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MEMORANDUM OF UNDERSTANDING

Between

LIMPOPO DEPARTMENT OF ROADS AND TRANSPORT

For and on behalf of

LIMPOPO PROVINCIAL GOVERNMENT

(Hereinafter referred to as "the Department")

And

MUTALE LOCAL MUNICIPALITY

(Hereinafter referred to as "The Municipality")

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MEMORANDUM OF UNDERSTANDING

ENTERED INTO BETWEEN

**THE LIMPOPO DEPARTMENT OF ROADS AND TRANSPORT for and on behalf of
LIMPOPO PROVINCIAL GOVERNMENT**

Herein represented by **Mr. Ntau Letebele** in his duly authorised capacity as **Head of Department of Limpopo Department of Roads and Transport ("The Department")**

AND

MUTALE LOCAL MUNICIPALITY

Herein represented by **Mr. Netshanzhe T.G.** in his duly authorised capacity as **Municipal Manager of Mutale Local Municipality ("The Municipality")**

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“Contact person” means the person appointed/nominated by the Department and the Municipality to act as contact person for each party in this agreement.

“Day” refers to calendar week days from Monday to Friday excluding Saturday, Sunday and Public Holidays.

“eNaTIS” means electronic National Traffic Information System developed by and in conjunction with the National Department of Transport.

“Equipment” means

- (a) computer equipment, including any eNaTIS computer terminal, printer, uninterrupted power supply unit and central processing unit installed by the Department for the Municipality to undertake its functions as outlined in this Agreement; and
- (b) any other equipment provided by the Department to the Municipality relating to this agreement

“Party” mean the parties to this Agreement.

“Province” means Limpopo Province.

5. DURATION OF THE AGREEMENT

5.1 This Agreement shall commence on the **01 day of April 2012**, and shall be in force and valid for a period of three (3) years, terminating on the **31 day of March 2015**.

5.2 In the event that the Head of Department determines that the Municipality's performance is satisfactory and thereby wishes to extend or renew this Agreement beyond the date specified in clause 5.1 above for an additional

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period not exceeding two (2) years, the Head of Department shall give the Municipality written notice of any proposed extension or renewal in no less than one hundred and twenty (120) days prior termination of this Agreement.

5.3 In the event that the Municipality wishes to accept the Head of Department's offer to extend or renew this Agreement, it shall give written notice of its acceptance of the said offer no later than thirty (30) days upon receipt of an offer to extend or renew this Agreement.

6. OBLIGATIONS OF THE PARTIES

The Municipality shall report at all times to the Head of the Department or his designee.

- **The Municipality shall be obligated to:**

6.1 perform and shall be responsible for, in terms of applicable National and Provincial Road Traffic legislation and this Agreement,

6.1.1 the following **motor vehicle registration and licensing functions**:

- registration of vehicles;
- issue of duplicate certificate;
- deregistration of motor vehicle;
- change of particulars of an owner or type of a titleholder with respect to registration and licensing;
- change of particulars of a motor vehicle;
- issue of temporary or special permit;
- licensing of a vehicle in a private person's or legally recognized entity's name;
- registration of personalized and specialized registration number;
- retention of vehicle license numbers;
- notification of change of ownership of a vehicle;
- processing change of addresses;
- application for refund, with the refund, to be issued by the Department of Roads and Transport;
- application of special classification of vehicle;
- application for Traffic Register number;
- application for motor trade number;

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- application for registration as a manufacturer, builder or importer of vehicles;
- referral of all motor vehicle registration and licensing queries, complaints and disputes to the Head of Department within 2 (two) working days of a query or lodging of a complaint or dispute;
- open files for all vehicles registered in terms of guidelines;
- submit monthly reports before the 7th of each month
- any other transaction reasonably requested by the department
- shall pay driver's license card fee within 7 days of card delivery to Prodiba account.
- will pay 3% to South African Bureau of Standards (SABS) every six months for all roadworthy tests conducted.
- will collect e-Natis transaction levy and pay over to the Department of Roads and Transport on weekly basis.
- should only pay through electronic fund transfer system to the department of Roads and Transport.

6.1.2 The following **learner license functions**:

- Open files for all learners' license applicants;
- Application for learners license;
- Testing of learner driver applicants to determine competency
- Keep registers of learners license bookings
- Keep registers of learners license tested
- Issue of learners license
- Issue of duplicate learners license
- Do eye test to all applicants
- Do retest of learners license where necessary;
- Do oral test after approval by the department;
- Referral of all queries, complaints and disputes to the Head of Department within 2 (two) working days of a query or lodging of a complaint or dispute,

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- Respond and adhere to national and provincial inspectorate queries within the time stipulated;
- Submit monthly reports to the Head of Department before the 7th of each month;

6.1.3 The following driving license functions;

- Open files for all driving licences applicants;
- Application of driving license;
- testing learner drivers to determine competency to drive a motor vehicle, in terms of the appropriate code of license, on public road;
- issue of Credit Card Format Driving License Card, including eye test and fingerprints;
- issue of duplicate driving license where required;
- renewal of credit card format driving license including eye test and fingerprints;
- issue Temporary driving license;
- application for professional driving permit;
- issue of professional driving permit, including eye test and fingerprints;
- issue of duplicate Professional driving permit, where required;
- application for instructor certificate;
- testing of instructor certificate to determine competency to tutor learner's drivers in terms of the appropriate code of vehicle's
- issue of instructor certificate;
- issue of duplicate instructor certificates, where required;
- substitute of foreign driving license and issue of credit card format driving license, including eye test and fingerprints;
- verification of driving license particulars;
- keep registers of all applicants tested for driving license and renewals;
- keep registers of all bookings for driving license;
- keep registers for all instructor certificates tested and renewals;

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- keep files of all driving schools within its jurisdiction;
- update the renewals of business licenses by driving schools;
- Referral of all queries, complaints and disputes to the Head of Department within 2 (two) working days of a query or lodging of a complaint or dispute;
- maintain k53 test ground;
- submit monthly report before the 7th of every month;

6.1.4 The following **motor vehicle testing functions**, including but not limited to the use of the applicable eNaTIS form;

- Application for Certification of Roadworthiness;
- recording of Certificates of Roadworthiness test results;
- issue roadworthiness Certificates; and
- Referral of all queries to the Head of Department within 2 (two) working days of a query or lodging of a complaint or dispute;
- calibrate vehicle testing equipments as per SABS manuals;
- respond to national and provincial inspectorate queries within the specified time;

6.1.4(a) The date of implementation of the functions referred to in above shall be the date upon which the last signature to this agreement shall be appended.

6.1.4(b) The assignment of the functions referred to from 6.1.2 to 6.1.4 above will be rolled out in phases and upon the signing of a memorandum of implementation by the Head of department or his/her authorised representative.

6.2 be responsible for the maintenance of the eye tester and brake roller tester owned and supplied by the Department, and ensure that at all time the eye tester and brake roller tester are in good operating order.

6.3 comply with all National and Provincial legislation when delivering services in terms of clause 6.1 – 6.2 inclusive, including but not limited to compliance with all eNaTIS requirements.

6.4 appoint a contact person and advise the Department in writing of the contact person's name, title, location and contact information.

6.5 be responsible for any equipment provided by the Department in terms of this Agreement, and shall upon delivery, and installation of the equipments to the Municipality:

- assume all risk for the equipment by ensuring that:
- it provides a secure, lighted and air conditioned environment for eNaTIS equipment; utilise and operate all equipment supplied in terms of this agreement, including eNaTIS equipment, solely to realise the purposes of this Agreement; and ensure that all eNaTIS users sign the Departmental confidentiality form in respect of eNaTIS. Report all eNaTIS faults within the prescribed period, in accordance with the call logging process prescribed by the Department, to the Departmental help desk.
- ensure that eNaTIS equipment, is not utilized for any unauthorized transactions and ensure that all eNaTIS users sign the Departmental confidentiality agreement with respect to eNaTIS;
- ensure that the relevant application is submitted prior to eNaTIS or the manual processing of any application;
- maintain eNaTIS security in terms of Information Security Policy (NAPO 001).

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- ensure that a suitably appointed person is available to approve all eNaTIS user administration access per office, which procedures is subject to conditions that may change from time to time;
- ensure that filing and archiving of motor vehicle registration and licensing documentation is effected accurately and timeously

6.6 provide for the safekeeping of all face value documents, and provide all stationery required to realise the objectives of this Agreement. All face value forms to be registered and be distributed in both electronic and manual registers.

6.7 issues a temporary authorisation in the manner prescribed by the Department, in the event that eNaTIS is not operative or as otherwise instructed in writing by the Department's authorised contact person.

6.8 provide reasonable office accommodation on request for Provincial Revenue Management official(s) assigned to monitor and reconcile monthly revenue collections.

6.9 The Municipality shall receive a fixed fee of 20% of all monthly revenues collected by the agency in respect of the licensing and registration of motor vehicles as per attached **Annexure A**.

6.10 The Municipality shall deposit 80% of the said revenue collected by it on a monthly basis to the Department of Roads and Transport's Account on or before the 15th day of each month.

6.11 submit monthly reconciliations and detailed reports on revenue collected to the Department on or before the 7th of the following month.

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6.12 provide adequate personnel, including supervisory staff, to realise the objectives of this Agreement.

6.13 The Municipality shall, at all times:

- abide by *Batho Pele* principles and provide service delivery to clients in terms of the White Paper on Transforming Public Service Delivery;
- ensure that the office providing services in terms of this Agreement is open during business hours;
- apply and get permission to render services during weekends;
- protect client confidentiality in terms of the Protection of Information Act, 1982;
- obtain prior written approval from the Head of Department prior to relocating eNaTIS equipment or premises;

6.14 provide staff access to telephones, fax facilities and photocopy machines to execute motor vehicle registration and licensing functions;

6.15 notify the Department timeously when additional stock, for which the Department is responsible in terms of this Agreement, is required; and collect stock from the Department, for which the Department is responsible in terms of this Agreement, when the Agent has failed to reorder stock timeously.

6.16 The Municipality acknowledges that it is responsible for the safekeeping of equipment after the installation date, including but not limited to compliance with all fire safety measures as required in terms of applicable National and

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Provincial legislation, and the Agent shall, where equipment is stolen, lost or damaged;

- 6.16.1 contact the South African Police Service within 24 (twenty- four) hours of any theft, loss or damage of equipment or stock owned by the Department, to initiate an investigation;
- 6.16.2 report theft, loss or damage of equipment owned or stock provided by the Department to the Head of Department or other authorized Departmental representative within 24 (twenty-four) hours of such theft, loss and damage;
- 6.16.3 conduct its own investigation into the theft, loss or damage of equipment owned or stock provided by the Department and take appropriate action at law and in terms of relevant Public Service Regulations; and
- 6.16.4 Where equipment owned by the Department can not be located, and it can be proven on the balance of probabilities that the disappearance or loss thereof was as the result of the negligence of the Municipality, the Municipality shall replace the equipment within Sixty (60) days upon the receipt of the quotation from the Department.

6.17 The Municipality shall, where a justified complaint is issued in the media, issue a press release after consulting with the Departmental Media Liaison Officer on the content of the press release and the press shall protect the image of the Department.

6.18 The Municipality hereby acknowledges that stock provided or equipment owned by the Department, irrespective of whether it is attached to immovable property, remains the property of the Department and must be returned when this Agreement is terminated.

6.19 The Municipality can not cede, assign or transfer any of its rights and obligations in terms of this Agreement.

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6.20 The Municipality shall comply with all management systems and reporting procedures required by the Department and shall timeously submit any report requested by the Head of Department or his designee.

6.21 The Municipality shall grant access to its premises and make all books, records and computer print-outs related to services to be provided in terms of this Agreement available to the Department or representatives authorized by the Head of Department or his designee and the Department or its representatives shall be entitled to make announced and unannounced inspections of the books, records and computer print-outs related to services to be provided in terms of this Agreement during business hours.

6.22 The Municipality shall, at its own expense and upon request by the Head of Department, provide written certification from its auditor of any financial, administrative or any other matter relating to this Agreement.

6.23 The Municipality hereby acknowledges and confirms that any injuries sustained in the workplace by the Municipality, including any employee or agent, or as a direct consequences of work-related functions shall be governed by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No.130 of 1993) or any other applicable legislation.

6.24 The Municipality shall report allegations of any irregularities by its officers in terms of the services rendered under this agreement within five (5) days from the date of the incident.

The Department shall be obligated to:

6.25 appoint the Department's contact person within five (5) days of entering into this Agreement and notify the Municipality in writing of the contact person's name, title, location and contact information.

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6.26 provide and supply the Municipality, within Ninety (90) days of entering into this Agreement, of all equipment required for the Municipality to realise the objectives of this Agreement, and maintain the equipment provided in accordance with the manufacture's specification;

6.27 inform the Municipality in writing of Departmental operational and accounting procedures at counter positions for functions to be undertaken in terms of this Agreement, and advise the Municipality in writing of any policy or procedural changes.

6.28 The Department will ensure that Provincial Revenue Management officials are available to ensure compliance with Public Finance Management Act, 1999 (as amended), Treasury Regulations and any other applicable legislation.

6.29 provide oversight to ensure that the Municipality is complying with all obligations in terms of:

- applicable National and Provincial Road Traffic legislation
- the Public Finance Management Act, 1999
- the Protection of Information Ac,1982;
- any other applicable legislation;

6.31 review any request to relocate eNaTIS equipment or premises and not unreasonably withhold its written approval;

6.32 ensure that Department's Disaster Recovery Plan and any subsequent revisions thereto are promptly submitted to the Municipality;

6.33 ensure that an addendum to this agreement is in place in case of request for extension of period by the Municipality.

6.34 keep eNaTIS transaction fees for Road Traffic Management Cooperation (RMTC) and pay it over on monthly basis.

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6.35 the Department shall, at its own expense, where there is any irregularity with respect to Municipality's financial practices, provide an audit of all financial transactions for all services provided in terms of this Agreement.

7. DISPUTE RESOLUTION

- 7.1 If any dispute arises between the parties, both parties shall formulate the dispute in writing, and through settlement negotiations make an attempt to reach an amicable solution of the dispute.
- 7.2 In the event that an amicable solution is not reached through negotiations, the dispute must be resolved in terms of the provisions the Constitution, 1996 and of the Intergovernmental Relations Act, 2002; and
- 7.3 As the last resort the dispute will be referred to State Attorneys' office for Arbitration, the award of which will be final and binding.

8. BREACH OF CONTRACT

- 8.1 The parties shall be deemed to have breached this Agreement where a party fails to meet any term of this Agreement or to provide any service required in terms of this Agreement.
- 8.2 If either party commits any breach of this Agreement the non-breaching party will give the breaching party seven (7) days written notice calling upon such party to remedy the breach and where the breach is not rectified within thirty (30) days, the non-breaching party may terminate this Agreement with immediate effect.
- 8.3 In case where the Municipality failed to perform in terms of this agreement the Department will have the right to withdraw the functions.

9. TERMINATION OF AGREEMENT

- 9.1 This Agreement shall terminate in terms of clauses 5.1 and 8.2
- 9.2 In the event of termination of this Agreement for any reason:

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- 9.2.1 The Municipality shall return all equipment and stock to the Department within three (3) working days of the termination of the Agreement;
- 9.2.2 The Municipality shall not, after termination date, perform any functions in terms of this Agreement.
- 9.2.3 Bank all monies that are due to the department as of the date of termination.

10. INDEMNITY

- 10.1 The Municipality, including any person acting for or on its behalf, acts as an independent contractor and not as agent or employee of the Department. As such has no authority or right to bind the Department. The Municipality, including any person acting for or on its behalf, shall be liable for any action where it seeks to bind the Department.
- 10.2 The Municipality hereby indemnifies and holds the Department harmless against any claims of any nature whatsoever arising out of the wilful or negligent actions or omissions of the Municipality, including any person acting for or on its behalf.
- 10.3 The Municipality hereby indemnifies and holds the Department harmless against any claims made by a third party against the Municipality arising from:
 - 10.3.1 motor vehicle registration and licensing transactions on behalf of the Department; and
 - 10.3.2 dishonoured cheques and fake cash money which have been presented for motor vehicle registration and licensing, provided that the Municipality must ensure that all cheques are bank guaranteed and endorsed with full particulars of the registered owner, including the full names, address, telephone number, SA identity document number or company number and vehicle registration number.

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- 10.4 The Municipality must insure the Department against the loss of any money collected, including but not limited to money in transit for deposit to a bank.
- 10.5 The Municipality shall be responsible for any loss of money due to its negligence or theft by its employees

11. WARRANTIES

The Municipality hereby warrants that:

- 11.1 All personnel employed by the Municipality to perform any of the functions required by this Agreement will have the specialist qualifications required to perform such functions diligently and efficiently.
- 11.2 Information, reports and reconciliations provided will be correct, accurate and reliable.

12. FORCE MAJEURE

- 12.1. In the event of force majeure which arises after the commencement of this Agreement neither the Municipality nor the Department shall be considered in default nor in contractual breach of this Agreement, should either party fail to perform its obligations as a result of such force majeure event.
- 12.2 The Party's responsibility upon the occurrence of an event considered by the Party to constitute force majeure in which event may affect performance of its obligations in terms of this Agreement, is to promptly notify the other Party of any proposal, including any reasonable alternative means for performance, but shall not effect such proposals without the consent of the other Party.

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13. NON-WAIVER

Neither party shall be regarded as having waived or precluded in any way from exercising any right under or arising from this Agreement by reason of such party having at any time shown any indulgence to the other party.

14. AMENDMENT OF THE AGREEMENT

14.1 This Agreement constitutes the entire Memorandum of Understanding including its annexures between the parties with regard to the subject matter and therefore supersedes all previous agreements and negotiations in respect of this Agreement.

14.2 Any amendment to this Agreement will not be effective unless agreed upon in writing and signed by parties thereto.

15. SERVICE STANDARD

The Municipality must comply with the Departmental Services Standards as set out in Annexure "B".

16. PERFORMANCE REVIEW

The performance of the Municipality will be reviewed annually.

17. DOMICILIUM CITANDI ET EXECUTANDI

The party hereto choose as domicilium citandi et executandi for all correspondence, notices and services of process the following addresses:

FOR THE DEPARTMENT:

The Head of Department

Limpopo Department of Roads and Transport

Corner Church and Bodensteyn

Phamoko Towers

Private Bag X9491

POLOKWANE 0700

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FOR THE MUNICIPALITY:

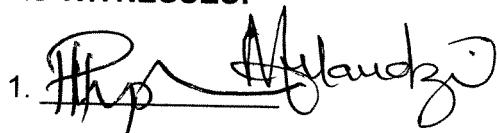
The Municipal Manager
Mutale Local Municipality
Private Bag X1254
Mutale
0956

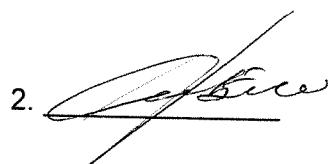
THUS DONE AND SIGNED AT Polokwane **on the** 26 **day of**
April 2012



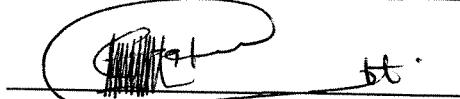
Mr. Ntau Letebele (HoD: DRT)

AS WITNESSES:

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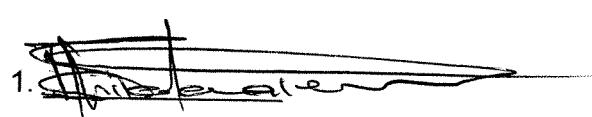
2. 

SIGNED AT Mutale **on the** 02 **day of** April 2012



Mr. Netshanzhe T.G. (Municipal Manager:Mutale)

AS WITNESSES:

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