

PUBLIC BUS SERVICES ORDINANCE (Chapter 230)

FRANCHISE

In exercise of the powers conferred by section 5 of the Public Bus Services Ordinance, the Chief Executive in Council hereby grants to Citybus Limited, a company registered under the Companies Ordinance, whose registered office is situated at No.8 Chong Fu Road, Chai Wan, Hong Kong, the right to operate a public bus service on the routes specified in the appropriate Schedule of Routes order from time to time in force in respect of the said company under section 5(1), and in any notices under sections 14 and 15, of the Public Bus Services Ordinance, subject to the conditions hereinafter contained namely:—

PART I

PRELIMINARY

1. (1) In this franchise, unless the context otherwise requires:— Interpretation

“Bus Service”

means the Grantee’s business of operating a public bus service under this franchise;

“Certification Body”

means a certification body accredited under the Hong Kong Certification Body Accreditation Scheme by the Hong Kong Accreditation Service, Innovation and Technology Commission;

“Clause”

means a clause of this franchise;

“Commencement Date”

means 04:00 Hours 1 June 2016;

“Facilities”

means each of the following and includes parts thereof:—

bus stop signs, bus stop sign posts, canopies, shelters, seats, queue railings, lighting at bus stops, terminal points and termini; information panels and equipment; customer service centres; bus regulators’ offices and kiosks; air-conditioned passenger waiting areas; television broadcasting and all other audio-visual

equipment; and such other facilities that are used by the Grantee for the purpose of or in connection with the Bus Service, and in the event of any dispute as to the meaning of any of the aforesaid, shall be determined by the Commissioner after consultation with the Grantee;

“Forward Planning Programme”

means a programme which is in force from time to time under section 12A of the Ordinance;

“Franchise Period”

means the period referred to in Clause 4;

“Grantee”

means Citybus Limited;

“Hong Kong”

means the Hong Kong Special Administrative Region of the People’s Republic of China;

“Open tendering”

means a tendering exercise where all interested persons may participate;

“Ordinance”

means the Public Bus Services Ordinance (Cap. 230);

“Other Grantee”

means any other company which is a grantee of a public bus franchise under the Ordinance;

“Passenger Liaison Groups”

means the passenger liaison groups established pursuant to Clause 15(1);

“Qualified Auditor”

means a person who is qualified for appointment as an auditor of a company under section 393 of the Companies Ordinance (Cap. 622);

“Related Party” or “Related Parties”

means a party or parties that is/are considered to be related for the purposes of the Hong Kong Accounting Standard (HKAS) No. 24 (Revised) “Related Party Disclosures” issued by the Hong Kong Institute of Certified Public Accountants in November 2014 as the same may be amended from time to time;

“Schedule of Service”

means a schedule of service issued by the Commissioner

from time to time in respect of each bus route of the Bus Service specifying, pursuant to the Ordinance, bus service arrangements including but not limited to the route, timetable, faretable, journey distance, journey time, carrying capacity and type of buses to be used.

- (2) Any expression or word not specifically herein defined shall have the meaning assigned to it by the Ordinance and, if not defined therein, by the Interpretation and General Clauses Ordinance (Cap. 1) and/or the Hong Kong Reunification Ordinance (Cap. 2601).
- (3) For the avoidance of doubt, unless there is express provision to the contrary, the Grantee shall at no cost to Government comply with any direction and requirement given under this franchise by the Commissioner, the Financial Secretary or any other public officer.
- (4) For the avoidance of doubt:—
 - (a) where this franchise confers upon any public officer power to do or enforce the doing of any act or thing, all such powers shall be also conferred as are reasonably necessary to enable the public officer to do or enforce the doing of the act or thing.
 - (b) without prejudice to the generality of paragraph (a) above, where this franchise confers power upon any public officer:—
 - (i) to grant approval, consent or exemption, such power shall include power to impose reasonable conditions subject to which such approval, consent or exemption may be granted;
 - (ii) to approve any person or thing, such power shall include power to withdraw approval thereof; and
 - (iii) to give directions, such power shall include power to couch the same in the form of prohibitions.

2. (1) This franchise is granted subject to the Grantee complying with the terms and conditions on its part to be performed in any franchise applicable to the Grantee under the Ordinance and in force in the period ending 04:00 Hours 1 June 2016 and with the provisions of the Ordinance.
- (2) The Ordinance shall apply to this franchise in full and for

Franchise subject to performance of obligations, etc.

all purposes. Nothing in this franchise is intended or shall be construed to affect, restrict, limit or diminish in any way, any of the powers (including discretion or privilege) of the Government, the Commissioner or any other public officer under the Laws of Hong Kong.

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| 3. | The Grantee shall have the non-exclusive right to operate a public bus service on the routes which are specified in the Schedule of Routes order for the time being in force. | Routes Order |
| 4. | This franchise is granted for the period from and including the Commencement Date until 04:00 Hours 1 June 2026 and such period may be extended under section 6(2) or (3) of the Ordinance. | Franchise Period |
| 5. | For the purposes of section 8 of the Ordinance, a majority of the directors of the Grantee shall be ordinarily resident in Hong Kong irrespective of their nationality. | Residential requirement |

PART II

GENERAL

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| 6. | The Grantee shall, if requested by the Financial Secretary, take such steps as are necessary and reasonable to have and to continue to have its shares listed on the Stock Exchange Company as defined in section 1 of Schedule I to the Securities and Futures Ordinance (Cap. 571). | Grantee's shares to be listed on the Stock Exchange Company |
| 7. | <p>(1) The Grantee shall, as far as practicable, acquire, provide, adopt, maintain, or modify to the satisfaction of the Commissioner such safety or service enhancement facilities, installation, fixtures, fittings, apparatus or equipment on its buses as may be reasonably required by the Commissioner after consultation with the Grantee.</p> <p>(2) Subject to Clauses 9 and 10, the Grantee shall acquire, provide, adopt, maintain, modify or remove to the satisfaction of the Commissioner such Facilities as may be reasonably required by the Commissioner after consultation with the Grantee.</p> | Provision of the Facilities etc. |
| 8. | Subject to Clauses 9 and 10, the Grantee shall acquire, provide, adopt, maintain, modify or remove to the satisfaction of the Commissioner such canteens, washrooms and toilets for its employees and the employees of any Other Grantee as the Commissioner considers appropriate after consultation with the Grantee. | Provision of canteens, washrooms and toilets |

9. (1) The Commissioner may, after consultation with the Grantee, direct in writing that for a specified period with effect from a specified date the Grantee shall share or permit the sharing of the use of any or all of the bus stops, terminal points, termini, Facilities (other than those provided on-bus), canteens, washrooms and toilets acquired, provided or adopted by the Grantee or any Other Grantee whether under this or any other franchise, as the case may be. Shared use of bus stops etc.
- (2) The Commissioner may, after consultation with the Grantee, direct in writing that with effect from a specified date the Grantee shall cease using, vacate or remove any bus stops, terminal points, termini and Facilities which are or have been used by the Grantee under this or any other franchise and which are not required for use by the Grantee for the Bus Service.
- (3) The Commissioner may, after consultation with the Grantee, direct in writing that with effect from a specified date the Grantee shall:-
- (a) make available and transfer the Grantee's whole right, title and interest in the Facilities (other than those provided on-bus) acquired, provided or adopted by the Grantee under this or any other franchise to any Other Grantee; and
 - (b) accept the transfer of and assume responsibility for any facilities (other than those provided on-bus) which are used by any Other Grantee and which are to be transferred to the Grantee by virtue of a direction given by the Commissioner to any Other Grantee under the provisions of any other franchise with similar effect to Clause 9(3)(a).
- (4) In the event that the Commissioner makes a direction:-
- (a) under Clause 9(1), the Grantee shall negotiate in good faith with the concerned Other Grantee to reach agreement as to maintenance responsibilities and the fair and equitable apportionment on the expenses of maintaining the Facilities (other than those provided on-bus), canteens, washrooms and toilets between the Grantee and the Other Grantee; and

- (b) under Clause 9(3)(a) or (b), the Grantee shall negotiate in good faith with the concerned Other Grantee to reach agreement as to a fair and equitable price for acquiring or providing the facilities or Facilities (other than those provided on-bus).
- (5) In the event that the Grantee and the concerned Other Grantee fail to reach agreement under Clause 9(4)(a) or (b) within a reasonable time to be specified by the Commissioner, the Grantee and the concerned Other Grantee shall enter into an agreement on what the Commissioner may determine to be a fair and equitable apportionment or price for the purpose of Clauses 9(4) (a) and (b).
10. (1) No Facilities, installation, fixtures, fittings, apparatus or equipment shall be constructed, erected, installed or permitted at, on or in any bus stops, terminal points, termini or buses without the prior approval in writing of the Commissioner. The Commissioner may require the Grantee to remove any Facilities, installation, fixtures, fittings, apparatus or equipment which are constructed, erected, installed or permitted in contravention of this Clause.
- (2) No canteens, washrooms or toilets referred to in Clause 8 shall be constructed, erected or installed nor shall any structural alteration or change in use be made thereto without the prior approval in writing of the Commissioner.
11. (1) The Grantee shall not for the purposes of advertising, sponsorship or commercial promotion use or permit the use of, the Facilities, canteens, washrooms and toilets of the Grantee or any Other Grantee without the prior approval in writing of the Commissioner (such approval shall not be unreasonably withheld).
- (2) Any agreement or arrangement in respect of any advertising, sponsorship or commercial promotion entered into by the Grantee with the prior approval in writing of the Commissioner under Clause 11(1) above shall be and be made subject to the terms and conditions of this franchise.
12. The Commissioner may by notice in writing direct the Grantee to use such terminal points or termini and facilities which will be made available by Government at no cost to the Grantee for the purposes of parking and turn-around of buses used by the Grantee on any of the specified routes.

Approval of Commissioner required in connection with the Facilities, canteens, washrooms and toilets

Advertising, etc.

Government to provide parking facilities at terminal points

13. (1) Subject to Clause 13(3), the Grantee shall, at such place as the Commissioner may direct in writing, make available free of charge for inspection by members of the public a copy of the Schedule of Routes order for the time being in force and any notice given under section 15 of the Ordinance. Display of routes and fares
- (2) Subject to Clause 13(3), the Grantee shall cause to be displayed free of charge for viewing by members of the public in a conspicuous place:–
- (a) at each terminal point or terminus of a specified route; and
- (b) at such bus stops as may be specified by the Commissioner
- information on the location of the bus stops and the fares and timetables applicable to the bus service on such specified routes.
- (3) The Grantee shall provide the information mentioned in Clause 13(1) and 13(2) above in such form and manner, by such means, and at such times as may be reasonably required by the Commissioner, after consultation with the Grantee.
14. (1) The Grantee shall make available to the public, in relation to the bus service on each specified route, the following information:– Making available information on specified route, etc.
- (a) the bus fares;
- (b) the route and timetable;
- (c) the location of bus stops, journey time and any other related information, as may be reasonably required by the Commissioner after consultation with the Grantee
- in such form and manner, by such means and at such times as may be specified from time to time by the Commissioner.
- (2) The Grantee shall make available to the public the information referred to in Clause 14(1)(a) to (c) above for free or for a fee not exceeding that determined by the Commissioner.
- (3) The Grantee shall also make available to the public, the information referred to in Clause 14(1)(a) to (c) above on

the Grantee's website and through readily accessible common web browsers as may be reasonably required by the Commissioner after consultation with the Grantee.

15. (1) The Grantee shall, to the satisfaction of the Commissioner, make appropriate arrangements including the establishment of Passenger Liaison Groups to liaise, communicate with and receive opinions of the public for the purpose of assessing and improving standards of the Bus Service. Passenger Liaison Groups
- (2) The Grantee shall, to the satisfaction of the Commissioner, provide the Passenger Liaison Groups with reasonable facilities for meetings including venues, postage and stationery, as they may require from time to time.
- (3) The Grantee shall promulgate such rules for membership and meetings of the Passenger Liaison Groups, rules for attendance by officers of the Transport Department as observers, terms of reference of the Passenger Liaison Groups and, without limitation, such other terms relating to the Passenger Liaison Groups, their members or constitution as the Commissioner may direct or approve in writing. Any officer of the Transport Department may attend the meetings of the Passenger Liaison Groups as an observer.
- (4) The Grantee shall use its reasonable endeavours to facilitate meetings of each of the Passenger Liaison Groups at least once every two months or as and when the Commissioner may reasonably require for the purpose of making proposals for maintaining or improving standards relating to the Bus Service.
- (5) The Grantee shall report to the Commissioner, at least once every two months or as and when directed by the Commissioner, the details of passenger liaison arrangements made by the Grantee, the proposals made by the Passenger Liaison Groups and implementation of those proposals.
- (6) The Grantee shall waive and forego all rights to sue each member or observer of the Passenger Liaison Groups in respect of any statement defamatory of the Grantee made by him during a meeting of a Passenger Liaison Group or in any communication published only to the members of a Passenger Liaison Group or to any officer of the Transport Department attending any such meeting as an observer in respect of the Bus Service unless such statement is made maliciously.

16. (1) The Grantee shall to the satisfaction of the Commissioner make appropriate arrangements to conduct passenger satisfaction surveys in such form and manner, by such means and at such times as may be reasonably required by the Commissioner, after consultation with the Grantee. Passenger satisfaction
- (2) (a) The Grantee shall publish
- (i) its passenger service pledge setting a reasonable time frame for responding to complaints and suggestions from the public; and
- (ii) the achievement rate of its passenger service pledge under Clause 16(2)(a)(i) above.
- (b) The Grantee shall respond to complaints and suggestions referred to the Grantee by the Commissioner at such times and in such manner as may be reasonably required by the Commissioner after consultation with the Grantee.
17. (1) The Grantee shall furnish the Commissioner, on or before 15 January each year in such form as the Commissioner may specify from time to time, with information on:- List of premises and maintenance facilities
- (a) premises provided and maintained by the Grantee under section 19 of the Ordinance as at 31 December of the preceding year; and
- (b) facilities provided by the Grantee and their locations as at 31 December of the preceding year for the construction, repair and maintenance of the buses and other vehicles used or kept by the Grantee for the purposes of or in connection with this franchise.
- (2) The Commissioner may, after consultation with the Grantee, from time to time direct by notice in writing to the Grantee the manner in which the Grantee is to use any of the specified premises provided and maintained by the Grantee under section 19 of the Ordinance.
18. The Grantee shall, as and when directed by and to the satisfaction of the Commissioner:- Provision of control centre and contingency arrangement
- (a) provide and maintain for the purpose of regulating, controlling and directing bus movements a control centre which shall be:-
- (i) situated at such location as the Commissioner may direct; and

- (ii) manned at all times by competent personnel of the Grantee;
 - (b) provide and maintain at all times direct communication links between the control centre and the emergency contact point of the Transport Department designated by the Commissioner;
 - (c) design a contingency plan to meet any exigency that may arise in respect of the Bus Service and shall promptly carry out the measures contained in the contingency plan when such exigency arises; and
 - (d) provide assistance, including sending competent personnel to attend the emergency control centre of the Transport Department.
19. (1) The Grantee may provide, or permit the provision of, ancillary or add-on services subject to prior approval in writing of the Commissioner. Provision of ancillary and add-on services
- (2) The Grantee shall provide such ancillary or add-on services as may be reasonably required by the Commissioner for the purpose of the Bus Service after consultation with the Grantee.

PART III

FINANCIAL

20. In this Part, unless the context otherwise requires:– Definitions in Part III
- “Appointed Actuary”
means an actuary who
- (a) has the qualifications as prescribed for the appointment of actuaries under the Insurance Companies (Actuaries’ Qualifications) Regulations (sub. leg., Cap. 41); and
 - (b) is in practice with a firm providing actuarial consultancy services in Hong Kong;
- “Contingency Fund”
means all contingency funds provided or to be provided by the Grantee for meeting its liabilities including without limitation those for third party risks

in respect of the Bus Service but excluding any contingency funds for any loss of revenue due to any cause whatsoever;

“Fair Market Value” of any of the Fixed Assets means the market price at which the assets could be acquired in a transaction at arm’s length between persons that are not Related Parties;

“Fixed Assets” means:–

- (a) land, buildings, furniture, fixtures and fittings, buses, coaches and other motor vehicles, plant, machinery and equipment;
- (b) other fixed assets;
- (c) all assets mentioned in (a) and (b) which are in the course of construction or in transit; and
- (d) payments on account of all assets mentioned in (a), (b) and (c)

in which the Grantee has any right, title or interest (including assets acquired through finance leases) and which are used or to be used or kept or to be kept by the Grantee for the purposes of or in connection with the Bus Service;

but excludes stores and spares including but not limited to items which have not been used but may form part of any buses, coaches or other motor vehicles, plant, machinery and equipment which are used or to be used or kept or to be kept by the Grantee for the purpose of or in connection with the Bus Service, irrespective of the amount of the unit cost of each item;

“Funds” means both the Contingency Fund and the Pension Fund unless the Commissioner determines otherwise;

“Gross Revenue” means the total income or revenue of the Grantee derived or arising from or connected with the Bus Service, which, for the avoidance of doubt, includes inter alia:–

- (a) revenue of the Grantee from fares directly or indirectly appertaining to the Bus Service;
- (b) income derived or realised directly or indirectly from Fixed Assets including but not limited to rents, advertising and private hire;
- (c) interest on cash and bank balances of the Grantee consisting of or representing funds derived or arising from the Bus Service;
- (d) income derived or realised directly or indirectly from any investment or commercial transactions, other than from Fixed Assets, made by the Grantee of funds derived or arising from the Bus Service;
- (e) income or revenue derived by the Grantee from any transaction, operation, business or activity connected with or otherwise related or ancillary, whether directly or indirectly to the Bus Service; and
- (f) currency gains realised by the Grantee in or in connection with:–
 - (i) the acquisition of Fixed Assets, stores and spares;
 - (ii) the making and maintenance of provision for payment of emoluments for staff engaged in the Bus Service;
 - (iii) deposits in foreign currency accounts of funds derived or arising from the Bus Service; and
 - (iv) other transactions which are directly related to the Bus Service,

but excludes capital gains or capital receipts of the Grantee derived or arising from or connected with the disposal of any right, title or interest in land;

“Pension Fund”

means the fund or funds provided or to be provided by the Grantee for the payment of employees’ pensions or other retirement benefits in respect of employees engaged directly or indirectly in the operation of the Bus Service;

“Service-Related Expenditure”

means the total expenditure of the Grantee incurred or

arising from or connected with the Bus Service, which, for the avoidance of doubt, includes inter alia:–

- (a) operating costs directly or indirectly incurred by the Grantee appertaining to the operation of the Bus Service and contributions to the Funds required in accordance with the assessment made by the Appointed Actuary;
- (b) depreciation as charged in accordance with Clause 21;
- (c) expenditure in establishing and maintaining public liaison and arranging for passenger satisfaction surveys in accordance with Clause 15 and 16(1); and
- (d) currency losses suffered by the Grantee in or in connection with:–
 - (i) the acquisition of Fixed Assets, stores and spares;
 - (ii) the making and maintenance of provision for payment of emoluments for staff engaged in the Bus Service;
 - (iii) deposits in foreign currency accounts of funds derived or arising from the Bus Service; and
 - (iv) other transactions which are directly related to the Bus Service,

but excludes:–

- (A) capital losses of the Grantee derived or arising from or connected with the disposal of any right, title or interest in land;
- (B) capital expenditure incurred in or arising from or connected with the Bus Service (other than that provided in sub-paragraph (d)(i) above);
- (C) any amount of over-provisioning in the accounts of the Grantee; and
- (D) any amount of amortisation or depreciation effected (if any) in respect of any right, title or interest in land;

“Undertaking”
means:–

- (a) all the assets listed in Schedule I as the same is updated or revised in accordance with Clause 22(2); and
- (b) all Fixed Assets and stores and spares which have been acquired by the Grantee to be included in Schedule I but before the same have been included pursuant to Clause 22(2).

21. For the purpose of this franchise, the following practice shall be observed in the accounts of the Grantee:–

Depreciation of Fixed Asset

- (1) With effect from the Commencement Date, depreciation expenses of the Grantee's Fixed Assets shall be calculated at their costs of acquisition and by applying, on a straight-line basis, annual rates of depreciation derived from the useful lives, and subject to the residual values, as set out in the table below:–

<i>Fixed Assets</i>	<i>Useful Life for Depreciation</i>	<i>Residual Value</i>
Land	Not Applicable	Not Applicable
Buildings	(a) Permanent buildings:– 40 years	\$1
	(b) Other buildings:– Term of lease including extension or renewal period	\$1
Buses and coaches, other than light duty coaches	(a) New ¹ buses and coaches:– 15 years unless otherwise approved by the Commissioner	\$1 for each bus or coach
	(b) Second-hand buses and coaches:– 15 years from the date of manufacture unless otherwise approved by the Commissioner	\$1 for each bus or coach

¹ Means buses which have been acquired by the Grantee first hand

Light duty coaches	6 years	\$1 for each light duty coach
Other motor vehicles	6 years	\$1 for each motor vehicle
Computers	5 years	\$1
Plant, machinery and equipment (other than computers), furniture, fixtures and fittings	7 years	\$1

- (2) When calculating the depreciation expenses of the Grantee's Fixed Assets, the cost of acquisition of the Fixed Assets shall be net of any subsidies received or receivable by the Grantee from the Government solely for the purpose of the acquisition of such Fixed Assets.
- (3) The cost of acquisition of Fixed Assets acquired through a finance lease shall be measured and depreciated in accordance with Hong Kong Financial Reporting Standards issued by the Hong Kong Institute of Certified Public Accountants and, where applicable, subject to the provisions in sub-clause (1) above.
- (4) When any Fixed Assets or part thereof are sold or otherwise disposed of or when compensation is received from insurers in respect of damage to or loss of any Fixed Assets or any part thereof, the difference between the proceeds and net book value will be deducted from or added to the Service-Related Expenditure, as the case may be.
- (5) For the purpose of Clause 21(4),
 - (a) Fixed Assets shall exclude land in respect of which the Grantee has any right, title or interest.
 - (b) Where the Fixed Assets comprise buildings which are sold or disposed of together with the land on which they stand, and it is impossible to ascertain which portion of the sale proceeds is attributable to such buildings alone, the Grantee shall provide a valuation report prepared by an independent surveyor on the

Fair Market Value of such buildings as of the date of disposal. Such Fair Market Value will be deemed to be the sale proceeds of the buildings for the purpose of Clause 21(4).

- (6) Depreciation of any Fixed Assets shall cease to be effected when the residual values as stipulated at Clause 21(1) have been reached.
 - (7) No amortisation or depreciation shall be effected in respect of any land comprised in the Fixed Assets. Such land shall be valued at cost of acquisition.
 - (8) Whether a building is to be regarded as a permanent building for the purpose of this Clause shall be determined by the Commissioner after having regard, inter alia, to the estimated useful life of that building, the unexpired period of the lease including any extension or renewal period, and land use zoning. If the Grantee disagrees with any determination of the Commissioner on what is or is not a permanent building for the purpose of this Clause, the Grantee and the Commissioner shall forward the point in disagreement to the Secretary for Transport and Housing who shall decide on the point having regard to the submissions of the Grantee and the Commissioner and such decision of the Secretary for Transport and Housing shall, subject to section 33 of the Ordinance, be final.
 - (9) The cost of any structural addition to a permanent or other building comprised in the Fixed Assets shall, from the date the addition is made, be depreciated in accordance with Clause 21(1) along with such permanent or other building (as the case may be) over the remainder of the useful life of that permanent or other building.
 - (10) The net book value of all Fixed Assets brought forward from any public bus franchise applicable to the Grantee immediately before the Commencement Date shall be depreciated in accordance with but over the remainder of the applicable useful life as stipulated in Clause 21(1).
22. (1) The Grantee represents that its Undertaking at the Commencement Date shall be as listed in Schedule I. Subject to Clause 22(3) and (4) and except for that part of the Undertaking listed in Schedule I which is held on short term tenancies, the Grantee shall maintain at all times during the franchise period its Undertaking sufficient to operate a proper and efficient public bus service on the specified routes in accordance with section 12(1) of the Ordinance.
- Grantee's
Undertaking
and restrictions
on disposal

- (2) The Grantee shall provide in writing to the Commissioner an annual update of Schedule I within five months after the close of an accounting year.
- (3) The Grantee shall not without the previous written consent of the Commissioner assign, transfer, mortgage, charge, lease, grant option to lease, part with possession or otherwise dispose of the whole or any part of its Undertaking falling within the following description:–
 - (a) land, buildings and buses, or
 - (b) any other part of the Undertaking (except for plant, machinery, equipment, furniture, fixtures, fittings, motor vehicles (other than buses), stores or spares being disposed of with a view to replacement in the ordinary course of business), the disposal of which would result in an increase in the cost of the Bus Service

nor shall the Grantee without the previous written consent of the Commissioner cause or permit the forfeiture, surrender, loss, destruction or dissipation of its right, title or interest in the whole or any part of its Undertaking referred to in paragraphs (a) and (b) above. The Grantee shall observe and perform all the terms, conditions, covenants and provisions contained in any deed, agreement and other instrument under which the Grantee acquired the right, title or interest in the whole or any part of its Undertaking.

PROVIDED that:–

- (i) consent to any disposition of landed property may be withheld if the consequence of the disposition would be to increase the cost to the Grantee of acquiring, using, holding or maintaining the premises referred to in section 19 of the Ordinance; and
 - (ii) consent required under this Clause shall not be unreasonably withheld or delayed.
- (4) Without prejudice to the Ordinance and other provisions of this franchise, the Grantee shall not develop or cause or permit the development of any land or buildings forming part of its Undertaking or enter into any agreement to do so without the previous written consent of the Financial Secretary (which, subject to Clause 22(5), shall not be unreasonably withheld or delayed).

(5) Notwithstanding any other provisions herein, consent to any disposition or development of any land or building under Clause 22(3) and (4) may be withheld by the Commissioner or the Financial Secretary if the consequence of the disposition or development of such land or buildings would be to increase the cost to the Grantee of acquiring, using, holding or maintaining premises referred to in section 19 of the Ordinance.

23. The Grantee shall not without the previous consent in writing of the Commissioner invest in or dispose of any securities, such consent shall not be unreasonably withheld or delayed. Investment in securities

24. (1) (a) The Grantee shall, at such times as the Commissioner may direct in writing, cause the Funds to be examined by an Appointed Actuary for the purpose of assessing possible under-provisioning or over-provisioning of the Funds. Contingency Fund and Pension Fund

(b) The Grantee shall provide such information and give access to such of its business and financial records as the Appointed Actuary may reasonably require.

(c) Any finding by the Appointed Actuary as to any under-provisioning or over-provisioning of the Funds shall be accepted as final and conclusive by the Grantee in the absence of manifest error.

(d) The Grantee shall, subject to the prior approval in writing of the Commissioner, write back such amount which is certified in an actuarial report prepared by the Appointed Actuary for the purpose of Clause 24(1)(a) to be over-provided in the Funds to the profit and loss account kept by the Grantee in respect of the Bus Service.

(2) The Grantee shall provide such information as the Commissioner may require in writing in respect of the Funds and their use within one month from the date of such request in writing by the Commissioner or within such other period as the Commissioner may reasonably require.

(3) (a) The balance of the Contingency Fund shall represent liabilities in the accounts of the Grantee and shall not contribute towards its distributable profit or accrue to the benefit of shareholders of the Grantee.

(b) Notwithstanding the expiry of this franchise and any other terms or provisions herein, the balance of the

Contingency Fund shall remain a liability in the accounts of the Grantee and shall not contribute towards its distributable profit or accrue to the benefit of shareholders of the Grantee and the balance of the Contingency Fund as at the expiry of this franchise, howsoever determined, shall be deposited with an authorised institution, other than a deposit-taking company, within the meaning of the Banking Ordinance (Cap. 155) as approved or directed from time to time by the Commissioner.

- (c) The Commissioner may within six months prior to the expiry of this franchise or within three months thereafter appoint a trustee or a custodian to hold the Contingency Fund after the said expiry of this franchise and may require the title to the Contingency Fund to be vested in the said trustee or custodian for a period of ten years from the date of expiry of this franchise (“the ten-year period”). In such event, the said trustee or custodian shall:–
 - (i) hold the Contingency Fund in accordance with the terms and conditions as may be determined or approved by the Commissioner;
 - (ii) apply the balance of the Contingency Fund to meet third party claims against the Grantee in accordance with the terms and conditions as may be determined or approved by the Commissioner; and
 - (iii) distribute the remaining balance in the Contingency Fund (if any) at the expiry of the ten-year period to the shareholders of the Grantee whose names appear on the register of shareholders of the Grantee on the date when the Contingency Fund is vested in the said trustee or custodian.
 - (d) For the avoidance of doubt, this Clause, in so far as it relates to the Contingency Fund, shall survive the expiry of this franchise until the date falling ten years thereafter.
- (4) The Grantee shall procure in such manner as it may be advised by the Appointed Actuary that the Pension Fund is held by an independent trustee under a retirement scheme registered under the Occupational Retirement Schemes Ordinance (Cap. 426) and, where applicable, the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

25. (1) By virtue of section 13 of the Ordinance, the Chief Executive in Council may review the scale of fares to be charged for the Bus Service and may determine and adjust such scale of fares upward or downward at any time and from time to time during the Franchise Period as he deems fit. Revenue and expenditure
- (2) Without derogation from the provisions of section 13 of the Ordinance and the powers conferred on the Chief Executive in Council thereunder, in making recommendations to the Chief Executive in Council for him to determine the scale of bus fares under the provisions of section 13 of the Ordinance, the Commissioner may have regard, inter alia, to:-
- (a) changes in Gross Revenue and Service-Related Expenditure since the last fare adjustment;
 - (b) forecasts of future Gross Revenue, Service-Related Expenditure, and return on average net fixed assets which takes into account net profit or loss and borrowing costs after tax attributable to the Bus Service;
 - (c) the need to provide the Grantee with a reasonable rate of return;
 - (d) public acceptability and affordability;
 - (e) the quality and level of the public bus service provided by the Grantee; and
 - (f) changes in price of cost elements and improvement in productivity of the franchised bus industry.
- (3) In applying for an upward or downward adjustment to the fares applicable to its Bus Service, the Grantee shall take into account, inter alia, the factors specified in Clause 25(2)(a) to (f).

PART IV

MISCELLANEOUS

26. (1) When acquiring new buses and setting specifications for such acquisition, the Grantee shall, as far as reasonably practicable:- Environmentally friendly buses
- (a) adopt the latest commercially available and proven technologies to reduce noise emissions; and
 - (b) acquire the most environmentally friendly buses in terms of vehicle exhaust emission (with the ultimate objective of acquiring zero emission buses), that are technologically proven and commercially available
- taking into account feasibility in terms of operational and passenger service requirements and affordability for the Grantee and passengers.
- (2) The Grantee shall adopt, at such times and in such manner, such commercially available and proven technologies and products on its buses as the Commissioner may reasonably specify after consultation with the Grantee for the purpose of reducing exhaust and noise emissions in the operation of the Bus Service.
27. (1) The Grantee shall comply with all the provisions, stipulations and requirements set out in a Forward Planning Programme for the time being in force. Forward Planning Programme
- (2) If the Grantee fails to comply with any of the provisions, stipulations and requirements contained in a Forward Planning Programme, the Grantee shall, within such time as may be specified by the Commissioner, submit a report to the Commissioner with full details and the reasons for such failure.
28. (1) The Grantee shall Operational records and information to be supplied to Commissioner
- (a) provide to the Commissioner the information relating to and records kept by the Grantee in respect of the Bus Service in accordance with Schedule II; and
 - (b) provide and maintain at such times and in such manner as may be specified by the Commissioner, including without limitation electronic means to enable the Commissioner to at all times access and directly retrieve the information and records referred to under Clause 28(1)(a).
- (2) The Grantee shall without delay provide in writing to the Commissioner such information as he may from time to Financial information to

time reasonably require for the purpose of assessing the financial position of the Grantee, including without limitation:-

be supplied to the Commissioner

- (a) accounting system manual and costing system manual used by the Grantee for the preparation of accounts for the Bus Service; and
 - (b) procurement policies, procurement procedures and practice manual of goods and services relating to the Bus Service including but not limited to fuel, buses, spare parts, tyres and tubes, plant and machinery, repair and maintenance and cleaning services.
- (3) The Grantee shall provide in writing to the Commissioner with financial information for the purpose of assessing the financial position of the Grantee, including without limitation:-
- (a) annual audited financial statements prepared and certified by a Qualified Auditor within four months after the close of each accounting year;
 - (b) monthly management accounts (including profit and loss account, balance sheet and cashflow statement) in such form and manner as the Commissioner may specify within two months from the ending date of the period concerned or such longer period as the Commissioner may specify; and
 - (c) monthly report on the fuel price, fuel cost, fuel consumption, hedging contracts on fuel, in such form and manner as the Commissioner may specify, within two months from the ending date of the period concerned.
- (4) (a) Subject to the provisions of the Ordinance, this franchise and the accounting policies approved by the Commissioner under Clause 28(4)(b), the Grantee shall prepare and keep its accounts related to the Bus Service in accordance with the prevailing accounting standards and principles generally accepted in Hong Kong.
- (b) The Grantee shall, not later than three months before the end of each accounting year, submit for the approval of the Commissioner the accounting policies governing the accounts of the Grantee which are related to the Bus Service in the form and manner as the Commissioner may specify. Such

approval shall not be unreasonably withheld or delayed. The Grantee shall comply with such accounting policies as approved by the Commissioner for keeping and preparing its accounts relating to the Bus Service. The Grantee shall not make any change to the accounting policies approved by the Commissioner hereunder without the prior written approval of the Commissioner. Such accounting policies are subject to the provisions of the Ordinance and this franchise, and unless agreed otherwise between the Grantee and the Commissioner, shall be in accordance with the prevailing accounting standards and principles generally accepted in Hong Kong.

- (5) Without prejudice to the generality of Clause 28(4), the Commissioner may give direction as to the criteria for apportionment of the Grantee's general administration costs between the Bus Service and the Grantee's other businesses.
- (6) The Grantee shall ensure that contracts that are material to the Bus Service shall be put out for open tendering as far as practicable. Where it is not practicable for open tendering, prior approval for not pursuing open tendering shall be sought from the Grantee's board of directors. The Grantee is also required to specify in any internal paper on procurement of services or goods or both whether or not the tenderers or suppliers and the Grantee are Related Parties.
- (7) The Grantee shall obtain approval from the Grantee's board of directors before awarding any contract that is material to the Bus Service to a Related Party of the Grantee save and except where such award is effected as a result of an open tendering process participated by any third party which is not a Related Party. In seeking the board of directors' approval to award a contract to a Related Party of the Grantee without going through an open tendering process, the Grantee shall, in so far as practicable, provide relevant information to satisfy its board with supporting evidence that the terms and conditions of the proposed contract are no less favourable to the Grantee than those in a contract which might otherwise be entered into with a third party which is not a Related Party of the Grantee.
- (8) The Grantee shall procure and provide to the Commissioner financial information on all transactions which are related to the Bus Service made between the Grantee and any Related Party of the Grantee on an annual basis within five months after the close of each accounting year or as the Commissioner may from time to time require.

29. (1) The Grantee shall keep separate accounts for the Bus Service and its other businesses. The accounts of the Grantee which are related to the Bus Service shall be audited annually by a Qualified Auditor and published for the information of the public, in such form and manner as the Commissioner may from time to time require, within five months after the close of each accounting year. Publication of accounts and operational information
- (2) The Grantee shall publish for the information of the public such records kept by the Grantee which are related to the Bus Service, in such form and manner as the Commissioner may from time to time require after consultation with the Grantee within five months after the close of each accounting year.
30. (1) Any notice in writing or other document to be given to the Grantee by the Chief Executive in Council, the Financial Secretary, the Secretary for Transport and Housing, Government or the Commissioner under or in relation to this franchise may be given under the hand of any duly authorised officer of Government and may be served by sending the same in a letter addressed to the registered office of the Grantee. Notices
- (2) Any notice in writing or other documents to be given to the Chief Executive in Council, the Financial Secretary, the Secretary for Transport and Housing, Government or the Commissioner by the Grantee under or in relation to this franchise may be served by sending the same in a letter to the Commissioner.
31. All meetings of the board of directors of the Grantee shall be held in Hong Kong unless all the directors of the Grantee unanimously agree to have a meeting elsewhere. Board meetings in Hong Kong
32. (1) Without derogation from any provisions of the Ordinance, this franchise will be subject to review at any time and from time to time by the Commissioner during the Franchise Period starting from and including 1 June 2020. For this purpose, the Grantee shall comply without delay with all reasonable requests by the Commissioner and afford such assistance and co-operation in all respects to facilitate the conduct of the review as the Commissioner may reasonably require. Mid-term review
- (2) Without prejudice to the generality of Clause 32(1) and any other provisions of this franchise, the Grantee shall, for the purpose of this Clause:–


- (a) upon request by the Commissioner, provide without delay to the Commissioner such information as may be reasonably required; and
 - (b) appoint a person with such qualification or experience as the Commissioner may from time to time require to examine such aspects of the Bus Service as he may reasonably direct.
- (3) During the period of such review, the Commissioner may consult with and receive written submissions or recommendations from such persons as he sees fit.
33. The Grantee shall publish its code on corporate social responsibility within six months from the Commencement Date and, annually thereafter:–
- (a) publish the achievement of individual items contained therein; and
 - (b) review and update its content for the purpose of continuous improvement.
34. The Grantee shall, throughout the Franchise Period, submit to the Commissioner annually a report prepared by a Qualified Auditor or a Certification Body certifying that the Grantee has put in place internal control systems and procedures which are adequate to enable, as far as practicable, the Grantee to measure and record, in all material respects, its operation statistics and other information to ensure that such statistics and other information which may be required by the Commissioner under the Ordinance or this franchise are accurate in all material respects and if the Qualified Auditor or Certification Body forms the view that those control systems and procedures are not adequate, the nature and extent of such inadequacies.

Corporate social responsibility

System audit

Dated this 22nd day of September 2015

COUNCIL CHAMBER



Clerk to the Executive Council

SCHEDULE I
 Clause 22(1)
Grantee's Undertaking
(as at 1 June 2016)

1. *Buses*

(A) Requirement

	Operating Requirement	Number of Buses Required in Fleet
(i) For operating the Bus Service	693	
(ii) Total requirement for operating the Bus Service based on 92% availability		754

(B) The requirement of buses in paragraph 1(A) above will be represented by –

Bus Fleet	Number	Average Age (Yr.)	Estimated Written Down Value (HK\$'000)	Nature of Interest
(i) Double-Deck – air-conditioned	722	4.74	1,400,000	Wholly owned
(ii) Single-Deck – air-conditioned	32	2.61	47,000	Wholly owned
Total fleet	754	4.65	1,447,000	

2. *Land and Buildings*

	Approx. Site Area (m ²)	Estimated Written Down Value (HK\$'000)	Nature of Interest
(A) Depots		150,000	
(1) Depot at 38 Sheung On Street, Chai Wan (EHX-286)	11,297		Short term tenancy commencing on 10 December 2001 up to 30 June 2006 and thereafter quarterly.
(B) Bus Servicing/Parking Area		5,000	
(1) Servicing site at Hoi Wong Road, Area 16, Tuen Mun (STT-1092)	11,000		Short term tenancy commencing on 2 January 2001 up to 1 January 2004 and thereafter quarterly.
(2) Servicing site at Heung Yip Road, Wong Chuk Hang (SHX-1168)	3,826		Short term tenancy commencing on 19 July 2006 up to 18 July 2009 and thereafter half-yearly.
(3) Parking site at Wong Chuk Hang (SHX-956)	2,450		Short term tenancy commencing on 1 December 1998 up to 30 November 2001 and thereafter quarterly.
(4) Parking site at the Junction of Lin Cheung Road and Hing Wah Street West, Lai Chi Kok, Kowloon (KX-2851)	7,750		Short term tenancy commencing on 3 June 2013 up to 2 June 2016 and thereafter quarterly.
Total		155,000	

3. <i>Machinery and Equipment</i>	Estimated Written Down Value (HK\$'000)	Nature of Interest
Machinery and equipment including:	6,000	Wholly owned
(A) Brake testers;		
(B) Column Lift, Fork Lifts;		
(C) Spray Booths;		
(D) Extraction system, and hose reel;		
(E) Bus washing machines and water recycling units;		
(F) Octopus equipment;		
(G) Passenger facilities including kiosks; and		
(H) Others		
4. <i>Other Fixed Assets</i>	Estimated Written Down Value (HK\$'000)	Nature of Interest
Other fixed assets including:	75,000	Wholly owned
(A) Other vehicles		
(B) Computers		
(C) Furniture and fittings		
(D) Bus assembly assets		
(E) Others		
5. <i>Others</i>	Estimated Value (HK\$'000)	Nature of Interest
Inventories	34,000	Wholly owned

SCHEDULE II

Information and Records Relating to the Bus Service to be Kept and Provided by the Grantee under Clause 28(1)

<u>Item</u>	<u>Records and Information</u>
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- | | |
|-----|--|
| (a) | the number of passengers carried on every day on each specified route. |
| (b) | the number of passengers boarding and alighting at bus stops and the occupancy of buses when leaving each of the stops at hourly interval on each specified route as reflected from the survey hereinafter mentioned. For the purpose of this Clause, the Grantee shall conduct at least once in each year surveys on a weekday, other than a public holiday or a day on which the storm signal Number 8 (or higher) or a black rainstorm warning is issued. |
| (c) | the number of passengers and the occupancy of buses when leaving such stops at half-hourly interval on any of the specified routes as the Commissioner may specify. |
| (d) | the number of buses in use on each specified route on every day and the carrying capacity of each of such buses for the purpose of or in connection with this franchise. |
| (e) | the journey time for journeys between terminal points on each specified route as reflected from the survey hereinafter mentioned. For the purpose of this Clause, the Grantee shall conduct surveys at such times and in such manner as the Commissioner may specify. |
| (f) | (i) the scheduled and actual departure time of each journey on every day on each specified route, where the scheduled departure time refers to the time when the journey departs from the terminus in accordance with the Schedule of Service of each specified route.
(ii) the actual departure time of adjusted journey departs from the designated stop. |
| (g) | the number of scheduled journeys, actual journeys and additional journeys operated by the Grantee on every day on each specified route in each of the periods of a day specified by the Commissioner, where the number of scheduled journeys refers to the number of journeys that shall be operated by the Grantee in accordance with the Schedule of Service of each specified route. |
| (h) | the number of scheduled journeys that the Grantee fails to operate on every day on each specified route due to vehicle breakdown, vehicle shortage, driver shortage, traffic congestion, accidents, inclement weather, public events, redeployment of buses and others, or any other categorisation of reasons as specified by the Commissioner. |
| (i) | the carrying capacity and technical specifications of buses kept by the Grantee for the purpose of or in connection with this franchise in each calendar month. |
| (j) | the number of buses of each bus type and other vehicles used and the number of |

buses ordered by the Grantee for the purpose of or in connection with this franchise in each calendar month.

- (k) the number of journeys and total kilometres travelled with breakdowns of revenue-generated kilometres and non-revenue-generated kilometres on each specified route on every day.
- (l) the number of bus driver duties scheduled to operate all specified routes in accordance with the Schedule of Service on a day required by the Commissioner and the percentage of bus drivers, selected on the sample size as specified by the Commissioner, in compliance with the guidelines on arrangements in relation to working hour and rest time of bus drivers issued by the Commissioner after consultation with the Grantee.
- (m) the number of bus drivers at the end of each calendar month required and available to operate all specified routes in accordance with the Schedule of Service; and the surplus or shortage of bus drivers.
- (n) the total number of bus drivers resigned, retired, separated with other reasons, newly recruited and re-employed in each calendar month.
- (o) the daily receipts from the passengers carried on every day on each specified route.
- (p) the maintenance schedule of the buses.
- (q) the maintenance schedule of other vehicles and inventory of stores.