

AGREEMENT

BETWEEN

THE GAUTENG PROVINCE IN ITS DEPARTMENT OF ROADS AND TRANSPORT

and

NATIONAL DRIVING SCHOOL ASSOCIATES OF SOUTH AFRICA

And

THE ROAD TRAFFIC MANAGEMENT CORPORATION

WHEREAS - The MEC for the Gauteng Department of Roads and Transport acknowledges the pivotal role Driving Schools play in the communities of Gauteng, with specific acknowledgement of the Driving Schools contribution employment creation and rendering its services to the members of the Communities;

WHEREAS – The MEC acknowledges and recognised the concerns raised by Driving Schools pertaining to the operational challenges experienced by driving schools with the introduction of Online Booking System;

WHEREAS the Parties acknowledge and condemn the violent protest, leading to the closure and disruption of services at DLTC's and agree to refrain from any violent action taken going forward;

WHEREAS the RTMC, hereby confirms its commitment to maintain the National Traffic Information System and to ensure that at all material times and in the public interest the system functions optimally and hereby will provide an interim solution to the concerns raised by the Driving Schools re the Online Booking System;

AND WHEREAS the Parties in consideration of its shared interest in relation to enhanced services delivery wish to enter into an Agreement to record and regulate the relationship between the

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Parties going forward and in an attempt to resolve the impasse between the Parties re roll-out of On Line Booking System.

NOW THEREFORE the PARTIES agree as follows:

1. THE PARTIES

The parties to this Agreement are:

- 1.1 The Gauteng Province In its Department of Roads and Transport acting for and on behalf of the Gauteng Provincial Government Department, herein represented by Darion Jerome Barclay the Department of Roads and Transport in Gauteng (“**the HOD**”).
- 1.2 National Driving School Association of South Africa(NDSASA) hereinafter represented by Mr Abel Mositsa the President of NDSASA .
- 1.3 The Road Traffic Management Corporation a public entity established in terms of section 3 of the Road Traffic Management Corporation Act No 20 of 1999 and listed in terms of the Public Finance Management Act No 1 of 1999 as a Schedule 3A Public Entity herein represented by Ms Liana Moolman in her capacity as Acting Chief Executive Officer and duly authorised thereto.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions. In this Agreement the following words and expressions shall have the meanings 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 “**Agreement**” means this Agreement;

2.1.2 “**Council**” Gauteng Driving Schools Council established by Agreement between the Parties;

2.1.3 “**Department**” means the party more specifically described in paragraph 1.1

2.1.3 “**Effective Date**” means, notwithstanding the date of signature of this MOU by the Party signing last in time, *14 March 2022*;

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2.1.3 **"NDSASA"** means the party more specifically described in paragraph 1.2;

2.1.4 **"Party" or "Parties"** means the Parties or either one of them, as the context indicates;

2.1.5 **"RTMC"** means the Party as fully described in Clause 1.1.3;

2.2 Interpretation

2.2.1 In this Agreement, unless a contrary intention clearly appears:

2.2.1.1 words importing;

2.2.1.2 the male gender include the female gender;

2.2.1.3 the singular include the plural and vice versa; and

2.2.1.4 natural persons include created entities (corporate or non-corporate) and vice versa.

2.2.2 Headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of, nor modify nor amplify, the terms of this Agreement nor any clause thereof

2.2.3 Expressions defined in this Agreement shall bear the same meanings in the Annexures (if and or where applicable) to this Agreement unless specifically defined in the Annexures;

2.2.4 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;

2.2.5 Any reference to a Party includes a reference to the Party's authorised representatives, employees, agents or contractors;

2.2.6 When any number of days is prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;

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- 2.2.7 Where words have been defined in the body of this Agreement , such words shall, unless otherwise required by the context, have the meanings so assigned to them throughout this Agreement;
- 2.2.8 Where any provision contemplates a notice to be given or Agreement to be reached between the Parties, such notice or Agreement shall, unless expressly provided otherwise, be made in writing.
- 2.2.9 Any reference to a statutory provision shall include a reference to that provision as modified, amended, replaced, or re-enacted from time to time.
- 2.2.10 In the event of any conflict between this Agreement and the Annexures attached or referred hereto, the provisions of this Agreement will prevail.

3. DURATION

- 3.1 This Agreement will, subject to the provisions of clause 3.2, remain in force for an indefinite period from the Effective Date.
- 3.2 The Agreement may at any time be terminated by either Party giving 2 (two) months written notification thereof, to the other Party.
- 3.3 Termination of the Agreement for whatever reason shall not absolve the Parties from the obligation to observe the confidentiality measures and other restraints as set out herein.

4. PURPOSE

- 4.1 The purpose of this Agreement is to establish and to regulate the relationship between the Parties, as the Parties are desirous to collaborate with each other to create a platform for discussion and negotiation between the Parties on amongst others the following matters the establishment of Gauteng Driving Schools Council.
- 4.2 This Agreement sets out the basis on which the Parties shall negotiate in good faith in order to regulate the operations and functions of the Gauteng Driving Schools Council.

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5. GAUTENG DRIVING SCHOOLS COUNCIL

- 5.1 The Parties hereby agree to the establishment of the Gauteng Driving Schools Council.
- 5.2 The Council will function as a voluntary body and will comprise of the Parties to this Agreement and any such other Driving School Associations and individual schools as may agree to the terms of this Agreement from time to time.
- 5.3 The Chairperson of the Council will be the Deputy Director General of the Department and the Department will be responsible for the secretariat services and operational costs of the Council.
- 5.4 The Council will serve as a platform to initiate the process of developing a data base for all Driving School Associations and Schools in Gauteng and the Parties specifically agree to provide for the purposes of this Agreement and the Data Base all information required as determined by the Department from time to time.

6. FUNCTIONS OF COUNCIL

- 6.1 The Council will amongst others and over and above the rational held in clause 5.2 be tasked to perform the following functions –
- 6.1.1 Create the Gauteng Driving Schools Database;
- 6.1.2 Parties to explore the concerns raised and possible solutions to address the concerns raised regarding the operational impact the introduction of the Online Booking System have on driving Schools;
- 6.1.3 Serve as a platform for consultation, negotiation, information sharing, conflict prevention and management to maintain sustainable peace and stability in the service delivery environment.

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6.2 **Inauguration Meeting** – The Council will meet within 14 (fourteen) days from the Effective Date which meeting will serve as the platform to initiate further consultation between the Parties.

7. UNDERTAKING AND INTERIM SOLUTION

7.1 The Parties expressly understands, acknowledge and agree that the provisions of this Agreement, its objectives any of the Parties actions and or conduct so performed in relation to or in fulfilling their obligations in terms of this Agreement is at all relevant time subject to adherence and to be so done in compliance with all applicable legislation and or regulatory framework.

7.2 The Parties expressly undertake to at all material times engage in good faith to the achievement of the objectives of this Agreement.

7.3 The RTMC will, subject to the provisions of clauses 7.5 and 7.6 create an interim solution to permit Driving Schools to transact on the Online Booking System and will develop a permanent solution to give expression to the objectives of the Gauteng Driving Schools Council.

7.4 The RTMC will ensure that the online booking system, subject to clause 7.6, will not require a user to create a profile in that it will not be peremptory to provide the following :

User name and
Password and
Email address and
OTP not for test bookings

7.5 The RTMC will effect the changes described by no later than 0:00 (am) on the 15th of March 2022.

7.6 The NDSASA undertakes and all driving schools to become members to commence with registration on the platform as and when provided by the RTMC to ensure implementation by no later than 30 June 2022, at which date the interim solution will completely be terminated.

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8. RELATIONSHIP BETWEEN THE PARTIES

- 8.1 Neither Party shall be liable for acts or defaults of the other Party or of the other Party's employees or representatives.
- 8.2 Nothing in this Agreement shall imply that the one Party is an agent of the other for any purpose whatsoever, and neither Party shall have any authority or power to bind, or incur any liability, on behalf of the other or to pledge the credit of the other Party.

9. DISPUTE RESOLUTION

- 9.1 Upon the written request of any Party, any dispute, which arises between the Parties, and in circumstances where the Parties cannot resolve the dispute, shall be referred to the MEC for consideration.
- 9.2 The MEC will consider the dispute and attempt to resolve the dispute without the necessity of any formal proceedings. During the course of discussions, all reasonable requests made by one Party to another for non-privileged information reasonably related to this Agreement shall be honoured in order that each of the Parties may be fully advised of the other Party's position.
- 9.3 The Parties shall make every reasonable effort to settle a dispute between them as directed by the MEC amicably through conciliation and negotiation within 14 (fourteen) days after the dispute was referred to the MEC.
- 9.4 Notwithstanding 9.1 to 9.2 above, either Party may elect to approach a Court of competent jurisdiction to resolve any dispute under or in respect of this Agreement.

10. DOMICILIA AND NOTICES

- 10.1 Notices

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Each Party chooses the address set out opposite its name below as its address to which any notice in connection with this MOU may be addressed.

DEPARTMENT

Physical address: 45 Commissioner Street, 29th Floor, Johannesburg, 2001

Postal address:

NDSASA

Physical address:

Postal address:

RTMC:

Physical address: Block F, Ecofusion Office Park, 349 Witch Hazel Avenue, Highveld, 0079

Postal address: Private Bag X 147, Pretoria, 0001

10.2 Any notice or communication required to be given under this MOU shall be valid and effective only if in writing.

10.3 Unless the contrary is proved, any notice or communication to a Party—

10.3.1 sent by prepaid registered post in a correctly addressed envelope shall be deemed to have been received on the 10th (tenth) day after posting;

10.3.2 delivered by hand to the address mentioned in Clause 16.1.1 above to any representative of the Party concerned during ordinary business hours against written acknowledgement of receipt, shall be deemed to have been received on the day of delivery;

10.3.3 sent by facsimile to its chosen facsimile number stipulated in Clause 16.1.1 above, shall be deemed to have been received on the date of dispatch, if the sender maintains a log created at the time of transmission indicating receipt.

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10.4 Notwithstanding anything to the contrary contained in this MOU –

10.4.1 a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen address; and

10.4.2 an electronic mail message sent by one Party to the other Party shall be deemed to constitute an effective notice under this MOU only if

10.4.3 the electronic mail message notice prominently states that it is being given under this MOUs and requests an electronic mail response acknowledging receipt; and

10.4.4 the responding electronic mail message, clearly refers to the specific electronic mail message to which it is responding and includes a copy of the text of such message.

10.5 Either Party by notice to the other Party may change its *domicilium* from time to time to another address, not being a post office box or a poste restante, in South Africa; provided that any such change shall only be effective on the fourteenth day after the receipt or deemed receipt of the notice by the other Party.

11. **WHOLE AGREEMENT**

This Agreement constitutes the entire Agreement between the Parties in respect of the subject matter hereof and neither Party shall be bound by any undertakings, representations, warranties or promises not recorded in this Agreement.

12. **NON-VARIATION**

No addition to, or variation of, consensual cancellation or novation of this Agreement and no waiver of any rights arising from this Agreement, including this clause, shall be of any force or effect unless reduced to writing and signed by the duly authorised representatives of each of the Parties.

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13. COST

Unless otherwise specifically stated in this Agreement each Party shall bear its own costs of and incidental to the negotiation, preparation, execution and implementation of this Agreement.

SIGNED AND EXECUTED at D. MASOER in the presence of the undersigned witnesses on this 14TH day of MARCH 2022.

AS WITNESSES:

1. [Signature]
Name: KRISH NAIDOO

2. [Signature]
Name: Motubatse Motubatse

[Signature]
for **DEPARTMENT**

SIGNED AND EXECUTED at Johannesburg in the presence of the undersigned witnesses on this 14 day of March 2022.

AS WITNESSES:

1. [Signature]
Name:

2. [Signature]
Name:

[Signature]
for **NDSASA**

SIGNED AND EXECUTED at Derek Masoer in the presence of the undersigned witnesses on this 14 day of March 2022.

AS WITNESSES:

1. [Signature]
KRISH NAIDOO

[Signature]
for **RTMC**

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Name: KEVIN KARAVALA

for RTMC

2. *[Signature]*

Name: KEVIN KARAVALA

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