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PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

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PROVINCIAL NOTICE

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PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

DR H.C. MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

DR H.C. MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi.

GQIR H.C. MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

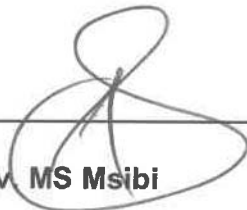
PROVINCIAL NOTICE

P.N. 89/2022

12 July 2022

ROAD TRAFFIC MANAGEMENT CORPORATION ACT**NOTICE OF AGREEMENT BETWEEN CHIEF EXECUTIVE OFFICER OF ROAD TRAFFIC MANAGEMENT CORPORATION AND VARIOUS PROVINCES**

The Road Traffic Management Corporation hereby and in terms of Section 31(2) of Road Traffic Management Act, 1999 (Act No. 20 of 1999), gives Notice that the Chief Executive Officer of the Road Traffic Management Corporation has entered into agreements in the Schedule hereto with the respective Provincial Departments to perform the functions as stipulated in the agreement, functions so allocated to the Members of the Executive Council in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), or any other law relating to road traffic, on behalf of the Members of the Executive Council.



Adv. MS Msibi

Chief Executive Officer

Date: 6/04/22

SCHEDULE:



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**EASTERN CAPE DEPARTMENT OF TRANSPORT, SAFETY &
LIAISON**

NR *EC*

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions if this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.



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NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The Eastern Cape Department of Transport, ~~Safety & Liaison~~ acting for and on behalf of the Eastern Cape Provincial Government, herein represented by M.C. MAFANI in his/her capacity as HEAD OF DEPARTMENT and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 "Account" means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;

2.1.2 "Act" means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 "Agreement" means the contents of this Agreement together with the Annexures hereto;

2.1.3 "Baseline Fees" means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4 "Business Day" means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means the date of the signature of this Agreement by the Party signing last in time
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **"Parties"** means RTMC and/or the Province as the context indicates, and "Party" shall mean either one of them as the context may indicate;

nm *by*

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.17 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.18 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.19 **"Province"** means the Party as fully described in clause 1.1.2;
- 2.1.20 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice versa;

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- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments made by the public for the renewal of motor vehicle licenses and payment of such

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payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-

6.1.3.1 printing the license disc;

6.1.3.2 reconciling each payment received; and

6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;

6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the

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account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.

- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

Bank: ABSA BANK

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Account Name: EASTERN CAPE PROVINCE

Account Number: 4100215153

Branch Code: 632005

7. SERVICE FEE

- 7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and be paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES


- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.



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11. CONTRACT MANAGEMENT

- 11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.
- 11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.
- 11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to represent the Parties at a Steering Committee meeting.
- 11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.
- 11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.
- 11.6 **Functions.** The functions of the Steering Committee shall be—
- 11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;
 - 11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;
 - 11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
 - 11.6.4 to review and discuss any other issues with regard to the Services;
 - 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;
 - 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this

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Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.

- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.



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13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of *force majeure* event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for *force majeure*.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.
- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of

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the *force majeure* event concerned as set out in this clause 13 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.

- 13.7 The foregoing provisions of this clause 13 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not affected by the event of *force majeure*, except to the extent that same cannot be performed.

14. AUDIT ACCESS AND OPEN BOOK

- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.

15. CONFIDENTIAL INFORMATION

- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include–
- 15.2.1 all software and associated material and documentation, including information contained therein;

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- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
 - 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
 - 15.2.2.3 the terms and conditions of this Agreement; and
 - 15.2.2.4 the Procurement Process to appoint service providers for the Province Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
 - 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.
- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
- 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
- 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 **Severability.** The provisions of this clause 15 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.
- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.

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- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

- 18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clauses 18.1.1 and 18.1.2 below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

Qhasana Building, 6th Floor, Cnr Independent & Boulevard Avenue, Bisho (for attention of the Head of Department).

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

- 18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.
- 18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -
- 18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or
- 18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.
- 18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESSION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

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20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised representatives.

21. WAIVER

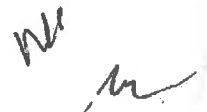
No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.


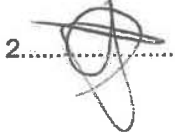


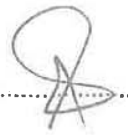
AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

SIGNED AND EXECUTED at Centurion and in the presence of the undersigned

witnesses on this 08 day of September 2020.

AS WITNESSES:


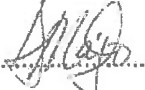
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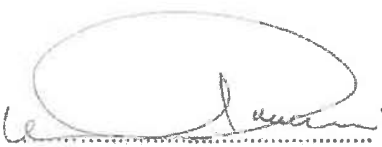

for RTMC

SIGNED AND EXECUTED at King William Town and in the presence of the undersigned

witnesses on this 21 day of July 2020

AS WITNESSES:

1. 
2. 


for the Province



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

FREE STATE DEPARTMENT OF POLICE, ROADS AND TRANSPORT

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions if this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

Handwritten initials:
N/A
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

- 1.1 The Parties to this Agreement are–
- 1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and
- 1.1.2 The Free State Department of Police, Roads and Transport acting for and on behalf of the Free State Provincial Government, herein represented by Ms Mosa Sebongile Tlali in her capacity as Acting Head of Department and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

- 2.1.1 **"Account"** means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;
- 2.1.2 **"Act"** means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);
- 2.1.3 **"Agreement"** means the contents of this Agreement together with the Annexures hereto;
- 2.1.3 **"Baseline Fees"** means the fees charged by the various provinces for the licensing of a motor vehicle;
- 2.1.4 **"Business Day"** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;
- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means the date of the signature of this Agreement by the Party signing last in time
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **"Parties"** means RTMC and/or the Province as the context indicates, and "Party" shall mean either one of them as the context may indicate;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 "PFMA" means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.17 "Project Manager" means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.18 "Project meetings" means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.19 "Province" means the Party as fully described in clause 1.1.2;
- 2.1.20 "Receiving Party" means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 "Regulations" means the National Road Traffic Regulations, 2000;
- 2.1.22 "RTMC" means the Party as more fully described in clause 1.1.1;
- 2.1.23 "Services" means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 "Service Fees" means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 "Staff" means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 "Transaction Fees" means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice versa;



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments made by the public for the renewal of motor vehicle licenses and payment of such

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

- 5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.
- 5.2 With effect from the Termination date, this Agreement shall be for the period of 5 (five) years and shall terminate by written notice given by either Party to the other by giving 60 calendar days.

6. SERVICES

- 6.1 The RTMC shall, unless specified otherwise:
- 6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;
- 6.1.2 subject to the provisions of the PFMA, open and manage the Account;
- 6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-
- 6.1.3.1 printing the license disc;
- 6.1.3.2 reconciling each payment received; and
- 6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank: STANDARD BANK

Account Name: FSPG POLICE ROADS AND TRANSPORT

Account Number: 240321804000

Branch Code: 055534

7. SERVICE FEE

- 7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and be paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

- 11.1 Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.
- 11.2 Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.
- 11.3** The chairperson of the Steering Committee shall be the RTMC's Project Manager, to represent the Parties at a Steering Committee meeting.
- 11.4** Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.
- 11.5** The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.
- 11.6 Functions.** The functions of the Steering Committee shall be—
- 11.6.1** continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;
 - 11.6.2** to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;
 - 11.6.3** in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
 - 11.6.4** to review and discuss any other issues with regard to the Services;
 - 11.6.5** where any specific action or consent is required by either Party in terms of this Agreement;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.
- 12. FINANCIAL ARRANGEMENTS**
- Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 13. FORCE MAJEURE**
- 13.1 Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5** If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 13 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The foregoing provisions of this clause 13 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not affected by the event of *force majeure*, except to the extent that same cannot be performed.
- 14. AUDIT ACCESS AND OPEN BOOK**
- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.
- 15. CONFIDENTIAL INFORMATION**
- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include—

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
 - 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
 - 15.2.2.3 the terms and conditions of this Agreement; and
 - 15.2.2.4 the Procurement Process to appoint service providers for the Province Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
 - 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;
 - 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
 - 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 **Severability.** The provisions of this clause 15 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.
- 16. DISPUTE SETTLEMENT BETWEEN THE PARTIES**
- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
 - 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
 - 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.
 - 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.

- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

- 18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clauses 18.1.1 and 18.1.2 below, at which addresses all processes and notices arising out of

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witch hazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

45 Perm Building, 4th Floor, Charlotte Maxeke Street, Bloemfontein (for attention of the Head of Department).

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

- 18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.
- 18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -
- 18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or
- 18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.
- 18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESSION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Party, which consent shall not be unreasonably withheld.

20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.

SIGNED AND EXECUTED at Cape Town and in the presence of the undersigned

witnesses on this 15 day of June 2021.

AS WITNESSES:

1 [Signature]
2 [Signature]

[Signature]
for RTMC

SIGNED AND EXECUTED at BLOEMFONTEIN and in the presence of the undersigned

witnesses on this 11th day of JUNE 2021.

AS WITNESSES:

1 [Signature]
2 [Signature]

[Signature]
for the Province

[Handwritten mark]



Road Traffic
Management Corporation

ONLINE LICENSE RENEWAL SERVICES AGREEMENT

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**GAUTENG DEPARTMENT OF PUBLIC TRANSPORT AND ROADS
INFRASTRUCTURE**

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions of this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –**1. PARTIES**

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The Gauteng Department of Public Transport and Roads Infrastructure acting for and on behalf of the Gauteng Provincial Government, herein represented by Dr Darion Barclay in his/her capacity as Head of Department and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION**2.1 Definitions**

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 **“Account”** means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;

2.1.2 **“Act”** means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 **“Agreement”** means the contents of this Agreement together with the Annexures hereto;

2.1.3 **“Baseline Fees”** means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4 **“Business Day”** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means the date of the signature of this Agreement by the Party signing last in time
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Council;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **"Parties"** means RTMC and/or the Province as the context indicates, and "Party" shall mean either one of them as the context may indicate;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 "**PFMA**" means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.17 "**Project Manager**" means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.18 "**Project meetings**" means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.19 "**Province**" means the Party as fully described in clause 1.1.2;
- 2.1.20 "**Receiving Party**" means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 "**Regulations**" means the National Road Traffic Regulations, 2000;
- 2.1.22 "**RTMC**" means the Party as more fully described in clause 1.1.1;
- 2.1.23 "**Services**" means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 "**Service Fees**" means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 "**Staff**" means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 "**Transaction Fees**" means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice versa;

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- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments made by the public for the renewal of motor vehicle licenses and payment of such

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payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints on agency basis the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 The Province shall have the option to renew this Agreement upon the same terms and conditions as contained in this Agreement for a further period of 5 (five) years, commencing on the 1st (first) day following the Termination Date, by giving written notice to reach the RTMC no later than 3 (three) calendar months prior to the Termination Date.

5.3 If the Province exercises the option as set-out in 5.2, the extended contract shall be considered to include this option clause.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by–
- 6.1.3.1 printing the license disc;
 - 6.1.3.2 reconciling each payment received; and
 - 6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;
 - 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects, or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care, and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.

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- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information to enable the Province to monitor the Service standards.
- 6.9 Place of payment. Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

Bank: FNB.....;
Account Name: GAUTENG PROVINCE
Account Number: 62298147185
Branch Code: 255005.....;

7. SERVICE FEE

- 7.1 The RTMC shall subject to the provisions of 7.2 be entitled to and be paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall always have a duty of good faith in their dealings with one another.

Handwritten signatures and initials:
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.

11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.

11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager.

11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.

11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.

11.6 **Functions.** The functions of the Steering Committee shall be—

11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects regarding the Services;

11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
- 11.6.4 to review and discuss any other issues regarding the Services;
- 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;
- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise, and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party, or to appoint any other person as Project Manager, and such termination shall take effect in terms of such notice.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.


13. FORCE MAJEURE

13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.

13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.

13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.

13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this


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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. If the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.
- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 13 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The foregoing provisions of this clause 13 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not affected by the event of *force majeure*, except to the extent that same cannot be performed.
- 14. AUDIT ACCESS AND OPEN BOOK**
- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.

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15. CONFIDENTIAL INFORMATION

- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include–
- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present, and future research and development;
- 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
- 15.2.2.3 the terms and conditions of this Agreement; and
- 15.2.2.4 the Procurement Process to appoint service providers for the Province Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations regarding Confidential Information.** The Receiving Party agrees that to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.
- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;
- 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
- 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
- 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation, or court order.
- 15.6 **Severability.** The provisions of this clause 15 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.

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- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.
- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.
- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clauses 18.1.1 and 18.1.2 below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

29th Floor. Life Centre Building, 45 Commissioner Street, Johannesburg (for attention of the Head of Department).

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESSION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate, or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

20. WHOLE AGREEMENT AND NON-VARIATION

20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.

20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.

SIGNED AND EXECUTED at Pretoria and in the presence of the undersigned witnesses on this 31 day of March 2022.

AS WITNESSES:

1. MP Juma

2.

[Signature] for RTMC

SIGNED AND EXECUTED at JHB and in the presence of the undersigned witnesses on this 31 day of MARCH 2022

AS WITNESSES:

1. MARY RAMOTHWA

2.

[Signature] for the Province

Handwritten initials and marks: M-S, f, ^, <



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

KWAZULU-NATAL DEPARTMENT OF TRANSPORT

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions if this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The KwaZulu-Natal Department of Transport acting for and on behalf of the KwaZulu-Natal Provincial Government, herein represented by Ms S Ngubo in his/her capacity as Acting Head of Department and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

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2.1.3 **"Baseline Fees"** means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4 **"Business Day"** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in

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- this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;
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- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
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- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **"Province"** means the Party as fully described in clause 1.1.2;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 **"Parties"** means RTMC and/or Mpumalanga as the context indicates, and "Party" shall mean either one of them as the context may indicate;
- 2.1.17 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.18 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.19 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.20 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

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- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

made by the public for the renewal of motor vehicle licenses and payment of such payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

- 5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.
- 5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

- 6.1 The RTMC shall, unless specified otherwise:
- 6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;
- 6.1.2 subject to the provisions of the PFMA, open and manage the Account;
- 6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-
- 6.1.3.1 printing the license disc;
- 6.1.3.2 reconciling each payment received; and
- 6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 Meetings. RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 Place of payment. Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank:.....; **Absa Public Sector KZN**

Account Name:.....; **KZN PROVINCIAL
GOVERNMENT – KZN
TRANSPORT-MLB REVENUE**

Account Number:; **40-7250-2078**

Branch Code:; **632005**

7. SERVICE FEE

- 7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.

11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.

11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to present the Parties at a Steering Committee meeting.

11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.

11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.

11.6 **Functions.** The functions of the Steering Committee shall be—

11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;

11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;

11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;

11.6.4 to review and discuss any other issues with regard to the Services;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;
- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.

13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 16 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.

13.7 The foregoing provisions of this clause 16 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not effected by the event of *force majeure*, except to the extent the same cannot be performed.

14. AUDIT ACCESS AND OPEN BOOK

14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.

14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.

15. CONFIDENTIAL INFORMATION

15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.

- 15.2 Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include–
- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
- 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
- 15.2.2.3 the terms and conditions of this Agreement; and
- 15.2.2.4 the Procumbent Process to appoint service providers for Mpumalanga's Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
- 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.

- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;
 - 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
 - 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 **Severability.** The provisions of this clause 16 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their

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duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.

- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.
- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

18 NOTICES AND DOMICILIUM

18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clause below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 **RTMC:**

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 **Province:**

KZN Department of Transport, Inkosi Mhlabunzima Maphumlo House, 172 Burger Street, Executive Building, 3rd Floor, Pietermaritzburg, 3201

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

19. CESSATION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

20. WHOLE AGREEMENT AND NON-VARIATION

20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.

20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

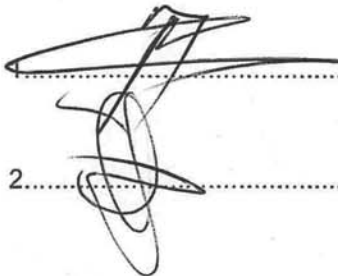
23. SIGNING AUTHORITY

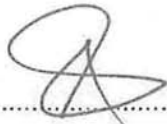
The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.

SIGNED AND EXECUTED at Centurion and in the presence of the undersigned

witnesses on this 08 day of September 2020.

AS WITNESSES:


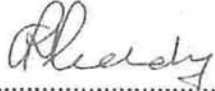

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for RTMC

SIGNED AND EXECUTED at Pretoria and in the presence of the undersigned

witnesses on this 27th day of July 2020

AS WITNESSES:


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.....
for the Province



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**LIMPOPO DEPARTMENT OF TRANSPORT AND COMMUNITY
SAFETY**

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions of this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.



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16 MAY 2020

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by **Adv. M S Msibi** in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The Limpopo Department of Transport and Community Safety acting for and on behalf of the Limpopo Provincial Government, herein represented by **Ms Hanli du Plessis** in her capacity as the Head of the Department and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 **"Account"** means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;

2.1.2 **"Act"** means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 **"Agreement"** means the contents of this Agreement together with the Annexures hereto;

2.1.3 **"Baseline Fees"** means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4: **"Business Day"** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in



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16 MAY 2020

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means, notwithstanding the date of signature of this Agreement by the Party signing last in time.
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **" Province"** means the Party as fully described in clause 1.1.2;



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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

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- 2.1.18 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.19 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
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- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice


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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

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- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

made by the public for the renewal of motor vehicle licenses and payment of such payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-

6.1.3.1 printing the license disc;

6.1.3.2 reconciling each payment received; and

6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;



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- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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Bank: ABSA;

Account Name: LPG: MPG TRANSPORT;

Account Number: 409 435 1990;

Branch Code: 632005

7. SERVICE FEE

- 7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

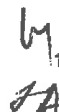
The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having



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a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

- 11.1 Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.
- 11.2 Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.
- 11.3** The chairperson of the Steering Committee shall be the RTMC's Project Manager, to present the Parties at a Steering Committee meeting.
- 11.4** Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.
- 11.5** The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.
- 11.6 Functions.** The functions of the Steering Committee shall be—
- 11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;
 - 11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;
 - 11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
 - 11.6.4 to review and discuss any other issues with regard to the Services;
 - 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;



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- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS




Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.


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13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.

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- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 16 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The a foregoing provisions of this clause 16 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not effected by the event of *force majeure*, except to the extent that same cannot be performed.
- 14. AUDIT ACCESS AND OPEN BOOK**
- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.
- 15. CONFIDENTIAL INFORMATION**
- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include—

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- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
 - 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
 - 15.2.2.3 the terms and conditions of this Agreement; and
 - 15.2.2.4 the Procurement Process to appoint service providers for Mpumalanga's Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
 - 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.


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- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;
 - 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
 - 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 **Severability.** The provisions of this clause 16 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.
- 16. DISPUTE SETTLEMENT BETWEEN THE PARTIES**
- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.
- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute



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by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.

- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

- 18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clause below, at which addresses all processes and notices arising out of or in connection



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with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

37, 39 Church Street & 40 Paul Kruger Street, Private Bag x 9491, Polokwane 0700 or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.



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20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised by both Parties or by their duly authorised representatives.

21. WAIVER


No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party



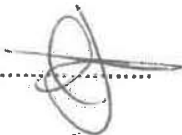
AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

executes this Agreement.


SIGNED AND EXECUTED at RTMC OFFICE and in the presence of the undersigned

witnesses on this 26 day of August 2020.

AS WITNESSES:

1. M.P. Juma 

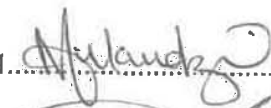
2. lg - N S Mnguni



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for RTMC

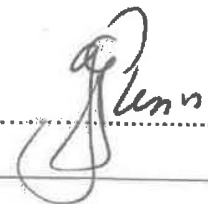
SIGNED AND EXECUTED at Polokwane and in the presence of the undersigned

witnesses on this 20th day of August 2020

AS WITNESSES:

1. M. M. M. M. 

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

for the Province



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16 MAY 2020
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Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**MPUMALANGA DEPARTMENT OF COMMUNITY SAFETY,
SECURITY AND LIAISON**

Handwritten initials and signatures:
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions if this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The Mpumalanga Department of Community Safety, Security and Liaison acting for and on behalf of the Mpumalanga Provincial Government, herein represented by GODFREY SIBUSISO NTOMBELA in his/her capacity as ACTING H.O.D and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 "Account" means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;

2.1.2 "Act" means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 "Agreement" means the contents of this Agreement together with the Annexures hereto;

2.1.3 "Baseline Fees" means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4 "Business Day" means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in

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this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means, notwithstanding the date of signature of this Agreement by the Party signing.
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **" Province"** means the Party as fully described in clause 1.1.2;

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 **"Parties"** means RTMC and/or Mpumalanga as the context indicates, and **"Party"** shall mean either one of them as the context may indicate;
- 2.1.17 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.18 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.19 **"Project meetings"** means the Project meetings-between the representatives of the Parties in terms of clause 11;
- 2.1.20 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice

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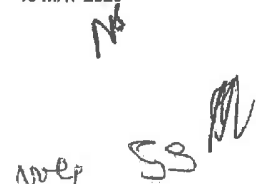
AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

versa;

- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments



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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

made by the public for the renewal of motor vehicle licenses and payment of such payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-

6.1.3.1 printing the license disc;

6.1.3.2 reconciling each payment received; and

6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.

6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.

6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.

6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.

6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.


6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.

6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.

6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.

6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank: ABSA

Account Name: MPUMALANGA PROVINCE

Account Number: 4103276566

Branch Code: 632005

7. SERVICE FEE

7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.

7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.

8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.

8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

- 11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.
- 11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.
- 11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to present the Parties at a Steering Committee meeting.
- 11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.
- 11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.
- 11.6 **Functions.** The functions of the Steering Committee shall be—
- 11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;
 - 11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;
 - 11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
 - 11.6.4 to review and discuss any other issues with regard to the Services;
 - 11.6.5 where any specific action or consent is required by either Party In terms of this Agreement;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 16 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The foregoing provisions of this clause 16 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not effected by the event of *force majeure*, except to the extent the same cannot be performed.
- 14. AUDIT ACCESS AND OPEN BOOK**
- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.
- 15. CONFIDENTIAL INFORMATION**
- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include—

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
- 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
- 15.2.2.3 the terms and conditions of this Agreement; and
- 15.2.2.4 the Procumbent Process to appoint service providers for Mpumalanga's Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
- 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.5 Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1** is lawfully in the public domain at the time of disclosure;
- 15.5.2** subsequently and lawfully becomes part of the public domain by publication or otherwise;
- 15.5.3** subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
- 15.5.4** is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 Severability.** The provisions of this clause 16 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

- 16.1** If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2** If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3** Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.
- 16.4** Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.

- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

- 18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clause below, at which addresses all processes and notices arising out of or in connection

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

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or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party

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- A small signature above "16 MAY 2020".
- "wep" and "SS" written below.
- A large, stylized signature to the right of "SS".

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

executes this Agreement.

SIGNED AND EXECUTED at CENTURION and in the presence of the undersigned

witnesses on this 31 day of January 2020 *HL*

AS WITNESSES:

1. *[Signature]*

[Signature]

[Signature]

for RTMC

SIGNED AND EXECUTED at Mbambela and in the presence of the undersigned

witnesses on this 25 day of January 2020 *HL*

AS WITNESSES:

1. *[Signature]*

2.

[Signature]

HDD for the Province



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**NORTHERN CAPE DEPARTMENT OF TRANSPORT, SAFETY AND
LIAISON**

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions of this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and


1.1.2 The Northern Cape Department of Transport, Safety and Liaison acting for and on behalf of the Northern Cape Provincial Government, herein represented by MOEKETSI PIET DICHABA in his/her capacity as HEAD OF DEPARTMENT and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

- 2.1.1 **"Account"** means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;
- 2.1.2 **"Act"** means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);
- 2.1.3 **"Agreement"** means the contents of this Agreement together with the Annexures hereto;
- 2.1.3 **"Baseline Fees"** means the fees charged by the various provinces for the licensing of a motor vehicle;
- 2.1.4 **"Business Day"** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means, notwithstanding the date of signature of this Agreement by the Party signing last in time,2020;
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **" Province"** means the Party as fully described in clause 1.1.2;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 **"Parties"** means RTMC and/or Mpumalanga as the context indicates, and "Party" shall mean either one of them as the context may indicate;
- 2.1.17 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.18 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.19 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.20 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
 - 2.2.1.1 any reference to the singular includes the plural and vice versa;
 - 2.2.1.2 any reference to the natural person includes legal persons and vice versa;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

versa;

- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

made by the public for the renewal of motor vehicle licenses and payment of such payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-

6.1.3.1 printing the license disc;

6.1.3.2 reconciling each payment received; and

6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 Meetings. RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 Place of payment. Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank: STANDARD BANK

Account Name: NORTHERN CAPE PROVINCE

Account Number: 063051087

Branch Code: 050002

7. SERVICE FEE

7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and paid a Service Fee of 10% by the Province of and for all baseline fees and penalties collected on behalf of the Province.

7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.

8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.

8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having

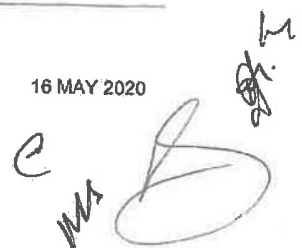
16 MAY 2020

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

- 11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.
- 11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.
- 11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to present the Parties at a Steering Committee meeting.
- 11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.
- 11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.
- 11.6 **Functions.** The functions of the Steering Committee shall be—
- 11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;
 - 11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;
 - 11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;
 - 11.6.4 to review and discuss any other issues with regard to the Services;
 - 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS

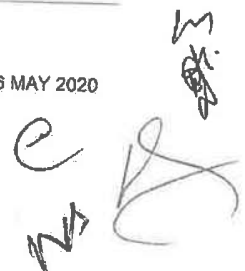
Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

13.6 **Failure to notify force majeure event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 16 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.

13.7 The foregoing provisions of this clause 16 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not effected by the event of *force majeure*, except to the extent the same cannot be performed.

14. AUDIT ACCESS AND OPEN BOOK

14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.

14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.

15. CONFIDENTIAL INFORMATION

15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.

15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include—

16 MAY 2020

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 15.2.1 all software and associated material and documentation, including information contained therein;
- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
 - 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;
 - 15.2.2.3 the terms and conditions of this Agreement; and
 - 15.2.2.4 the Procumbent Process to appoint service providers for Mpumalanga's Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
 - 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

15.5 Information not deemed Confidential Information. The foregoing obligations shall not apply to any information which -

15.5.1 is lawfully in the public domain at the time of disclosure;

15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;

15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or

15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.

15.6 Severability. The provisions of this clause 16 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.

16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.

16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.

16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute

16 MAY 2020

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.

- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
- 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
- 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

- 18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clause below, at which addresses all processes and notices arising out of or in connection



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with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

.....

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

16 MAY 2020

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

executes this Agreement.

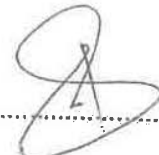
SIGNED AND EXECUTED at Cape Town and in the presence of the undersigned

witnesses on this 24 day of July 2020.

AS WITNESSES:

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2. 

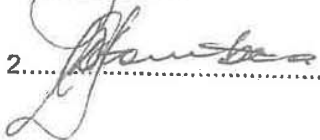

for RTMC

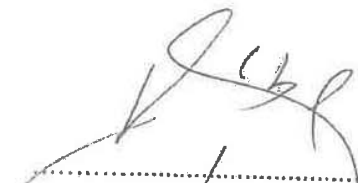
SIGNED AND EXECUTED at..... and in the presence of the undersigned

witnesses on this 22 day of July 2020

AS WITNESSES:

1. 

2. 


for the Province



Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**NORTH WEST DEPARTMENT OF COMMUNITY SAFETY AND
TRANSPORT MANAGEMENT**

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TIP:

NW
BY

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act (NRTA) and Regulations and Section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed and the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees and penalties payable to the Province when a motor vehicle license is renewed;

WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities includes amongst others the issuance and delivery of a motor vehicle licence disc issued online, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of credit card format driving licence;

WHEREAS the COVID-19 outbreak of the pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting E-commerce platforms, with Health and Safety Protocols.

WHEREAS the Province desires the RTMC to render online motor vehicle license renewal services and collect, subject to the provisions if this Agreement, all motor vehicle license fee renewal payments and if applicable penalties, made by Motor Vehicle Owners when utilising the RTMC online services.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

NOW THEREFORE THE PARTIES agree as follows –

1. PARTIES

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation, a statutory entity, established in terms of the Act and listed as a Schedule 3A public entity in terms of the PFMA, herein represented by Adv. M S Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The North West Department of Community Safety & Transport Management acting for and on behalf of the North West Provincial Government, herein represented by BOTHALE MUFUKENG in his/her capacity as HEAD OF DEPARTMENT..... and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 "Account" means the bank account opened in the name of the RTMC to receive and manage all license renewal fee payments;

2.1.2 "Act" means the means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 "Agreement" means the contents of this Agreement together with the Annexures hereto;

2.1.3 "Baseline Fees" means the fees charged by the various provinces for the licensing of a motor vehicle;

2.1.4 "Business Day" means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all

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references in this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;

- 2.1.5 **"CEO"** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.6 **"COVID -19"**, means the Novel Coronavirus (2019 -nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;
- 2.1.7 **"Confidential Information"** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party's information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.8 **"Disclosing Party"** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.9 **"Effective Date"** means the date of the signature of this Agreement by the Party signing last in time
- 2.1.10 **"Head of Department"** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.1.11 **"MEC"** means Member of the Executive Counsel;
- 2.1.12 **"Month"** means a calendar Month;
- 2.1.13 **"NaTIS"** means the computerised National Traffic Information System that is used as a register that supports the NRTA and Regulations;
- 2.1.14 **"NRTA"** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.15 **"Parties"** means RTMC and/or the Province as the context indicates, and "Party" shall mean either one of them as the context may indicate;

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.16 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.17 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.18 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.19 **"Province"** means the Party as fully described in clause 1.1.2;
- 2.1.20 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.21 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.22 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.23 **"Services"** means the online motor vehicle license renewal services, which includes the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.24 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.25 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party;
- 2.1.26 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice versa;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
 - 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
 - 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
 - 3.1.3 providing for the determination of and the payment of the Service Fee by the Province to the RTMC for rendering the Services;
 - 3.1.4 to establish the procedure by which the RTMC will receive all baseline fees payments made by the public for the renewal of motor vehicle licenses and payment of such

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

payments received to the Province.

4. APPOINTMENT

The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services set - out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.

5.2 With effect from the Termination date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

6. SERVICES

6.1 The RTMC shall, unless specified otherwise:

6.1.1 on NaTIS, make available online license renewal functionality to be utilised by the public to renew motor vehicle license renewals;

6.1.2 subject to the provisions of the PFMA, open and manage the Account;

6.1.3 on a daily basis manage and monitor and control all online motor vehicle license renewals and receive all license renewal fee and if applicable, penalty payments deposited into the Account by-

6.1.3.1 printing the license disc;

6.1.3.2 reconciling each payment received; and

6.1.3.3 prepare a comprehensive and detailed monthly reconciliation report;

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by
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem of this Agreement.
- 6.3 **Diligence, care and professionalism.** RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** RTMC shall attend all meetings including Steering Committee meeting aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 RTMC shall promptly notify the Province of any information, received by RTMC, which in the opinion of RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by RTMC shall be signed off by RTMC Project Manager.
- 6.8 All reports and information provided by RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following banking account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank: FNB**Account Name: NORTH WEST PROVINCE****Account Number: 62811733246****Branch Code: 210244****7. SERVICE FEE**

- 7.1 The RTMC shall subject to the provisions of 8.2, be entitled to and be paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

10. WARRANTIES AND REMEDIES

RTMC warrants that it is fully conversant with all relevant statutory requirements having a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

11.1 **Steering Committee.** Each Party shall appoint, in writing, after the Effective Date representatives and alternates to represent the Parties on the Steering Committee.

11.2 **Constitution of Steering Committee.** The Steering Committee shall comprise of 2 (two) representatives of each Party.

11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to represent the Parties at a Steering Committee meeting.

11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.

11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.

11.6 **Functions.** The functions of the Steering Committee shall be—

11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;

11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by RTMC;

11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;

11.6.4 to review and discuss any other issues with regard to the Services;

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 11.6.5 where any specific action or consent is required by either Party in terms of this Agreement;
- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a member of the Parties representing each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that their Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fee by the Province to the RTMC each Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

13. FORCE MAJEURE

13.1 Force majeure event. Force majeure shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.

13.2 Notify of force majeure event. The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such force majeure event promptly notify the other Party of such force majeure event and when such an event of force majeure has ceased.

13.3 No liability for force majeure. Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of force majeure, which arise after the Effective Date.

13.4 Endeavour to continue obligations. Upon the occurrence of any force majeure event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the force majeure event and shall not take such steps unless directed by the other to do so.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 13.5 If the *force majeure* event continues for a period of 90 ((ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.
- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 13 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The foregoing provisions of this clause 13 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not affected by the event of *force majeure*, except to the extent that same cannot be performed.
- 14. AUDIT ACCESS AND OPEN BOOK**
- 14.1 RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.
- 15. CONFIDENTIAL INFORMATION**
- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.

15.2 Nature of the Confidential Information. The Confidential Information of the Disclosing Party shall, without limitation, include—

15.2.1 all software and associated material and documentation, including information contained therein;

15.2.2 all information relating to –

15.2.2.1 the Disclosing Party's past, present and future research and development;

15.2.2.2 the Disclosing Party's business activities, service providers and such service providers confidential information;

15.2.2.3 the terms and conditions of this Agreement; and

15.2.2.4 the Procurement Process to appoint service providers for the Province Database.

15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.

15.4 Receiving Party's obligations with regard to Confidential Information. The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –

15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;

15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether

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during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.

15.5 Information not deemed Confidential Information. The foregoing obligations shall not apply to any information which -

- 15.5.1 is lawfully in the public domain at the time of disclosure;
- 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
- 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
- 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.

15.6 Severability. The provisions of this clause 15 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

16. DISPUTE SETTLEMENT BETWEEN THE PARTIES

- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the

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Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within thirty (30) days of the dispute having referred to them, to resolve the dispute.

- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.
- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

- 17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of thirty (30) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –
 - 17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or
 - 17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

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18 NOTICES AND DOMICILIUM

18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clauses 18.1.1 and 18.1.2 below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

31-34 Molopo Road, Mafikeng (for attention of the Head of Department).

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 19.1 shall only be satisfied if such notice is given in a written, paper-based form.

18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.

18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

19. CESSION AND DELEGATION AND SUB-CONTRACTING

Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

20. WHOLE AGREEMENT AND NON-VARIATION

20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.

20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

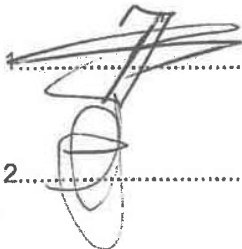
23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.

SIGNED AND EXECUTED at Centurion and in the presence of the undersigned

witnesses on this 08 day of September 2020.

AS WITNESSES:


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for RTMC

SIGNED AND EXECUTED at MAFIKENG and in the presence of the undersigned

witnesses on this 24th day of July 2020

AS WITNESSES:



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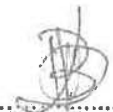
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

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Road Traffic
Management Corporation

ONLINE SERVICES MEMORANDUM OF UNDERSTANDING

entered into by and between

THE ROAD TRAFFIC MANAGEMENT CORPORATION

and

**WESTERN CAPE DEPARTMENT OF TRANSPORT AND
PUBLIC WORKS**

AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

PREAMBLE

WHEREAS, the Province is responsible for the testing, registration and licensing of motor vehicles in terms of the National Road Traffic Act, 1996 (NRTA) and the Regulations promulgated thereunder;

AND WHEREAS section 4 of the NRTA provides that the registration and licensing system of motor vehicles for each province shall be as prescribed;

AND WHEREAS the Member of the Executive Council (MEC), as per the provisions of the NRTA, may prescribe baseline fees payable to the Province when a motor vehicle licence is renewed;

AND WHEREAS Regulation 25A(1) of the Regulations provides that if a MEC concerned deems it expedient, he or she may allow for the licensing of a motor vehicle by the owner thereof through a bank's Automatic Teller Machine (ATM) or other form of electronic means;

AND WHEREAS the Road Traffic Management Corporation (RTMC), as the owner of the National Traffic Information System (NaTIS), has developed certain online functionalities, which functionalities include amongst others the issuance of a motor vehicle licence disc and the delivery thereof, online registration of a motor vehicle by the title holder, online notification of change of ownership by the current title holder, online booking for a learner's or driving licence test and online booking for the renewal and delivery of a credit card format driving licence;

AND WHEREAS the outbreak of the COVID-19 pandemic led to the declaration of the lockdown and Risk Adjusted Strategy regulating and minimising movement and simultaneously promoting e-commerce platforms, in line with Health and Safety Protocols.

AND WHEREAS the Province desires the RTMC to render online motor vehicle licence

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renewal services and collect, subject to the provisions of this Agreement, all motor vehicle licence fee renewal payments and penalties, if applicable, made by Motor Vehicle Owners when utilising the RTMC online services.

NOW THEREFORE THE PARTIES agree as follows –**1. PARTIES**

1.1 The Parties to this Agreement are–

1.1.1 The Road Traffic Management Corporation (RTMC), a statutory entity, established in terms of the Road Traffic Management Corporation Act and listed as a Schedule 3A public entity in terms of the Public Finance Management Act, 1999 (PFMA), herein represented by Adv. MS Msibi in his capacity as Chief Executive Officer, duly authorised thereto; and

1.1.2 The Western Cape Government via its Department of Transport and Public Works herein represented by Ms JT Gooch in her capacity as Head of Department and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION**2.1 Definitions**

In this Agreement, the following expressions and words have the meaning assigned to them below and derivative expressions and words have a corresponding meaning, unless inconsistent with or otherwise indicated by the context–

2.1.1 **“Account”** means the bank account opened in the name of the RTMC to receive and manage all licence renewal fee payments;

2.1.2 **“Act”** means the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);

2.1.3 **“Agreement”** means the contents of this Agreement together with the Annexures hereto;

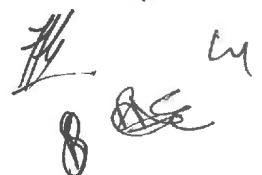
2.1.4 **“Baseline Fees”** means the fees charged by the various provinces for the licensing



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

of a motor vehicle;

- 2.1.5 **“Business Day”** means any day in the RSA which is not a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994 and all references in this Agreement to days shall be deemed calendar days, unless specifically stipulated as being Business Days;
- 2.1.6 **“CEO”** means the Chief Executive Officer of the RTMC appointed in terms of the Act;
- 2.1.7 **“COVID-19”**, means the Novel Coronavirus (2019-nCov2) which is an infectious disease caused by a virus, which emerged during December 2019 and was declared a global pandemic by the WHO on 11 March 2020, that has previously not been scientifically identified in humans;
- 2.1.8 **“Confidential Information”** means all information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is or ought reasonably to be identifiable as confidential and/or proprietary to the Disclosing Party’s information, or which is provided or disclosed in confidence, and which the Disclosing Party or any person acting on behalf of the Disclosing Party may disclose or provide to the Receiving Party;
- 2.1.9 **“Disclosing Party”** means either of the Parties which discloses Confidential Information to the other of the Parties;
- 2.1.10 **“Effective Date”** means, notwithstanding the date of signature of this Agreement by the Party signing last in time;
- 2.1.11 **“Head of Department”** means the public servant who is the administrative head of the Department and the accounting officer in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 2.1.12 **“MEC”** means Member of the Executive Counsel;
- 2.1.13 **“Month”** means a calendar Month;
- 2.1.14 **“NaTIS”** means the computerised National Traffic Information System that is used as a register that supports the NRTA and the Regulations promulgated thereunder;
- 2.1.15 **“NRTA”** means the National Road Traffic Act, 1996 (Act No 93 of 1996);
- 2.1.16 **“ Province”** means the Party as fully described in clause 1.1.2;
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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 2.1.17 **"Parties"** means RTMC and/or the Western Cape Government as the context indicates, and **"Party"** shall mean either one of them as the context may indicate;
- 2.1.18 **"PFMA"** means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- 2.1.19 **"Project Manager"** means the representatives of the Parties appointed by them in terms of clause 11 to fulfil the functions set out therein;
- 2.1.20 **"Project meetings"** means the Project meetings between the representatives of the Parties in terms of clause 11;
- 2.1.21 **"Receiving Party"** means either of the Parties which receives Confidential Information from the other of the Parties;
- 2.1.22 **"Regulations"** means the National Road Traffic Regulations, 2000;
- 2.1.23 **"RTMC"** means the Party as more fully described in clause 1.1.1;
- 2.1.24 **"Services"** means the online motor vehicle licence renewal services, which include the collection and distribution of Licensing Renewal Fees, Penalties and Service Fees;
- 2.1.25 **"Service Fees"** means the percentage fee charged and payable to the RTMC by the Province;
- 2.1.26 **"Staff"** means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party; and
- 2.1.27 **"Transaction Fees"** means the monies charged per online NaTIS service in terms of section 24(1)(a) of the Act.

2.2 Interpretation

- 2.2.1 In this Agreement unless the context indicates a contrary intention an expression which denotes –
- 2.2.1.1 any reference to the singular includes the plural and vice versa;
- 2.2.1.2 any reference to the natural person includes legal persons and vice



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

versa;

- 2.2.1.3 any reference to a gender includes the other genders;
- 2.2.2 if any provision in any definition constitutes a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it was a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the definition and interpretation clause;
- 2.2.3 when any number of days are prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day;
- 2.2.4 where any provision contemplates a notice to be given, such notice shall, unless expressly provided otherwise, be made in writing;
- 2.2.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.2.6 any word or expression used in this Agreement which is defined in the Act shall bear the same meaning in this Agreement as assigned to it by the Act;
- 2.2.7 if any provision of this Agreement is in any way inconsistent with the provisions of the PFMA, or the Act, the provisions of the PFMA, or the Act shall prevail, and this Agreement shall be read in all respect subject thereto.

3. PURPOSE OF AGREEMENT

- 3.1 The purpose of this Agreement is to: -
- 3.1.1 formalise the relationship between the RTMC and Province pursuant to the provisions of the PFMA;
- 3.1.2 establish the terms and conditions subject to which the RTMC will render the Services to the Province;
- 3.1.3 providing for the determination and the payment of the Service Fees by the Province to the RTMC for rendering the Services;
- 3.1.4 to establish the procedure by which the RTMC will receive all baseline fee payments

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

made by the public for the renewal of motor vehicle licences and payment of such payments received to the Province.

4. APPOINTMENT

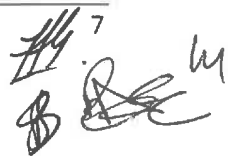
The Province hereby and subject to the provisions of this Agreement and any applicable legislation, appoints the RTMC to render the Services as set out in this Agreement and the RTMC hereby accepts such appointment.

5. DURATION

- 5.1 This Agreement shall commence on the Effective Date and shall subject to the provisions of clause 5.2, continue for a minimum period of 5 (five) years ("Termination Date") from the Effective Date.
- 5.2 With effect from the Termination Date, this Agreement shall endure indefinitely subject to 5 (five) years written notice of termination given by either Party to the other.

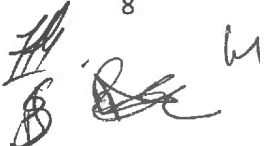
6. SERVICES

- 6.1 The RTMC shall, unless specified otherwise:
- 6.1.1 on NaTIS, make available online licence renewal functionality to be utilised by the public to renew motor vehicle licences;
- 6.1.2 subject to the provisions of the PFMA, open and manage the Account;
- 6.1.3 on a daily basis manage and monitor and control all online motor vehicle licence renewals and receive all licence renewal fees and if applicable, penalty payments deposited into the Account by-
- 6.1.3.1 printing and delivering the licence disc;
- 6.1.3.2 reconciling each payment received; and
- 6.1.3.3 preparing a comprehensive and detailed monthly reconciliation report;



AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

- 6.1.3.4 transfer all reconciled transactions, subject to paragraph 8 hereunder, to the account identified by the Province, which transfer will be on or before the 21st of the month following the month of receipt.
- 6.2 **Problem and negative trend identification.** Should the RTMC encounter any problem or identify any trend in the services, which could cause or indicate the likely occurrence of faults, defects or delays, it shall immediately report such matter to the Province. The Parties shall thereafter agree on corrective measures to be taken to address or pre-empt the problem in terms of this Agreement.
- 6.3 **Diligence, care and professionalism.** The RTMC shall exercise all reasonable diligence, care and act in a professional manner in the execution of this Agreement and the provision of the Services and shall not do anything that would discredit, dishonour, reflect adversely on or injure the reputation of the Province.
- 6.4 The RTMC shall immediately inform the Province if it appears, in the light of information that has come to hand, that the services require revision for whatsoever reason.
- 6.5 **Meetings.** The RTMC shall attend all meetings including Steering Committee meetings aimed at monitoring the progress of the services as reasonably required by the Province.
- 6.6 The RTMC shall promptly notify the Province of any information, received by the RTMC, which in the opinion of the RTMC is likely to be of interest, use or benefit to the Province in relation to the Services or this Agreement.
- 6.7 All reports and documentation to be provided by the RTMC shall be signed off by the RTMC Project Manager.
- 6.8 All reports and information provided by the RTMC to the Province in terms of this Agreement shall contain accurate information so as to enable the Province to monitor the Service standards.
- 6.9 **Place of payment.** Payment for the Services shall be made by the RTMC to the Province by electronic transfer into the following bank account.

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

Bank: Nedbank Corporate;

Account Name: Motor Vehicle Licence Account;

Account Number: 1452045070, and

Branch Code: 145209;

7. SERVICE FEES

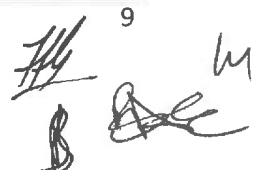
- 7.1 The RTMC shall subject to the provisions of 7.2, be entitled to and be paid a Service Fee of 8% by the Province of and for all baseline fees and penalties collected on behalf of the Province.
- 7.2 The Service Fees payable by the Province shall be reviewed annually by the RTMC, in conjunction with the Province, by evaluating the services provided against the cost of providing these services.
- 7.3 Collected fees and penalties shall not include Transaction Fees collected.

8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 This Agreement shall not constitute, or be deemed to constitute, a partnership between the Parties and neither Party shall have any right, authority or power to bind the other, or incur any liability on behalf of the other or to pledge the credit of the other Party.
- 8.2 Nothing in this Agreement shall constitute, or be deemed to constitute, an employment contract between the Parties, or be deemed to constitute such a relationship.
- 8.3 The Parties shall at all times have a duty of good faith in their dealings with one another.

9. GENERAL OBLIGATIONS OF THE PARTIES

The Parties shall co-operate with each other in good faith.

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10. WARRANTIES AND REMEDIES

The RTMC warrants that it is fully conversant with all relevant statutory requirements having a direct or indirect bearing on this Agreement and that it shall comply with all laws and regulations of the Republic of South Africa, and in particular the PFMA.

11. CONTRACT MANAGEMENT

11.1 Steering Committee. Each Party shall appoint, in writing, after the Effective Date, representatives and alternates to represent the Parties on the Steering Committee.

11.2 Constitution of Steering Committee. The Steering Committee shall comprise of 2 (two) representatives of each Party.

11.3 The chairperson of the Steering Committee shall be the RTMC's Project Manager, to present the Parties at a Steering Committee meeting.

11.4 Any appointment, removal or replacement of representatives by a Party shall be by notice to the other Party and shall be effective as soon as such notice is received by the other Party.

11.5 The Steering Committee may from time to time co-opt additional persons to sit on the Steering Committee, whether in a voting or monitoring capacity.

11.6 Functions. The functions of the Steering Committee shall be-

11.6.1 continually review the management information requirements of the Steering Committee and agree on any variations in such functions to provide a means for the joint review of issues relating to all day-to-day aspects with regard to the Services;

11.6.2 to provide a forum for joint strategic discussion, and possible variations of the Services to be performed by the RTMC;

11.6.3 in certain circumstances, pursuant to the Dispute Resolution, to provide a means of resolving disputes or disagreements between the Parties;

11.6.4 to review and discuss any other issues with regard to the Services;

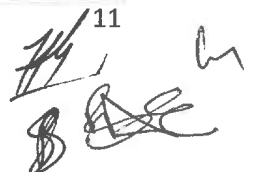
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Handwritten signatures and initials.

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- 11.6.5 to facilitate performance where any specific action or consent is required by either Party in terms of this Agreement
- 11.6.6 report to each other for the duration of this Agreement and shall ensure that any unacceptable performance by a Party of its obligations in terms of this Agreement is brought to the attention of the Steering Committee timeously to enable the RTMC to take suitable corrective action.
- 11.7 **Status of Decisions.** No decision of the Steering Committee's meetings shall have the effect of amending the terms of this Agreement.
- 11.8 **Minutes of Meetings.** All meetings between the Parties shall be recorded and signed by a representative of each of the Parties on the Steering Committee and the minutes so kept shall be circulated to the members of the Steering Committee within 7 (seven) days of each meeting.
- 11.9 As soon as possible after the Effective Date, each Party shall appoint a Project Manager and notify the other Party of such appointment.
- 11.10 **Authority.** Each Party shall ensure that its Project Manager will have the necessary skill, expertise and experience to carry out such responsibility. Unless otherwise specifically provided in this Agreement or agreed to in writing by a Party, such Party's Project Manager shall not be entitled to make any operational decisions concerning the provision of the Services and shall not be authorised to bind or commit it to any amendments to this Agreement.
- 11.11 Either Party shall be entitled at any time to terminate the appointment of its Project Manager by notice to the other Party or to appoint any other person as Project Manager and such termination shall take effect in terms of such notice.
- 11.12 All communications concerning the management of this Agreement shall, unless otherwise agreed to between the Parties, take place between the Parties' respective Project Managers.

12. FINANCIAL ARRANGEMENTS

Except for the payment of the Service Fees by the Province to the RTMC each

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Party shall bear its own costs in the fulfilment of its obligations in terms of this Agreement.

13. FORCE MAJEURE

- 13.1 **Force majeure event.** *Force majeure* shall mean any material event beyond the control of either Party whose occurrence could not have been reasonably foreseen at the date of execution of this Agreement and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, including but not limited to fire, explosion, war, revolution, riot, insurrection, protest and/or boycott action, floods, storms and other natural disturbances, perils of the sea, breakdown of machinery and equipment (not avoidable by proper maintenance and planning), and/or Act of God and which causes material and unavoidable damage to property, material delays or interruptions.
- 13.2 **Notify of force majeure event.** The Party prevented from fulfilling its obligations in terms of this Agreement shall on becoming aware of such *force majeure* event promptly notify the other Party of such *force majeure* event and when such an event of *force majeure* has ceased.
- 13.3 **No liability for force majeure.** Neither Party shall be considered to be in default or in breach of its obligations under this Agreement if and to the extent that performance of such obligation is prevented by any circumstances of *force majeure*, which arise after the Effective Date.
- 13.4 **Endeavour to continue obligations.** Upon the occurrence of any *force majeure* event the Parties shall endeavour to continue to perform its obligations under this Agreement so far as reasonably possible. The Party shall notify the other of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by the *force majeure* event and shall not take such steps unless directed by the other to do so.
- 13.5 If the *force majeure* event continues for a period of 90 (ninety) days, the Parties shall promptly consult with the view to reaching a mutually satisfactory resolution to the change in circumstances. In the event that the Parties do not reach a mutually satisfactory resolution either Party may terminate this Agreement.
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- 13.6 **Failure to notify *force majeure* event.** If a Party fails to inform the other Party of the *force majeure* event concerned as set out in this clause 13 then such Party shall thereafter not be entitled to refer to or rely on such *force majeure* event as a reason for non-fulfilment of any obligation in terms of this Agreement, provided that this obligation to perform shall not apply if a *force majeure* event is known by both Parties or the Party is unable to inform the other Party due to the *force majeure* event.
- 13.7 The foregoing provisions of this clause 13 shall not excuse or release the Party claiming *force majeure* from obligations due or performable, or compliance required, under this Agreement prior to the *force majeure* event nor failures, delays in performance or obligations not effected by the event of *force majeure*, except to the extent the same cannot be performed.

14. AUDIT ACCESS AND OPEN BOOK

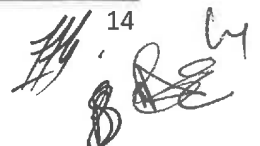
- 14.1 The RTMC shall keep and operate a proper and efficient accounting and Procurement management system to reflect truly and fairly, in conformity with the PFMA and generally accepted accounting practices.
- 14.2 The RTMC shall, in order to enable the Province to determine whether the provisions of this Agreement have been complied with provide the Province with such information as it may reasonably require.

15. CONFIDENTIAL INFORMATION

- 15.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all information which they may receive from the other Disclosing Party or which becomes known to them concerning the Disclosing Party during the duration of this Agreement.
- 15.2 **Nature of the Confidential Information.** The Confidential Information of the Disclosing Party shall, without limitation, include—
- 15.2.1 all software and associated material and documentation, including information contained therein;

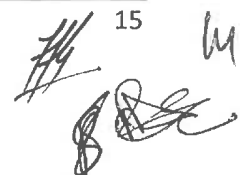
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- 15.2.2 all information relating to –
- 15.2.2.1 the Disclosing Party's past, present and future research and development;
 - 15.2.2.2 the Disclosing Party's business activities, service providers and such service providers' confidential information;
 - 15.2.2.3 the terms and conditions of this Agreement; and
 - 15.2.2.4 the Procurement Process to appoint service providers for Western Cape's Suppliers Database.
- 15.3 The Parties shall, except as permitted by this Agreement, not disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and in the event of the Confidential Information relating to a third party, it shall also be incumbent on the Receiving Party to obtain the consent of such third party.
- 15.4 **Receiving Party's obligations with regard to Confidential Information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information –
- 15.4.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of this Agreement;
 - 15.4.2 subject to the right to make the Confidential Information available to their Project Managers and the Steering Committee above, they will not at any time, whether during this Agreement or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties.
- 15.5 **Information not deemed Confidential Information.** The foregoing obligations shall not apply to any information which -
- 15.5.1 is lawfully in the public domain at the time of disclosure;
 - 15.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 15.5.3 subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
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- 15.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 15.6 **Severability.** The provisions of this clause 15 are severable from the rest of the provisions of this Agreement and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.
- 16. DISPUTE SETTLEMENT BETWEEN THE PARTIES**
- 16.1 If any dispute or difference of any kind, in connection with or arising out of this Agreement arises between the RTMC and the Province, the Parties shall make every effort to resolve the dispute amicably by consultation. The Project Managers shall discuss the dispute and attempt to resolve the dispute without the necessity of any formal proceedings.
- 16.2 If the dispute is not capable of being settled between the Project Managers amicably, such dispute shall be elevated to the Steering Committee.
- 16.3 Should the Steering Committee fail to resolve the dispute, either the RTMC or the Province, may refer the dispute to the Head of the Department and the CEO or their duly authorised employees, who shall convene a meeting within 30 (thirty) days of h a v i n g the dispute referred to them, to resolve the dispute.
- 16.4 Should the dispute remain unresolved for a period of 30 (thirty) days after being so referred, either Party may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in which event the Parties will follow the procedure as outlined in Section 42 of the Intergovernmental Relations Framework Act, Act No 13 of 2005.
- 16.5 Should the dispute still remain unresolved, the dispute will be adjudicated by a competent court with jurisdiction to hear the matter.
- 16.6 Notwithstanding the provisions of this clause, any Party shall be entitled to institute any proceedings for urgent interim relief arising out of or in connection with this Agreement in the High Court of South Africa having jurisdiction over the Parties.
- 16.7 Notwithstanding any dispute and/or court proceedings herein the Parties shall

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continue to perform their respective obligations under this Agreement unless they otherwise agree.

17 BREACH

17.1 Should either Party fail to comply with any provision of this Agreement the aggrieved Party may send a letter of demand to the defaulting Party, demanding compliance with such provision and should the defaulting Party, after a period of 30 (thirty) days (or such longer periods as may under the circumstances be reasonably necessary) of the date of receipt of such notice, remain in default, the aggrieved Party shall be entitled, without prejudice to any other rights it may have –

17.1.1 to claim specific performance from the defaulting Party and to claim such damages as it may have suffered; or

17.1.2 to discharge and execute the defaulting Party's obligations on its behalf and to recover the costs and disbursements incurred in respect thereof from that Party.

18 NOTICES AND DOMICILIUM

18.1 The Parties choose as their *domicilium citandi et executandi* (address for purpose of legal proceedings and legal notices) their respective addresses set out in clause below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

18.1.1 RTMC:

349 Witchhazel Avenue, Block F Eco Origins, Highveld Ext 0079.

18.1.2 Province:

9 Dorp Street, Cape Town, 8001.

or at such other address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

18.2 Any written notices required in terms of clause 18 shall only be satisfied if such

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notice is given in a written, paper-based form.

- 18.3 Any notice given in terms of this Agreement shall be in writing and shall, unless proved otherwise -
- 18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery; or
- 18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 10th (tenth) Business Day following the date of such posting.
- 18.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen *domicilium* address set out above shall be an adequate written notice of communication to such Party.

19. CESSION AND DELEGATION AND SUB-CONTRACTING

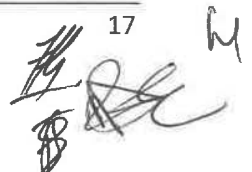
Neither Party shall be entitled to cede, delegate or assign any of its rights or obligations in terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

20. WHOLE AGREEMENT AND NON-VARIATION

- 20.1 This Agreement constitutes the whole of the agreement between the Parties hereto relating to the subject matter hereof and the Parties shall not be bound by any terms, conditions or representations whether written, oral or by conduct and whether express or tacit not recorded herein.
- 20.2 No addition to, variation, consensual cancellation or novation of this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by both Parties or by their duly authorised representatives.

21. WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto

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giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. SEVERABILITY

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful, or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to enter into negotiations to resolve the invalidity.

23. SIGNING AUTHORITY

The Parties warrant and represent that a duly authorised representative of that Party executes this Agreement.

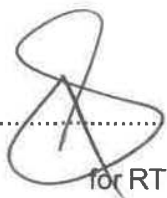
SIGNED AND EXECUTED at Centurion and in the presence of the undersigned

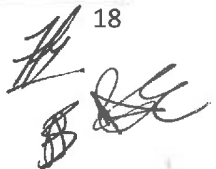
witnesses on this 05 day of February 2021.

AS WITNESSES:

1.....

2.....

.....

for RTMC

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AGREEMENT: MOTOR VEHICLE LICENSE RENEWAL SERVICES

SIGNED AND EXECUTED at...CAPE TOWN..... and in the presence of the undersigned

witnesses on this ..30TH... day of ..DECEMBER..... 2020

AS WITNESSES:

1.....B Smith.....

2.....Smith.....

.....[Signature].....

for the Province

M

