

RECOGNITION AND PROCEDURAL AGREEMENT

Between

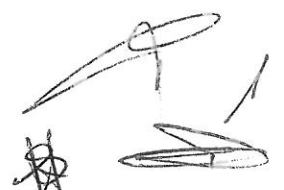
BOMBELA OPERATING COMPANY (PTY) LTD

(Hereinafter referred to as "the Company")

And

UNITED TRANSPORT AND ALLIED TRADE UNION

(Hereinafter referred to as "the Union")

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1 Preamble

- 1.1 The Company operates Gautrain in the Republic of South Africa;
- 1.2 The Union is registered as a Trade Union in accordance with the Labour Relations Act, Act 66 of 1995 as amended ("the Act");
- 1.3 The Company and the Union respectively are desirous of regulating their relationship and all matters incidental thereto, on the terms set out herein.

2 Definitions

2.1 In this Agreement unless the context indicates otherwise the following words and phrases shall mean:

- 2.1.1 "Act" – the Labour Relations Act (LRA), Act 66 of 1995, as amended;
- 2.1.2 "Company" – Bombela Operating Company (Pty) Ltd, including the Company's Head Office Building, all stations, depot, sub depots and all workplaces under the auspices of the Company;
- 2.1.3 "Dispute" – a difference of opinion which results in a deadlock between the parties after following the agreed procedures and practices contained in this Agreement;
- 2.1.4 "Effective Date" – the date of signature of this Agreement;
- 2.1.5 "Employee" – each person who is employed by or who is working for the Company and is receiving or entitled to receive any remuneration including Permanent and Fixed Term Contract.
- 2.1.6 "Industrial Action" – includes any action without limiting the generality thereof a strike and lockout as defined in the Act;
- 2.1.7 "Premises" – the business premises of the Company;
- 2.1.8 Trade Union Representative (TUR) – a TUR elected in terms of this Agreement, also known as a Shop Steward
- 2.1.9 "Sufficiently representative" – means a Union which has thirty percent (30%) of the employees within BOC bargaining unit as members of the Union as proved by stop orders;
- 2.1.10 "Union" – the United Transport and Allied Union (UTATU);
- 2.1.11 "Union member" – an employee who has made an application for membership of the Union and whose application has been accepted by the Union and who is in good standing with the Union;
- 2.1.12 "Union Official" – an employee of the Union;
- 2.1.13 "Bargaining Unit" – Employees of BOC in Bands B, and C including Permanent and Fixed Term Contracts;
- 2.1.14 "Day" - any day, other than Saturday and Sunday or a Public Holiday;
- 2.1.15 "Majority Union" – A Union which has 50% +1 membership of all employees in the Bargaining Unit as proved by stop orders;
- 2.1.16 "Parties" – Bombela Operating Company and UTATU;
- 2.1.17 "Constitution" – means the current constitution of the Union;

- 2.1.18 "Shop Steward" – means a member of the Union duly elected and recognized as a representative of employees in the bargaining unit. May also be referred to as a Trade Union Representative;
- 2.1.19 "Workplace" – means the place where employees of Bombela Operating Company ordinarily report for work.

3 General Principles

The parties declare their commitment to:

- 3.1 Freedom of association – the right of an employee to join a Union and participate in its activities, and the right of the employer to join an employers' association and participate in its activities, in terms of LRA. This freedom of association incorporates the right not to join a trade union or an employer's organization.
- 3.2 Equal opportunities – providing equal opportunities to all employees, subject to the Company employment equity policy if any and as amended from time to time and any relevant legislation.
- 3.3 Non-discrimination – eliminating any workplace practices which unfairly discriminate on grounds of race, gender, sexual orientation, religion, pregnancy, colour, ethnicity, social origin, age, disability, culture or language.
- 3.4 Bombela Operating Company long-term sustainability as a world-class passenger transporter – that maintains safety standards, respects the environment, recognises the dignity of work and endeavours to bring about long-term certainty and stability of employment.

4 Objectives

- 4.1 The parties recognise and appreciate that sound and equitable industrial relations and practices are essential for the promotion of goodwill and the economic and general wellbeing of employees and the short and long term success of the Company's business;
- 4.2 In sharing these objectives, the parties believe that it is in the best interests of the Company and its employees to create a framework in order to regulate the relations between the Company and its employees.
- 4.3 Accordingly and with effect from the date of signature of this agreement by the Company, the Company recognizes the Union as the representative of its members employed in the Bargaining unit in relation to the provisions of this agreement.
- 4.4 The parties will accordingly seek to establish a constructive and co-operative relationship and to this end record that they shall observe all the procedures set out in the Act and in this agreement and that they shall at all times act in good faith towards each other.

5 Shop Steward Numbers and Elections

- 5.1 The Union while representing a majority of the employees of the Bargaining Unit shall be entitled to have the number of Shop Stewards that the LRA prescribes.
- 5.2 The election of Shop Stewards will take place in accordance with the Union's constitutions and with the minimum disruption to Bombela Operating Company operations.
- 5.3 Where and when a duly elected Shop Steward vacates his/her position for any reason.

- 5.3.1 By-elections may take place to fill the vacant Shop Steward position, provided that:
 - 5.3.2 The total Shop Steward numbers are less than the stipulated number in terms of the LRA.
 - 5.3.3 The IR Manager has, at least seven (7) days in advance, confirmed in writing that the Union is entitled to hold a by-election and to fill the vacated Shop Steward position, after being notified by the Union.
 - 5.3.4 Within seven (7) days after an election, the Unions will notify Bombela Operating Company in writing of the names of those elected.
- 5.4 A member of the Union employed by the Company shall only stand for election as a Shop Steward if his job category falls within the Bargaining Unit

6 Shop Stewards' Responsibilities

- 6.1 Bombela Operating Company recognises the rights of duly elected Shop Stewards.
- 6.2 The parties further recognise the following rights and duties of a duly elected Shop Stewards to perform the following functions without loss of pay (including any shift allowances, or benefits), or fear of victimisation:
 - 6.2.1 Represent members who are Bombela Operating Company employees in any grievance or disciplinary proceedings in terms of the relevant Bombela Operating Company policies and procedures;
 - 6.2.2 Attend meetings with Management by Agreement.
 - 6.2.3 Monitor Bombela Operating Company compliance with employment-related legislation and binding collective Agreements, and to report any alleged contraventions to Bombela Operating Company.
 - 6.2.4 Perform other functions agreed to between Bombela Operating Company and the signatory Union;
 - 6.2.5 Represent the interests of Union members by effectively and responsibly liaising between Union members and Management, with the purpose of promoting harmonious labour relations;
 - 6.2.6 Promote co-operation and understanding in order to prevent grievances and disputes;
 - 6.2.7 Disseminate relevant information effectively, responsibly and timeously to Union Members;
 - 6.2.8 Actively promote and ensure effective implementation of and strict compliance by Union Members with the terms and conditions of any Agreements or undertakings reached between the Union and Bombela Operating Company and with any court order obtained by Bombela Operating Company and abide by any undertaking that may be required by Bombela Operating Company regarding confidentiality or the non-disclosure of sensitive or confidential information;
 - 6.2.9 To be available upon reasonable notice to attend any meetings Bombela Operating Company deems necessary in relation to the fulfilment of their duties unless they are prevented from doing so for good reason;
 - 6.2.10 To be released by their immediate Managers when reasonably required to attend any meeting agreed to with Management;

- 6.2.11 To co-operate with Bombela Operating Company to ensure compliance with this Agreement;
- 6.2.12 To take reasonable steps to prevent, discourage and stop any unprocedural action by Union Members by disseminating accurate information and counselling employees to use Bombela Operating Company grievance or dispute resolution procedures.
- 6.2.13 Provided that unless agreed otherwise no Shop Steward may spend more than three (3) working days a month representing members in grievance and discipline in a constituency other than his or her own. Travel costs associated with such representation shall not be for the account of Bombela Operating Company. Should there be a proven need Management will consider the request
- 6.3 Shop Stewards are employees of Bombela Operating Company and are subject to its Policies and Procedures, Rules and the Act. Bombela Operating Company undertakes to notify and consult the relevant Union if it intends taking disciplinary action against a Shop Steward.
- 6.4 Shop Stewards must report to their Line Manager for personal supervision in respect of the following:
 - 6.4.1 Attendance at work and meetings with Management;
 - 6.4.2 Attending to any member issues (including grievance and disciplinary matters);
 - 6.4.3 Safety and Health Issues;
 - 6.4.4 Use of company equipment as detailed in paragraph 7.7 (where permitted);
 - 6.4.5 Training and development; and
 - 6.4.6 Administering and adhering to the provisions of this Agreement.
- 6.5 Shop Stewards must not:
 - 6.5.1 Interfere with employees in the performance of their duties and the carrying out of lawful instructions;
 - 6.5.2 Give instructions to employees or countermand any lawful instruction given to any employee by his/her manager concerning the performance of his/her work;
 - 6.5.3 Encourage any employee to participate in unprotected industrial action; or
 - 6.5.4 Refuse a reasonable request to attend a meeting.

7 Shop Steward Rights and Facilities

- 7.1 Shop Stewards are entitled to a maximum of ten (10) working days paid leave per year to attend to Union business or Union training provided that prior written authorization is given to the Shop Steward in writing by the Company, which authorization should not be refused without good reason and provided that the relevant Shop Steward applies for the required leave 14 days before the time.
- 7.2 Shop Stewards who attend training courses accredited by a SETA will submit proof of such training to Bombela Operating Company for purposes of Bombela Operating Company claiming in terms of its workplace skills plan. If and when BOC receive the levy
- 7.3 Shop Stewards are entitled to one (1) hour a day if there's a need, paid off time during working hours to attend to their responsibilities, subject to obtaining prior permission from their Line Managers (which should not be unreasonably withheld). What is

reasonable paid time off in each operating division will be informed by the operational requirements of each division and existing practices.

- 7.4 Shop Stewards are entitled during working hours to caucus for one (1) hour immediately before any scheduled meeting with Management. This period may be extended by prior Agreement with Management.
- 7.5 Any meetings with members during working hours for mandating and report back purposes may take place only with Managements Agreement, which will not be unreasonably withheld, however operations will not be affected, interfered with or stopped or interrupted.
- 7.6 Shop Stewards are entitled to meet with their members outside of normal working hours on company premises, provided they notify Management, and provided business operations are not disrupted.
- 7.7 Management will grant Shop Stewards reasonable access to telephones, fax machines, emails and photocopiers for purposes relating to their Shop Steward duties, provided the Shop Stewards keep a proper record of use of these facilities. In the event of these facilities being abused or used for purposes not related to the Union and its members employed by the Company, the Company will be entitled to decline access to its telephones, fax machines, emails and photocopiers. In addition the Company shall provide an A4 sized space on Company notice boards used for purposes of communication with its employees for Union purposes. No Union notice shall be placed on a notice board without notifying Management first.
- 7.8 No Union notices are to be placed on any notice boards accessible to the general public or in any area open to the public.
- 7.9 Shop Stewards/Union Officials who serve as trustees on Bombela Operating Company related retirement schemes, medical aid scheme, the TETA or its sub committees will be paid as a matter of course when attending official meetings of those bodies during working hours. Shift will be paid for attending meetings.
- 7.10 The relevant representative Union must ensure that Shop Stewards comply with this Agreement.
- 7.11 Bombela Operating Company must ensure that its Managers comply with this Agreement.
- 7.12 Shop Stewards have no rights or privileges other than those set out in this Agreement.

8 Shop Stewards: Discipline and Termination of Assignment

- 8.1 The Union is entitled to withdraw or replace a Shop Steward, subject to its constitution, and to elect or nominate a substitute, provided this is done in a way that does not prejudice Bombela Operating Company business requirements and provided that the Union has a majority of the Company employees as its members.
- 8.2 The function of a Shop Steward ends automatically on termination of this Agreement, or on expiry of his/her term of office, or where the Shop Steward:
 - 8.2.1 Accepts promotion to a Bombela Operating Company job which falls outside the bargaining unit;
 - 8.2.2 Ceases to be a member of the representative Union which elected him/her;
 - 8.2.3 Ceases to be an employee of Bombela Operating Company;
 - 8.2.4 Resigns in writing from the position of Shop Steward;
 - 8.2.5 Is withdrawn in writing by the Union which elected him/her;

- 8.2.6 Loses his/her position as a result of the Unions aligning their Shop Steward numbers to the LRA:-
- 8.2.7 Breaches any provision of this Agreement or is suspended or derecognised;
- 8.2.8 Commits any further act or omits to do any act when required to do so which brings the Union or the Company or both of them into disrepute;
- 8.2.9 This Agreement terminates for any reason -
- 8.3 Every Shop Steward shall be obliged to comply with his/her terms and conditions of employment.
- 8.4 In the event that a Shop Steward breaches his or her terms and conditions of employment and Bombela Operating Customer wishes to take action against the Shop Steward, the Company shall comply with the LRA and Bombela Operating Company, disciplinary policy and procedures.
- 8.5 In the event that the Shop Steward breaches this Agreement but such breach does not constitute a breach of his or her terms and conditions of employment then Bombela Operating Company may take such steps as it is entitled to in Law, or in terms of its Disciplinary Code and Procedure.

9 Thresholds of Organisational Rights and Collective Bargaining Rights

- 9.1 Thresholds, based on a Trade Union's membership, for organisational rights and collective bargaining rights are detailed below:
 - 9.1.1 **Collective bargaining or negotiating rights:** The threshold for the purposes of collective bargaining or negotiation rights conferred in terms of this Agreement will be fifty percent plus one (50% +1) of Employees in the bargaining unit.
 - 9.1.2 **Shop Stewards:** Any registered Trade Union which has membership of fifty percent plus one (50%+1) in the bargaining unit will be entitled to have Shop Stewards.
 - 9.1.3 **Consultative Meetings:** Any Trade Union which has membership of fifty percent plus one (50% + 1) in the bargaining unit will be consulted on appropriate matters including the dismissal of employees for operational reasons in terms of Section 189 of the Act.
 - 9.1.4 **Access:** Any Trade Union which represents thirty percent (30%) of the employees in the bargaining unit will have reasonable access to Company premises for the purposes contemplated in the Act, on the conditions stipulated in the Act.
 - 9.1.5 **Representation:** Any registered Trade Union with thirty percent (30%) members in the bargaining unit will be allowed to represent its members in disciplinary and grievance hearings.
 - 9.1.6 **Disclosure:** Once recognised in terms of the Agreement, the Parties agree to the disclosure of relevant information in terms of the Act, when a union membership is fifty percent plus one (50% +1).
 - 9.1.7 **Stop Orders:** Union membership stop order facilities will be granted to any registered Trade Union, having membership of thirty percent (30%) or more in the bargaining unit.
 - 9.1.8 **Recognition:** A registered Trade Union will be recognized if it achieves and maintains representation of fifty percent plus one (50% + 1) of the Employees in the bargaining unit.

10 Organisational Rights

The Union shall have the following Organisational Rights within the Company:

10.1 The Company shall grant the Union Organisational Rights referred to below, if the Union has proved membership representivity of 30% of the employees in the bargaining unit. Such Organisational Rights shall be regulated between the parties in accordance with this Agreement and/or in terms of the Act. Should the Union fail to maintain its representivity of 30% or more; the Company will give the Union thirty (30) days to improve its status after which thirty (30) days the organizational rights referred to in this clause shall terminate in the event that the Union does not have 30% of the Company's employees as its members in the bargaining unit.

10.2 Access

Full time Trade Union Officials of the Union shall be given reasonable access at agreed times and venues with Management to the premises for the following purposes:

- 10.2.1 To recruit members and communicate with members;
- 10.2.2 To hold meetings with the Union members;
- 10.2.3 To hold ballots or conduct elections contemplated in the Union's Constitution;
- 10.2.4 Such request shall be made in writing addressed to the Company seventy two (72) hours prior to the intended visit. In such request, notice shall also be furnished to the Company of the names of the proposed visiting officials as well as the purpose of the visit.
- 10.2.5 Union officials granted access to Bombela Operating Company undertake:
 - 10.2.5.1 To obtain permission at least seventy-two (72) hours in advance from a designated Manager before any proposed meeting with employees. This notice period may be waived by Agreement.
 - 10.2.5.2 To meet with employees during lunch breaks or after working hours, unless the Line Manager agrees otherwise.
 - 10.2.5.3 To comply with Bombela Operating Company security access requirements and health and safety regulations.
 - 10.2.5.4 To conduct themselves in an orderly manner during visits to Bombela Operating Company premises.
 - 10.2.5.5 Not to interfere with the normal employment-related duties of any Bombela Operating Company employees; and
 - 10.2.5.6 Not to disrupt the normal operations of Bombela Operating Company.

10.3 Union Subscription Levies

- 10.3.1 A member may, in writing, (applicable UTATU stop order), authorise the Company to deduct subscriptions or levies payable to the Union from his/her basic salaries.
- 10.3.2 The Company shall make all such authorised deductions and remit the amount to be deducted to the Union by the seventh (7th) day of the following month by automatic bank transfer. The Union will inform the Company within seven (7) days of any discrepancies after receiving deduction reports. The stop-order deductions shall commence in the first pay-month after an individual employee's stop-order has been handed in to the Company for verification;
- 10.3.3 A member may at any time revoke an authorisation by giving the Company and/or the Union one (1) months written notice to that effect;

- 10.3.4 Proof of Payment in terms of clause 10.3.2 and a computer print-out stating the names, positions and employee numbers in respect of the union members, from whom deductions have been made, shall be furnished to the Union within 7 days after the end of each calendar month.
- 10.3.5 In the event of any change in the rate of the Union subscriptions or levies, the Union shall advise the Company by written notice signed by the General Secretary of the Union. Notice of any such change in subscriptions must be given to the Company at least thirty (30) days before the expected implementation date.
- 10.3.6 The Company shall cease making deductions of Union subscriptions.
- 10.3.6.1 For a member no longer in the employ of the Company.
- 10.3.6.2 If an employee provides the Company with a written notice to cease the deduction of Union subscriptions in which event the Company shall cease to deduct the Union subscriptions after not less than thirty (30) days after receipt of the notice.
- 10.3.6.3 If the Union is no longer sufficiently representative, which provision may be waived by the company, in its sole discretion.
- 10.3.6.4 The Company shall not be responsible for the collection of any subscriptions or levies which may be in arrears through no fault of the Company, nor shall it be liable for any claims which may result from the Company's deductions of subscriptions in terms of this Agreement.

11 Meetings

- 11.1 Management of the Company and, the Union shall meet as and when necessary and on a date and time as mutually agreed to discuss issues of mutual concern
- 11.2 These meetings as and when held, shall not be utilised for the purposes of negotiating any conditions of service of the members of the Union except for Negotiation Meetings, nor shall they be used in order to bypass normal Company channels of communication.
- 11.3 All meetings between the parties shall take place in accordance with an agenda, which shall be submitted by the party requiring the meeting at least seven (7) days prior to the day on which the meeting is to be held. The agenda in this regard is to be referred to the relevant branch officer of the Union and in the case of the Company is to be submitted for the attention of the Company's Industrial Relations Manager.
- 11.4 In the event that any report back meeting with the Union members employed by the Company is required, such report back shall take place at a time to be agreed with the Company and shall endure for no longer than one (1) hour, and no operations will be disrupted.
- 11.5 For so long as this agreement endures and the Union shall participate in the meetings referred to below.

11.6 Employment Equity Meetings

- 11.6.1 The purpose of this committee is to ensure that Bombela Operating Company complies with employment equity legislation and to monitor and guide employment equity in the operating divisions/departments.
- 11.6.2 It meets twice per annum, preferably on the same day as the Skills Development Committee, and is chaired by Divisional Manager. Extra meetings may be held if necessary and if both parties agree.

- 11.6.3 The Union shall be entitled to have two (2) Shop Stewards and one (1) Union Official attend these meetings. Bombela Operating Company is represented by its relevant Managers.

11.7 Skills Development Meetings

- 11.7.1 The purpose of this committee is to ensure that Bombela Operating Company complies with skills development legislation and to monitor and guide skills development in the operating divisions/departments.
- 11.7.2 It meets twice per annum, preferably on the same day as the Employment Equity Committee, unless otherwise agreed, and is chaired by the Divisional Manager.
- 11.7.3 The Union shall be entitled to have two (2) Shop Stewards and one (1) Union Official attend these meetings. Bombela Operating Company is represented by its relevant Managers.

11.8 Co-ordinating Committee

- 11.8.1 The purpose of the Co-ordinating Committee is to consult on the impact of an operating departments' business plans on bargaining unit employees.
- 11.8.2 At Co-ordinating Committee meetings, Management will share information on performance against the business plan twice per annum.
- 11.8.3 Management may consult the Union on the following issues so far as they affect Bargaining Unit employees:
- 11.8.3.1 Operational Efficiencies;
 - 11.8.3.2 New technologies;
 - 11.8.3.3 Redundancies;
 - 11.8.3.4 Employee Wellness;
 - 11.8.3.5 Safety;
 - 11.8.3.6 Any other agreed issues;
 - 11.8.3.7 The Union shall be entitled to have two (2) Shop Stewards and two (2) Union Officials attend these meetings. Bombela Operating Company is represented by the CEO or is duly delegated manager.

11.9 Consultative Committee

- 11.9.1 The Consultative Committee at a workplace will consist of two (2) Shop Stewards and a minimum of two (2) Management Representatives.
- 11.9.2 The Consultative Committee shall meet at least twice a year at the relevant workplace, or parties may hold extra meetings if necessary and if both parties agree
- 11.9.3 The Shop Stewards' committee may hold a caucus meeting not exceeding one (1) hour in duration before the day set down to meet with Management Representatives at a specific workplace.
- 11.9.4 Items to be included on the agenda must be submitted at least seven (7) days prior to the date of the meeting.
- 11.9.5 The Chairperson of the Consultative Committee shall be a Divisional Manager at the workplace.

- 11.9.6 The Chairperson of the Consultative Committee may appoint a Secretary who will be responsible to take minutes, compile the agenda and distribute documents to all members of the committee.
- 11.9.7 Meetings will be recorded and minutes of all Consultative Committee meetings will, be distributed to all committee members, if possible, within one (1) week after the date of the meeting.
- 11.9.8 Special meetings may be held by mutual Agreement, if requested by a Party, at a date and time agreed upon.
- 11.9.9 Report-back after meetings by Shop Stewards will take place on the day after meetings, if practical, during lunch hours or after hours, or as agreed between the parties.
- 11.10 Negotiating Committee
- 11.10.1 Company level negotiations regarding terms and conditions of employment for Union members employed in the Bargaining Unit shall take place annually commencing in the month of May.
- 11.10.2 The validation of Union membership will be done in the month of March.
- 11.10.3 The Union will submit proposals for negotiations in writing to the Company by the end of April.
- 11.10.4 A negotiating committee shall be established for the purposes of negotiations and shall consist of not more than:
- 11.10.4.1 Two (2) Shop Stewards;
- 11.10.4.2 Four (4) Management Representatives; and
- 11.10.4.3 Two (2) Union Officials
- 11.10.5 The Parties agree that negotiations will be the principal method to effect changes contained in this or any substantive Agreements between the parties.
- 11.10.6 The purpose of the negotiating committee shall be to negotiate and to endeavour to reach Agreement on:
- 11.10.6.1 Amendments to this Agreement;
- 11.10.6.2 Any other Procedural Agreement;
- 11.10.6.3 Matters of substantive issues and mutual interest relevant to Union members employed in the Bargaining Unit;
- 11.10.7 During negotiations the Parties shall meet as often as they deem necessary and they shall use their best endeavours to resolve issues by negotiating in good faith.
- 11.10.8 If a matter has not been resolved after a minimum of three (3) meetings, and both Parties have attended these meetings and a deadlock has been declared, the Party declaring a dispute may then refer the matter for dispute resolution in terms of the dispute procedure contained in this Agreement, unless the Parties agree that deadlock has not been reached.
- 11.10.9 Members of the committee will be paid for the shift for attending these meetings.
- 11.10.10 Level "D" Managers are excluded from salary negotiations and substantive issues.
- 11.10.11 Parties may agree to enter into Agreements for any duration

11.11 Internal Dispute Resolution Committee

The Internal Dispute Resolution Committee shall be established as and when there is a dispute as follows:

Not more than two (2) Shop Stewards, and not more than two (2) Union Officials

Not more than four (4) Management representatives including the Chairperson

12 Dispute Procedure

- 12.1 Should the parties fail to reach Agreement on any issue, then either party may declare a dispute to be addressed to the other party in writing, stating the nature and detail of the dispute and the desired outcome of the dispute;
- 12.2 The written notification with suggested date and time for the first meeting between the parties, which date and time will be mutually agreed upon at the earliest possible opportunity, shall be addressed to the other party;
- 12.3 Should the parties fail to resolve the dispute, either party may refer the dispute in terms of the mechanisms provided for by the Act or to private arbitration as per Annexure A.

13 Industrial Action

13.1 Peace obligation and responsible conduct

- 13.1.1 The parties reaffirm their fundamental belief that they should responsibly discuss and negotiate matters in good faith with a view to concluding agreements at the earliest possible opportunity and to avoid industrial action.
- 13.1.2 Accordingly, neither party shall cause, sanction or participate in any industrial action directed against the other party until such time as the procedures contained or referred to in this agreement and the Act have been exhausted, save that no such industrial action shall take place concerning any issue which is the subject matter of an agreement during the period of such agreement, or during the negotiation, conciliation, mediation, determination or arbitration of any dispute.
- 13.1.3 The company records that the nature of its business and operations are such that should any industrial action take place, it could lead to an immediate loss of customers and hence prejudice both the company and its employees severely.
- 13.1.4 A party shall accordingly give the other party at least forty eight (48) hours written notice of its intention to engage in industrial action and it shall state the date and time of the commencement of industrial action and the nature of the intended action.
- 13.1.5 Members shall not engage in any form of misconduct during industrial action or "sit-ins" at or other occupation of the premises and shall not block entrance and exit areas.
- 13.1.6 During the industrial action members shall not unlawfully attempt to interfere with customers, suppliers, employees or contractors who choose to work during the industrial action.

13.1.7 Any failure to comply with this clause shall constitute a basis to cancel this agreement and/or to take disciplinary action against defaulting members.

13.2 Communications and industrial action

13.2.1 Should either party either promote in industrial action, the parties shall make themselves available, both prior to and during the period of the industrial action, in order to attempt to resolve the dispute.

13.2.2 Should the dispute be resolved, the parties shall agree on the day and when members shall return to work.

13.2.3 Should members either promote or engage in any unprotected industrial action, the company shall attempt to inform a union official, or in his absence, a Shop Steward, of the nature and circumstances of the industrial action and may require him and/or such other shop stewards as the company may deem necessary, to attend a meeting with the company at a time and date and at a venue nominated by the company.

13.2.4 At that meeting the company, having discussed the unprotected industrial action with the union, shall inform the union of the action the company intends to take against the union and/or members.

13.2.5 The company reserves its rights to institute legal proceedings for an interdict and/or damages should the union and/or members promote or engage in unprotected industrial action or misconduct and to take disciplinary action during the industrial action in respect of misconduct perpetrated either to, following or during the industrial action.

14 Protest action in terms of the Act

14.1 In the event that the union wish to engage in protest action in terms of the Act, then the union shall advise the company in writing at least seven (7) days beforehand of the time and date of commencement of the protest action and the reasons therefore.

14.2 The notice shall include the following details:

14.2.1 the reason for the protest action

14.2.2 the nature of the protest action

14.2.3 the extent and duration of the protest action

15 Communication During Industrial Action

15.1 The parties agree that it is imperative that contact is maintained between Bombela Operating Company and the Union during any industrial action.

15.2 To facilitate communication, the Union will ensure that Union officials or their designated representatives are available during the industrial action, and undertake to provide Bombela Operating Company with the names and contact details of these people before industrial action starts.

16 Duration of the Agreement

16.1 This Agreement shall come into force on the date of signature by both parties and shall lapse and cease to be of any force or effect:

16.2 In the event of it being superseded by a further Agreement agreed to and signed by both parties.

- 16.3 When either party commits a material breach of this Agreement, such a breach shall entitle the aggrieved party to call upon the other party to remedy the breach within fifteen (15) working days. If the party fails to remedy the breach, the aggrieved party may summarily terminate the Agreement by written notice to the other Party.
- 16.4 When the Trade Union representivity falls below fifty percent plus one (50% + 1) of the employees in the bargaining unit the following will be implemented:
- 16.4.1 The Company will inform the Union in writing.
- 16.4.2 The ninety days (90) notice will be effective from date of the notice letter
- 16.4.3 The Recognition and Procedural Agreement and its Annexures will be cancelled after the ninety days(90) notice period.
- 16.5 Notwithstanding the above this agreement may be terminated should either the company or the Union give thirty (30) days written notice of termination to the other party, for any other reason including non compliance.

17 Misconduct during industrial action

Bombela Operating Company is entitled to take any action it deems appropriate to deal with un procedural industrial action, as well as misconduct (including criminal conduct or serious breaches of this Agreement whether or not they result in injury, loss of life, or damage to property) during industrial action.

18 Communication

- 18.1 Nothing in this Agreement detracts from Management's right to communicate with its employees, and the Unions' right to communicate with its members.
- 18.2 The parties may agree from time to time to issue joint communiqués.
- 18.3 The Union will respect communication forums established by the Company, failure shall result in the agreement being terminated.
- 18.4 The Parties agree that, after each negotiating committee meeting, a joint statement will be issued by either Management or the Trade Union. Notwithstanding this, the Company reserves its rights at all times to maintain unrestricted communication with its employees, including such employees who are members of the Union.
- 18.5 Where Parties communicate through letters the responding party will have at least five (5) days to respond after receiving the signed letter.

19 General

- 19.1 The parties undertake to do all such things, perform all such acts, to take all such steps and procure the doing of all such things, which may be reasonably required to implement in the terms and conditions of this Agreement and fulfil its purposes and objects. This undertaking includes, but is not limited to, the obligation to exchange such information as is reasonably required by the other party for the successful implementation of this Agreement.
- 19.2 This Agreement and all Agreements entered into in terms of and pursuant to this Agreement, shall be deemed to form part of the terms and conditions of such members.

- 19.3 The Agreement constitutes the sole and exclusive Agreement between the parties and no warranties, representations or other terms and conditions of whatsoever nature, which are expressly recorded herein, shall be of any force or effect.
- 19.4 No variation, modification, alteration, addition, amendment of the terms and conditions of this Agreement shall be of any force or effect unless put in writing and signed by an authorised official of the Company and Trade Union Official as the case may be.
- 19.5 For all purposes under this Agreement or any amendment hereof and with regard to any matter arising in connection with this Agreement, the parties choose the following address as their domicilium citandi et executandi:

The Company Bombela Operating Company (PTY) LTD
 1st Floor Midrand Depot
 Alstation Road
 Midrand
 Telefax: 011- 2530099

The Union United Transport and Allied Trade Union
 182 Louis Botha Avenue
 Houghton Estates
 Johannesburg
 Telefax: 011- 7288257/8

THUS DONE AND SIGNED BY THE PARTIES ON THE DATES AND AT THE PLACES SET OUT HEREUNDER:


For: **BOMBELA OPERATING COMPANY (PTY) LTD**

Witness: 

Date: 09. November 2011

Place: MIDRAND


For: **UNITED TRANSPORT AND ALLIED TRADE UNION**

Witness: 

Recognition and Procedural Agreement

Date: 9 November 2011

Place: Midrand