irrespective of the materiality of the expense; and

25.5.2 The Parties shall negotiate with each other in good faith in order to agree an acceptable adjustment to the relevant category of payment in respect of the Operator's costs and/or expenses,

provided that, if either Party alleges that the Service Notice or Protocol materially increases or decreases the Operator's costs and/or expenses (which are not in Services/scope of work and not already remunerated through the payments made or to be made to the Operator), such Party shall be obliged to submit to the other reasonable proof of such material increase or decrease in the Operator's expenses, as the case may be, and such material increase or decrease shall be dealt with in accordance with the provisions of clauses 25.5.2 and 25.6. Parties are required to indicate such material increase or decrease ahead of execution/implementation.

25.6 If the Parties are unable to reach agreement through negotiations contemplated in clause 25.5.2 within Fourteen (**14**) days of request by either Party to commence such negotiations, the matter shall be referred for dispute resolution in accordance with the provisions in clause 33 (*Dispute Resolution*).

25.7 For purposes of clause 25.5, a "material" increase or decrease in the Operator's expenses shall mean an aggregate of all increases and decreases per year (calculated from the Commencement Date and for each ensuing year thereafter) exceeding one percent (1%) of the average monthly payment to the Operator. The average monthly payment to the Operator shall be calculated based on all payments made to the Operator in accordance with the Payment Calculation Schedule over the preceding twelve (12)-month period or, if within the first twelve (12)-month period, then over the number of complete months from the Commencement Date until the date of calculation.

PART F – PERFORMANCE DEDUCTION PERCENTAGES

26. Performance Deduction Percentages

26.1 PDTRA shall be entitled to impose Performance Deduction Percentages on the Operator in accordance with the provisions of this clause and the Operational Specifications Schedule for the Operator's failure to achieve certain KPIs as indicated in the Operational Specifications Schedule.

26.2 The Operator waives any defence as to the validity and quantum of the Performance Deduction Percentages and any penalties for delay set out in this Agreement on the grounds that such Performance Deduction Percentages cover the actual damages suffered by PDTRA due to the Operator's breaches under this Agreement. The Operator further acknowledges and agrees that in the event the breaches underlying the Performance Deduction Percentages and any penalties for delay or other breaches as set out in this Agreement occur, there is a presumption of loss to PDTRA and that the amount of any such penalties agreed upon will bear a reasonable relationship to the loss likely to be suffered by PDTRA without the need for any substantiation.

26.3 To the extent that PDTRA discovers an instance of the Operator's failure to achieve a particular KPI, PDTRA shall notify the Operator with details of the particular KPI, the details of the failure and the applicable Performance Deduction Percentages as indicated in the Operational Specifications Schedule. PDTRA may at its discretion specify a period curing/rectifying a failure of a certain type.

26.4 If Performance Deduction Percentages are imposed, then PDTRA shall be entitled to withhold and/or deduct the imposed amounts from the Operator's next payable invoice, any subsequent invoice or in increments from several subsequent invoices. PDTRA shall be entitled to, in its sole discretion, waive (whether wholly or partially) any Performance Deduction Percentages that are imposed on the Operator.

26.5 The maximum amount of Performance Deduction Percentages that may be imposed on the Operator in any given month is as indicated in the Operational Specifications Schedule.

PART G – WARRANTIES AND CHANGE IN OWNERSHIP

27. Warranties, Undertakings and Indemnities

27.1 Operator Warranties

- 27.1.1 The Operator acknowledges that PDTRA has entered into this Agreement relying on the strength of the Warranties given to PDTRA by the Operator and that the Warranties are given with the intention of inducing PDTRA (which has been so induced) to enter into this Agreement on the basis that such Warranties are and shall be correct for the duration of this Agreement.
- 27.1.2 Each Warranty given by the Operator shall be a separate Warranty and in no way limited or restricted by any reference to, or inference from, the terms of any other Warranty or by any other provision in this Agreement.
- 27.1.3 The Operator accordingly warrants and undertakes that:
- (a) it is properly constituted and incorporated in accordance with the Applicable Law;
 - (b) it has the power, authority and legal capacity to enter into and exercise its rights and perform its obligations under this Agreement;
 - (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
 - (d) the obligations expressed to be assumed by the Operator under this Agreement are legal, valid, binding and enforceable to the extent permitted by the Applicable Law;
 - (e) it is and will be in compliance with the Applicable Law;
 - (f) the Operator and its shareholders are not subject to any obligation, non-compliance with which is likely to cause a material breach of this Agreement;
 - (g) no claim is presently being assessed and no litigation, arbitration or administrative proceedings are presently in progress or, to the best of the knowledge of the Operator, pending or threatened against it (including its shareholders) or any of its assets which will or might have a material adverse effect on the ability of the Operator to perform its obligations under this Agreement;
 - (h) it is not the subject of any other obligation, compliance with which will or is likely to have a material adverse effect on the ability of the Operator to perform its obligations under this Agreement;
 - (i) no proceedings or other steps have been taken and not discharged (nor threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
 - (j) all information disclosed by or on behalf of the Operator to PDTRA is true, complete and accurate in all material respects and the Operator is not aware of any material facts or circumstances not disclosed to PDTRA which would, if disclosed, be likely to have an adverse effect on PDTRA's decision (acting reasonably) to award this Agreement to the Operator; and
 - (k) all insurance premiums in respect of insurance obligations placed on the Operator in accordance with this Agreement have been timely paid and none are in arrears.

27.2 Operator Undertakings

The Operator undertakes with PDTRA that:

- 27.2.1 it will give PDTRA immediate notice upon becoming aware that any judicial or court proceedings, mediation, litigation, arbitration, administrative or adjudication by or against the Operator before any court or Regulatory Body may be threatened or pending;
 - 27.2.2 it will as at the Commencement Date hold, in cash, an amount equivalent to the acquisition cost of all required tools, equipment, furniture and other basic business materials required for the operating of its business, plus the necessary working capital required until the expected date of the first payment to be made to the Operator in accordance with the Payment Calculation Schedule;
 - 27.2.3 it will not without the prior written consent of PDTRA (and whether by a single transaction or by a series of transactions whether related or not) sell, transfer, lend, encumber or otherwise dispose of the whole or any part of its business or assets if such action may affect its ability to provide the Services;
 - 27.2.4 it will not cease to be lawfully registered in the Hashemite Kingdom of Jordan or transfer in whole or in part its undertaking, business or trade outside the country;
 - 27.2.5 it shall not change or cease its business or start any other business which is materially different from that to be carried on by it under this Agreement;
 - 27.2.6 it shall immediately notify PDTRA of any discussions and/or negotiations that may result in a change in the ownership structure of the Operator or a Parent Company.
- 27.3 PDTRA and Operator Indemnities
- 27.3.1 The Operator shall take steps to ensure the safety of property and all persons while they are being conveyed or while they are in, entering or leaving premises under the control of the Operator. In particular, the Operator shall be responsible for passengers and their property whilst they are on a Vehicle and whilst they are embarking on or disembarking off such Vehicle.
 - 27.3.2 The Operator shall be liable for any loss or damage resulting from damage to any property, including, without limitation, PDTRA's property, or the death of or injury to any person which is caused directly or indirectly by an intentional or negligent act or omission of the Operator, its agents, Employees or subcontractors.
 - 27.3.3 The Operator indemnifies and agrees to hold PDTRA harmless against all claims, demands, suits, proceedings, judgments, damages, loss, costs, charges, fines, penalties, taxes and expenses, of whatsoever nature incurred by either of the Parties, or by any third party, in consequence of a failure by the Operator to comply with the terms of this Agreement or the Applicable Law.
 - 27.3.4 Nothing contained in this clause 27.3 shall be deemed to render the Operator liable for, or require it to indemnify PDTRA against, any compensation or damages with respect to injuries or damage to persons or property resulting from any negligent act or omission of PDTRA or its agents or employees in respect of any claims, demands, lawsuits, damages, costs, charges and expenses in respect thereof or pertaining thereto, and each Party hereby indemnifies the other against any claims, demands, lawsuits, damages, costs, charges and expenses incurred by such other Party in consequence of the negligent acts or omissions of the other Party's agents or employees.
- 27.4 All warranties, representations, undertakings, indemnities and other obligations made, given or undertaken by the Operator in this Agreement are cumulative and none shall be given a limited construction by reference to any other.
- 28. Change in Ownership**
- 28.1 The Operator agrees that there shall be no Change in Ownership of the Operator during the Lock-in Period.
 - 28.2 Any change in the ownership structure of the Operator arising as a consequence of:

- 28.2.1 A transfer required by the Applicable Law or by order of a court, tribunal or other competent authority with appropriate jurisdiction;
- 28.2.2 The grant or enforcement of security in favour of lenders over or in relation to any of the shares of the Operator, provided that any document conferring security over any shares has been approved by PDTRA (such approval not to be unreasonably withheld or delayed); or
- 28.2.3 Any change in legal or beneficial ownership of any shares that are listed on a recognised investment exchange; or
- 28.2.4 Any transfer of shares in the Operator by its ultimate parent and/or an affiliate of its ultimate parent to its ultimate parent and/or an affiliate of its ultimate parent,

Shall not constitute a Change in Ownership for purposes of this clause 28.

- 28.3 The Operator shall obtain PDTRA's prior written consent (which may be given subject to conditions) to any Restricted Share Transfer.

PART H – FORCE MAJEURE, NECESSARY ACTION, BREACH, TERMINATION AND DISPUTE RESOLUTION

29. Force Majeure

- 29.1 If either Party is prevented in whole or in part from discharging its obligations pursuant to this Agreement as a result of an Event of Force Majeure, such Party shall, as soon as reasonably practicable, notify the other Party accordingly. The aforementioned notice shall contain the following information:
 - 29.1.1 The obligations which are affected and the extent to which the relevant Party cannot perform those obligations;
 - 29.1.2 A detailed description of the Event of Force Majeure;
 - 29.1.3 An estimate of the time period which the Event of Force Majeure is envisaged to continue; and
 - 29.1.4 The measures proposed to be adopted to remedy or minimise the effects of and costs arising from the Event of Force Majeure. If the Operator is the Party prevented from discharging its obligations as a result of the Event of Force Majeure and PDTRA is of the opinion that the measures proposed are not adequate, it shall advise the Operator by Service Notice. Such Service Notice may propose alternate or additional measures which in the opinion of PDTRA may curtail the Event of Force Majeure and/or the costs arising therefrom. Notwithstanding the provisions of this clause 29.1.4, the Operator shall be obliged to take all proactive steps as may be reasonably possible in anticipation of Events of Force Majeure so as to enable the Operator to mitigate the financial effects thereof, including but not limited to, the entering into of appropriate contractual arrangements with its Employees.
- 29.2 The Party prevented from discharging its obligations pursuant to this Agreement as a result of an Event of Force Majeure shall:
 - 29.2.1 Use all reasonable endeavours to remedy or minimise the effects of the Event of Force Majeure; and
 - 29.2.2 Take all reasonable and necessary steps available to it as contemplated in clause 29.1.4 to mitigate any loss suffered by such Party or the other Party or any passengers as a result of that Party's failure to discharge its obligations pursuant to this Agreement.

- 29.3 In the event that an Event of Force Majeure affects the Operator's ability to perform any of its obligations under this Agreement and to the extent that the Services, or any part thereof, are suspended, the Operator shall not be entitled to claim payment from PDTRA for such suspended Services, or any additional costs incurred by the Operator as a result of the Event of Force Majeure or in relation to any steps taken by the Operator in mitigating the effects of the Event of Force Majeure.
- 29.4 In the event that the Operator is the Party affected by an Event of Force Majeure, PDTRA may, in response to the notice issued by the Operator in accordance with clause 29.1, issue a Service Notice to the Operator indicating any part of the Services which should nonetheless be performed by the Operator for the period during which the Event of Force Majeure subsists. Provided that such Services are actually performed by the Operator, PDTRA shall in such event make payment to the Operator for such Services in accordance with the Payment Calculation Schedule.
- 29.5 If an Event of Force Majeure no longer prevents the Operator from performing its obligations under this Agreement, the Operator shall be entitled to a reasonable period, taking into account the extent to which it has wound down its operations during the period of the Event of Force Majeure, to re-establish the Services in compliance with its obligations under this Agreement.
- 29.6 If an Event of Force Majeure continues uninterrupted for more than one hundred twenty (120) days and continues to prevent a Party from performing all of its obligations under this Agreement, either Party shall be entitled to terminate this Agreement upon sixty (60) days' notice to the other Party, provided that:
- 29.6.1 before doing so, the Party serving such notice shall first have produced its best efforts to meet with the other Party to seek a mutually satisfactory solution for remedying such Event of Force Majeure, and no Party shall be entitled to terminate this Agreement unless the Parties are unable to agree on a solution within thirty (30) days of such meeting being convened; and
- 29.6.2 in the event that such notice was served by the Operator, PDTRA shall have the option, to be communicated in writing to the Operator within thirty (30) days of receipt of such notice, to postpone the Termination Date to a date no later than one hundred eighty (180) days after the date of receipt of such notice.
- 29.7 Apart from payment of a compensation as specified in clause 32.1, neither Party shall have any liability to the other in respect of the termination of this Agreement as a consequence of an Event of Force Majeure or as a result of any failure to carry out any of its obligations hereunder resulting from an Event of Force Majeure.
- 30. Step-in and Necessary Action**
- 30.1 If the Operator commits a material breach of this Agreement to such an extent that PDTRA is compelled to step in in order to ensure that the Services or any part thereof are continued seamlessly or if PDTRA reasonably believes that the Operator is unable to perform the Services or a substantial part thereof in the manner contemplated in this Agreement, PDTRA shall be entitled to give the Operator a notice.
- 30.2 The notice pursuant to clause 30.1 shall set out:
- 30.2.1 Details of the material breach or reasons for PDTRA's belief (and shall refer to previous relevant notifications, if any) that the Operator is or will be unable to provide the Services or any part thereof;
- 30.2.2 The remedial action which the Operator should take within the period specified by PDTRA; and
- 30.2.3 The date upon which PDTRA intends to commence the Necessary Action in the event that the Operator fails to take remedial action.

- 30.3 In the event that the Operator fails to take such remedial action within the period specified in PDTRA's notice, PDTRA shall be entitled to proceed to take the Necessary Action at the Operator's cost and expense for a period of up to one hundred eighty (180) days, and may, in its discretion, liquidate partially or fully the Performance Guarantee.
- 30.4 The Operator hereby agrees that PDTRA, in taking the Necessary Action, shall be entitled unrestricted access to the Vehicles, the Depot and any other places where the Services (or any part of them) are being performed and the Operator undertakes to co-operate and do all such things as may be necessary to provide such access to PDTRA or any third party appointed by PDTRA and to ensure the seamless operation of the Services or any part thereof.
- 30.5 If PDTRA takes the Necessary Action, then, without prejudice to any other right it may have under the Applicable Law, a Parent Company Guarantee or the terms of this Agreement, for so long as and to the extent that such Necessary Action is taken and prevents the Operator from performing any of its obligations under this Agreement:
- 30.5.1 The Operator shall be relieved from such obligations for the duration of the period in which PDTRA is taking the Necessary Action; and
- 30.5.2 Without prejudice to PDTRA's rights to claim damages, the payments due and payable by PDTRA to the Operator shall equal the amount the Operator would have received if it were performing the obligations affected by the Necessary Action in full over such period (assuming a Performance Deduction Percentage equal to one hundred percent (100%)), less:
- (a) any outstanding Performance Deduction Percentages imposed, but not yet deducted as calculated in accordance with the provisions of this Agreement; and
 - (b) an amount equal to PDTRA's unrecovered costs and/or expenses incurred pursuant to taking such Necessary Action.

31. Breach and Termination

- 31.1 If the Operator commits a material breach of this Agreement and fails to remedy the breach within fourteen (14) days after receipt from PDTRA of a notice calling upon it to do so or such other time as specified by PDTRA then PDTRA shall be entitled, in addition to and without prejudice to any other right it may have under the Applicable Law, a Parent Company Guarantee or in accordance with this Agreement, to liquidate partially or fully the Performance Guarantee and to seek specific performance of this Agreement or to terminate this Agreement forthwith on notice to the Operator without the need for a court order for such termination.
- 31.2 For purposes of this Agreement, in addition to a breach of any other provision of this Agreement expressly designated as material, a material breach by the Operator shall include but not be limited to instances where the Operator:
- 31.2.1 Fails to deliver the Vehicles, the Charging Equipment or the Stop Shelters in accordance with the specifications set out in the Technical Specifications Schedule within ninety (90) days after the Vehicle Delivery Date; or
 - 31.2.2 Fails to provide the complete set of documentation required under clause 2.1.2 within sixty (60) days of the Readiness Date; or
 - 31.2.3 Fails to commence the Services within thirty (30) days of the Planned Commencement Date; or
 - 31.2.4 Abandons, suspends or otherwise repudiates the Services or any of its material obligations under this Agreement; or
 - 31.2.5 Fails to provide or maintain the Performance Guarantee; or
 - 31.2.6 Fails to provide or maintain the Parent Company Guarantee(s); or

- 31.2.7 Fails to provide or maintain as required any of the necessary operating licences to be used for the rendering of the Services or has such necessary operating licences withdrawn, cancelled, suspended or revoked; or
 - 31.2.8 Commits a material breach as per clause 2.6 of the Operational Specifications Schedule; or
 - 31.2.9 Commits a material breach under the Property Use Agreement;
 - 31.2.10 consistently fails to observe any provision of this Agreement for an extended period of time despite being given notice in relation thereto, whether or not Performance Deduction Percentages have been applied, with the result that the Services may be regarded by PDTRA as being materially defective; or
 - 31.2.11 At any time, is Financially Distressed; or
 - 31.2.12 Goes into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purpose of amalgamation or reconstruction to which PDTRA has given its prior written consent); or
 - 31.2.13 Sells, transfers or otherwise disposes of all or a substantial portion of its shares, assets or business, whereby such action may affect its ability to provide the Services, without the prior written consent of PDTRA; or
 - 31.2.14 Has judgment of a material nature taken against it likely to affect the Operator's status as a going concern and fails to satisfy or apply to have the same set aside within seven (7) days of becoming aware thereof; or
 - 31.2.15 Delegates, cedes or sub-contracts this Agreement or part thereof in contravention of the provisions hereof without having obtained PDTRA's prior written consent; or
 - 31.2.16 Is in breach of any Warranty; or
 - 31.2.17 In the opinion of PDTRA, commits a Prohibited Act; or
 - 31.2.18 Acts or attempts to act in a fraudulent or otherwise illegal manner in obtaining or executing a contract with any government department, provincial administration, municipality, public body, company or person; or
 - 31.2.19 Violates or attempts to violate any provision of the Applicable Law or otherwise commits any criminal act; or
 - 31.2.20 Enters into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from formally responding to PDTRA's calls for proposals or the entering into of any negotiations with PDTRA in relation to this Agreement.
- 31.3 If PDTRA:
- 31.3.1 Fails to provide unrestricted access to the Depot, the Staging Area or the Vehicles to the Operator due to reasons entirely within PDTRA's control and fails to remedy this situation within thirty (30) Business Days after receipt from the Operator calling upon it to do so; or
 - 31.3.2 Commits a breach of any payment obligation in accordance with this Agreement and fails without justification to make payment within ninety (90) days after receipt from the Operator of a notice calling upon it to do so,
- then the Operator shall be entitled, in addition to and without prejudice to any other right it may have under the Applicable Law or under the terms of this Agreement, to seek specific performance of the terms of this Agreement or to terminate this Agreement upon ninety (90) days' notice to PDTRA.
- 31.4 In the event of early termination of this Agreement:

- 31.4.1 PDTRA shall be entitled to immediately take possession of any or all the Operator Assets and, should PDTRA elect to do so, the Operator shall do all things necessary to transfer to PDTRA the legal title and ownership of such Operator Assets; and
- 31.4.2 PDTRA 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 PDTRA on request.
- 31.5 If PDTRA terminates this Agreement as a consequence of an Event of Force Majeure pursuant to clause 29.6 or a material breach of this Agreement by the Operator pursuant to clause 31.1, and elects not to take possession of any of the Operator Assets pursuant to clause 31.4.1, then the Operator shall, at its own cost and expense, remove and/or decommission such Operator Assets from the Depot, the Staging Area and the Stops.

32. Compensation upon Early Termination

- 32.1 If any of the Parties terminates this Agreement due to an Event of Force Majeure pursuant to clause 29.6, and PDTRA elects to take possession of any of the Operator Assets pursuant to clause 31.4.1, then, in addition to and without prejudice to any other right it may have under Applicable Law, a Parent Company Guarantee, or the terms of this Agreement, PDTRA shall, within ninety (90) days from the date of transfer to PDTRA of the ownership of such Operator Assets which PDTRA has elected to take possession of, pay the Operator a compensation amount equal to the unamortised value or market value of the Operator Assets which PDTRA has elected to take possession of, whichever is lower.
- 32.2 If PDTRA terminates this Agreement as a consequence of a material breach of this Agreement by the Operator pursuant to clause 31.1 and elects to take possession of any of the Operator Assets pursuant to clause 31.4.1, then, in addition to and without prejudice to any other right it may have under the Applicable Law, a Parent Company Guarantee or the terms of this Agreement, including the right to liquidate partially or fully the Performance Guarantee, PDTRA shall, within ninety (90) days from the date of transfer to PDTRA of the ownership of such Operator Assets which PDTRA has elected to take possession of, pay the Operator a compensation amount equal to the unamortised value or market value of the Operator Assets which PDTRA has elected to take possession of, whichever is lower.
- 32.3 If the Operator terminates this Agreement as a consequence of a material breach of this Agreement by PDTRA pursuant to clause 31.3, then, in addition to and without prejudice to any other right it may have under the Applicable Law, a Parent Company Guarantee or the terms of this Agreement, PDTRA shall, within ninety (90) days of the date of transfer to PDTRA of the ownership of the Operator Assets, pay to the Operator a compensation of an amount equal to the aggregate of:
 - 32.3.1 The unamortised value or market value of the Operator Assets, whichever is lower; plus
 - 32.3.2 An amount equal to one hundred thousand Jordanian Dinar (JOD 100,000) multiplied by the number of months (rounded to the nearest integer) between the Termination Date and the twelfth (12th) anniversary of the Commencement Date, subject to a maximum of one million Jordanian Dinars (JOD 1,000,000).

33. Dispute Resolution

33.1 Disputes

- 33.1.1 For the purposes of this clause 33, the term “dispute” shall be interpreted in its widest sense and shall include any dispute or difference in connection with or in respect of the conclusion or existence of this Agreement, the carrying into effect of this Agreement, the interpretation or application of the provisions of this Agreement, the Parties’ respective rights and obligations arising out of or in connection with this Agreement or the validity, enforceability, rectification, termination or cancellation, whether in whole or in part, of this Agreement.

- 33.1.2 Save as otherwise provided for in this Agreement, any dispute between the Parties arising in connection with this Agreement shall be resolved in accordance with the provisions of this clause 33.
- 33.2 Resolution by Chief Executives
- 33.2.1 Any dispute arising in connection with this Agreement may be referred by either Party to the Chief Executive of the Operator and the Chief Commissioner of PDTRA (or such other senior executives as the relevant Parties may determine) who shall attempt to resolve the matter within fourteen (14) days of the dispute being so referred to them or within such other time as may be agreed between the Parties.
- 33.3 Resolution by an Independent Technical Expert
- 33.3.1 If the Parties are unable to resolve a dispute pursuant to clause 33.2, either Party shall be entitled to refer such dispute to an Independent Technical Expert.
- 33.3.2 The Independent Technical Expert shall be appointed by agreement between the Parties following written request therefor by the requesting Party from the List of Technical Experts, or, failing such agreement within seven (7) days of receipt of the said written request, such person selected by PDTRA from the List of Technical Experts.
- 33.3.3 The Independent Technical Expert shall be requested to provide their decision within thirty (30) days of the dispute being referred to them, or within such other time as may be agreed between the Parties.
- 33.3.4 If the Independent Technical Expert has given notice of their decision to the Parties as to the matter of dispute and no notice of intention to commence arbitration as to such dispute has been given by any of the Parties within fourteen (14) days of such decision being notified, the said decision shall become final and binding upon the Parties.
- 33.3.5 The costs of the Independent Technical Expert shall be borne by the Party against whom the dispute is decided, unless the Independent Technical Expert, on reasonable grounds, rules otherwise.
- 33.4 Arbitration
- 33.4.1 If the Parties are unable to resolve a dispute pursuant to clause 33.3, either Party shall be entitled to refer such dispute to arbitration in accordance with this clause 33.3.5 by notifying the other Party in writing of its intention to do so.
- 33.4.2 The arbitration panel shall be constituted of three (3) arbitrators. Each Party shall name an arbitrator and the named arbitrators shall name a chairman. The proceedings shall be carried out under the procedures, rules and regulations of the Jordanian Arbitration Law as in force and effect. Any such arbitration shall be subject to the Applicable Law.
- 33.4.3 The seat of the arbitration shall be Jordan and all arbitration hearings shall be held in Ma'an unless otherwise agreed in writing by the Parties.
- 33.4.4 Unless otherwise agreed between the Parties, such arbitration shall be conducted in the Arabic language and the award of any arbitrator or arbitral panel, together with the reasons for the determination, shall be written in the Arabic language.
- 33.4.5 The arbitrator or arbitral panel shall have full power to open up, review and revise any determinations, decisions or findings in relation to the dispute.
- 33.4.6 The obligations of the Parties shall not be altered by reason of the arbitration being conducted during the term of the Agreement.
- 33.4.7 Any monetary award in any arbitration shall be denominated and payable in Jordanian Dinars.

- 33.4.8 The Parties agree that all interim or final decisions and/or awards of the arbitrator or arbitral panel shall:
- (a) be binding on the Parties and shall be given effect and implemented forthwith by them; and
 - (b) be subject to the confidentiality restrictions in this Agreement and, except as provided by agreement between the Parties, may not be publicised or otherwise disclosed, provided always that nothing in this clause shall prevent either Party from applying to any court of competent jurisdiction to enforce the award.
- 33.4.9 Reference of a dispute to arbitration shall not in any way vitiate nor invalidate the Agreement nor shall it be ground for the Operator to cease performing its obligations nor for PDTRA to terminate the engagement of the Operator under the Agreement, and the Operator shall proceed with its obligations with all due diligence.

PART I – MISCELLANEOUS MATTERS

34. Transfer of Employees

- 34.1 Where PDTRA terminates this Agreement pursuant to clauses 29 (*Force Majeure*) or 31 (*Breach and Termination*) or takes the Necessary Action contemplated by clause 30.2 , PDTRA shall be entitled to receive copies of any and all contracts of employment held by the Operator for the performance of the Services and the Operator hereby undertakes to do all things required and provide all such information in relation to such Employees as may be required in order to operate the system, subject to compliance with the Applicable Law.
- 34.2 The Operator shall be liable for any costs incurred by PDTRA in effecting the transfer of Employees contemplated in this clause 34 and hereby indemnifies PDTRA in respect of such retrenchment costs.

35. Event Services and Charter Services

- 35.1 The Operator may be required to operate Event Services and Charter Services utilising such Vehicles as PDTRA may determine. Such Event Services and Charter Services or the Routes and schedules applicable thereto, shall be specified through a Service Notice.
- 35.2 The Operator shall be entitled to receive payment from PDTRA in respect of Event Services and Charter Services in accordance with the Payment Calculation Schedule. For the avoidance of doubt, the Operator shall not be entitled to accept payment from any third party for the rendering of Event Services or Charter Services without prior written approval from PDTRA.
- 35.3 In the event of the date for a booking of an Event Service being changed, the Scheduled Positioning Kilometres specified in respect of the previous date for such booking will cease to be of any force or effect and PDTRA shall be entitled to deliver a new Service Notice in respect of the new booking.

36. Hazardous Materials

- 36.1 The Operator shall ensure that any Hazardous Materials or equipment used or intended to be used in the provision of the Services are stored safely and in safe keeping in accordance with the Applicable Law, ensure that all such materials are properly and clearly labelled on their containers, promptly inform PDTRA of all such materials being used or stored and comply with any other reasonable requirement of PDTRA in respect of such materials and equipment.

37. Intellectual Property

- 37.1 The Operator acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of PDTRA and that all Intellectual Property developed pursuant to this Agreement (other than Intellectual Property belonging to the Operator or any third party) shall vest exclusively in PDTRA, save to the extent that the Parties otherwise agree in writing.

37.2 Should the Operator acquire title to any Intellectual Property of PDTRA or which is developed pursuant to this Agreement under the Applicable Law (thus, where PDTRA in effect pays for its development), such Intellectual Property (other than Intellectual Property belonging to the Operator or any third party) shall be deemed to have been assigned by the Operator to PDTRA.

38. Insurance

38.1 The Operator shall, at their own costs, establish and maintain no less than the minimum types and levels of insurances that are required by the Applicable Law, including but not limited to motor third-party liability insurance.

38.2 In addition, the Operator shall establish and maintain:

38.2.1 Passenger liability insurance with a minimum limit of ten thousand Jordanian Dinars (JOD 10,000) per passenger and fifty thousand Jordanian Dinars (JOD 50,000) per event in relation to the provision of the Services to, among other things, provide cover in respect of loss or damage suffered by reason of death or injury;

38.2.2 Public liability insurance in relation to the operation of the Services with a limit no less than one hundred thousand Jordanian Dinars (JOD 100,000) per event and unlimited in the annual aggregate. The public liability policy should include an excess motor liability extension;

38.2.3 Employer's liability insurance with a minimum limit of one hundred thousand Jordanian Dinars (JOD 100,000) per event; and

38.2.4 Depot insurance as required by the Property Use Agreement.

38.2.5 The buses must have full coverage insurance for the duration of the contract on the operator's expense.

38.3 All insurances shall be from a reputable insurance company approved by PDTRA and on terms and conditions approved in advance in writing by PDTRA.

38.4 All insurances shall be for such amounts as have been approved in advance in writing by PDTRA.

38.5 The Operator shall be liable for and pay all premiums in respect of such insurances and provide evidence of this to PDTRA on demand.

38.6 PDTRA shall be named as an additional insured party under such insurances and provide evidence of this to PDTRA on demand.

38.7 The Operator shall be liable for any claims for passenger liability or public liability which are repudiated by PDTRA's insurers due to any act or omission of the Operator, its directors, agents or Employees in providing the Services.

38.8 The Operator and PDTRA shall jointly review the adequacy of the insurance coverage amounts every three (3) years from the commencement date. Adjustments to the minimum limits shall be made based on inflation, changes in risk exposure, and other relevant factors to ensure adequate coverage.

39. Publication of compliance or non-compliance with required KPIs

39.1 Notwithstanding anything to the contrary in this Agreement, particularly the provisions of clause 44 (*Confidentiality*), in order to ensure that the Services are rendered at a consistent and sustainably high level and to increase public awareness of the Services being rendered in accordance with this Agreement, PDTRA shall, for the duration of this Agreement, be entitled to:

39.1.1 Conduct and publish customer satisfaction surveys as it, in its sole discretion, may deem appropriate which may include but not be limited to issues pertaining to punctuality, Driver and Vehicle quality, safety and security and general customer satisfaction levels regarding performance of the Operator and its Employees; and

- 39.1.2 Publish any statistics relating to the overachievement or material underachievement of KPIs by the Operator which may include but not be limited to financial and operational performance, compliance with health and safety obligations and the Operator's compliance with Employee training and/or labour law requirements.
- 39.2 PDTRA shall be entitled to formulate its own conclusion regarding the results of the customer satisfaction surveys and the interpretation of PDTRA's statistics relating to the Operator's performance and shall make such results available to the Operator upon request.
- 39.3 PDTRA shall be entitled to publish the results of the customer satisfaction surveys and the above-mentioned statistics together with such additional marketing information as it may deem necessary, in media campaigns designed, among other things, to encourage compliance with expected KPIs and to discourage non-compliance therewith.
- 39.4 The aforesaid media campaign may include but not be limited to campaigns in traditional print media and/or electronic/social media and may highlight any overachievement or material underachievement of expected KPIs by the Operator from time to time.

40. Periodic review of the Agreement

- 40.1 In view of the long-term nature of this Agreement and in order to provide a continuous means for the assessment of:
- 40.1.1 PDTRA's contract management systems;
- 40.1.2 Opportunities to improve the performance of the Operator in rendering the Services to the benefit of all stakeholders (including passengers utilising the Services); and
- 40.1.3 Various aspects of the relationship between the Parties which would allow for *inter alia* an improvement in conflict resolution and the sharing of information between the Parties,

The Operator acknowledges that PDTRA will review the provisions of this Agreement every three (3) years for the duration of this Agreement.

- 40.2 To the extent that PDTRA wishes to propose any amendment to this Agreement pursuant to such review, such proposal shall be discussed and considered in good faith, but shall not be of any force or effect unless reduced to writing and signed by or on behalf of both Parties. For the avoidance of doubt, should the Parties fail to reach agreement as provided for in this clause 40, such failure shall not constitute a dispute as contemplated in clause 33 (*Dispute resolution*).

PART J – FINAL PROVISIONS

41. Addresses and notices

- 41.1 The Parties choose for the purposes of this Agreement the following addresses:
- 41.1.1 PDTRA: [•].
- 41.1.2 The Operator: [•].
- 41.2 Any legal process to be served on any of the Parties may be served on it at the physical address specified for it in clause 41.1 and it chooses that address for all purposes under this Agreement.
- 41.3 Any notice required by this Agreement to be given in writing shall, if given by email, be regarded as having been given in writing for purposes of this Agreement.
- 41.4 Where operational authorisations are required, PDTRA will issue and log an authorisation number and any relevant notice in accordance with this clause 41 shall quote such authorisation number.

- 41.5 A notice to any of the Parties which is sent by registered post in a correctly addressed envelope to the address specified for it in clause 41.1 shall be deemed to have been received (unless the contrary is proved) within fourteen (14) days from the date it was posted, or which is delivered to the Party by hand at the physical address specified for it in clause 41.1, shall be deemed to have been received on the day of delivery, provided it was delivered to a responsible person during ordinary business hours.
- 41.6 Each notice by email to a Party at the email address respectively specified for it in accordance with clause 41.1 shall be deemed to have been received (unless the contrary is proved) within four (4) hours of transmission if it is transmitted during normal business hours of the receiving Party or within four (4) hours of the beginning of the next Business Day after it is transmitted, if it is transmitted outside those business hours.
- 41.7 Notwithstanding anything to the contrary in this clause 41, a notice or other communication actually received by any of the Parties (and for which written receipt has been obtained) shall be adequate notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.
- 41.8 Any Party may by notice to the other Parties change its physical or postal address, or email address for the purposes of this clause 41 to any other physical or postal address, or email address and the change shall become effective on the seventh (7th) day after receipt of the notice.

42. Change in Law

- 42.1 The Operator acknowledges and agrees that it shall take full risk and responsibility for a Change in Law occurring, unless such Change in Law is a Discriminatory Change in Law or a Specific Change in Law, in which case PDTRA shall, within ninety (90) days of the Change in Law occurring, pay a compensation to the Operator, the amount of which shall be sufficient to place the Operator in a position no worse than the position it would be in had the Discriminatory Change in Law or the Specific Change in Law not occurred.
- 42.2 The Operator acknowledges and agrees that it shall take full risk and responsibility of any change in the exchange rate of the Jordanian Dinar.

43. Remedies

- 43.1 No remedy conferred by this Agreement is intended to be exclusive of any other remedy which is otherwise available under the Applicable Law, by statute or otherwise. Each remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing under the Applicable Law, by statute or otherwise. The election of any one or more remedy by any of the Parties shall not constitute a waiver by such Party of the right to pursue any other remedy.

44. Confidentiality

- 44.1 Each Party shall at all times keep in confidence the Confidential Information of the other Party which it may acquire for the purposes of or in connection with this Agreement (whether prior to or after the Commencement Date) and shall not use or permit the use of such Confidential Information and shall procure that its employees shall not use the Confidential Information, for any other purpose and shall not disclose such Confidential Information to any third party.
- 44.2 Notwithstanding clause 44.1, a Party may disclose the Confidential Information of the other Party to such former Party's employees or Authorised Representatives to the extent that such employees or Authorised Representatives need to know the Confidential Information and shall ensure that such employees or Authorised Representatives are aware of, and comply with, the confidentiality obligations contained in this clause 44.
- 44.3 Each Party shall take all such steps as may be reasonably necessary to prevent the Confidential Information of the other Party from falling into the hands of an unauthorised third party.

44.4 The Operator shall not make any comments to the media relating to this Agreement and any related matter nor shall it respond to any queries from the media without the prior written approval of PDTRA.

45. Severance

45.1 In the event that any provision of the Agreement is held by any judicial or other competent authority to be illegal, invalid or unenforceable, that provision shall be severed to the extent necessary to make the Agreement enforceable, and it shall not affect or impair the validity, legality or enforceability of any of the other provisions of the Agreement.

46. No agency

46.1 No provision of this Agreement shall be construed as constituting an agency, partnership, or joint venture between the Parties and neither Party shall have any express or implied right to bind the other Party in any way or to represent the other Party unless specifically provided to the contrary in this Agreement.

46.2 The Operator is an independent contractor performing the Agreement. The Operator is not an employee or agent of PDTRA and each party have their own independent financial liabilities.

47. Corruption and Fraud

47.1 The Operator warrants that in entering into the Agreement it has not committed any Prohibited Act.

47.2 In the event that the Operator is contacted by a Public Official requesting or suggesting that the Operator act in a manner which would constitute a Prohibited Act, the Operator shall immediately provide PDTRA in writing with full details of the request (including the identity of the Public Official making the request).

47.3 Without prejudice to clause 47.2, the Operator shall ensure that its Employees undertaking activities in connection with the Agreement are subject to similar obligations to those set out in this clause 47 and the Operator shall enforce such obligations.

48. Entire Agreement

48.1 This Agreement constitutes the entire agreement between the Parties in relation to all matters contained herein, including all understandings, rights, responsibilities, duties and obligations and supersedes all prior arrangements, representations, communications, negotiations, agreements and contracts (whether written or oral) made between or entered into by the Parties with respect thereto prior to the Effective Date. None of the Parties shall have any claim or right of action arising from any undertaking, representation or warranty not included in this Agreement.

49. No stipulation for the benefit of a third person

49.1 Save as is expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of a third person which, if accepted by the person, would bind any Party in favour of that person.

50. No representations

50.1 A Party may not rely on any representation which allegedly induced that Party to enter into this Agreement, unless the representation is provided in this Agreement.

51. Amendment

51.1 Except as set out elsewhere in this Agreement, no modification, amendment, addendum or variation to the accordance with the Agreement shall be effective or binding, unless it:

51.1.1 Is made in writing; and

51.1.2 Expressly sets out the modification, amendment, addendum or variation to the accordance with the Agreement; and

51.1.3 Refers to the Agreement; and

51.1.4 Is signed and dated by a representative of each Party.

52. Indulgences

52.1 The grant of any indulgence, extension of time or relaxation of any provision by any Party under this Agreement shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

53. General co-operation

53.1 The Parties shall co-operate with each other and shall each execute and deliver to the other Party such other instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out, evidence and confirm their rights and the intended purpose of this Agreement.

53.2 Each of the Parties undertake at all times to do all such things, perform all such acts and take all such steps within its power and control, as may be necessary for and incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement and ensuring that the Services are rendered consistently at the highest possible standard expected by PDTRA.

53.3 Each Party agrees to provide all information reasonably requested by the other in the exercise of their respective rights and performance of their obligations under this Agreement, subject to the confidentiality provisions of clause 44 (*Confidentiality*).

54. Governing law

54.1 This Agreement is to be governed, interpreted and construed in accordance with the laws of the Hashemite Kingdom of Jordan.

55. Language

55.1 Unless expressly notified in advance by PDTRA, the primary language of the Agreement shall be Arabic. All documents and communications issued between the Parties shall be in English or in Arabic. Unless expressly notified in advance by PDTRA, all minutes of meetings shall be issued in Arabic.

56. Independent advice

56.1 Each of the Parties hereby respectively agrees and acknowledges that:

56.1.1 It has been free to secure independent legal advice as to the nature and effect of each provision of this Agreement and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and

56.1.2 Each provision of this Agreement (and each provision of the Annexes) is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this Agreement.

57. Good faith

57.1 The Parties shall, at all times, act in good faith towards each other and shall not bring the other Party into disrepute.

58. Survival of rights, duties and obligations

58.1 The Surviving Provisions will survive termination or completion of the Agreement.

58.2 In the event that the Agreement is terminated or completed, neither Party shall be liable to the other Party except:

58.2.1 Under the Surviving Provisions; or

58.2.2 In respect of any breach of the Agreement occurring before such termination or completion; or

58.2.3 Any rights or liabilities between the Parties that were pre-existing as at the date of termination or completion.

59. Assignment

59.1 The Operator shall not cede, assign, delegate or transfer any of its rights or obligations under the Agreement, or any part of it, or any benefit or interest therein, to any third party or entity without the prior written consent of PDTRA.

59.2 Notwithstanding anything to the contrary stated in this Agreement, PDTRA shall be entitled, without requiring the consent of the Operator, to cede, assign, delegate or transfer any rights and/or obligations under this Agreement to any third party.

60. Waiver

60.1 Subject to clause 60.2, no relaxation, forbearance or delay by a Party in enforcing the Agreement shall prejudice, affect or restrict the rights, responsibilities, obligations, powers or remedies of that Party nor shall any waiver by either Party of any such rights, responsibilities, obligations, powers or remedies, or of any breach of the Agreement, be deemed to be a waiver of any other right, responsibility, obligation, power or remedy, or of any later or continuing breach of, the Agreement.

60.2 Any waiver of a Party's rights, responsibilities, obligations, powers or remedies arising out of or in connection with this Agreement shall be in writing, dated and signed by the representative of the Party granting such waiver, and shall specify the right, responsibility, obligation, power or remedy and the extent to which it is being waived. No waiver of a breach of a term of the Agreement operates as a waiver of any other breach of that term, or of a breach of any other term, of the Agreement.

61. Costs

61.1 Any costs, including all legal costs of an attorney and own client basis and taxes, incurred by a Party arising out of or in connection with a breach by another Party shall be borne by the Party in breach.

For the Petra Development and Tourism Regional Authority

Signed on:

Signature:

Name:

Position:

For [•]

Signed on:

Signature:

Name:

Position:

ANNEX A
DEFINITIONS AND INTERPRETATION

1. Definitions

1.1 In the Agreement, the following words and expressions shall have the meanings set out below:

- 1.1.1 “**Abandon**” means wholly or substantially cease to carry out the Services for ten (10) consecutive days or during thirty (30) days (whether consecutive or not) in any year, except when relieved of the obligation to do so by the express provisions of this Agreement;
- 1.1.2 “**Agreement**” means this agreement as amended from time to time and including the Annexes;
- 1.1.3 “**Annexes**” means the annexes attached to this Agreement;
- 1.1.4 “**Applicable Law**” means any constitution, statute, ordinance, treaty, decree, proclamation, rules, regulations or subordinated legislation or other legislative measure, as amended from time to time, including all national and provincial statutes and legislation and all municipal by-laws, as well as the common law and customary law and any judgment, decision, order or rule of any court or tribunal with relevant jurisdiction and any decision made by judicial or administrative bodies in accordance with any of the foregoing;
- 1.1.5 “**Authorised Representative(s)**” means person(s) authorised in writing by PDTRA and the Operator respectively, as contemplated in accordance with clause 24 (*Authorised Representative*);
- 1.1.6 “**Business Day**” means any day other than a Friday, Saturday or public holiday in the Hashemite Kingdom of Jordan;
- 1.1.7 “**Day**” means calendar day including Friday, Saturday or public holiday in the Hashemite Kingdom of Jordan;
- 1.1.8 “**Capacity**” means the maximum number of eighty (80) passengers that may be carried in a particular Vehicle, including all seated and standing passengers;
- 1.1.9 “**Change in Law**” means:
 - (a) The adoption of a new Law; or
 - (b) A change in or repeal of an existing Law,Which after the Effective Date results in:
 - (c) A change in the taxes, duties or levies payable by the Operator in respect of the Services; or
 - (d) A change in, or the repeal of, any other requirement for the performance of the Services;
- 1.1.10 “**Change in Ownership**” means:

- (a) Any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Operator (including the control over the exercise of voting rights conferred on those shares, control over the right to appoint or remove directors or the rights to dividends); and/or
 - (b) Any other arrangements that have or may have or which result in the same effect as paragraph (a) above of this definition of Change in Ownership;
- 1.1.11 **“Charging Equipment”** means the hardware equipment procured and used to charge the Vehicles;
- 1.1.12 **“Charter Services”** means a charter service which involves the private hire of Vehicles and which are not Event Services;
- 1.1.13 **“Commencement Date”** means the date on which the Operator actually commences the Services pursuant to the issuance by PDTRA of a Service Notice in accordance with clause 2.2.1;
- 1.1.14 **“Conditions Precedent”** means the conditions precedent in clause 1.3;
- 1.1.15 **“Confidential Information”** means all information, without limitation, of whatsoever nature:
- (a) Relating to the Disclosing Party’s business, operations, processes, drawings, sketches, plans, models, product information, know-how, market opportunities, customers and business affairs;
 - (b) Relating to the relationship of the Disclosing Party with its customers and suppliers; or
 - (c) Relating to the contents of this Agreement and any other information received pursuant to this Agreement,
- But excludes information which:
- (d) Constitutes an Operational Data; or
 - (e) is required to be disclosed under any law or regulation, or by any Regulatory Body, including any stock exchange on which a Receiving Party may be listed, provided that the Receiving Party in question shall first consult with the Disclosing Party before making any such disclosure, statement or announcement; or
 - (f) is in the public domain or enters into the public domain in any way, provided that the entry of such information into the public domain did not entail a breach of this Agreement by the Receiving Party; or
 - (g) the Receiving Party can show it was within its possession or knowledge, such information being in its use or having been recorded in its files, computers or other recording media, prior to receipt thereof from the Disclosing Party and which information was not previously acquired by the Receiving Party under any obligations of confidence or unlawfully; or
 - (h) Is disclosed by the Receiving Party with the prior written approval of the Disclosing Party; or

- (i) was disclosed by the Disclosing Party to a third party without restriction on disclosure or use, including without limitation, by way of a patent specification; or
 - (j) is hereafter disclosed or made available in good faith to the Receiving Party from a source other than the Disclosing Party, without breach by the Receiving Party of any obligation of confidentiality or non-use owed to the Disclosing Party or without breach by such other source who, to the knowledge of the Disclosing Party, is not subject to an obligation of confidentiality or non-use owed to the Disclosing Party; or
 - (k) Is developed independently by the Receiving Party without reference to the Confidential Information;
- 1.1.16 **“Depot”** means the immovable properties utilised by the Operator, such as a depot for the Vehicles, together with such fixtures and fittings as described in the Operational Specifications Schedule or as otherwise authorised by PDTRA, and shall, for the avoidance of doubt, include a depot constructed by the Operator and a Staging Area, depending on the context;
- 1.1.17 **“Discriminatory Change in Law”** means a Change in Law, the terms of which expressly apply to the Project and not to similar projects, or to the Operator and not to other Entities;
- 1.1.18 **“Dispatch Schedule”** means a schedule provided by PDTRA to the Operator in accordance with clauses 2.2.1 or 9.1;
- 1.1.19 **“Disclosing Party”** means the Party disclosing Confidential Information to the Receiving Party;
- 1.1.20 **“Drivers”** means those Employees who drive and operate the Vehicles;
- 1.1.21 **“Effective Date”** means the date of issuance by PDTRA of a notice in accordance with clause 1.3.4;
- 1.1.22 **“Employees”** means the employees of the Operator, or of any subcontractor contracted by the Operator to perform a part of the Service;
- 1.1.23 **“Encumbrance”** means:
- (a) any mortgage, pledge, lien, assignment or cession conferring security, hypothecation, security interest, preferential right or trust arrangement or other encumbrance securing any obligation of any person or any other charge (whether equitable or otherwise) of whatsoever nature or howsoever described; or
 - (b) any arrangement under which money or claims to, or for the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
 - (c) any other type of preferential agreement or arrangement (including any title transfer and retention arrangement), the effect of which is the creation of a security interest;
- 1.1.24 **“Engineering Kilometres”** means the kilometres travelled in respect of Vehicle testing, maintenance, repairs, positioning to and from the Vehicle Supplier, training and staff transport, for which the Operator shall not be compensated;

- 1.1.25 **“Event of Force Majeure”** means an act of God or public enemy, fire, explosion, earthquake, peril of the sea, flood, storm or other adverse weather condition, war declared or undeclared, act of terrorism, civil war, revolution, civil commotion or other civil disorder, sabotage, riot, blockade, embargo, sanction, epidemic, strike, lock-out or other labour dispute (excluding strikes, lock-outs or other labour disputes by the Drivers or other Employees) preventing any of the Parties, in whole or in part, to discharge its obligations pursuant to this Agreement, provided however that any such event or circumstance shall not be treated as an Event of Force Majeure to the extent that the inability to comply could have been prevented, overcome or remedied, in whole or in part, by the affected Party exercising due diligence and reasonable care;
- 1.1.26 **“Event Service”** means a transport service for an event, approved by PDTRA and recorded in PDTRA’s event calendar during the term of this Agreement or any other event that was communicated to the operator adequately before its commencement;
- 1.1.27 **“Financially Distressed”** means that:
- (a) It appears to be reasonably unlikely that the Operator will be able to pay all of its debts as they become due and payable within the immediately ensuing six (6) months; or
 - (b) The Operator’s liabilities exceed its assets by more than fifteen percent (15%) at any time, and
- “Financial Distress”** shall have a corresponding meaning;
- 1.1.28 **“Financial Year”** means, at any time, the financial year of the Operator starting on 1 January (or, in the case of the first financial year, the date of incorporation of the Operator) and ending on 31 December;
- 1.1.29 **“Hazardous Material”** means any solid, liquid or gaseous material with dangerous properties which may cause harm, injury or pollution, either directly or through interaction with another material;
- 1.1.30 **“Independent Technical Expert”** means an independent person having specialised knowledge of the matters at issue in any of the circumstances where the use of such expert is contemplated in this Agreement;
- 1.1.31 **“Intellectual Property”** means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites;
- “JOD”** means Jordanian Dinars;
- “KPI(s)”** means the key performance indicator(s);

- 1.1.32 **“List of Technical Experts”** means a panel of independent technical experts to be agreed upon by the Parties in writing, as soon as possible after the Commencement Date. If the Parties are unable to agree on the list of independent technical experts by the time a first request from a Party is made to refer a dispute to an Independent Technical Expert, or if there are fewer than eight (8) independent technical experts specified on such list, then either Party may request the list of independent technical experts to be determined by the Independent Federation of Consulting Engineers (FIDIC);
- 1.1.33 **“Lock-in Period”** means a period of four (4) years commencing from the Effective Date;
- 1.1.34 **“Necessary Action”** means any action that PDTRA deem necessary and appropriate in the event that the Operator failed to take remedial action pursuant to clause 30 (*Step-in and Necessary Action*);
- 1.1.35 **“On-board Systems and Equipment”** means any on-board systems and equipment installed on any Vehicle by the Operator, the Vehicle Supplier or one of their contracted suppliers in accordance with the Technical Specifications Schedule;
- 1.1.36 **“Operational Data”** means the location of the Vehicles, Scheduled Kilometres, Scheduled Positioning Kilometres, Engineering Kilometres, passenger numbers, electricity consumption of Vehicles, and any other such data identified as “Operational Data” by PDTRA, and which shall be available to the Operator;
- 1.1.37 **“Operational Specifications Schedule”** means the schedule annexed hereto as Annex C (*Operational Specifications Schedule*);
- 1.1.38 **“Operator”** means [•], a company incorporated in Jordan, with company registration number [•] and whose registered address is at [•];
- 1.1.39 **“Operator Assets”** means all tools, repair equipment and spare parts associated with the Services, as well as the fixed Depot assets under the legal title and ownership of the Operator which are necessary for the provision of the Services;
- 1.1.40 **“Parent Company”** means an entity (excluding any individual persons who are Employees of the Operator):
- (a) of which the Operator is a branch, subsidiary or other similar related entity; or
 - (b) which directly or indirectly exercises management control over the Operator;
- 1.1.41 **“Parent Company Guarantee”** means a guarantee to be provided to PDTRA by a Parent Company of the Operator pursuant to clause 4 (*Parent Company Guarantee*) in the specimen form provided in Annex G (*Parent Company Guarantee*);
- 1.1.42 **“Party”** means PDTRA or the Operator;
- 1.1.43 **“Passenger Service Vehicle Licence”** means an operating licence required to be obtained by the Operator for the Drivers;
- 1.1.44 **“Payment Calculation Schedule”** means the payment calculation schedule attached hereto as Annex D (*Payment Calculation Schedule*);

- 1.1.45 **"PDTRA"** means the Petra Development Tourism Regional Authority, which exists pursuant to Law No. (15) of 2009 and whose registered address is at Wadi Musa, Al-Betrā' District, Ma'an Governorate, Jordan;
- 1.1.46 **"Performance Deduction Percentages"** means the amounts to be deducted from the monthly payments for the Operator pursuant to particular service level failures as set out in the Operational Specifications Schedule and in accordance with clause 26 (*Performance Deduction Percentages*);
- 1.1.47 **"Performance Guarantee"** means the unconditional, irrevocable on-demand performance guarantee issued by a bank licensed to do business in the Hashemite Kingdom of Jordan, in the specimen form attached hereto as Annex F (*Performance Guarantee*) provided to PDTRA by the Operator pursuant to clause 3 (*Performance Guarantee*);
- 1.1.48 **"Planned Commencement Date"** means the date on which the Operator is expected to commence the Services pursuant to the issuance by PDTRA of a Service Notice in accordance with clause 2.2.1;
- 1.1.49 **"Prohibited Act"** means:
- (a) Offering, giving or agreeing to give to a Public Official a gift or consideration of any kind as an inducement or reward for:
 - (i) Doing or not doing (or for having done or not having done) any act; or
 - (ii) Showing or not showing (or for having shown or not shown) favour or disfavour to any person,
- In relation to the award or performance of the Agreement or any other agreement with PDTRA; or
- (b) entering into an agreement for which commission has been paid or has been agreed to be paid by the Operator or on its behalf, or to its knowledge, unless before the relevant agreement is entered into, particulars of any such commission and of the terms of any such agreement for the payment thereof have been disclosed in writing to PDTRA; or
 - (c) Committing any offence under the Applicable Law creating offences in respect of fraudulent acts; or
 - (d) Defrauding, attempting to defraud or conspiring to defraud PDTRA;
- 1.1.50 **"Project"** means Supply, Operation, Implementation, and Maintenance of the E-mobility Transport System in the Petra Development and Tourism Region.
- 1.1.51 **"Property Use Agreement"** means the agreement to be concluded between PDTRA and the Operator for the use of the land on which the Depot will be constructed, the Staging Area and equipment by the Operator, attached hereto as Annex E (*Property Use Agreement*);
- 1.1.52 **"Protocol"** means a protocol and/or a standard operating procedure issued from time to time by PDTRA indicating how, among other things, the Services are to be rendered, the manner in which the Operator should work, the exact procedures to be followed in order to comply with service level requirements set out in the Operational Specifications Schedule and any other ancillary matters;

- 1.1.53 **“Public Official”** means an official or employee of a government owned or controlled enterprise or any Regulatory Body and shall include any individual defined as a public official in the Applicable Law;
- 1.1.54 **“Readiness Date”** means the date on which the Operator is expected to provide the complete set of documentation required under clause 2.1.2 pursuant to the issuance by PDTRA of a notice in accordance with clause 2.1.1;
- 1.1.55 **“Receiving Party”** means the Party receiving Confidential Information from the Disclosing Party;
- 1.1.56 **“Regulatory Body”** means any governmental, semi-governmental, administrative, fiscal or judicial ministry, department, commission, authority, tribunal, agency, municipality or body, and shall include the provider of electricity, gas, water, wastewater, telecoms and other such public services, and anybody with a regulatory function under the Applicable Law;
- 1.1.57 **“Restricted Share Transfer”** means the transfer of shares or any interest in shares of the Operator outside the Lock-in Period that may result in the Change in Ownership;
- 1.1.58 **“Routes”** means the routes for each of the Services set out in the Operational Specifications Schedule (and includes start point, end point and specific path), as may be amended by PDTRA by way of delivery of a Service Notice to the Operator in accordance with the terms and conditions of this Agreement;
- 1.1.59 **“Scheduled Kilometres”** means the kilometres to be travelled by the Vehicles on the Route, excluding Scheduled Positioning Kilometres and Engineering Kilometres, as determined by multiplying the number of Trips as set out in the Schedule by the corresponding Trip Distances;
- 1.1.60 **“Scheduled Positioning Kilometres”** means the kilometres:
- (a) From the gate/entry point of the Depot or Staging Area to the starting point of a scheduled Trip; or
 - (b) From the end of a scheduled Trip to the gate/entry point of the Depot or Staging Area; or
 - (c) From the end of a scheduled Trip to the starting point of the next scheduled Trip along the shortest route,
- As determined by PDTRA, but shall exclude Engineering Kilometres;
- 1.1.61 **“Service Delivery Plan”** means a plan to be submitted by the Operator to PDTRA pursuant to clause 9.1;
- 1.1.62 **“Service Notice”** means a notice given to the Operator by PDTRA in accordance with this Agreement;
- 1.1.63 **“Services”** means the passenger transport services and any other services to be provided by the Operator on the terms and conditions of this Agreement;
- 1.1.64 **“Specific Change in Law”** means a Change in Law, the terms of which expressly apply to the provision of services which are the same as, or similar to, the Services, or the holding of shares in Entities whose main business is providing services the same as, or similar to, the Services.

- 1.1.65 **“Staging Area”** means the staging area used by the Operator in the provision of the Services as described in the Operational Specifications Schedule, or as otherwise authorised by PDTRA for temporary parking (and potentially charging) of Vehicles;
- 1.1.66 **“Stops”** means locations identified as passenger embarkation and disembarkation points;
- 1.1.67 **“Stop Shelters”** means the passenger shelters to be installed at the Stops;
- 1.1.68 **“Surviving Provisions”** means clauses 1 (*Preliminary Matters*), 31 (*Breach and Termination*), 33 (*Dispute resolution*), 37 (*Intellectual Property*), 41 to 61 (*Part J - Final Provisions*) and this Annex A 1 (*Definitions and Interpretation*);
- 1.1.69 **“Technical Specifications Schedule”** means the schedule annexed hereto as Annex B (*Technical Specifications Schedule*);
- 1.1.70 **“Termination Date”** means the twelfth (12th) anniversary of the Commencement Date or the date on which an earlier termination pursuant to the terms of the Agreement takes effect;
- 1.1.71 **“Travelled Kilometres”** means, for any given period, the kilometres actually travelled by the Vehicles in relation to Scheduled Kilometres, Event Services and Charter Services.
- 1.1.72 **“Trip”** means the journey undertaken by Vehicles in accordance with the Schedule and includes a journey in respect of Scheduled Positioning Kilometres, except where expressly excluded or the context implies such exclusion;
- 1.1.73 **“Trip Distance”** means the kilometres of each Trip determined as follows:
- (a) Firstly, as surveyed by PDTRA or through a third party engaged by PDTRA (and which for the avoidance of doubt shall exclude Scheduled Positioning Kilometres); or
 - (b) To the extent that the above survey has not been carried out, then the kilometres specified in the Operational Specifications Schedule or as otherwise agreed between the Parties;
- 1.1.74 **“Uniform”** means the uniform to be worn by those Employees of the Operator required to fulfil their duties in view of members of the public, as prescribed in the Operational Specifications Schedule, and includes the name tag issued to each Employee by the Operator;
- 1.1.75 **“Vehicle Delivery Date”** means the date on which the Operator must deliver the required Vehicles as specified in the notice served by PDTRA to the Operator pursuant to clause 1.3.4 or such other date as may be agreed between the Parties;
- 1.1.76 **“Vehicle Supplier”** means any entity which sells or otherwise supplies the Vehicles to the Operator;
- 1.1.77 **“Vehicles”** means the vehicles purchased and delivered by the Operator for the purpose of providing the Services;
- 1.1.78 **“Warranty”** means the warranties and undertakings given to PDTRA by the Operator, set out in clause 27 (*Warranties, Undertakings and Indemnities*).

2. Interpretation

2.1 In the Agreement:

- 2.1.1 In the event of conflict between the Annexes and the provisions of this Agreement (excluding the Annexes), the provisions of the Agreement shall prevail;
- 2.1.2 Any definition in this Agreement, shall bear the same meaning and apply throughout this Agreement (including the Annexes), unless otherwise stated or inconsistent with the context in which it appears;
- 2.1.3 The singular includes the plural and vice versa;
- 2.1.4 a reference to a statutory provision includes any subordinate legislation made from time to time under that provision and includes those provisions as amended, consolidated, re-enacted or replaced from time to time;
- 2.1.5 A reference to a document includes the document as modified from time to time and any document replacing it, in each case in the manner permitted by the Agreement;
- 2.1.6 A reference to a gender includes the other genders;
- 2.1.7 a reference to any government agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (“defunct body”), means the agency or body that performs most closely the functions of the defunct body;
- 2.1.8 A reference to an “agent” shall mean any person with a contractual relationship with a Party and carrying out activities or obligations on behalf of that Party;
- 2.1.9 A reference to a “subsidiary” shall mean, in relation to any entity, an entity:
 - (a) Which is controlled, directly or indirectly, by the first mentioned entity;
 - (b) More than half the issued share capital of which is beneficially owned, directly or indirectly, by the first mentioned entity; or
 - (c) Which is a subsidiary of another subsidiary of the first mentioned entity;
- 2.1.10 References in this Agreement to “clauses” or to “Annexes”, are to clauses of and Annexes to this Agreement;
- 2.1.11 References to notices or requests made or received by any of the Parties shall, unless expressly provided otherwise in this Agreement, refer to notices or requests in writing;
- 2.1.12 References to “agree” or “agreed” shall require the agreement to be recorded in writing and signed by the Authorised Representatives of the Parties;
- 2.1.13 No rule of construction shall be applied to the disadvantage of a Party to this Agreement because that Party was responsible for or participated in the preparation of this Agreement or any part of it. In the case of dispute the rule of the courts or the dispute council should be referred to;
- 2.1.14 unless otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a Business Day, the next succeeding Business Day;

- 2.1.15 References to day/s, month/s or year/s shall be construed as Gregorian calendar day/s, month/s or year/s, as the case may be;
- 2.1.16 If a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;
- 2.1.17 A reference to a Party includes that Party's successors and permitted assigns;
- 2.1.18 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and it shall be construed as if it were followed by "without being limited to".