



**PASSENGER RAIL AGENCY OF SOUTH AFRICA
("PRASA")**

PRIVILEGED, PRIVATE AND CONFIDENTIAL

**REPORT: GEMINI MOON TRADING (PTY) LTD t/a XL NEXUS TRAVEL IN JV
WITH KGOMOMORARENG TRAVEL (PTY) LIMITED**



REPORT: PASSENGER RAIL AGENCY OF SOUTH AFRICA/GEMINI MOON TRADING (PTY) LTD TRADING AS XL NEXUS TRAVEL IN JV WITH KGOMOMORARENG TRAVEL (PTY) LTD

1. INTRODUCTION

- 1.1. During March 2010, the Passenger Rail Agency of South Africa ("PRASA") issued a Request for Proposal (RFP) for rendering of travel management services for PRASA and subsidiaries. The closing date for proposals to be submitted was 1 April 2010 [see attached as **Annexure "A"**].
- 1.2. On the 9th of March 2010 and on 1 April 2010 briefing sessions took place and tender documentation was collected. Gemini Moon and Nexus failed to attend any of these meetings according to attendance registers [see attached as **Annexure "B"**].
- 1.3. At that stage South African Airways still had an agreement in place with the SA Rail Commuter Corporation ("SARCC"), which was in the process of being renewed at the time [see **Annexure "C"**].
- 1.4. During August 2010, PRASA put out a tender for the appointment of a service provider to arrange all bookings for travel and accommodation for PRASA's local and international travel. The proposed model advanced in the tender scope was that the service provider would book the trip and accommodation at their own cost and charge PRASA for the costs incurred and charging PRASA a suitable transaction fee for their services. During the briefing, all bidders were provided with an estimated volume of travel in the region of around R5 million per month and had to calculate their price offerings on the basis of that projected volume.
- 1.5. Nexus Travel were awarded the contract as PRASA's service provider on 4 August 2010 for a period of 24 months. The exact date Nexus Travel became a service provider to PRASA was on 5 August 2010 [see attached



notice to proceed and letter to Nexus/KMM as **Annexure "D"**]. The first payment to Nexus Travel appears to have been processed at the end of August 2010.

- 1.5.1. A review of the documents provided by PRASA indicates that no entities styled Gemini Moon Trading or Nexus Travel were at the tender briefing or tender document collection¹.
- 1.5.2. On 4 August 2010 however an entity referred to as XL "*Nexus Travel/KMM*" received a Notice to Proceed from PRASA which they accepted on 5 August 2010.
- 1.5.3. A Memorandum of Agreement and Service Level Agreement between PRASA and an entity then described as "*Gemini Moon Trading t/a Nexus*" followed after 5 August 2010, but there appears at this stage to only be an undated and unsigned copy. It is unknown at this stage whether there is a signed copy of this agreement on file at PRASA or not.
- 1.6. A meeting was thereafter apparently held between PRASA SCM personnel and the senior management of Nexus Travel. The meeting discussed the fact that, due to cost containment within PRASA, the proposed volumes of travel had been drastically reduced both in terms of number of trips and rand value. For three months prior to the meeting, the volumes were apparently reduced by approximately 20% of the estimated travel budget according to PRASA's internal figures. The case was made to the SCM team and it was seemingly clear that the service provider, through no fault of its own, was not generating sufficient revenue and the appointment was presented by Nexus that current billing model was allegedly prejudicial to their business. [A motivation of management fee structure from Nexus/KMM is attached as **Annexure "E"**].
- 1.7. On 22 March 2011, in a memorandum from the erstwhile Group Chief Procurement Officer of PRASA, Chris Mbatha ("Mbatha"), to the erstwhile Group Chief Executive Officer of PRASA, Tshepo Lucky Montana ("Montana"),

¹ An entity styled KMM Travel did attend – their "joint venture" is explained later in this report



with regard to Nexus Travel and their Travel & Accommodation Contract with PRASA, Mbatha proposed a change in the agreement with Nexus from transaction based billing to fixed management fee billing. It was, according to Mbatha "*clearly no longer commercially viable for them*" [Nexus] to continue servicing PRASA. Montana approved the proposal on the very same day.

- 1.8. The memorandum indicates proposed options in order to address the matter in the best interests of both parties, namely terminate the agreement and go out on tender; or revert to the second lowest compliant tender; or continue with Nexus Travel, but change the billing regime so that it is fixed regardless of the volumes.
- 1.9. A change in the billing regime was seen to be the most favoured as it "*clearly represent a fair exchange*" (sic) according to Mbatha. According to Mbatha, PRASA overestimated their offering to the market and it was apparently "*unfair*" to expect the service provider to suffer losses that are clearly attributable to PRASA's own decisions.
- 1.10. The memorandum went further and declared that the amount of investment and resource mobilisation that was required to service this account based on PRASA's estimates of R5m monthly spend and R60million per annum, when reviewed in contrast to the current levels of R1,2million - R1,5million of monthly travel clearly made such an arrangement not viable for Nexus Travel or for any service provider.
- 1.11. It was further recommended in the memorandum that the GCEO approves that the contract with Nexus Travel be continued with but that the billing model for the Nexus Travel be changed from a transaction based model to a fixed service fee model and that the monthly fee be fixed at R 350,000.00 per month for the remainder of the contract. [the memorandum, subsequent tender advice and notifying letter by PRASA are attached as **Annexure "F"**].
- 1.12. On 27 May 2011, PRASA signed a Memorandum of Agreement [MOA] with Kgomomorareng Travel/Gemini Moon Trading 7 trading as KMM/Nexus. An



unsigned undated MOA between Prasa and Gemini Moon Trading 7 trading as Nexus Travel is also attached hereto marked **Annexure "G"**.

- 1.13. "Nexus Travel" is not listed as a service provider in the records of PRASA in that name, but Gemini Moon Trading (Pty) Ltd [2003/005395/07] ("Gemini Moon") trading as XL Nexus Travel is listed as a supplier and has been since 6 March 2003.
- 1.14. Gemini Moon remains listed as a current supplier to PRASA rendering travel and accommodation services on the current system, although we have been advised their mandate has been terminated, and their bids for new tender/s was unsuccessful.
- 1.15. They have invoiced PRASA R270,130,505.00 from 2010 to 2016 according to PRASA's financial system. The following supplier codes² within PRASA all have reference to Gemini Moon:
 - 1.15.1. 103876;
 - 1.15.2. 103883;
 - 1.15.3. 103878;
 - 1.15.4. 103881;
 - 1.15.5. 103882;
 - 1.15.6. 103887;
 - 1.15.7. 106919;
 - 1.15.8. 103880;
 - 1.15.9. 103887;
 - 1.15.10. 103879;

² Multiple supplier codes generally indicate services to multiple divisions, and possible payment duplications, authorization overrides or improper financial controls



1.15.11. 109090;

1.15.12. 109246; and

1.15.13. 103886.

1.16. On 3 November 2011, Mamsy Mokate confirmed the change by sending an email to various PRASA employees stating the following:

"As you are all aware Gemini Moon t/a Nexus Travel provides travel services to PRASA Group. You might have noticed that effective 1 April 2011, Nexus invoices no longer reflects service fees. An agreement was reached with Corporate Procurement department to charge a fixed monthly management fee of R399 000 for the Group. This cost should be carried by all entities in proportion to their travel usage."

1.17. When Daniel Mtimkulu travelled to Berlin / Frankfurt in September 2010, his ticket was booked through Nexus Travel. The Travel Consultant at that time was Jenna De Sousa³.

1.18. In a series of emails, specifically between Fenton Gastin, Mamsy Mokate and Hunadi Manyatsa, within PRASA, the latter raised a concern to Gastin with regard to an urgent payment of R2m to Nexus against unreconciled payments for the entire group. Gastin reacted by stating that he has dealt with the PFMA for a better part of his career and while he appreciates Manyatsa raising concerns it would be good if she can seek to understand the background. Gastin took full responsibility for the decision which had to be implemented at Group level discussed with Mamsy Mokate.

1.19. Gastin then followed this up with an email to Mbatha on 19 April 2012 in which he states the he has taken a stand and thinks that "*this woman*", (presumably referring to Manyatsa), is "*playing games*" and he refers to his previous e-mail. Clearly, Gastin felt comfortable motivating this extraordinary payment without proper documentation to hand – this is out of

³ with Tel no 011-486 9000 and email address jennads@nexustravel.co.za



the ordinary and appears to indicate additional override of PRASA's internal policies to facilitate payment to a supplier. **This practice is pervasive and requires action to be taken against certain individuals involved and still employed.**

1.20. Nexus Travel's address is indicated as 52 Englewold Drive, Saxonwold, Johannesburg.

1.21. The current active directors of Gemini Moon are as follows:

1.21.1. Shariefa Allie-Nieftagodien

ID number 6403200044089

Active since 16/01/2015

1.21.2. Kamal Dullabh

ID number 7510255198088

Active since 12/06/2009

1.21.3. Sailesh Pradeep Parbhu

ID number 7605215135087

Active since 25/06/2004

1.22. Resigned directors of Gemini Moon are as follows:

1.22.1. Deborah Drury

ID number 6502060040085

Resigned 06/03/2003

1.22.2. Ajay Jayantilal Lalu

ID number 7307145113082



Resigned 25/06/2004

1.22.3. Dhiren Soni

ID number 6811235164088

Resigned 13/03/2003

1.22.4. Sanjay Paramnand Soni

ID number 7104145190081

Resigned 13/03/2003

1.23. The current auditors of Gemini Moon are:

1.23.1. Mia Kadwa & Co CA [Appointed 04/05/2009]

1.24. Kgomomorareng Travel is similarly not listed a supplier to PRASA under that name and no invoicing could be found for them on the PRASA system. The last mentioned Memorandum of Agreement however states in the preamble that KMM/Nexus JV is an "unincorporated joint venture" established for the purposes of this contract and that it is a well-established multi-disciplined JV that is able to render a travel management service to PRASA, divisions and subsidiaries. The joint venture was apparently between Gemini Moon and Kgomomorareng Travel CC.

1.25. Investigations reveal that Kgomomorareng Travel (Pty) Ltd [2013/023364/07] used to be a close corporation, namely Kgomomorareng Travel CC [2009/116979/23] which converted to a private company on 12 February 2013. The former members of the close corporation were:

1.25.1. Faith Mlondobozi⁴

ID number 8106200636089

Active from 15/06/2009 to 12/02/2013 (conversion date)

⁴ (Also known as Miyelani Faith Letsalo, Matuma Letsaolo's wife)



1.25.2. Robinson Maila

ID number 7511065706086

Active from 01/09/2010 to 12/02/2013 (conversion date)

1.25.3. Matuma Letsaolo⁵

ID number 7408275428082

Active from 15/06/2009

Resigned 15/05/2012

Letsaolo is married to Faith Mlondobozi above.

1.26. The current active directors of Kgomomorareng Travel are as follows:

1.26.1. Miyelani Faith Letsaolo⁶

ID number 8106200636089

Active 12/02/2013

1.26.2. Ntjile Robinson Maila

ID number 7511065706086

Active 12/02/2013

1.27. Whilst it has been stated above that neither Gemini Moon and/or Nexus Travel were at the tender briefing or tender documents collection, the names Kgomomorareng Travel and Kgomo-Morareng appears on the attendance and collection registers respectively.

1.28. Although the agreement between PRASA and KMM/Nexus was signed on 27 May 2011 (allegedly with KMM as a JV partner), an accommodation voucher

⁵ Letsaolo is a news editor for the Mail and Guardian, who commissioned an article regarding PRASA on or about 8 July 2016

⁶ Matuma Letsaolo's wife (also known as Faith Mlondobozi)





351423 issued by Nexus on 15 September 2014 portrays KMM as a client of Nexus. We also obtained two CTPC resolutions dated 27 March 2014 and 20 April 2015 respectively regarding a contract extension (only for Nexus Travel) and a request for outstanding payment (also only for Nexus Travel) [see attached **Annexure "I"**].

1.29. A notice of extension dated 11 October 2013 then purported to extend their appointment to provide travel management services to PRASA to 31 January 2014, but only Nexus Travel was mentioned and not KMM [see attached **Annexure "H"**].

1.30. The current auditors of Kgomomorareng Travel are:

1.30.1. Neville Hide and Associates Incorporated.

1.31. We visited 52 Englewold Drive, Saxonwold, Johannesburg, obtained photographs and interviewed Kamal Dullabh, financial director of Nexus Travel, who confirmed that KMM is a joint venture with Nexus and they operate from the same premises.

1.32. Dullabh was not willing to discuss anything or produce any documents unless he is in possession of a formal request from PRASA requesting him to do so, although he declared his willingness to do so once in possession of a formal request.

1.33. On 15 March 2013 Pauline Sereme (previously from Nexus Travel) sent a mail to PRASA, in particular to S Mayaba and Chrisenia Sithole, in which she *inter alia* states:

"I was previously working at Kgomomorareng Travel as a Senior Travel Consultant on contract which has since expired on the 29th Feb 2013, I was hoping to become permanent but unfortunately the company has gone under due to financial issues."

1.34. This report (in whole or in part) may not, without our prior written consent -



- 1.34.1. be transmitted or disclosed to or be used to be relied upon by any other person or entity whatsoever for any purposes whatsoever; or
- 1.34.2. be quoted or referenced to or made public or filed with any third party for any purposes whatsoever,

except, in either case to the extent that PRASA is required to disclose this report by reason of any law, regulation or order of court or in seeking to establish its cause of action/defence in any legal or regulatory proceedings or investigation.

2. INVESTIGATIVE FINDINGS

- 2.1. During the beginning of July 2016 PRASA received a myriad of seemingly unrelated questions from a Mr. Fosié Segodi ("Segodi") on behalf of the Mail & Guardian [M&G]. On 6 July 2016, Mr Victor Dlamini, the erstwhile Spokesperson for PRASA, raised a number of concerns about Mr Segodi's conduct in reporting on PRASA as none of PRASA's written responses were included or even referenced in an M&G article by Mr Segodi published the preceding day.
- 2.2. The questions submitted to Prasa by Segodi covered a vast array of issues relating to PRASA's business. These questions were curiously not transmitted from an official M&G email address⁷. When asked to provide his official e-mail, he provided Mr Matuma Letsoalo's e-mail address, the political editor of the M&G. It transpired that Mr Letsoalo was responsible for the finalisation and publishing of articles relating to PRASA and in particular the article in question.
- 2.3. The investigation team has confirmed that Mr Letsoalo's wife works for Gemini Moon/KMM/Nexus Travel. Mr Letsoalo is married to Ms Faith Miyelani Letsoalo, ID number 8106 20063 6089. Her telephone number at work is

⁷ He used a Gmail email address.



listed as 011 486 9000, which is the number for XL Nexus Travel, 52 Englewold Drive, in Saxonworld, Johannesburg. The investigations team confirmed with Nexus Travel that Ms Letsoalo is employed there and manages the PRASA travel account.

2.4. In accordance with Section 26 of the Companies Act (Access to company records), the investigations team requested and consequently obtained copies of the following relevant sections of Kgomomonareng Travel (Pty) Limited's records:

2.4.1. the Register of Members Share Accounts dated 26 May 2015 which reflects Miyelani Faith Letsoalo as the holder of 60 shares – **Annexure "J"**.

2.4.2. Form CM 42 – Securities Transfer Form dated 26 May 2015. This form evidences a transfer of the 60 shares from Miyelani Faith Letsoalo (nee Mlondobozi) to the Karabo Family Trust, which bears the signature of Mr Letsoalo as a representative of the Karabo Family Trust which is the shareholder – **Annexure "K"**.

2.4.3. A copy of the letter of authority and the trust deed of the Karabo Family Trust, which was created by Mr Letsoalo and his wife on 24 November 2014. Khomotso Maria Letsoalo and Karabo Letsoalo, respectively 10 and 6 years old are listed as the beneficiaries of the trust – **Annexure "L"**.

2.5. At the time of awarding of the travel tender to the Gemini Moon/KMM joint venture, Mr Matuma Letsoalo, (whilst being an employee of M&G newspaper) his wife Mrs Letsoalo and Mr Robinson Maila were members of Kgomomorareng (KMM) Travel CC. Mr Letsoalo's employment at M&G commenced on 7 October 2007⁸.

⁸ Mr Letsoalo retains or have retained memberships or directorships in at least four other business entities—**Ntshitshibela Transport CC** – status indicated as "active"; member of CC since 15 June 2009; **Matshoshi Catering CC** – status indicated as in final process of "deregistration"; member of CC since 15 June 2009; **Karabo Property Holdings (Pty) Ltd** – status indicated as "active"; director since 25 November 2014; **Miyelani Transport and Tourism CC** – status indicated as "active"; resigned as director on or about 17 April 2012; To date, we have discovered no links between the entities cited above and PRASA.



- 2.6. Annexure "M" is an email from Mr Maila, dated 14 January 2011, to Mr Chris Mbatha at PRASA CORP, the corporate services division of PRASA. On the email to Mbatha, it appears that Mr Letsoalo, a member of KMM Travel CC, is copied. The email requests to meet with Mbatha. Mbatha was appointed as the Chief Procurement Officer for PRASA Group Supply Management, at the beginning of 2011. It is not clear at this stage which email address Mr Letsoalo was using at this time.
- 2.7. When the abovementioned conflict of Mr Letsoalo was ascertained, Werksmans wrote to Mr Letsoalo's superior, Ms Verashni Pillay, the news editor of M&G to address PRASA's concerns in this regard.
- 2.8. It is interesting to note that during the exchange of correspondence between Werksmans and Ms Pillay, we were advised that Mr Letsoalo initially denied any such link or conflict. This version of his was naturally contradicted by the abovementioned evidence which was provided to Miss Pillay by Werksmans in its correspondence. The string of correspondence between Miss Pillay and Werksmans have already been provided to PRASA legal.
- 2.9. It is thus apparent that:
- 2.9.1. Mr Letsoalo, as a member of a close corporation, participated in and directly benefitted from a PRASA tender from at least the last quarter of 2010;
- 2.9.2. It appears that Mr Letsoalo and/or members of the CC engaged PRASA officials in relation to the tender in question; and
- 2.9.3. Mr Letsoalo should have declared such interests as a journalist to his employer (M&G), so as to enable him to recuse himself from writing news articles on PRASA, or commissioning such articles to his subordinates.
- 2.9.4. M&G nevertheless undertook not to let Mr Letsoalo write or commission any future articles after engagement with the legal team in the manner outlined above.





3. **FORENSIC AUDIT FINDINGS**

- 3.1. Preliminary forensic audit findings on Gemini Moon t/a Nexus Travel clearly indicate that the joint venture entity "*Nexus/KMM JV*" did not submit a bid and should not therefore have been considered for the tender, let alone awarded same.

4. **CONCLUSIONS AND RECOMMENDATIONS**

- 4.1. No mention was made of any of these entities in the Public Protector report or any of the reports of the Auditor General. This entity came under scrutiny during the investigation after further information was provided to the investigation team.
- 4.2. The joint venture entity "*Nexus/KMM JV*" did not submit a bid and should not therefore have been considered for the tender, let alone awarded same.
- 4.3. The amendment of their appointment (and particularly the fixed monthly fee payment arrangement) negotiated and agreed to by PRASA favours the supplier to PRASA's detriment (both financially and operationally).
- 4.4. The amounts invoiced appear to be excessive for the nature of the services rendered, but a physical verification (which would need to be done) of these services as well as the reports provided to PRASA with regard to the services will more accurately determine whether the amounts charged are valid, and represent the value received by PRASA for the services.
- 4.5. All applicable documentation needs to be acquired and studied, whilst the supplier needs to be issued with formal documentation from Prasa/Werksmans requesting them to co-operate.
- 4.6. In addition, Chis Mbatha's motivation of the variation to their appointment in favour of a fixed monthly retainer requires scrutiny and possibly disciplinary action to be taken against him, inasmuch his motivation appears to be weighted in favour of the supplier rather than PRASA, his employer.



- 4.7. The investigation has revealed that legal scrutiny ought to be applied to this matter so as to determine the nature of the relief which PRASA may be able to seek civilly and/or criminally and/or labour related.
5. Please note this report was prepared solely for the purpose of reporting our findings to you. It should therefore not be utilized for any other purpose.
6. We trust you find this report in order and look forward to taking this matter further.
7. The investigation team were provided a copy of a PRASA vendor master input form dated 25 and 26 August 2014, attached hereto and marked as Annexure "N" consisting of the following compliance documents:
 - 7.1. Proof of the original loading (2010);
 - 7.2. Declaration of interest – Sailesh Pradeep;
 - 7.3. SARS tax clearance certificate;
 - 7.4. Veridex certification [BBBEE certification]
 - 7.5. Letter of Good standing – Compensation Fund;
 - 7.6. Business account confirmation
 - 7.7. CK1 CIPRO document
 - 7.8. ID document - Sailesh Pradeep;
 - 7.9. ID document – Kamal Dullabh;
 - 7.10. ID document – Sunita Daya;
 - 7.11. ID document – Shariefa Allie-Nieftagodien;
 - 7.12. Share Certificate (x5);
 - 7.13. Company Letterhead;






- 7.14. Certificate of Accreditation (IATA);
- 7.15. Certificate of Membership (ASATA);
- 7.16. CSD Registration Report.



"A"



Request for Proposal

Passenger Rail Agency of South Africa
HQ/SCM/309/02/2010: National Tender for
Rendering of Travel Management Services for
Prasa, its Divisions and Subsidiaries

The Passenger Rail Agency of South Africa (PRASA) intends appointing a service provider on the project.

You are hereby invited to indicate your willingness to participate in this project by submission of a priced proposal in support of your appointment.

PRASA prefers to award contracts for goods and/or services to suppliers that have at least a Level Four B-BBEE Procurement Recognition and have scored at least 10 points on the equity ownership component (except SOEs). Suppliers are required to submit a valid BEE verification certificate from one of the SANAS certified verification agencies.

PRASA is not obliged to accept the lowest or any tender.

All tenderers will be evaluated for financial viability, Broad-Based Black Economic Empowerment and technical capacity and ability, as described in the RFP documents and will also be subjected to security screening.

A compulsory briefing session will be conducted on the 12th Floor, PRASA Head Office, 30 Wolmaras Street, Braamfontein, Johannesburg, on Tuesday, 9 March 2010 at 10:00.

RFP documents may be collected from Chisena Sibhele on the 12th Floor, PRASA Head Office, 30 Wolmaras Street, Braamfontein, Johannesburg as from 2 to 5 March 2010 between 09:00 and 16:00 (ONLY) on proof of payment of an amount of R1000.00 (VAT included) per set which is not refundable. The amount must be deposited in the under-mentioned bank account (no cash or cheques will be accepted at PRASA offices). Clearly indicate the Tender Number on the Deposit Slip as a reference.

Banking Details:

Account Holder:	PRASA
Bank:	Standard Bank
Branch:	Braamfontein
Branch Code:	004805
Account Number:	200348426
Ref No:	HQ/SCM/309/02/2010

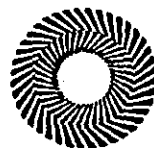
Sealed tenders must be deposited during office hours between 08:00 and 18:00 in the Tender Depositing Box located in the LIR Foyer of the PRASA, 12th Floor, 30 Wolmaras Street, Braamfontein, Johannesburg.

The closing date is 1 April 2010 at 16:00.

NB: Late proposals will be rejected.

For further information, please direct enquiries to Ms Chisena Sibhele on (011) 773 1543 or via e-mail: csibhele@prasa.com

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PASSENGER RAIL AGENCY
OF SOUTH AFRICA

ATTENDANCE REGISTER
TRAVEL MANAGEMENT SERVICES FOR PRASA, ITS DIVISIONS AND SUBSIDIARIES
HO/SCM/309/02/2010

09 MARCH 2010 - 10H00

No.	Name	Designation COMPANY NAME	Contact Number	Signature
1	CHRISENIA SITHOLE	PRASA	011 773-1543	
2	JITENDRA	FLYWELL TRAVEL	011 830 1500	
3	NTLAKOTLAZAN TRAVEL			
4	Dino Zita	NTLAKOTLAZAN TRAVEL	0829639144	
5	Herato Ramohlale	KGOMOMONAREX	0725765347	
6		TRAVEL	0825728816	
7	Nure Pockyace	BCD Travel	0799037264	



**PASSENGER RAIL AGENCY
OF SOUTH AFRICA**

TENDER/QUOTATION COLLECTION REGISTER

TENDER / NUMBER: HO/SCM/309/02/2010

CLOSING DATE: 01 APRIL 2010

[illegible]



SOUTH AFRICAN AIRWAYS

SAA
Private Bag x13
O.R Tambo Intl. Airport
1627
Tel: 27 11 978-1827
Fax: 27 11 978-2183
Email: MohsinJassat@flysaa.com

S.A. RAIL COMPUTER CORPORATION LTD (CK1399)
PRIVATE BAG X101, BRAAMFONTEIN, JOHANNESBURG, 2017
30 WOLMARANS STREET, JOHANNESBURG, BRAAMFONTEIN, 2017

31 March 2010

RE: INTERIM AGREEMENT IN RESPECT OF CORPORATE SPECIAL RATES

South African Airways wishes to extend certain corporate special rates to S.A. RAIL COMPUTER CORPORATION LTD as an interim arrangement until such time that you have been presented with a new Corporate Agreement for 2010/2011.

S.A. RAIL COMPUTER CORPORATION LTD acknowledges receipt of the corporate special rates for the period commencing on 01 April 2010 and terminating on 31 March 2011. We further acknowledge that we agree to and sign a Corporate Agreement for said period, failing which we will not be eligible to claim any further discounts.

S.A. RAIL COMPUTER CORPORATION LTD estimates that our total flown revenue spend on SAA will be approximately R 250,000 (Rand) for said period.

The deadline for the acceptance and signing of the Corporate Agreement will be 30 June 2010; failure to sign the agreement by this date will result in the Special corporate fares on offer being withdrawn with immediate effect.

Yours faithfully

Mohsin Jassat
For and on behalf of South African
Airways

Directors

CA Carolus* (Chairperson), FC Smyth (Act Chief Executive), K Patel (Chief Financial Officer), TC Jantjes*, RM Loubser*, BF Mohale*, M Whitehouse*,
DC Myeni*, LG Nkosi-Thomas*
*Non Executive

Ruth Kibuuka Company Secretary

South African Airways (Proprietary) Limited Reg. No. 1987/022444/07

A STAR ALLIANCE MEMBER

Accepted and agreed to by S.A. RAIL COMPUTER CORPORATION LTD:

By: _____
Who warrants that he/she is duly authorised

Full Name: _____

Designation: _____

Date: ____/____/2010

Sidney Khuzwayo

From: Sidney Khuzwayo
Sent: 13 October 2010 09:12 AM
To: 'natashaasvat@flysaa.com'
Cc: Chrisenia Sithole; Sizwe Mayaba
Subject: Corporate Special Rates

Tracking:	Recipient	Delivery	Read
	'natashaasvat@flysaa.com'		
	Chrisenia Sithole	Delivered: 2010/10/13 09:12 AM	Read: 2010/10/13 09:23 AM
	Sizwe Mayaba	Delivered: 2010/10/13 09:12 AM	

Hi Natasha

As discussed, please consider the following changes and update the contract document as such:

1. Replace the name South Africa Rail Computer Corporation (SARCC) with Passenger Rail Agency of South Africa (PRASA);
2. Definition: "PRASA" shall mean Passenger Rail Agency of South Africa, with registration number Passenger Rail Agency of South Africa, a company duly incorporated according to the legal succession to the South African Transport Service Amendment Act (Act 38 of 2008), with its head office or registered office at Umjantshi House, 30 Wolmarans Street, Braamfontein, Johannesburg, or Private Bag X101, Braamfontein, 2017, (hereinafter referred to as "PRASA"); and
3. Extend the validity of the current discount structure.

Regards

Sidney Khuzwayo
 Department
 skhuzwayo@prasa.com
 www.prasa.com



prasa

PASSENGER RAIL AGENCY
 OF SOUTH AFRICA

30 Wolmarans Str.
 Jorissen Place
 Braamfontein
 Johannesburg

Pvt Bag X101
 Braamfontein
 2017

Tel +27 11
 773 1453
 Fax +27 11
 774 6053
 Cell +27 76
 566 6276

Follow-up - Natasha 083 878 3902/126
DA Nov. 2010
Promise to have signed doc delivered by next week
Discount
Rates, negotiations will only happen next year Feb 2011

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Fax: 27 11 978-2183
Email: MohsinJassat@flysaa.com

Dear Valued Customer,

It is with great pleasure that SAA introduces our revised corporate agreement to your organization which entitles you to benefit from our Corporate Loyalty Program. The agreement is effective 01 April 2010 and is valid until 31 March 2011.

SAA's approach to travel from all sectors of the market is not a 'one size fits all' approach, but rather a collaborative 'fit for purpose' tailored approach that speaks to the needs of all market segments. This enables us to meet the needs of our markets more accurately and in so doing, create a benefit to our valued customers by linking their needs to our product offering. This is evident in the fact that our Global Sales which comprises Market RSA, African and International markets have distinct distribution channels.

To this effect, the terms & conditions of our corporate agreement are kept constant except for a few amendments that will allow for a better ease of reference. The basic changes made to a few terms & conditions in the revised agreement are as a result of the feedback obtained from our clients that requested that these amendments be made. We view this corporate agreement as a collaborative means of us jointly managing a desired outcome and encourage the active participation of our valued customers in this process.

By comparison, the most exciting change made to the corporate agreement has been the increased levels of incentive not previously available to our customers. We have consulted widely and amended our agreement in line with the needs of our customers.

Below is the revised discount structure for point of sales as provided for in your agreement:

Effective 01 April 2010			First Class		Business Class			Economy Class					
Booking classes		Region	F	P	C	J	Z	Y	B	M	K	H	S
Level 0	65 Million +	Reg / Int	15	15	15	17	17	22	22	22	22	22	22
		Domestic	n/a	n/a	15	17	17	22	22	22	22	22	n/a
Level 1	45 Million to 64,999,999	Reg / Int	12	12	12	15	15	19	19	19	19	19	19
		Domestic	n/a	n/a	12	15	15	19	19	19	19	19	n/a
Level 2	30 Million to 44,999,999	Reg / Int	10	10	10	12	12	17	17	17	17	17	17
		Domestic	n/a	n/a	10	12	12	17	17	17	17	17	n/a
Level	20 Million to 29,999,999	Reg / Int	9	9	9	11	11	14	14	14	14	14	14

Directors
CA Carolus* (Chairperson), FC Smyth (Act Chief Executive), K Patel (Chief Financial Officer), TC Jantjes*, RM Loubser*, BF Mohale*, M Whitehouse*,
DC Myeni*, LG Nkosi-Thomas*
*Non Executive

Ruth Kibuuka Company Secretary

South African Airways (Proprietary) Limited Reg. No. 1997/022444/07

A STAR ALLIANCE MEMBER

- Issues
- ① Confirm % disc
 - ② Methodology of redemption discount Vouch / cash
 - ③ Validity of the current offer
 - ④ Retrospective application of off
 - ⑤ PRASA / SARCE

7												
	Domestic	n/a	n/a	9	11	11	14	14	14	14	14	n/a
Level 3	15 Million to 19,999,999	Reg / Int	8	8	8	10	10	11	11	11	11	11
		Domestic	n/a	n/a	8	10	10	11	11	11	11	n/a
Level 8	11 Million to 14,999,999	Reg / Int	7	7	7	9	9	9	9	9	9	9
		Domestic	n/a	n/a	7	9	9	9	9	9	9	n/a
Level 4	8 Million to 10,999,999	Reg / Int	5	5	5	7	7	7	7	7	7	7
		Domestic	n/a	n/a	5	7	7	7	7	7	7	n/a
Level 9	5 Million to 7,999,999	Reg / Int	4	4	4	6	6	6	6	6	6	6
		Domestic	n/a	n/a	4	6	6	6	6	6	6	n/a
Level 2	2 Million to 4,999,999	Reg / Int	3	3	3	5	5	5	5	5	5	5
		Domestic	n/a	n/a	3	5	5	5	5	5	5	n/a

It is evident that the tier levels are smaller than before and more generous In Incentive, hence encouraging spend to the next tier where a higher discount structure awaits you.

It is Important to remember that this agreement still allows free changes (not On Business/FlySaa.com) and the value of this benefit can only be quantified within each corporates' personal travel patterns. In today's times where costs are of major concern to most organizations and where most services provided to a traveler is not free, an additional benefit like free changes is a welcome relief.

We encourage you to please treat the finalization of this agreement as a matter of priority as it is of vital importance to enable us to continue providing you with a world class product and an Incentive to match.

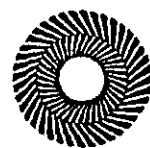
We welcome all feedback with regard to this agreement and look forward to be of assistance to your organization.

Assuring you of our best attention at all times.

Kind regards,

Mohsin Jassat
Corporate Channel Manager
South African Airways
Tel: +27 11 978 1827
Mobile: + 27 73 175 4900
E Mail: mohsinjassat@flysaa.com
Web: www.flysaa.com

→ 25/10/2010 } Phoned & left a message.
9h 33



NOTICE TO PROCEED

To:		Enquiries:	Chrisenia Sithole
			Prasa Head Office
	XL NEXUS TRAVEL/KMM		12 th Floor
			66 Jorissen Place
			Braamfontein
Attention:	Mr Sallelsh Parbhu	Email:	csithole@prasa.com
Tel:	011 486 9000	Tel:	(011) 773-1543
Fax:	086 683 0934		
Reference:	HO/SCM/309/02/2010	Date:	04 AUGUST 2010
Subject:	RENDERING OF TRAVEL MANAGEMENT SERVICES FOR PRASA, IT'S DIVISIONS AND SUBSIDIARIES		

Your tender dated 01 April 2010 or the above-mentioned tender has been approved. The contract shall commence on as soon as possible.

Before commencement of the service you will be requested to contact the following person to arrange the necessary meeting in order to finalise the prerequisites stipulated in the tender document

Mr Sizwe Mayaba, Senior Manager: SCM, PRASA, Tel no. 011 773- 1532 or smayaba@prasa.com

Formal contract documents are being prepared and you will be advised in due course regarding the signing of the documents. The letter of acceptance and your tender shall constitute a binding agreement between Passenger Rail Agency of South Africa (PRASA) and yourselves until the formal contract documents have been signed.

In this regard the following person will contact you to arrange the necessary meeting with regards to the contract. Mr Thabo Mashea, Contracts Manager, PRASA, at tel. no. (011) 773 1409.

All invoices for payment, reflecting contract number HO/SCM/309/02/2010 and Vat no. 4900110612 must be made out to:

Finance department Private Bag x 101 Braamfontein 2017

Please indicate your acceptance of this notice and your willingness to proceed in writing to the undersigned within twenty-four (24) hours of receipt of this letter.

Kind Regards



Matshidiso Mosholi

Procurement Manager

Supply Chain Management

KMM

XL NEXUS
travel

52 Englewood Drive
Cnr Oxford Road
Saxonwold

Postnet Suite 136
Private Bag X2600
Houghton, 2041

DOCEX 740 JHB

Telephone: +27 11 486 9000
Fax: +27 11 416 4114

05 Aug 2010

To : Passenger Rail Agency of South Africa (PRASA)
Att : Matshidiso Mosholi

Re: Acceptance of Appointment – Travel Management Services - PRASA
Contract : HO/SCM/309/03/2010

It is with great pleasure that XL Nexus Travel / KMM hereby accepts PRASA's notification to proceed in the handling of the travel management services to our companies.

We await your further instruction in commencing with this service and look forward to a mutually beneficial relationship with PRASA.

Yours sincerely


Sallish Parbhu
Managing Director (Nexus Travel)


Matuma Letsoalo
Managing Director (KMM)

Directors: S P Parbhu, K Dullabh, A J Lulu
Registration number: 2003/005395/07
VAT number: 4470206725

Cell No.

082 356 0906

Kamal Dullabh

Cell No.

082 572 8816



Motivation of Management Fee structure

Dear Sir/Madam

We kindly request that the fee structure be changed from a service fee based model to an management fee model due to the following reasons:

- We had based our service fees on the tender value as per the tender document given to us by PRASA and the information we gathered from the PRSAS travel briefing
- From the above mentioned source the tender value was R60,000,000.00 which equates to R5,000,000.00 a month roughly
- We had staffed up and geared up to handle the required volumes as per this value
- We have noticed from actually billing that the average monthly spend is about R1,800,000.00 rand
- Thus leaving us with a shortfall in terms of expenses vs income based on service fees submitted
- We have left the staffing structure in order to provide PRSAS with the highest levels of service

We have attached to this document the breakdown showing the difference in service fees earned based on current volumes and tender volumes.

Taking all the above factors into consideration we request that the service fee be changed to a management fee of R350,000.00 per month.

Kind regards,

Robinson Malla

Managing Member

XL Nexus Travel
PRASA

M00002 - M00009



Group	Units	Amount	Current Volume	Ave Price	No of new Transactions	Tender Value	Service Fee	Tender Value
M00002: Passanger Rail Corporate								
Accomodation (Acc)	290.00	1,106,267.90	29,000.00	2,114.72	750.00	1,586,037.67	100.00	75,000.00
Car Hire (Car)	95.00	32,648.47	9,500.00	343.67	190.00	65,296.94	100.00	19,000.00
Domestic Air Travel (Dom)	123.00	465,119.77	18,450.00	3,281.46	350.00	1,148,511.54	150.00	52,500.00
International Air Travel (Int)	6.00	43,861.90	3,420.00	7,310.32	30.00	219,309.50	570.00	17,100.00
Transfers (Trf)	4.00	3,679.60	400.00	919.90	8.00	7,359.20	100.00	800.00
Visas and Passports (Vis)	7.00	3,523.00	1,050.00	503.29	30.00	15,098.57	150.00	4,500.00
M00003: Prasa Rail								
Accomodation (Acc)	267.00	137,230.71	26,700.00	513.97	534.00	274,461.42	100.00	53,400.00
Car Hire (Car)	24.00	7,050.46	2,400.00	293.77	48.00	14,100.92	100.00	4,800.00
Domestic Air Travel (Dom)	50.00	210,635.97	7,500.00	3,212.72	200.00	642,543.88	150.00	30,000.00
International Air Travel (Int)	1.00	60,097.88	570.00	7,097.88	15.00	106,468.20	570.00	8,550.00
M00004: Metrorail Durban								
Accomodation (Acc)	35.00	21,088.38	3,500.00	602.53	70.00	42,176.76	100.00	7,000.00
Domestic Air Travel (Dom)	9.00	39,904.84	1,350.00	3,233.87	72.00	232,838.72	150.00	10,800.00
M00005: Metrorail East London								
Accomodation (Acc)	34.00	28,705.91	3,400.00	844.29	68.00	57,411.82	100.00	6,800.00
Car Hire (Car)	16.00	3,561.62	1,600.00	222.60	32.00	7,123.24	100.00	3,200.00
Domestic Air Travel (Dom)	21.00	73,483.70	2,100.00	2,999.22	82.00	245,936.35	100.00	8,200.00
Transfers (Trf)	1.00	1,017.00	100.00	1,017.00	2.00	2,034.00	100.00	200.00
M00006: Metrorail Cape Town								
Accomodation (Acc)	78.00	48,616.13	7,800.00	623.28	156.00	97,232.26	100.00	15,600.00
Car Hire (Car)	13.00	2,524.86	1,300.00	194.22	26.00	5,049.72	100.00	2,600.00
Domestic Air Travel (Dom)	13.00	70,606.04	1,950.00	3,231.23	62.00	200,336.50	150.00	9,300.00
M00007: Metrorail Gauteng								
Accomodation (Acc)	5.00	1,531.00	500.00	306.20	10.00	3,062.00	100.00	1,000.00
Domestic Air Travel (Dom)	2.00	10,856.88	300.00	3,228.44	14.00	45,198.16	150.00	2,100.00
International Air Travel (Int)	0.00	0.00	-	#DIV/0!	0.00		570.00	-
M00009: Autopax								
Accomodation (Acc)	20.00	17,745.69	2,000.00	887.28	40.00	35,491.38	100.00	4,000.00
Domestic Air Travel (Dom)	12.00	48,160.68	1,800.00	2,513.39	36.00	90,482.04	150.00	5,400.00
	1,126.00	2,437,918.39	126,690.00			5,143,560.80		341,850.00



Transfer Services

Dear Sir/Madam

Please find attached our proposal for the shuttle/transfer services of PRSAS officials attached to this letter. This proposal emanated from the discussions that we had with PRASA pertaining to cost savings measures relating to travel.

We kindly request that you consider our proposal and revert to us should this be favorable to PRASA.

Kind regards,

Robinson Maila

Managing Member

PROPOSAL ON SHUTTLE SERVICES INCORPORATED INTO THE TMS CONTRACT

- 1. Introduction & Background**
- 2. Rationale**
- 3. Cost benefit**
- 4. Recommendations**

1. Introduction & Background

Kgomomorareng Travel/ XL Nexus travel JV is providing PRASA and its subsidiaries with travel management services effective 01 September 2010. There are number of activities that are associated with travel not incorporated within the original travel management mandate. These activities result in direct impact on the efficiency and cost saving measures desired by the Passenger Rail Agency.

This proposal was prompted by the requirement laid down by PRASA in relation to its cost saving programme bestowed upon us as part of our secondary contractual expectations.

PRASA officials are currently using their private vehicles to the airport. They are subjected to a whole lot of risks associated with leaving their private vehicles at the airport ranging from convenience, high parking costs and ability to make flight timelines. This has a negative impact on the productivity of the officials, safety of the vehicles for the time that they are left at the airport and the Institution having to eventually carry the cost relating to parking and other related matters.

2. Rationale

PRASA is unavoidably loosing money on reimbursements of parking costs and convenience on the part of officials. We have the mandate to consolidate cost saving measures related to the services that we provide to the Institution.

3. Cost benefit

PRASA stands to benefit a lot if bookings of shuttles is to be done through the existing travel management account. The following shall be of benefit to PRASA:

- Turn-around time
- Convenience with having to be picked up and dropped off at work/home

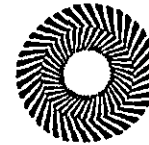
- Peace of mind with official vehicles parked at work or personal residences

The following table shows the costs incurred by PRASA whilst using the current system

Activity	Cost/Risk	Proposition
Parked vehicle at ORTIA for 3 days	R 390.00 +	R 300.00 drop off/pick up by Inhouse shuttle
Security	Damage/stolen	24 hrs availability with no risk
Congestion	Missed flights	Guaranteed drop off on time
Turn around time	Unavailability of parking	Guaranteed drop offs

4. Recommendations

It is hereby recommended that Nexus Travel/ KMM JV which currently services PRASA with the travel management be allowed to include as part of its services, shuttle/transfers for the PRASA officials as per travel management contract.



Memorandum

To:	MR. TSHEPO LUCKY MONTANA GROUP CHIEF EXECUTIVE OFFICER
From:	MR. CHRIS MBATHA GROUP CHIEF PROCUREMENT OFFICER
Date:	22 March 2011
Subject:	NEXUS TRAVEL AND ACCOMODATION CONTRACT

1. SUBJECT

Proposal for change in billing from transaction based billing to management fee billing.

2. PURPOSE

To obtain the GCEO's approval for a recommendation that the billing model of the above contract be changed from the transaction based model to one of a fixed management fee.

3. SUMMARY

PRASA went out on open tender for the appointment of a service provider that will arrange all bookings for travel and accommodation for local and international travel. The model was one where the service provider books the trip and accommodation at own cost and charge back costs plus transaction fee. During a briefing, all bidders were provided with an estimated volume of travel in the region of around R5 million per month and had to calculate their price offerings on the basis of that volume. Nexus Travel were awarded the contract for 24 months and have consequently been our service provider from 1 September 2010.

T. L. M.

4. DISCUSSION

A meeting was held by PRASA SCM personnel and the senior management of Nexus Travel. At issue was the fact that, due to cost containment within PRASA, the levels and volumes of travel has been drastically reduced both in terms of number of trips and rand value. For the last five months the volumes were down to about 20% of the estimated travel – see attached figures from SAP. The case was made to the SCM team and it was clear that the service provider, through no fault of his own, was struggling as the current billing model was prejudicial to their business. It was clearly no longer commercially viable for them to continue servicing PRASA.

4.1 Formulation of the Options

In order to address the matter to the best interest of both parties' four options were available to PRASA.

- a) Option ONE was to do nothing and let the current terms and conditions prevail.
- b) Option TWO was to terminate the agreement and call for fresh tenders.
- c) Option THREE was to terminate the agreement but revert to the second most compliant
- d) Option FOUR was to continue with the current service provider but change the billing model and negotiate and agree on a fixed fee.

4.2 Motivation

Option ONE is not advised as it does not solve the problem. The service Provider will be struggling to provide quality service and that is not in the best interest of PRASA.

Option TWO is also not in the best interest of PRASA. Due consideration was had that it was in fact PRASA that over estimated their levels of travel and that the model, pricing and the related investment by Service Provider was informed by PRASA's estimates. Unnecessary legal challenges must be avoided where possible

OPTION THREE is not fair to the current vendor since ALL vendors were provided with the same estimate. The other vendor will probably have the same problem and may request a similar intervention

Option FOUR is to be the most favoured as it clearly represent a fair exchange. PRASA over estimated their offering to the market and it is not fair to expect the service provider to suffer losses that are clearly attributable to PRASA's own decisions.

The amount of investment and resource mobilisation that was required to service this account, based on PRASAs estimates of R5m p.m and therefore R60m p.a, and the current levels of R1,2m - R1,5m of travel makes it unviable for the Nexus Travel –as it would be for any other service provider. PRASA and Nexus travel had to come to the table and negotiate what would be in the best interest of both parties as contained in the recommendations.

5. FINANCIAL IMPLICATIONS

In terms of the proposal, the implications financially to PRASA is R350 000 a month (R4 200 000 p.a) as a fixed service fee. This is about 7% of the estimated travel volumes of R60 000 000 p.a. We consider this fair and reasonable. This is a contract is currently 24 month contract but this billing will be applied for the ensuing 30 months i.e. from 1March 2011 to 30 August 2013. This is necessary to assist the service provider to recoup losses that they experienced as a result of lower levels of travel.

6. LEGAL IMPLICATIONS

All other terms and condition remain the same and an addendum, clearly, stating the change in billing model, will drafted and signed by both parties. This proposal for changing the billing model and the related fixed fee has been negotiated and agreed to by both parties subject to approval by the GCEO.

7. RISK IMPLICATIONS

This proposal is subject to the following risks:

The level of travel is not going to increase anytime soon in the light of cost pressures and at PRASAs current levels of travel, this contract is not commercially viable for the service provider. The risk to PRASA is having a service provider who is making losses and consequently proving a poor service or worse, cancelling the contract and exercising some legal recourse.


This risk can be mitigated through:


Changing the billing model to a fixed fee so that both parties maintain fair levels of exchange.

9. **RECOMMENDATIONS**

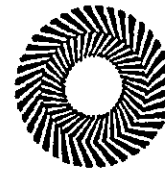
It is recommended that the GCEO approves:

- 10.1 That the contract with Nexus Travel for the provision of travel and accommodation be continued with.
- 10.2 That the billing model for the Nexus Travel be changed from a transaction based model to service fee.
- 10.3 That the monthly fee be fixed at R350 000 p.m. for the period ending 30 August 2013..

CHIS MBATHA 
GROUP CHIEF PROCUREMENT OFFICER:
DATE: 22/05/2011


TSHEPO LUCKY MONTANA:
GROUP CHIEF EXECUTIVE OFFICER
DATE: 22/08/2011

APPROVED/NOT APPROVED/ ~~APPROVED WITH AMENDMENTS~~ (Comments below)



prasa

PASSENGER RAIL AGENCY
OF SOUTH AFRICA

SUPPLY CHAIN MANAGEMENT

TENDER ADVICE

TO : ALBERT MDLULI, SUPPLY CHAIN MANAGEMENT, PRASA CORPORATE

COPIES : SIDNEY KHUZWAYO, SUPPLY CHAIN MANAGEMENT, PRASA CORPORATE
MATSHIDISO MOSHOLI, SUPPLY CHAIN MANAGEMENT, PRASA CORPORATE

FROM : CTPC SECRETARIAT

PROJECT : TENDER HO/SCM/309/02/2010: RENDERING OF NATIONAL TRAVEL MANAGEMENT SERVICES FOR PRASA, ITS DIVISIONS AND SUBSIDIARIES

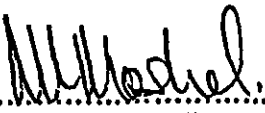
DATE OF APPROVAL: 22 MARCH 2011

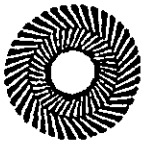
Resolution: Approved

Contractor/supplier: NEXUS TRAVEL

Transaction value: R350 000.00 per month (incl. VAT) for the period ending 31 August 2013

GCEO's comments: None


.....
Matshidiso Mosholi
Manager
Supply Chain Management



prasa

PASSENGER RAIL AGENCY
OF SOUTH AFRICA

Umjantshi House
30 Wolmarans Str.
Braamfontein
Johannesburg

Private Bag X101
Braamfontein, 2017
T +27 11 773 1600
F +27 11 774 6001

Mr. Robinson Maila
KMM/Nexus Travel JV

Dear Sir

PROPOSED CHANGES TO BILLING OF THE TRAVEL POLICY CONTRACT

Passenger Rail Agency of South Africa (PRASA) hereby confirms that the billing model in respect of the Travel and Accommodation contract has been changed from the transaction based model to a fixed management fee of R350 000 per month with effect from 1 March 2011. This after the two parties have agreed that the actual level of travel by PRASA is much lower than the estimates at tender.

We further advise that the contract duration will be for a period until 30/08/2013.

Formal contract addenda documents are being prepared and you will be advised in due course regarding the signing of the documents. This letter, your acceptance thereof and your offer shall constitute a binding agreement between Passenger Rail Agency of South Africa (PRASA) and yourselves until the formal contract documents have been signed.



prasa

PASSENGER RAIL AGENCY
OF SOUTH AFRICA

In this regard the following person will contact you to arrange the necessary meeting with regards to the contract.

Mr. Sydney Khuzwayo Projects Manager, PRASA, at Tel. no. (011) 773 1453

All invoices for payment, reflecting the same contract number HO/SCM/309/02/2010 and Vat no. 4900110612 must be made out to Finance Department

Private Bag x 101 Braamfontein, 2017

Yours faithfully

MR. CHRIS MBATHA

GROUP CHIEF PROCUREMENT OFFICER

DATE: 01/04/2011



prasa

PASSENGER RAIL AGENCY
OF SOUTH AFRICA

MEMORANDUM OF AGREEMENT

SERVICE LEVEL AGREEMENT

Entered into by and between:

PASSENGER RAIL AGENCY OF SOUTH AFRICA

("PRASA")

and

**KGOMOMORARENG TRAVEL/GEMINI MOON
TRADING 7 (PTY) LTD**

Trading as KMM/Nexus

("The Service Provider")


("The Parties")

NR

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
	INDEX	
1.	PREAMBLE	4
2.	DEFINITIONS AND INTERPRETATION	5
3.	APPOINTMENT	9
4.	TERM AND TERMINATION	10
5.	TRAVEL SERVICE	10
6.	OPERATING HOURS	10
7.	ONLINE BOOKING	11
8.	STAFF REQUIREMENTS	11
9.	BOOKING REQUIREMENTS	12
10.	FLIGHTS	12
11.	RESERVATIONS	14
12.	ACCOMMODATION	14
13.	CAR HIRE	16
14.	VISAS	16
15.	DOCUMENT DELIVERY	16
16.	24HR GLOBAL SUPPORT	17
17.	SERVICE FOR EMERGENCY TRAVEL RESPONSE TIME	17
18.	REPORTING	18
19.	TRAVEL POLICY COMPLIANCE	18
20.	LOGOS	19
21.	REFUND PROCEDURES	19
22.	RECONCILIATION OF ACCOUNTS	19
23.	COMPLAINTS	20
24.	APPOINTMENT OF AGENTS	20
25.	BILLING PROCEDURES	20
26.	PAYMENT MECHANISM	21
27.	PRICING STRUCTURE AND PAYMENT	22
28.	WARRANTY	23
29.	DUTIES OF THE SERVICE PROVIDER	23
30.	DUTIES OF PRASA	24

31.	SECURITY	24
32.	CORRUPT PRACTICE	25
33.	THE SERVICE PROVIDER'S PERSONNEL	26
34.	COMPLIANCE WITH THE LAW AND PRASA'S RULES	27
35.	MARKING AND PACKING OF GOODS	27
36.	REPORTING RECORD KEEPING AND AUDIT	27
37.	DISPUTE RESOLUTION	29
38.	BREACH AND TERMINATION	31
39.	INSOLVENCY	32
40.	NOTICE AND DOMICILIUM	32
41.	LIMITATION AND LIABILITIES	33
42.	RESERVED RIGHTS OF THE PARTIES	33
43.	NON DISCLOSURE OF CONFIDENTIAL INFORMATION	36
44.	FORCE MAJEURE	36
45.	WHOLE AGREEMENT	38
46.	VARIATION	38
47.	CESSION	38
48.	INDULGENCE	39
49.	SEVERABILITY	39
50.	COUNTERPARTS	39
51.	COOPERATION IN GOOD FAITH	40
52.	COST	40
53.	OWNERSHIP AND COPYRIGHT OF DOCUMENTS	41
	ANNEXURE "A"	
	PRASA'S TRAVEL REQUIREMENTS	
	ANNEXURE "B"	
	TENDER DOCUMENT	
	ANNEXURE "C"	
	NOTICE TO PROCEED	
	ANNEXURE "D"	
	LETTER OF ACCEPTANCE	

NR 

1. PREAMBLE

- 1.1 The Passenger Rail Agency of South Africa, is a legal entity duly established in terms of the Amendment to the Legal Succession to the South African Transport Services Act, Act No. 38 of 2008, with its main object and business to a) ensure that, at the request of the Department of Transport, rail commuter services are provided within, to and from the Republic in the public interest; and (b) provide, in consultation with the Department of Transport, for long haul passenger rail and bus services within, to and from the Republic.
- 1.2 In terms of a Letter of Acceptance of 05 August 2010, the Passenger Rail Agency of South Africa officially appointed KMM/Nexus, Joint Venture between Gemini Moon Trading 7 (Pty) Ltd, Registration Number: 2003/005395/07 and Kgomomorareng Travel cc Registration Number: 2009/116979/23 herein referred to as KMM/Nexus, for the rendering of travel management services to PRASA, its divisions and subsidiaries, for a period of 3 years, starting from 01 September 2010 until 31 August 2013, at a costs of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand excluding VAT) including disbursements and all costs associated with the project.
- 1.3 KMM/Nexus JV is an unincorporated joint venture established for the purposes of this project. It is a well established multi-disciplined JV that is able to render a travel management services to PRASA, divisions and subsidiaries.
- 1.4 In view thereof, both the Passenger Rail Agency of South Africa and KMM/Nexus JV have agreed to enter into this Memorandum of Agreement for the purposes of regulating their respective rights and obligations *interse*.
- 1.5 It is hereby agreed by both Parties that the following documents shall form an integral part of this Memorandum of Agreement:
- 1.5.1 PRASA'S Travel Requirements ("Annexure "A");
- 1.5.2 PRASA' Tender Document dated 01 March 2010 ("Annexure "B");
- 1.5.3 Notice to Proceed dated 04 August 2010 ("Annexure "C");
- 1.5.4 Letter of Acceptance dated 05 August 2010 ("Annexure "D");

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2. DEFINITIONS AND INTERPRETATION

In this Memorandum of Agreement unless inconsistent or otherwise indicated by the context, the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings:-

- 2.1 "Agent" means the travel agent that the company makes use of to book and issue air tickets.
- 2.2 "Agreement" means this document, the documents mentioned in clause 1.6 above and all annexures, appendices and/or schedules hereto: "Contract" shall have a corresponding meaning;
- 2.3 "Approved purchase order" means an order confirming to the conditions and prescription of the PRASA Supply Chain Policy, an example of which is attached as Annexure D to this agreement;
- 2.4 "Contract" means the Contract signed by the Parties and of which these General Conditions of Contract form part.
- 2.5 "Contract Price" means the price payable to the Service Provider under this Agreement for full and proper performance of its contractual obligations;
- 2.6 "Contract Programme" in relation to the term or duration of this Agreement means the agreed Contract Programme as is referred to in this Agreement;
- 2.7 "Contract Value" means the value of the contract including provision for contingencies payable to the Service Provider under this Agreement for additional services above the Contract Price as agreed between the parties and as per PRASA's variation process requirements;
- 2.8 "Contractual Delivery Date" means the date of delivery as stated on the official PRASA Service Request/Contract/Tender document and Contract Program;

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- 2.9 "Contract Manager" means any officer in the PRASA Corporate Head Office deputised by the Chief Executive Officer to supervise and take charge of the Contract; With regard to the Service Provider, it means a person designated as such or for that purpose by the Service Provider;
- 2.10 "Corrupt Practice" means the offering, giving, receiving, or soliciting of anything of value to influence the actions of a public official in the procurement process or in the execution of a contract;
- 2.11 "Contract Data" means specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting parties and the procedure for the administration of the contract.
- 2.12 "Day" means calendar day;
- 2.13 "Delivery" means delivery in compliance with the terms and conditions of this Agreement or order;
- 2.14 "Deliverable" means any measurable, tangible, verifiable outcome, result or item that must be produced or completed.
- 2.15 "Designated Airline Tickets" means airline tickets purchased by PRASA.
- 2.16 "ECSA" means Engineering Council of South Africa
- 2.17 "Effective Date" means date on which this Agreement must be effected
- 2.18 "Fault" includes but is not limited to, failure to comply with PRASA's performance requirements as defined in specifications, non-compliance with agreed service levels, inferior service and/or inferior workmanship;
- 2.19 "HOD" means Head of Department;
- 2.18 "IMSSA" means Independent Mediation Services of South Africa;
- 2.19 "Key Persons" means persons who are named as such in the Contract Data who will be engaged in the performance of the services.

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- 2.20 "No Show" means when a booking is made by the service provider and the traveler does not arrive;
- 2.21 "Notice to Proceed" means an official letter duly signed by an authorized PRASA representative to the Service Provider instructing the Service Provider to carry out work; The Notice to Proceed will be contractually binding on both Parties;
- 2.22 "Parties" means both parties in this agreement
- 2.23 "Request for Tender/Quote" means an invitation by PRASA to Tenderers;
- 2.24 "PRASA" means Passenger Rail Agency of South Africa or any business unit of PRASA;
- 2.25 "Services" means the whole of the services, tasks, work and requisites to be rendered, provided or performed by the Service Provider in terms of this Agreement in particular those described in clause 1.2 above;
- 2.26 "Service Request" means an official PRASA request/Service Request, in writing wherever practical following the acceptance of the Tender;
- 2.27 "Signature Date" means the date of signature of this Agreement by the last-signing Party, provided that both Parties sign this Agreement.
- 2.28 "Sub Service Provider" means any person or persons or anybody of persons corporate or unincorporated, approved by PRASA to render services required by the Service Provider in the execution of this Agreement;
- 2.29 "Service Provider" means KMM/Nexus including its sub- service providers, agents, sub-consultants and employees that are party to this Agreement with PRASA; "Consultant" shall have a corresponding meaning;
- 2.30 "Tender" means an offer/response to a request for tender for the supply, rendering, provision or performance of service(s) in accordance with certain terms and conditions;

- 2.31 "Tender Document" means all documents which were delivered to the Service Provider for the purpose of its tender and includes, *inter alia*, the Notice to Tenderers, Conditions of Tender, the General Conditions, the Special Conditions and the Specifications, etc;
- 2.32 "Term" means, notwithstanding the date of signature, the period commencing on the commencement date and terminating on the termination date.
- 2.33 "Travel Requirements" means the Travel Requirements annexed hereto and containing the terms applicable to and forming part of this Agreement.
- 2.34 "Variation Addendum" means an addendum to this agreement signed by both parties for additional work/services as agreed upon by the Parties;
- 2.35 "VAT" means Value Added Tax;
- 2.36 "VAT Act" means the value-added Tax no 89 of 1991;
- 2.37 "Working Day" means Monday through Friday between the hours 07h30 to 16h30, excluding Saturdays, Sundays and public holidays;
- 2.38 The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention is clear;
- 2.38.1 Words importing:
- 2.38.1.1 The singular includes the plural and *vice versa*;
- 2.38.1.2 Natural persons include created entities (corporate or unincorporated) and *vice versa*;
- 2.38.1.3 Any one gender includes the other gender;
- 2.39 If any provision in any clause is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a

substantive clause in the body of the Agreement, notwithstanding that it is only contained in this clause 2;

- 2.40 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or Public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or Public holiday;
- 2.41 This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Republic of South Africa;
- 2.42 The rule of construction that the Agreement shall be interpreted against the Party responsible for the drafting or preparation of the Agreement, shall not apply.
- 2.43 Where figures are referred to in numerals and in word KMM/Nexus, if there is any conflict between the two, the words shall prevail.
- 2.44 In the event of a dispute arising on the interpretation between this Agreement and the documents mentioned in clause 1.5 above, this Agreement shall prevail, failing which the provisions of RASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, will apply. The Parties shall, at all times, endeavor to resolve such dispute between themselves, prior to it being effected in terms of this Agreement.

3. APPOINTMENT

- 3.1 PRASA hereby appoints KMM/Nexus JV which hereby accepts such appointment to provide, render and/or perform the Services as agreed to, subject to the provisions of this Agreement as well as the Travel Requirements Document annexed hereto. This Agreement shall be subject to a monthly review, if necessary, by PRASA.
- 3.2 This Agreement shall, notwithstanding the date of signature, commence on 01 September 2010 (herein referred to as the Effective Date) and shall continue for a period of 3 years until 31 August 2013, unless terminated earlier as provided for in this Agreement.

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- 3.3 On agreement by both Parties, PRASA may, on receiving written application from the Service Provider, grant an extension of time for the final completion of the works.
- 3.4 On agreement by both Parties, PRASA may request additional work/services or approve variations on the original scope of work, after receiving and approving required proposals for such work/services. A variation addendum to this agreement will be signed by both Parties and become part of this agreement and conditions.

4. TERM AND TERMINATION

- 4.1 This Agreement shall commence on 01 September 2010" (the Commencement Date)" and shall terminate on 31 August 2013" (the Termination Date)"
- 4.2 Notwithstanding clause 3 of this agreement, PRASA reserves the right to cancel or terminate this agreement at any stage by giving the other party 30 days written notice of such cancellation or termination.

5. TRAVEL SERVICE

- 5.1 A complete travel service will be provided, including but not be limited to reservations and facilitation of air travel, car hire, hotel accommodation, foreign exchange, Passport & Visa and Meet and Greet and other services as agreed between the Parties.

6. OPERATING HOURS

- 6.1 The operating hours of the travel service will be 08:00 to 17:00 Mondays to Fridays excluding Saturdays and Public Holidays.
- 6.2 The service provider will also facilitate emergency travel services, for which the service provider will ensure that there is an agent available 24 (twenty-four) hours per day, seven days of the week.

7. **STAFF REQUIREMENTS**

- 7.1 The service provider shall ensure that the staff members providing the services consist of experienced Travel Service providers and Management, who shall be responsible for providing the travel service to the standards agreed.
- 7.2 The service provider shall ensure that at all times, 3 (three) staff members are available to provide the services.
- 7.3 The service provider will ensure that when required, emergency staff is Available so that the minimum level of staffing does not fall below 2 (two), unless PRASA, in writing has granted prior approval.
- 7.4 All communication by the staff of the service provider will be conducted in a courteous and friendly manner and vice versa.
- 7.5 Any requests, which are made by PRASA employees to the staff of the service provider will be met within the time scale agreed at the time of the request.
- 7.6 At all times the staff of the service provider will regard officials of PRASA as the "Customer" and extend to the "Customer" their full attention in a positive and helpful way, with the objective of delivering full customer satisfaction.
- 7.7 The staff of the service provider shall at all times be professionally clothed by making use of the corporate provided by the service provider to ensure a uniformed and professional image.

8. **BOOKING REQUIREMENTS**

- 8.1 The service provider will only attend to manual ravel bookings on behalf of PRASA after receiving an approved purchase order.
- 8.2 In the event that a booking was made using the afterhours service, it is the duty of PRASA to supply the purchase order within two working days.

9. **FLIGHTS**

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- 9.1 In cases where the on-line booking tool is not used to make a booking, PRASA will instruct the service provider via fax or e-mail to make the booking and provide an approved purchase order.
- 9.2 The service provider will only process the booking once the approved purchase order has been received.
- 9.3 PRASA user approved by the relevant HOD will supply the traveler's full names and identity number for electronic tickets to the service provider,
- 9.4 The service provider will ensure that all tickets reflect traveler's surnames followed by their full first name as per their passports/identity documents.
- 9.5 The service provider will book classes of seats according to the Travel Policy of PRASA (Annexure C).
- 9.6 The service provider will provide scheduled flight information immediately to the traveler concerned, or in the case of complicated enquiries, within the time frames agreed with the traveler. If the preferred option is unavailable, the traveler will be wait-listed upon request, and an alternative will be offered at this time.
- 9.7 The service provider will investigate each itinerary for the best alternative fare, this falls within the parameters of the official's travel needs and PRASA Travel Policy. The key parameters to be checked are as follows:
- 9.7.1 Preferred carriers, route deals, promotional or incentive fares available at the time and any cheaper fares available through special PRASA airfare.
 - 9.7.2 Preferred date/s of travel, earliest and latest times.
 - 9.7.3 Destinations/s and flexibility, in terms of arrival times.
 - 9.7.4 Preferred start and end airports.
 - 9.7.5 Accommodation required.
 - 9.7.6 Car Hire, rail travel, etc.
 - 9.7.7 Date for issue of tickets.
 - 9.7.8 Visa and/or Passport Information/Requirements.
 - 9.7.9 Health & Safety Information/Requirements.

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- 9.8 The service provider will communicate to the traveler concerned, the best alternative which meets the requirements of PRASA Travel Policy (with a minimum level of disruption to the traveler's travel plans) highlighting to the traveler why the alternative fare is being offered and communicating the restrictions to that ticket, should there be any.
- 9.9 The service provider will confirm the booking issued by the airline and provide to the traveler, a full, accurate and clear itinerary showing check-in times, airport terminal numbers (where possible), and arrival times. The itinerary will also detail the departing airline, flight enquiries telephone number and service provider's 24(twenty-four)- hour emergency telephone number. The confirmation will be sent by either e-mail, fax or by short message service (sms) to the official travelling.
- 9.10 The service provider will e-mail and fax an itinerary of confirmed tickets to the traveler at least 48 (forty-eight) hours prior to the traveler's departure or within a time scale agreed with the traveler, provided that the necessary authorization procedures have been completed and received by PRASA.

10. RESERVATIONS

- 10.1 Reservations for other traffic types will be completed within the time scale agreed at the time of booking.
- 10.2 Details of all services booked will be included in travel itineraries where appropriate.
- 10.3 Associated documentation will be ready for collection within the time scale agreed with the traveler.
- 10.4 Foreign Currency will be provided within 24 (twenty-four) hours of the ordering where available, and will be made available within the time frame agreed with the traveler (48 hours for exotic currencies), or as advised to the traveler.
- 10.5 Where Meet & Assist Services are available these will be arranged where required and as agreed in the SLA. The number and cost will be logged and reported on a monthly basis. Meet & Assist Services generally apply to conferencing services.

NR 12/5

11. ACCOMODATION

- 11.1 The service provider will ensure that accommodation is booked in compliance within PRASA Travel Policy.
- 11.2 Reservations for accommodation will be completed within 24 hours of the time of booking.
- 11.3 The service provider will issue a voucher to the traveler for the booked accommodation.
- 11.4 Vouchers will be issued according to PRASA's Travel Policy once PRASA has provided the service provider with an approved purchase order. Extras not covered in PRASA's Policy should be settled directly by the traveler.
- 11.5 Full account settlement meaning bed, parking and all meals account will be paid only when PRASA has given prior authorization.
- 11.6 The service provider shall inform the accommodating establishment (i.e. lodges, hotel, etc) of what will be paid for whilst staying at such an establishment. Any payment made for unauthorized expenses which were not approved prior to the booking and which were in accordance with PRASA's Travel Policy will be for the account of the service provider. Such claims will be disallowed by PRASA.
- 11.7 Where small and medium enterprises do not want to make use of the bill-back facility, credit facility of the agency, it will be respected and where possible the service provider will prepay the accommodation. This however can only be made if booking was done 48 hours in advance. The officials of the department will be informed of the implications of changes to accommodation reservations, as certain prepaid facilities will not refund payment due to loss of income. The requirement for prepaid hotels in rural areas or where no facility for bill back exists, 24 hours will be required. All changes will be confirmed once a new booking form has been received. Cancellations will be done on receipt of a booking form.
- 11.8 Accommodation must be booked in accordance with PRASA's Travel Policy.

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- 11.9 The service provider will at all time book accommodation as close as possible to the venue where the official is attending official business.
- 11.10 On written cancellation of any accommodation arrangements, the service provider will notify the relevant suppliers to avoid any penalties. Should there be any charges, these will be advised to the traveler at the time of cancellation.

12. CAR HIRE

- 12.1 Car hire must be in accordance with PRASA's Travel Policy.
- 12.2 Reservations for cars will be completed within 24 hour time booking.
- 12.3 Emergency telephone numbers of both traveler and services provider's coordinator will be on all booking forms. All emergency changes to reservations for cars may be made by traveler. Where such changes have monetary implications they may only be effected if telephonic approval by the risk officer has been obtained.
- 12.4 All vouchers issued by the service provider will have attached to it a copy of the booking form for the traveler to complete.

13. VISAS

- 13.1 Visa requirements and relevant changes will be communicated by the service provider to the traveler via e-mail upon a reservation is made. Officials will be responsible for their own visa applications.

14. DOCUMENT DELIVERY

- 14.1 E-tickets do not require any delivery of documents and are widely used by most airlines.
- 14.2 Multi-sector international require a paper ticket to be issued, which will be

delivered by the service provider within 24 hours of receipt of the approved purchase order from PRASA.

- 14.3 In the event of a late booking (being less than 24 hours notice), both parties will agree in writing to document delivery/collection.

15. 24-HOUR GLOBAL SUPPORT SERVICE FOR EMERGENCY TRAVEL

- 15.1 The service provider must be available on a 24-hours basis for emergency travel reservations.
- 15.2 Emergency travel is defined to include life threatening situations, situations of National Security and matters of extreme urgency.
- 15.3 The emergency number is 082 829 0281 and is rotated by a team of senior service providers of the service provider.
- 15.4 Changes in the emergency contact number must immediately be communicated to PRASA who will inform all officials of PRASA of the changes.
- 15.5 The service provider will provide emergency travel services after consultation with and approval by the Chief Financial Officer or the Executive Officer of PRASA. Emergency services is defined as any services that is required outside of operational hours for travel that needs to happen before the office reopens.

16. RESPONSE TIME

- 16.1 The service provider commits to prompt response to the customer in the following areas:
- 16.1.1 telephonic and e-mail messages: replied to within 2 (two) hours.
- 16.1.2 acknowledgement of complaints on the day of receipt and commit to a

plan solving issues by arrangement.

16.1.3 travel queries: answered in a maximum of 24 (twenty four) hours.

16.1.4 quotes will be submitted as follows:

- 16.1.4.1 international, maximum 24 (twenty four) hours. Prompt submission of international quotes not readily available, is dependent on supplier response.
- 16.1.4.2 domestic, maximum 12 (twelve) hours.
- 16.1.4.3 packages: responded to within 48 hours, dependent upon supplier's response.

17. REPORTING

- 17.1 The service provider will provide PRASA with accurate and meaningful Management Information Reports on a monthly basis, which will measure, analyze and be used as the basis for policy recommendations.
- 17.2 Such Management Information Reports shall indicate the following information on a monthly basis, but not limited thereto:
 - 17.2.1 Amount spent per Cost Centre and list of traveler's travel destinations.
 - 17.2.2 Total amount spent per category of travel per month i.e airlines, Hotels and Car Rentals.
 - 17.2.3 Age Analysis of Account payments.
 - 17.2.4 Reports in respect of Corporate Agreements.
 - 17.2.5 Rejected Savings.
 - 17.2.6 Complete form of active users.
 - 17.2.7 Cost of cancellations per Cost Centre.
 - 17.2.8 Amount of Refunds per Cost Centre.
 - 17.2.9 Breakdown of Foreign travel.

18. TRAVEL POLICY COMPLIANCE

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- 18.1 The service provider commits total compliance with the Travel Policy of PRASA (Annexure C).
- 18.2 PRASA will communicate any changes in the Travel Policy in writing to the service provider.
- 18.3 Any non-compliance with the Travel Policy due to failure by PRASA to provide such written notification will not be prejudicial to the service provider.

19. LOGS

- 19.1 A refund log will be kept, recording all refunds within service provider's control and refunds outside of the service provider's control and time frame expected for completion. Refunds will be auctioned within 5 days of receipt by the service provider.
- 19.2 If a refund has not been received within 14 days of action, these will be chased and logged accordingly.

20. REFUND PROCEDURES

- 20.1 PRASA will forward all issued documents for refund to the nominated accountant.
- 20.2 The service provider will:
- 20.2.1 acknowledges receipt by signing for the document. Request for refunds on e-tickets will be done in writing, either by fax or by e-mail.
 - 20.2.2 process the refund application.
 - 20.2.3 issue a credit note and refund applicable funds upon receipt of the supplier approval of refund application.
 - 20.2.4 not be liable for any cancellation penalties charged by suppliers.
 - 20.2.5 not be liable for any processing delays as a result of suppliers.

21. RECONCILIATION OF ACCOUNT

NR 12/2

- 21.1 The service provider will reconcile the account monthly.
- 21.2 The service provider will deliver reconciled statement to PRASA.
- 21.3 PRASA will provide a remittance advice prior to payment to the service provider at all times.
- 21.4 The service provider will not be held liable for any finance charges or interest payable by PRASA for any reason.

22. COMPLAINTS (APPLICABLE TO BOTH PARTIES)

- 22.1 All queries and complaints must be submitted in a written format within a maximum of fourteen (14) days of incident. Emergency queries should be informed immediately by telephone and confirmed by e-mail.
- 22.2 Query will be acknowledged on the day of receipt, and investigated.
- 22.3 Both parties will commit to a plan of solving issues by arrangement. The time frame is directly linked to supplier responses.

23. APPOINTMENT OF AGENTS

- 23.1 PRASA will not deal with agents appointed by the service provider. PRASA will deal only with the appointed service provider. This does not prevent the service provider from appointing agents if it so wishes, however, the appointed agent will not be party to this agreement and will have no dealings in any way whatsoever with PRASA.

24. BILLING PROCEDURE

- 24.1 The service provider will raise an invoice per transaction approved by PRASA.
- 24.2 The service provider's invoice will make provision for order numbers to appear on its invoice.

NR 125

- 24.3 Charges apply to copy invoices.
- 24.4 One statement must be issued which shall contain the transaction details of each order placed in that month.
- 24.5 Copies of each booking form must be attached to the invoice for reference purposes.
- 24.6 General, everyday account queries raised by PRASA must be addressed within 24(twenty four) hours and reported back to PRASA.
- 24.7 Billing queries must be resolved within 7 (seven) working days.
- 24.8 The service provider will provide the original invoice with the supporting documents (e.g. order form, service provider invoice, travel agent invoice, vouchers, etc.) and a second copy of the same invoice with the supporting documents stapled together as one invoice.
- 24.9 For all travel authorization orders approved by an acting official, the travel agent shall provide ensure that the acting letter is attached to the order before the booking is confirmed and issued.
- 24.10 Conference invoices must have an approved order (conference form), name list of delegates attending the conference /workshop, signed terms and conditions agreement from the hotel or venue facility where the function is held and the hotel invoice for all services provided during the conference/workshop. The terms and conditions must be signed by PRASA.
- 24.11 Resolution of questions must be e-mailed to PRASA upon completion.
- 24.12 Any billing queries that cannot be resolved within the abovementioned time periods must be communicated to PRASA, together with reason and an estimated date on the anticipated resolution of the query.
- 24.13 The travel agent commits to submit travel and travel related invoices weekly to PRASA by electronic mail directed to the supply chain department.

25. PAYMENT MECHANISM

NR 12/2

25.1 The following acceptable payment mechanism has been agreed on: Electronic Fund Transfer.

The account details are as follows:

Standard Bank Sandton City

Account Number: 021548463

Branch code: 018105

Account Name: Gemini Moon Trading 7

25.2 The payment mechanism will be applied to the following transactions:

25.2.1 Air tickets.

25.2.2 Airport tax.

25.2.3 MPDs (airport issue).

25.2.4 MPDs (miscellaneous payment documents) for excess baggage.

25.2.5 Accommodation (Hotel, Guest Houses, etc.).

Car Rental (Direct Billing).

25.2.6 Pre-paid land arrangements (packages/tours/shuttle).

25.2.7 Agreed professional fees.

26. PRICING STRUCTURE AND PAYMENT

Notwithstanding clauses 8 and 10 of PRASA Standard and Commercial Terms and Conditions for Rendering of Service/Maintenance and Support:

26.1 In the event that there is a variation in prices which may have a direct impact on the pricing as agreed in upon this Agreement, the Parties shall enter into an addendum to cater for the pricing variation.

26.2 In the event that the pricing variation occurs as envisaged in clause 27.1 above, PRASA shall be entitled to a rebate which rebate may be taken into account in subsequent payments to be made in terms of this Agreement.





26.3 The Parties hereby agree that the Service Provider shall bear the responsibility of compiling a reconciliation statement clearly setting out the discount and or rebate as necessitated by the pricing variation.

NR 12/2

- 26.3 The Parties hereby agree that the Service Provider shall bear the responsibility of compiling a reconciliation statement clearly setting out the discount and or rebate as necessitated by the pricing variation.
- 26.4 KMM/Nexus is appointed for the Contract Value of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) (exclusive of VAT) subject to Clause 5.4.
- 26.5 In consideration for the performance of the Services as agreed to, PRASA shall pay in arrears to the Service Provider the agreed contractual amount of , R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) as per submitted detailed statements against the achieved milestones/deliverables.
- 26.6 The price of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand excluding VAT) total cost associated with the project, , disbursements and any other costs associated with the delivery of the project in its entirety.
- 26.8 Payments will be made within thirty days of receipt of an acceptable detailed invoice together with a statement by PRASA. The statements will reach PRASA no later than the 3rd day and 17th day of the month. Invoices shall be submitted to the office of the PRASA Contract Manager for payment. Such monthly payments may be adjusted from time to time in accordance with this Agreement.

27. WARRANTY

- 27.1 Notwithstanding clause 9 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, the Service Provider further warrants that:-
- 27.1.1 It has the necessary expertise, ability and skill to carry out its obligations allocated to it in terms of this Agreement;

- 26.4 KMM/Nexus is appointed for the Contract Value of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) (~~exclusive of VAT~~) subject to Clause 5.4. 
- 26.5 In consideration for the performance of the Services as agreed to, PRASA shall pay in arrears to the Service Provider the agreed contractual amount of , R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) as per submitted detailed statements against the achieved milestones/deliverables.
- 26.6 The price of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand ~~excluding VAT~~) total cost associated with the project, , disbursements and any other costs associated with the delivery of the project in its entirety. 
- 26.7 ~~The management fee of R 350 000.00 shall increase annually in line with the CPIX and shall be adjusted accordingly during March of every year for the duration of the contract period~~ 
- 26.8 Payments will be made within thirty days of receipt of an acceptable detailed invoice together with a statement by PRASA. The statements will reach PRASA no later than the 3rd day and 17th day of the month. Invoices shall be submitted to the office of the PRASA Contract Manager for payment. ~~Such monthly payments may be adjusted from time to time in accordance with this Agreement.~~ 
- 26.9 All amounts due by one Party to the other in terms of, or arising out of, this Agreement, shall, unless paid on the due date, bear interest at the Prime Rate from the due date to the date of payment.

27. WARRANTY

- 27.1 Notwithstanding clause 9 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, the Service Provider further warrants that:-

27.1.1 It has the necessary expertise, ability and skill to carry out its obligations allocated to it in terms of this Agreement;

27.1.2 It will deliver its responsibilities at the agreed time between itself and PRASA;

27.1.3 If any reports are to be submitted, such reports shall represent the true state of the work undertaken;

27.1.4 The Services shall be performed in a careful, professional and workmanlike manner;

27.1.5 Its employees, agents, service providers, suppliers, representatives and sub-Service Providers shall observe and comply with the Service Provider's warranties, obligations and liabilities in terms of this Agreement (irrespective whether or not PRASA has consented thereto that the Service Provider may use agents, service providers, representatives or sub-Service Providers to render part of the Services or assist the Service Provider therein); and

27.1.6 It is a Reasonable and Prudent Service Provider.

28. DUTIES OF THE SERVICE PROVIDER

28.1 The Service Provider shall, at all times, perform its obligations in accordance with or in compliance with PRASA's performance requirements as defined in specifications or as provided for in this Agreement.

29. DUTIES OF PRASA

The responsibilities of PRASA under this Agreement shall include the following, *inter alia*:-

29.1 PRASA will ensure that the Service Provider gains access to the areas, information and hardware, as reasonably required for the effective performance of this Agreement, subject to the security regulations and requirements of PRASA.

29.2 In addition to the above, PRASA will make available to the Service Provider all the relevant information relating to financial, operational, rolling stock and fixed assets required for the proper completion of the work.

29.3 PRASA shall pay the Service Provider its fees, as agreed upon herein.

30. SECURITY

30.1 If the Service Provider is found to be in breach of any security requirements in terms of this Agreement, which it acknowledges to be fully acquainted with, PRASA will be entitled, notwithstanding any other provision to this Agreement, to terminate this Agreement in part or in total, with immediate effect and without prejudice to any of PRASA's rights as obtained from this Agreement or otherwise.

30.2 The Service Provider will, for the purposes of this Agreement, comply with the security policies, procedures and regulations of PRASA and those of the Province. PRASA and the Province will, upon request, make available to the Service Provider the applicable policies, procedures and regulations.

30.3 Access to Software, Secured Areas, and Information:

30.3.1 The Service Provider must ensure that its personnel do not have any software associated with the developed Plan in their possession after delivery of the project.

30.3.2 The Service Provider must ensure that its personnel do not make any backups/delete/reset of any information, control files and error logs whatsoever.

30.3.3 The Service Provider shall have no default access to any other areas whatsoever, other than the ones determined in terms of this Agreement.

30.3.4 The Service Provider shall, on written request to PRASA, be able to gain such access to additional information if it is regarded as necessary by PRASA by means of a written variation to this Agreement.

NIR 12/2

- 30.4 Any damage or loss to documentation or information and property belonging to PRASA, to be kept by the Service Provider in terms of this Agreement will be reported to PRASA, within 24 hours in writing, and in case of theft or suspected theft or in case of willful or malicious damage, the South African Police Service will, in addition, be informed at the same time. The steps taken to recover or replace such losses or rectify the damage will be reported to PRASA in due course in writing.

31. CORRUPT PRACTICE (GIFTS AND FAVOURS)

- 31.1 PRASA shall be entitled, notwithstanding any other provision to this Agreement, to terminate this Agreement forthwith if it is found that gifts and favours (for example business transactions/terms/conditions that are not freely available to the public, entertainment, gifts or otherwise) were given by the Service Provider, or any employee, agent or representative of the Service Provider (or its sub-Service Providers/suppliers) to any officer or employee of PRASA (or family of such an officer or employee of PRASA) with a view towards securing the Agreement or securing favourable treatment or terms by or from PRASA.

32. THE SERVICE PROVIDER'S PERSONNEL

- 32.1 The Service Provider shall provide competent personnel necessary to ensure that its obligations contemplated by this Agreement are efficiently and effectively performed;

- 32.3 The Service Provider shall in relation to labour matters conform in all respects with, *inter alia*:

32.3.1 The Labour Relations Act 66 of 1995;

32.3.2 The Occupational Health and Safety Act 85 of 1993;

32.3.3 The Compensation for Occupational Injuries and Diseases Act 130 of 1993;

32.3.4 The Unemployment Insurance Act 63 of 2001;

32.3.5 The Basic Conditions of Employment Act 75 of 1997; and

NR 125

32.3.6 The Employment Equity Act 55 of 1998.

- 32.4 Notwithstanding 11.3 above, the Service Provider shall not do or permit to be done anything that may distract good labour relations or that could have detrimental impact on PRASA's labour relations or that may prejudice harmonious labour relations on PRASA's premises, regardless of whether PRASA's employees or the employees of other (including The Service Provider's employees) are involved.
- 32.5 Should the Service Provider experience any labour disharmony which may have an impact on PRASA's business or operations or on the Service Provider's obligations in terms of the Agreement, it shall immediately inform PRASA thereof and keep PRASA informed of all developments and of steps taken to remedy the situation.
- 32.6 The Service Provider shall not recruit personnel associated with this Contract:
- 32.6.1 in the employment of PRASA or any of PRASA's other Service Providers, or their sub-Service Providers;
- 32.6.2 anywhere on PRASA's premises without PRASA's consent, to be obtained beforehand in writing.
- 32.7 The Service Provider shall be responsible for the conduct and behaviour of its employees and invitees, and shall endeavour to ensure the good conduct and behaviour of its sub-Service Providers/suppliers or their employees and invitees and shall take all necessary precautions during the performance of the Service to prevent unlawful and improper conduct on the part of such employees and invitees.

33. COMPLIANCE WITH THE LAW AND PRASA'S RULES

- 33.1 Notwithstanding clause 11.3 above, the Service Provider shall comply with all laws applicable to the performance of the Services and all laws and technical/industry codes relating to security, safety, occupational health and the environment, black economic empowerment and the promotion of competition.

NR 127

34. MARKING AND PACKING OF GOODS

34.1 Merchandise Marks Act

34.1.1 The Service Provider acknowledges that it is acquainted with the provisions of the Merchandise Marks Act 17 of 1941 as amended pertaining to the marking of merchandise and the use of certain words and emblems in connection with its business;

34.1.2 The Service Provider is prohibited from advertising the fact that it is a Service Provider to PRASA unless written authority thereto has first been obtained, and *vice versa*.

35. REPORTING, RECORD KEEPING AND AUDIT

35.1 General

35.1.1 Except as the Parties may otherwise agree, all records, reports and data required to be maintained or provided in connection with the Services as agreed to shall be maintained in such a manner as to permit any such records, reports and data to be audited and as to enable PRASA to monitor the performance of the Service Provider in terms of this Agreement. All such records, reports and data shall be maintained on a current basis for the duration of the Agreement and for 3 (three) years after.

35.1.2 Where the systems utilized by the Service Provider are unable to retain data and/or information over extended periods, such information and data shall be transferred to the PRASA on an annual basis.

35.2 Financial Records and Reports

35.2.1 The Service Provider shall keep full and accurate accounting records in accordance with Generally Accepted Accounting Principles of all expenses and revenues in connection with the Services as agreed to and shall provide reports on financial and operating results of the Services as agreed to by PRASA.

NR 1252

35.3 Contract Management

35.3.1 The Service Provider shall be responsible to PRASA for all matters concerning the execution of this Agreement as such and will keep PRASA informed by way of periodic meetings and reports, as mutually agreed upon.

35.3.2 The Service Provider is required to appoint a designated Contract Manager for the Contract.

35.3.3 The Service Provider's Contract Manager shall submit a letter of appointment and authorization, clearly defining the extent of his responsibility and authority in the context of this Agreement.

35.4 Scheduled Contract Meetings

35.4.1 Meetings shall be convened on a date and time to be agreed upon by the Parties at the office of PRASA Contract Manager, or at any other place to be mutually agreed upon between the Parties.

35.4.2 The Service Provider shall be responsible for accurate minutes to be taken down and formally distributed to all attendees within five (5) days of such meeting taken place.

35.4.3 The Contract Manager, or his designee, of PRASA shall chair all the meetings and shall be responsible to draw up and distribute the Agenda for the meeting.

35.4.4 The Service Provider shall be required to contact PRASA before any meeting and submit points to be placed on the agenda.

35.4.5 The chairman shall sign the minutes after acceptance at each subsequent meeting.

35.4.6 The decisions and obligations delegated and accepted at such meetings shall be binding on all parties, provided that it is not in conflict with the provisions of this Agreement.

NR 1242

- 35.4.7 The Service Provider shall be required to designate a Contract Manager to attend all such meetings. If the agenda contains any point to be discussed, that may result in decisions or obligations ensuing, that may have financial or managerial implications, that falls outside the scope of authority of the Service Provider's Contract Manager, the Service Provider's shall be required to send a person that does have the required authority to such a meeting.
- 35.4.8 Service Provider's Contract Manager shall be required to establish regular communications between himself and PRASA Contract Manager or his designee.

36. DISPUTE RESOLUTION

- 36.1 Pursuant to clause 18 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, in the event that the Parties jointly agree to resolution of a dispute by mediation, the Parties shall jointly select such an independent mediator within 10 (ten) days after the decision to use such dispute resolution means. The independent mediator shall meet with the Parties within 10 (ten) days after selection in an attempt to mediate and resolve the dispute. If such efforts are unsuccessful after 20 (twenty) days, the mediator shall, after considering the Parties' position, issue written recommendations for resolution of the dispute. If, within 15 (fifteen) days after the issuance of such recommendations no Party rejects such recommendations by means of written notice to the other Party, they shall become the binding resolution of the dispute, enforceable by either Party in any court having jurisdiction and the Parties shall fully comply with such recommendation. The Costs and expenses of the independent mediator shall be shared equally between the Parties.
- 36.2 In the event that the disputes or differences between the Parties are referred to arbitration, the arbitration shall be held:
- 36.2.1 with only the Parties, their witnesses and their respective representative present;
- 36.2.2 at Johannesburg; and
- 36.2.3 in the English language.
- 36.3 The arbitrator shall be, if the matter in dispute is principally:

NR 12/2

- 36.3.1 a legal matter, an impartial practicing advocate of not less than 10 (ten) years standing, or an impartial admitted and practicing attorney of not less than 10 (ten) years standing;
- 36.3.2 an accounting matter, an impartial practicing chartered accountant of not less than (10) years standing.
- 36.3.3 any other matter, an independent suitably experienced person agreed upon between the parties.
- 36.4 If the Parties fail to agree on an arbitration within 5 (five) days after the arbitration has been demanded, the arbitrator shall be nominated, at the request of either of the Parties by the President for the time being of the Law Society of the Northern Provinces. If that person fails or refuses to make the nomination, either Party may approach the High Court of South Africa to make such appointment. To the extent necessary, the court is expressly empowered to do so.
- 36.5 If the Parties fails to agree whether the dispute is of a legal, accounting or other nature within 3 (three) days after the arbitration has been demanded, it shall be a matter referred to in clause 15.3.3.
- 36.6 Any Party to this Agreement may demand that a dispute be determined in terms of this clause by written notice given to the other Party.
- 36.7 This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the Arbitrator.
- 36.8 The decision of the Arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the Court at the insistence of any of the Parties to the dispute.
- 36.9 Parties hereby consent to the jurisdiction of the High Court of South Africa (Witwatersrand Local Division) in respect of the proceedings referred to in 14.7 above.

NR 1252

36.10 The Parties agree that during the course of the arbitration the subject matter of the arbitration and the evidence heard during the arbitration shall be kept confidential and not be disclosed to anyone outside the respective organizations.

36.11 The provisions of this clause:

- Constitutes an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;
- Are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement subject to the limitation that a difference of opinion which could lead to a dispute must be raised within 6 months after the required information has been furnished by the other Party.

37. BREACH AND TERMINATION

37.1 In addition to clause 21 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, in the event of either of the Parties committing a material breach of any of the terms and conditions of this Agreement, and remaining in default for a period of 7 (seven) days after receipt by it of a written notice from the other Party calling for such breach to be remedied, the Party delivering the notice shall be entitled to, without prejudice to any other rights it may have in terms of this Agreement or in law, terminate this Agreement by written notice to that effect given to the defaulting Party.

38. INSOLVENCY

38.1 If the Service Provider is declared insolvent by an order of the High Court, the fact must be reported to PRASA within twenty-four (24) hours and no further payments will be made to the Service Provider. Any outstanding moneys owing to the Service Provider shall forthwith be made to the Liquidator or Judicial Manager of the estate as appointed by the High Court.

38.2 If the Service Provider commits an act of insolvency as defined in the Insolvency Act No. 24 of 1936, or is subject to an order of provisional or final liquidation or has

NR 12/1

made an offer of compromise to creditors or gives notice of an application for voluntary liquidation, PRASA will be entitled to cancel this Contract in its entirety with immediate effect and without prejudice to any of PRASA's rights obtained in terms of this Agreement or otherwise.

39. NOTICE AND DOMICILIUM

39.1 Notwithstanding the provision of clause 22 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, the Parties choose as their *domiciliumcintandi et executandi* the following addresses, provided that any of them may change such address to any address in the Republic of South Africa by giving 7 (seven) days written notice:

39.1.1 In the case of PRASA:

Umjanthi House
13 Wolmarans Street
Braamfontein
Tel: (011) 7731600
Fax: (011) 7746299

39.1.2 in case of Service Provider:

52 Englewold Drive
Saxonwold
Gauteng
Tel: 011 486 4114
Fax: _____ [insert]

39.3 Any notice given by a Party to the other Party (the addressee) which is transmitted by facsimile to the addressee at the addressee's facsimile number shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the first business day of transmission.

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39.4 Any notice given by any Party to the other Party (the addressee) which is delivered by hand during the normal business hours of the addressee at the address's *domicilium* for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery.

40. LIMITATION AND LIABILITIES

40.1 The Parties accepts no other liabilities towards each other, other than those specifically agreed to in this Agreement.

41. RESERVED RIGHTS OF THE PARTIES

41.1 Except as may be otherwise expressly provided in this Agreement, PRASA retains and reserves all rights, title, interests, responsibilities, and assets, including, without limitation the following:

- (i) mutually agreed intellectual property rights or research and development products acquired or generated in connection with the provision of the Services as agreed to and provided for in the Contract Payments.
- (ii) the exclusive use of the PRASA trademark (subject to the terms of the Archives Act, No 6 of 1962)
- (iii) PRASA any rights and/or responsibilities granted to or imposed upon PRASA by legislation or regulation.
- (iv) all maintenance standards, technical specifications, drawings and plans with respect to PRASA assets or of which PRASA has obtained sole rights or shared rights as negotiated with the Service Provider or any other entities.
- (v) any corporate identity generated in connection with the provision of the Services as agreed to and paid for by PRASA. The Service Provider will maintain such relevant corporate identity for the term of this Agreement and has provided for such in the contract payments. Modifications to the corporate identity specifically to change the image of the Service Provider

NR 127

such as uniform clothing, non-operational premises and stationery will be for the Service Provider's own account paid out of its profits.

- (vi) access to all documentation relating to operational standards, relevant procedures and supporting documentation in the Service Provider's possession. PRASA may elect to transfer such facility to its own control or its directed designee.

41.2 Except as may be otherwise expressly provided in this Agreement, the Service Provider retains and reserves all rights, title interests, responsibilities, and assets, including, without limitation the following:

- (i) The rights and responsibilities of the Service Provider with regard to the Services as agreed to which have been derived solely from this Agreement and/or the Annexures to this Agreement.
- (ii) Any rights or responsibilities granted to or imposed upon the Service Provider by legislation or regulation.
- (iii) The right to use results from research and development products or intellectual property acquired or generated in connection with the provision of the Services as agreed to beyond the scope of this Agreement. Should the Service Provider want to obtain sole rights to such property the Service Provider shall purchase such rights from PRASA.

41.3 PRASA reserves the right to renew part or whole of the services rendered by the JV to either of the JV parties at its discretion for any specified period.

41.4 Works beyond the scope of this Agreement:

PRASA retains the right to offer any contract for any work that has not been included in the Services as agreed, to any third party other than the Service Provider. In the event that such contract impinges on the Service Provider's activities in providing the Services as agreed to, such contract may not be entered into without the consent of the Service Provider, which consent shall not be unreasonably withheld.

41.4 Access to Documentation

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- 41.4.1 The Service Provider will ensure safekeeping and updating of all design, development, manufacturing, implementation, operational standards, relevant procedures and supporting documentation currently in its possession pertaining to PRASA's Property or that of the Province and the Services as agreed to in this Agreement;
- 41.4.2 In so far as is practically possible PRASA will ensure access to such documentation held by PRASA or any division or business units of PRASA. The Service Provider will be informed of all amendments thereto in so far as it affects the Services as agreed to in this Agreement.
- 41.4.3 Should there be any documentation held by PRASA or any other party which cannot be accessed by the Service Provider, PRASA will negotiate with such party to obtain the necessary access. The Service Provider shall inform PRASA of the need for any such documentation. The Parties agree to jointly engage in a process to identify, extract and manage access to documentation within the term of this Agreement.
- 41.4.5 PRASA reserves the right of access to the established technical and operational configuration management databases and may, during the course of this Agreement, elect to transfer such to its own control or its directed designee.

42. NON DISCLOSURE OF CONFIDENTIAL INFORMATION

- 42.1 Notwithstanding clause 20 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance, the Parties agree to uphold the confidentiality of information obtained from each other.
- 42.2 Confidential information shall be clearly identified as confidential and shall not include the following:-
- (a) Information from one Party that becomes a part of the public domain through no act or omission of the other Party;

- (b) Information from one Party that is lawfully disclosed to the other Party by any third Party without restriction on disclosure;
- (c) Information pertaining to one Party that has been independently researched and developed by the other Party;
- (d) Information from one Party that is lawfully disclosed by the other Party by a requirement of law.

42.3 The Service Provider shall not, whether during the currency of this Agreement or at any point in time thereafter, directly or indirectly use to the detriment or prejudice of PRASA, nor divulge to any person, any trade secret or any other confidential information concerning the business or affairs of PRASA which may have come to the Service Provider's knowledge in the performance of work associated with this Agreement.

43. FORCE MAJEURE (IMPOSSIBILITY OF PERFORMANCE)

43.1 In addition to clause 24 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, should, by mutual agreement, any of the obligations of any Party become objectively impossible of performance, such Party shall, to the extent provided in this clause, be exempted from such obligations under this Agreement. This exemption will only be applicable if the circumstances that rendered performance impossible was reasonably foreseeable at the Effective Date but impossible to avoid at the time of the occurrence of such circumstances and the Party concerned took reasonable care and diligence in attempting to avoid the consequences of such circumstances.

Such exemption shall operate only for as long as the relevant circumstance prevails and only to the extent that it renders performance of the relevant obligation impossible. Notice of such circumstances shall be conveyed by the Party concerned to the other Party in writing without delay, where after consensus on the impossibility of performance will be reached forthwith.

43.1.1 Without limiting the generality of clause 22.1 the following are deemed to be circumstances that render performance impossible namely, acts of God, acts of terrorism or war, civil commotion and strikes (excluding those strikes attributed to mismanagement by the Service Provider), disruptions of public communications (provided reasonable steps have been taken for the

NR 125

prevention thereof) as well as future mutually agreed events. In the event that unforeseeable circumstances and events are not clearly definable or classified in terms of this clause it should be declared as indefinable circumstances that render performance impossible and the Parties shall agree on classification within 21 days. No penalties will be levied within the period in which the Parties will decide on classification, but the Parties may backdate such penalties if necessary. Should the Parties fail to agree on the classification of strikes as result of mismanagement by the Service Provider, a third party will jointly be appointed within fourteen days (14) to make a ruling. In the event of failure to obtain such a ruling the matter shall be dealt with in accordance with clause 14 of this Agreement.

43.1.2 The Service Provider shall use all reasonable endeavours to prevent the occurrence of any event that renders performance impossible, to mitigate and minimise the effects of any such events on the performance of its obligations and to restore as soon as practically possible normal operations after the occurrence of such an event. The Service Provider shall notify PRASA as soon as reasonably practicable of the occurrence of any such event.

43.1.3 The Service Provider shall, to the extent that it would be reasonable to do so or to the extent reasonably so requested by PRASA, exercise all relevant rights and remedies under any relevant agreement to prevent the occurrence or reoccurrence of any such events and to obtain appropriate redress or compensation for any such event from any relevant person.

43.2 Operation by PRASA in Certain Circumstances.

If

43.2.1 The Service Provider is excused from performing its obligations under this Agreement for any reason listed in clause 22.1 above;

43.2.2 The Service Provider has not provided substitute Services, at no cost to PRASA, to the standards of the agreement, and

43.2.3 an interruption in any portion of the Services as agreed to continue for 30 working days.

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PRASA may temporarily provide such services itself through its designee until the Service Provider is able to continue performing its obligations in terms of this Agreement.

44. WHOLE AGREEMENT

- 44.1 This Agreement constitutes the sole record of the agreement between the Parties in relation to the subject matter hereof.
- 44.2 No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligence or not.
- 44.3 All provisions of this agreement shall be severable and no provisions shall be affected by the invalidity of any other provision of this Agreement.

45. VARIATION, CANCELLATION AND WAIVER

- 45.1 No addition to or variation, consensual cancellation or novation of this Agreement, and no waiver of any right arising from this Agreement or its breach or termination, shall be of any force or effect unless reduced in writing and signed by all the Parties or their duly authorised representatives. Where variation is necessitated by default or breach of contract by the Service Provider, any cost attributed to such variation shall be borne by the Service Provider.

46. CESSION AND DELEGATION

- 46.1 Neither Party shall cede, assign or delegate any right or obligation under this agreement nor enter into any subcontract of whatever nature for the

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execution thereof or part thereof without the prior written consent of the other, which shall not unreasonable be withheld.

- 46.2 Should the Service Provider apply to cede or assign the whole or portion of the Agreement, the circumstances shall be reported to PRASA. PRASA shall be notified immediately of the Service Provider's intention to cede and/or assign its business. The name(s) of the new company and its directors shall be furnished to PRASA together with any other information reasonably required by the PRASA.
- 46.3 Under no circumstances shall it be taken for granted that PRASA will approve of the cession and/or assignment.
- 46.4 Should the Service Provider proceed to change the composition, constitution or title of its company, or should a change in ownership take place during the course of the Agreement without the prior notification of PRASA, PRASA shall in terms of the provisions of clause 17, be entitled forthwith to cancel in its entirety or any part of this Agreement immediately by notice in writing to the Service Provider.

47. INDULGENCES

- 47.1 No indulgence which any Party may grant to any other will constitute a waiver of any of the rights of the grantor, who will not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which might arise in the future.

48. SEVERABILITY

- 48.1 This Agreement constitutes one indivisible agreement, save that if any particular provision of the Agreement thereto is illegal, invalid or unenforceable or contrary to public policy, but does not go to the root of the Agreement, it shall be severed from the Agreement and the remainder of the Agreement shall remain of full force and effect and binding on the Parties.

49. COUNTERPARTS

NR 1272

- 49.1 The signature by either Party of a counterpart of this Agreement will be as effective as if that Party has signed the same document as the other Party.

50. CO-OPERATION IN GOOD FAITH

- 50.1 Each Party to this Agreement hereby agrees to co-operate with the other party in such a manner as may be necessary in order to procure the expeditious implementation of this Agreement.

51. COSTS

- 51.1 Each of the Parties will bear their respective costs in connection with the negotiation, drafting, preparation and execution of this Agreement, except for the stamp duty which will be borne by the PRASA.
- 51.2 Any costs including attorney and own client costs, incurred by any Party arising out of the breach by another Party of any of the provisions of this Agreement will be borne by the Party in breach.

52. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 52.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the Copyright Act, Act 98 of 1978, relating to the project shall be vested in the party named in the contract data.

Where copyright is vested in the Service Provider, PRASA shall be entitled to use the documents or copy them only for the purpose for which they are intended in regard to the project and need to obtain the Service Provider's permission to copy for such use.

- 52.2 The ownership of the data and factual information collected by the Service Provider and paid for by PRASA, shall, after payment of PRASA lie with PRASA.

NR 12/2

THUS DONE AND SIGNED AT BRAAMFONTEIN ON THIS 27TH DAY OF MAY 2011.

WITNESSES:


for PASSENGER RAIL AGENCY OF S.A

1. 

2. _____

THUS DONE AND SIGNED AT..... ON THIS DAY OF..... 2011.

WITNESSES:


for KMM/NEXUS (PTY) LTD

1. 

2. 



prasa
PASSENGER RAIL AGENCY
OF SOUTH AFRICA

MEMORANDUM OF AGREEMENT

SERVICE LEVEL AGREEMENT

Entered into by and between:

PASSENGER RAIL AGENCY OF SOUTH AFRICA

("PRASA")

and

GEMINI MOON TRADING 7 (PTY) LTD

Trading as Nexus Travel

("The Service Provider")

("The Parties")

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
	INDEX	
1.	PREAMBLE	4
2.	DEFINITIONS AND INTERPRETATION	5
3.	APPOINTMENT	9
4.	TERM AND TERMINATION	10
5.	TRAVEL SERVICE	10
6.	OPERATING HOURS	10
7.	ONLINE BOOKING	11
8.	STAFF REQUIREMENTS	11
9.	BOOKING REQUIREMENTS	12
10.	FLIGHTS	12
11.	RESERVATIONS	14
12.	ACCOMMODATION	14
13.	CAR HIRE	16
14.	VISAS	16
15.	DOCUMENT DELIVERY	16
16.	24HR GLOBAL SUPPORT	17
17.	SERVICE FOR EMERGENCY TRAVEL RESPONSE TIME	17
18.	REPORTING	18
19.	TRAVEL POLICY COMPLIANCE	18
20.	LOGOS	19
21.	REFUND PROCEDURES	19
22.	RECONCILIATION OF ACCOUNTS	19
23.	COMPLAINTS	20
24.	APPOINTMENT OF AGENTS	20
25.	BILLING PROCEDURES	20
26.	PAYMENT MECHANISM	21
27.	PRICING STRUCTURE AND PAYMENT	22
28.	WARRANTY	23
29.	DUTIES OF THE SERVICE PROVIDER	23
30.	DUTIES OF PRASA	24
31.	SECURITY	24

32.	CORRUPT PRACTICE	25
33.	THE SERVICE PROVIDER'S PERSONNEL	26
34.	COMPLIANCE WITH THE LAW AND PRASA'S RULES	27
35.	MARKING AND PACKING OF GOODS	27
36.	REPOORTING RECORD KEEPING AND AUDIT	27
37.	DISPUTE RESOLUTION	29
38.	BREACH AND TERMINATION	31
39.	INSOLVENCY	32
40.	NOTICE AND DOMICILIUM	32
41.	LIMITATION AND LIABILITIES	33
42.	RESERVED RIGHTS OF THE PARTIES	33
43.	NON DISCLOSURE OF CONFIDENTIAL INFORMATION	36
44.	FORCE MAJEURE	36
45.	WHOLE AGREEMENT	38
46.	VARIATION	38
47.	CESSION	38
48.	INDULGENCE	39
49.	SEVERABILITY	39
50.	COUNTERPARTS	39
51.	COOPERATION IN GOOD FAITH	40
52.	COST	40
53.	OWNERSHIP AND COPYRIGHT OF DOCUMENTS	41
	ANNEXURE "A"	
	PRASA'S TRAVEL REQUIREMENTS	
	ANNEXURE "B"	
	TENDER DOCUMENT	
	ANNEXURE "C"	
	NOTICE TO PROCEED	
	ANNEXUER "D"	
	LETTER OF ACCEPTANCE	

1. PREAMBLE

- 1.1 The Passenger Rail Agency of South Africa, is a legal entity duly established in terms of the Amendment to the Legal Succession to the South African Transport Services Act, Act No. 38 of 2008, with its main object and business to *a)* ensure that, at the request of the Department of Transport, rail commuter services are provided within, to and from the Republic in the public interest; and *(b)* provide, in consultation with the Department of Transport, for long haul passenger rail and bus services within, to and from the Republic.
- 1.2 In terms of a Letter of Acceptance of 05 August 2010, the Passenger Rail Agency of South Africa officially appointed Gemini Moon Trading 7 (Pty) Ltd, Registration Number: 2003/005395/07 trading as Nexus Travel, for the rendering of travel management services to PRASA, its divisions and subsidiaries, for a period of 3 years, starting from 01 September 2010 until 31 August 2013, at a costs of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) including VAT, disbursements and all costs associated with the project.
- 1.3 Gemini Moon Trading 7 (Pty) Ltd is a company duly incorporated in accordance with the company laws of the Republic of South Africa. It is a well established multi-disciplined company that is able to render a travel management services to PRASA, divisions and subsidiaries.
- 1.4 In view thereof, both the Passenger Rail Agency of South Africa and Gemini Moon Trading 7 (Pty) Ltd have agreed to enter into this Memorandum of Agreement for the purposes of regulating their respective rights and obligations *interse*.
- 1.5 It is hereby agreed by both Parties that the following documents shall form an integral part of this Memorandum of Agreement:
- 1.5.1 PRASA'S Travel Requirements ("Annexure "A");
- 1.5.2 PRASA' Tender Document dated 01 March 2010 ("Annexure "B");
- 1.5.3 Notice to Proceed dated 04 August 2010 ("Annexure "C");
- 1.5.4 Letter of Acceptance dated 05 August 2010 ("Annexure "D");

2. DEFINITIONS AND INTERPRETATION

In this Memorandum of Agreement unless inconsistent or otherwise indicated by the context, the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings:-

- 2.1 "Agent" means the travel agent that the company makes use of to book and issue air tickets.
- 2.2 "Agreement" means this document, the documents mentioned in clause 1.6 above and all annexures, appendices and/or schedules hereto: "Contract" shall have a corresponding meaning;
- 2.3 "Approved purchase order" means an order confirming to the conditions and prescription of the PRASA Supply Chain Policy, an example of which is attached as Annexure D to this agreement;
- 2.4 "Contract" means the Contract signed by the Parties and of which these General Conditions of Contract form part.
- 2.5 "Contract Price" means the price payable to the Service Provider under this Agreement for full and proper performance of its contractual obligations;
- 2.6 "Contract Programme" in relation to the term or duration of this Agreement means the agreed Contract Programme as is referred to in this Agreement;
- 2.7 "Contract Value" means the value of the contract including provision for contingencies payable to the Service Provider under this Agreement for additional services above the Contract Price as agreed between the parties and as per PRASA's variation process requirements;
- 2.8 "Contractual Delivery Date" means the date of delivery as stated on the official PRASA Service Request/Contract/Tender document and Contract Program;
- 2.9 "Contract Manager" means any officer in the PRASA Corporate Head Office deputised by the Chief Executive Officer to supervise and take charge of the

Contract; With regard to the Service Provider, it means a person designated as such or for that purpose by the Service Provider;

- 2.10 **"Corrupt Practice"** means the offering, giving, receiving, or soliciting of anything of value to influence the actions of a public official in the procurement process or in the execution of a contract;
- 2.11 **"Contract Data"** means specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting parties and the procedure for the administration of the contract.
- 2.12 **"Day"** means calendar day;
- 2.13 **"Delivery"** means delivery in compliance with the terms and conditions of this Agreement or order;
- 2.14 **"Deliverable"** means any measurable, tangible, verifiable outcome, result or item that must be produced or completed.
- 2.15 **"Designated Airline Tickets"** means airline tickets purchased by PRASA .
- 2.16 **"ECSA"** means Engineering Council of South Africa
- 2.17 **"Effective Date "**means date on which this Agreement must be effected
- 2.18 **"Fault"** includes but is not limited to, failure to comply with PRASA's performance requirements as defined in specifications, non-compliance with agreed service levels, inferior service and/or inferior workmanship;
- 2.19 **"HOD"** means Head of Department;
- 2.18 **"IMSSA"** means Independent Mediation Services of South Africa;
- 2.19 **"Key Persons"** means persons who are named as such in the Contract Data who will be engaged in the performance of the services.

- 2.20 **"No Show"** means when a booking is made by the service provider and the traveler does not arrive;
- 2.21 **"Notice to Proceed"** means an official letter duly signed by an authorized PRASA representative to the Service Provider instructing the Service Provider to carry out work; The Notice to Proceed will be contractually binding on both Parties;
- 2.22 **"Parties"** means both parties in this agreement
- 2.23 **"Request for Tender/Quote"** means an invitation by PRASA to Tenderers;
- 2.24 **"PRASA"** means Passenger Rail Agency of South Africa or any business unit of PRASA;
- 2.25 **"Services"** means the whole of the services, tasks, work and requisites to be rendered, provided or performed by the Service Provider in terms of this Agreement in particular those described in clause 1.2 above;
- 2.26 **"Service Request"** means an official PRASA request/Service Request, in writing wherever practical following the acceptance of the Tender;
- 2.27 **"Signature Date"** means the date of signature of this Agreement by the last-signing Party, provided that both Parties sign this Agreement.
- 2.28 **"Sub Service Provider"** means any person or persons or anybody of persons corporate or unincorporated, approved by PRASA to render services required by the Service Provider in the execution of this Agreement;
- 2.29 **"Service Provider"** means Gemini Moon Trading 7 (PTY) LTD including its sub-service providers, agents, sub-consultants and employees that are party to this Agreement with PRASA; **"Consultant"** shall have a corresponding meaning;
- 2.30 **"Tender"** means an offer/response to a request for tender for the supply, rendering, provision or performance of service(s) in accordance with certain terms and conditions;
- 2.31 **"Tender Document"** means all documents which were delivered to the Service

Provider for the purpose of its tender and includes, *inter alia*, the Notice to Tenderers, Conditions of Tender, the General Conditions, the Special Conditions and the Specifications, etc;

- 2.32 "Term" means, notwithstanding the date of signature, the period commencing on the commencement date and terminating on the termination date.
- 2.33 "Travel Requirements" means the Travel Requirements annexed hereto and containing the terms applicable to and forming part of this Agreement.
- 2.34 "Variation Addendum" means an addendum to this agreement signed by both parties for additional work/services as agreed upon by the Parties;
- 2.35 "VAT" means Value Added Tax;
- 2.36 "VAT Act" means the value-added Tax no 89 of 1991;
- 2.37 "Working Day" means Monday through Friday between the hours 07h30 to 16h30, excluding Saturdays, Sundays and public holidays;
- 2.38 The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention is clear;
- 2.38.1 Words importing:
- 2.38.1.1 The singular includes the plural and *vice versa*;
- 2.38.1.2 Natural persons include created entities (corporate or unincorporated) and *vice versa*;
- 2.38.1.3 Any one gender includes the other gender;
- 2.39 If any provision in any clause is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in this clause 2;

- 2.40 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or Public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or Public holiday;
- 2.41 This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Republic of South Africa;
- 2.42 The rule of construction that the Agreement shall be interpreted against the Party responsible for the drafting or preparation of the Agreement, shall not apply.
- 2.43 Where figures are referred to in numerals and in word Gemini Moon Trading 7 (Pty) Ltd s, if there is any conflict between the two, the words shall prevail.
- 2.44 In the event of a dispute arising on the interpretation between this Agreement and the documents mentioned in clause 1.5 above, this Agreement shall prevail, failing which the provisions of RASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, will apply. The Parties shall, at all times, endeavor to resolve such dispute between themselves, prior to it being effected in terms of this Agreement.

3. APPOINTMENT

- 3.1 PRASA hereby appoints Germini Moon Trading 7 (Pty) Ltd which hereby accepts such appointment to provide, render and/or perform the Services as agreed to, subject to the provisions of this Agreement as well as the Travel Requirements Document annexed hereto. This Agreement shall be subject to a monthly review, if necessary, by PRASA.
- 3.2 This Agreement shall, notwithstanding the date of signature, commence on 01 September 2010 (herein referred to as the Effective Date) and shall continue for a period of 3 years until 31 August 2013, unless terminated earlier as provided for in this Agreement.

- 3.3 On agreement by both Parties, PRASA may, on receiving written application from the Service Provider, grant an extension of time for the final completion of the works.
- 3.4 On agreement by both Parties, PRASA may request additional work/services or approve variations on the original scope of work, after receiving and approving required proposals for such work/services. A variation addendum to this agreement will be signed by both Parties and become part of this agreement and conditions.

4. TERM AND TERMINATION

- 4.1 This Agreement shall commence on 01 September 2010" (the Commencement Date)" and shall terminate on 31 August 2010" (the Termination Date)"
- 4.2 Notwithstanding clause 3 of this agreement, PRASA reserves the right to cancel or terminate this agreement at any stage by giving the other party 30 days written notice of such cancellation or termination.

5. TRAVEL SERVICE

- 5.1 A complete travel service will be provided, including but not be limited to reservations and facilitation of air travel, car hire, hotel accommodation, foreign exchange, Passport & Visa and Meet and Greet and other services as agreed between the Parties.

6. OPERATING HOURS

- 6.1 The operating hours of the travel service will be 08:00 to 17:00 Mondays to Fridays excluding Saturdays and Public Holidays.
- 6.2 The service provider will also facilitate emergency travel services, for which the service provider will ensure that there is an agent available 24 (twenty-four) hours per day, seven days of the week.

7. ONLINE BOOKING TOOL

- 7.1 The service provider will provide the services through a booking mechanism this is referred to as an "online booking tool".
- 7.2 The following controls will be implemented with regard to the online booking tool:
 - 7.2.1 PRASA users approved by the relevant HOD or EXCO member in the case of a HOD travelling will receive a unique identity code and password once they have received training.
 - 7.2.2 Changes and amendments to the list of users must be approved by the Risk officer or EXCO and channeled through the PRASA's Supply Chain Department to the service provider.
- 7.3 The service provider will provide ongoing training to the approved PRASA users on the on-line booking tool's functionality and limitations. It is important to note that the on-line booking tool has conditions attached to the usage which will be explained in the training e.g. no refunds for certain rates of air travel.
- 7.4 A minimum backup solution has been put in place by the service provider if the tool is not available for some reason.

8. STAFF REQUIREMENTS

- 8.1 The service provider shall ensure that the staff members providing the services consist of experienced Travel Service providers and Management, who shall be responsible for providing the travel service to the standards agreed.
- 8.2 The service provider shall ensure that at all times, 3 (three) staff members are available to provide the services.
- 8.3 The service provider will ensure that when required, emergency staff is Available so that the minimum level of staffing does not fall below 2 (two), unless PRASA, in writing has granted prior approval.

- 8.4 All communication by the staff of the service provider will be conducted in a courteous and friendly manner and vice versa.
- 8.5 Any requests, which are made by PRASA employees to the staff of the service provider will be met within the time scale agreed at the time of the request.
- 8.6 At all times the staff of the service provider will regard officials of PRASA as the "Customer" and extend to the "Customer" their full attention in a positive and helpful way, with the objective of delivering full customer satisfaction.
- 8.7 The staff of the service provider shall at all times be professionally clothed by making use of the corporate provided by the service provider to ensure a uniformed and professional image.

9. BOOKING REQUIREMENTS

- 9.1 The service provider will only attend to manual ravel bookings on behalf of PRASA after receiving an approved purchase order.
- 9.2 PRASA users who make bookings by utilizing the on-line booking tool must complete a mandatory field indicating the purchase order number. The traveler's HOD must approve the booking on-line. The HOD will receive an e-mail from the service provider to confirm that the booking has been made.

10. FLIGHTS

- 10.1 In cases where the on-line booking tool is not used to make a booking, PRASA will instruct the service provider via fax or e-mail to make the booking and provide an approved purchase order.
- 10.2 The service provider will only process the booking once the approved purchase order has been received.
- 10.3 PRASA user approved by the relevant HOD will supply the traveler's full names and identity number for electronic tickets to the service provider,
- 10.4 The service provider will ensure that all tickets reflect traveler's surnames

followed by their full first name as per their passports/identity documents.

- 10.5 The service provider will book classes of seats according to the Travel Policy of PRASA (Annexure C).
- 10.6 The service provider will provide scheduled flight information immediately to the traveler concerned, or in the case of complicated enquiries, within the time frames agreed with the traveler. If the preferred option is unavailable, the traveler will be wait-listed upon request, and an alternative will be offered at this time.
- 10.7 The service provider will investigate each itinerary for the best alternative fare, this falls within the parameters of the official's travel needs and PRASA Travel Policy. The key parameters to be checked are as follows:
 - 10.7.1 Preferred carriers, route deals, promotional or incentive fares available at the time and any cheaper fares available through special PRASA airfare.
 - 10.7.2 Preferred date/s of travel, earliest and latest times.
 - 10.7.3 Destinations/s and flexibility, in terms of arrival times.
 - 10.7.4 Preferred start and end airports.
 - 10.7.5 Accommodation required.
 - 10.7.6 Car Hire, rail travel, etc.
 - 10.7.7 Date for issue of tickets.
 - 10.7.8 Visa and/or Passport Information/Requirements.
 - 10.7.9 Health & Safety Information/Requirements.
- 10.8 The service provider will communicate to the traveler concerned, the best alternative which meets the requirements of PRASA Travel Policy (with a minimum level of disruption to the traveler's travel plans) highlighting to the traveler why the alternative fare is being offered and communicating the restrictions to that ticket, should there be any.
- 10.9 The service provider will confirm the booking issued by the airline and provide to the traveler, a full, accurate and clear itinerary showing check-in times, airport terminal numbers (where possible), and arrival times. The itinerary will also detail the departing airline, flight enquiries telephone number and service

provider's 24(twenty-four)- hour emergency telephone number. The confirmation will be sent by either e-mail, fax or by short message service (sms) to the official travelling.

- 10.10 The service provider will e-mail and fax an itinerary of confirmed tickets to the traveler at least 48 (forty-eight) hours prior to the traveler's departure or within a time scale agreed with the traveler, provided that the necessary authorization procedures have been completed and received by PRASA.

11. RESERVATIONS

- 11.1 Reservations for other traffic types will be completed within the time scale agreed at the time of booking.
- 11.2 Details of all services booked will be included in travel itineraries where appropriate.
- 11.3 Associated documentation will be ready for collection within the time scale agreed with the traveler.
- 11.4 Foreign Currency will be provided within 24 (twenty-four) hours of the ordering where available, and will be made available within the time frame agreed with the traveler (48 hours for exotic currencies), or as advised to the traveler.
- 11.5 Where Meet & Assist Services are available these will be arranged where required and as agreed in the SLA. The number and cost will be logged and reported on a monthly basis. Meet & Assist Services generally apply to conferencing services.

12. ACCOMODATION

- 12.1 The service provider will ensure that accommodation is booked in compliance within PRASA Travel Policy.
- 12.2 Reservations for accommodation will be completed within 24 hours of the time of booking.

- 12.3 The service provider will issue a voucher to the traveler for the booked accommodation.
- 12.4 Vouchers will be issued according to PRASA's Travel Policy once PRASA has provided the service provider with an approved purchase order. Extras not covered in PRASA's Policy should be settled directly by the traveler.
- 12.5 Full account settlement meaning bed, parking and all meals account will be paid only when PRASA has given prior authorization.
- 12.6 The service provider shall inform the accommodating establishment (i.e. lodges, hotel, etc) of what will be paid for whilst staying at such an establishment. Any payment made for unauthorized expenses which were not approved prior to the booking and which were in accordance with PRASA's Travel Policy will be for the account of the service provider. Such claims will be disallowed by PRASA.
- 12.7 Where small and medium enterprises do not want to make use of the bill-back facility, credit facility of the agency, it will be respected and where possible the service provider will prepay the accommodation. This however can only be made if booking was done 48 hours in advance. The officials of the department will be informed of the implications of changes to accommodation reservations, as certain prepaid facilities will not refund payment due to loss of income. The requirement for prepaid hotels in rural areas or where no facility for bill back exists, 24 hours will be required. All changes will be confirmed once a new booking form has been received. Cancellations will be done on receipt of a booking form.
- 12.8 Accommodation must be booked in accordance with PRASA's Travel Policy.
- 12.9 The service provider will at all time book accommodation as close as possible to the venue where the official is attending official business.
- 12.10 On written cancellation of any accommodation arrangements, the service provider will notify the relevant suppliers to avoid any penalties. Should there be any charges, these will be advised to the traveler at the time of cancellation.

13. CAR HIRE

- 13.1 Car hire must be in accordance with PRASA's Travel Policy.
- 13.2 Reservations for cars will be completed within 24 hour time booking.
- 13.3 Emergency telephone numbers of both traveler and services provider's coordinator will be on all booking forms. All emergency changes to reservations for cars may be made by traveler. Where such changes have monetary implications they may only be effected if telephonic approval by the risk officer has been obtained.
- 13.4 All vouchers issued by the service provider will have attached to it a copy of the booking form for the traveler to complete.

14. VISAS

- 14.1 Visa requirements and relevant changes will be communicated by the service provider to the traveler via e-mail upon a reservation is made. Officials will be responsible for their own visa applications.

15. DOCUMENT DELIVERY

- 15.1 E-tickets do not require any delivery of documents and are widely used by most airlines.
- 15.2 Multi-sector international require a paper ticket to be issued, which will be delivered by the service provider within 24 hours of receipt of the approved purchase order from PRASA.
- 15.3 In the event of a late booking (being less than 24 hours notice), both parties will agree in writing to document delivery/collection.

16. 24-HOUR GLOBAL SUPPORT SERVICE FOR EMERGENCY TRAVEL

- 16.1 The service provider must be available on a 24-hours basis for emergency travel reservations.
- 16.2 Emergency travel is defined to include life threatening situations, situations of National Security and matters of extreme urgency.
- 16.3 The emergency number is 082 829 0281 and is rotated by a team of senior service providers of the service provider.
- 16.4 Changes in the emergency contact number must immediately be communicated to PRASA who will inform all officials of PRASA of the changes.
- 16.5 The service provider will provide emergency travel services after consultation with and approval by the Chief Financial Officer or the Executive Officer of PRASA. Emergency services is defined as any services that is required outside of operational hours for travel that needs to happen before the office reopens.

17. RESPONSE TIME

- 17.1 The service provider commits to prompt response to the customer in the following areas:
 - 17.1.1 telephonic and e-mail messages: replied to within 2 (two) hours.
 - 17.1.2 acknowledgement of complaints on the day of receipt and commit to a plan solving issues by arrangement.
 - 17.1.3 travel queries: answered in a maximum of 24 (twenty four) hours.
 - 17.1.4 quotes will be submitted as follows:
 - 17.1.4.1 international, maximum 24 (twenty four) hours. Prompt submission of international quotes not readily available, is dependent on supplier response.
 - 17.1.4.2 domestic, maximum 12 (twelve) hours.

- 17.1.4.3 packages: responded to within 48 hours, dependent upon supplier's response.

18. REPORTING

18.1 The service provider will provide PRASA with accurate and meaningful Management Information Reports on a monthly basis, which will measure, analyze and be used as the basis for policy recommendations.

18.2 Such Management Information Reports shall indicate the following information on a monthly basis, but not limited thereto:

18.2.1 Amount spent per Cost Centre and list of traveler's travel destinations.

18.2.2 Total amount spent per category of travel per month i.e airlines, Hotels and Car Rentals.

18.2.3 Age Analysis of Account payments.

18.2.4 Reports in respect of Corporate Agreements.

18.2.5 Rejected Savings.

18.2.6 Complete form of active users.

18.2.7 Cost of cancellations per Cost Centre.

18.2.8 Amount of Refunds per Cost Centre.

18.2.9 Breakdown of Foreign travel.

19. TRAVEL POLICY COMPLIANCE

19.1 The service provider commits total compliance with the Travel Policy of PRASA (Annexure C).

19.2 PRASA will communicate any changes in the Travel Policy in writing to the service provider.

19.3 Any non-compliance with the Travel Policy due to failure by PRASA to provide such written notification will not be prejudicial to the service provider.

20. LOGS

- 20.1 A refund log will be kept, recording all refunds within service provider's control and refunds outside of the service provider's control and time frame expected for completion. Refunds will be auctioned within 5 days of receipt by the service provider.
- 20.2 If a refund has not been received within 14 days of action, these will be chased and logged accordingly.

21. REFUND PROCEDURES

- 21.1 PRASA will forward all issued documents for refund to the nominated accountant.
- 21.2 The service provider will:
 - 21.2.1 acknowledges receipt by signing for the document. Request for refunds on e-tickets will be done in writing, either by fax or by e-mail.
 - 21.2.2 process the refund application.
 - 21.2.3 issue a credit note and refund applicable funds upon receipt of the supplier approval of refund application.
 - 21.2.4 not be liable for any cancellation penalties charged by suppliers .
 - 21.2.5 not be liable for any processing delays as a result of suppliers.

22. RECONCILIATION OF ACCOUNT

- 22.1 The service provider will reconcile the account monthly.
- 22.2 The service provider will deliver reconciled statement to PRASA.
- 22.3 PRASA will provide a remittance advice prior to payment to the service provider at all times.
- 22.4 The service provider will not be held liable for any finance charges or interest payable by PRASA for any reason.

23. COMPLAINTS (APPLICABLE TO BOTH PARTIES)

- 23.1 All queries and complaints must be submitted in a written format within a maximum of fourteen (14) days of incident. Emergency queries should be informed immediately by telephone and confirmed by e-mail.
- 23.2 Query will be acknowledged on the day of receipt, and investigated.
- 23.3 Both parties will commit to a plan of solving issues by arrangement. The time frame is directly linked to supplier responses.

24. APPOINTMENT OF AGENTS

- 24.1 PRASA will not deal with agents appointed by the service provider. PRASA will deal only with the appointed service provider. This does not prevent the service provider from appointing agents if it so wishes, however, the appointed agent will not be party to this agreement and will have no dealings in any way whatsoever with PRASA.

25. BILLING PROCEDURE

- 25.1 The service provider will raise an invoice per transaction approved by PRASA.
- 25.2 The service provider's invoice will make provision for order numbers to appear on its invoice.
- 25.3 Charges apply to copy invoices.
- 25.4 One statement must be issued which shall contain the transaction details of each order placed in that month.
- 25.5 Copies of each booking form must be attached to the invoice for reference purposes.
- 25.6 General, everyday account queries raised by PRASA must be addressed within 24(twenty four) hours and reported back to PRASA.
- 25.7 Billing queries must be resolved within 7 (seven) working days.

- 25.8 The service provider will provide the original invoice with the supporting documents (e.g. order form, service provider invoice, travel agent invoice, vouchers, etc.) and a second copy of the same invoice with the supporting documents stapled together as one invoice.
- 25.9 For all travel authorization orders approved by an acting official, the travel agent shall provide ensure that the acting letter is attached to the order before the booking is confirmed and issued.
- 25.10 Conference invoices must have an approved order (conference form), name list of delegates attending the conference /workshop, signed terms and conditions agreement from the hotel or venue facility where the function is held and the hotel invoice for all services provided during the conference/workshop. The terms and conditions must be signed by PRASA.
- 25.11 Resolution of questions must be e-mailed to PRASA upon completion.
- 25.12 Any billing queries that cannot be resolved within the abovementioned time periods must be communicated to PRASA, together with reason and an estimated date on the anticipated resolution of the query.
- 25.13 The travel agent commits to submit travel and travel related invoices weekly to PRASA by electronic mail directed to the supply chain department.

26. PAYMENT MECHANISM

- 26.1 The following acceptable payment mechanism has been agreed on: Electronic Fund Transfer.
The account details are as follows:
Standard Bank Sandton City
Account Number: 021548463
Branch code: 018105
Account Name: Gemini Moon Trading 7
- 26.2 The payment mechanism will be applied to the following transactions:
- 26.2.1 Air tickets.

- 26.2.2 Airport tax.
- 26.2.3 MPDs (airport issue).
- 26.2.4 MPDs (miscellaneous payment documents) for excess baggage.
- 26.2.5 Accommodation (Hotel, Guest Houses, etc.).
Car Rental (Direct Billing).
- 26.2.6 Pre-paid land arrangements (packages/tours/shuttle).
- 26.2.7 Agreed professional fees.

27. PRICING STRUCTURE AND PAYMENT

Notwithstanding clauses 8 and 10 of PRASA Standard and Commercial Terms and Conditions for Rendering of Service/Maintenance and Support:

- 27.1 In the event that there is a variation in prices which may have a direct impact on the pricing as agreed in upon this Agreement, the Parties shall enter into an addendum to cater for the pricing variation.
- 27.2 In the event that the pricing variation occurs as envisaged in clause 27.1 above, PRASA shall be entitled to a rebate which rebate may be taken into account in subsequent payments to be made in terms of this Agreement.
- 27.3 The Parties hereby agree that the Service Provider shall bear the responsibility of compiling a reconciliation statement clearly setting out the discount and or rebate as necessitated by the pricing variation.
- 27.4 Gemini Moon Trading 7 (Pty) Ltd is appointed for the Contract Value of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) (inclusive of VAT) subject to Clause 5.4.
- 27.5 In consideration for the performance of the Services as agreed to, PRASA shall pay in arrears to the Service Provider the agreed contractual amount of , R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) as per submitted detailed statements against the achieved milestones/deliverables.
- 27.6 The price of R 350 000.00 per month (Three Hundred and Fifty Thousand Rand) total cost associated with the project, including VAT, disbursements

and any other costs associated with the delivery of the project in its entirety.

27.7 Payment will be made monthly in arrears for the Services rendered, and within thirty days of receipt of an acceptable detailed invoice together with a statement by PRASA. The statement will reach PRASA no later than the 7th day of the month. Invoices shall be submitted to the office of the PRASA Contract Manager for payment. Such monthly payments may be adjusted from time to time in accordance with this Agreement.

28. WARRANTY

28.1 Notwithstanding clause 9 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, the Service Provider further warrants that:-

28.1.1 It has the necessary expertise, ability and skill to carry out its obligations allocated to it in terms of this Agreement;

28.1.2 It will deliver its responsibilities at the agreed time between itself and PRASA;

28.1.3 If any reports are to be submitted, such reports shall represent the true state of the work undertaken;

28.1.4 The Services shall be performed in a careful, professional and workmanlike manner;

28.1.5 Its employees, agents, service providers, suppliers, representatives and sub-Service Providers shall observe and comply with the Service Provider's warranties, obligations and liabilities in terms of this Agreement (irrespective whether or not PRASA has consented thereto that the Service Provider may use agents, service providers, representatives or sub-Service Providers to render part of the Services or assist the Service Provider therein); and

28.1.6 It is a Reasonable and Prudent Service Provider.

29. DUTIES OF THE SERVICE PROVIDER

- 29.1 The Service Provider shall, at all times, perform its obligations in accordance with or in compliance with PRASA's performance requirements as defined in specifications or as provided for in this Agreement.

30. DUTIES OF PRASA

The responsibilities of PRASA under this Agreement shall include the following, *inter alia*:-

- 30.1 PRASA will ensure that the Service Provider gains access to the areas, information and hardware, as reasonably required for the effective performance of this Agreement, subject to the security regulations and requirements of PRASA.
- 30.2 In addition to the above, PRASA will make available to the Service Provider all the relevant information relating to financial, operational, rolling stock and fixed assets required for the proper completion of the work.
- 30.3 PRASA shall pay the Service Provider its fees, as agreed upon herein.

31. SECURITY

- 31.1 If the Service Provider is found to be in breach of any security requirements in terms of this Agreement, which it acknowledges to be fully acquainted with, PRASA will be entitled, notwithstanding any other provision to this Agreement, to terminate this Agreement in part or in total, with immediate effect and without prejudice to any of PRASA's rights as obtained from this Agreement or otherwise.
- 31.2 The Service Provider will, for the purposes of this Agreement, comply with the security policies, procedures and regulations of PRASA and those of the Province. PRASA and the Province will, upon request, make available to the Service Provider the applicable policies, procedures and regulations.

31.3 Access to Software, Secured Areas, and Information:

- 31.3.1 The Service Provider must ensure that its personnel do not have any software associated with the developed Plan in their possession after delivery of the project.
 - 31.3.2 The Service Provider must ensure that its personnel do not make any backups/delete/reset of any information, control files and error logs whatsoever.
 - 31.3.3 The Service Provider shall have no default access to any other areas whatsoever, other than the ones determined in terms of this Agreement.
 - 31.3.4 The Service Provider shall, on written request to PRASA, be able to gain such access to additional information if it is regarded as necessary by PRASA by means of a written variation to this Agreement.
- 31.4 Any damage or loss to documentation or information and property belonging to PRASA, to be kept by the Service Provider in terms of this Agreement will be reported to PRASA, within 24 hours in writing, and in case of theft or suspected theft or in case of willful or malicious damage, the South African Police Service will, in addition, be informed at the same time. The steps taken to recover or replace such losses or rectify the damage will be reported to PRASA in due course in writing.

32. CORRUPT PRACTICE (GIFTS AND FAVOURS)

- 32.1 PRASA shall be entitled, notwithstanding any other provision to this Agreement, to terminate this Agreement forthwith if it is found that gifts and favours (for example business transactions/terms/conditions that are not freely available to the public, entertainment, gifts or otherwise) were given by the Service Provider, or any employee, agent or representative of the Service Provider (or its sub-Service Providers/suppliers) to any officer or employee of PRASA (or family of such an officer or employee of PRASA) with a view towards securing the Agreement or securing favourable treatment or terms by or from PRASA.

33. THE SERVICE PROVIDER'S PERSONNEL

- 33.1 The Service Provider shall provide competent personnel necessary to ensure that its obligations contemplated by this Agreement are efficiently and effectively performed;
- 33.3 The Service Provider shall in relation to labour matters conform in all respects with, *inter alia*:
- 33.3.1 The Labour Relations Act 66 of 1995;
 - 33.3.2 The Occupational Health and Safety Act 85 of 1993;
 - 33.3.3 The Compensation for Occupational Injuries and Diseases Act 130 of 1993;
 - 33.3.4 The Unemployment Insurance Act 63 of 2001;
 - 33.3.5 The Basic Conditions of Employment Act 75 of 1997; and
 - 33.3.6 The Employment Equity Act 55 of 1998.
- 33.4 Notwithstanding 11.3 above, the Service Provider shall not do or permit to be done anything that may distract good labour relations or that could have detrimental impact on PRASA's labour relations or that may prejudice harmonious labour relations on PRASA's premises, regardless of whether PRASA's employees or the employees of other (including The Service Provider's employees) are involved.
- 33.5 Should the Service Provider experience any labour disharmony which may have an impact on PRASA's business or operations or on the Service Provider's obligations in terms of the Agreement, it shall immediately inform PRASA thereof and keep PRASA informed of all developments and of steps taken to remedy the situation.
- 33.6 The Service Provider shall not recruit personnel associated with this Contract:
- 33.6.1 in the employment of PRASA or any of PRASA's other Service Providers, or their sub-Service Providers;
 - 33.6.2 anywhere on PRASA's premises without PRASA's consent, to be obtained beforehand in writing.

- 33.7 The Service Provider shall be responsible for the conduct and behaviour of its employees and invitees, and shall endeavour to ensure the good conduct and behaviour of its sub-Service Providers/suppliers or their employees and invitees and shall take all necessary precautions during the performance of the Service to prevent unlawful and improper conduct on the part of such employees and invitees.

34. **COMPLIANCE WITH THE LAW AND PRASA'S RULES**

- 34.1 Notwithstanding clause 11.3 above, the Service Provider shall comply with all laws applicable to the performance of the Services and all laws and technical/industry codes relating to security, safety, occupational health and the environment, black economic empowerment and the promotion of competition.

35. **MARKING AND PACKING OF GOODS**

35.1 **Merchandise Marks Act**

35.1.1 The Service Provider acknowledges that it is acquainted with the provisions of the Merchandise Marks Act 17 of 1941 as amended pertaining to the marking of merchandise and the use of certain words and emblems in connection with its business;

35.1.2 The Service Provider is prohibited from advertising the fact that it is a Service Provider to PRASA unless written authority thereto has first been obtained, and *vice versa*.

36. **REPORTING, RECORD KEEPING AND AUDIT**

36.1 **General**

36.1.1 Except as the Parties may otherwise agree, all records, reports and data required to be maintained or provided in connection with the Services as agreed to shall be maintained in such a manner as to permit any such

records, reports and data to be audited and as to enable PRASA to monitor the performance of the Service Provider in terms of this Agreement. All such records, reports and data shall be maintained on a current basis for the duration of the Agreement and for 3 (three) years after.

36.1.2 Where the systems utilized by the Service Provider are unable to retain data and or information over extended periods, such information and data shall be transferred to the PRASA on an annual basis.

36.2 Financial Records and Reports

36.2.1 The Service Provider shall keep full and accurate accounting records in accordance with Generally Accepted Accounting Principles of all expenses and revenues in connection with the Services as agreed to and shall provide reports on financial and operating results of the Services as agreed to by PRASA.

36.3 Contract Management

36.3.1 The Service Provider shall be responsible to PRASA for all matters concerning the execution of this Agreement as such and will keep PRASA informed by way of periodic meetings and reports, as mutually agreed upon.

36.3.2 The Service Provider is required to appoint a designated Contract Manager for the Contract.

36.3.3 The Service Provider's Contract Manager shall submit a letter of appointment and authorization, clearly defining the extent of his responsibility and authority in the context of this Agreement.

36.4 Scheduled Contract Meetings

36.4.1 Meetings shall be convened on a date and time to be agreed upon by the Parties at the office of PRASA Contract Manager, or at any other place to be mutually agreed upon between the Parties.

- 36.4.2 The Service Provider shall be responsible for accurate minutes to be taken down and formally distributed to all attendees within five (5) days of such meeting taken place.
- 36.4.3 The Contract Manager, or his designee, of PRASA shall chair all the meetings and shall be responsible to draw up and distribute the Agenda for the meeting.
- 36.4.4 The Service Provider shall be required to contact PRASA before any meeting and submit points to be placed on the agenda.
- 36.4.5 The chairman shall sign the minutes after acceptance at each subsequent meeting.
- 36.4.6 The decisions and obligations delegated and accepted at such meetings shall be binding on all parties, provided that it is not in conflict with the provisions of this Agreement.
- 36.4.7 The Service Provider shall be required to designate a Contract Manager to attend all such meetings. If the agenda contains any point to be discussed, that may result in decisions or obligations ensuing, that may have financial or managerial implications, that falls outside the scope of authority of the Service Provider's Contract Manager, the Service Provider's shall be required to send a person that does have the required authority to such a meeting.
- 36.4.8 Service Provider's Contract Manager shall be required to establish regular communications between himself and PRASA Contract Manager or his designee.

37. DISPUTE RESOLUTION

- 37.1 Pursuant to clause 18 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, in the event that the Parties jointly agree to resolution of a dispute by mediation, the Parties shall jointly select such an independent mediator within 10 (ten) days after the decision to use such dispute resolution means. The independent mediator shall meet with the Parties within 10 (ten) days after selection in an attempt to mediate and resolve the dispute. If such efforts are unsuccessful after 20 (twenty) days, the mediator shall, after considering the Parties' position, issue written recommendations for resolution of the dispute. If, within 15 (fifteen) days after the issuance of such recommendations no Party rejects such recommendations by means of written

notice to the other Party, they shall become the binding resolution of the dispute, enforceable by either Party in any court having jurisdiction and the Parties shall fully comply with such recommendation. The Costs and expenses of the independent mediator shall be shared equally between the Parties.

37.2 In the event that the disputes or differences between the Parties are referred to arbitration, the arbitration shall be held:

37.2.1 with only the Parties, their witnesses and their respective representative present;

37.2.2 at Johannesburg; and

37.2.3 in the English language.

37.3 The arbitrator shall be, if the matter in dispute is principally:

37.3.1 a legal matter, an impartial practicing advocate of not less than 10 (ten) years standing, or an impartial admitted and practicing attorney of not less than 10 (ten) years standing;

37.3.2 an accounting matter, an impartial practicing chartered accountant of not less than (10) years standing.

37.3.3 any other matter, an independent suitably experienced person agreed upon between the parties.

37.4 If the Parties fail to agree on an arbitration within 5 (five) days after the arbitration has been demanded, the arbitrator shall be nominated, at the request of either of the Parties by the President for the time being of the Law Society of the Northern Provinces. If that person fails or refuses to make the nomination, either Party may approach the High Court of South Africa to make such appointment. To the extent necessary, the court is expressly empowered to do so.

37.5 If the Parties fails to agree whether the dispute is of a legal, accounting or other nature within 3 (three) days after the arbitration has been demanded, it shall be a matter referred to in clause 15.3.3.

- 37.6 Any Party to this Agreement may demand that a dispute be determined in terms of this clause by written notice given to the other Party.
- 37.7 This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the Arbitrator.
- 37.8 The decision of the Arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the Court at the insistence of any of the Parties to the dispute.
- 37.9 Parties hereby consent to the jurisdiction of the High Court of South Africa (Witwatersrand Local Division) in respect of the proceedings referred to in 14.7 above.
- 37.10 The Parties agree that during the course of the arbitration the subject matter of the arbitration and the evidence heard during the arbitration shall be kept confidential and not be disclosed to anyone outside the respective organizations.
- 37.11 The provisions of this clause:
- Constitutes an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;
 - Are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement subject to the limitation that a difference of opinion which could lead to a dispute must be raised within 6 months after the required information has been furnished by the other Party.

38. **BREACH AND TERMINATION**

- 38.1 In addition to clause 21 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, in the event of either of the Parties committing a material breach of any of the terms and conditions of this Agreement, and remaining in default for a period of 7 (seven) days after receipt by it of a written notice from the other Party calling for such breach to be

remedied, the Party delivering the notice shall be entitled to, without prejudice to any other rights it may have in terms of this Agreement or in law, terminate this Agreement by written notice to that effect given to the defaulting Party.

39. INSOLVENCY

- 39.1 If the Service Provider is declared insolvent by an order of the High Court, the fact must be reported to PRASA within twenty-four (24) hours and no further payments will be made to the Service Provider. Any outstanding moneys owing to the Service Provider shall forthwith be made to the Liquidator or Judicial Manager of the estate as appointed by the High Court.
- 39.2 If the Service Provider commits an act of insolvency as defined in the Insolvency Act No. 24 of 1936, or is subject to an order of provisional or final liquidation or has made an offer of compromise to creditors or gives notice of an application for voluntary liquidation, PRASA will be entitled to cancel this Contract in its entirety with immediate effect and without prejudice to any of PRASA's rights obtained in terms of this Agreement or otherwise.

40. NOTICE AND DOMICILIUM

- 40.1 Notwithstanding the provision of clause 22 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, the Parties choose as their *domiciliumcintandi et executandi* the following addresses, provided that any of them may change such address to any address in the Republic of South Africa by giving 7 (seven) days written notice:

40.1.1 In the case of PRASA:

Umjanthi House
13 Wolmarans Street
Braamfontein
Tel: (011) 7731600
Fax: (011) 7746299

40.1.2 in case of Service Provider:

52 Englewold Drive
Saxonwold
Gauteng
Tel: 011 486 4114
Fax: _____ [insert]

40.3 Any notice given by a Party to the other Party (the addressee) which is transmitted by facsimile to the addressee at the addressee's facsimile number shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the first business day of transmission.

40.4 Any notice given by any Party to the other Party (the addressee) which is delivered by hand during the normal business hours of the addressee at the address's *domicilium* for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery.

41. LIMITATION AND LIABILITIES

41.1 The Parties accepts no other liabilities towards each other, other than those specifically agreed to in this Agreement.

42. RESERVED RIGHTS OF THE PARTIES

42.1 Except as may be otherwise expressly provided in this Agreement, PRASA retains and reserves all rights, title, interests, responsibilities, and assets, including, without limitation the following:

- (i) mutually agreed intellectual property rights or research and development products acquired or generated in connection with the provision of the Services as agreed to and provided for in the Contract Payments.

- (ii) the exclusive use of the PRASA trademark (subject to the terms of the Archives Act, No 6 of 1962)
- (iii) PRASA any rights and/or responsibilities granted to or imposed upon PRASA by legislation or regulation.
- (iv) all maintenance standards, technical specifications, drawings and plans with respect to PRASA assets or of which PRASA has obtained sole rights or shared rights as negotiated with the Service Provider or any other entities.
- (v) any corporate identity generated in connection with the provision of the Services as agreed to and paid for by PRASA. The Service Provider will maintain such relevant corporate identity for the term of this Agreement and has provided for such in the contract payments. Modifications to the corporate identity specifically to change the image of the Service Provider such as uniform clothing, non-operational premises and stationery will be for the Service Provider's own account paid out of its profits.
- (vi) access to all documentation relating to operational standards, relevant procedures and supporting documentation in the Service Provider's possession. PRASA may elect to transfer such facility to its own control or its directed designee.

42.2 Except as may be otherwise expressly provided in this Agreement, the Service Provider retains and reserves all rights, title interests, responsibilities, and assets, including, without limitation the following:

- (i) The rights and responsibilities of the Service Provider with regard to the Services as agreed to which have been derived solely from this Agreement and/or the Annexures to this Agreement.
- (ii) Any rights or responsibilities granted to or imposed upon the Service Provider by legislation or regulation.
- (iii) The right to use results from research and development products or intellectual property acquired or generated in connection with the provision of the Services as agreed to beyond the scope of this Agreement. Should the

Service Provider want to obtain sole rights to such property the Service Provider shall purchase such rights from PRASA.

42.3 Works beyond the scope of this Agreement:

PRASA retains the right to offer any contract for any work that has not been included in the Services as agreed, to any third party other than the Service Provider. In the event that such contract impinges on the Service Provider's activities in providing the Services as agreed to, such contract may not be entered into without the consent of the Service Provider, which consent shall not be unreasonably withheld.

42.4 Access to Documentation

20.4.1 The Service Provider will ensure safekeeping and updating of all design, development, manufacturing, implementation, operational standards, relevant procedures and supporting documentation currently in its possession pertaining to PRASA's Property or that of the Province and the Services as agreed to in this Agreement;

42.4.2 In so far as is practically possible PRASA will ensure access to such documentation held by PRASA or any division or business units of PRASA. The Service Provider will be informed of all amendments thereto in so far as it affects the Services as agreed to in this Agreement.

42.4.3 Should there be any documentation held by PRASA or any other party which cannot be accessed by the Service Provider, PRASA will negotiate with such party to obtain the necessary access. The Service Provider shall inform PRASA of the need for any such documentation. The Parties agree to jointly engage in a process to identify, extract and manage access to documentation within the term of this Agreement.

42.4.5 PRASA reserves the right of access to the established technical and operational configuration management databases and may, during the course of this Agreement, elect to transfer such to its own control or its directed designee.

43. NON DISCLOSURE OF CONFIDENTIAL INFORMATION

- 43.1 Notwithstanding clause 20 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance, the Parties agree to uphold the confidentiality of information obtained from each other.
- 43.2 Confidential information shall be clearly identified as confidential and shall not include the following:-
- (a) Information from one Party that becomes a part of the public domain through no act or omission of the other Party;
 - (b) Information from one Party that is lawfully disclosed to the other Party by any third Party without restriction on disclosure;
 - (c) Information pertaining to one Party that has been independently researched and developed by the other Party;
 - (d) Information from one Party that is lawfully disclosed by the other Party by a requirement of law.
- 43.3 The Service Provider shall not, whether during the currency of this Agreement or at any point in time thereafter, directly or indirectly use to the detriment or prejudice of PRASA, nor divulge to any person, any trade secret or any other confidential information concerning the business or affairs of PRASA which may have come to the Service Provider's knowledge in the performance of work associated with this Agreement.

44. FORCE MAJEURE (IMPOSSIBILITY OF PERFORMANCE)

- 44.1 In addition to clause 24 of PRASA Standard Commercial Terms and Conditions for Rendering of Service/Maintenance and Support, should, by mutual agreement, any of the obligations of any Party become objectively impossible of performance, such Party shall, to the extent provided in this clause, be exempted from such obligations under this Agreement. This exemption will only be applicable if the circumstances that rendered performance impossible was reasonably foreseeable at the Effective Date but impossible to avoid at the time of

the occurrence of such circumstances and the Party concerned took reasonable care and diligence in attempting to avoid the consequences of such circumstances.

Such exemption shall operate only for as long as the relevant circumstance prevails and only to the extent that it renders performance of the relevant obligation impossible. Notice of such circumstances shall be conveyed by the Party concerned to the other Party in writing without delay, where after consensus on the impossibility of performance will be reached forthwith.

44.1.1 Without limiting the generality of clause 22.1 the following are deemed to be circumstances that render performance impossible namely, acts of God, acts of terrorism or war, civil commotion and strikes (excluding those strikes attributed to mismanagement by the Service Provider), disruptions of public communications (provided reasonable steps have been taken for the prevention thereof) as well as future mutually agreed events. In the event that unforeseeable circumstances and events are not clearly definable or classified in terms of this clause it should be declared as indefinable circumstances that render performance impossible and the Parties shall agree on classification within 21 days. No penalties will be levied within the period in which the Parties will decide on classification, but the Parties may backdate such penalties if necessary. Should the Parties fail to agree on the classification of strikes as result of mismanagement by the Service Provider, a third party will jointly be appointed within fourteen days (14) to make a ruling. In the event of failure to obtain such a ruling the matter shall be dealt with in accordance with clause 14 of this Agreement.

44.1.2 The Service Provider shall use all reasonable endeavours to prevent the occurrence of any event that renders performance impossible, to mitigate and minimise the effects of any such events on the performance of its obligations and to restore as soon as practically possible normal operations after the occurrence of such an event. The Service Provider shall notify PRASA as soon as reasonably practicable of the occurrence of any such event.

44.1.3 The Service Provider shall, to the extent that it would be reasonable to do so, or to the extent reasonably so requested by PRASA, exercise all relevant rights and remedies under any relevant agreement to prevent the occurrence or reoccurrence of any such events and to obtain appropriate redress or compensation for any such event from any relevant person.

44.2 Operation by PRASA in Certain Circumstances.

If

44.2.1 The Service Provider is excused from performing its obligations under this Agreement for any reason listed in clause 22.1 above;

44.2.2 The Service Provider has not provided substitute Services, at no cost to PRASA, to the standards of the agreement, and

44.2.3 an interruption in any portion of the Services as agreed to continue for 30 working days.

Then

PRASA may temporarily provide such services itself through its designee until the Service Provider is able to continue performing its obligations in terms of this Agreement.

45. WHOLE AGREEMENT

45.1 This Agreement constitutes the sole record of the agreement between the Parties in relation to the subject matter hereof.

45.2 No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligence or not.

45.3 All provisions of this agreement shall be severable and no provisions shall be affected by the invalidity of any other provision of this Agreement.

46. VARIATION, CANCELLATION AND WAIVER

- 46.1 No addition to or variation, consensual cancellation or novation of this Agreement, and no waiver of any right arising from this Agreement or its breach or termination, shall be of any force or effect unless reduced in writing and signed by all the Parties or their duly authorised representatives. Where variation is necessitated by default or breach of contract by the Service Provider, any cost attributed to such variation shall be borne by the Service Provider.

47. CESSION AND DELEGATION

- 47.1 Neither Party shall cede, assign or delegate any right or obligation under this agreement nor enter into any subcontract of whatever nature for the execution thereof or part thereof without the prior written consent of the other, which shall not unreasonable be withheld.
- 47.2 Should the Service Provider apply to cede or assign the whole or portion of the Agreement, the circumstances shall be reported to PRASA. PRASA shall be notified immediately of the Service Provider's intention to cede and/or assign its business. The name(s) of the new company and its directors shall be furnished to PRASA together with any other information reasonably required by the PRASA.
- 47.3 Under no circumstances shall it be taken for granted that PRASA will approve of the cession and/or assignment.
- 47.4 Should the Service Provider proceed to change the composition, constitution or title of its company, or should a change in ownership take place during the course of the Agreement without the prior notification of PRASA, PRASA shall in terms of the provisions of clause 17, be entitled forthwith to cancel in its entirety or any part of this Agreement immediately by notice in writing to the Service Provider.

48. INDULGENCES

- 48.1 No indulgence which any Party may grant to any other will constitute a waiver of any of the rights of the grantor, who will not thereby be precluded from

exercising any rights against the grantee which may have arisen in the past or which might arise in the future.

49. SEVERABILITY

- 49.1 This Agreement constitutes one indivisible agreement, save that if any particular provision of the Agreement thereto is illegal, invalid or unenforceable or contrary to public policy, but does not go to the root of the Agreement, it shall be severed from the Agreement and the remainder of the Agreement shall remain of full force and effect and binding on the Parties.

50. COUNTERPARTS

- 50.1 The signature by either Party of a counterpart of this Agreement will be as effective as if that Party has signed the same document as the other Party.

51. CO-OPERATION IN GOOD FAITH

- 51.1 Each Party to this Agreement hereby agrees to co-operate with the other party in such a manner as may be necessary in order to procure the expeditious implementation of this Agreement.

52. COSTS

- 52.1 Each of the Parties will bear their respective costs in connection with the negotiation, drafting, preparation and execution of this Agreement, except for the stamp duty which will be borne by the PRASA.
- 52.2 Any costs including attorney and own client costs, incurred by any Party arising out of the breach by another Party of any of the provisions of this Agreement will be borne by the Party in breach.

53. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 53.1** Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the Copyright Act, Act 98 of 1978, relating to the project shall be vested in the party named in the contract data.

Where copyright is vested in the Service Provider, PRASA shall be entitled to use the documents or copy them only for the purpose for which they are intended in regard to the project and need to obtain the Service Provider's permission to copy for such use.

- 53.2** The ownership of the data and factual information collected by the Service Provider and paid for by PRASA, shall, after payment of PRASA lie with PRASA.

THUS DONE AND SIGNED AT ON THIS THEDAY OF
..... 2011.

WITNESSES:

_____ for PASSENGER RAIL AGENCY OF S.A

1. _____

2. _____

THUS DONE AND SIGNED AT..... ON THIS THE DAY OF.....
2011.

WITNESSES:

_____ for GEMINI MOON TRADING 7 (PTY) LTD

1. _____

2. _____

Sidney Khuzwayo

From: Analogue Marketing Information Services [id@interactivedirect.co.za]
Sent: 13 May 2011 02:28 PM
To: Sidney Khuzwayo
Subject: A Gentle Introduction to Statistics with Tony Sham - 14th June 2011

Trying to make sense of an overload of data?

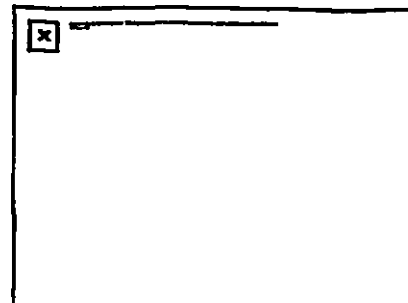
Do you have a fear for the subject of statistics?

If not, do you need a refresher in statistics?

If so attend

A Gentle Introduction to Statistics

14th June 2011 at the AstroTech Conference Centre, Parktown, Jhb



Presented by: Tony Sham

Tony Sham has been a statistician since 1979, and has wealth of experience and knowledge on all aspects of statistical analysis. He also has the ability to explain complex concepts in a way which everyone can understand.

Workshop Objectives

- The workshop is designed to bring about an understanding of statistics and its uses and interpretations.
- It is an introduction for people who have never studied statistics or as a refresher Workshop for those who feel the need to brush up.
- This workshop will enable people who are required to make business based decisions to have a better understanding of the techniques used to interpret data.

To register electronically, click [here](#).

Topics to be covered

In line with its title, all topics covered will not only enable you to better understand research data and its interpretations, but will be done gently.

Topics include:

- Basic Principles of Statistics
- Measurement scales used
- Measures of Central Tendency and Variability
- Uses and Abuses
- Sampling methods
- Measures of association e.g. chi-square, t-test, ANOVA
- Multivariate Analysis e.g. regression, cluster, factor & correspondence analysis

Venue

The Workshop will be presented at the AstroTech Conference Centre. Tea, coffee and lunch are included in the Workshop price.

Future dates

- 11th August 2011
- 4th October 2011
- 6th December 2011

Registration

Registration is easily achieved by choosing one of two options:

To register electronically, click [here](#)

To register manually, please call Rizia Hoosen at 011 867-4607 or e-mail: rizla@interactivedirect.co.za and she will help you.

Payment of R2450.00 excluding VAT per candidate should follow your registration to ensure your position on this workshop. Register two delegates and get a 10% discount and 3 or more delegates for a 20% discount

Please make sure all cheques are payable to: Analogue Marketing Information Services cc

On receipt of your registration, a tax invoice, directions and a map to the AstroTech Conference Centre will be forwarded to you. Workshop material will be handed out at the seminar.

This workshop can also be presented In-House to a minimum of six delegates. Call Rizia Hoosen at 011 867-4607 or e-mail: rizla@interactivedirect.co.za in this regard.

About Analogue MIS cc

Analogue is a data processing bureau and market research company that also deals in consultation work. Your Workshop presenter, Tony Sham, is an experienced lecturer who will gently guide you through the world of Statistics.

Visit <http://www.analogue.co.za/> for more information.

This mail is brought to you by Interactive Direct

If you do not wish to receive future Statistics Workshops Information please click below
Do not send me future Statistics Workshops Information

To : Sidney Khuzwayo
Company : **SARCC Metrorail**
Position : **Human Resources**

Objectives

The objectives of this Workshop are to give an uncomplicated and practical description of the following aspects of statistical analysis:

- Basic Principles
- Measurements Scales
- Descriptive Statistics
- The Normal Distribution
- The Use and Abuse of Statistics
- Principles of Sampling
- Measures of Association
- Correlation
- The Chi-square Test
- T-Tests
- Analysis of Variance (ANOVA)
- Multivariate Analysis

- Regression
- Cluster Analysis
- Factor Analysis
- Correspondence Analysis

Session Five

An Open workshop in which we will discuss possible solutions to the problems you are currently facing as well as looking at practical examples.

Please contact Tony Sham at tony@analogue.co.za or phone Rizia on 011 867-4607 if you need more information.

**prasa**PASSENGER RAIL AGENCY
OF SOUTH AFRICA

www.prasa.com

NOTICE OF EXTENSION

	XL Nexus Travel	Enquiries:	
	52 Englewood Drive		Prasa House
	Saxonwold		1 st Floor
			1040 Burnett Street
			Hatfield, Pretoria
Attention:	Ms. Estelle Mofadi	Email:	mmosholi@prasa.com ,
Tel:	011 486 9000	Tel:	(012) 748 7293
EMAIL:	estellem@nexustravel.co.za		
REFERENCE:	HO/SCM/309/02/2010	Date:	11 October 2013
Subject:	TRAVEL MANAGEMENT SERVICES		

Please be informed that the contract for the Travel Management Services for PRASA has been extended until 31st January 2014. Same terms and conditions applicable to this agreement will apply.

In this regard the following person will contact you to arrange the necessary meeting with regards to the signing of the addendum.

Mr. Sidney Khuzwayo, Projects Manager-SCM -, at Tel: 012 748 7295

All Invoices for payment, reflecting contract number: HO/SCM/309/02/2010
Vat no. 4900110612 must be made out to Finance Department Private Bag x 101
Braamfontein, 2017

Directors

SN Buthezi (Chairman), TL Montana (Group CEO),
ZB Gasa, T Gabaeshe, X George, M Moore, N Nkomo,Company Secretary:
L Zide



prasa

PUBLIC TRANSPORT
AUTHORITY
OF SOUTH AFRICA

Please indicate your final acceptance of this notice in writing to the undersigned by no later than 15th October 2013 on receipt of this letter.

Kind regards

Matshidiso Mosholi (Ms)

**Senior Manager: Procurement & Tendering
Supply Chain Management**

"I"

CORPORATE TENDER & PROCUREMENT COMMITTEE (CTPC)	
ITEM NUMBER: 11 PRASA RAIL	RESOLUTION MINUTE NUMBER: HQ/PROC/CTPC 0176/ 27 MARCH 2014
TENDER / QUOTATION NUMBER & DESCRIPTION OF SERVICE: THE PROVISION FOR THE USE OF HOTELS AND ACOMMODATION FOR ON BOARD SERVICES PERSONNEL FOR MAIN LINE PASSENGERS SERVICES (MLPS)	
ITEM BEFORE THE CTPC FOR:	CONSIDERATION
TRANSACTION OF ITEM BEFORE THE CTPC:	Request for paying the otutstanding invoice for the service rended.
VALUE OF THE ITEM:	R1 712 164.25 (Incl. Vat)
% BEE EQUITY:	N/A
RECOMMENDED TENDERER/CONTRACTOR/S:	NEXUS TRAVEL
CONTRACT/DELIVERY PERIOD:	N/A
RESOLUTION TAKEN BY THE CTPC: Matter Supported.	
COMMENT(S) /REASON(S)/ REMARK(S) /CONDITION(S) BY THE TPC: 	
..... SIGNATURE: CHAIRMAN	DATE:

CORPORATE TENDER & PROCUREMENT COMMITTEE (CTPC)

ITEM NUMBER: 18-19
PRASA COPR HCM

RESOLUTION MINUTE NUMBER:

HQ/PROC/CTPC OF THE 20 APRIL, 2015

TRAVEL MANAGEMENT SERVICES.

ITEM BEFORE THE CTPC FOR:	CONSIDERATION
TRANSACTION OF ITEM BEFORE THE CTPC:	Request for contract extension for travel management services.
VALUE OF THE ITEM:	R30 000 000.00 (ESTIMATED.)
% BEE EQUITY:	N/A
RECOMMENDED TENDERER/CONTRACTOR/S:	NEXUS TRAVEL
CONTRACT/DELIVERY PERIOD:	6 MONTHS

RESOLUTION TAKEN BY THE CTPC:

Matter Supported subject to:-

COMMENT(S) /REASON(S)/ REMARK(S) /CONDITION(S) BY THE TPC:

Condition(s):-

- The appointment of a new service provider be made within a period of six months extension.

.....
SIGNATURE: CHAIRPERSON

DATE:

Meeting closed at 16h30