

# Licence Application Decision

(Transportation Network Services - New)

<b>Application #</b>	TNS6988-19	<b>Applicant</b>	Uber Canada Inc.
<b>Trade Name</b>	Uber		
<b>Principals</b>	Adam BLINICK Faye PANG		
<b>Address</b>	1600-121 Bloor Street East Toronto, ON M4W 3M5		
<b>Primary Areas of Operation</b>	Region 1 – Lower Mainland, Whistler		
<b>Current Licence</b>	None		
<b>Publication of Application</b>	September 9, 2019 (Republished September 16, 2019)		
<b>Application Summary</b>	New Special Authorization: Transportation Network Services Authorization (TNSA)		
<b>Deadline for Submissions</b>	September 24, 2019 (original submissions) November 19, 2019 (2 <sup>nd</sup> set of submissions)		
<b>Submitters (and representatives)</b>	<ul style="list-style-type: none"> <li>• Abbotsford Taxi Ltd., Mission Taxi (1980) Ltd., Matsqui Taxi Ltd.</li> <li>• Agassiz &amp; Harrison Taxi Ltd.</li> <li>• BC Taxi Association (the “BCTA”)</li> <li>• Canadian Centre for Policy Alternatives</li> <li>• Chilliwack Taxi Ltd.</li> <li>• City of Burnaby</li> <li>• City of Delta</li> <li>• City of Richmond</li> <li>• City of Surrey</li> <li>• Lyndon Enterprises Ltd.</li> <li>• Progressive Intercultural Community Services</li> <li>• Prospective Drivers Group</li> <li>• Salmon Arm Taxi (178) Ltd.</li> <li>• BC Federation of Labour</li> <li>• Syd’s Taxi (1984) Ltd., Meadow Ridge Taxi Ltd., Alouette Transit Systems Ltd., Bel Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., Port Coquitlam Taxi Ltd., Delta Sunshine Taxi (1972) Ltd., Tsawwassen Taxi Ltd., Garden City Cabs of Richmond Ltd.,</li> </ul>		

	<p>Guildford Cab (1993) Ltd., Kimber Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Ltd., White Rock South Surrey Taxi Ltd., Surdell Kennedy Taxi Ltd., AC Taxi Ltd., Swiftsure Taxi Co. Ltd. dba Yellow Cab Nanaimo, Jatinder Gill dba Oceanside Taxi, Comox Taxi Ltd., Duncan Taxi Ltd., Sunshine Coast Taxi Ltd. represented by McLachlan Brown Anderson (“Syd’s Taxi <i>et al</i>”)</p> <ul style="list-style-type: none"> <li>Yellow Cab Company Ltd., North Shore Taxi (1966) Ltd., Richmond Cabs Ltd., Bonny’s Taxi Ltd., Burnaby Select Metrotown Taxi Ltd., Queen City Taxi Ltd., Black Top Cabs Ltd., Vancouver Taxi Ltd., Vancouver Taxi Ltd. dba Handicapped Cab, MacLure’s Cabs (1984) Ltd. (Vancouver Taxi Association) (“VTA”)</li> </ul>
<b>Board Decision</b>	<p><b>The special authorization is approved for the reasons set out below.</b></p> <p><b>Terms and conditions of licence are approved as set out in this decision.</b></p>
<b>Decision Date</b>	January 23, 2020
<b>Panel Members</b>	<p>Catharine Read, Chair Spencer Mikituk Roger LeClerc</p>

## 1. Introduction

[1] The *Passenger Transportation Act*, S.B.C. 2004, c. 39 (the “Act”) regulates the licensing and operation of commercial passenger transportation vehicles in British Columbia. The Passenger Transportation Board (the “Board”) is established under the Act and its powers, duties and functions are set out in section 7 of the Act. In general terms, the Board has authority to make decisions on licence applications for passenger directed vehicles (e.g., taxis, limousines, and other small shuttle and tour vehicle licences). With some exceptions the Act defines “passenger directed vehicles” to mean commercial passenger vehicles that are being operated to or from locations determined by or on behalf of passengers.

[2] In September 2019, amendments to the Act and the *Passenger Transportation Regulation* (the “Regulation”) came into force which enable the Board to also make licensing decisions for transportation network services (“TNS”), commonly referred to as ride hailing. The Act defines TNS to mean, in part, services respecting the connection of drivers to passengers who hail and pay for the services using an online platform, commonly referred to as an “app”. A transportation network company (“TNC”) is a company that uses an app to provide TNS.

[3] This regulatory change followed extensive provincial consultation and deliberation which resulted in, among other reports, a February 2018 Select Standing Committee report entitled “Transportation Network Companies in British Columbia” (the “2018 TNC Report”), a June 2018 report entitled “Modernizing Taxi Regulation” by Hara Associates (the “2018 Hara Report”), and a March 2019 Select Standing Committee report entitled “Transportation Network Services: Boundaries, Supply, Fares and Drivers’ Licences” (the “2019 TNS Report”). The Board also carried out consultations with the taxi industry, TNCs, the Vancouver Airport Authority, and the Vancouver Port Authority on TNS operating areas, fleet sizes, and rates in July 2019. The Board published the results of its consultations online and developed an operational policy entitled “Introduction of Transportation Network Services, 2019” (the “Operational Policy”).

[4] On September 3, 2019, TNC Uber Canada Inc. (“Uber”) applied for a passenger transportation licence with a special authorization in the form of a TNS authorization (“TNSA”) enabling it to operate ride hailing services in Region 1 (Lower Mainland, Whistler) (the “Application”). In accordance with s. 26 of the Act, the Registrar of Passenger Transportation forwarded Uber’s Application to the Board.

[5] Section 28 of the Act governs determinations by the Board about whether to approve, in whole or in part, licence applications for a special authorization such as a TNSA. Section 28 provides that such approval may be granted after the Board considers whether: (a) there is a public need for the services that the applicant proposes to provide under the special authorization; (b) the applicant is a fit and proper person to provide, and is capable of providing, those services; and (c) the application promotes sound economic conditions in the passenger transportation business in British Columbia. If approved, the Board is required to specify the special authorizations to be included in the license and establish license terms and conditions, as provided for in ss. 28(3) to (6).

[6] For the reasons set out below, the Board approves Uber’s Application on terms and conditions.

## **2. Procedural Matters**

[7] Section 26 of the Act requires the Board to publish notice of the Application, which it did on September 9, 2019. Section 27(2) provides that any person may (with the time period specified by the Board and on payment of the prescribed fee) make a written submission to the Board respecting the Application. In relation to Uber’s Application, the Board received submissions from:

- Abbotsford Taxi Ltd., Mission Taxi (1980) Ltd., Matsqui Taxi Ltd.
- Agassiz & Harrison Taxi Ltd.
- BCTA
- Canadian Centre for Policy Alternatives
- Chilliwack Taxi Ltd.
- City of Burnaby

- City of Delta
- City of Richmond
- City of Surrey
- Lyndon Enterprises Ltd.
- Progressive Intercultural Community Services
- Prospective Drivers Group
- Salmon Arm Taxi (178) Ltd.
- BC Federation of Labour (“BCFED”)
- Syd’s Taxi *et al*
- VTA

(collectively and individually, the “Submitter(s)”)

[8] Uber’s Application is one of over 20 applications that have been made by various companies since the introduction of the TNS legislative amendments. Many of the Submitters responded to a number of these applications globally rather than individually, with a focus on Uber and one other applicant.

[9] Some of the Submitters asked the Board to conduct an oral hearing in respect of the applications received. The Act confers broad authority on the Board to control its own process when making decisions on licence applications. That authority includes discretion to conduct a written, electronic or oral hearing, or any combination of them, as the Board in its sole discretion considers appropriate. For reasons given in a letter to Uber and the Submitters on October 30, 2019, the Board determined it would follow its usual process of conducting a written hearing.

[10] Section 27(5) of the Act provides that, unless the Board otherwise directs, a person making a submission respecting an application does not, merely because of that submission, become entitled to participate any further in the application or obtain further information or disclosure respecting the application. On October 30, 2019, the Board issued an Industry Advisory modifying its process for all ride hailing applications to provide greater disclosure to the Submitters and more transparency in its process.

[11] In accordance with the Industry Advisory, on November 5, 2019, the Board sent an application package to all Submitters which included Uber’s initial response to the Submitters’ materials as well as documents provided by Uber in support of its Application (i.e. TNS Declaration Form, TNS Information Sheet, Business Plan, Cash Flow Projections, Balance Sheet and Income Statements, Resumes, Criminal Record Checks, Signing Authority, BC Registry Service Extraprovincial Company Status, and Disclosure of Unlawful Activity and Bankruptcy Forms). Consistent with Rule 17 of the Board’s Rules of Practice and Procedure, the Application package and supporting documentation sent to the Submitters contained limited redactions which were necessary to protect the confidential business information of Uber. The Submitters then had 14 days to provide further written

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submissions on the Application. The Board then provided copies of the written submissions received from the Submitters to Uber.

### **3. Uber's Application**

[12] Uber was federally incorporated on February 8, 2012 and registered as an extraprovincial company in British Columbia on December 15, 2014. Uber states that it is recognized as a world leader in ride hailing technology. The company was “born out of a watershed moment in technology” ten years ago and its growth has been fueled by the rise of smartphones, the advent of app stores, and the desire for on-demand work. Uber's app allows riders to hail a vehicle-for-hire in minutes using their smartphones. Uber's ride sharing services are intended to create a safe, affordable, reliable alternative to driving alone in a personal automobile. For driver-partners, the Uber app has also introduced a flexible new earning opportunity.

[13] Uber maintains that TNS makes getting around easier and more affordable, especially in places underserved by existing transportation options. It can connect people to public transit systems, reduce impaired driving, and enable people to shed personal vehicles. Uber submits that its model has been proven safe and successful in many other parts of Canada and the world. Uber highlights that it has experience in more than 40 Canadian municipalities across Alberta, Saskatchewan, Ontario, and Québec. British Columbia represents the largest remaining jurisdiction in North America that does not have Uber's ride hailing services. Uber states that there are an estimated two billion journeys completed every year in Metro Vancouver. Of those, an estimated 70% are completed by personal vehicles.

[14] Uber believes that the introduction of TNS in this province will benefit not only residents interested in driving or riding with Uber but may spur more innovative offerings and service improvement among existing transportation service providers. Uber references reports from the Competition Bureau of Canada (the “Competition Bureau”) which concluded that the entry of TNS would likely make transportation options more affordable and convenient.

[15] The initial services which Uber proposes to provide in B.C. include UberX (the standard ride hailing product consisting of private rides for up to four people) and UberXL (for groups of six). Subject to market conditions, Uber may add additional selections (e.g. UberComfort, UberPool, ExpressPool). Uber's Application currently seeks only to operate in Region 1 (Lower Mainland, Whistler) but proposes to begin operations in Metro Vancouver. Expansion into other areas of the Province is contemplated after the initial roll out into Region 1.

[16] Uber's business model involves the recruitment of driver-partners to use personal vehicles approved by regulation to provide transportation services to consumers in a designated region. Uber recruits a large pool of driver-partners who may accept rides at times convenient to them and in response to market demand. The size of the initial service

area and expansion across Region 1 will be determined based on the availability of enough qualified drivers to provide a reliable service for riders and drivers.

[17] Uber-affiliated driver-partners are expected to be in the thousands in order to maintain reliable service. The size of this estimate reflects the fact that driver-partners do not all drive on the road seeking fares at the same time. They drive where and when they prefer on their own schedule. Uber notes a statistic from Toronto that, on average, only about 5% of affiliated driver-partners in that city were on the road in the same hour.

[18] Access to the Uber platform by driver-partners is strictly and centrally controlled through Uber's proprietary software and strict requirements are imposed before access is granted. When Uber launches in a new city, it signs up drivers and creates awareness among consumers. As the number of drivers increases, the company's market coverage improves. This reduces wait times and ultimately attracts more consumers, leading to an increased volume of trips and higher driver efficiency. Uber states that this cycle benefits not only Uber, but also cities, consumers and drivers as liquidity and scale enable greater network optimization and increased driver utilization. As ride hailing grows, Uber expects to be able to penetrate more of the local trips market.

[19] Uber does not anticipate any challenge in raising consumer awareness. Uber relies on various polling data from B.C. to suggest that residents of this province have been calling for TNS for years. They cite, among other things, an Environics Greater Vancouver Ride Sharing poll that reported that "nearly 80% of Vancouver residents want ridesharing to begin operations as soon as possible or by the end of 2019".

[20] Uber's business model also depends on flexible upfront pricing which incentivizes driver-partners to meet rider demand for transportation services while also informing riders of the fare they will pay subject to only a few limitations. Flexible pricing is also key to Uber's business model because it provides incentives to riders to take trips during periods of normally low demand with low prices.

[21] Uber's business plan includes financial information with three-year cash flow projections and two months of set up, and balance sheets as of December 31, 2017 and 2018. The projections forecast millions of trips across the region, increasing access to mobility options, generating significant direct earnings for British Columbian drivers, and providing a sustainable return to Uber to continue ongoing operations. This analysis is based on a review of comparable Canadian and American markets where Uber operates based upon the total addressable market (as estimated by population), recency of launch, and level of "friction" for drivers to meet regulatory requirements. Key to Uber's projections "is the ability for Uber to be able to grow its business by not being artificially constrained by regulators via a fleet size cap".

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#### 4. Analysis and Findings

[22] Section 28(1) of the Act sets out the three factors which must be considered by the Board. While the Board does not recite all the information filed by Uber and the Submitters (which is voluminous), it has carefully considered it when making its determination. All but one of the Submitters (the Mayor of Delta) oppose Uber's Application.

**(a) Is there a public need for the service that Uber proposes to provide under the special authorization (s. 28(1)(a))?**

[23] The first consideration is whether there is a public need for the service that Uber proposes to provide. This requires an applicant to demonstrate that there are people who would use Uber's proposed service. In this respect, Uber relies on:

- the 2018 TNC Report;
- the 2018 Hara Report;
- the 2019 TNS Report; and
- the 2018 Hansard Debates relating to the *Passenger Transportation Amendment Act*.

(collectively the "Background Materials")

[24] Uber's position is that the Background Materials, along with other materials submitted with its Application, support the need for ride hailing in B.C.

[25] In November 2017, the Legislative Assembly authorized the Select Standing Committee on Crown Corporations to examine, inquire into and make recommendations on ride hailing in British Columbia. During the course of its inquiry, the Committee invited 67 expert witnesses to either present at a public hearing or to provide a written submission. Over three days of hearings in January 2018, the Committee heard 26 presentations and received 12 written submissions. Overall, the Committee agreed that TNS should be permitted to operate in this province within a provincial regulatory framework and saw the key benefit of TNS to be improved access to transportation services.

[26] The 2018 Hara Report provides background on the history of metro taxi boundaries and current issues, the market for taxis and TNS, and the regulatory structure and industry structure for taxis. Stakeholder viewpoints and concerns and recommendations for modernizing tax regulation are summarized, including concerns relating to the private market for taxi licence-shares, the relevance of operating areas to taxi licence-share values and driver income, and the environment likely to emerge following the licensing of TNS. Options are set out for rules relating to trips crossing operating area boundaries, taxi operating areas and TNS operating areas and suggestions are made for modernizing the taxi industry. Like the 2018 TNC Report, the 2018 Hara Report identifies the need for better passenger transportation services. Among other things, the Report notes:



What we did not know previously was the magnitude of the suppressed demand that exists among today's consumers for timely and reliable vehicle-for-hire service. Where TNCs have entered urban markets, the trip volume of taxis has fallen – but not by so much as to cause taxis to withdraw from service.

...

Non-taxi industry stakeholders reported concern with the availability of taxi service at peaks, in small and rural communities, in cross boundary trips between municipalities, in consistent provision of wheelchair accessible service, and in the ability of the industry to supply and integrate into the rise of web-based tourism....

...

Virtually all municipalities identified some service issues, either consistently too few cabs, or distinct service problems at specific times – bar closing, rush hours, major sporting or arts events. Larger cities have service deficiencies resulting from the limitation on the number of taxi licenses in each area. Smaller municipalities often have the opposite problem, a challenge attracting anyone to provide a taxi service, especially in the face of some of the barriers to entry. The ability of TNCs to respond to those service deficiencies, to reduce costs and to improve service levels generally, are all seen as positive. Recent improvements in taxi service, such as the introduction of taxi apps, is also seen as positive innovation engendered by TNCs, and continued innovation was identified by some as a positive expectation of having TNCs enter the market.

[27] The 2019 TNS Report examines four areas of TNS regulation, namely boundaries, supply, fare regimes, and driver's licences. Like the 2018 TNC Report, the Committee relied on input from experts with knowledge in fields relevant to the Committee's areas of review. The Committee ultimately supported regulation of all four areas but agreed that decisions related to them must be evidence-based. To that end, it suggested collecting and sharing data on TNS to ensure that accurate information is available for the purpose of managing and assessing the industry.

[28] A number of Submitters argue that Uber's reliance on the Background Materials alone does not establish public need. The Board finds otherwise. The Background Materials establish that there was extensive public consultation and input from experts on the need for TNS and form an appropriate evidentiary basis for establishing public need. An analogous process was used for the 2018 taxi modernization initiative, which enabled taxi companies to increase the number of their licensed vehicles by 15%. The Board accepted that taxi companies could rely on Board consultation documents and the 2018 Hara Report to demonstrate public need.

[29] In addition to relying on the Background Materials, Uber references various polls conducted of Vancouver and Surrey residents in the past four years which indicate that the majority of respondents support ride hailing. Polling information indicates that the majority of Metro Vancouver residents would use Uber's proposed service in Region 1.



Uber also points to evidence that ride hailing has grown rapidly in other parts of Canada such as Toronto, Mississauga, Brampton, and the Region of Waterloo. A June 2019 report from the City of Toronto indicates that, in the past four years, the use of TNS increased by 23% while taxicab and limousine use decreased. In the City of Mississauga, approximately 10 million dispatched vehicle-for-hire trips (TNS and taxi) were reported in 2017. The City reported that the 7.7 million increase in trips indicated that a new vehicle-for-hire market had emerged. Notably, the report concluded that TNS did not simply capture 15.3% of the existing market share but rather it capitalized on a previously untapped market that before consisted of individuals walking, taking buses, and using personal vehicles. As there is no historical TNS data from this province, the Board is prepared to rely on the evidence of experiences in other Canadian jurisdictions which confirm there has been a relatively quick uptake by the public of TNS that has resulted in a large increase in vehicle-for-hire trips per year overall.

[30] Many Submitters take the position that there is no public need because TNS are just “another type of taxi”. Uber points to the evidence of the significant uptake of TNS in other Canadian cities to rebut the claim that ride hailing is “just another type of taxi service”. Uber contends that if the two were the same, the taxi industry would have developed the additional clientele that it has tapped into in its hundred-year history. Uber also points out that, unlike taxis, its business model (part-time drivers using their own vehicles and choosing their own hours) allows TNS to satisfy demand at peak hours and in areas underserved by transit and taxis.

[31] The Board agrees that TNCs are different from taxis and this is reflected in the Act and is evidenced in the Background Materials. For example, the Act defines passenger directed vehicle authorization to mean an authorization that, if included in a licence, authorizes one or more motor vehicles to be operated as passenger directed vehicles, but only if those motor vehicles are hailed other than through the use of TNS. TNS is defined to mean services (other than those excluded by regulation) respecting the connection of drivers of passenger directed vehicles with passengers who hail and pay for the services through the use of an online platform or “prescribed services” (of which there are none at this time). Section 23 provides that persons who hail or flag vehicles from the street can only be transported in vehicles authorized by licence to permit this or inter-city buses or prescribed commercial passenger vehicles. The Board notes that the 2018 Hara Report described as a “key service offered exclusively by taxis” the ability to pick up customers based on hails from the street and taxi stands. The 2018 TNC Report also observed that, while “often compared to traditional ride-hailing services such as taxis, TNCs are unique” in part because the TNS model relies on drivers who use their own vehicles and on variable pricing models based on real-time demand for their service.

[32] The Board rejects the contention that TNCs are just like, and should be treated the same as, taxis. This contention is not supported by the Background Materials and not supported by the regulatory framework which draws distinctions between the two.

[33] To the extent that some Submitters (such as Abbotsford Taxi) maintain there is no need for additional passenger directed vehicles in their areas of operation based on their dispatch statistics and their inability to keep their existing fleet active at all times, no evidence of those dispatch statistics was provided. The Board therefore rejects these arguments.

[34] While the VTA accepts that there is a need for additional passenger transportation services, it maintains that any new services must be tied to an estimation of the demand that is not presently being met in a timely way. It contends that Uber's TNS pricing model does not correlate with public need; rather, it only correlates with the ability to pay. The VTA submits that Uber's use of dynamic pricing fails to meet the public need when "passengers are unable or unwilling to pay the higher prices they charge when there is an increase in demand beyond supply". The VTA argues that public need will persist when passengers cannot afford the surge prices and that limits must be placed on TNS fleet size and rates must be regulated so that the supply of transportation does not outstrip demand. This argument largely centers on what operational requirements should be imposed on TNS operators in the province. The Board will address the question of operational requirements under s. 28(1)(c).

[35] The Board finds that the public need element established by s. 28(1)(a) has been met and is supported by the Background Materials, polling data from Vancouver and Surrey, and the evidence concerning experiences in other Canadian jurisdictions.

**(b) Is the applicant a fit and proper person to provide that service and is the applicant capable of providing that service (s. 28(1)(b))?**

[36] The second consideration is whether, for s. 28(1)(b) purposes, Uber is a fit and proper person, and has the capability, to provide the proposed service.

[37] Fit and proper person is not a defined phrase. The Oxford English Dictionary defines "fit" in part to mean "well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate ... possessing the necessary qualifications, properly qualified, competent, deserving". "Proper" is defined to mean "suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right". The context for what is fit and proper is the passenger transportation industry in B.C. This reflects that a licensee has a responsibility to exercise the powers conferred by the granting of a licence with regard to proper standards of conduct.

[38] When considering whether an applicant is fit and proper, the Board considers factors such as the applicant's past conduct and the potential risk of harm to the public and the integrity of the transportation industry if a licence is granted to the applicant. Where, as here, the applicant is a corporate entity, the Board will consider any relevant information concerning the conduct of the directors and key management staff in order to assess how the business is likely to be run in this jurisdiction.

[39] When considering capability, the Board considers whether the applicant has demonstrated knowledge and understanding of the relevant regulatory requirements and policies governing passenger transportation, the applicant's ability to comply with those regulatory requirements, and the applicant's capability to provide the proposed service in a proper and lawful manner. The Board will also consider whether the applicant has the business knowledge to operate the service. This will include consideration of the business knowledge and experience demonstrated by management and the applicant's business plan and financial statements.

[40] A number of the Submitters raised concerns that Uber is not a fit or proper person to provide TNS in British Columbia, particularly without sufficient safeguards and close Board supervision. Those concerns focus on Uber's reported history of ethical and public safety lapses and on the insufficiency of their driver background checks. Information was provided that as a result of new legislation introduced in the State of Massachusetts regarding background checks of ride-hailing company drivers, approximately 1,000 drivers were disqualified in 2017 due to records of violent crimes or sex offences. One Submitter expressed a lack of confidence regarding Uber's ability to comply with provincial regulatory requirements.

[41] One Submitter claims that Uber has demonstrated a blatant and intentional disregard for law enforcement based on information that is known about the company and its operations elsewhere. Reference is made to media articles from 2013 to 2018 which report on Uber's alleged questionable business practices, as well as alleged inappropriate and/or criminal behaviour on the part of its driver-partners, in other jurisdictions. Considerable emphasis was placed on a 2017 New York Times article that referenced Uber's use of "Greyball" (a tool that uses data collected from the Uber app) to identify, deceive, and evade the authorities attempting to regulate TNS.

[42] In response, Uber points out that it is licensed and regulated as a TNS provider in over 20 Canadian jurisdictions with a strong record of compliance. Uber states that it is committed to using a proactive and collaborative approach to rebuild its relationships with regulators. In support of that claim, it provided recent information from regulators in Ottawa, Mississauga and the Region of Waterloo to confirm its compliance with regulatory requirements in Ontario.

[43] Uber stated in its securities filings before its public-market listing that it has embarked on a new path with a new Chief Executive Officer hired in September 2017 following many challenges relating to its culture, workplace practices, and reputation. Uber acknowledges that it experienced "growing pains" during its rapid development from a small start-up company to a globally recognized service but maintains that the Uber of today "is not the uber of yesteryear". Recognizing the need to resolve its historical compliance problem, Uber states that its current leadership has worked to strengthen its compliance program and offered the following information:

- Its employees across Canada will: (a) oversee critical compliance functions, including working closely with regulators before and after the launch of service; (b) monitor a driver-screening process compliant with the Regulation; (c) coordinate communications to driver-partners and riders about safety features and product enhancements on the platform; and (d) connect with law enforcement to enable investigations through Uber’s dedicated law enforcement response team.
- There will be at least one driver support center, referred to as a Greenlight hub, opened in Metro Vancouver to provide pre- and post-support for first trips for prospective and current driver-partners.
- Access to the Uber platform by driver-partners for the purposes of receiving, accepting and fulfilling ride requests is strictly and centrally controlled by proprietary software through a series of rigorous checks. Access to the platform may be removed based on driver self-reports, direction from law enforcement and government regulators, and results from internal investigations and audits.
- Drivers who partner with Uber will have to pass screening criteria required by the Province, including recurring criminal record checks, driving record checks, and vehicle inspections.
- Driver-partners will be responsible for conducting pre-first trip of the day and post-last trip of the day inspections of their vehicles.
- Driver-partners will be required to report any defects, recalls, and accidents to Uber, in addition to other violations as well as adhere to hours of service regulations under the *National Safety Code*.
- Driver-partner obligations will be outlined in Terms and Conditions which will conform to the requirements of B.C.’s regulations and which must be read and accepted before the partnership begins.
- The use of “Greyball” to target regulatory action is prohibited. Uber notes that this technology is used for many purposes including fraud prevention, protecting driver-partners from physical harm, and deterring riders from using the app in violation of its terms of service.

[44] Uber also states that it is committed to promoting the safe use of the Uber app and believes that its technology can help make travelling safer through the following features:

- Know your Driver – riders see their driver’s photo, along with the make, model, colour, and plate of the driver’s car, to help ensure they enter the right car with the right driver requested through the platform.

- Trip anonymization – there is no need to share contact information as calls and messages sent through the app use phone number anonymization.
- Two-way ratings – to ensure the quality of both the driver-partners and riders.
- Account suspensions and deactivations – a driver’s ability to access the app to provide rides can be deactivated, remotely or immediately and they automatically lose the ability to give rides through the App if their documents expire.
- Real-time ID check – Uber uses selfies for security by prompting drivers to take photos to verify the right driver is behind the wheel on an ongoing basis.
- Safety centre with in-app emergency button feature users can tap on the map in the Uber App during their trip to learn about safety or if needed to contact 9-1-1. The location will appear on the screen so that riders and drivers can provide their exact location directly to the emergency operator.
- Tracking every trip with GPS technology – a record is maintained of every trip.
- Trusted contacts – riders and drivers can designate up to five friends and family members as trusted contacts to share trip details with during every ride or nighttime trip.
- Support 24/7 – customer support includes safety-focused professionals who are ready to respond to questions.

[45] In addition, every person who signs up for an Uber account is required to follow Uber’s Community Guidelines which focus on respectful treatment, the promotion of safety, and compliance with the law.

[46] The Board is satisfied that Uber is a “fit and proper person” for s. 28(1)(b) purposes. Uber has extensive experience in the passenger transportation industry in Canada and elsewhere. Mr. Blinick is the Chief Executive Officer of Uber and Director of Public Policy and Communications. The key Western Canada employees include Michael Van Hemmen, Head of Western Canada (Uber Canada operations leadership team member) who is responsible for business performance and project management in Uber’s western Canada ride hailing business, Alisha Adam, a senior Operations Manager who is responsible for managing the day-to-day operations and long-term strategy for Uber’s launch into Vancouver, and Stephanie Chung who will be the Greenlight Hub Manager. The background, experience and qualifications of its principals confirm that Uber is equipped to oversee management of its proposed operations.

[47] Uber holds a valid *National Safety Code* certificate. Mr. Blinick signed a Declaration on behalf of Uber under the *Liquor Control and Licensing Act* and the *Cannabis Control and*

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*Licensing Act* declaring that Uber will operate its vehicles in accordance with this legislation. The Board's Supplementary Terms and Conditions respecting capability to meet data requirements were confirmed. The Disclosure of Unlawful Activity and Bankruptcy form and Criminal Record Checks were completed to the satisfaction of the Board.

[48] While the Board considered media reports from other jurisdictions regarding Uber's past misconduct, it was not prepared to place much weight on them, particularly for jurisdictions which had no regulatory framework in place for TNS. The regulatory requirements enacted in British Columbia stem, to some degree, from the lessons learned from the operations of TNS in other jurisdictions. Although there have been problems associated with Uber's operations in non-Canadian jurisdictions, the Board placed considerable weight on the reports from other Canadian regulators confirming that it has complied with regulatory requirements. On balance, the Board accepts that Uber's more recent operations have been relatively trouble-free as confirmed by letters from the City of Ottawa in 2017, the Region of Waterloo in 2018, and the City of Mississauga in 2019. Uber has also provided copies of its licences from Lethbridge, Airdrie, Toronto, Brampton, Calgary, Edmonton, Guelph, Hamilton, London, Oakville, Ottawa, Regina, Saskatoon, St. Albert, Vaughan, Windsor, Whitby, the County of Wellington, and the Provinces of Saskatchewan and Québec. There is no evidence of a lack of compliance with regulatory requirements in those jurisdictions. As well, the Board relied on the declarations and criminal record checks of the principals and key employees of Uber. The Board accepts that Uber is a fit and proper person for the purposes of s. 28(1)(b).

[49] The Board is also satisfied that the safety measures put in place by Uber in its operations and via its platform are satisfactory to meet the "fit and proper" requirements of s. 28(1)(b).

[50] With respect to Uber's capability to provide the proposed service, some of the Submitters point to the fact that it has incurred significant losses since inception (\$4 billion and \$3 billion in operating losses in 2017 and 2019 respectively with an accumulated deficit of \$7.9 billion). These Submitters argue that this information suggests that Uber's business model is not viable and likely to fail.

[51] Uber Technologies Inc.'s (the parent company of Uber) Initial Public Offering materials were reviewed. The balance sheet at December 2018 showed total assets of \$24 billion and total liabilities of \$31 billion, including \$14 billion of redeemable shares. The deficit was \$7.4 billion. The deficit had been growing from 2014 to \$8.8 billion in 2017 and declined in 2018 as a result of profitable operations. Between 2016 and 2018, revenue grew by 193%, total costs and expenses grew by 108%. A net loss of \$370 million was incurred in 2016 while net income of \$997 million was earned in 2018.

[52] On a contribution margin basis (revenue contribution to fixed costs), the parent company demonstrated favourable results, with 42.0% in 2016, increasing to 47.6% and 50.1% in 2017 and 2018, respectively. Each incremental booking and ride contribute to



cash flow and profitability to fund the indirect costs and expenses related to growth of the company. Each market the company enters is assessed against positive contribution margin. As a quickly growing company, Uber Technologies Inc. has been investing significantly in expanding its network through acquisitions, entering into other food and freight transportation markets and research and development. During the three-year period, expenditures on research and development increased by over 74%. Research and development activities include technologies for demand prediction, matching, dispatching and dynamic pricing using visualization, artificial intelligence and machine learning. It established an advanced technology group in 2015 focused on developing autonomous vehicle technology. Research and development expenses as a percentage of revenue have trended downward as the growth in ridership has outpaced the increase in investment. The growth-based business strategy used by technology companies such as Uber Technologies Inc. differs substantially from that in the traditional transportation business.

[53] Uber Technologies Inc.'s large and growing shareholders' deficit has been reviewed. As a publicly traded company, Uber is subject to public disclosure requirements and it must adhere to Securities and Exchange Commission reporting standards, rules and regulations. As a public company, it is subject to annual third-party audits and internal financial controls as required by the listing entity. This provides some assurance to investors. The Board of Directors is accountable to its shareholders, the investors in the company. Questions concerning Uber's profitability should be the focus of the Board of Directors, shareholders and potential investors. The market value of its shares will ultimately be determined by shareholders and will reflect their view of its potential for profitability. Uber Technologies Inc.'s business strategy for profitability is beyond the scope and authority of the Board.

[54] While Uber Technologies Inc. has an accumulated deficit and has only started to show net income, that does not mean that Uber's operations in the province will not be profitable. Uber provided a 36-month cash flow projection for its operations in the Lower Mainland. The Board reviewed the assumptions underlying the projections, which are reasonable and based on trends from existing operations in other jurisdictions. Financial projections are on par or more conservative than results from more established markets. The revenue estimates and their growth over the 36-month period are reasonable, as are the cost of revenue and operating expenses over the period. The projections show Uber's operations in the Lower Mainland becoming profitable within the period.

[55] Uber has demonstrated to the Board's satisfaction that it has the overall infrastructure to provide care and control of its drivers and vehicles and the management resources to provide ride hailing services. It has also demonstrated knowledge and understanding of the governing passenger transportation regulatory regime (including the *National Safety Code*), and its obligations as a result of this regime. Uber's business plan and financial information demonstrate that it is capable of providing the proposed service. The Board accepts that Uber will provide that service in a proper and lawful manner. The Board



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is satisfied that Uber's Application materials demonstrate that Uber is fit, proper and capable for purposes of s. 28(1)(b) of the Act.

**(c) Would the application, if granted, promote sound economic conditions in the passenger transportation business in British Columbia (s. 28(1)(c))?**

[56] The remaining consideration is whether granting the Application would promote sound economic conditions in the passenger transportation business in this province. In considering s. 28(1)(c), the Board strives to balance public need for available, accessible and reliable commercial passenger transportation services with overall industry viability and competitiveness. The Board considers this issue from a wide-ranging perspective, which includes consideration of harm to other industry participants such as taxi companies. It is the Board's view that, generally, speaking, the economic interests of the transportation business overall weigh more heavily than the economic and financial interests of any particular applicant or submitter.

[57] In assessing whether the Application promotes sound economic conditions in the transportation industry, many of the Submitters collectively refer to a variety of factors which they believe to be relevant. While those factors are not systematically identified in their submissions, the Board finds it convenient to consider them under the following general headings or themes (in no particular order):

- level playing field (including, but not limited to: (a) fleet size, (b) rates and other differences, and (c) predatory pricing)
- economic impact on taxis
- impact on transit ridership
- increased congestion and greenhouse gas emissions
- increased fatalities and accidents
- treatment of TNS drivers
- wheelchair accessibility

[58] Some of these factors were considered as key areas of concern in the 2018 TNC Report. It was there acknowledged that the introduction of TNCs involves complex issues, often with conflicting evidence. The Executive Summary to that Report reads in part:

Five key areas of concern also emerged in regard to a potential regulatory regime that the province may establish: availability and pricing; data reporting and enforcement; insurance; licensing; and vehicle and public safety. On the topic of availability and pricing, the Committee had a detailed discussion about the issue of vehicle caps and service boundaries, noting that future regulatory decisions in this regard should be based on data. Moreover, if TNCs are permitted to operate without defined service boundaries, taxis should also be permitted to pick up fares outside of their home jurisdictions under certain circumstances. Recommendations in respect of pricing include upfront disclosure of the cost of a trip and further

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monitoring to determine if a base rate or cap on surge or primetime pricing needs to be set in future.

[59] Similarly, the 2019 TNS Report identified several common overlapping themes arising in respect of the introduction of TNS and made a number of recommendations to support TNS regulation:

The Committee's discussions regarding boundaries, supply, and fare regimes were closely linked as a result of the significant overlap in the problems that each area of regulations seeks to address. Each of these topics touch on mitigating the potential impact of TNS on congestion, encouraging transit ridership, and balancing the need to limit supply in congested areas while concurrently encouraging supply in underserved areas.

Deadheading is a key area of concern that emerged in deliberations on boundaries, and Members heard about other issues caused by geographic boundaries such as trip refusals and increased emissions. The Committee acknowledged these problems and recommended not implementing boundaries for TNS. Members considered other options to manage the distribution of TNS vehicles including geofencing to redistribute supply and price mechanisms such as per-trip or per-kilometer fees to address congestion.

The TNS model requires a large number of part-time drivers to be available when demand increases, and Members agreed that limiting the total number of drivers or vehicles available is not an appropriate mechanism to manage supply. However, Members did not agree on other mechanisms to limit the number of vehicles operating at a particular time in a certain location ... Finally, the Committee examined supply from the perspective of the types of vehicles used for TNS and agreed that the vehicles should be no more than ten years old to encourage safety and increase the likelihood that vehicles are low carbon.

A number of issues were raised in regard to price and fare regimes. Members agreed on the importance of accessibility and recommended that TNS be required to charge the same fare for accessible trips. The Committee also discussed protecting investments made in public transit and encouraging the trend towards increased transit ridership. They recommended setting a minimum price that does not undercut public transit. Given the importance of dynamic pricing to TNS, the Committee expressed support for variable pricing and considered whether limits to surge pricing would be necessary. Because dynamic pricing means that fares may vary from hour to hour, Members emphasized the need for drivers to communicate the cost of a trip in advance.

[60] The 2019 TNS Report also looked to other jurisdictions to learn from their TNS experiences and reviewed four reports that evaluate various impacts of TNS in major U.S. cities.

[61] Both the 2018 TNC Report and the 2019 TNS Report refer to the absence of sound data in relation to the effect of TNS on public transportation, traffic congestion and the environment. The 2018 TNC Report recommended that TNS be required to provide government trip data to support transportation demand monitoring, forecasting and planning. It also expressed the view that, in relation to the questions about the relationships between TNS and their drivers, there was value in providing government with a record of driver hours and earnings to enable government to monitor TNS labour and employment practices. Similarly, the 2019 TNS Report concluded that decisions about boundaries, supply, and fare regimes should be evidence-based. It recommends collecting and sharing data on TNS to ensure that accurate information is available for the purpose of assessing and managing the industry and for informing any future regulatory adjustments.

[62] The Board will consider each of the factors identified by Submitters. In doing so, the Board observes that virtually all taxi companies oppose the entry of TNS into the marketplace.

### **Level Playing Field**

[63] Many Submitters argue that there should be a level playing field between taxis and TNS in order to promote sound economic conditions; many of the submissions on fleet size and rates are premised on the view that TNS operators and taxis provide the same service. The VTA argues that just because TNS only provide services through an app, there is no valid reason to treat them differently from taxis. The VTA argues that the TSNA terms and conditions should therefore mirror those imposed on taxis. For example, limits should be imposed on the number of Uber cars that can operate at any one time (fleet size), rate discrepancies (and other differences) should be addressed, and Uber should be prohibited from subsidizing rides (predatory pricing).

[64] As noted above, the Board rejects the contention that TNS operators and taxis provide the same service. The TNS business model is markedly different from the business model used by taxis, resulting in different responses to market conditions. The TNS business model relies on a large number of drivers with vehicles to supply the service, a large number of consumers to purchase the service, the interaction of supply and demand to set fares, and information exchanged between the parties through the use of an app. The TNS business model responds to service availability issues that have arisen in the taxi industry by increasing the supply of vehicles-for-hire in peak periods and reducing supply in off-peak periods. Street hails and taxi stands remain the exclusive domain of the taxi industry. As a result of these differences, the Standing Committee also did not consider the direct application of regulations from the taxi industry to TNS to be a sound policy decision.

#### *a. Limits on Fleet Size*

[65] Fleet size is defined in the Regulation as “the maximum number of passenger directed vehicles authorized to be actively operating, at any given time, under a licence that includes a passenger directed vehicle authorization or transportation network services

authorization”. The Board is authorized to both set and amend fleet sizes for a group of licensees.

[66] Fleet size was a contentious issue for the taxi industry historically. In times of economic recession, drivers would flood the market, resulting in lower returns for all drivers. As a result, caps on fleet sizes for taxis were introduced and have been a long-standing feature of the regulation of the taxi industry.

[67] The VTA makes the point that there is a cap on fleet size for taxis and licensees must apply to the Board for approval of additional vehicles. The VTA argues that failing to impose caps on TNCs like Uber is “like writing a blank cheque” which would lead to the destruction of the taxi industry. The VTA maintains that TNS fleet sizes can be established by the Board based on geographic area and time of day to ensure that needs for peak periods and weekends are met without worsening congestion during daily rush hours. The VTA’s concerns about unlimited TNS fleet size are shared by other Submitters who expressed the concern that it would allow TNS to dwarf taxi fleet size and destroy the competitive balance in the transportation industry.

[68] The VTA and the Group of Prospective Ride-Hailing Drivers recommend a maximum TNS fleet size of 2,300 to 2,500 vehicles in the Lower Mainland. They say this would double the number of vehicles-for-hire on the road, expand consumer choice, limit congestion and pollution, and the economic displacement of taxi licenses. Fleet size can be increased if warranted by data once it has been collected and analyzed by the Board. Other Submitters (such as the Mayor of Burnaby) advocate that only those applicants who demonstrate the greatest commitment to corporate and social responsibility should be afforded larger shares of the market than other applicants. The Board notes that s. 28(1) does not contemplate preferential treatment of applicants based on these types of considerations.

[69] Many Submitters referenced a September 3, 2019, letter from the Minister of Transportation and Infrastructure to the Board Chair which they believe should guide the Board in its decision-making. That letter reads in part:

I am writing today to relay widespread concerns related to the introduction of ride hailing services that I believe the Board should be mindful of as it reviews incoming applications and data is collected. Please note this letter is intended to show support for the consideration of these concerns and should not be taken as a general policy directive.

I would like to acknowledge your insistence on the requirement to ensure any new services approved must “promote sound economic conditions in the transportation business”.

I appreciate that in making the policy decisions, you stated that while there are no limits on fleet size at this point, the board will monitor TNS performance data and may review fleet sizes when data is available. You also note that one of your policy

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principles is that negative impacts should be reviewed in a timely way to ensure the viability of the taxi industry alongside TNS services and that the taxi industry does not experience serious economic dislocation before a supply or cap decision occurs.

[70] This letter is therefore supportive of the concerns expressed about fleet size and the impact of TNS on taxis. It does not bind the Board and does not purport to do so. Had the Minister wanted to provide a general policy directive to the Board relating to the exercise of the Board's powers and duties under s. 6(5) of the Act, she could have done so. Instead, as the letter makes clear, consideration of the concerns identified "should not be taken as a general policy directive".

[71] Some Submitters cite the New York and California experience with unlimited fleet sizes and no minimum wage regulations. As a consequence of driver income and congestion concerns, New York has recently introduced fleet size limits and minimum wage regulations for TNS drivers and California has passed legislation recognizing ride hailing drivers as employees. These Submitters express concerns about regulating these areas after TNS are operational.

[72] In response, Uber makes the point that a TNS business model only works when there are sufficient drivers to satisfy demand. Artificial limits on supply lead to higher prices and longer wait times. Uber also says that, because there is currently no data to support what a limit on a TNS fleet size should be, imposing one at the outset would be arbitrary and not evidence based.

[73] The Board has determined that, at this point in time, it is not prepared to impose limits on fleet size because of the experiences of other jurisdictions with Uber's operations. The 2019 amendments to the Act and Regulation set out the regulatory framework under which TNS must operate in this province. The Board is given authority to establish TNS licence terms and conditions and has flexibility to adjust them by making any needed changes if circumstances warrant. TNS are required by their licences to provide data to the Board, which facilitates evidence-based decision-making. The Act also establishes fines and other penalties for non-compliance (such as suspension or cancellation of the TNSA).

[74] Unlike the situation in B.C., in the jurisdictions where concerns have been expressed about Uber, there typically was no protective regulatory framework in place governing TNS operations. Similarly, there was no data available to make evidence-based decisions, a problem that has been addressed by the legislative amendments to include data-providing requirements for both TNS and taxis as determined by the Board. As well, Uber's recent Canadian operations have been relatively trouble-free compared to those other jurisdictions.

[75] The Board recognizes the potential risks of an unlimited fleet size but also accepts that a flexible supply of TNS drivers and vehicles is part of the TNS business model. This is due, in part, to the fact that most drivers only operate part-time and in accordance with their own personal schedules and market incentives. Unlike taxis, which can be used to

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provide rides 24 hours a day, TNS vehicles are private vehicles that may be used for purposes other than offering rides for much of the day. As demonstrated elsewhere, at any given time a low percentage of TNS drivers will be actively providing service and this percentage varies based on demand.

[76] The Board has determined that the setting of caps on fleet size at the outset of TNS operations is not appropriate because of the specific nature of the TNS business model and the lack of an empirically substantiated basis for setting fleet size at this time. Additionally, and in contrast to many other jurisdictions, B.C. has required all TNS drivers to have a Class 4 driver's licence. The Board expects that this additional requirement will likely result in a slower ramp up of TNS operations than occurred in other jurisdictions.

[77] The TNS model should be given a fair opportunity to succeed. Although the Board is not limiting Uber's fleet size at this time, it will be closely monitored. If, as data is collected from Uber, other TNS and taxis, the Board sees there to be an evidentiary basis for the imposition of maximum fleet size as a term and condition of Uber's TNSA, it may impose one at that time, as provided for under s. 31 of the Act. In this way, supply and demand can be balanced with the aim of meeting public need for service, providing sound economic conditions, and addressing environmental concerns.

[78] The Board will impose rigorous data requirements on TNCs like Uber. The Act requires TNS operators and taxis to make this data available to the Board and this requirement will be enforced. A data warehouse at the Ministry of Transportation and Infrastructure is operational and ready to accept data and provide it back to the Board in a format suitable for analysis. While other regulators may have encountered challenges in imposing restrictions on TNS operators after they commenced operations, the Board has the statutory power to impose a cap on fleet size at a later date. As noted, under the Act, regulatory sanctions for any non-compliance can be imposed.

*b. Rates and other differences*

[79] Taxi rates are set by the Board and are based on a flag rate plus time and distance charges. They are consistent among companies in an operating area. Taxis do not compete on price. TNS use dynamic or variable pricing, with rates responding to changing demand circumstances. Dynamic or variable pricing is defined to mean

... a flexible approach to setting the cost of a product or service. Prices may vary to reflect changing market conditions or to incentivize the behaviour. For example, companies may implement dynamic pricing based on current market demand to increase supply, and regulators may implement dynamic pricing based on peak travel times to reduce congestion.

[80] "Surge pricing" is defined to mean a "type of dynamic pricing utilized by the TNS industry where prices vary to reflect changing market conditions by increasing in times of greater demand". Surge pricing is used by TNS in times of peak demand, when taxis must



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maintain their set metered rates. Some Submitters say this allows TNCs to “cherry pick” trips.

[81] The BCTA and two unaffiliated taxi companies believe that TNS will discourage taxi drivers from working full time which will mean the ability to provide services to seniors, accessibility patrons, WorkSafeBC and ICBC claimants would be adversely affected. This proposition was not further explained and appears to be speculative.

[82] Other Submitters make the point that TNS applicants are able to apply for a geographic operating area that goes from Whistler to Hope, whereas taxis are restricted to their historical operating areas, which they say is an obstacle to improving taxi services. They point to the 2018 Hara Report which recommends that taxis be permitted to move more freely across municipal boundaries. The Board notes that, in its consultations with taxis and TNCs in July 2019, stakeholders were advised that the Board would consider changes to taxi operating areas once it has taxi and TNS data following a one-year experience with TNS. The Board also noted that changes to taxi operating areas will have a significant economic impact on the taxi industry and consultation with taxi companies is required before this can be done. Currently, the Board does not have data to enable it to determine if, where and how taxi boundaries should change. Without this data, the Board is not able to make informed decisions about where any revised boundaries should be drawn.

[83] It was also proposed that approval should only be granted to applicants that voluntarily set their rates to mirror taxi rates. The Board notes that s. 28(1) does not contemplate preferential treatment of applicants based on this type of consideration.

[84] Imposing equivalent rates was the subject of consideration by the 2019 Select Standing Committee. Before the Committee, various presenters expressed conflicting views on the necessity for minimum and maximum rates for TNS operators. Select Standing Committee members recognized the prominent role of dynamic pricing in the TNS business model generally and concluded that dynamic pricing “should be encouraged” although they did not agree on recommending limitations on surge pricing. The Select Standing Committee ultimately recommended that a minimum per-trip price that is not less than the cost of public transit be imposed and that the Board monitor data to determine whether there is a need for implementation of a different base rate or cap on pricing.

[85] The Board considered the issue of rates both during its 2018 consultation with the taxi industry and in its development of TNS policies. In September 2018, the Board published an Industry Advisory which permits taxi companies to lower metered taxi fares in off-peak hours for app-hailed trips starting in September 2019. In 2019, the Board also published its Operational Policy that presumptively sets TNS rates at the taxi flag rate for each region, recognizing that rates must be considered on a case-by-case basis on each application.

[86] Like the Select Standing Committee, the Board accepts that dynamic pricing is central to Uber’s TNS business model. Dynamic pricing is the mechanism by which the



supply of vehicles is adjusted to respond to passenger demand. The intended effect of dynamic pricing is to reduce wait times at peak periods by incentivising drivers and to lower costs at off peak periods to encourage trips. The Board does not accept the submission that dynamic pricing is discriminatory in purpose or effect. The price of countless goods and services are dictated by market conditions. The use of up-front pricing will mean that passengers will be aware of TNS rates and will have the choice of accepting or declining the service, including at times of surge prices. Those who are unwilling or incapable of paying the surge prices will still have the option of using taxis or public transit.

[87] The Board concludes that allowing Uber to charge flexible rates and use dynamic pricing will encourage healthy competition in the passenger transportation industry and promote sound economic conditions in this province.

[88] Other areas which are said to create inequities between TNS and taxis include differences between insurance coverage (TNS insurance is cheaper and more flexible than taxi insurance), employer obligations (taxi licensees are required to pay their drivers minimum wages and provide statutory benefits such as holidays whereas TNC drivers are characterized as independent contractors), taxi cameras (taxis are required to have cameras in some areas whereas TNS are not), and taxis are required to provide services 24 hours a day every day of the week. Some other Submitters note discrepancies in how taxis and TNSs are regulated in the following areas: low emission vehicle requirements, vehicle age requirements, types of booking and fare payment, trade dress/identifiers inside and outside vehicles and provision of accessible services. Insurance rates are established by ICBC, not the Board. Some of the other inequities referred to are either established by taxi companies rather than the Board (such as the provision of service seven days a week, 24 hours a day) or were implemented at their request (such as the taxi camera requirement). Others, such as vehicle age and identifiers, are dealt with in the legislation.

[89] The Board has determined that, in order to address some of the expressed concerns, it will include licence terms and conditions setting Uber's rate at the Region 1 taxi flag rate and prohibiting the use of coupons or discounts to lower rates below the minimum. As with fleet size, the Board recognizes that it does not have data on the impact of TNS rates in British Columbia.

[90] The Board will also include licence terms and conditions requiring Uber to submit operational data (including driver earnings). Data parameters will be monitored by the Board and minimum rates can be adjusted in the future. Future decisions on TNS rates will be evidence-based as per the Data Requirements Rule established by the Board and by the licence terms and conditions. The Board notes that its finding is consistent with the recommendations established in the 2019 TNS Report to include data monitoring to assess whether minimum rates or caps needed to be set.

[91] To the extent Submitters advocate for equitable terms and conditions as between taxis and TNCs, the fact that there may be inequities is not a basis for rejecting a TNS application and nothing in the Act suggests this to be the case.

*c. Predatory Pricing*

[92] The threat of predatory pricing is one of the main concerns expressed by many Submitters. It is argued that Uber loses money because it does not charge passengers the cost of the service. Instead, incentives are paid to drivers and discounts and promotions are provided to its customers. This results in TNS drivers providing services below cost. Failing to charge the true cost of the service in order to drive competitors out of business constitutes predatory pricing. They also argue that Uber will use its deep pockets, low fares, and inflated supply of vehicles to destroy the taxi industry and other competition, which is contrary to the public interest.

[93] Many warn that predatory pricing by a company like Uber has the potential to wipe out the taxi industry in the Lower Mainland. Were that to occur, and Uber then withdrew from the region, there would be no passenger directed vehicle services available. It is argued that regulated rates should be imposed on TNS to protect the taxi sector and permit taxis to compete based on service quality. Many Submitters also say that allowing flexible taxi rates or enabling taxis to operate as a TNS is inadequate because the purpose of predatory pricing is elimination of competition and, in any event, it would not promote sound economic conditions.

[94] No evidence has shown that the taxi industry was destroyed following the introduction of TNS in any other jurisdiction. Moreover, the notion of predatory pricing must be distinguished from robust competition. Importantly, predatory pricing is regulated by the *Competition Act*, which makes the practice an offence. If a TNC like Uber engages in such prohibited practice in this jurisdiction, it can be held accountable under the *Competition Act*. Any person in possession of evidence to support such a practice is able to bring it to the attention of the federal Commissioner of Competition, who investigates predatory pricing complaints. The Board considers the regulation by the federal regime provides sufficient safeguards to prevent predatory pricing by Uber or to punish for it where it occurs.

### **Economic Impact on Taxis**

[95] A number of Submitters argue that Uber's business model will cause significant financial losses to taxi companies and drivers even though they provide the same service. They submit that ride hailing companies like Uber flood the market with drivers, and pay inadequate wages to their drivers, which in turn results in destructive competition to the taxi industry and loss of investment. They point to experiences in other jurisdictions, including Calgary, San Francisco, and New York, where the taxi market share has declined while trip volumes have expanded for TNS. Many Submitters warn of significant adverse consequences for taxi drivers, such as loss of income.

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[96] For example, one taxi company operating in Washington, D.C. (D.C. Yellow Cab) wrote that the impact of TNS was immediate. Dispatch and street hail trips declined 15% in one year and up to 40% within three years. Its fleet size serving the evening hours and after weekend bar closure market decreased from 120 cars in-service to 40 cars. There were 650 total vehicles in 2012. The current level is approximately 450 vehicles. During the same time the TNS fleet has grown to 120,000 vehicles registered to operate in the D.C., Maryland, and Virginia area.

[97] As well, many Submitters argue that licence holders who have made significant investments on their licence will lose those investments. They point to cities such as Toronto where licence-share values fell from \$360,000 to \$30,000 and New York where they fell from one million dollars in 2013 to less than \$200,000 in 2018. The Hara Report suggests that TNS operations in B.C. will reduce licence-shares to negligible values. Syd's Taxi *et al* estimate VTA members have third party loans with taxi licences as collateral to a value of about \$500 million. Some Submitters comment on the suicides that occurred in New York as a result of the loss of licence-share values.

[98] The market for licence shares and the impact on their values was discussed in the 2018 Hara Report. In the Executive Summary the point was made that shortages in transportation services in urban areas is evidenced by the development of private markets to exchange or lease scarce operating taxi licences for significant sums of money. In the discussion about the structure of the taxi industry, the Report provides an explanation of the taxi licence-share market:

... in urban areas, where taxis are in short supply, the right to operate these taxis is a valuable commodity. It is common practice for BC taxi companies to offer shares in the ... licence. These are termed licence-shares. These are private sales, not on the public record and not endorsed by the PT Board or the municipality ...

The revenue paid to the licence-share holder varies by region and can be substantial. In interviews, industry stakeholders report that the right to operate a taxi leases for as much as \$5,000 per month in Vancouver, \$2,000 per month in larger municipalities surrounding Vancouver, and much less elsewhere.

After the initial sale of the licence-share by the taxi company, there is an ongoing market in which licence shares may be bought and sold. These are also private sales, not on the public record. However, going rates of exchange will be commonly known in the industry. Day-shift licence-shares and night-shift licence-shares may have different prices.

Licence-share prices are influenced by uncertainty about the future. Given the expected entry of TNCs like Uber and Lyft into the market, the future revenue levels of taxis remain uncertain. Thus, the present value of licence-shares has fallen substantially, even though the current fees paid to holders continue to flow. Like

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other investments, licence-share value is also influenced by prevailing interest rates and other general economic conditions.

[99] Many studies and submissions were provided to the Board to demonstrate the potentially negative economic effect of TNS on the taxi industry, including:

- A study addressing the impact of TNS on the taxi industry in New York. It documents a close to 50% reduction in fare trips by yellow cabs, between 2012 and 2019 which it says was “incontrovertibly the result of ride hailing companies”. Between 2015 and 2019, daily rides by yellow cabs declined by 155,000 per day while rides in TNS increased by 606,000 rides per day. The author states that most of the TNS growth occurred outside of the Manhattan. In 2015, yellow cabs’ share of fare trips was 86% and this declined to an estimated 45% of fare trips in 2019. The author stated the shrinkage is “almost certainly the pronounced differences in convenience and certitude between street hailing and app-based phone hailing”.
- A study documenting the rise in TNS trips at American airports between 2014 and 2018. The share went from less than 10% of paid trips to over 70% of paid trips in that timeframe. In San Francisco, average taxi trips per vehicle fell from 1,400 in 2012 to close to 400 trips in 2014, in a linear descent. Figures provided for Seattle show a linear decline in taxi trips between 2015 and 2017, albeit not as dramatic as in San Francisco. Some data is also provided for Washington D.C., the San Francisco Airport, and New York City. The author states that upon the entry of TNS into a market, the market share of taxi trips typically declined and the total number of vehicle-for-hire trips increased. He states that there is a “reduction in the total number of taxi trips between 15% and 45% dependent on the maturity of the taxi market, and the extent to which TNCs have developed their services”. The author notes that with TNS introduction to the B.C. market, there may be a loss in medallion values, loss of business earnings, and reduced driver earnings. Other economic impacts include a lessening of service levels, company closures and consolidated dispatch.
- A submission to the Select Standing Committee said that when TNS were introduced in Calgary, taxi market share decreased, and the total number of taxi trips declined. Another made by Benn Proctor states taxi fares may decline as much as 15% to 25% as a result of TNS operations.
- The 2018 Hara Report indicates that revenue per taxi will fall if alternate services such as TNS draw customers away from taxi use.

[100] Many Submitters are concerned that Uber will use its deep pockets, low fares and inflated supply of vehicles to destroy competition, including the taxi industry. They say this destructive competition is contrary to the public interest and to the promotion of sound economic conditions. For this reason, they believe that the regulation of prices charged is the minimum required to protect the public interest in sound economic conditions. Uber

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counters by saying that its services will enable people to avoid the costs of car ownership while maintaining the same convenience, provide riders with the chance to pay for transportation only when they need it and only to the extent they need it, and connect riders to public transit.

[101] We live in a market economy and competition is the norm in marketplaces. The prospect of taxis losing market share to TNS and experiencing declines in absolute levels of ridership can occur as a natural consequence of marketplace adjustment. While the Board is sympathetic to the prospect that taxi licence holders may experience a drop in their licence-share value, it has never sanctioned the market for such shares, nor does it have the authority to do so. Taxi licensees created the market and invested in licence shares or used them as collateral. As with any investments, there are associated risks and impacts. The introduction of ride hailing has been a point of public discussion and consultation for approximately seven years. As a consequence, there has been ample notice regarding the possible introduction of ride hailing in this province.

### **Impact on Transit Riders**

[102] Some Submitters say if Uber is permitted to operate in British Columbia, the transit industry would be “decimated”. They point to the information provided by Steven Hill to the Select Standing Committee on Crown Corporations which culminated in the 2019 TNS Report, and a November 14, 2018 paper entitled “Understanding the Recent Transit Ridership Decline in Major US Cities: Service Cuts or Emerging Modes?” The authors of this paper say their research suggests that “past research findings that TNCs and other emerging modes either increase or do not affect transit ridership ... are likely incorrect”. They go on to say:

... Our results show that the introduction of bike share in a city is associated with light and heavy rail ridership, but a 1.8% decrease in bus ridership. Our results also suggest that for each year after TNCs enter a market, heavy rail ridership can be expected to decrease by 1.3% and bus ridership can be expected to decrease by 1.7%. This effect increases with time as TNCs increase in use. The effect of TNCs is substantial – after 8 years this would be associated with a 12.7% decrease in bus ridership.

While bike share is a sustainable mode of transport, the consequences of a shift from public transit to TNCs go beyond the effect on transit agencies. Recent research suggests that this shift results in a large increase in traffic congestion ..., which may result in most travelers being worse off.

[103] Progressive Intercultural Community Services maintains that economists and transportation agencies have noted that public transit usage declines about 10 percent on the introduction of ride hailing. It suggests that integration of public transit into Uber’s App would allow customers to incorporate public transit into their mobility plans such that ride hailing could be used for the “first or last mile” of their travel. The City of Burnaby agrees

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and says that TNS mobile apps and service models that propose to integrate with public transit should be prioritized over those that do not.

[104] In response, Uber points out that many public transit systems have chosen to partner or collaborate with it in the United States and that transit ridership is increasing in many cities where Uber is available. Uber also references statistics from Montréal which recorded a record number of transit riders last year. Additionally, the 2018 Hara Report observes that “a 2018 study of four United States cities found that the availability of [TNS] was associated with a net reduction in vehicle ownership and an increase in public transit usage”.

[105] The 2018 Hara Report, in the discussion on the transformative implications for the economy, notes that with higher reliability and transportation service volume, people no longer worry about being able to secure transportation home after enjoying a time at a restaurant or bar. It finds:

...More recently, a 2018 study of four United States cities found that the availability of TNCs was associated with a net reduction in vehicle ownership and an increase in public transit usage.

The long-term impact of expanded vehicle-for-hire on public transit is still playing out. However, there is the potential for significant net gains for households, the economy, and the environment.

Separately, greater availability of vehicles for hire will also enable more cost-effective provision of public transit under many circumstances. This includes the provision of accessible transportation, as well as transportation on low-volume routes and better service at route endpoints (the “last mile”).

[106] The Board finds that there is not a sufficient evidentiary basis for finding that approving Uber’s Application will adversely affect public transit ridership in this province. Data will be collected on the impacts of TNS and analyzed by the Board. The Board will also engage in discussions about that data with TransLink and B.C. Transit on a regular basis.

### **Increased Congestion and Greenhouse Gas Emissions**

[107] Most Submitters maintain that increased traffic congestion and greenhouse gas (“GHG”) emissions arising from additional TNS vehicles on the road will result if Uber’s Application is granted. The Minister, in her September 3, 2019 letter to the Board, also expressed concerns about a potential increase in congestion which she suggests “should factor heavily into future decisions around fleet size limits”. Mention was also made of a 2007 Ministerial Policy Directive about the government’s GHG reduction policy. As a result of this Directive, the Board established an Eco-Friendly Taxi Policy for Metro Vancouver and the Capital Regional District which sets a requirement that non-accessible taxi vehicles



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be eco-friendly. This was later extended to sedan limousines and to other areas of the province.

[108] The VTA and other Submitters argue that the Board should support measures to reduce GHG emissions when considering Uber's application. Growth in congestion attributable to TNS, it is argued, will make it difficult to meet the government's GHG emission target reductions of 40% by 2030.

[109] Various studies were cited, including:

- A study about traffic congestion in San Francisco which concluded that TNS are the largest contributor to vehicle hours of delay, increased vehicle miles travelled and reduced speed of vehicle movement. The study concluded that the contribution of TNS volumes and TNS pick-ups and drop offs were the largest factor in the city's significant congestion growth and were greater than the combined effect of population growth, employment growth and network changes.
- A study of the impact of ride hailing on the future of American cities states that even with highly optimistic assumptions about shared ride adoption, TNS growth adds substantially to traffic in major cities. Mileage increases because most riders are shifting from transit or high occupancy vehicles, without any reduction in single occupancy vehicle use. Another factor that increases mileage is deadheading between passenger trips. Traffic flow interruptions and the resulting impact on congestion result from the increase in passenger pick-ups and drop offs. Without public policy interventions, traffic congestion reduces the economic and social quality of life in urban areas.
- A study on the impacts of vehicles for hire in Manhattan estimated that, between 2015 and 2018, average daily trips by yellow cabs and TNCs combined increased by 85,000. This resulted in an estimated slow-down of between 4.6% and 7% in travel speed and a significant increase of 28,000 hours each day spent by people travelling in cars. For every additional minute that a vehicle is driven in the central vehicle business district, this slows down other vehicles, so their collective travel is extended by about two minutes.

[110] Uber cites a 2019 study which the City of Toronto completed in partnership with the University of Toronto's Transportation Research Institute. The study looked at travel time trends in downtown Toronto over a 1 ½ year period using TNS trip data and data on travel times collecting using Bluetooth sensors deployed across major streets in the downtown core. While TNS trips increased by 80,000 trips per day city-wide, the study reports that minimal changes in travel times were seen aside from regular month-to-month variation.

[111] Traffic congestion is a complex issue, particularly as it relates to the Metro Vancouver area, and there are a number of contributing factors. The 2018 TNC Report emphasized that, without data, anticipating the effects that TNS may have on traffic congestion in British Columbia is challenging. It stressed the importance of collecting and

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monitoring traffic data and continuing to review the experiences of other jurisdictions for solutions to any traffic or congestion-related problems arising from the introduction of TNS.

[112] The Board has decided that it will monitor congestion in busy areas of TNS operations. Baseline data will be determined and changes in congestion as a result of TNS will be monitored. If that data provides an evidentiary basis for finding TNCs are associated with increased congestion, it will take appropriate steps at that time (such as caps on fleet size).

### **Increased Fatalities and Accidents**

[113] The VTA argues that the increased activity on the public roadways from TNS leads to more car accidents, and more traffic fatalities, noting that the number of fatal car accidents in the U.S. rose in 2011 for the first time since the 1980's. Professor John Barrios of the University of Chicago, who has been studying this issue, found that the arrival of TNS is associated with an increase of approximately 3% in the number of fatalities and fatal accidents, both for passengers and pedestrians. In the U.S., that is about 1,000 people.

[114] Uber points out that the most recent year with available data in Canada (2017) saw decreases in fatalities and collision data. According to Transport Canada, fatal collisions and personal injury collisions were down, and the number of fatalities and serious injuries decreased (the latter by over 7%). The number of fatalities on a per-population and per-kilometer basis were the lowest on record. Uber also contends that Professor Barrios' working paper has been challenged by independent economist Joe Cartwright who points out rural areas in the United States, which essentially do not have ride hailing services, saw even bigger increases in crashes than cities with ride hailing. Uber points to another article which "found that the deployment of Uber services in a given metropolitan country had no association with the number of subsequent traffic fatalities ...".

[115] Although there is some evidence that increased activity from TNS leads to more accidents and fatalities in the United States, there is no evidence that this is the case in the Canadian context. Uber's Application will not be denied on the basis of this factor.

### **Treatment of TNS Drivers**

[116] Many Submitters say that TNS drivers typically earn less than minimum wage, receive no benefits, and lack the ability to unionize. BCFED and others refer to, among others, a study in the U.S. which is said to provide evidence that the introduction of ride hailing has led to significant declines (53%) in the earnings of drivers in the transportation sector. Two other American studies are cited, both of which show low wages for TNS drivers. One of these studies, by Mishel, estimates the driver "wage" of Uber operating in other jurisdictions, when adjusted, to be comparable to employee wages, averages only \$9.21 per hour.

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[117] The VTA, Syd's Taxi *et al* and others say that Uber improperly characterizes TNS drivers as independent contractors rather than employees to immunize itself from the statutory responsibilities placed on employers. The VTA argues that the Board should establish appropriate terms and conditions (such as a minimum wage) for TNS drivers.

[118] Uber maintains that such matters are outside the jurisdiction and scope of the Board's review. It further argues that ride hailing provides benefits and opportunities to drivers by creating a new market for work. Drivers are afforded the flexibility to set their own schedules. Uber cites a study by Alan Krueger, a Princeton economist and Jonathan Hall, an Uber employee, which observed that Uber's drivers generally receive higher earnings per hour before vehicle expenses than taxi drivers. Uber states that as long as their drivers' costs are less than \$6.79 per hour, net earnings are greater than those earned by taxi drivers.

[119] On November 28, 2019, the VTA asked the Board to take immediate steps to ensure it did not grant Uber's Application on the basis of a complaint filed by the United Food and Commercial Worker's Union seeking declarations that: (a) it was violating ss. 6(1) and (3) of the *Labour Relations Code*; and, (b) its drivers are employees for purposes of the *Code*. A similar request was made by Syd's Taxi *et al* on December 6, 2019. The Board declined these requests, as it did not consider the fact that a complaint had been filed with the Labour Relations Board to constitute a sufficient basis for declining to consider a licence application made under the Act.

[120] The Board will require Uber, as a term and condition of its licence, to provide quarterly information on drivers' earnings and hours in a format prescribed by the Board. The Board can publish this information. If data shows that earnings are low, the Board can consider whether rate or fleet change measures should be taken.

### **Wheelchair Accessibility**

[121] The final concern expressed by many Submitters relates to the maintenance of accessible transportation. There are concerns that, once TNCs are operational in this province, there will be a reduction in wheelchair accessible services and increased wait times for those requiring them. The Submitters note that Uber does not provide wheelchair accessible service to customers requiring accessible vehicles. The City of Richmond recommends that TNS vehicles have the same accessibility requirements as taxis.

[122] Uber maintains that it has facilitated barrier-free transportation for passengers with disabilities in other jurisdictions and referred to the voluntary per-trip accessibility surcharges which it has agreed to pay in other cities to ensure wheelchair accessible services. Uber states that it has experience facilitating wheelchair accessible vehicle trips in Toronto where such vehicles can be requested through the Uber app. It points to other actions it has taken to ensure effective service for the deaf and hard of hearing community and the blind and visually impaired community.

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[123] The Regulation requires Uber to pay a \$0.30 per trip fee to the government to be used for accessibility programs, which was a recommendation made in the 2019 TNS Report to offset the fact that TNCs do not provide wheelchair accessible services. The Board considers this to be sufficient. This approach was also taken in Ottawa, Winnipeg and Waterloo and was also an option recommended in the 2018 TNC Report.

### **Summary**

[124] Many of the factors identified by various Submitters opposing Uber's Application are overlapping and largely based on experience with TNS generally or Uber specifically in other jurisdictions. From the Board's perspective, it bears emphasizing that the TNS amendments to the Act have been crafted with these other jurisdictional experiences and "lessons learned" in mind. In most jurisdictions where concerns have been raised about Uber, there was no comparable regulatory framework in place governing TNS. The TNS amendments not only require TNS to provide data to the Board (such as data relating to wait times, distribution of trip routes, trip refusals, driver earnings and hours, and accessible/non-accessible trip statistics), but they also provide the Board with flexibility to adjust TNSA terms and conditions where the data collected reveals the need to do so. As well, the Act establishes high fines and penalties associated with non-compliance.

[125] The Board is satisfied: (a) there is a public need for the service proposed; (b) Uber is a fit and proper person and has the capacity to provide that service; and, (c) properly regulated, Uber's application promotes sound economic conditions in the passenger transportation industry in the province. The Board has taken steps in crafting the terms and conditions of Uber's licence to ensure that it is able to monitor and assess Uber's operations as they unfold and to respond where data establishes the necessity of a regulatory response.

## **5. Conclusion**

[126] For the reasons set out above, the Board approves Uber's Application with the terms and conditions established in Appendix 1 (general terms and conditions), Appendix 2 (minimum rates), Appendix 3 (data requirements) and Appendix 4 (supplementary terms and conditions respecting TNSA apps). All four appendices form part of Uber's licence.

[127] As a term or condition of this licence provided by the Board, you must provide the Registrar any information and data that the Board or the Registrar may request. Information on the current data requirements and submission process are specified in the Trip Data Submissions Guide and Specifications document available on the [Passenger Transportation Branch website](#). At a minimum, weekly data submissions are required. Completed submissions are due within five business days of the end of the period that the data covers.

<b>Signature of Panel Chair</b>	
<b>Date</b>	
<b>Entered &amp; Sealed by the Director</b>	

## Appendix 1

### Terms and Conditions

Uber Canada Inc.  
dba Uber

Special Authorization	Transportation Network Service Authorization
<b>Terms &amp; Conditions of Licence</b>	
<p>“Board” means the Passenger Transportation Board  “Registrar” means the Registrar, Passenger Transportation</p>	
<b>A. Legislative Requirements</b>	
Vehicle Identifier	<p>Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is:</p> <p>(a) issued to the licensee by the Registrar; or</p> <p>(b) authorized by the Registrar to be issued by the licensee.</p>
Data Requirements	<p>The licensee must provide to the Registrar any information, including personal information, and data that the Registrar or Board may require, and as may be set in any applicable supplemental terms and conditions and orders of the Registrar or Board, within time periods that the Registrar or Board may require, which may include, without limitation, information and data set out in section 28(5) (a) to (c) of the <i>Passenger Transportation Act</i>.</p>
Hailing	<p>Motor vehicles may be hailed under this authorization only through the use of the transportation network services approved under this authorization.</p>
<b>B. Passenger Transportation Vehicles</b>	
Accessible Passenger Directed Vehicles	<p>An Accessible Passenger Directed Vehicle must be operated in accordance with the <i>Motor Vehicle Act Regulations</i> including Division 10 (<i>motor carriers</i>) and Division 44</p>

	<i>(mobility aid accessible taxi standards)</i> , as amended from time to time, and in accordance with any other applicable equipment regulations and standards.
Apps	Fares and payments must be calculated and paid for through the use of an online platform that is in compliance with applicable supplemental terms and conditions, policies, standards and orders of the Board.  Apps must also comply with supplemental terms and conditions policies, standards or orders of the Board.
<b>C. Originating Areas &amp; Other Requirements</b>	
Originating Area:	Transportation of passengers may originate from the following Originating Areas:  <input type="checkbox"/> Region 1 – Lower Mainland, Whistler
Destination Area:	Transportation of passengers may terminate at any point in British Columbia and beyond the British Columbia border when engaged in an extra-provincial undertaking.
Geo-Fencing	TNSs operating in the City of Vancouver (in Region 1 above) must geo-fence off the areas listed below in (a) to (c) on cruise ship days to prevent drivers from picking up passengers:  (a) Canada Place Way between Howe Street and Burrard Street; (b) Howe Street between Canada Place Way and Cordova Street; and (c) Burrard Street between Canada Place Way and Cordova Street.  The Board will post a link to the city’s cruise ship schedule, when available, in March or April of any year.
Fleet Size	There are no initial limits on TNS fleet size at this time. The Board will monitor TNS performance data and other relevant data and may review fleet sizes when data is available.
Driver Earnings	Individual driver earnings and hours worked must be tracked, and this data must be provided within the time

	frames set and in the manner required by the Board.
Transfer of a licence:	This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .
<i>Liquor Control and Licensing Act</i> <i>Cannabis Control and Licensing Act</i>	The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .



## Appendix 2

### Minimum rates

<b>TNS Operating Region</b>	<b>Regional Districts</b>	<b>TNS Minimum Rates</b>
1. Lower Mainland, Whistler	Metro Vancouver Fraser Valley Squamish-Lillooet	\$3.35

These rates include GST

The use of coupons or discounts by TNSs to lower rates below the minimum rate is prohibited

## Appendix 3

[Data Requirements](#), September 3, 2019, as amended from time to time.

### I. Purpose

To establish data requirements for licensees who hold, or are deemed to hold, a Passenger Directed Vehicle Authorization (PDVA) or a Transportation Network Services Authorization (TNS).

### II. Legislation

Section 28(5) of *Passenger Transportation Amendment Act* states that –

The board must establish as a term or condition of a passenger directed vehicle authorization or transportation network services authorization that the licensee must provide to the registrar any information, including personal information, and data that the registrar or the board may require, including, without limitation, information and data respecting

- (a) the motor vehicles, and the drivers of those motor vehicles, operated under the authorization,
- (b) the availability of the motor vehicles, at given points in time, for hailing by methods permitted under the authorization, and
- (c) trips taken by passengers transported in accessible passenger directed vehicles or trips taken by passengers transported in non-accessible passenger directed vehicles, or both, including
  - (i) trip rates,
  - (ii) wait times,
  - (iii) pick-up times and locations, and
  - (iv) drop-off times and locations.

The Passenger Transportation Regulations, which will be in force on September 16, 2019 states:

32 (1) In this section:

**“amending Act”** means the *Passenger Transportation Amendment Act, 2018*, S.B.C. 2018, c. 53;

**“pre-existing licence”** means a valid licence that, on September 15, 2019, authorizes one or more motor vehicles to be operated as passenger directed vehicles.

(2) It is a term and condition of every pre-existing licence that the licensee must provide to the registrar any information, including personal information, and data that the registrar or board may require for the purposes of

- (a) more effectively bringing the amending Act into operation, or
- (b) addressing transitional difficulties encountered in bringing the amending Act into effect.

### III. Applicability

The data requirements in this document apply to:

- (a) a licensee with a Passenger Directed Vehicle Authorization (PDVA) whose licence expressly authorizes motor vehicles to be hailed from the street;
- (b) a licensee with a PDVA whose licence does not permit hailing and flagging from the street; and
- (c) a licensee with a Transportation Network Services Authorization (TNSA).

### IV. Definitions

In this document:

- “**act**” means the *Passenger Transportation Act*, as amended on September 16, 2019;
- “**board**” means Passenger Transportation Board;
- “**data requirements**” means the requirements set out in section V of this document;
- “**fare**” means the total transportation charges and taxes for a trip including any surge- or variable-pricing adjustment and excluding any gratuities;
- “**limousine service**” means a service provided by a licensee required in section III (b) of this document; S.B.C. 2018, c. 53;
- “**licence**” means a licence issued under the act and includes a Passenger Directed Vehicle Authorization or Transportation Network Services Authorization;
- “**licensee**” means the holder of a valid licence and to which this rule applies pursuant to section 1 of this document;
- “**registrar**” means the Registrar of Passenger Transportation appointed under the act;
- “**taxi service**” means a service provided by a licensee referred to in section III (a) of this document;
- “**TNS**” means a Transportation Network Service as defined in the act.

### V. Data Requirements

The board requires licensees to provide the following information:

#### 1. Licensee Information

- a. User Id number
- b. Application Id number

- c. Passenger transportation (PT) licence number
- d. National Safety Code (NSC) number

2. Trip and Shift Classification

- a. Service type – taxi service, TNS service, limousine service
- b. Start date of submitted trip data
- c. End date of submitted trip data
- d. Data and time of file creation

3. Shift, Driver and Vehicle Information

- a. Vendor shift ID
- b. Vehicle registration number
- c. Province/State in which the vehicle is registered
- d. Driver’s licence number
- e. Province/State in which the driver is licenced
- f. Start of driver’s shift or login into the dispatch system
- g. End of driver’s shift or logout from the dispatch system

4. Trip Data

- a. Shift ID
- b. Trip ID
- c. Trip type (accessible, conventional, pre-booked, service animal)
- d. Trip status (Completed, cancelled by requester, no-show of requester, refused by driver)
- e. Hail type (flag, phone, interactive voice response request (IVR), application-based request (app), request via website)

5. Trip Initiation

- a. Date/Time when the trip request was initiated or assigned.
- b. Time elapsed from call initiation to call answer by the dispatcher or IVR system (for IVR and phone hails)
- c. Degrees latitude of the requested pickup location
- d. Degrees longitude of the requested pickup location

6. Trip metrics

- a. Trip duration
- b. Trip distance

c. Fare of the trip

7. Pick-Up and Drop-off times and locations

- a. Date and time of arrival at the requested passenger pick-up and drop-off location
- b. Date and time of departure from the requested passenger pick-up and drop-off location
- c. Degrees latitude of the requested passenger drop-off location
- d. Degrees longitude of the requested passenger drop-off location

## Appendix 4

[Supplementary Terms & Conditions Respecting TNSA Apps](#), September 16, 2019, as amended from time to time.

### A. Purpose

To establish supplemental terms and conditions of licence about apps provided or used by a licensee with a transportation network service authorization (TNSA) to provide transportation network services (TNS).

### B. Legislation

The *Passenger Transportation Act* defines transportation network services (TNSs) as services “respecting the connection of drivers of passenger directed vehicles with passengers who hail and pay for the services through the use of an online platform.”

Section 28(3) states:

The board may establish terms and conditions that apply to a special authorization included in a licence, if issued, including, without limitation, terms and conditions respecting any of the following:

(a) equipment or technology that must be installed, used or carried on or in motor vehicles operated under the authorization and the inspection, testing, adjustment, display and use of that equipment or technology;

....

(d) if the licence is to include a transportation network services authorization,

(i) information that must be displayed or carried on or in the motor vehicles or made available to passengers through the use of the licensee's online platform, or both.

### C. Scope

1. These terms and conditions encompass:

(a) software applications (apps) that a licensee, driver or passenger uses to provide or access TNS; and

(b) information transmitted, processed, stored or displayed using an app described in (a) above.



## D. Definitions

2. For the purposes of these terms and conditions:

“**act**” means the *Passenger Transportation Act*;

“**app**” means application software that provides a driver or passenger with access to the TNSA licensee’s online platform;

“**board**” means Passenger Transportation Board;

“**estimated fare**” means a specific fare or range of fares calculated before a ride starts, presented to the passenger as a quote or estimate and which may be replaced by a fare calculated at the end of the ride based on actual travel time and actual travel distance;

“**fare**” means the total transportation charges and taxes for a ride including Any variable-price adjustment and excluding any gratuities;

“**geo-fencing**” means a location-aware application that has been programmed with geo-graphical boundaries or areas to limit the pick-up or drop-off of passengers to locations authorized in a licensee’s terms and conditions of licence;

“**licence**” means a licence issued under the Act that has a TNSA;

“**licensee**” means the holder of a valid licence to which these terms and conditions apply pursuant to section 1 above;

“**registrar**” means the Registrar of Passenger Transportation appointed under the Act;

“**up-front fare**” means a firm fare that is calculated before a ride starts and paid when the ride ends.

## E. Transportation Network Services

### TNS App Requirements

3. Licensees with a transportation network services authorization (TNSA) must, always:

- (a) provide passengers and drivers with an app that functions in accordance with requirements in these supplemental terms and conditions; and
- (b) maintain care and control of the apps which includes app functions, operation and performance.

## Basic App Capabilities & Standards

4. Apps must function in a way that allows passengers to hail and pay for a single ride with the same app.

5. Apps must function accurately and reliably.

6. Apps provided by a TNSA licensee must be capable of:

- (a) connecting drivers and passengers through its online platform;
- (b) calculating fares that account for:
  - (i) minimum rates;
  - (ii) distance;
  - (iii) time;
  - (iv) other fees and taxes that may be applicable; and
  - (v) dynamic pricing variables that may be applicable;
- (c) processing the passenger's electronic payment and transmitting an electronic receipt;
- (d) complying, in conjunction with the online platform, with the Registrar and Board's "data requirements"; and
- (e) other functions as necessary to comply with these terms and conditions.

7. Apps:

- (a) must display and transmit information in English; and
- (b) may display and transmit information in other languages.

8. The app must comply with World Wide Web Consortium (W3C) standards for mobile accessibility.

## Shielding of Personal Information

9. The app:

- (a) may collect information that identifies a passenger or driver or their contact information (such as first and last name, phone number and email address) and may only use the information as set out in the *Personal Information Protection Act* of B.C.;
- (b) must, shield the following information so information for the passenger is not given to the driver and information for the driver is not given to the passenger:
  - (i) Last name of the driver and passenger;
  - (ii) Phone number of the driver and passenger; and
  - (iii) Email address of the driver and passenger.

## **Accessibility**

10. The app may only request, collect or record personal information about a health condition, disability, or accommodation request of a customer or driver when:

- (a) the provision of that information is voluntary and at the discretion of the app user;
- (b) the personal information that an app-user provides is protected by a password or biometric safeguard that the user may activate or be required to use; and
- (c) the app enables the app-user to change or delete personal information in the app, or provides information to the user on how to change or delete personal information.

11. The app may give the customer the option to receive communication by voice communication or a digital text format that is compatible with third-party accessibility apps.

12. If the licensee operates one or more accessible vehicles in its fleet, its app must give the passenger an option to request a wheelchair accessible vehicle for:

- (a) the transportation of a person in a wheelchair or mobility device; and
- (b) purposes other than transporting a person in a wheelchair or mobility device.

## **Geo-Fencing**

13. The app must have geo-fencing capability.

14. The app must only connect drivers with passengers for pick up within the originating area and drop off within the destination area that is authorized in the licensee's terms and conditions of licence.

## **Advance Fare Information**

15. Based on travel distance and time information that is available when a passenger requests a ride, and before the passenger agrees to a ride, the app must present the passenger, in a prominent manner, either:

- (a) an estimated fare; or
- (b) an up-front fare.

16. When an app presents an estimated fare to a passenger, the app must clearly indicate that:

- (a) the fare is an estimate only; and,

(b) the passenger will be charged based on travel time or distance, or both during the ride.

17. After a passenger has agreed to pay an up-front fare, the app must, at the end of the ride, charge the up-front fare unless:

(a) a change is made to the requested destination or the ride's estimated time or distance diverge by 5% or more from the actual time or distance of travel; and  
(b) the app, before the end of the ride transmits the following information to the passenger:

- (i) notice that the up-front fare has been suspended or replaced;
- (ii) the new method and applicable rates for calculating the fare;
- (iii) contact information or an in-app channel to get more information about the change, or to dispute the change.

### **Pre-Ride Information for Passengers**

18. The app must transmit to the passenger the following information before the passenger enters the TNS vehicle:

- (a) the driver's first name;
- (b) the driver's photo;
- (c) the vehicle make, model, colour and BC licence plate number;
- (d) a prominent notice that the above-noted information is important for passenger safety.

### **Information Records**

19. The app must record, at the time the TNS Vehicle is hailed through the app, the following information:

- (a) the time, date and location where and when the passenger is to be picked up;
- (b) the destination where the passenger is to be discharged;
- (c) driver's first name, photo and a unique identifying number for the driver; and
- (d) the make, model, year, colour and British Columbia licence plate number of the TNS vehicle.

### **GPS Tracking**

20. The app must provide real-time GPS tracking and show the passenger the TNS vehicle while travelling to pick up the passenger or while carrying the passenger.

### **Payment Processing Options**

21. A licensee must ensure that drivers using the app:

- (a) only accept payment for a ride that is processed through the app that the passenger used to hail the ride; and
- (b) do not accept payment by cash or by any method or system of payment that is separate from the app.

22. The app may only process payment for a gratuity when the gratuity is at the discretion of the passenger.

### **Electronic Receipt**

23. The app must, at the end of the ride, immediately provide to the passenger an electronic receipt containing:

- (a) the passenger's first name;
- (b) the driver's first name;
- (c) the time and date that the TNS vehicle service was arranged;
- (d) the location and time where and when the passenger was picked up;
- (e) the location and time where and when the passenger was dropped off;
- (f) fare information that includes separate line items for:
  - (i) charges for the ride;
  - (ii) GST included in the fare; and
  - (iii) fare including GST; and
- (g) a separate line item or separate receipt that identifies gratuities the passenger paid for a ride.

### **Driver & Passenger Ratings**

24. The app must allow passengers and drivers to rate one another after a ride.

### **Service Issue Resolution**

25.1 The app must provide passengers with information and a means of contacting the TNSA licensee through the app, by other electronic means or by phone with a number that is toll-free in BC, to:

- (a) address disputes;
- (b) request and obtain lost items; and
- (c) address other service issues or complaints.

25.2 The app must provide the passengers with the e-mail of the Passenger Transportation Branch of the Ministry of Transportation and Infrastructure and indicate complaints not satisfactorily resolved through 25.1 may be e-mailed to the Branch.

### **Access for Investigators**

26. The licensee must provide the Registrar and police a method to access the app and locate a driver or vehicle operating on the licensee's online platform.

### **F. Dates**

Effective Date:  
September 16, 2019