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Date: 26 May 2020

Our Ref: D Maharaj

Your Ref:

The Minister of Transport
The Honourable Mr Fikile Mbalula
159 Struben Street
Forum Building
Pretoria

Per Email: transportministry@dot.gov.za
phenyam@dot.gov.za

Dear Sir

Re: **MEMORANDUM ON BEHALF OF PRIVATE CHARTER PASSENGER OPERATORS ASSOCIATION**

1. We act on behalf of the Private Charter Passenger Operators Association, an entity comprising passenger transport operators who are exclusively involved in the private charter passenger transport industry in South Africa. The Association which currently comprises 85 members based countrywide. A schedule of the entities that we represent is attached hereto for your easy reference.
2. All our clients' members are duly registered passenger transport operators of long-standing servicing the travel and tourism as well as private hire sectors and are not contracted to government to provide transportation services to any of its departments. In particular, they are not plying any

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(DMA Inc: Registration No: 2015/002357/21)

particular routes nor providing scholar transport to any provincial Department of Education, countrywide.

3. Throughout the tenure of their respective businesses, the members of PCPOA were completely reliant on their vehicles being chartered by tour operators and the private sector. They never obtained any state aid either in the form of contracts or subsidies yet they contributed to the fiscus by way of direct and indirect taxation as well as through job creation and sustaining of all businesses providing services to the charter industry. Consequently, our clients are responsible for an entire chain of businesses and employment that contributes significantly to the state coffers and to the national economy.
 4. Cumulatively, our clients' members own over 1200 vehicles and pay substantial amounts in licensing fees to the relevant organs of state.
 5. As the economic impact of the COVID-19 virus rapidly becomes clearer, it is evident that businesses, and even entire industries, especially those that provide non-essential services like the private charter coach operators, are now facing an economic crisis.
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6. Our client's Industry is facing a crisis of survival. With this in mind, all the significant players in the industry have come together for the common purpose of ensuring the survival of their industry and those of their supply industries.
 7. Prior to the COVID-19 Pa8ndemic ("Pandemic"), the unemployment rate in South Africa stood at an alarming 29%. The World Bank projected that it would be approximately 35% by December 2020. In the wake of the economic aftermath of the Pandemic, experts estimate that the unemployment rate in South Africa will increase significantly. The issue of unemployment was a crisis prior to the Pandemic but it will undoubtedly be a catastrophe after it.
 8. As you are well aware, our client's members had to stop work completely since the introduction of the lockdown from 26 March 2020 and none of the members have generated any meaningful income since then. In fact the vast majority of them have not generated a single cent since the lockdown and that position is set to endure for some time and possibly well into the New Year until life returns to some semblance of normality.
 9. However throughout this lockdown our clients members have been expected to meet their financial obligations relating to their respective businesses including paying licensing fees, operating costs, staff salaries
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and taxes (either in the form of input VAT or income tax/company tax/employees tax) whilst having no income whatsoever.

10. The Temporary Employee/Employer Relief Scheme ("TERS") will go some way to help avoid large scale retrenchments and closure of operations but without any alternate long-term relief, the decimation of the industry on account of the economic effects of the pandemic is inevitable and will impact the livelihood of more than a 15 000 people and their families directly. Notwithstanding the defining contributions made by the industry to the economy, the fiscus (all 9 Provinces and national) and to the livelihoods of hundreds of thousands of people, there is a notable absence of relief offered or made available to the industry in response to the Pandemic.
 11. Our clients members are appreciative of the their efforts to ameliorate the hardships of employees in the industry in terms of the disaster management tax relief Administration initiative in terms of the ETI allowance scheme. But it must be noted that this incentive scheme is only applicable from 1 April 2020 until 31 July 2020 and two months have already lapsed with no certainty as to when the private charter industry may resume operations. There is further no certainty that the above period will be extended for present purposes we must assume that it will not be extended.
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12. Whilst National Treasury has also deferred a portion of the company tax liability until 31 March 2021 that is cold comfort to an entire industry that is unable to generate any income whatsoever. It is also unknown when the industry will resume operations.

 13. Furthermore, whilst the Association applauds the creation of the TOURISM RELIEF FUND, that fund is hopelessly inadequate to assist our clients members in any meaningful manner in that the maximum amount payable is R 50,000 per entity and in most of the operators businesses that amounts to about half of the monthly instalment of a single coach payable to a financial institution. Consequently, this fund is of absolutely no assistance to the members whatsoever.

 14. The association's members have tried to take advantage of the Debt Relief Finance Scheme put together by National Treasury and is fully appreciative of government efforts to sustain small and medium businesses. However, one of the major stumbling blocks of the scheme is the requirement to furnish six month cash flow projections in order to demonstrate to the participating financial institutions that an applicant does not pose a serious risk should such a loan be advanced to it. It is blatantly clear that this crucial criteria can never be met in view of the uncertainty surrounding when the industry may become operational. Consequently, we are given to understand that all applications for funding that have been lodged simply fail on account of this criteria not being met.
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15. Furthermore, despite these loans being underwritten ultimately by way of a guarantee from National Treasury, the participating financial institutions still require all forms of security including personal suretyships to secure loans. Notwithstanding moratoriums being placed on repayments, while such measures are laudable, they are simply not practical with regard to the industry that we represent especially when it is uncertain when the industry will become operational again. Furthermore these loans which have been forced upon the industry are not through their own doing that have been brought about by the closure of the industry through extraneous circumstances. Each applicant is consequently at risk of losing all the investment over the years should it not be able to repay the loan and as such, these loans pose a real risk to the future viability of successful applicants businesses even if the loans provide some sort of interim relief.
 16. We believe that it is quite realistic and reasonable for our client to expect that its members' industry will only become operational during Level I. At that stage most of its members would have ceased trading with the consequent devastating impact on its employees, service providers and allied industries. Even after we reach the threshold, we believe it is fair to assume that the travel and tourism industry as well as the conference markets will take much more time to gain momentum as we can hardly expect a rush of tourists from other parts of the world to our shores. Consequently, it is completely rational and plausible to contend that the
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industry that we represent will only commence normal operations some time after normality is reached, well after Level I is achieved. To the extent that it may be envisaged that tourism attractions and entertaining venues shall remain closed except to provide private self-drive excursion activities, such relaxations clearly fall outside the scope of our client's industry.

17. It is clear from the above that whilst government has introduced measures to ameliorate the hardships that will be experienced by many businesses in the country, the industry that we represent is in an exceptional position and as such more practical measures need to be implemented to save this industry other than the general concessions and financial relief packages that have been made available to all small and medium businesses, irrespective of the sector in which they operate.

 18. Our client's members transcend all race groups in the country and all of them employ staff predominantly from previously disadvantaged groups. They have made a significant contribution to employing previously disadvantaged persons and contributing to the Fiscus over the years. You will appreciate that the pandemic knows no colour and to the extent that government has made it quite clear that all its citizens are expected to contribute towards lowering the curve, we believe that government has a duty to protect all its citizens and businesses owned by them.
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19. Our clients' members have accordingly come up with a few practical suggestions on how to keep the industry alive especially during these trying times and until such time that the industry becomes self-sufficient and sustainable. The measures that are proposed hereunder have been specifically designed so as not to impose any further financial hardships on government but to rather reduce the financial burden on government and enable a situation whereby the resources made available by government which would have gone to this sector in the form of tax relief and loans are made available for primary healthcare and safeguarding the health and welfare of its citizens at large.
20. The measures that are envisaged and recommended for consideration and implementation are as follows, namely:

20.1 **PUBLIC SCHOLAR TRANSPORTATION CONTRACTS**

The various provincial Departments of Education spend Millions of Rand annually on the transportation of scholars between their homes to the schools in all parts of the country. Invariably, tenders are awarded to a very limited number of operators in each province who invariably subcontract services or higher vehicles from other operators to service these contracts. The situation has given rise to a few entities monopolising these contracts, excluding many operators from the process even where services are subcontracted

or vehicles hired and where subcontracting does take place, the principal contractor invariably exploits the subcontractors.

It is not an unknown secret that a few operators have gained prominence and in fact notoriety in securing and exploiting these contracts to the exclusion of the general body of transport operators. It is proposed that all these contracts countrywide should be revisited and the private charter service should be brought on board in each area where they are situated or where they can operate so as to "share the cake" and ensure that many more businesses are sustainable and that these contracts are not the preserve of a select few operators.

The introduction of such a system especially against the backdrop of service providers being in existence countrywide, will eradicate any notions of bias, favouritism, nepotism or corruption in favour of a more inclusive and broad-based panel of service providers.

In this regard, we can very easily make available to your department details, at short notice, of all service providers whom we represent, the areas where they are located and the number of vehicles at their disposal to give you a snapshot of the services that are available for inclusion as service providers to the scholar transport contracts. Our clients would expect that they be directly contracted to the

respective provincial departments as opposed to being subcontracted to already existing service providers so that they can be directly accountable to such department and not be at the mercy of principal contractors.

The above initiative can be implemented at short notice given the fact that scholars are set to return to school in batches which will give the respective Departments sufficient time to implement the measures suggested above.

20.2 **INCORPORATION INTO PUBLIC TRANSPORT SERVICES**

There can be no doubt that your department simply cannot reintroduce public transportation services without having regard to the requirements of social distancing and personal protection of commuters. You, Mr Minister are more acutely aware than others and have publicly stated your concern for public transportation services not being currently adequately equipped to render services having regard to the health and welfare of the commuters. The need for social distancing will invariably result in vehicles not being fully loaded to normal capacity which will inevitably require additional passenger transport vehicles to be made available in addition to current available resources.

Our clients members are ideally suited to provide the additional resources and vehicles required to supplement existing services on the same terms and conditions that are applicable to existing service providers. In this regard, we have noted your concerns during your interviews in the mainstream media regarding the inadequacy of the Rea Vaya service and we are quite certain that your criticisms in respect of the service apply equally to passenger transport services being provided by other similar service providers contracted to Government departments in various areas.

Our clients' members have no issue in implementing any regulations relating to seating capacity and distances between commuters as well as ensuring each commuter has been sanitised and is in possession of personal protective gear such as masks to minimise the spread of the virus during travel.

Our clients also appreciate your serious concerns regarding transportation by rail and overcrowding in trains which you have clearly indicated has to be addressed and we believe that our clients members can provide the necessary assistance in this regard to reduce the number of commuters travelling in the trains by providing alternative transportation for them thereby reducing the rates of transmission of infections.

20.3 **TRANSPORTATION OF EMPLOYEES IN RESPECT OF EXEMPTED BUSINESS SECTORS**

To the extent that it may be directed in the Regulation 42(4) in terms of Section 27(2) of the Disaster Management Act 2002 that all construction and manufacturing firms with more than 500 employees must provide transport to their employees coming to site, or, where this is not possible, consider staggered shift arrangements to reduce congestion in public transport, our clients members ought to be considered in procuring such transport services and a list of the members should be compiled and published and disseminated to all construction and manufacturing firms to enable them to enlist the services of the members.

You will appreciate that all the member's vehicles and drivers have the appropriate permits, licenses and passenger liability insurance for transportation of passengers and as such, they will be fully compliant to provide transportation services to such firms and government departments that will require safe and reliable passenger transport services.

20.4 MORATORIUM ON PAYMENT OF LICENCING FEES

You may not be aware of the fact that the licensing fees payable by the members in respect of each of their vehicles amounts to approximately R5000-00 per month. By way of example and operator with 10 vehicles with pay in excess of R50 000-00 per month whilst the vehicle is not operating and not generating any income whatsoever. It is highly unfair to expect our clients to pay these exorbitant licensing fees whilst not utilising the roadways and not generating any income. As such our clients' members humbly request that Regulations be issued placing a moratorium without penalties on the payment of licensing fees since commencement of the lockdown until services resume. In those instances where licence fees have been paid upfront for the next six months, then in all fairness those vehicles should be exempt from licensing fees for the same period as the lockdown until resumption of work from the latter date. Such a measure will bring some financial relief to operators as part of the general relief measures implemented by the government to assist businesses affected by the pandemic.

20.5 **MORATORIUM ON PAYMENT OF LEASE INSTALMENTS TO FINANCIAL INSTITUTIONS**

The entities whom we represent acknowledge the steps taken by financial institutions to provide some financial relief to their clients especially those who have credit agreements with them. We have taken cognizance of the regulations passed by government placing a moratorium on evictions of persons who are in each of the lease agreements on account of the effects of the pandemic on the income and inability to pay rentals.

Many of the entities represent find themselves in a similar position that without any income being generated by the businesses, they are experiencing undue hardships in meeting the monthly instalments in respect of vehicles purchased through financial institutions. Businesses, unlike individuals need to be credit worthy in order to sustain themselves and should judgements be recorded against them, then securing clarity in future becomes impossible.

We believe that it is only appropriate that relief be afforded to those business entities such as those whom we represent who have existing credit agreements with financial institutions, for government to pass Regulations placing a moratorium on payments and interest and penalties from date of lockdown until the day that

they resume operations. The period of existing credit agreements can very easily be extended by the moratorium period simply to keep businesses sustainable. We doubt that there can be any objections thereto from the financial institutions as the relief that our clients seek is only an interim measure and will keep businesses operational as opposed to them going into default and ultimately out of business. This would result in financial institutions suffering greater losses as opposed to forgoing interest and penalties during the lockdown.

21. Our clients members are aware of your public statement made on the 24 May 2020 wherein you confirmed that your Department will offer financial assistance to the taxi industry to make up for the losses it suffered during the lockdown and was finalising the modalities to support the taxi industry. Such support is being promised to that industry despite the fact that the industry has been operational and the taxi operators have been receiving some income during the intervening period. The entities that we represent have not been receiving any income for an extended period and they request that they be treated in the same manner and be offered financial assistance as well.
 22. COVID-19 has presented the world with an extraordinary and unprecedented situation for which ordinary solutions cannot be applied. We appeal to you for the well-being of our people and for the future of an entire industry to consider the above and to engage with us on ways in
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which the same may be refined and applied as urgently as possible. We stand ready to join hands with you to do exactly what the President has called us all to do, namely, to protect the people and preserve businesses in South Africa in extraordinary ways and we believe that the suggestions set out above provide a concise range of practical measures to give effect to the President's call.

23. We look forward to hearing from you with regard to the above as soon as possible and would be pleased to receive any enquiries from your good office designed to give effect to the above measures.

Yours faithfully.

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