



Government of **Western Australia**
Department of **Transport**

**DOT966817 AGREEMENT FOR THE PROVISION OF LICENSING SERVICES IN SHIRE OF
YORK IN TERMS OF SECTION 11 OF THE ROAD TRAFFIC (ADMINISTRATION) ACT 2008**

BETWEEN:

The Chief Executive Officer of the Department of Transport of 140 William St, Perth,
Western Australia 6000 (**“the CEO”**)

AND:

The Shire of York a body corporate with perpetual succession under the Local Government
Act 1995 (**“the Agent”**)

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THIS AGREEMENT is made the _____ day of _____ 201_.

BETWEEN:

The Chief Executive Officer (CEO) of the Department of Transport, under the *Road Traffic (Administration Act) 2008*, of 140 William Street, Perth Western Australia 6000 (**the Principal**)

and

Shire of York (ABN 55 315 676 247), of 1 Joaquina Street YORK WA 6302 (**the Agent**)

RECITALS

- A. Under section 11 of the Road Traffic (Administration) Act 2008, the CEO may enter into an agreement providing for the CEO's functions under a Road Law that are described in the agreement to be performed on behalf of the CEO.
- B. The CEO wishes to enter into an agreement for the performance of certain of his licensing functions under Road Laws described in this Agreement.
- C. The Agent is prepared to perform the licensing functions described in the Agreement on behalf of the CEO and the CEO is prepared to remunerate the Agent accordingly.
- D. The CEO and Agent have also separately entered into an agreement for the Agent to perform certain Non-Road Law Services. The Agent will be acting in accordance with the Business Rules and utilising the same information technology infrastructure, software applications and transactional arrangements for the performance of both the Road-Law and Non Road Law Services.

OPERATIVE PART

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, unless the context otherwise requires:

Adjustment has the same meaning as in the *GST Act*.

Adjustment Note has the same meaning as in the *GST Act*.

Agent means the Party to this Agreement who is authorised by the CEO to perform the CEO's functions under section 11 of the Road Traffic (Administration) Act 2008 as set out in this Agreement.

Agent's Representative means the person(s) so identified in Schedule C to this Agreement, and includes any person(s) for the time being acting in the place of such a person.

Agreement means this Agreement between the Principal and the Agent for the supply of Services by the Agent and includes the schedules attached hereto.

Business Day means any day, except a Saturday, Sunday or a Gazetted public holiday in Perth, Western Australia.

Business Rules means the rules set by the CEO from time to time regarding business processes, guidelines and policies including but not limited to instructions (known as Administrative Instruction's and Licensing Information's) which deal with amongst other things document handling, financial, banking and/or electronic operating procedures, developed by the CEO to ensure the integrity of the Services provided; including but not limited to Schedule E.

Chief Executive Officer or CEO means the Chief Executive Officer as defined in the *Road Traffic (Administration) Act 2008* and is also known as the Director General.

Commission means the amount payable by the Principal to the Agent for the performance of a specified activity forming part of the Services, as set out in the *Schedule of Rates* at Schedule B to this Agreement.

Commissioner of Taxation means the person so appointed pursuant to section 4 of the *Taxation Administration Act 1953*.

Conditions means the terms and conditions set out in this Agreement.

Confidential Information means information in respect of the Agreement that:

- (a) is by its nature confidential; or
- (b) is specified by the Principal or the Agent to be confidential, including any information specified at Schedule D to this Agreement to be confidential; or
- (c) the Principal or the Agent knows or reasonably ought to know is confidential.

Consumer Price Index means the Perth Consumer Price Index (Consumer Price Index, Australia (Cat No 6401.0)): 1 All Groups, Index Numbers – Perth) from the preceding March quarter published by the Australian Bureau of Statistics.

Copyright Act means the *Copyright Act 1968 (Cth)*.

CTT means the Computerised Theory Test that forms the part of the requirements of the Principal's Graduated Driver Training and Licensing System.

Common Use Arrangement means common use procurement arrangements established by the Department of Finance for the use of State Government departments.

DAIP means the Disability Access and Inclusion Plan that must be prepared under the *Disability Services Act 1993*.

Database means the Principal's designated motor vehicle and driver licensing databases, including TRELIS.

Department means the Department of Transport or such other person or government agency which is responsible for assisting the Principal with:

- (a) the administration of this Agreement; and / or
- (b) the provision of Licensing Services.

Direction includes agreement, approval, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, rejection, request or requirement of the Principal.

Employee means

- (a) Where the Agent is a local government body, a person employed by the Agent under Section 5.36 of the Local Government Act 1995, or otherwise engaged by the Agent, and includes a chief employee, a chief executive officer, a senior executive officer, an executive officer, an employee, a public service officer, public officers or a respondent as defined under the Public Sector Management Act 1994 or a clerk or servant as defined under section 1 of the Criminal Code Act 1913; and
- (b) the Agent's employees, directors, officers, nominees, agent or subcontractor.

Error Rate means the percentage of errors made when determining compliance with KPI 1 in Schedule H.

Event of Default means the occurrence of any one of the following events:

- (a) the Agent breaches an obligation under the Agreement that cannot be remedied, including a breach of its confidentiality obligations; or
- (b) the Agent breaches any other obligation under the Agreement and that breach is not remedied within two (2) Business Days after the Principal gives a notice to the Agent requiring the breach to be remedied, or within a later period specified by the Principal in the notice; or
- (c) the Agent commits three (3) separate breaches of its obligations under the Agreement over any twelve (12) month period, whether or not the Principal has given the Agent notice of any such breaches and whether or not the Agent has rectified such breaches; or
- (d) a representation or warranty made by the Agent under the Agreement is or becomes untrue or is breached; or
- (e) an Insolvency Event occurs in respect of the Agent; or
- (f) the Agent ceases, or, in the reasonable opinion of the Principal will likely imminently cease, to carry on business; or
- (g) any of the Agent's Personnel is or has at any time been convicted of a criminal offence that is punishable by imprisonment or detention that has not been disclosed to the Principal and the Principal has given its prior written consent; or
- (h) if the Agent is a body corporate, the Agent is convicted of a criminal or statutory offence that is punishable by a fine or penalty of, or exceeding, \$10,000; or
- (i) in the reasonable opinion of the Principal, the reputation of the Principal, the State of Western Australia or the Government of Western Australia is, or is likely to be, damaged by any act or omission of the Agent; or
- (j) any of the Agent's Personnel disclose the Principal's Confidential Information under Schedule D Confidential Information; or
- (k) the Agent refuses to comply with any reasonable Direction given by the Principal; or
- (l) where applicable, the Agent breaches its duty under the Local Government Act 1995; or
- (m) If the Agent also provides Non Road Law Services under a separate agreement to this Agreement and that agreement is terminated in accordance with the breach provisions of that agreement.

Graduated Driver Training and Licensing System means the system that allows new drivers to acquire their driver's licence by completing a number of assessments, including the

CTT and HPT, and by gaining experience by driving under supervision in a wide range of conditions.

GST has the same meaning as in the *GST Act*.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and, where the context permits, includes the Commissioner of Taxation's goods and services tax rulings and determinations and any other written law dealing with GST applying for the time being in the State of Western Australia.

HPT means the Hazard Perception Test that forms part of the requirements of the Principal's Graduated Driver Training and Licensing System.

Insolvency Event means the happening of any of these events:

- (a) an order is made, or an application is made to a court for an order, that a body corporate be wound up; or
- (b) except to reconstruct or amalgamate while solvent, a body corporate:
 - i. is wound up or dissolved; or
 - ii. resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so; or
 - iii. enters into, or resolves to enter into, any form of formal or informal arrangement for the benefit of all or any class of its creditors, including a scheme of arrangement, deed of company arrangement, compromise or composition with, or assignment for the benefit of, all or any class of its creditors; or
- (c) a liquidator or provisional liquidator is appointed (whether or not under an order), or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate; or
- (d) a receiver, manager, receiver and manager, trustee, administrator, controller (as defined in section 9 of the Corporations Act 2001 (Cth)) or similar officer is appointed, or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate or any asset or undertaking of a body corporate; or
- (e) any step is taken to enforce security over, or a distress, attachment, execution or other similar process is levied, enforced or served out against any asset or undertaking of a body corporate; or
- (f) the process of any court or authority is invoked against a body corporate, or any asset or undertaking of a body corporate, to enforce any judgment or order for the payment of money or the recovery of any property;
- (g) a body corporate:
 - i. takes any step to obtain protection, or is granted protection, from its creditors under any applicable legislation; or
 - ii. stops or suspends payment of all, or a class of, its debts; or
 - iii. is or is taken by any applicable legislation to be, or states that it is, or makes a statement from which it may be reasonably deduced that it is:
 - a. insolvent or unable to pay its debts when they fall due; or

- b. the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001 (Cth)*; or
- iv. is taken to have failed to comply with a statutory demand as a result of the operation of section 459F(1) of the *Corporations Act 2001 (Cth)*; or
- v. ceases, or threatens to cease, to carry on all or a material part of its business; or
- (h) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Intellectual Property Rights means:

- (a) patents, copyright, rights in circuit layouts, registered designs, trade-marks and the right to have Confidential Information kept confidential; and
- (b) any application or right to apply for registration of any of the rights described in (a) above,

but does not include Moral Rights.

Language Interpretation Facility means the facility established by State Government to meet the needs of people unable to communicate effectively in English.

Logbook means the Logbook that forms part of the requirements of the Principal's Graduated Driver Training and Licensing System.

Moral Right has the same meaning as in the *Copyright Act*.

Non Road Law Services means transactions related to Maritime, WA Photo Card, Off Road Vehicles, and Driving Instructor and other services as detailed in a separate agreement.

Party means a party to this Agreement and Parties means both parties to this Agreement.

PCI DSS means the Payment Card Industry Data Security Standard being a baseline of technical and operational requirements designed to protect account data.

PC means personal computer and includes a central processing unit, monitor, mouse and keyboard.

Performance Measures means the criteria specified in Schedule H against which the Agent's delivery of Services will be measured.

Personnel means all Employees engaged in relation to the supply of the Services.

Physical stock means any items provided by the Principal to the Agent for the purpose of facilitating the Agent to undertake the Services, including but not limited to:

- (a) forms for completion by the Principal's Customers;
- (b) printer base stock;
- (c) vehicle licence plates;
- (d) 'P' plates
- (e) financial banking books;
- (f) Logbooks;

- (g) licensing publications and information material; and
- (h) any other stock as detailed by the Principal in Schedule M.

Premises means any premises listed in Schedule I which are owned or occupied by the Agent on or from which the Services are to be supplied or to which the Agent has access in order to supply the Services, and includes anything on those premises.

Principal means the CEO of the Department of Transport.

Principal's Customers means those persons who use the Services supplied by the Agent under the Agreement.

Principal's Property means all Records supplied for, or created by, the provision of the Services, all physical stock and equipment provided by the Principal.

Principal's Representative means the person(s) so identified at Schedule C to this Agreement, and includes any person(s) for the time being acting in the place of such a person.

Processing Errors has the meaning assigned in the *Service Specification* at Schedule A of this Agreement.

Recipient Created Tax Invoice has the same meaning as in the *GST Act*.

Records means records and information of any kind, including originals and copies of all accounts, financial statements, books, files, reports, records, correspondence, documents and other materials created for, or relating to, or used in connection with, the supply of the Services, whether or not containing Confidential Information, and whatever format in which such records and information are held, stored or recorded.

Representative(s) means either or both the Agent's Representative or the Principal's Representative as the context requires.

Road Law means the Road Traffic Act 1974, the Road Traffic (Administration Act) 2008; the Road Traffic (Authorisation to Drive) Act 2008; the Road Traffic (Vehicles) Act 2012 and the Road Traffic (Vehicles) (Taxing) Act 2008.

Schedule of Rates means the Commission payable to the Agent for the performance of Services as detailed at Schedule B to this Agreement.

Services means the licensing functions described in the *Service Specification* at Schedule A to this Agreement, to be supplied by the Agent in accordance with this Agreement.

Specification means the specification of the Services described in the *Service Specification* at Schedule A to this Agreement.

State means the State of Western Australia.

State Records has the same meaning as in the *State Records Act 2000*.

Term means the period from the date of commencement provided in clause 2 to the date when the Agreement expires or terminates, and includes any extension agreed by the Parties in writing.

1.2. Interpretation

In the Agreement Documents, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;

- (b) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (c) a reference to a gender includes other genders;
- (d) a reference to a person includes a public authority, a public body, a company and an incorporated or unincorporated association or body of persons;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, a person taking by novation) and permitted assigns;
- (f) an agreement, representation or warranty on the part of, or in favour of, 2 or more persons binds, or is for the benefit of, them jointly and severally;
- (g) a reference to the Agreement or another instrument includes all variations and replacements of any of them despite any change of, or any change in the identity of, the Principal or the Agent;
- (h) a reference to a clause, schedule, attachment or appendix is a reference to a clause in, or a schedule, attachment or appendix to this Agreement;
- (i) all the provisions in any schedule, attachment or appendix to this Agreement are incorporated in, and form part of, this Agreement and bind the Principal and the Agent;
- (j) headings are included for convenience and do not affect the interpretation of this Agreement;
- (k) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (l) no rule of interpretation is to be applied to disadvantage the Principal or the Agent on the basis that it was responsible for preparing the Agreement;
- (m) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning;
- (n) if the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow;
- (o) a reference to writing includes all means of representing or reproducing words in visible form including by electronic means such as facsimile transmission;
- (p) a reference to a liability includes all obligations to pay money and all other losses, costs and expenses of any kind;
- (q) a reference to a month is to a calendar month and a reference to a year is to a calendar year;
- (r) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated inclusive of that day;
- (s) if a date stipulated for payment or for doing an act is not a Business Day, the payment must be made, or the act must be done, on the next Business Day; and
- (t) a reference to a monetary amount means that amount in Australian currency.

2. TERM

- 2.1 This Agreement will begin on the Commencement Date as specified in Item 2 of Schedule L for the term specified in Item 1 of Schedule L. The Principal may by notice in writing to the Agent extend the term at his entire discretion for a further period or periods up to the maximum period set out in Item 3 of Schedule L.
- 2.2 This Agreement does not create or otherwise confer upon the Agent an enforceable right to be offered an extension of this Agreement.

3. SUPPLY OF SERVICES

3.1. Supply of Services

The Agent must supply the Services on each Business Day during the Term in accordance with the Agreement.

3.2. Scope and Quality of Services

- (a) The Agent must supply the Services in accordance with the Specification.
- (b) The Services include any reasonable Direction given by the Principal in relation to performance of Services in this Agreement.
- (c) If no standards for the Services are specified in the Agreement, then the Agent must supply the Services in accordance with the highest reasonable standards that usually apply to the supply of the Services and in any event with proper skill, care and diligence.
- (d) The Agent must save and file all Business Rules, policies, guidelines, procedures Administrative Instruction's and Licensing Information's developed and distributed by the Principal so that they can be retrieved for ease of reference.
- (e) The Agent must observe, perform and comply with any Business Rules, policies, guidelines, procedures, Administrative Instruction's and Licensing Information's developed by the Principal to ensure the integrity of the Services provided.
- (f) The Principal does not underwrite, guarantee or accept any liability for the volume and value of the Services performed under the Agreement.

3.3. Additional Work

If, at the written request of the Principal, the Agent performs work that is additional to the Services, then the Principal must pay the Agent for the additional work:

- (a) at the rate of a similar Service specified in the Schedule of Rates; or
- (b) if no rate is specified in the Schedule of Rates, at a rate agreed between the Principal and the Agent; or
- (c) if no rate is agreed under clause 3.3(a) or (b) within ten (10) Business Days from the date of the Principal's request, at the reasonable rate determined by the Principal.

3.4. Unsatisfactory Services

- (a) If any of the Services have not been supplied in accordance with this clause 3 then, without limiting any other remedy available to the Principal, the Principal may by notice to the Agent require the Agent to re-supply those Services and the Agent must re-supply those Services at no cost to the Principal or the Principal's Customers.

- (b) If, on receipt of a notice under clause 3.4(a), the Agent considers that it has supplied the Services in accordance with this clause 3, then the Parties must attempt to resolve the dispute by following the dispute resolution process set out in clause 16.

3.5. Value for Money Policy

- (a) The Principal has access to State Government common use arrangements which provide for discounted rates for specified goods and services. Where it is deemed by the Principal that better value for money can be achieved through the use of such common use arrangements, the Agent must access such services. The Principal will be responsible for organising approvals for the Agent to access Common Use Arrangements (CUA).
- (b) Where the Principal has access to other service contracts the Agent must access and use such contracts as advised by the Principal.

4. COLLECTION OF REVENUE

4.1. Familiarity with Treasurer's Instructions and *Financial Management Act 2006*

It is the Agent's responsibility to ensure that they are familiar with, and knowledgeable on, the *Financial Management Act 2006* and Treasurer's Instructions relating to the collection and banking of public monies.

4.2. Forms of Payment

- (a) The Agent must accept from the Principal's Customers and process all forms of payment acceptable to the Principal for the processing of licensing transactions.
- (b) If a customer cheque or other payment is dishonoured or is otherwise not credited to the Agent's bank account, the relevant provisions set out in the Business Rules in Schedule E will apply.

4.3. No Surcharge

The Agent must not impose a surcharge, or any other form of cost recovery, on the Principal or the Principal's Customers for Services performed pursuant to this Agreement.

5. PAYMENT

5.1. Commissions Payable

Subject to the provisions of sub-clause 5.2, the Principal must pay the Agent Commissions to the value of the Services performed under the Agreement in accordance with the Schedule of Rates, as certified by the Principal, less any overpayment in Commissions or any other payment made to the Agent as advised in writing to the Agent by the Principal.

5.2. Variations to Commissions Payable

- (a) On July 1 of each year of the Term, the Principal will review the Commissions specified in the Schedule of Rates in accordance with annual changes in the Consumer Price Index and the Commission's payable to the Agent will be increased accordingly, except in the instance where there is no movement in the CPI.
- (b) Where the CPI is a negative 'downward' movement, the Commission's payable to the Agent shall remain at the rate applicable for the previous year.
- (c) The Principal will forward the Agent a revised Schedule of Rates in accordance with clause (a) above no later than 30 Business Days after the Commission review date.

5.3. Invoices

- (a) The Principal will issue the Agent Transaction and Payment Summary reports which include, inter-alia:
 - (i) tabulations to show all licensing transactions processed and the corresponding Commissions payable; and
 - (ii) confirmation the Commissions payable have been reconciled and authorised by the Principal.
- (b) The Principal will issue the Agent tax invoices, being Recipient Created Tax Invoices (RCTI), in respect of Commissions payable, on the basis of the Transaction and Payment Summary report for the corresponding period.
- (c) The Principal will issue a Transaction and Payment Summary Report and RCTI to the Agent:
 - (i) for each calendar month; and
 - (ii) not more than thirty (30) Business Days after the last day of the invoice period.
- (d) The Agent agrees it will not issue tax invoices in respect of the Services.
- (e) The Agent acknowledges that it is registered for GST when it agrees for the Principal to issue RCTI for the Services and will notify the Principal if it ceases to be registered or if it ceases to satisfy any of the requirements imposed by the Commissioner for Taxation.
- (f) The Principal acknowledges that it is registered for GST when it agrees to issue RCTI for the Services and will notify the Agent if it ceases to be registered or if it ceases to satisfy any of the requirements imposed by the Commissioner for Taxation.

5.4. Payment of Invoices

The Principal will pay the amount specified in a RCTI within thirty (30) days of the last day of the month to which it relates.

5.5. Method of Payment

The Principal will directly credit Commissions payable to the Agent's nominated bank account.

5.6. No Obligation to Pay

The Principal has no obligation to make any payment to the Agent unless and until:

- (a) the Services have been supplied in accordance with clause 3; and
- (b) the Principal is satisfied that no Event of Default has occurred.

5.7. Incorrect Payment

- (a) If the Agent finds an amount paid based on the RCTI is incorrect and the Principal has paid, the Agent is responsible for issuing an Adjustment Note to the Principal. If the amount is:
 - (i) less than the amount that should have been paid, the Principal must pay the difference to the Agent within twenty (20) days after the date the Adjustment Note is received;
 - (ii) more than the amount that should have been paid, the Principal may:

- a. debit the difference from the Agent's nominated account within twenty (20) days after the date the Adjustment Note is received; or
 - b. offset the difference against any amount subsequently payable by the Principal to the Agent.
- (b) If the Principal finds that the amount paid based on the RCTI was incorrect and the Principal has overpaid, the Principal is entitled to take the steps outlined in sub-clause 5.7(a)(ii) a. or b., without receipt of an Adjustment Note from the Agent.

5.8. GST and other duties, taxes and charges

- (a) In this clause (5.8) the expressions '**consideration**', '**recipient**', '**supply**', '**tax invoice**' and '**taxable supply**' have the meanings given to those expressions in the *GST Act*.
- (b) All amounts in the Schedule of Rates are expressed exclusive of GST.
- (c) If GST is imposed on any supply made under the Agreement, the Principal will pay to the Agent an amount equal to the GST payable on the taxable supply.
- (d) The amount referred to in clause 5.8 (c) must be paid in addition to, and at the same time as, payment for the taxable supply is required to be made under the Agreement.
- (e) If a GST-inclusive price is charged or varied under the Agreement, the Principal will provide the Agent with a valid RCTI at or before the time of payment or variation.
- (f) If the amount of GST paid or payable by the Agent on any supply made under the Agreement differs from the amount of GST paid by the Principal, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the Principal will be adjusted accordingly by a further payment by the Principal to the Agent or the Agent to the Principal, as the case requires.
- (g) The Principal indemnifies the Agent for any liability for GST and penalty that may arise from an understatement of the GST payable on any supply for which it issues a RCTI where the understatement arises from fault on the part of the Principal.
- (h) All duties, taxes and charges (other than GST) imposed or levied in Australia or overseas in connection with the supply of the Services or any additional work undertaken by the Agent are payable by the Agent.

6. AGENT'S GENERAL WARRANTIES AND UNDERTAKINGS

6.1. Agent's General Warranties

Except where the Agent has otherwise disclosed in writing to the Principal, and the Principal has given prior written consent to the matter disclosed, the Agent warrants in favour of the Principal that:

- (a) the Agent has no conflict of interest arising out of the Agreement;
- (b) the Agent is properly authorised and has the power to enter into the Agreement and perform the Agent's obligations under the Agreement;
- (c) the Agent's obligations under the Agreement are valid and binding and are enforceable against the Agent;
- (d) all information provided by the Agent to the Principal in connection with the Agreement is true and correct;

- (e) there is no litigation or arbitration, and there are no administrative proceedings, taking place, pending or threatened against the Agent which could have a materially adverse effect on the Agent's ability to supply the Services in accordance with the Agreement;
- (f) no Personnel performing the Services have been convicted of a criminal offence that is punishable by imprisonment or detention; and
- (g) there is nothing that prevents the Agent from complying with any obligation under the Agreement.

6.2. General Warranties Made Continuously

The warranties made by the Agent under clause 6.1 are taken to be made continuously throughout the Term.

6.3. Agent's Undertakings

The Agent must:

- (a) properly provide for the care, safety, security and protection of:
 - (i) all Records (whether created by the Principal, the Agent or any other person) that are in the custody or control of the Agent; and
 - (ii) all property, information technology equipment and software applications supplied by the Principal to the Agent in connection with the Agreement;
- (b) promptly notify the Principal if any warranty in clause 6.1 is breached or becomes untrue within two (2) business days of the identification of the breach;
- (c) securely manage and destroy any waste documentation;
- (d) securely manage all new and retained vehicle number plates at all times and only return or transfer those plates through the Principal's approved courier or representative;
- (e) securely return by the Principal's approved courier or representative all obsolete vehicle number plates to the Principal's nominated contractor for destruction;
- (f) always act ethically in connection with the Agreement and in accordance with good corporate governance practices;
- (g) comply with all State and Commonwealth laws relevant to the Agreement;
- (h) if the Agent obtains or has custody or control of State Records as a result of its activities under this Agreement, comply with the Principal's record keeping plan to the extent necessary under the *State Records Act 2000*;
- (i) cooperate fully with the Principal in respect of the administration of the Agreement;
- (j) ensure that no Personnel causes the Agent to breach the Agreement; and
- (k) except as otherwise specified in the Agreement, provide everything necessary to fully comply with all of its obligations under the Agreement.

6.4. Warranties and Indemnity

- (a) The Agent must give, or ensure the Principal has the benefit of, any warranties specified in the Agreement.

- (b) The Agent must do everything necessary to obtain the benefit of all third party warranties and must ensure that the Principal has the benefit of those warranties.
- (c) The Agent indemnifies the Principal against any loss or liability that results from the Agent not complying with sub-clauses 6.4(a) or (b).

6.5. Conflict of Interest

6.5.1. Without limiting the meaning of conflict of interest, a conflict of interest may arise in the following circumstances:

- (a) when the Agent, or a person associated with the Agent, is in a position to benefit directly or indirectly from the actions of the Agent through an unfair or unintended imposition or loss on the Principal or some third party; or
- (b) when, due to a personal interest or a conflicting business arrangement, an Agent's honesty, objectivity or fairness in performing the Services is open to question.

6.5.2. If a conflict of interest arises in respect of the Agent or the Agent's Personnel, in respect of the supply of the Services under the Agreement, the Agent must:

- (a) promptly notify the Principal that the conflict has arisen and provide full details; and
- (b) take reasonable steps in consultation with the Principal to manage or resolve the conflict.

6.5.3. Without limiting the meaning of conflict of interest, a perceived conflict of interest may arise when an Agent or the Agent's Personnel accesses the Principal's Database or undertakes a transaction on behalf of a friend or relative or the Personnel's own record, without first obtaining the Principal's approval.

6.6. Agent's Obligation for Services Directly to the Public

The Agent must:

- (a) to the extent practicable, implement the Principal's 'Disability Access and Inclusion Plan' (DAIP) prepared under the Disability Services Act 1993 (available at the Principal's website:

<http://www.transport.wa.gov.au/aboutus/disability-access-and-inclusion-plan.asp>);
- (b) provide a report to the Principal prior to 30 June in each year of the Term reporting on the extent to which the Agent has implemented the Principal's DAIP; and
- (c) advise Customers that they may make use of the Language Interpretation Facility if they require such assistance.

7. INFORMATION TECHNOLOGY, EQUIPMENT AND PREMISES

7.1. Supply by Principal

The Principal will supply the Agent with the following:

- (a) telecommunications hardware and software, the nature of which is subject to the availability of telecommunications technology in the Agent's locality, linking the Agent's transaction processing equipment supplied by the Principal to the Database;
- (b) transaction processing hardware to the extent necessary to operate the software applications required by the Principal being:

- (i) PC/s;
- (ii) printer/s (excluding consumables); and
- (iii) image capture unit.
- (c) transaction processing software, being the Principal's software applications that enable the Agent to access the Principal's Database and any third party software applications required by the Principal;
- (d) hardware and software to the extent necessary for the Agent to provide CTT/HPT and testing required by the Principal;
- (e) the Physical Stock required by the Agent to perform this Agreement; and
- (f) Vehicle licence plates.

7.2. Supply by Agent

- (a) The Agent must supply and maintain all hardware and software, not otherwise specified in the Agreement as the Principal's responsibility, to the extent required to enable the Agent to perform the Services. The Agent shall ensure that such hardware and software is compatible in all respects with the Principal's hardware and software.
- (b) Except as otherwise expressly provided in this Agreement, the Agent must provide, at its cost all office consumables.

7.3. Installation of Additional Hardware or Software (other than supplied by the Principal)

- (a) The Agent must make written application to the Principal, and obtain the Principal's written approval before installing any additional hardware or software to a PC designated for transaction processing.
- (b) Subject to clause (a) above:
 - (i) the installation of any additional hardware or software on the Principal's designated PC will be entirely at the Agents risk and the Principal will not be responsible for any hardware or software failure or resultant loss of the Agents data; and
 - (ii) the Agent will be responsible for and at its own cost to address any support issues, security breaches, network vulnerabilities, including increases in PCI DSS scope or loss of data resulting in the installation of the additional hardware or software.
- (c) The Agent will uninstall any additional hardware or software that the Agent installs on a PC designated for transaction processing by prior agreement with the Principal, when the PC is required to be replaced or returned to the Principal.

7.4. Compliance with Principal's Requirements

All information technology, whether supplied by the Principal or the Agent, must comply with the information technology policies and specification requirements as provided by the Principal from time to time.

7.5. Maintenance of Equipment

- (a) The Agent will ensure all equipment including, but not limited to, information technology hardware and software is:

- (i) maintained in good, safe and proper working condition, and capable of reliably performing the Services at all times; and
 - (ii) housed at the Agent's customer service area where the Services are provided.
- (b) All equipment provided by the Principal including, but not limited to, information technology hardware and software remains the property of the Principal and will be returned to the Principal on demand, at the Principal's cost and by the Principal's approved courier or representative.
 - (c) The Agent will provide any information required by the Principal relating to the audit and tracking of the Principal's equipment.
 - (d) In the event that equipment supplied by the Principal requires maintenance, the Agent will contact the Principal to discuss the maintenance options for the equipment as detailed in Schedule F.
 - (e) If any equipment supplied by the Principal requires repairs or replacement, the Principal will then organise at its cost.
 - (f) In the event equipment supplied by the Principal requires off-site maintenance, and that maintenance results in equipment not being available to the Agent for more than five (5) Business Days, the Principal will supply the Agent with equivalent replacement equipment for the duration of the period the equipment is unavailable to the Agent.

7.6. Premises

The Agent will:

- (a) ensure all areas in which the Services are to be performed are suitable for the purpose;
- (b) provide a secure and confidential environment to ensure protection of the Principal's interests against outside intrusion, improper or unauthorised use or access;
- (c) ensure security complies with any reasonable Direction given by the Principal;
- (d) do everything reasonably necessary to protect people and Property on the Premises, as they relate to the delivery of the Services; and
- (e) ensure compliance with Requirement 9 of the PCI DSS at Schedule J.

8. EXPENSES

8.1. Bank Fees and Charges

The Principal will reimburse the Agent for specified bank fees and charges, being:

- (a) charges incurred in relation to dishonoured cheques received from the Principal's Customers.

8.2. Training

The Principal will reimburse the Agent for specified expenses incurred for Personnel attending the Principal's mandatory training in the Perth metropolitan area in accordance with this clause 8.2, being:

- (a) accommodation costs, to a maximum equal to the applicable accommodation allowance specified in schedule I of the current West Australian Public Service Award, Travelling, Transfer and Relieving Allowance, made under *Public Sector Management Act 1994*;

- (b) meal costs, to a maximum equal to the applicable meal allowance specified in schedule I of the current West Australian Public Service Award, Travelling, Transfer and Relieving Allowance, made under *Public Sector Management Act 1994*;
- (c) vehicle mileage costs only associated with travel to and from the Principal's training site, (not including personal use of the vehicle during the training course) to a maximum equal to the applicable vehicle mileage allowance specified in schedule F of the current West Australian Public Service Award, Motor Vehicle Allowance, made under *Public Sector Management Act 1994*;
- (d) return economy airfares; and
- (e) subject to the Principal's approval, taxi/ride sharing fees incurred to and from the training only.

8.3. Telecommunications

The Principal will reimburse the Agent for specified telecommunications expenses, being:

- (a) charges incurred for one dedicated telecommunications line used solely for the purpose of providing a credit card payment facility, being:
 - (i) initial standard set-up costs of up to \$300; but
 - (ii) excluding any additional telecommunications infrastructure costs unless negotiated with the Principal prior to the commencement of Services; and
 - (iii) line rental.
- (b) charges incurred for any dedicated telecommunications line used solely for the purpose of dial-up network access to the Principal's Database on the basis of either:
 - (i) all STD call charges and line rental;
 - (ii) \$1.01 for each connection to the Principal's Database and line rental, whichever is the lesser; or
- (c) charges incurred for any telecommunications line used jointly for the purpose of dial-up network access to the Principal's Database and unrelated business of the Agent on the basis of either:
 - (i) STD call charges for each connection to the Principal's Database; or
 - (ii) \$1.01 for each connection to the Principal's Database, whichever is the lesser.
- (d) all charges incurred for the purpose of accessing the Principal's database through a specified dedicated ADSL Broadband connection.

8.4. Evidence

The Agent must submit a statement and supporting evidence to the Principal when claiming reimbursement for expenses specified in the Agreement as the responsibility of the Principal.

8.5. Reimbursement

The Principal will pay the Agent's claim for reimbursement within thirty (30) days from the date the claim in writing is received, if the amount claimed is:

- (a) properly payable;

- (b) correctly calculated in accordance with the Agreement; and
- (c) accompanied by sufficient supporting evidence.

9. PERSONNEL

9.1. General Provisions of the Agent's Personnel

- (a) All Personnel must be Employees of the Agent.
- (b) All prospective Personnel must be approved by the Principal for appointment prior to supplying the Services;
- (c) The Principal may direct the Agent to temporarily suspend the Personnel's access to the Principal's Database and Property and direct the Personnel to undertake immediate retraining.
- (d) The Agent must, at its expense, provide the Principal with a current (not more than three months old) Australia-wide police clearance for all prospective Personnel intended by the Agent for appointment as Personnel prior to the commencement of their involvement in supplying the Services.
- (e) The Principal may, at its discretion and expense, at any time and from time to time request the Agent to undertake further Australia-wide police clearance with respect to any prospective Personnel. The Agent must comply with the Principal's request within twenty (20) Business Days of such request.
- (f) If police clearance evidence provided by the Agent pursuant to clause 9.1(d) or 9.1(e) reveals that a prospective Personnel, or reveals that Personnel, has committed a criminal offence punishable by imprisonment or detention, then the Principal may, without prejudice to his other rights under the Agreement:
 - (i) refuse approval for the person to be appointed as Personnel; or
 - (ii) revoke its approval and require the removal of the Personnel in question from any involvement in the supply of the Services,

as the case may be, and the Principal may do so solely in reliance on the police clearance evidence.
- (g) The Agent and its Employees must not, during the Term, have any affiliations, associations, connections, or professional engagements with any companies, agencies, organisations, clubs, associations, or other business or charitable institutions which have or have been found to have or proven to have any involvement in any disreputable, criminal or illegal business dealings or transactions.
- (h) The Principal will terminate this Agreement effective immediately, upon becoming aware of any such affiliations, associations, connections, or professional engagements referred to in 9.1 (g).
- (i) Notwithstanding other rights and remedies or actions available to it, the Principal may require the removal from the Services of any Personnel.
- (j) The Agent must immediately comply with a request under 9.1 (i).
- (k) Where the Agent continues to engage or retains the engagement of Employees contrary to the provisions of this clause 9, in addition to any other rights and actions available to the Principal, the Principal may terminate this Agreement immediately without notice.

- (l) In addition to the provisions of clauses 9.1(d) to (f), the Principal may withhold approval for the appointment of a prospective Employee as Personnel or require the Agent to remove any Personnel from involvement with supplying the Services if the Principal reasonably believes that the prospective Employee or Personnel, as the case may be, is unsuitable.
- (m) In the event that the Principal withholds approval of a prospective Employee or requests removal of any Personnel, in accordance with clause 9.1(f) or 9.1(l), the Principal shall, at the request of the Agent, provide reasons for its decision, unless to provide reasons would, in the reasonable view of the Principal, be contrary to the public interest.
- (n) In the event that any Personnel is required to be removed from supplying the Services pursuant to this clause 9.1, the Agent must at its own cost:
 - (i) ensure that the Personnel in question immediately ceases all involvement with the supply of the Services; and
 - (ii) replace the Personnel with other Personnel, approved by the Principal, of the highest skills and experience available to the Agent.
- (o) In addition to the obligations set out in this Agreement, in the event that the Agent becomes aware that a criminal charge has been laid or may be laid against it or its Personnel, it will immediately notify the Principal in writing.

9.2. Qualifications

- (a) The Agent must ensure that all Personnel are properly qualified and suitable for the tasks allocated to them and that Personnel conduct themselves in all circumstances and at all times, in a fit and proper manner.
- (b) The Agent must ensure that all Personnel:
 - (i) attend mandatory training provided by the Principal, at a location determined by the Principal, prior to supplying the Services;
 - (ii) undertake e-learning training as directed by the Principal;
 - (iii) upon reasonable notice, undertake any additional training required by the Principal subsequent to any new policy or procedures adopted by the Principal; and
 - (iv) participate in a continuous education program relevant to the Services.

9.3. Use of Lobbyists

The Agent warrants and represents that none of its officers, employees, agents or sub-contractors has employed, engaged or has otherwise been involved, directly or indirectly, in connection with the Agreement, with a person who is acting as a Lobbyist (as that term is defined in Public Sector Commissioner's Circular 2016 "Circular 2016") unless such person is duly registered as a Lobbyist in terms of Circular 2016 and that person has complied with his or her obligations under Circular 2016 as amended from time to time.

9.4. Awards, Workplace Agreements

The Agent must ensure that the remuneration and terms of employment of all Personnel for the duration of the Agreement are consistent with the remuneration and terms of employment that reflect the industry standard as expressed in awards and agreements and any code of practice that may apply to a particular industry.

10. ACCESS AND CONFIDENTIALITY

10.1. Access and Records

- (a) The Agent will allow the Principal:
 - (i) reasonable access to inspect any Premises and equipment used or occupied in connection with this Agreement;
 - (ii) reasonable access to all Records in the custody or control of the Agent; and
 - (iii) to examine, audit, copy and use any Records in the custody or control of the Agent.
- (b) The Agent will:
 - (i) keep accurate, complete and current written Records in respect of the Agreement including maintaining adequate audit controls of finances and Services provided to the Principal related to the Agreement;
 - (ii) comply with the directions of the Principal in relation to the keeping of Records whether those directions relate to the period before or after the expiry of the Term;
 - (iii) keep all Records for at least seven (7) years after:
 - a. the expiry of the Term; or
 - b. termination of the Agreement, if the Agreement is terminated before the end of the Term; and
 - (iv) do everything necessary to obtain any third party consents which are required to enable the Principal to have access to Records under this clause 10.1.
- (c) This clause 10.1 survives expiration or termination of the Agreement.

10.2. Agreement Disclosure

The Agent acknowledges that:

- (a) the Agreement; and/or
- (b) information held or compiled by the Principal or the State of Western Australia in relation to the Agreement or the Services supplied under the Agreement,

may be subject to the *Freedom of Information Act 1992*, Parliamentary reporting requirements, other statutory reporting requirements and examination, and/or court orders.

10.3. Use of the Principal's Systems and Database

- (a) The Principal will, subject to availability, permit the Agent to access the Database for the purposes of and to the extent necessary for the Agent to meet its obligations under this Agreement.
- (b) The Principal will require all of the Agent's Personnel, who are to be granted access to the Database, to sign the Confidentiality Deed Poll (Schedule G) that will be issued at the time of the Personnel undertaking the mandatory training in the use of the Database or on demand by the Principal.
- (c) The Agent will:

- (i) ensure all use of the Database is solely and exclusively for the purpose of supplying the Services;
 - (ii) comply with all data security requirements in respect of access to and use of data relevant to the Agreement, in addition to any statutory obligation relevant to data security;
 - (iii) prohibit and prevent any Employee(s) who has/have not been expressly approved to do so by the Principal from gaining access to the Database or any data relevant to the Agreement;
 - (iv) without limiting clause 10.3(c)(iii), use reasonable endeavours to prevent any unauthorised person from gaining access to the Database or any data relevant to the Agreement;
 - (v) prevent unauthorised and improper use of the Database;
 - (vi) prevent unauthorised and improper use of the software or hardware relating to the CTT and HPT;
 - (vii) notify the Principal immediately and comply with all directions of the Principal if the Agent becomes aware of any contravention of this clause 10.3 or any other of the Principal's data security requirements; and
 - (viii) comply with any security instructions or guidelines issued by the Principal.
- (d) Personnel will not:
- (i) divulge their authorised user identification to any other Personnel or person; or
 - (ii) while logged into the Principal's Database, allow any other Personnel or person to access the Principal's Database; or
 - (iii) leave the Principal's database unattended while they are logged in.
- (e) In the event of any occurrence described herein at clauses 10.3 (c) or (d) or any other use of the Database contrary to the provisions of the Agreement or reasonably deemed inappropriate by the Principal, the Principal will be entitled to:
- (i) immediately suspend the Agent's access to the Database with or without notice, in which case the provisions in clause 18 apply; and
 - (ii) notify the Agent of the breach by notice in writing.
- (f) The Agent must provide a written response within two (2) Business Days of receipt of the notice referred to in clause 10.3(e)(ii) stating the reasons for such breach.
- (g) In the event of the commission or attempted commission of any theft or fraudulent transaction by Personnel, the Agent must provide all possible assistance to the Principal and/or its nominated Agents or Representatives.
- (h) The provisions of this clause 10.3 are in addition to the Principal's other rights at law.

10.4. Confidentiality

- (a) The Agent will not use or disclose to any person the Principal's Confidential Information including but not limited to Schedule D, except:
 - (i) where necessary for the purpose of supplying the Services; or
 - (ii) as authorised in writing by the Principal; or
 - (iii) to the extent that the Confidential Information is public knowledge (other than because of a breach of this clause 10.4 by the Agent); or
 - (iv) as required by any law, judicial or parliamentary body or government agency; or
 - (v) when required (and only to the extent required) to the Agent's professional advisers, and the Agent must ensure that such professional advisers are bound by the confidentiality obligations imposed on the Agent under this clause 10.4.
- (b) The Agent will provide a secure storage environment for all Confidential Information and institute and maintain an effective form of control of access to ensure that the Confidential Information is only accessible by Personnel authorised to undertake the Services, and occurs exclusively in the context of the provisions of the Services.
- (c) The Agent will restrict access to payment cardholder data by business need to know.
- (d) The operation of this Clause 10.4 will survive the completion, expiry or termination of the Agreement.

10.5. Return of Confidential Information

The Agent will return all Records containing the Principal's Confidential Information immediately:

- (a) at the expiration or termination of the Agreement; or
- (b) as scheduled by the Principal through Business Rules; or
- (c) on demand by the Principal.

10.6. Publicity

- (a) Unless the Principal gives its prior written consent, the Agent will not:
 - (i) use the Agreement or the Principal's name or logo;
 - (ii) use the name or logo of any person specified in the Agreement;
 - (iii) refer to the Agent's association with the State of Western Australia or the Government of Western Australia which results from the Agreement; or
 - (iv) make any statement concerning the Agreement,

in any publication, advertisement or media release other than its annual report, annual financial statement, annual budget or other documents necessary under statutory reporting requirements.
- (b) The Principal may use the Agent's name and logo for reasonable promotional or publicity purposes at the Principal's discretion, but if the Principal uses the Agent's name or logo for such purposes, then the Principal must acknowledge the role of the Agent to the extent that is reasonable in the circumstances.

11. AUDITOR GENERAL

- (a) The powers and duties of the Auditor General are not limited or otherwise affected by the terms and conditions of the Agreement.
- (b) The Agent will allow the Auditor General, or an authorised representative of the Auditor General, to have access to and examine the Agent's Records concerning the Agreement.

12. INTELLECTUAL PROPERTY RIGHTS

12.1. Principal Supplied Property and Intellectual Property Rights

The Principal is acknowledged to be the sole owner of all personal property and all Intellectual Property Rights in all matters, things or processes including hardware, software, logos and information concerning the Principal's Customers supplied by the Principal to the Agent to enable the Agent to supply the Services (**Principal Supplied Property**).

12.2. Agent Supplied Property and Intellectual Property Rights

The Agent is acknowledged to be the sole owner of all personal property and all Intellectual Property Rights in all matters, things or processes including hardware, software and logos, utilised by the Agent for, or in connection with, the provision of the Services under this Agreement, other than Principal Supplied Property (**Agent Supplied Property**).

12.3. Intellectual Property Rights in modifications, enhancements, adaptations and developments

Unless otherwise agreed by the parties in writing, the Principal will own all Intellectual Property Rights in any modification, enhancement, adaptation or development of any matter, thing or process utilised by the Agent (**other than Agent Supplied Property**) for, or in connection with, the provision of the Services under the Agreement, irrespective of whether such modification, enhancement, adaptation or development has arisen because of the provision of the Services to the Principal or otherwise.

12.4. Indemnity – Third Party Intellectual Property Rights

- (a) A Party will indemnify the other Party and all their respective officers, employees and agents against all costs, losses, expenses, claims, damages and other liabilities including legal costs and expenses as a result of any action, suit, claim, demand or proceeding taken or made by a third party (**Third Party Claim**) alleging that any Agent Supplied Property (with respect to Third Party Claims made against the Principal) or Principal Supplied Property (with respect to Third Party Claims made against the Agent) infringes the Intellectual Property Rights or the Moral Rights of that third party.
- (b) The obligations of the parties under this clause 12.4 are continuing obligations and survive expiration or termination of the Agreement.

13. INSURANCE

13.1. Insurance Requirements

- (c) The Agent must take out and maintain all insurances required by law and any other insurances in relation to liabilities of the Agent under the Agreement, for the benefit of the Parties named in the Agreement, including but not limited to:
 - (i) public liability insurance covering any legal liability of the Agent and the Agent's Personnel that may arise from the Agreement for an amount of not less than twenty million dollars (\$20,000,000) for any one occurrence and unlimited in the aggregate; and

- (ii) workers compensation insurance in accordance with the provisions of the *Workers Compensation and Injury Management Act 1981 (WA)*, including cover for common law liability for an amount of not less than fifty million dollars (\$50 million) for any one occurrence in respect of the Agent's Personnel. The insurance policy must be extended to cover any claims or liability that may arise with respect to an indemnity under section 175(2) of the *Workers Compensation and Injury Management Act 1981*.
- (d) The Principal in specifying the types and levels of insurance coverage in the Agreement, incurs no responsibility or liability for the completeness of its list of insurances, the adequacy of the sum insured, the limit of liability, the scope of coverage, the conditions or exclusions of those insurances nor the manner or extent of the Principal's response to any loss, damage or liability.

13.2. Reputable and Solvent Insurer

Any policy of insurance taken out by the Agent with respect to the Agreement must be taken out with a reputable and solvent insurer acceptable to the Principal which carries on business in Australia and is authorised in Australia to operate as an insurance company.

13.3. Maintenance of Insurance

The Agent will:

- (a) punctually pay all premiums and amounts necessary for effecting and keeping current the insurance required under clause 13.1;
- (b) not vary or cancel any insurance required under clause 13.1 or as otherwise required under the Agreement or allow it to lapse during the Term or otherwise do or allow to be done anything which may vitiate, invalidate, prejudice or render ineffective the insurance or entitle the insurer to refuse a claim; and
- (c) without limiting clause 13.3(b), promptly reinstate any insurance required under clause 13.1 if it lapses or if cover is exhausted or is or becomes ineffectual for any reason.

13.4. Evidence of Insurance

The Agent will give to the Principal sufficient evidence of the insurance required under clause 13.1 (including, if requested, a copy of any policy) and provide a certificate of currency of insurance as requested by the Principal at any time.

13.5. Failure to Prove Insurance

If the Agent does not comply with clauses 13.1, 13.2, 13.3 and 13.4, then without limiting any other remedy available to the Principal, the Principal may suspend or terminate the Agreement under clause 18.

13.6. Incidents and claims

- (a) If either Party becomes aware of any event or incident occurring which gives rise or is likely to give rise to a claim under any insurance required under clause 13.1, it must as soon as reasonably practicable notify the other Party in writing of that event or incident.
- (b) Failure to comply with this clause 13.6 shall not invalidate or otherwise affect the rights of the Principal, or the obligations of the Agent, under clause 14.

13.7. Continuing obligation

- (a) The Agent must maintain the insurances required under clause 13.1 throughout the Term.

- (b) The obligations of the Agent under this clause 13 are continuing obligations and survive suspension, expiration or termination of the Agreement for so long as the obligations of the Agent under this clause 13.7 continue.

13.8. No Limitation of Other Liabilities

It is exclusively the Agent's responsibility to assess and consider the risks, types, extent and scope of insurance cover to accommodate all potential risks under this Agreement. Nothing in this clause 13, contained or implied, will relieve, release, reduce or limit the Agent's liabilities under the Agreement or restrict the Agent from insuring for sums or risks greater than those required under the Agreement.

14. INDEMNITY

- (a) The Agent indemnifies the Principal, the State of Western Australia and all their respective officers, employees and agents against all costs, losses, expenses, claims, damages and other liabilities (including, legal costs and expenses) as a result of any action, suit, claim, demand or proceeding taken or made by any third party arising from or in connection with:
 - (i) any breach of an obligation under the Agreement by the Agent or any Employee; or
 - (ii) any wilful, tortious or unlawful act or omission of the Agent or any Employee; or
 - (iii) any breach of a State or Commonwealth law relevant to the Agreement by the Agent or any Employee.
- (b) The Agent's liability under the indemnity in clause 14 (a) shall be reduced proportionally to the extent that any costs, losses, expenses, claims, damages or other liabilities result from the negligence of the Principal, the State of Western Australia or their respective officers, employees or agents.
- (c) The Principal agrees to use its best endeavours to cooperate with the Agent, at the Agent's cost, in respect of the conduct of any defence, or the agreement of any settlement, of any third party action, suit, claim, demand or proceeding the subject of the indemnity under clause 14 (a).

15. PERFORMANCE and COMPLIANCE MANAGEMENT

15.1. Audit and Review

- (a) The Principal will conduct regular auditing, performance review and compliance activities, including, but not limited to:
 - (i) a daily electronic audit of all licensing transactions performed on the Database by the Agent;
 - (ii) a daily audit of all transaction supporting documentation received and processed by the Agent;
 - (iii) a monthly audit and review of the Agent's performance and compliance in key Agreement areas including but not limited to:
 - a. the Processing Errors;
 - b. compliance with the Business Rules;
 - c. timeliness of transactions;

- d. daily receipt by the Principal of transaction supporting documents;
 - e. Reconciliation of revenue collection against the Department of Transport TRELIS bank account; and
 - f. the Agent's performance generally.
- (b) The Principal may engage an independent qualified auditor to conduct a quality audit of the Services.
- (c) The Agent must:
 - (i) assist in the conduct of any audit, performance and compliance reviews undertaken in accordance with this Clause 15.1; and
 - (ii) provide all and any information, including documentation, at the request of the Principal or the Principal's appointed auditor within fifteen (15) days of the request.
- (d) The Principal shall be entitled to rely on the results of audits, performance and compliance reviews in the event of any breach and or default by the Agent and when considering any extension of the Agreement.
- (e) Notwithstanding the preceding provisions of this Clause 15.1, auditing, performance and compliance reviews will be undertaken at the Principal's sole and absolute discretion.

15.2. Performance and Compliance Review Meetings

- (a) Performance and/or compliance review meetings may be held between the Agent and the Principal as determined by the Principal in consultation with the Agent to discuss performance, compliance and other issues associated with the Services which may be identified through auditing, performance or compliance review, or any other means of performance monitoring undertaken by the Principal.
- (b) Performance and compliance review meetings will be held at a location agreeable to the Parties.
- (c) The following Personnel are required to attend the performance and compliance reviews, as a minimum:
 - (i) the Principal's Representative; and
 - (ii) the Agent's Representative; or
 - (iii) the proxies that may be delegated or sent by the Parties.
- (d) The Principal will, prior to the performance or compliance review meeting, provide the Agent with a written statement setting out all of the matters which the Principal has reviewed pursuant to Clause 15.1 and which the Principal considers are not being carried out by the Agent to the Principal's satisfaction or in accordance with the Agreement.
- (e) The Representatives will attempt to reach agreement as to what action the Agent is required to take to remedy those matters raised pursuant to clause 15.2(d) herein. If agreement is reached, the Parties will produce a statement in writing setting out the agreed remedial action the Agent is required to take and the Agent will comply therewith.

16. DISPUTES

- (a) The Parties agree to use reasonable efforts to resolve by negotiation any problem relating to Services that arise between them under the Agreement
- (b) If a problem relating to Services arises, including a breach or an alleged breach, under the Agreement which is not resolved at an operational level or which is sufficiently serious that it cannot be resolved at an operational level, the Agent's Representative and the Principal's Representative will then arrange to meet and endeavour in good faith to agree upon a resolution.
- (c) Both Parties will continue to perform their obligations under the Agreement while negotiations under subclauses 16 (a) or (b) are exercised.

17. DEFAULT

Notwithstanding any other provisions of this Agreement, if an Event of Default occurs, the Principal will be entitled to:

- (a) suspend payment of all sums due or becoming due to the Agent under the Agreement until such failure is rectified; and
- (b) rectify such failure itself whether by use of the Principal's employees or other agents and the Principal shall be entitled to deduct the cost of such rectification from all sums due to the Agent under the Agreement.

18. SUSPENSION AND TERMINATION

18.1. Suspension and Termination

Notwithstanding any other provisions of this Agreement the Principal may at any time after an Event of Default occurs, by notice to the Agent:

- (a) suspend the Agent's access to the Database for a period not exceeding 3 months, in which case and during which period the Agent shall not be entitled to perform the Services or be remunerated accordingly; or
- (b) terminate the Agreement, either immediately or after the period of suspension referred to in sub-clause 18.1(a).

18.2. Ending of Suspension

- (a) The Principal may end the suspension at any time by written notice to the Agent.
- (b) At the end of the suspension, the Agent's access to the Database will be restored and therefore all rights and obligations of the Principal and the Agent under the Agreement recommence.

18.3. Consequences of Expiration or Termination

- (a) The expiration or termination of the Agreement does not affect any rights, liabilities or obligations of the Principal or the Agent as a result of anything occurring before the expiration or termination.
- (b) On expiration or termination of the Agreement, the Agent must as soon as practicable:
 - (i) deliver to the Principal all Records as required by the Principal;
 - (ii) cease all access by the Agent and the Agent's Personnel to the Database;
 - (iii) cease to provide the Services;

- (iv) return all the Principal's Property including information technology hardware (excluding printers); and
- (v) in every other respect cooperate with the Principal as reasonably required by the Principal in order to minimise any loss, damage or inconvenience to the Principal resulting from the expiration or termination of the Agreement.

18.4. Termination by Mutual Agreement

If the Agreement is terminated by mutual agreement, and on the initiation of the Agent, the Agent agrees to continue to perform the Services for a period agreed by the Agent and the Principal to enable the Principal to establish alternative arrangements for the performance of the Services.

18.5. Limited Liability

Other than where the Principal has repudiated the Agreement or damages are not an appropriate remedy, if the Principal breaches the Agreement, then the remedies of the Agent are limited to damages.

19. REPRESENTATIVES OF THE PARTIES

- (a) Any person described in the Agreement as the Principal's Representative or the Agent's Representative may act as the Representative of the respective Party in relation to the Agreement.
- (b) The Representatives of the Parties must:
 - (i) be available at all reasonable times for consultation in connection with any matter arising under the Agreement; and
 - (ii) have the necessary authority to deal with those matters.
- (c) Either Party may at any time, by notice in writing to the other Party:
 - (i) vary or terminate the appointment of its Representative; or
 - (ii) appoint any other person to act as its Representative in relation to the Agreement.

20. NOTICE

Each notice or other communication given under the Agreement:

- (a) must be in writing;
- (b) may be given by either Party's Representative, a person authorised by the Party's Representative, or solicitor of the Principal or the Agent (as applicable);
- (c) must be:
 - (i) hand delivered; or
 - (ii) sent by prepaid post; or
 - (iii) sent by facsimile; or
 - (iv) sent by email;

to the Representative of the respective Party specified in this Agreement.

- (d) subject to clause 20(e), is taken to be received:
 - (i) in the case of hand delivery, on the date of delivery;
 - (ii) in the case of post, on the fifth Business Day after posting;
 - (iii) in the case of facsimile, on the date on which the sender's facsimile machine records that the facsimile was successfully transmitted;
 - (iv) in the case of email, on the date on which the receiver's email server records that the email was received; and
- (e) if received after 5.00 pm or on a day other than a Business Day, is taken to be received on the next Business Day.

21. MISCELLANEOUS

21.1. Consent

Whenever the consent of the Principal is required under the Agreement:

- (a) that consent may be given or withheld by the Principal in the Principal's absolute discretion and may be given subject to such conditions as the Principal may determine;
- (b) the Principal is not required to provide a reason or reasons for giving or refusing its consent; and
- (c) the Agent agrees that any failure by it to comply with or perform a condition imposed under clause 21.1(a) shall constitute a breach of a term of this Agreement.

21.2. No Dealing or Subcontracting

The Agent must not:

- (a) sell, transfer, assign, novate, mortgage, charge or otherwise dispose of or deal with any of its rights or obligations under the Agreement; or
- (b) subcontract any of its rights or obligations under the Agreement.

21.3. Further Assurance

The Principal and the Agent must do everything reasonably necessary, including signing further documents if appropriate, to give full effect to the Agreement.

21.4. Relationships – No Partnership

- (a) The Agent is an independent Contractor, and nothing in the Agreement may be construed to make the Agent a partner, representative, employee or joint venturer of the Principal.
- (b) The Agent must not represent that the Agent or any of its Personnel are the employees, partners or joint venturers of the Principal.
- (c) The Principal shall have no responsibility to the Agent or Agent's Personnel in respect of remuneration for annual leave, sick leave, long service leave, public holidays, redundancy payments, superannuation contributions or any other benefits for Personnel providing the Services.

21.5. Rights and Remedies

The rights, powers and remedies in the Agreement are in addition to, and not exclusive of, the rights, powers and remedies existing at law or in equity.

21.6. Right of Set Off

The Principal may set off or deduct any amount claimed by the Principal, including any amount claimed under the indemnity in clause 14, from any amount owing by the Principal to the Agent on any account under the Agreement.

21.7. Entire Agreement

The Agreement supersedes all prior negotiations, understandings and agreements between the Principal and the Agent relating to the matters covered by the Agreement and constitutes the full and complete agreement between the Principal and the Agent relating to the matters covered by the Agreement.

21.8. Variations

- (a) Subject to 21.8(b) below, the Agreement may only be varied in writing by mutual agreement of the Parties.
- (b) The Schedules B, C, E, F, I, J and M may be varied at the sole discretion of the Principal by the issuing of a Notice of Variation to Schedule in the format in Schedule K.

21.9. Waiver

- (a) Any waiver by the Principal or the Agent must be in writing and signed by the Party waiving the right.
- (b) Any waiver by the Principal or the Agent does not affect its rights in respect of any other breach of the Agreement by another party.
- (c) Subject to clause 21.9(a), any failure by the Principal or the Agent to enforce any right under the Agreement must not be construed as a waiver of their respective rights under the Agreement.

21.10. Costs

- (a) Unless otherwise stated, the Agent must comply with all obligations of the Agent at the Agent's cost.
- (b) Unless otherwise stated, the Principal must comply with all obligations of the Principal at the Principal's cost.
- (c) The Principal and the Agent must pay their own costs including legal and other costs in connection with the preparation, negotiation, and signing of the Agreement.

21.11. Governing Law

The Agreement is governed by the laws of the State of Western Australia. The Principal and the Agent irrevocably submit to the non-exclusive jurisdiction of the courts of Western Australia.

21.12. Government Policy

If any obligations relating to State government procurement policies are specified in the Agreement, then those obligations form part of the Agreement and the Agent must comply with them.

21.13. Authority to complete blanks etc.

The Principal may date the Agreement and complete any blanks left by the Agent, provided that the obligations of the Agent are not thereby materially increased.

21.14. Severability

Each clause and sub-clause of the Agreement is severable from each other clause or sub-clause, and the invalidity or unenforceability of any clause or sub-clause will not prejudice or affect the validity or enforceability of any other clause or sub-clause.

Executed as an Agreement on the date written at the beginning of this document:

THE CEO, DEPARTMENT OF TRANSPORT, (ABN 27 285 643 255) PURSUANT TO THE POWERS OF THE CEO UNDER SECTION 11 OF THE ROAD TRAFFIC (ADMINISTRATION) ACT 2008

Name of Delegate (please print)

Name of Witness (please print)

Signature

Signature

Executed for and on behalf of the Shire of York, a body corporate under section 2.5 of the *Local Government Act 1995* by

Shire Mayor (Please Print)

Name of Chief Executive Officer
(Please Print)

Signature

Signature

Or

The COMMON SEAL of the)
Shire of York)
Was hereunto affixed by)
Authority of a resolution of the)
Council in the presence of)

Affix Common Seal

Shire Mayor (Please Print)

Chief Executive Officer (Please Print)

Signature

SCHEDULE A: SERVICE SPECIFICATION

1. DEFINITIONS

In this service specification, the following definitions apply:

Online means the telecommunications link and associated computer hardware and software that enables the Agent to access the Principal's Database and process licensing transactions directly onto the Database.

Processing Errors means the errors which occur in the course of performing the Services, including but not limited to, errors in:

- (a) information entered onto the Database;
- (b) providing receipts;
- (c) providing the correct Vehicle Number Plate;
- (d) payment processing accuracy, including as to amounts levied and records made; and
- (e) customer identification verification and management.

Transport Service Centre means any of the Department's regional and metropolitan locations which are responsible for provision of auditing and support for their designated Agents.

2. SCOPE OF SERVICES

The Agent will undertake Road Law licensing functions of the Principal by processing licensing transactions Online for the Principal's Customers.

3. TRANSACTION PROCESSING REQUIREMENTS

- (a) The Agent will perform the following functions as part of the Service:
 - (i) perform all of the Services listed under 'Transaction Type' in the Schedule of Rates at Schedule B to this Agreement;
 - (ii) create and update records for the Principal's Customers on the Database as required;
 - (iii) collect the Principal's revenue;
 - (iv) produce receipts for every payment accepted by the Agent;
 - (v) provide assistance to the Principal's Customers to facilitate transactions; and
 - (vi) perform any other necessary and reasonable activities required to undertake the Services.
- (b) The Agent will accept from the Principal's Customers and process all forms of payment acceptable to the Principal for the processing of licensing transactions, being cash, EFTPOS, credit cards (except Diners Club and American Express), debit cards, cheque and money order.

4. DIRECT DEBIT

The Agent will:

- (a) use its own EFTPOS terminal and funds will be banked directly into the Agents nominated bank account.
- (b) bank on a daily basis revenue collected (cash/cheques/money orders) into the Agents nominated bank account.
- (c) prior to the commencement of Service provide the Principal with a Direct Debit Request and the Principal will debit the Agents bank account two business days after collection to the value of transactions processed on the TRELIS database. Note: the Agent will ensure that sufficient funds are available at the time of the direct debit.
- (d) comply with the Payment Card Industry Data Security Standards (PCI DSS) as set out in Schedule J. No annual reporting is required by the Agent.

5. PHYSICAL STOCK REQUIREMENTS

The Agent will:

- (a) issue to the customer the Physical Stock that meets the information, process, policy and legislative requirements of specific customer transactions;
- (b) implement inventory controls and ordering processes to ensure sufficient stocks of all categories of Physical Stock are maintained to fulfil the Agent's requirements to the Principal's satisfaction; and
- (c) ensure and account for the physical security of Physical Stock.

6. FINANCIAL RECONCILIATION AND REPORTING REQUIREMENTS

The Agent must:

- (a) balance remittance collections daily;
- (b) reconcile licensing transactions on the Database no later than 5.30 pm on the day of the transaction, or as otherwise directed by the Principal;
- (c) produce daily transaction audit reports;
- (d) record the corresponding vehicle licence number or driver's licence number, where payment is made by cheque, on the cheque;
- (e) dispatch transaction supporting documentation and daily transaction audit reports to the Agent's designated Transport Service Centre, on a daily basis; and
- (f) maintain a full audit trail to ensure that all transactions processed are easily traceable and identifiable.

7. TIMELINESS OF SERVICE

(a) The Agent must:

- (i) process all in-person monetary and non-monetary transactions onto the Database at the point of transaction;
- (ii) process all monetary and non-monetary transactions, required by documentation and other information received in the mail, onto the Database no later than the next Business Day; and

- (iii) forward all required documentation and receipts as scheduled by the Principal to the designated Transport Service Centre or as directed by the Principal.
- (b) In the event of the Agent's computer equipment failing or non-availability of the telecommunication link with the Database, the Agent must:
 - (i) manually process all transactions and receipts as instructed by the Principal; and
 - (ii) dispatch all documentation for manually processed transactions to the Agent's designated Transport Service Centre for re-processing onto the Database daily; or
 - (iii) if unable to process transactions manually, the Principal shall provide written instruction to the Agent who will then provide advice to the Principal's Customers of the nearest available Transport Services Centre or alternate Agent of the Principal and any other specified information as required to minimise inconvenience to the Principal's Customers.
- (c) For the purposes of clause 7(b) in this Schedule A, non-availability of the telecommunication link, unless such non-availability was occasioned by the Agent, will not prejudice the Principal's assessment of timeliness.
- (d) In the event any transaction cannot be processed on the day it is received, the Agent must immediately notify the Principal.

8. QUALITY OF SERVICE

In addition to the provisions of clause 3.2 of this Agreement, the Agent must:

- (a) perform all transactions in accordance with the Business Rules; and
- (b) perform the Services while adhering to the Performance Measures set by the Principal in a manner that will not cause increased costs, delay or undue impact to the Principal or the Principal's Customers.

9. AUDITING BY TRANSPORT SERVICE CENTRES

The Principal may alter the designated Transport Service Centre for an Agent or specify an alternate location by notice to the Agent of no less than ten (10) Business Days.

10. PRACTICAL DRIVING ASSESSMENTS

- (a) The Agent agrees to provide a meeting point for the provision of practical driving assessments by the Principal's staff or contractors and agrees to the Agents staff conducting a proof of identity verification (POI) upon the arrival of applicants for a Practical Driving Assessment (PDA).
- (b) The Principal's staff as a part of the proof of identity process are to endorse the PDA scoresheet that the applicants POI has been verified prior to the PDA taking place. The PDA scoresheet is to be endorsed 'POI sighted' and the signature of the Principals' staff member sighting the documents is also to be made on the scoresheet.
- (c) The meeting point may be the Agent's Premises or a point agreed by the Parties.
- (d) The provision of a meeting point may include:
 - (i) A driving assessor parking on the Premises;
 - (ii) The Principal's clients, who will undergo a driving assessment, parking on the Agent's Premises; and

- (iii) Minimal use of the Agent's office facilities.

The Agent agrees to use the Practical Driving Assessment booking system as contained within the Principal's Database.

11. HAZARD PERCEPTION TEST (HPT) AND COMPUTER THEORY TEST (CTT)

The Agent agrees to make available a suitable area for computer testing that provides the following:

- (a) visibility to staff to deter cheating and is situated away from main public areas to allow protection from distractions; or
- (b) other appropriate arrangement as agreed by the Principal.

SCHEDULE B: SCHEDULE OF RATES

SOUTHERN REGION COMMISSION SCHEDULE 1: 1 JANUARY 2018

This Schedule 1 relates to Commission payment category rates for processing licensing cash receipts and non-cash information data input (includes non-transaction allowance and credit card merchant fees).

Commission Payment Category Rates

Scale of Fees for On-line Processing - Monetary Transactions:

| Category | Average Transaction Time | Commission (Volume ≤ 19,300) | Commission (Volume ≥ 19,301) |
|------------|--------------------------|---------------------------------|---------------------------------|
| Category 1 | 0 – 3.5 minutes | \$9.71 | \$7.01 |
| Category 2 | 3.6 – 5.5 minutes | \$12.54 | \$8.86 |
| Category 3 | 5.6 – 8.5 minutes | \$15.72 | \$10.93 |
| Category 4 | 8.6 – 10.5 minutes | \$18.88 | \$13.03 |
| Category 5 | 10.6 – 14.5 minutes | \$22.68 | \$15.51 |
| Category 6 | 14.6 – 20.5 minutes | \$29.03 | \$19.64 |
| Category 7 | 20.6 – 29.5 minutes | \$38.48 | \$25.89 |
| Category 8 | 29.6 – 35.5 minutes | \$48.01 | \$32.10 |

Scale of Fees for On-line Processing - Non Monetary Transactions:

| Category | Average Transaction Time | Commission (Volume ≤ 19,300) | Commission (Volume ≥ 19,301) |
|--------------------|--------------------------|---------------------------------|---------------------------------|
| Category – updates | | \$3.26 | \$3.26 |
| Category 9 | 0 - 3.5 minutes | \$6.49 | \$4.90 |
| Category 10 | 3.6 - 5.5 minutes | \$9.36 | \$6.74 |
| Category 11 | 5.6 - 8.5 minutes | \$12.45 | \$8.80 |
| Category 12 | 8.6 - 10.5 minutes | \$15.60 | \$10.86 |
| Category 13 | 10.6 - 14.5 minutes | \$19.40 | \$13.33 |
| Category 14 | 14.6 - 20.5 minutes | \$25.67 | \$17.48 |
| Category 15 | 20.6 - 29.5 minutes | \$35.10 | \$23.68 |
| Category 16 | 29.6 - 35.5 minutes | \$44.52 | \$29.87 |
| Category 17 | 45.0 - 50.0 minutes | TBD | TBD |
| Category 18 | 120.0 - 125.0 minutes | TBD | TBD |

SOUTHERN REGION COMMISSION SCHEDULE 2: 1 JANUARY 2018

Southern Commission Payment Rates for Individual Licensing Transactions

This Schedule 2 relates to Commission payment rates for individual licensing transactions processed including cash receipts and non-cash information data input (includes non-transaction allowance and credit card merchant fees).

Classification of Transactions

| Transaction Type | Time (min) | Monetary/ Non Monetary (M/ NM) | Cat. | Commission (Volume < 19,300) (Includes 1.00% Increase) | Commission (Volume > 19,300) (Includes 1.00% Increase) |
|--|-------------------|---------------------------------------|-------------|--|--|
| Vehicle Renewals | | | | | |
| Straight Renewal | 2 | M | 1 | 9.71 | 7.01 |
| Renewal - with concession update | 3 | M | 1 | 9.71 | 7.01 |
| Renewal - with change of address | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal - with change of name | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal - with inspection form (details to be checked) | 3 | M | 1 | 9.71 | 7.01 |
| Renewal - with change of plate | 3 | M | 1 | 9.71 | 7.01 |
| Renewal - to uniform date | 2 | M | 1 | 9.71 | 7.01 |
| Renewal - with transfer infringement | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal - with plate infringement | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal - with variation (change of colour, engine number, body type, make, horsepower, tare, insurance) | 3 | M | 1 | 9.71 | 7.01 |
| Renewal - with multiple updates | 3 | M | 1 | 9.71 | 7.01 |
| Heavy vehicles - renewal | 2 | M | 1 | 9.71 | 7.01 |
| Heavy vehicles - change of nominated use | 2 | M | 1 | 9.71 | 7.01 |
| Heavy vehicles - change of concession | 2 | M | 1 | 9.71 | 7.01 |
| Heavy vehicles - fixed nominated use advice | 2 | NM | update | 3.26 | 3.26 |
| Duplicate copy of licence papers | 2 | M | 1 | 9.71 | 7.01 |
| Renewal and change of address with no payment | 1.75 | NM | 9 | 6.49 | 4.90 |
| Change of Plates | | | | | |
| Straight change of plate | 2 | M | 1 | 9.71 | 7.01 |
| Lost or stolen plate change (statutory declaration) | 2 | M | 1 | 9.71 | 7.01 |
| Retained plate (to be issued at a later date) | 2 | M | 1 | 9.71 | 7.01 |
| Change plate for original issue of personalised, special series or remake | 2 | M | 1 | 9.71 | 7.01 |
| Variation to Vehicle Details | | | | | |
| Change of colour, model, engine number (no fee adjustment) | 2 | NM | 9 | 6.49 | 4.90 |
| Change of insurance class (fee adjustment - up or down) | 2 | M or NM | 1 or 9 | \$9.71 or \$6.49 | \$7.01 or \$4.90 |
| Change of horse power or tare (possible fee adjustment - up or down) | 2 | M or NM | 1 or 9 | \$9.71 or \$6.49 | \$7.01 or \$4.90 |
| Change of fee type (possible fee adjustment - up or down) | 2 | M or NM | 1 or 9 | \$9.71 or \$6.49 | \$7.01 or \$4.90 |
| Change in nominated use (possible fee adjustment - up or down) | 2 | M or NM | 1 or 9 | \$9.71 or \$6.49 | \$7.01 or \$4.90 |
| Vehicle Updates | | | | | |
| Add condition | 2 | NM | 9 | 6.49 | 4.90 |
| Delete condition | 2 | NM | 9 | 6.49 | 4.90 |
| Add concession | 2 | NM | 9 | 6.49 | 4.90 |
| Delete concession | 2 | NM | 9 | 6.49 | 4.90 |
| New Registration | | | | | |
| Basic new registration | 5 | M | 2 | 12.54 | 8.86 |
| New registration with concession/condition update | 5 | M | 2 | 12.54 | 8.86 |
| New registration for heavy vehicle | 6 | M | 3 | 15.72 | 10.93 |
| Plate Receipts | | | | | |

| Transaction Type | Time (min) | Monetary/ Non Monetary (M/ NM) | Cat. | Commission (Volume < 19,300) (Includes 1.00% Increase) | Commission (Volume > 19,300) (Includes 1.00% Increase) |
|---|------------|--------------------------------|--------|--|--|
| Eastern State plate return | 2 | NM | 9 | 6.49 | 4.90 |
| Western Australian plate return - no refund | 2 | NM | 9 | 6.49 | 4.90 |
| Western Australian plate return - refund | 2.5 | NM | 9 | 6.49 | 4.90 |
| Plate infringements | 2 | NM | 9 | 6.49 | 4.90 |
| | | | | | |
| Transfers | | | | | |
| Transfer details update (multi notification) | 0.75 | NM | update | 3.26 | 3.26 |
| Transfer update and payment | 2.5 | M | 1 | 9.71 | 7.01 |
| Transfer update, transfer payment and adjustment payment | 3 | M | 1 | 9.71 | 7.01 |
| Transfer update, transfer, adjustment and renewal payment | 4 | M | 2 | 12.54 | 8.86 |
| Transfer update, transfer, payment and infringement payment | 3 | M | 1 | 9.71 | 7.01 |
| Transfer update, concession update and transfer payment | 2.5 | M | 1 | 9.71 | 7.01 |
| Transfer update, transfer and renewal payment | 3 | M | 1 | 9.71 | 7.01 |
| Deceased estate transfer update and payment | 2.5 | M | 1 | 9.71 | 7.01 |
| Divorce settlement transfer update and payment | 2.5 | M | 1 | 9.71 | 7.01 |
| First and Final demand letter payment | 1.5 | M | 1 | 9.71 | 7.01 |
| Transfer infringement payment | 1.5 | M | 1 | 9.71 | 7.01 |
| Eastern States Registration with no inspection required | 5 | NM | 11 | 12.45 | 8.80 |
| | | | | | |
| Dealer Acquisitions | | | | | |
| One to five in one transaction | 2 | M | 1 | 9.71 | 7.01 |
| | | | | | |
| Adjustment Payment | | | | | |
| System generated notification | 2 | M | 1 | 9.71 | 7.01 |
| Created by update or variation plus update time | 2 | M | 1 | 9.71 | 7.01 |
| | | | | | |
| Driver Renewal | | | | | |
| Renewal with photograph | 2 | M | 1 | 9.71 | 7.01 |
| Renewal without photograph (data card still requires photographing) | 2 | M | 1 | 9.71 | 7.01 |
| Renewal with concession application | 2 | M | 1 | 9.71 | 7.01 |
| Renewal with concession deleted | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal with change of address | 2.5 | M | 1 | 9.71 | 7.01 |
| Change of name or date of birth | 2.5 | M | 1 | 9.71 | 7.01 |
| Renewal without payment | 1.5 | NM | 9 | 6.49 | 4.90 |
| Renewal and change of address without payment | 2 | NM | 9 | 6.49 | 4.90 |
| Duplicate copy of licence | 2 | M | 1 | 9.71 | 7.01 |
| Certified copy of licence | 2 | NM | 9 | 6.49 | 4.90 |
| | | | | | |
| | | | | | |
| Change of Address (multi advice) | | | | | |
| Motor driver licence | 0.5 | NM | update | 3.26 | 3.26 |
| Motor vehicle registration | 0.5 | NM | update | 3.26 | 3.26 |
| | | | | | |
| Special Plate Applications | | | | | |
| Personalised plates | 2 | M | 1 | 9.71 | 7.01 |
| Sporting plates | 2.5 | M | 1 | 9.71 | 7.01 |
| Local Authority | 2.5 | M | 1 | 9.71 | 7.01 |
| Special Series | 2.5 | M | 1 | 9.71 | 7.01 |
| | | | | | |
| Plate Remake Applications | | | | | |
| | 2 | M | 1 | 9.71 | 7.01 |

| Transaction Type | Time (min) | Monetary/ Non Monetary (M/ NM) | Cat. | Commission (Volume < 19,300) (Includes 1.00% Increase) | Commission (Volume > 19,300) (Includes 1.00% Increase) |
|---|------------|--------------------------------|------|--|---|
| Special Plate Transfers | 2 | M | 1 | 9.71 | 7.01 |
| Temporary Permits | 3 | M | 1 | 9.71 | 7.01 |
| Suspense Receipts | 2 | M | 1 | 9.71 | 7.01 |
| Vehicle Modification Permit | 2 | M | 1 | 9.71 | 7.01 |
| Dishonoured cheque payments | 2 | M | 1 | 9.71 | 7.01 |
| Instructors Fees | 2 | M | 1 | 9.71 | 7.01 |
| Original Driver Licence | | | | | |
| New application and application fee payment | 5 | M | 2 | 12.54 | 8.86 |
| Issue of Learners Permit | 1.5 | M | 1 | 9.71 | 7.01 |
| Update to practical driving assessment incorporating booking the practical driving assessment and provision of meeting point for driving assessment | 14 | NM | 13 | 19.40 | 13.33 |
| Practical test update and renewal or duplicate | 2 | M | 1 | 9.71 | 7.01 |
| Transfer application, application fee and renewal payment | 6 | M | 3 | 15.72 | 10.93 |
| Additional class updates and application fee payment | 4 | M | 2 | 12.54 | 8.86 |
| Additional class learner permit | 1.5 | NM | 9 | 6.49 | 4.90 |
| Extra practical test payment | 2 | M | 1 | 9.71 | 7.01 |
| Extraordinary licence - original application | 7 | M | 3 | 15.72 | 10.93 |
| Extraordinary licence - renewal | 2 | M | 1 | 9.71 | 7.01 |
| Reissue of lapsed licence and payment of renewal | 4 | M | 2 | 12.54 | 8.86 |
| Issue of Medical Assessment | 3 | NM | 9 | 6.49 | 4.90 |
| Conducting Computerised Theory Test (CTT) - General | 15 | M | MDL | 24.26 | No volume rate is applicable and the four transactions will be processed as separate MDL Commission payment |
| Conducting Computerised Theory Test (CTT) - Heavy | 15 | M | MDL | 16.72 | |
| Conducting Computerised Theory Test (CTT) - Rider | 15 | M | MDL | 16.72 | |
| Practical test - light vehicle | 50 | NM | 17 | TBD | |
| Practical test - heavy vehicle | 125 | NM | 18 | TBD | TBD |
| Conducting Hazard Perception Test (HPT) | 17 | M | 6 | 29.03 | 19.64 |
| Practical Test update pass - issue Phase II permit and Log Book | 3 | M | 1 | 9.71 | 7.01 |
| Phase II application fee payment | 3 | M | 1 | 9.71 | 7.01 |
| Supplementary Phase II application fee payment | 3 | M | 1 | 9.71 | 7.01 |
| Verify Log Book details and update Licence record | 5 | NM | 10 | 9.36 | 6.74 |
| Issue replacement Log Book | 3 | NM | 9 | 6.49 | 4.90 |
| Service of Demerit Point Suspension | 5 | NM | 10 | 9.36 | 6.74 |
| Processing of good behaviour period elections | 5 | NM | 10 | 9.36 | 6.74 |
| Service of breach notices for good behaviour period | 5 | NM | 10 | 9.36 | 6.74 |

SCHEDULE C: AGREEMENT REPRESENTATIVES AND ADDRESSES FOR NOTICES

1. PRINCIPAL'S REPRESENTATIVE

- (a) The Principal's Representatives are:
 - (i) Director Commercial and Partnerships; or
 - (ii) Assistant Director Commercial Management, or
 - (iii) Manager Statutory Agency Agreements; or
 - (iv) the person/s who for the time being, for all intents and purposes, occupies those offices; or
 - (v) the person acting in the office that substitutes for any of the above-described offices; or
 - (vi) any officer of the Department of Transport exercising powers under an appropriate Instrument of Delegation.
- (b) The Principal will not be bound by any representations made to the Agent other than those made by the Principal's Representative.
- (c) The Principal's address for notices:

Manager, Statutory Agency Agreements,
Commercial and Partnerships
Department of Transport
GPO Box R1290
Perth WA 6844
Telephone: 08 6551 6378
Facsimile: 08 6551 7022
Email: SAA@transport.wa.gov.au

2. AGENT'S REPRESENTATIVES

- (a) The Agent's Representatives are:
 - (i) CEO.
 - (ii) or the person/s who for the time being, for all intents and purposes, occupy those offices.
- (b) The Agent's address for notices is the Agent's postal box address or, where the Agent does not maintain a postal box, the Agent's street address.

3. PERSONNEL AUTHORISED TO ISSUE NOTICES

The Principal and Agent's respective Representatives listed at clauses 1 and 2 of this Schedule C are authorised to issue notices under the Agreement.

SCHEDULE D: CONFIDENTIAL INFORMATION

1. PRINCIPAL'S CONFIDENTIAL INFORMATION

Subject to any change(s) effected by notice in writing from the Principal to the Agent, the Principal's Confidential Information includes:

- (a) all information provided to the Agent from and relating to the Database or which can be accessed or extracted from the Database or other similar system, including information relating to the Principal's Customers or data provided to the Agent for the purposes of supplying the Services under this Agreement;
- (b) any other data or information which is provided to the Agent by the Principal or by the Principal's Customers or potential customers in the course of performing this Agreement;
- (c) any internal Department of Transport (Transport) information (including Departmental procedures, policies and instructions or similar documents or material) that the Agent may have, or has come to have, access to in the course of performing this Agreement;
- (d) computer programs, information about the Principal's Customers or potential customers or details of the Principal's methods of operation;
- (e) information comprised in, or relating to, any Intellectual Property of the Principal;
- (f) information relating to the internal management or structure of the Principal, or the personnel, policies and strategies of the Principal;
- (g) information of the Principal that has actual, or potential, commercial value to the Principal or to any person or corporation which has supplied that information;
- (h) information relating to the policies, strategies, practices and procedures of the Government of Western Australia or any information in the Agent's possession arising out of this Agreement relating to the Western Australian Public Service;
- (i) information in the Agent's possession relating to the Principal's suppliers, or like information;
- (j) information relating to the financial position or reputation of the Principal and/or the Department including information relating to assets and liabilities; and
- (k) information which is commercially sensitive or personal.

1.1. Confidentiality Deed Poll

The Agent's Personnel shall be required to sign a Confidentiality Deed Poll. These Confidentiality Deed Polls must be executed by the Agent's Personnel and returned to the Principal before the Principal will disclose Confidential Information to the Agent's Personnel.

2. AGENT'S CONFIDENTIAL INFORMATION

Subject to any change(s) effected by notice in writing from the Agent to the Principal, the Agent's Confidential Information includes:

- (a) information relating to the financial position or reputation of the Agent including information relating to banking details and assets and liabilities.

SCHEDULE E: BUSINESS RULES

1. BUSINESS RULES APPLICABLE TO THIS AGREEMENT

The Agent must observe, perform and comply with Business Rules including, but not limited to:

- (a) Licensing Information documents issued by the Principal;
- (b) Administration Instructions issued by the Principal;
- (c) Reasonable directives or advices issued via writing by the Principal;
- (d) Financial Business Rules issued by the Principal. Financial Business Rules includes the procedure for dealing with situations when the Principal's customers payment method does not result in a payment being made; and
- (e) Other policies and procedures issued by the Principal.

SCHEDULE F: EQUIPMENT MAINTENANCE

This Equipment Maintenance Schedule is the procedure for Agents to follow in the event Department of Transport supplied information technology hardware requires repairs or replacement.

| Step | Process |
|------------------------------------|--|
| Repair or Replacement Issue | <p>Agent's Personnel are to contact Transport's Customer Service Phone-Support only.</p> <p>Please do not contact the Business Information Systems (BIS) <i>Helpdesk (Helpdesk)</i> directly.</p> <p style="text-align: right;">1800 354 928 Phonesupport@transport.wa.gov.au</p> |
| Job/Incident Logged | <p>Agent's Personnel must provide details of the faulty equipment including the LF number (yellow sticker) and DP number (white sticker) and details of the problem. Customer Service Phone-Support will log the incident with Helpdesk.</p> <p>**Please Note** When logging an issue, the Agent will be provided a <u>job/incident number which will need to be reference for any subsequent enquiries</u>. Always record this number.</p> |
| Courier | Transport's Customer Phone-Support or BIS Helpdesk will instruct Agent's Personnel to courier the equipment if it needs to be returned for repair/replacement. |
| Courier details | <p>The Agent is to immediately arrange for the return of the equipment item by calling Toll Ipec ☎ 13 18 85. Quote account number XV1437.</p> <p>The cost of the courier will be charged to the Department of Transport.</p> <p>Courier to Department of Transport BIS. 2 Tassel Place, Osborne Park, WA 6018.</p> |
| Repair and/or Replacement | The Department of Transport will organise the repair and/or replacement of the equipment item. |
| Return Courier | BIS. will arrange for the equipment item to be returned by courier to the Agent. |
| Follow Up | If the Service Staff require any follow-up assistance, Transport's Customer Service Phone-Support can be contacted for further instruction. Please quote the job/incident number. |
| Escalation | If the Agent site experiences any delay or has any unresolved issues, an email should be sent to phonesupport@transport.wa.gov.au with all details, including the job/incident number. Attention to: Customer Service Phone Support Manager. |

SCHEDULE G: AGENT'S EMPLOYEE CONFIDENTIALITY DEED POLL

| CONFIDENTIALITY DEED POLL |
|--|
| ACCESS TO INFORMATION HELD BY THE DEPARTMENT OF TRANSPORT PURSUANT TO THE ROAD TRAFFIC ACT 1974 |

1. PRINCIPAL'S PARTICULARS

| | | | |
|----------------|---|--------------|---------------------------------------|
| Name | The CEO, Department of Transport | | |
| ABN | 27 285 643 255 | | |
| Address | 140 William Street, Perth, Western Australia 6000 | | |
| Contact | Access Management | Email | access.management@transport.wa.gov.au |
| Phone | 6551 6881 | Fax | 9227 3416 |

2. AGENT'S EMPLOYEE'S PARTICULARS

| | | | |
|----------------|--|--------------|--|
| Name | | | |
| Address | | | |
| Contact | | | |
| Phone | | Email | |

3. SERVICES

The Agent will undertake Road Law licensing functions of the Principal by processing licensing transactions on-line for the Principal's Customers including:

- creating and updating records for the Principal's Customers on the Database as required;
- collecting the Principal's revenue;
- producing receipts for every payment accepted by the Agent;
- providing assistance to the Principal's Customers to facilitate transactions;
- providing HPT/CTT testing facilities; and
- performing any other necessary and reasonable activities required to undertake the Services.

4. BACKGROUND

- A. The Principal is responsible for the administration of the licensing provisions of the *Road Traffic Act 1974*.
- B. Section 11 of the *Road Traffic (Administration) Act 2008* empowers the Principal to enter into agreements for the performance of the Principal's functions under that Act.
- C. The Services are some of the functions of the Principal under the *Road Traffic Act 1974*.
- D. The Principal has entered into an Agreement with the Agent for the Agent to supply Services to the Principal's Customers.
- E. In order to be able to carry out the Services, the Agent's Personnel will require access to Confidential Information and the Principal has agreed to disclose Confidential Information to the Agent's Personnel on the strict understanding that the Confidential Information is provided solely to enable the Agent's Personnel to carry out the Services.
- F. This Confidentiality Deed Poll must be executed by the Agent's Employees and returned to the Principal before the Principal will disclose Confidential Information to the Agent's Employees.

5. THE AGENT'S EMPLOYEE AGREES:

In consideration of, amongst other things, being granted access to the Confidential Information on the terms contained in this deed, the Agent's Employee undertakes and agrees that he is subject to the following obligations:

6. DEFINITIONS AND INTERPRETATION

In this deed:

Agent means Shire of York – ABN 55 315 676 247.

Agent's Employee means a person who supplies Services to the Principal's Customers under the Agreement made between the Principal and the Agent.

Confidential Information includes but is not limited to:

- (a) information regarding personal details of the Principal's Customers including, but not limited to, driver's licence number, name, date of birth, address and all other contact details of the Principal's Customers;
- (b) details of the vehicle number plates associated with the Principal's Customers;
- (c) any information which pertains to the conduct of the Principal's business which is not public knowledge or which is not publicly available;
- (d) information regarding business or system processes that the Agent's Employee has obtained, or which may be provided by the Principal, whether directly or indirectly;
- (e) information relating to the internal management and structure of the Principal, or the personnel, policies and strategies of the Principal;
- (f) policies, strategies, practices and procedures of the Principal and any sensitive information which the Agent's Employee may come to obtain or have access to relating to the Western Australian Public Service;
- (g) information which the Agent's Employee may come to obtain or have access to relating to the Principal, the Principal's Customer or suppliers, and like information; and
- (h) information which is commercially sensitive information or Personal Information, but does not include Excepted Information.

Excepted Information means information which:

- (a) is available or becomes available in the public domain other than by breach of this deed;
- (b) is known to the Agent's Employee before receiving it from the Principal and is not subject to an existing obligation of confidence between the parties;
- (c) is provided to the Agent's Employee by a third party whose use and disclosure of the information is not subject to any restrictions

Law includes any requirement of any statute, regulation, proclamation, ordinance or by-law, present or future, and whether State, Federal or otherwise.

Principal's Customers means those persons who use the Services supplied by the Agent under an Agreement made between the Principal and the Agent.

Services means the services listed in the box headed "Services" on the front page of this deed.

A reference to a gender includes other genders.

7. USE AND RETURN OF CONFIDENTIAL INFORMATION AND ACKNOWLEDGMENTS

7.1. Use of Confidential Information

The Agent's Employee agrees that, in consideration of the Principal disclosing Confidential Information to him, he will:

- (a) keep the Confidential Information secret and confidential;
- (b) use the Confidential Information solely for supplying the Services and for no other purpose;
- (c) not allow or assist a third party to access or use, publish or release the Confidential Information for any purpose;
- (d) take all steps and do all things necessary to safeguard the confidentiality of the Confidential Information including:
 - (i) keeping the Confidential Information within his possession confidential;
 - (ii) not making, or permitting to be made, any copy, note or memorandum of the Confidential Information;
 - (iii) ensuring that proper and secure storage is provided for the Confidential Information; and
 - (iv) protecting the Confidential Information from unauthorised access, disclosure or use in breach of this deed;
- (e) co-operate with the Principal if the Principal commences proceedings in respect of the unauthorised access, use, copying or disclosure of Confidential Information; and
- (f) immediately notify the Principal if he becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 7.

7.2. Return of Confidential Information

The Agent's Employee acknowledges and agrees that:

- (a) immediately on request, he must deliver up to the Principal and cease to access and use all Confidential Information, including any copies of the Confidential Information (stored in any medium) which is in his possession as soon as practicable after the date when the Agent completes the Services or the relevant part of the Services; and
- (b) the return of Confidential Information does not release him from his other obligations under this deed.

7.3. Acknowledgments

The Agent's Employee acknowledges and agrees that:

- (a) the Confidential Information provided by the Principal is secret and confidential;
- (b) the Confidential Information is the property of the Principal, and this deed does not convey any proprietary interest in the Confidential Information to him;
- (c) he is liable to the Principal for any unauthorised access, use or disclosure of the Principal's Confidential Information by him or by any third party as a result of his act or neglect to act;

- (d) disclosure of the Confidential Information in breach of this deed may cause considerable detriment to third parties and to the commercial, financial, regulatory affairs and reputation of the Principal; and
- (e) damages may not be a sufficient remedy for the Principal for any breach of this deed and the Principal may be entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach by him in addition to any other remedies available to the Principal.

8. CRIMINAL CODE, ROAD TRAFFIC ACT AND STATE RECORDS ACT

The Agent's Employee acknowledges and agrees that:

- (a) as a 'government contractor', the contractor is under a duty not to make an 'unauthorised disclosure' (as those terms in italics are defined in section 81 of the Criminal Code) and he is guilty of a crime if he does so - Maximum penalty: 3 years imprisonment;
- (b) the contractor is under a duty not to unlawfully use a 'restricted access computer system' (as that term in italics is defined in section 440A of the Criminal Code) and he is guilty of a crime if he does so - Maximum penalty: 10 years imprisonment;
- (c) the contractor is under a duty not to, directly or indirectly, record, disclose or make use of information obtained while carrying out the Services except for those purposes set out in 103 (1) (a) to (d) and (2) of the Road Traffic Act 1974 - Penalty: a fine of 100 PU or imprisonment for 12 months; and
- (d) the contractor is employed by the Agent who is engaged under an Agreement for services by the State Government to carry out the Services and that he comes within the definition of 'government organization employee' (as that term in italics is defined in section 3 of the State Records Act 2000) and that he may be subject to a maximum penalty of \$10,000 if found guilty of an offence under section 78 (1) to (5) of the State Records Act 2000.

9. SURVIVAL OF THE OBLIGATIONS

The obligations of the Agent's Employee under this deed commence on the date of this deed and will survive and will continue in force until the Principal releases him from his obligations by means of a written release.

10. GOVERNING LAW

This deed is governed by the laws of the State of Western Australia and the Agent's Employee irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that state and courts entitled to hear appeals from those courts.

IMPORTANT - THIS DOCUMENT HAS LEGAL IMPLICATIONS AND YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING IT

EXECUTED AS A DEED POLL ON THE DAY OF 201X

SIGNED and DELIVERED)

by.....)(Signature and job title)

the Agent's Employee

in the presence of:

Signature of witness:.....

Full name of witness
(PLEASE WRITE IN BLOCK OR CAPITAL LETTERS)

Address of witness:.....

SCHEDULE H: PERFORMANCE MEASURES

| No. | Performance Measure | Qualitative Matrix |
|-----|--------------------------------------|---|
| 1 | Daily Audit | <p>A report of transactions conducted by the Agent is forwarded daily to the allocated Transport Services Centre (TSC) office for audit. All documentation supporting each transaction processed must be forwarded by the Agent to the TSC within 2 business days of processing to assist with the audit process.</p> <p>The TSC will audit all the licensing transactions and notify the Agent in writing of the errors.</p> <p>The allocated site for the Agent is Albany.</p> |
| 2 | Identified errors | <p>Errors identified through an audit are corrected and returned to Albany within seven (7) Business Days.</p> |
| 3 | Recurrent or significant errors | <p>In instances where there are recurring errors or where an error requires significant rework, the Principal may issue a notice seeking an explanation from the Agent including advice on how the Agent will prevent future instances, or may request the Agent to implement processes intended to eliminate the incidence of errors.</p> <p>The Agent is to respond within seven (7) business days of this notice.</p> |
| 4 | Zero breach of TRELIS data security. | <p>Suspected breaches of TRELIS data security, within two (2) Business Days of the identification of the suspected breach, are to be communicated in writing to the:</p> <ol style="list-style-type: none"> 1. SAA@transport.wa.gov.au; or 2. Manager Statutory Agency Agreements <p style="text-align: center;">Department of Transport GPO R1290 Perth WA 6844</p> |
| 5 | Written customer complaints | <p>Customer complaints are discussed with the Manager Statutory Agency Agreements and responded to in writing within 14 Business Days.</p> <p>Proposed strategies for service improvement are discussed with the Manager Statutory Agency Agreements and implemented within a mutually agreed timeframe.</p> <p>Should any strategies or timeframes not be agreed on, the Agent may escalate to the Assistant Director Commercial Management.</p> |
| 6 | Compliance Escalation | <p>The Agent must address initial concerns with compliance requirements to the Manager Statutory Agency Agreements.</p> <p>The escalation process for any Agreement compliance requirements, are to be issued in writing, as follows:</p> <ol style="list-style-type: none"> 1. Manager Statutory Agency Agreements 2. Assistant Director Commercial Management 3. Director Commercial & Partnerships <p>The Director Commercial & Partnerships is the final escalation level.</p> |

SCHEDULE I: LOCATION OF PREMISES FOR SERVICE PROVISION

The Agent shall provide the Services under the Agreement from the following Premises:

YORK

| | | | |
|----------------|---------------------------------------|--------------|-------------------------------|
| Address | 1 Joaquina Street YORK WA 6302 | | |
| | | | |
| | | | |
| Contact | CEO | Email | records@york.wa.gov.au |
| Phone | 9641 2233 | Fax | |

SCHEDULE J: PAYMENT CARD INDUSTRY DATA SECURITY STANDARD (PCI DSS)

OVERVIEW -The Payment Card Industry Data Security Standard (PCI DSS) was developed to encourage and enhance cardholder data security and facilitate the broad adoption of consistent data security measures globally. PCI DSS provides a baseline of technical and operational requirements designed to protect account data. PCI DSS applies to **all** entities involved in payment card processing—including merchants, processors, acquirers, issuers, and service providers. PCI DSS also applies to **all** other entities that store, process or transmit cardholder data (CHD) and/or sensitive authentication data (SAD). More detailed information is available at the Payment Card Industry Security Standards Council's website at: <https://www.pcisecuritystandards.org/merchants/index.php>

PCI DSS Objectives and Requirements

| Objective | Requirement No. | Requirements |
|---|-----------------|--|
| Build and Maintain a Secure Network and Systems | 1 | Install and maintain a firewall configuration to protect cardholder data |
| | 2 | Do not use vendor-supplied defaults for system passwords and other security parameters |
| Protect Cardholder Data | 3 | Protect stored cardholder data |
| | 4 | Encrypt transmission of cardholder data across open, public networks |
| Maintain a Vulnerability Management Program | 5 | Protect all systems against malware and regularly update anti-virus software or programs |
| | 6 | Develop and maintain secure systems and applications |
| Implement Strong Access Control Measures | 7 | Restrict access to cardholder data by business need to know |
| | 8 | Identify and authenticate access to system components |
| | 9 | Restrict physical access to cardholder data |
| Regularly Monitor and Test Networks | 10 | Track and monitor all access to network resources and cardholder data |
| | 11 | Regularly test security systems and processes |
| Maintain an Information Security Policy | 12 | Maintain a policy that addresses information security for all personnel |

SCHEDULE K: NOTICE OF VARIATION TO SCHEDULE FORM

NOTICE OF VARIATION TO SCHEDULE

Agreement No.:

Title:

Schedule:

Agent:

Variation No.:

Variation Date:

Date of Variation Effect:

VARIATION TO SCHEDULE:

The Principal, pursuant to Clause 21.8 of the Agreement, hereby provides the Agent notice of the following variation(s) in relation to the above Schedule:

Except as expressly varied, the terms and conditions of the Agreement, remain unaltered and in full force and effect.

*<Name and Title of authorised
officer in DVS>*

<Date>

SCHEDULE L: AGREEMENT TERM AND CONTACT DETAILS

| Item No | Item Description | Details |
|----------------|--------------------------|---|
| 1 | Agreement Term | The appointment of the Agent by the CEO is for an initial term expiring 31 December 2020. |
| 2 | Commencement Date | The Commencement Date is the date the Agreement is made. |
| 3 | Maximum Term | The appointment of the Agent by the CEO will expire on 31 December 2020. |

SCHEDULE M: CONDITIONS SPECIFIC TO THIS AGENT SITE <SITE> <Or SITES>



Government of **Western Australia**

Department of **Transport**

**DOT966817 AGREEMENT FOR THE PROVISION OF NON ROAD LAW FUNCTIONS IN
SHIRE OF YORK**

BETWEEN:

The **Chief Executive Officer of the Department of Transport** (titled the Director General)

and

The Shire of York a body corporate with perpetual succession under the Local Government
Act 1995

("the Agent")

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This Agreement is made the _____ day of _____ 2017

RECITALS:

- A. The Chief Executive Officer (referred to as the Director General) of the Department has been assigned certain functions under the *Road Traffic Administration Act 2008*; the *Road Traffic Authorisation to Drive Act 2008*; the *Road Traffic Vehicles Act 2012* and the *Road Traffic (Vehicles) (Taxing) Act 2008* (the Road Laws).
- B. The Director General has issued for execution the Agreement for Provision of Licensing Services in terms of section 11 of the Road Traffic Administration Act 2008 for the Agent to undertake certain Road Law relation functions on his behalf.
- C. The Director General also undertakes certain functions in licensing pleasure vessels in accordance with regulations made under section 99(1) (a) of *Western Australian Marine Act 1982*.
- D. The Director General also undertakes functions in accordance with the *Western Australian Photo card Act 2014* and the *Motor Vehicles Drivers Instructors Act 1963*.
- E. In addition the Director General on behalf of other parties undertakes certain functions. These are as follows:-
 - (a) On behalf of the Minister for Local Government, the Director General undertakes the licensing and renewal of licences for off road vehicles in accordance with the *Control of Vehicles (Off Road Areas) Act 1978*.
- F. In the past the Agent has undertaken certain functions on the Director General's behalf that the Director General was empowered to perform regarding the licensing of vessels, photo cards, firearm licenses, off road vehicles and motor vehicle driving instructor fees. These functions were undertaken by the Agent either under Memoranda of Understandings or in terms of conditions that were set out in the schedules to agreements made under section 6B of the *Road Traffic Act 1974*.
- G. On 27 April 2015 the Road Laws came into effect and it became necessary to enter into separate agreements for the Director General's non Road Law functions to be undertaken by the Agent.
- H. This Agreement formalises past arrangements for non-Road Law related functions and has commenced notwithstanding the date of execution of this Agreement.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:-

Agreement means this document and any Schedules and annexures hereto.

Auditor General means the Auditor General of Western Australia.

Authorised Employee means person the Agent determines are suitable and has trained to undertake the Services.

Business Day means any day, except a Saturday, Sunday or a Gazetted public holiday in Perth, Western Australia.

Business Rules means those business rules set out in Schedule 5 and those that the Director General informs the Agent in writing are applicable from time to time for undertaking the Services, and may be set out and described in other documents and agreements, including the Business Rules set out in the Road Law Agreement.

Chief Executive Officer or CEO means the Chief Executive Officer of the Department and is also known as the Director General.

Confidential Information means information that is set out in Clause 15 and includes the following:

- (a) is by its nature confidential; or
- (b) is specified by the Director General or the Agent to be confidential; or
- (c) the other party knows or reasonably ought to know is confidential; and
- (d) includes all details relating to Licensing undertaken by the Agent, including internal processes of the Director General, policies and procedures which are not otherwise able to be obtained publicly; personal details of Customers, financial details and payments that the Agent is provided either by the Director General or Customers, directly or indirectly, and are either directly, or indirectly related to the Services.

Consumer Price Index means the Perth Consumer Price Index (Consumer Price Index, Australia (Cat No 6401.0)): 1 All Groups, Index Numbers – Perth) from the preceding March quarter published by the Australian Bureau of Statistics.

Customer means the Director General's customers, being members of the public seeking to utilise the Services.

Database means the Director General's designated motor vehicle and driver licensing databases, including TRELIS.

Department means the Department of Transport or such other person or government agency which is responsible for assisting the Principal with the administration of this Agreement;

Director General means the Chief Executive Officer of the Department or an authorised representative of the Director General.

Employee means:

- (a) Where the Agent is a local government body, a person employed by the Agent under Section 5.36 of the Local Government Act 1995, or otherwise engaged by the Agent, and includes a chief employee, a chief executive officer, a senior executive officer, an executive officer, an employee, a public service officer, public officers or a respondent as defined under the Public Sector Management Act 1994 or a clerk or servant as defined under section 1 of the Criminal Code Act 1913; and
- (b) the Agent's employees, directors, officers, nominees, agent or subcontractor.

GST has the same meaning as in the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and, where the context permits, includes the Commissioner of Taxation's goods and services tax rulings and determinations and any other written law dealing with GST applying for the time being in the State of Western Australia.

Language Interpretation Facility means the facility established by State Government to meet the needs of people unable to communicate effectively in English.

Personnel means all Employees engaged in relation to the supply of the Services.

Physical Stock means any items provided by the Director General to the Agent for the purpose of facilitating the Agent to undertake the Services.

Performance Measures means the criteria specified in Schedule 10 against which the Agent's delivery of Services will be measured.

Premises means any premises listed in Schedule 6 which are owned or occupied by the Agent on or from which the Services are to be supplied or to which the Agent has access in order to supply the Services, and includes anything on those premises.

Prescribed Fee means any statutory fee applicable to vessel licenses, photo cards, off road vehicle licenses and driving instructor fees; that appear in the Government Gazette from time to time.

Principal means the CEO of the Department of Transport.

Purpose means the provision of Services.

Records means records and information of any kind, including originals and copies of all accounts, financial statements, books, files, reports, records, correspondence, documents and other materials created for, or relating to, or used in connection with, the supply of the Services, whether or not containing Confidential Information, and whatever format in which such records and information are held, stored or recorded.

Representative(s) means either or both the Agent's Representative or the Principal's Representative set out in Schedule 3 as the context requires.

Road Laws means one or more of the Acts referred in Recital A of this Agreement.

Road Law Agreement means the agreement concluded under section 11 of the *Road Traffic (Administration) Act 2008* between the CEO and the Agent for the performing of Road Law functions.

Services means tasks that the Agent undertakes to perform on the Director General's behalf as outlined in Schedule 1.

Service Fee means those fees that the Director General will pay the Agent for undertaking the Services and set out in Schedule 2.

Term means the length of time that this Agreement is valid.

1.2 In this Agreement, unless the context otherwise requires:-

- (a) words importing the singular include the plural and vice versa
- (b) words importing any gender include the other genders;
- (c) words importing persons include corporations, governments and government bodies and vice versa;
- (d) references to Clauses and subsidiary parts of Clauses are to Clauses and parts of Clauses in this Agreement;
- (e) terms such as "herein", "hereby", "hereunder", and "hereof" refer to this Agreement as a whole and not to the Clause or subsidiary part where those terms appear;
- (f) references herein to any deed, agreement or other instrument are references to that deed, agreement or other instrument as it may from time to time be amended or extended in accordance with its terms; and
- (g) references to a party mean a party to this Agreement, and include the successors and permitted assigns of a party.

2 APPOINTMENT OF AGENT

- 2.1 The Director General appoints the Agent to act on behalf of the Director General for the Purpose for the Term.
- 2.2 The Agent accepts the appointment and shall perform its duties under this Agreement to the best of their ability and strictly in accordance with the relevant legislation.
- 2.3 The Agent will act in accordance with the Business Rules as they apply from time to time.

3 APPLICABLE LAW

This Agreement shall be subject to the laws of the State of Western Australia.

4 TERM OF AGREEMENT

- 4.1 This Agreement will begin on the Commencement Date as specified in Item 2 of Schedule 9 for the term specified in Item 1 of Schedule 9. The Principal may by notice in writing to the Agent extend the term at his entire discretion for a further period or periods up to the maximum period set out in Item 3 of Schedule 9.
- 4.2 This Agreement does not create or otherwise confer upon the Agent an enforceable right to be offered an extension of this Agreement.

5 SERVICES

The Agent undertakes the Services on behalf of the Director General as set out in Schedule 1 in accordance with the Business Rules.

6 DUTIES OF AGENT

- 6.1 The Agent covenants and agrees with the Director General:
 - (a) to collect the Prescribed Fees payable for transactions in relation to the Services; and
 - (b) to notify the Department of any moneys banked for the credit of the Department's account.
- 6.2 The Agent shall not have authority to undertake any other functions that are not set out in this Agreement.

7 LIABILITY AND INDEMNITY

- (a) The Agent indemnifies the Director General, the State of Western Australia and all their respective officers, employees and agents against all costs, losses, expenses, claims, damages and other liabilities (including, legal costs and expenses) as a result of any action, suit, claim, demand or proceeding taken or made by any third party arising from or in connection with:
 - (i) any breach of an obligation under the Agreement by the Agent or any Employee; or
 - (ii) any wilful, tortious or unlawful act or omission of the Agent or any Employee; or
 - (iii) any breach of a State or Commonwealth law relevant to the Agreement by the Agent or any Employee.
- (b) The Agent's liability under the indemnity in Clause 7 (a) shall be reduced proportionally to the extent that any costs, losses, expenses, claims, damages or other liabilities result

from the negligence of the Director General, the State of Western Australia or their respective officers, employees or agents.

- (c) The Director General agrees to use his best endeavours to cooperate with the Agent, in respect of the conduct of any defence, or the agreement of any settlement, of any third party action, suit, claim, demand or proceeding the subject of the indemnity under Clause 7 (a).

8 PUBLICITY

8.1 Unless the Director General gives his prior written consent, the Agent shall not:

- (a) use the Department's or State of Western Australia's name and/or logo or coat of arms.
- (b) make any statement concerning the Agreement, in any publication, advertisement or media release other than its annual report, annual financial statement, annual budget or other documentation necessary under statutory reporting requirements.

8.2 The Director General may use the Agent's name and logo for reasonable promotional or publicity purposes (regarding this Agreement) at the Director General's discretion, and the Director General shall acknowledge the role of the Agent to the extent that is reasonable within the circumstances.

9 AUDITS AND ACCESS TO RECORDS

(a) The Agent shall:

- (i) allow the Director General or his authorised representative to have reasonable access to inspect any Premises and equipment (where applicable) used or occupied in connection with this Agreement;
- (ii) allow the Director General or his authorised representative to have reasonable access to all Records pertaining to this Agreement in the custody or control of the Agent;
- (iii) allow the Director General or his authorised representative to examine, audit, copy and use any Records pertaining to this Agreement in the custody or control of the Agent;
- (iv) maintain accurate and complete records of all work pertaining to this Agreement carried out during the Term;
- (v) allow the Auditor General, or an authorised representative of the Auditor General, to have access to and examine the Agent's Records concerning the Agreement; and
- (vi) provide for the care, safety, security and protection of all Records (whether created by the Director General, the Agent or any other person) that are in the custody or control of the Agent, and all property supplied by the Director General to the Agent in connection with the Agreement.

(b) The powers and duties of the Auditor General under law are not limited or otherwise affected by the terms and conditions of the Agreement.

(c) This Clause survives expiration or termination of the Agreement.

10 REDUCTION, SUSPENSION AND TERMINATION

10.1 Notwithstanding any other provisions of this Agreement, the Director General may by notice to the Agent at any time and in his sole discretion do any of the following including taking more than one of the following actions.

- (a) reduce the scope of Services;
- (b) temporarily suspend this Agreement;
- (c) terminate this Agreement by notice.

10.2 In exercising the powers under Clause 10.1:

- (a) upon receiving notice under Clause 10.1, the Agent must immediately cease the provision of all Services within time period set forth in the notice;
- (b) the Agent will not be entitled to compensation for loss of prospective profits or on any other basis.

10.3 Notice by the Director General in accordance with this Clause does not relieve the Agent of any of its warranties and obligations set out in this Agreement including those that continue after termination.

10.4 In the event of suspension of this Agreement by the Director General, the Agent must immediately cease performing all Services for the duration of the suspension period.

10.5 The suspension, reduction or termination of this Agreement does not affect any rights, liabilities or obligations under this Agreement as a result of anything occurring before the expiration, reduction or termination.

10.6 On termination of this Agreement, whether at the Director General's discretion or at the end of the Term, the Agent must as soon as practicable and within ten (10) working days following notice:

- (a) deliver to the Director General's nominated representatives all Records as required by the Director General;
- (b) in every other respect cooperate with the Director General and nominated representatives as reasonably required by the Director General in order to minimise any loss, damage or inconvenience to the Director General resulting from the expiration or termination of this Agreement. If this Agreement is terminated without default, then subject to the requirements of the Director General and notwithstanding any due date laid down for the termination of this Agreement, the Agent shall complete all the Services in accordance with the terms and conditions of this Agreement.

10.7 The Director General and Agent may terminate the Agreement by mutual agreement. If the Agreement is terminated by mutual agreement, and on the initiation of the Agent, the Agent agrees to continue to perform the Services for a period required by the Director General to enable the Director General to establish alternative arrangements for the performance of the Services.

10.8 In the event of an alleged breach by the Director General of this Agreement, the Agent's sole remedy is a claim for damages.

11 EVENTS AFFECTING PERFORMANCE OF SERVICES

11.1 This Agreement may be terminated by the Director General in writing if any incapacitating event occurs including but not limited to:

- (a) a breach of the Agent's obligations under the Agreement;
- (b) failure to pay any of the applicable Prescribed Fees and charges;
- (c) failure to be registered for GST;
- (d) if for any reason whatsoever the Agent is unable or unwilling to commence or continue providing the Services;
- (e) if the Agent does not promptly inform the Director General of any occurrence which may adversely affect the Agreement in a material way or the ability of the Agent to deliver the Services;
- (f) if the Agent does not, in providing the Services, act with integrity, good faith and probity in accordance with good corporate governance practices;
- (g) if the Agent attempts to sell, transfer, assign, mortgage, charge or otherwise dispose of or deal with any of their rights, entitlements and powers under this Agreement;
- (h) if the Agent does not comply with all State or Commonwealth laws;
- (i) if the Agent refuses upon reasonable notice to provide the Director General with access at any reasonable time and from time to time to the Agent's Premises, financial records, other documents, equipment and other property for the purpose of audit and inspection by the Director General in order to verify compliance by the Agent with this Agreement;
- (j) if the Agent does not reasonably cooperate with the Director General in the administration of this Agreement;
- (k) if the Agent also provides services under the Road Law Agreement and that agreement is terminated in accordance with the breach provisions of that agreement.

11.2 If the Agent breaches this Agreement and the Director General in his discretion considers it appropriate, the Director General may first send the Agent a written notice specifying the breach and calling upon the Agent to rectify the breach within ten (10) Business Days of receipt of the notice or such other time period as specified by the Director General.

11.3 The Agent must notify the Director General in the event of the occurrence of any event that could in whole or in part impede the ability of the Agent to perform the Services under this Agreement including one or more of the following events:

- (a) an order is made, or an application is made to a court for an order, that a body corporate be wound up; or
- (b) except to reconstruct or amalgamate while solvent, a body corporate:

- (i) is wound up or dissolved; or
 - (ii) resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so; or
 - (iii) enters into, or resolves to enter into, any form of formal or informal arrangement for the benefit of all or any class of its creditors, including a scheme of arrangement, deed of company arrangement, compromise or composition with, or assignment for the benefit of, all or any class of its creditors; or
- (c) a liquidator or provisional liquidator is appointed (whether or not under an order), or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate; or
- (d) a receiver, manager, receiver and manager, trustee, administrator, controller (as defined in section 9 of the Corporations Act 2001 (Cth)) or similar officer is appointed, or an application is made to a court for an order, or a meeting is convened or a resolution is passed, to make such an appointment, in respect of a body corporate or any asset or undertaking of a body corporate; or
- (e) any step is taken to enforce security over, or a distress, attachment, execution or other similar process is levied, enforced or served out against any asset or undertaking of a body corporate; or
- (f) the process of any court or authority is invoked against a body corporate, or any asset or undertaking of a body corporate, to enforce any judgment or order for the payment of money or the recovery of any property;
- (g) a body corporate:
 - (i) takes any step to obtain protection, or is granted protection, from its creditors under any applicable legislation; or
 - (ii) stops or suspends payment of all, or a class of, its debts; or
 - (iii) is or is taken by any applicable legislation to be, or states that it is, or makes a statement from which it may be reasonably deduced that it is:
 - (A) insolvent or unable to pay its debts when they fall due; or
 - (B) the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001 (Cth)*; or
 - (iv) is taken to have failed to comply with a statutory demand as a result of the operation of section 459F(1) of the Corporations Act 2001 (Cth); or
 - (v) ceases, or threatens to cease, to carry on all or a material part of its business; or
- (h) a person becomes an insolvent under administration as defined in section 9 of the Corporations Act 2001 (Cth) or action is taken which could result in that event; or
- (i) a person dies, ceases to be of full legal capacity or otherwise becomes incapable, for any reason, of managing his own affairs; or
- (j) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

12 POLICE CLEARANCE

- 12.1 The Director General may request the Agent at any time, to obtain and provide to the Director General an Australia-wide police clearance in respect of any of the Agent's Authorised Employees.
- 12.2 In addition to the obligations set out in this Agreement, in the event that the Agent becomes aware that a criminal charge has been laid or may be laid against it or its Employees, it will immediately notify the Director General.

13 EMPLOYEES

The Agent must ensure that only Authorised Employees carry out the Services.

- (a) Notwithstanding other rights and remedies or actions available to it, the Director General may require the removal from the undertaking of Services of any Employees.
- (b) The Agent must immediately comply with a request under Clause 13 (a) and ensure that the Employee does not access the Director General's Physical Stock, Records and Database

14 NON-ASSIGNMENT

- (a) The Agent shall not assign any of its obligations, rights, benefits or interests under this Agreement.
- (b) The Agent shall not sub-contract the Services to another person or entity.

15 CONFIDENTIALITY

- 15.1 The Agent acknowledges that during this Agreement, the Agent will have access to Confidential Information, both oral and written or in other material form, belonging to members of the public that the Director General is required to keep confidential. The Agent may use Confidential Information solely for the purpose of performing its obligations under this Agreement and the obligation to maintain confidentiality continues after termination of this Agreement.
- 15.2 The Agent will ensure that its Personnel have signed a Confidentiality Deed Poll to cover the Services described in this Agreement which Deed poll is set out in Schedule 4.
- 15.3 Use of Confidential Information

The Agent must:

- (a) use Confidential Information solely for the purpose of providing the Services under the Agreement and for no other purpose;
- (b) not allow or assist a third party to access or use, or publish or disclose Confidential Information for any other purpose;
- (c) take and cause its Employees to take all steps and do all things necessary to safeguard the confidentiality of Confidential Information;
- (d) ensure the proper and secure storage of Confidential Information;
- (e) protect Confidential Information from unauthorised access, disclosure or use.

15.4 Misuse of Confidential Information

The Agent must notify the Director General immediately upon becoming aware of a suspected or actual breach of this Clause by any of the Agent's Employees.

15.5 Privacy

The Agent agrees to:

- (a) comply with all privacy laws in relation to personal information, whether or not the Agent is an organisation bound by the privacy laws;
- (b) indemnify the Director General and the State of WA, their officers and agents against liability or loss arising from, and any costs, charges and expenses incurred in connection with the use or misuse of the Confidential Information and / or breach.

15.6 The Agent must ensure that its Employees fully comply with this Clause.

15.7 Where a person discloses Confidential Information to another person pursuant to this Clause, the disclosing person must notify the receiving person of the existence and content of this Clause and the sensitivity of the information being disclosed.

15.8 Where the Agent's Employee breaches this Clause and discloses Confidential Information other than in the manner required, the Director General reserves the right to request that the relevant Personnel cease providing the Services.

15.9 The information contained in this Agreement is subject to the Freedom of Information Act 1992 (WA) and Financial Management Act 2006 and may also be disclosed by the Director General or the State under a court order or upon request by Parliament or any committee of Parliament or as otherwise required.

16 RETURN OF CONFIDENTIAL INFORMATION AND PHYSICAL STOCK

The Agent will return all Records containing the Director General's Confidential Information and Physical Stock immediately:-

- (a) at the expiration or termination of the Agreement; or
- (b) as scheduled by the Principal through Business Rules; or
- (c) on demand by the Director General.

17 LIMITATION OF LIABILITY AND NO GUARANTEE OF WORK

17.1 The Director General, and the State of Western Australia, are not liable for any losses or damages which may be suffered by the Agent in undertaking its functions as an Agent under this Agreement.

17.2 The Director General does not underwrite, guarantee or accept any liability for the volume and value of the Services performed under this Agreement.

18 VARIATIONS

Except as provided in Clause 19.2(c), Clause 19.2(d) and Clause 19.3, any variation to this Agreement shall only be valid if approved by the Director General and executed by the Parties in writing.

19 GENERAL

19.1 If any provision of this Agreement is held unenforceable or void, the remaining provisions must be enforced in accordance with their terms.

19.2 This Agreement:

- (a) constitutes the entire agreement between the Parties as to its subject matter and supersedes all prior representations and agreements in connection with that subject matter;
- (b) may only be varied or altered in writing executed by the Parties;
- (c) The Schedules 2, 3, 4, 5, 7 and 11 may be varied at the sole discretion of the Principal by the issuing of a Notice of Variation to Schedule in the format in Schedule 11; and
- (d) the Business Rules may be varied unilaterally from time to time by the Director General.

19.3 Either Party may, at any time, by notice in writing to the other Party vary or terminate the appointment of its Representative; or appoint any other person to act as its Representative in relation to the Agreement.

20 INSURANCE REQUIREMENTS

In the event that the Agent has not already obtained relevant and sufficient insurances under the Road Law Agreement to also cover the provision of Services in this Agreement, then the Agent must take out and maintain all insurances required by law and any other insurances in relation to liabilities of the Agent under this Agreement.

21 AGENT'S GENERAL WARRANTIES AND UNDERTAKINGS

21.1 Agent's General Warranties

Except where the Agent has otherwise disclosed in writing to the Director General, and the Director General has given prior written consent to the matter disclosed, the Agent warrants in favour of the Director General that:

- (a) the Agent has no conflict of interest arising out of the Agreement;
- (b) the Agent is properly authorised and has the power to enter into the Agreement and perform the Agent's obligations under the Agreement;
- (c) the Agent's obligations under the Agreement are valid and binding and are enforceable against the Agent;
- (d) all information provided by the Agent to the Director General in connection with the Agreement is true and correct;
- (e) there is no litigation or arbitration, and there are no administrative proceedings, taking place, pending or threatened against the Agent which could have a materially adverse effect on the Agent's ability to supply the Services in accordance with the Agreement;
- (f) no Personnel performing the Services has been convicted of a criminal offence that is punishable by imprisonment or detention; and
- (g) there is nothing that prevents the Agent from complying with any obligation under the Agreement.

21.2 General Warranties Made Continuously

The warranties made by the Agent under clause 21.1 are taken to be made continuously throughout the Term.

21.3 Agent's Undertakings

The Agent must:

- (a) properly provide for the care, safety, security and protection of:
 - (i) all Records (whether created by the Director General, the Agent or any other person) that are in the custody or control of the Agent; and
 - (ii) all property, information technology equipment and software applications supplied by the Director General to the Agent in connection with the Agreement;
- (b) promptly notify the Director General if any warranty in clause 21.1 is breached or becomes untrue within two (2) business days of the identification of the breach;
- (c) securely manage and destroy any waste documentation;
- (d) securely return by the Director General's approved courier or nominated representative, at the Director General's cost, all obsolete vehicle number plates to the Director General's nominated contractor for destruction;
- (e) securely manage all new and retained vehicle number plates at all times and only return or transfer those plates through the Director General's approved courier or representative;
- (f) always act ethically in connection with the Agreement and in accordance with good corporate governance practices;
- (g) comply with all State and Commonwealth laws relevant to the Agreement;
- (h) if the Agent obtains or has custody or control of State Records as a result of its activities under this Agreement, comply with the Director General's record keeping plan to the extent necessary under the State Records Act 2000;
- (i) cooperate fully with the Director General in respect of the administration of the Agreement;
- (j) ensure that no Personnel causes the Agent to breach the Agreement; and
- (k) except as otherwise specified in the Agreement, provide everything necessary to fully comply with all of its obligations under the Agreement.

21.4 Warranties and Indemnity

- (a) The Agent must give, or ensure the Director General has the benefit of, any warranties specified in the Agreement.
- (b) The Agent must do everything necessary to obtain the benefit of all third party warranties and must ensure that the Director General has the benefit of those warranties.
- (c) The Agent indemnifies the Director General against any loss or liability that results from the Agent not complying with sub-clauses 21.4(a) or (b).

21.5 Conflict of Interest

- (a) Without limiting the meaning of conflict of interest, a conflict of interest may arise in the following circumstances:
 - (i) when the Agent, or a person associated with the Agent, is in a position to benefit directly or indirectly from the actions of the Agent through an unfair or unintended imposition or loss on the Principal or some third party; or
 - (ii) when, due to a personal interest or a conflicting business arrangement, an Agent's honesty, objectivity or fairness in performing the Services is open to question.
- (b) If a conflict of interest arises in respect of the Agent or the Agent's Employees, in respect of the supply of the Services under the Agreement, the Agent must:
 - (i) promptly notify the Director General that the conflict has arisen and provide full details; and
 - (ii) take reasonable steps in consultation with the Director General to manage or resolve the conflict.
- (c) Without limiting the meaning of conflict of interest, a perceived conflict of interest may arise when an Agent or the Agent's Personnel accesses the Principal's Database or undertakes a transaction on behalf of a friend or relative or the Personnel's own record, without first obtaining the Principal's approval.

21.6 Agent's Obligation for Services Directly to the Public

The Agent must:

- (a) to the extent practicable, implement the Director General's 'Disability Access and Inclusion Plan' (DAIP) prepared under the Disability Services Act 1993 and available at the Director General's website: <http://www.transport.wa.gov.au/aboutus/disability-access-and-inclusion-plan.asp>
- (b) provide a report to the Director General by 30 June in each year of the Term reporting on the extent to which the Agent has implemented the Director General's DAIP.
- (c) advise Customers that they may make use of the Language Interpretation Facility if they require such assistance.

22 BANK FEES AND CHARGES

The Director General will reimburse the Agent for specified bank fees and charges, being:

- (a) charges incurred in relation to dishonoured cheques received from the Director General's Customers.

23 PERFORMANCE and COMPLIANCE MANAGEMENT

23.1 Audit and Review

- (a) The Director General will conduct regular auditing, performance review and compliance activities, including, but not limited to:
 - (i) a daily electronic audit of all licensing transactions performed on the Database by the Agent;

- (ii) a daily audit of all transaction supporting documentation received and processed by the Agent (refer to Schedule 10);
 - (iii) a monthly audit and review of the Agent's performance and compliance in key Agreement areas including but not limited to:
 - A) the Processing Errors;
 - B) compliance with the Business Rules;
 - C) timeliness of transactions;
 - D) daily receipt by the Director General of transaction supporting documents;
 - E) Reconciliation of revenue collection against the Department of Transport TRELIS bank account; and
 - F) the Agent's performance generally.
- (b) The Director General may engage an independent qualified auditor to conduct a quality audit of the Services.
- (c) The Agent must:
 - (i) assist in the conduct of any audit, performance and compliance reviews undertaken in accordance with this Clause 23.1; and
 - (ii) provide all and any information, including documentation, at the request of the Director General or the Director General's appointed auditor within fifteen (15) days of the request.
- (d) In instances of significant non-compliance, the Director General may issue a notice seeking an explanation or information regarding the non-compliance and/or details of how the Agent would prevent further non-compliance. The Agent shall provide a written response within seven (7) business days.
- (e) In requesting a written response under 23.1 (d), the Director General in no way limits his capacity under section 10.
- (f) The Director General shall be entitled to rely on the results of audits, performance and compliance reviews in the event of any breach and or default by the Agent and when considering any extension of the Agreement.
- (g) Notwithstanding the preceding provisions of this Clause 23.1, auditing, performance and compliance reviews will be undertaken at the Director General's sole and absolute discretion.

23.2 Performance Review Meetings

- (a) Performance review meetings may be held between the Agent and the Director General as determined by the Director General in consultation with the Agent to discuss performance and other issues associated with the Services which may be identified through auditing, performance and compliance review, or any other means of performance monitoring undertaken by the Director General.
- (b) Performance and compliance review meetings will be held at a location agreeable to the Parties.

- (c) Should the Representatives be unable to meet, any issues of non-compliance will be detailed by the Principal's Representative through written notice. The Agent's Representative shall respond in writing accordingly detailing what action the Agent shall undertake.

24 INFORMATION TECHNOLOGY, EQUIPMENT AND PREMISES.

24.1 Supply by Principal

The Principal will supply the Agent with the following:

- (a) telecommunications hardware and software, the nature of which is subject to the availability of telecommunications technology in the Agent's locality, linking the Agent's transaction processing equipment supplied by the Principal to the Database;
- (b) transaction processing hardware to the extent necessary to operate the software applications required by the Principal being:
 - (i) PC/s;
 - (ii) printer/s (excluding consumables); and
 - (iii) image capture unit
- (c) transaction processing software, being the Principal's software applications that enable the Agent to access the Principal's Database and any third party software applications required by the Principal;
- (d) hardware and software to the extent necessary for the Agent to provide CTT/HPT and testing required by the Principal;
- (e) the Physical Stock required by the Agent to perform this Agreement; and
- (f) Vehicle licence plates.

24.2 Supply by Agent

- (a) The Agent must supply and maintain all hardware and software, not otherwise specified in the Agreement as the Principal's responsibility, to the extent required to enable the Agent to perform the Services. The Agent shall ensure that such hardware and software is compatible in all respects with the Principal's hardware and software.
- (b) Except as otherwise expressly provided in this Agreement, the Agent must provide, at its cost all office consumables.

24.3 Installation of Additional Hardware or Software (other than supplied by the Principal)

- (a) The Agent must make written application to the Principal, and obtain the Principal's written approval before installing any additional hardware or software to a PC designated for transaction processing.
- (b) Subject to clause (a) above:
 - (i) the installation of any additional hardware or software on the Principal's designated PC will be entirely at the Agents risk and the Principal will not be responsible for any hardware or software failure or resultant loss of the Agents data; and

- (ii) the Agent will be responsible for and at its own cost to address any support issues, security breaches, network vulnerabilities, including increases in PCI DSS scope or loss of data resulting in the installation of the additional hardware or software.
- (c) The Agent will uninstall any additional hardware or software that the Agent installs on a PC designated for transaction processing by prior agreement with the Principal, when the PC is required to be replaced or returned to the Principal.

24.4 Compliance with Principal's Requirements

All information technology, whether supplied by the Principal or the Agent, must comply with the information technology policies and specification requirements as provided by the Principal from time to time.

24.5 Maintenance of Equipment

- (a) The Agent will ensure all equipment including, but not limited to, information technology hardware and software is:
 - (i) maintained in good, safe and proper working condition, and capable of reliably performing the Services at all times; and
 - (ii) housed at the Agent's customer service area where the Services are provided.
- (b) All equipment provided by the Principal including, but not limited to, information technology hardware and software remains the property of the Principal and will be returned to the Principal on demand, at the Principal's cost and by the Principal's approved courier or nominated representative.
- (c) The Agent will provide any information required by the Principal relating to the audit and tracking of the Principal's equipment.
- (d) In the event that equipment supplied by the Principal requires maintenance, the Agent will contact the Principal to discuss the maintenance options for the equipment as detailed in Schedule 7.
- (e) If any equipment supplied by the Principal requires repairs or replacement, the Principal will then organise at its cost.
- (f) In the event equipment supplied by the Principal requires off-site maintenance, and that maintenance results in equipment not being available to the Agent for more than five (5) Business Days, the Principal will supply the Agent with equivalent replacement equipment for the duration of the period the equipment is unavailable to the Agent.

24.6 Premises

The Agent will:

- (a) ensure all areas in which the Services are to be performed are suitable for the purpose;
- (b) provide a secure and confidential environment to ensure protection of the Principal's interests against outside intrusion, improper or unauthorised use or access;
- (c) ensure security complies with any reasonable Direction given by the Principal;
- (d) do everything reasonably necessary to protect people and property on the Premises, as they relate to the delivery of the Services; and
- (e) ensure compliance with Requirement 9 of the PCI DSS at Schedule 8.

25 NOTICE

Any notice or other communication that may or must be given under this Agreement:

- (a) must be in writing;
- (b) may be given by an authorised officer of the Party giving notice;
- (c) must be:
 - (i) hand delivered; or
 - (ii) sent by prepaid post; or
 - (iii) sent by facsimile; or
 - (iv) sent by email;

to the Representative of the respective Party specified in this Agreement.

- (d) subject to clause 25(e), is taken to be received:
 - (i) in the case of hand delivery, on the date of delivery;
 - (ii) in the case of post, on the fifth Business Day after posting; and
 - (iii) in the case of facsimile, on the date on which the sender's facsimile machine records that the facsimile was successfully transmitted;
 - (iv) in the case of email, on the date on which the receiver's email server records that the email was received; and
- (e) if received after 5:00pm or on a day other than a Business Day, is taken to be received on the next Business Day.

26 RELATIONSHIPS – NO PARTNERSHIP

- (a) The Agent is an independent Contractor, and nothing in the Agreement may be construed to make the Agent a partner, representative, employee or joint venturer of the Principal.
- (b) The Agent must not represent that the Agent or any of its Personnel are the employees, partners or joint venturers of the Principal.
- (c) The Principal shall have no responsibility to the Agent or Agent's Personnel in respect of remuneration for annual leave, sick leave, long service leave, public holidays, redundancy payments, superannuation contributions or any other benefits for Personnel providing the Services.

Executed as an Agreement on the date written at the beginning of this document:

Executed for and on behalf of the CEO, Department of Transport by his Delegate

Name of Delegate (please print)

Name of Witness (please print)

Signature

Signature

Executed for and on behalf of the Shire of York, as a body corporate under section 2.5 of the Local Government Act 1995 by:

Shire Mayor (Please Print)

Name of Chief Executive Officer
(Please Print)

Signature

Signature

Or

The COMMON SEAL of the)
Shire of York)
Was hereunto affixed by)
Authority of a resolution of the)
Council in the presence of)

Affix Common Seal

Shire Mayor (Please Print)

Name of Chief Executive Officer
(Please Print)

Signature

Signature

SCHEDULE 1: SERVICES TO BE PROVIDED BY THE AGENT

Definitions

Driving Instructor Fee Agents means the Agent responsible for licensing driving instructors.

Maritime Collections Agents means the Agent who is responsible for vessel registration.

Off Road Vehicle New Registration Agents means the Agent responsible for off road vehicle registrations.

Photo Card Agents means the Agent who is responsible for proof of age Licenses.

- 1) Maritime Collections Agents shall in accordance with the Business Rules:-
 - a) collect boat renewal payments; and
 - b) collect boat transfer payments; and
 - c) collect commercial vessel survey payments; and
 - d) collect hire vessel survey payments; and
 - e) collect marine payment – miscellaneous; and
 - f) collect maritime pen duty payments; and
 - g) collect slipway fees.
- 2) Photo Card Agents shall in accordance with the Business Rules
 - a) process applications; and
 - b) process replacement copy; and
 - c) provide certified copy.
- 3) Off Road Vehicle New Registration Agents shall in accordance with the Business Rules
 - a) process new registrations (includes new registration updates); and
 - b) process renewals; and
 - c) process plate changes; and
 - d) process transfers; and
 - e) process plate receipt – manual.
- 4) Driving Instructor Fee Agents shall in accordance with the Business Rules
 - a) collect fees from driving instructors

SCHEDULE 2: SOUTHERN REGION SERVICE FEES: 1 JANUARY 2018**FEES PER TRANSACTION PAID BY THE DEPARTMENT OF TRANSPORT**

| Category | Average Transaction Time | Commissions less than predetermined volume | Commissions greater than predetermined volume |
|---|--------------------------|--|---|
| | | Transaction volume will be aggregated with the Road Law Agreement to determine the rate payable. | |
| Scale of Fees for On-line Processing - Monetary Transactions (M) | | | |
| Category 1 | 0 – 3.5 minutes | \$9.71 | \$7.01 |
| Category 3 | 5.6 – 8.5 minutes | \$15.72 | \$10.93 |
| Scale of Fees for On-line Processing - Non Monetary Transactions (NM) | | | |
| Category – updates | | \$3.26 | \$3.26 |
| Category 9 | 0 - 3.5 minutes | \$6.49 | \$4.90 |

| Transaction Type | Time (min) | (M/ NM) | Cat. | Commission payable | Commission payable |
|--|------------|---------|------|--------------------|--------------------|
| Photo Card | | | | | |
| Application | 3 | M | 1 | \$9.71 | \$7.01 |
| Replacement copy | 2 | M | 1 | \$9.71 | \$7.01 |
| Certified copy | 2 | NM | 9 | \$6.49 | \$4.90 |
| Off Road Vehicle New Registrations | | | | | |
| New registrations (includes new registration update) | 6 | M | 3 | \$15.72 | \$10.93 |
| Renewals | 2.5 | M | 1 | \$9.71 | \$7.01 |
| Plate change | 2.5 | M | 1 | \$9.71 | \$7.01 |
| Transfers | 2.5 | M | 1 | \$9.71 | \$7.01 |
| Plate receipt - manual | 2.5 | NM | 9 | \$6.49 | \$4.90 |
| Maritime Collections | | | | | |
| Boat renewal payments | 2 | M | 1 | \$9.71 | \$7.01 |
| Boat transfer payments | 2 | M | 1 | \$9.71 | \$7.01 |
| Commercial vessel survey payments | 2 | M | 1 | \$9.71 | \$7.01 |
| Hire vessel survey payments | 2 | M | 1 | \$9.71 | \$7.01 |

| | | | | | |
|-------------------------------------|---|---|---|--------|--------|
| Marine payment - miscellaneous | 2 | M | 1 | \$9.71 | \$7.01 |
| Maritime pen duty payments | 2 | M | 1 | \$9.71 | \$7.01 |
| Slipway fees | 2 | M | 1 | \$9.71 | \$7.01 |
| Driving Instructor Fee Agent | | | | \$9.71 | \$7.01 |
| Instructor Fees | 2 | M | 1 | \$9.71 | \$7.01 |

SCHEDULE 3: AGREEMENT REPRESENTATIVES AND ADDRESSES FOR NOTICES

1. PRINCIPAL'S REPRESENTATIVE

- (a) The Principal's Representatives are:
 - (i) Director Commercial and Partnerships, or
 - (ii) Assistant Director Commercial and Partnerships, or
 - (iii) Manager Statutory Agency Agreements; or
 - (iv) the person/s who for the time being, for all intents and purposes, occupies those offices; or
 - (v) the person acting in the office that substitutes for any of the above-described offices; or
 - (vi) any officer of the Department of Transport exercising powers under an appropriate Instrument of Delegation.
- (b) The Principal will not be bound by any representations made to the Agent other than those made by the Principal's Representative.
- (c) The Principal's address for notices:

Manager, Statutory Agency Agreements,
Commercial and Partnerships
Department of Transport
GPO Box R1290
Perth WA 6844
Telephone: 08 6551 6378
Facsimile: 08 6551 7022
Email: SAA@transport.wa.gov.au

2. AGENT'S REPRESENTATIVES

- (a) The Agent's Representatives are:
 - (i) CEO.
 - (ii) or the person/s who for the time being, for all intents and purposes, occupy those offices.
- (b) The Agent's address for notices is the Agent's postal box address or, where the Agent does not maintain a postal box, the Agent's street address.

3. PERSONNEL AUTHORISED TO ISSUE NOTICES

The Principal and Agent's respective Representatives listed at clauses 1 and 2 of this Schedule 3 are authorised to issue notices under the Agreement.

SCHEDULE 4: AGENT'S EMPLOYEE CONFIDENTIALITY DEED POLL

| CONFIDENTIALITY DEED POLL |
|---------------------------|
|---------------------------|

CEO's particulars

| | | | |
|---------|---|-------|---------------------------------------|
| Name | The CEO (the Director General), Department of Transport | | |
| ABN | 27 285 643 255 | | |
| Address | 140 William Street, Perth, Western Australia 6000 | | |
| Contact | Access Management | Email | access.management@transport.wa.gov.au |
| Phone | 6551 6881 | Fax | 9227 3416 |

Agent's Employee's particulars

| | | | |
|----------------|--|-------|--|
| Name | | | |
| Address | | | |
| Contact person | | | |
| Phone | | Email | |

RECITALS

- A. In order to be able to carry out the Services, the Agent's Employees will require access to Confidential Information and the CEO has agreed to disclose Confidential Information to the Agent's Employees on the strict understanding that the Confidential Information is provided solely to enable the Agent's Employees to carry out the Services.
- B. This Confidentiality Deed Poll must be executed by the Agent's Employees and returned to the CEO before the CEO will disclose Confidential Information to the Agent's Employees.

SERVICES

THE AGENT'S EMPLOYEE AGREES:

In consideration of, amongst other things, being granted access to the Confidential Information on the terms contained in this deed, the Agent's Employee undertakes and agrees that he is subject to the following obligations:

1 DEFINITIONS AND INTERPRETATION

In this deed:

Agent means Shire of York ABN 55 315 676 247

Agent's Employee means a person who supplies Services to the CEO's Customers under the Agreement made between the CEO and the Agent.

Agreement, Business Rules and CEO have the meanings given in the Agreement made between the Agent and the CEO.

CEO's Customers means those persons who use the Services supplied by the Agent under an Agreement made between the CEO and the Agent.

Confidential Information includes but is not limited to:

- (a) information regarding personal details of the CEO's Customers including, but not limited to, driver's licence number, name, date of birth, address and all other contact details of the CEO's Customers;
- (b) any information which pertains to the conduct of the CEO's business which is not public knowledge or which is not publicly available;
- (c) information regarding business or system processes that the Agent's Employee has obtained, or which may be provided by the CEO, whether directly or indirectly;
- (d) information relating to the internal management and structure of the CEO, or the personnel, policies and strategies of the CEO;
- (e) policies, strategies, practices and procedures of the CEO and any sensitive information which the Agent's Employee may come to obtain or have access to relating to the Western Australian Public Service;
- (f) information which the Agent's Employee may come to obtain or have access to relating to the CEO, the CEO's Customer or suppliers, and like information; and
- (g) information which is commercially sensitive information or personal information, but does not include Excepted Information.

Driving Instructor Fee Agents means the Agent responsible for licensing driving instructors.

Excepted Information means information which:

- (a) is available or becomes available in the public domain other than by breach of this deed;
- (b) is known to the Agent's Employee before receiving it from the CEO and is not subject to an existing obligation of confidence between the parties;
- (c) is provided to the Agent's Employee by a third party whose use and disclosure of the information is not subject to any restrictions.

Law includes any requirement of any statute, regulation, proclamation, ordinance or by-law, present or future, and whether State, Federal or otherwise.

Maritime Collections Agents means the Agent who is responsible for vessel registration and maritime transactions.

Off Road Vehicle New Registration Agents means the Agent responsible for off road vehicle registrations.

Photo Card Agents means the Agent who is responsible for proof of age Licenses.

Services means as follows:

1. Maritime Collections Agents shall in accordance with the Business Rules:
 - a) collect boat renewal payments; and

- b) collect boat transfer payments; and
 - c) collect commercial vessel survey payments; and
 - d) collect hire vessel survey payments; and
 - e) collect marine payment – miscellaneous; and
 - f) collect maritime pen duty payments; and
 - g) collect slipway fees.
2. Photo Card Agents shall in accordance with the Business Rules:
- a) process applications; and
 - b) process replacement copy; and
 - c) provide certified copy.
3. Off Road Vehicle New Registration Agents shall in accordance with the Business Rules:
- a) process new registrations (includes new registration updates); and
 - b) process renewals; and
 - c) process plate changes; and
 - d) process transfers; and
 - e) process plate receipt – manual.
4. Driving Instructor Fee Agents shall in accordance with the Business Rules:
- a) collect fees from driving instructors.

A reference to a gender includes other genders.

2 USE AND RETURN OF CONFIDENTIAL INFORMATION AND ACKNOWLEDGMENTS

2.1 Use of Confidential Information

The Agent's Employee agrees that, in consideration of the CEO disclosing Confidential Information to him, he will:

- a) keep the Confidential Information secret and confidential;
- b) use the Confidential Information solely for supplying the Services and for no other purpose;
- c) not allow or assist a third party to access or use, publish or release the Confidential Information for any purpose;
- d) take all steps and do all things necessary to safeguard the confidentiality of the Confidential Information including:
 - i) keeping the Confidential Information within his possession confidential;
 - ii) not making, or permitting to be made, any copy, note or memorandum of the Confidential Information;

- iii) ensuring that proper and secure storage is provided for the Confidential Information; and
- iv) protecting the Confidential Information from unauthorised access, disclosure or use in breach of this deed;
- e) co-operate with the CEO if the CEO commences proceedings in respect of the unauthorised access, use, copying or disclosure of Confidential Information; and
- f) immediately notify the CEO if he becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 2.

2.2 Return of Confidential Information

The Agent's Employee acknowledges and agrees that:

- a) immediately on request, he must deliver up to the CEO and cease to access and use all Confidential Information, including any copies of the Confidential Information (stored in any medium) which is in his possession as soon as practicable after the date when the Agent completes the Services or the relevant part of the Services; and
- b) the return of Confidential Information does not release him from his other obligations under this deed.

2.3 Acknowledgments

The Agent's Employee acknowledges and agrees that:

- a) the Confidential Information provided by the CEO is secret and confidential;
- b) the Confidential Information is the property of the CEO, and this deed does not convey any proprietary interest in the Confidential Information to him;
- c) he is liable to the CEO for any unauthorised access, use or disclosure of the CEO's Confidential Information by him or by any third party as a result of his act or neglect to act;
- d) disclosure of the Confidential Information in breach of this deed may cause considerable detriment to third parties and to the commercial, financial, regulatory affairs and reputation of the CEO; and
- e) damages may not be a sufficient remedy for the CEO for any breach of this deed and the CEO may be entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach by him in addition to any other remedies available to the CEO.

3 CRIMINAL CODE, ROAD TRAFFIC ACT AND STATE RECORDS ACT

The Agent's Employee acknowledges and agrees that:

- a) as a '*government contractor*', the contractor is under a duty not to make an '*unauthorised disclosure*' (as those terms in italics are defined in section 81 of the *Criminal Code*) and he is guilty of a crime if he does so - Maximum penalty: 3 years imprisonment;
- b) the contractor is under a duty not to unlawfully use a '*restricted access computer system*' (as that term in italics is defined in section 440A of the *Criminal Code*) and he is guilty of a crime if he does so - Maximum penalty: 10 years imprisonment;
- c) the contractor is under a duty not to, directly or indirectly, record, disclose or make use of information obtained while carrying out the Services except for those purposes set out in 103 (1) (a) to (d) and (2) of the *Road Traffic Act 1974* - Penalty: a fine of 100 PU or imprisonment for 12 months; and

- d) the contractor is employed by the Agent who is engaged under an Agreement for services by the State Government to carry out the Services and that he comes within the definition of 'government organization employee' (as that term in italics is defined in section 3 of the *State Records Act 2000*) and that he may be subject to a maximum penalty of \$10,000 if found guilty of an offence under section 78 (1) to (5) of the *State Records Act 2000*.

4 SURVIVAL OF THE OBLIGATIONS

The obligations of the Agent's Employee under this deed commence on the date of this deed and will survive and will continue in force until the CEO releases him from his obligations by means of a written release.

5 GOVERNING LAW

This deed is governed by the laws of the State of Western Australia and the Agent's Employee irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that state and courts entitled to hear appeals from those courts.

IMPORTANT - THIS DOCUMENT HAS LEGAL IMPLICATIONS AND YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING IT

EXECUTED AS A DEED POLL ON THE _____ DAY OF _____ 201_

SIGNED and DELIVERED)

by.....)(Signature and job title)

the Agent's Employee

in the presence of:

Signature of witness:.....

Full name of witness

(PLEASE WRITE IN BLOCK OR CAPITAL LETTERS)

Address of witness:.....

SCHEDULE 5: BUSINESS RULES

1. DEFINITIONS

In this Schedule all definitions have the same meaning as in the Agreement.

2. PAYMENT

2.1. Commissions Payable

Subject to the provisions of sub-clause 2.2, the Director General must pay the Agent Commissions to the value of the Services performed under the Agreement in accordance with the Schedule of Service Fees as set out in Schedule 2, as certified by the Director General, less any overpayment in Commissions or any other payment made to the Agent as advised in writing to the Agent by the Director General.

2.2. Variations to Commissions Payable

- (a) On July 1 of each year of the Term, the Director General will review the Commissions specified in the Schedule of Service Fees in accordance with annual changes in the Consumer Price Index and the Commission's payable to the Agent will be increased accordingly, except in the instance where there is no movement in the CPI.
- (b) Where the CPI is a negative 'downward' movement, the Commission's payable to the Agent shall remain at the rate applicable for the previous year.
- (c) The Director General will forward the Agent a revised Schedule of Service Fees in accordance with clause 2.2(a) no later than 30 Business Days after the Commission review date.

2.3. Invoices

- (a) The Director General will issue the Agent Transaction and Payment Summary reports which include, inter-alia:
 - (i) tabulations to show all licensing transactions processed and the corresponding Commissions payable; and
 - (ii) confirmation the Commissions payable have been reconciled and authorised by the Director General.
- (b) The Director General will issue the Agent tax invoices, being Recipient Created Tax Invoices (RCTI), in respect of Commissions payable, on the basis of the Transaction and Payment Summary report for the corresponding period.
- (c) The Director General will issue a Transaction and Payment Summary Report and RCTI to the Agent:
 - (i) for each calendar month; and
 - (ii) not more than thirty (30) Business Days after the last day of the invoice period.
- (d) The Agent agrees it will not issue tax invoices in respect of the Services.
- (e) The Agent acknowledges that it is registered for GST when it agrees for the Director General to issue RCTI for the Services and will notify the Director General if it ceases to

be registered or if it ceases to satisfy any of the requirements imposed by the Commissioner for Taxation.

- (f) The Director General acknowledges that it is registered for GST when it agrees to issue RCTI for the Services and will notify the Agent if it ceases to be registered or if it ceases to satisfy any of the requirements imposed by the Commissioner for Taxation.

2.4. Payment of Invoices

The Director General will pay the amount specified in a RCTI within thirty (30) days of the last day of the month to which it relates.

2.5. Method of Payment

The Director General will directly credit Commissions payable to the Agent's nominated bank account.

2.6. No Obligation to Pay

The Director General has no obligation to make any payment to the Agent unless and until:

- (a) the Services have been supplied in accordance with the Agreement; and
- (b) the Director General is satisfied that no default has occurred.

2.7. Incorrect Payment

- (a) If the Agent finds an amount paid based on the RCTI is incorrect and the Director General has paid, the Agent is responsible for issuing an Adjustment Note to the Director General. If the amount is:
 - (i) less than the amount that should have been paid, the Director General must pay the difference to the Agent within twenty (20) days after the date the Adjustment Note is received;
 - (ii) more than the amount that should have been paid, the Director General may:
 - A) debit the difference from the Agent's nominated account within twenty (20) days after the date the Adjustment Note is received; or
 - B) offset the difference against any amount subsequently payable by the Director General to the Agent.
- (b) If the Director General finds that the amount paid based on the RCTI was incorrect and the Director General has overpaid, the Director General is entitled to take the steps outlined in sub-clause 2.7(a)(ii) (A) or (B), without receipt of an Adjustment Note from the Agent.

2.8. GST and other duties, taxes and charges

- (a) In this clause (2.8) the expressions 'consideration', 'recipient', 'supply', 'tax invoice' and 'taxable supply' have the meanings given to those expressions in the GST Act
- (b) All amounts in the Schedule of Fees are expressed exclusive of GST.
- (c) If GST is imposed on any supply made under the Agreement, the Principal will pay to the Agent an amount equal to the GST payable on the taxable supply.

- (d) The amount referred to in clause 2.8 (c) must be paid in addition to, and at the same time as, payment for the taxable supply is required to be made under the Agreement.
- (e) If a GST-inclusive price is charged or varied under the Agreement, the Principal will provide the Agent with a valid RCTI at or before the time of payment or variation.
- (f) If the amount of GST paid or payable by the Agent on any supply made under the Agreement differs from the amount of GST paid by the Principal, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the Principal will be adjusted accordingly by a further payment by the Principal to the Agent or the Agent to the Principal, as the case requires.
- (g) The Principal indemnifies the Agent for any liability for GST and penalty that may arise from an understatement of the GST payable on any supply for which it issues a RCTI where the understatement arises from fault on the part of the Principal.
- (h) All duties, taxes and charges (other than GST) imposed or levied in Australia or overseas in connection with the supply of the Services or any additional work undertaken by the Agent are payable by the Agent.

3. COLLECTION OF REVENUE

3.1. Forms of Payment

- (a) The Agent must accept from the CEO Customers and process all forms of payment acceptable to the CEO for the processing of licensing transactions, being cash, EFTPOS, credit cards (except Diners Club and American Express) debit cards, cheque and money order.
- (b) If a customer cheque or other payment is dishonoured or is otherwise not credited to the Agent's bank account, the relevant provisions set out in the Business Rules will apply.

3.2. No Surcharge

The Agent must not impose a surcharge, or any other form of cost recovery, on the CEO or the CEO's Customers for Services performed pursuant to this Agreement.

3.3 Direct Debit

- (a) The Agent will use its own EFTPOS terminal and funds will be banked directly into the Agents nominated bank account.
- (b) The Agent will bank on a daily basis revenue collected (cash/cheques/money orders) into the Agents nominated bank account.
- (c) The Agent will prior to the commencement of Service provide the CEO with a Direct Debit Request and the CEO will debit the Agents bank account two business days after collection to the value of transactions processed on the Database. Note: the Agent will ensure that sufficient funds are available at the time of the direct debit.
- (d) The Agent will comply with the Payment Card Industry Data Security Standards (PCI DSS) as set out in the Business Rules of the Road Law Agreement.

SCHEDULE 6: LOCATION OF PREMISES FOR SERVICE PROVISION

The Agent shall provide the Services under the Agreement from the following Premises:

York

| | | | |
|----------------|---------------------------------------|--------------|-------------------------------|
| Address | 1 Joaquina Street YORK WA 6302 | | |
| | | | |
| | | | |
| Contact | CEO | Email | records@york.wa.gov.au |
| Phone | 9641 2233 | Fax | |

SCHEDULE 7: EQUIPMENT MAINTENANCE

This Equipment Maintenance Schedule is the procedure for Agents to follow in the event Department of Transport supplied information technology hardware requires repairs or replacement.

| Step | Process |
|------------------------------------|--|
| Repair or Replacement Issue | <p>Agent Personnel are to contact Transport's Customer Service Phone-Support only.</p> <p>Please do not contact the Business Information Systems (B.I.S) <i>Helpdesk</i> directly.</p> <p>1800 354 928 Phonesupport@transport.wa.gov.au</p> |
| Job/Incident Logged | <p>Agent Personnel must provide details of the faulty equipment including the LF number (yellow sticker) and DP number (white sticker) and details of the problem. Customer Service Phone-Support will log the incident with Helpdesk.</p> <p>**Please Note** When logging an issue, the Agent will be provided a <u>job/incident number which will need to be reference for any subsequent enquiries</u>. Always record this number.</p> |
| Courier | Transport's Customer Phone-Support or B.I.S Helpdesk will instruct the Agent Personnel to courier the equipment if it needs to be returned for repair/replacement. |
| Courier details | <p>The Agent is to immediately arrange for the return of the equipment item by calling Toll Ipec ☎ 13 18 85. Quote account number XV1437.</p> <p>The cost of the courier will be charged to the Department of Transport.</p> <p>Courier to Department of Transport B.I.S Level 3, 2 Tassels Place. Innaloo WA 6018.</p> |
| Repair and/or Replacement | The Department of Transport will organise the repair and/or replacement of the equipment item. |
| Return Courier | B.I.S will arrange for the equipment item to be returned by courier to the Agent's Site. |
| Follow Up | If the Agent's Personnel require any follow-up assistance, Transport's Customer Service Phone-Support can be contacted for further instruction. Please quote the job/incident number. |
| Escalation | If the Agent experiences any delay or has any unresolved issues, an email should be sent to phonesupport@transport.wa.gov.au with all details, including the job/incident number. Attention to: Customer Service Phone Support Manager. |

SCHEDULE 8: PAYMENT CARD INDUSTRY DATA SECURITY STANDARD (PCI DSS)

OVERVIEW -The Payment Card Industry Data Security Standard (PCI DSS) was developed to encourage and enhance cardholder data security and facilitate the broad adoption of consistent data security measures globally. PCI DSS provides a baseline of technical and operational requirements designed to protect account data. PCI DSS applies to **all** entities involved in payment card processing—including merchants, processors, acquirers, issuers, and service providers. PCI DSS also applies to **all** other entities that store, process or transmit cardholder data (CHD) and/or sensitive authentication data (SAD). More detailed information is available at the Payment Card Industry Security Standards Council's website at: <https://www.pcisecuritystandards.org/merchants/index.php>

PCI DSS Objectives and Requirements

| Objective | Requirement No. | Requirements |
|---|-----------------|--|
| Build and Maintain a Secure Network and Systems | 1 | Install and maintain a firewall configuration to protect cardholder data |
| | 2 | Do not use vendor-supplied defaults for system passwords and other security parameters |
| Protect Cardholder Data | 3 | Protect stored cardholder data |
| | 4 | Encrypt transmission of cardholder data across open, public networks |
| Maintain a Vulnerability Management Program | 5 | Protect all systems against malware and regularly update anti-virus software or programs |
| | 6 | Develop and maintain secure systems and applications |
| Implement Strong Access Control Measures | 7 | Restrict access to cardholder data by business need to know |
| | 8 | Identify and authenticate access to system components |
| | 9 | Restrict physical access to cardholder data |
| Regularly Monitor and Test Networks | 10 | Track and monitor all access to network resources and cardholder data |
| | 11 | Regularly test security systems and processes |
| Maintain an Information Security Policy | 12 | Maintain a policy that addresses information security for all personnel |

SCHEDULE 9: AGREEMENT TERM AND CONTACT DETAILS

| Item No | Item Description | Details |
|---------|--------------------------|---|
| 1 | Agreement Term | The appointment of the Agent by the CEO is for an initial term expiring 31 December 2020. |
| 2 | Commencement Date | The Commencement Date is the date the Agreement is made. |
| 3 | MAXIMUM TERM | The appointment of the Agent by the CEO will expire on 31 December 2020. |

SCHEDULE 10: PERFORMANCE MEASURES

| No. | | Qualitative Matrix |
|-----|--------------------------------------|---|
| 1 | Daily Audit | <p>A report of transactions conducted by the Agent is forwarded daily to the allocated Transport Services Centre (TSC) office for audit. All documentation supporting each transaction processed must be forwarded by the Agent to the TSC within 2 business days of processing to assist with the audit process.</p> <p>The TSC will audit all the licensing transactions and notify the Agent in writing of the errors.</p> <p>The allocated site for the Agent is Albany</p> |
| 2 | Identified errors | <p>Errors identified through an audit are corrected and returned to Albany within seven (7) Business Days.</p> |
| 3 | Recurrent or significant errors | <p>In instances where there are recurring errors or where an error requires significant rework, the Principal may issue a notice seeking an explanation from the Agent including advice on how the Agent will prevent future instances, or may request the Agent to implement processes intended to eliminate the incidence of errors.</p> <p>The Agent is to respond within seven (7) business days of this notice.</p> |
| 4 | Zero breach of TRELIS data security. | <p>Suspected breaches of TRELIS data security, within two (2) Business Days of the identification of the suspected breach, are to be communicated in writing to the:</p> <ol style="list-style-type: none"> 1. SAA@transport.wa.gov.au; or 2. Manager Statutory Agency Agreements Department of Transport GPO R1290 Perth WA 6844 |
| 5 | Written customer complaints | <p>Customer complaints are discussed with the Manager Statutory Agency Agreements and responded to in writing within 14 Business Days.</p> <p>Proposed strategies for service improvement are discussed with the Manager Statutory Agency Agreements and implemented within a mutually agreed timeframe.</p> <p>Should any strategies or timeframes not be agreed on, the Agent may escalate to the Assistant Director Commercial Management.</p> |
| 6 | Compliance Escalation | <p>The Agent must address initial concerns with compliance</p> |

| | | |
|--|--|---|
| | | <p>requirements to the Manager Statutory Agency Agreements.</p> <p>The escalation process for any Agreement compliance requirements, are to be issued in writing, as follows:</p> <ol style="list-style-type: none">1. Manager Statutory Agency Agreements2. Assistant Director Commercial Management3. Director Commercial & Partnerships <p>The Director Commercial & Partnerships is the final escalation level.</p> |
|--|--|---|

SCHEDULE 11: NOTICE OF VARIATION TO SCHEDULE FORM

NOTICE OF VARIATION TO SCHEDULE

Agreement No.:

Title:

Schedule:

Agent:

Variation No.:

Variation Date:

Date of Variation Effect:

VARIATION TO SCHEDULE:

The Principal, pursuant to Clause 19.2(c) of the Agreement, hereby provides the Agent notice of the following variation(s) in relation to the above Schedule:

Except as expressly varied, the terms and conditions of the Agreement, remain unaltered and in full force and effect.

*<Name and Title of authorised
officer in DVS>*

<Date>



Government of Western Australia
Department of Transport
Commercial and Partnerships

Our ref: A9895827
Enquiries: Elena Asenova
Telephone: (08) 6551 6568

Mr Paul Martin
Shire of York
PO BOX 22
YORK WA 6302

Email: records@york.wa.gov.au

Dear Mr Martin,

Agreement No.966817 for the Provision of Licensing Services under Section 11 of the Road Traffic (Administration) Act 2008

I refer to your Agreement with the Chief Executive Officer (also known as the Director General) of the Department of Transport.

The term of the Agreement will expire on 31 December 2017, and a replacement Agreement has recently been forwarded to you. To provide adequate time to consider the new agreement, the Chief Executive Officer grants an extension to the Agreement for a further term of three (3) months in accordance with the terms and conditions of the Agreement.

The commencement date of the further term of the Agreement is 1 January 2018 and the expiry date is the close of business, 31 March 2018 unless otherwise terminated under the terms and conditions of the Agreement. Should you wish to notify the Chief Executive Officer that you want to end the Agreement, please send notice to SAA@transport.wa.gov.au, otherwise the extension will take effect.

You must maintain insurance for the term of the extension and for the amounts specified in the Agreement.

Should you have any queries with regards to the above, please contact Elena Asenova on (08) 6551 6568, or operational queries can be made to email SAA@transport.wa.gov.au.

Yours sincerely



James Nikitas
Director Commercial and Partnerships
Approved delegate of the Director General
Department of Transport
for and on behalf of the Crown in the right of
the State of Western Australia

20/12/2017

