

12. CONSEQUENCES OF TERMINATION

- 12.1 Should this Agreement be terminated for whatever reason, TMT shall be entitled, as soon as practicable, to remove from the Local Authority's possession and/or premises all of TMT's equipment and property.
- 12.2 TMT shall be entitled to claim payment of the Service Fees in relation to all infringements processed by TMT until the date of termination of the Agreement or the date when TMT ceases to render services (including the Run-Off Period), whichever event occurs last.

13. GOVERNING LAW, DISPUTE RESOLUTION AND LITIGATION

- 13.1 This Agreement will be governed by the laws of the Republic of South Africa.
- 13.2 A dispute between the Parties relating to any matter arising out of this Agreement shall be resolved by means of discussion between the individuals/ Parties directly involved with the execution of this Agreement. Should this dispute not be resolved within 5 (five) Days after such a dispute arose or after such extended period of time, as the Parties may in writing allow, then such a dispute shall be submitted to the most senior executives of the Parties who shall endeavour to resolve this dispute, within five (5) Days after it had been referred to them. Should the dispute not be resolved by the senior executives within this period, a Party may then only institute legal proceedings.
- 13.3 TMT shall be obliged to continue to provide the Services in terms of this Agreement, pending the resolution of any dispute between the Parties, unless the dispute pertains to a material breach committed by the Local Authority and TMT has elected to cancel the Agreement in terms of Clause 11.
- 13.4 The parties hereby irrevocably consent to the jurisdiction of the Magistrate's Court assuming jurisdiction in terms of the Uniform Rules of the Magistrates Court, in

respect of any action arising out of this Agreement or the cancellation thereof. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to Section 45 of the Magistrate's Court Act, 32/1944. The Parties agree that this consent is severable and shall apply even in the event of the cancellation of this Agreement.

13.5 The consent in Clause 14.4 will not oust the jurisdiction of any other competent court and the Parties shall be entitled in its discretion to institute any action, urgent or otherwise, in any court of competent jurisdiction.

13.6 Notwithstanding the provisions of Clauses 14.4 and 14.5 the Parties may expressly agree to have any dispute or difference submitted to arbitration in accordance with the arbitration laws of South Africa.

14. FORCE MAJEURE

14.1 Neither of the Parties shall be liable for a failure to perform any of the duties and obligations contained in this Agreement in so far as it can be proved:

(a) That the failure to perform was due to an impediment beyond that Party's control; and

(b) It could not reasonably be expected to have known of the existence of the impediment and its affect upon the Party's liability to perform, and taken it into account at the time of the conclusion of this Agreement; and

(c) That the impediment or at least its effects could not reasonably have been avoided or overcome.

14.2 An impediment as aforesaid, may result from events such as the following, which list is not exhaustive:

(a) Natural disasters such as violent storms, cyclones, earthquakes, tidal waves,

floods, destruction by lightning;

- (b) War, whether declared or not, civil war, civil violence, riots and revolutionary acts or sabotage;
- (c) Explosions and fires;
- (d) Boycotts, strikes and lockouts of all kinds, go-slow occupation of factories and premises and work stoppages;

14.3 For the purpose of this clause impediment does not include lack of authorisation of licenses, permits or approvals necessary for the performance of this Agreement and which is required to be issued by the appropriate authorities;

14.4 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date upon which the Party seeking relief has given proper notice and proof of the force majeure and shall terminate upon the date upon which such impediment ceases to exist, provided that if such impediment continues for a period of more than sixty (60) days either of the Parties shall be entitled to terminate this Agreement.

15. GENERAL TERMS

15.1 Each of the Parties shall bear its own costs incurred as a result of the negotiation, drafting and finalising of this Agreement.

15.2 Should the law relating to any surveillance or law enforcement issues as contemplated by the provisions of this Agreement, be altered or amended in a way as to adversely affect the rationale or basis of this Agreement, in that it becomes substantially impossible for either one or both of the Parties to perform their obligations, it is then agreed that the Parties shall either re-negotiate the relevant terms of the Agreement or terminate it by mutual consent. In the absence of the Parties reaching agreement, the provisions of clause 14 relating to dispute resolution shall apply.

- 15.3 The failure of TMT to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.
- 15.4 If any term or provision of this Agreement is found to be invalid or of no force and effect, effect shall be given to the Parties' intentions as reflected in that particular provision and the other provisions of the Agreement shall be severable and remain in full force and effect.

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Signed for and on behalf of TMT Services & Supplies (Pty) Ltd:

By its duly authorised representative (who warrants that he is so authorised)-

Full Name of representative: _____

Signature: _____

Date: _____

Place: _____

Witness:

Name: _____

Signature: _____

Signed for and on behalf of the Overstrand MUNICIPALITY:

By its duly authorised representative (who warrants that he is so authorised)-

Full Name of representative: _____

Signature: _____

Date: _____

Place: _____

Witness:

Name: _____

Signature: _____

Schedule 1: Duties and Functions of TMT

TMT agrees, subject to the terms and conditions contained herein, to deliver install, implement, customise and maintain the System and to render the Services.

1. General Requirements

During the execution of the project TMT shall:

a. Perform the Services under the supervision of the Local Authority and in strict compliance with any instruction received from an authorized Project Manager as appointed by the Local Authority.
b. Nominate a suitable person to act as a manager with overall responsibility for implementation and management of all aspects of the Services and to serve as primary liaison between the Local Authority and TMT.
c. Acknowledge that the Local Authority retains ownership of the contents of the TMT Local Contravention Management System database, including all the images and offence details in respect of each offender and make available, to the Local Authority on request and without delay, any data or images that may be required for any purpose whatsoever and in the format of a text file and JPEG images.
d. Acknowledge that should the AARTO Act be implemented during the term of the contract, that the Service will be amended accordingly to process traffic infringement under the new requirements and the provisions of Clause 3.2 of the Agreement will apply.
e. Ensure all communication with the Department of Public Prosecutions and the Courts will be undertaken by the Local Authority's Project Manager.

2. Enforcement Systems

TMT will supply mobile cameras and any additional equipment requirements to be agreed by both parties. These systems shall:

a. Be compliant with SABS 1795, including Part 5, "Data capturing and recording devices for road traffic law enforcement equipment", Guidelines issued by the TCSP, approval of the Director Public Prosecutions and approval of the Executive Manager: Social Services or his/her delegated person.
b. Provide full colour image(s) of the offence providing a wide-angle picture of the context of the offence as well as showing the details of the offending vehicle. (One image will be printed in color on the notification of intended prosecution.)
c. Provide for off-site storage of evidence in full color digital images of each view of the offence.
d. Provide evidence produced by the mobile digital camera systems which are tamper detectable and encryption of the stored imagery shall use a recognized 128 bit encryption algorithm.
e. Provide a fully integrated "end to end" system for the prosecution of speed offences and other

offences.
f. Automatically record and store the total vehicles checked, number of infringements, and duration of operation, highest and average speed and output this to an integrated management information system.
g. Include supply and maintenance of appropriate transport components for mobile operations as part of the service supplied by TMT.
h. Provide the Local Authority with the images and data in a suitable electronic medium to be kept as prime evidence for the prosecution of cases in court as required by applicable legislation.
i. Ensure that the TMT system is AARTO compliant and it can interface with the eNaTIS system.

3. Support Functions

TMT shall:

a. Conduct field surveys and produce statistics on road usage and offence patterns at specific sites as and when directed by the Local Authority in order to assist the violation enforcement as required.
b. Inspect the cameras and ancillary equipment at least once per month with the prior approval of the Local Authority in order to ensure that the cameras and ancillary equipment are in good working order and of neat and well maintained appearance at all times.
c. Maintain the cameras and ancillary equipment and ensure that they are properly and regularly serviced in accordance with the recommendations of the manufacturer or supplier of the cameras.
d. Repair any damage to or defect in the cameras and ancillary equipment, provided that if a camera cannot be repaired a replacement camera shall be made operational on the relevant site within 72 hours of notification from the Local Authority and the replacement cameras will comply with all requirements in terms of this Agreement.
e. Calibrate the cameras at 6 (six) monthly intervals, or as required by the Director of Public Prosecutions and as published in The Prosecution Guidelines, or at such other intervals as may be required by the Local Authority from time to time and ensure that the calibration certificates are provided to the Local Authority.
f. Provide on-site field support to the Local Authority's employees using the mobile cameras as to wherever they may be deployed, by rendering any technical assistance that may be required.
g. Provide on-site training workshops in the use of the cameras and ancillary equipment to the employees of the Local Authority as and when required by the Local Authority. TMT shall provide such training workshop and issue certificates to the Local Authority's employees in respect of training received. TMT shall bear all costs associated with the provision of any such training workshops.
h. Take out insurance covering damage or loss of TMT's cameras and ancillary equipment for any reason and maintain such insurance for the duration of this Agreement.
i. Establish a Processing Centre at conveniently located premises at the Local Authority.
j. Upload all camera images and data and capture any additional particulars as may be required to

successfully prosecute the offence.
k. Provide facilities and systems for peace officers of the Local Authority to adjudicate every image and associated data and either accept it as prosecutable, or reject it as non-prosecutable.
l. Ensure that the TMT system "force" each image to be adjudicated by a peace officer and be capable of identifying the peace officer responsible for the adjudication.
m. Ensure that the TMT system shall not allow any image to be tampered with, deleted, cancelled or rejected by any person other than the adjudicating officer and that it provides detailed statistical reports on the number of images uploaded, adjudicated, accepted or rejected by each adjudication officer with appropriate reasons for rejections.
n. Make available the images and data to the Local Authority, or any other Party as directed by the Local Authority, for inclusion in their internet viewing and payment facility or for any other reason whatsoever.
o. Produce expert evidence in court (either documentary or and/or oral evidence in person) supporting the use of the cameras for the purposes of traffic law enforcement if this should be challenged on technical grounds provided that the intellectual property of the manufacturers of the cameras is not comprised.
p. Upload statistics gathered by the cameras after every session and make the statistics available to the Local Authority in an acceptable format as and when required, including the number of vehicles checked, the speed of each vehicle checked, the number and type of infringements, the highest and average speeds recorded, the times and duration of operation and the 85th percentile.
q. Provide an internet facility which shall include, but not be limited to viewing of all images and related data captured by the cameras and the payment of any camera related fines.

4. Hardware, Software and Networking

TMT shall:

a. Provide sufficient hardware in order to meet its obligations in terms of this Agreement and to operate the TMT System at optimal efficiency.

5. Operations

TMT shall:

a. Automatically update the TMT System by importing offence records from camera related offences.
b. Capture the data on the System in respect of each of the following: <ul style="list-style-type: none"> • Section 56 notices Issued by the Local Authority [considered an "infringement notice" processed as referred to in Schedule 3] • Representations received from offenders

<ul style="list-style-type: none"> • Representation results [considered an "infringement notice" processed as referred to in Schedule 3] • Court results • Authorization of Warrants of Arrest • Name and address changes of offenders • Change of offender's details • Record the registration numbers of vehicles using false number plates. • Return of Service of summonses • Execution of Warrant of Arrest.
c. In conjunction with the Local Authority, establish an interface with the eNaTIS system in order to automatically obtain name and address details of registered owners of offending vehicles and update the TMT System accordingly.
d. In conjunction with the Local Authority, establish an interface with the eNaTIS system that allows enquiries on the ownership particulars of individual vehicles directly on the eNaTIS system.
e. Generate, print and process the following documents and, where applicable, provide postage and ensure the mailing thereof as necessary: <ul style="list-style-type: none"> • Section 341 notices (camera mailers) [considered an "infringement notice" processed as referred to in Schedule 3] • Notification of No Admission of Guilt offences [considered an "infringement notice" processed as referred to in Schedule 3] • Warrant of Arrest notices • Letters to obtain details of responsible person in case of company vehicles • Representation acknowledgement letters • Representation result letters • General letters • Report showing the detailing conflicts between the information captured and the information received from the eNaTIS system. • Any other documentation required for the successful operation of the Service Centre.
f. Ensure that the content of any documentation produced by the TMT System and sent out to the general public or the Courts are approved in writing by the Local Authority before being printed.
g. Include a full colour image and relevant offence details on Section 341 notices processed in accordance with the TCSP guidelines.
h. Generate, print and process the following Court related documentation for Court purposes: <ul style="list-style-type: none"> • Section 54 / J175 Summonses [considered an "infringement notice" processed as referred to in Schedule 3] • Court Rolls • Section 341 Control Register • Section 56 Control Register • Section 54 Control Register • Section 341 Spot Fine Register • Pro forma Section 341 spot fines to accompany the Spot Fine Register • Admission of Guilt Register • Contempt of Court Register

<ul style="list-style-type: none"> • Warrants of Arrest including "double contempt" warrants of arrest [considered an "infringement notice" processed as referred to in Schedule 3] • Warrant of Arrest Register • Any other Court related documentation that may be required by the Courts or the Local Authority eg. charge sheets, blank court register, charge book, data export report or standard letters.
<p>i. Generate, print and process the following reports for internal use:</p> <ul style="list-style-type: none"> • Audit trials • Concept Court Register • Summons Server productivity analysis reports • Any other reporting that may be required in the process. • A productivity report of each user on a daily basis
<p>j. Provide the Local Authority with the following management reports and statistics on the 7th day of each month. Every effort has been made to include all aspects of traffic law enforcement in these reports and any requests over and above these reports will be provided on a time and cost basis.</p> <ul style="list-style-type: none"> • Detailed analysis of Sections 56 and 341 and camera offences showing the number of offences, values, actual payments, success rates, number of cases withdrawn, untraceable and number of outstanding offences. • Comparison of monthly offence volumes. • Numbers and value of payments received by the Local Authority and income generated. • The number and value of fines reduced versus the number and value of fines originally issued. • Status of all offences at the various processing stages. • Month by month statistical analysis of offences committed per suburb, ward and sub-council area. • Representation results showing "proceed", "withdrawn", "reduced" separately. • Outstanding representation results. • Officer statistics and productivity.
<p>k. Ensure that general housekeeping procedures are established and performed in respect of the TMT System including, but not limited to the following:</p> <ul style="list-style-type: none"> • Creating a daily backup of all data and images captured on the TMT System to be made available to the Local Authority on request. • Creating a weekly full system backup and ensure that it is stored at a secure off-site location as agreed in writing by the Local Authority and to be made available to the Local Authority on request. • Performing system administrator duties such as registering users on the system and assigning user rights. • Performing regular, scheduled history runs to remove redundant data from the system and provide Local Authority with details. • Ensure that the TMT system provide a cancellation report of old cases after the manual cancellations were done by the Local Authority on a monthly basis.
<p>l. Ensure that the TMT System is fully auditable and able to produce reports and on screen logs of all activities on the system for each offence, including the time and date of the event, user,</p>

activity details, data element added, or changed, or deleted by any user, or system transaction. These activity logs shall also be available per user.
m. Ensure that the TMT system is capable of controlling which functions can be performed by individual users through a system administrator assigning user rights on the system in a hierarchical manner to individual users, or groups of users.
n. Ensure that the TMT system extraction of normal statistics is done immediately.

6. Summons Serving

TMT shall:

a. Ensure, wherever possible, that summonses are issued within 8 months of the date of offence, provided that this period may be extended to a maximum of 18 months where a summons has to be re-issued due to receipt of a notification of change of offender, or such other period as agreed in writing by the Local Authority.
b. Utilize the current appointed serving agents of the Local Authority (where possible) inside and outside the boundaries of the Local Authority to serve the summonses generated by the TMT System. TMT will bear the cost of the service fee payable to the serving agents. If the serving agents are limited, TMT in conjunction with the Local Authority can appoint a number of serving agents to successfully serve all summonses generated.
c. Ensure that serving agents appointed to serve summonses within the boundaries of the Local Authority are duly authorized and approved by the Local Authority to do so.
d. Ensure that serving agents appointed to serve summonses on behalf of the Local Authority in areas outside the boundaries of the Local Authority are duly authorized by the applicable local authorities to do so.
e. Ensure that the TMT System is capable of registering all appointed serving agents, capturing of any return of service from any serving agent, tracking summonses allocated to individual servers and reporting on server performance and the status of every summons at any time.
f. Take effective steps to ensure that the serving agents do not collect any money and that they perform their functions in terms of their authorizations and the law.
g. Administer all summonses and the allocation thereof to serving agents, provided that the Local Authority will be responsible for stamping all summonses produced by the TMT System.
h. Allow the checking and stamping of summonses by the Local Authority's employees as and when required
i. Facilitate and support the serving of summonses by the Local Authority's employees at roadblocks, or as and when determined by the Local Authority.
j. Provide a facility for immediate, on-site production of summonses at roadblocks for the purposes of serving offenders that have been apprehended at the roadblocks, with summonses.
k. Take responsibility for the serving and finalization of summonses emanating from the legacy system of the Local Authority and not served at the Commencement Date of the Agreement.

7. Payment Facilities

TMT shall:

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| a. Ensure that the TMT System has an integrated cashiering facility that enables the Local Authority cashiers to take Spot Fines, Admission of Guilt Fines and Contempt of Court Fines online at remote workstations. |
| b. Ensure that the TMT System provides for the following in respect of cashiering transactions: <ul style="list-style-type: none"> • System printed receipts. • Show balance of outstanding fine amounts on receipts. • Receipt reprints by authorised supervisor. • Cancellation of payment transactions only by authorised supervisor. • Taking of payments before the corresponding notices have been captured. • Daily cashing-up reports showing the daily transactions for the cashier and giving the amounts taken by payment type (cash, cheque, credit cards etc.). • Daily reports showing the payments taken in respect of each Court. • Daily reports showing payments taken by a user or users in a designated group. • Reports detailing the allocation of money received to multiple income votes including the amounts taken in respect of contempt of court. • Reports showing payments transactions cancelled by supervisor. • Reports showing the cashiers that were active on the system by user group. • Reports showing the fines that have been re-instated subsequent to payments being dishonored (e.g. RD Cheques). • Reports showing payments comparing to previous months (at least three months) • Audit trails and reports as necessary for auditing purposes made available as soon as requested by Management. • User authorizations to allow system administrator to nominate the transactions a user from the TMT team as well as the users of the Local Authority is able to perform on the system. |
| c. Ensure the TMT system is capable to accept all third party payments electronically on a daily basis. |
| d. TMT shall under no circumstances accept any money on behalf of the Local Authority; excluding third party and website payments. |

8. Offender Tracing and Call Centre

TMT shall:

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| a. Establish and operate an outbound/inbound compatible call centre, which shall be utilized to perform the following functions: <ul style="list-style-type: none"> • Trace offenders with inaccurate address details telephonically • Update TMT system with change of offender details • Remind offenders of upcoming court dates • Notify offenders of warrants of arrest authorized • Communication will be telephonically, via sms or e-mail. |
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<ul style="list-style-type: none"> • Any other activity that may be necessary to assist or trace offenders.
b. Take effective steps to ensure that call centre employees conduct the various types of telephone calls to offenders in accordance with scripts approved by the Local Authority.
c. Trace offenders who cannot be reached by introducing and utilizing innovative methods of tracing, including obtaining of up to date particulars such as address details and telephone numbers from commercial databases available from credit bureaus and the like.
d. Create and maintain an offender database with the most recent known and confirmed particulars of offenders including full names, ID numbers, address details and telephone numbers and update the offender database whenever more recent or more accurate particulars of an offender is obtained.
e. Utilize the confirmed particulars in the offender database in the first instance for the production of notices and summonses.

9. Warrant of Arrest Administration and Roadblock Support

TMT shall:

a. Allocate warrants of arrest to officers of the Local Authority for execution, or to Sheriffs nationwide as dictated by the Local Authority (costs of Sheriffs to be recovered by TMT).
b. Ensure proper record-keeping and control over movement of warrants of arrest, including warrants received, on hand, allocated to officers, returned, or distributed for any other reason.
c. Ensure that warrants of arrest are properly cancelled upon expiry of their period of validity and marked as cancelled on the TMT system.
d. Provide facilities for the immediate production and printing of summonses at the roadside to allow serving on previously untraceable persons.
e. Provide facilities for the immediate production and printing of scanned copies of warrants.
f. Provide systems for the transmission of electronic copies of documents and printing at the roadside as necessary.
g. Provide facilities for online enquiries on the contractor system and the viewing of camera images at the roadside.
h. Provide secure facilities accepted by the Local Authority for the taking of fine payments at the roadside
i. Assist with roadside enforcement operations according to an agreed operational schedule including weekends and holidays by: <ul style="list-style-type: none"> • Providing the equipment necessary for conducting efficient roadside enforcement operations, including portable computers, printers, scanners, fax facilities, electronic information displays, generators, road signs and cones, reflective barrier tape fitted in a

mobile mini bus.

- Preparing and uploading the databases on the ANPR system, including outstanding warrants of arrest, duplicate number plates, outstanding summonses, stolen vehicles, unknown addresses, or any other data sets specified by the Local Authority
- Providing sufficient operators on site to operate the ANPR system and print copies of documents during the full duration of any roadside enforcement operations.
- Provide the minimum requirements/specifications on the ANPR.

10. Fine Collection Initiatives

The Parties agrees to the following fine collection initiatives:

a. Credit card payments of fines paid through the website www.paymyfines.co.za are paid into a TMT managed merchant account under the following conditions:

- TMT will absorb the 3% bank charges on credit card payments
- To partly offset this cost, TMT will retain a R7 pre-agreed convenience fee paid by the user and any interest earned on the said merchant account
- At the end of every month, a reconciliation summary will be prepared and the amount of the fines paid during the course of the preceding month, will be electronically transferred into the Municipality's dedicated fine account (referred to in 5(a) in Schedule 2)
- The details of the website payment facility will be printed on each infringement sent out to infringers.

b. Payments of fines paid at selected retailers and banks are paid into the TMT managed merchant account under the following conditions:

- TMT's payment switch company [APS] facilitates that fine payments can be made at Standard Bank, ABSA Bank and any retailer signed up to the pay@ payment channel including Shoprite Checkers, Spar and Pick 'n Pay
- TMT will absorb the cost of the R7 payment fee and ABSA's bank charges
- At the end of every month, a reconciliation summary will be prepared and the amount of fines paid during the course of the preceding month, will be transferred to the Municipality's dedicated fine account;
- The logos of the aforementioned retailers and banks will be printed on each infringement sent out to infringers.

c. A facility providing SMS text messages and an inbound call centre:

- TMT will send text messages to notify infringers of their fine details and send various reminders to pay the fine at various points in time (refer to the SMS Wording in Annexure B)
- Infringers will be informed that they may telephone TMT's inbound call centre to make enquiries about the fine (refer to the Call Centre Process in Annexure A)

Schedule 2: Duties and Functions of the Local Authority

1. General Requirements

The Local Authority:

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| a. Shall nominate a suitable and responsible person as the Project Manager with overall responsibility for implementation and management of all aspects of this Agreement and to serve as primary liaison between TMT and the Local Authority. |
| b. Agrees that TMT retains ownership of the Intellectual Property, Software, Hardware and equipment provided in accordance with, and during the course of, the Agreement. |
| c. Shall provide adequate traffic law enforcement officers to achieve optimal law enforcement levels in consultation with TMT on the understanding that the number of cameras TMT will provide will be limited to requirements as agreed in writing between both parties. |
| d. Ensure that the traffic surveillance and law enforcement systems provided by TMT for the use by the Local Authority shall be used with due care and diligence and that mobile camera systems shall be used productively and effectively, unless there are emergencies or bad weather. |

2. Administration operations

The Local Authority shall:

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| a. Perform a supervision function on the transactions of all infringement notices. |
| b. Receive all written infringement notices issued by the Law Enforcement officials. |

3. Support Operations

During the execution of the project the Local Authority shall:

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| a. Arrange that relevant staff members attend training workshops in the use of the cameras and ancillary equipment, presented by TMT as agreed from time to time. |
| b. Provide duly appointed peace officers to adjudicate every image and associated data and either accept it as prosecutable, or reject it as non-prosecutable within three business days of the image being captured on the System by TMT. |
| c. Undertake to erect and maintain all relevant road signs relating to traffic law enforcement by camera on roadways in strict accordance with the specifications, directions, conditions and timeframes set by the TCSP guidelines. |
| d. Will ensure at all times that there will be at least two designate traffic officers available to operate all cameras and/or ANPR equipment efficiently and effectively. |
| e. Ensure that all court roles are delivered to the court on time. |