

# Licence Application Decision

(Transportation Network Services - New)

<b>Application #</b>	6992-19TNS	<b>Applicant</b>	KABU-Ride Inc.
<b>Trade Name</b>	KABU		
<b>Principals</b>	Yi XIONG		
<b>Address</b>	Suite 2600, - 1066 West Hastings Street, Vancouver British Columbia, V7A 5J9		
<b>Primary Areas of Operation</b>	Region 1 – Lower Mainland, Whistler Region 2 – Capital Regional District Region 3 – Vancouver Island, excluding the Capital Regional District Region 4 – Okanagan – Kootenay-Boundary-Cariboo Region 5 – BC North Central and Other Regions		
<b>Publication of Application</b>	September 18, 2019		
<b>Application Summary</b>	New Special Authorization: Transportation Network Services Authorization (TNSA)		
<b>Deadline for Submissions</b>	October 3, 2019 (original submissions) November 20, 2019 (2 <sup>nd</sup> set of submissions)		
<b>Submitters (and representatives)</b>	<ul style="list-style-type: none"> <li>• 457562 BC dba Osoyoos Taxi and Oliver Taxi</li> <li>• BC Federation of Labour (“BCFED”)</li> <li>• BC Taxi Association (“BCTA”)</li> <li>• Chilliwack Taxi Ltd.</li> <li>• City of Burnaby</li> <li>• City of Delta</li> <li>• City of Richmond               <ul style="list-style-type: none"> <li>○ Mayor Malcolm D. Brodie – Council Resolution</li> <li>○ Cecilia Achiam – General Manager of Community Safety</li> <li>○ Mayor Malcolm D. Brodie – Unlawful ride hailing</li> </ul> </li> <li>• Dr. Jonathan Brock</li> <li>• Emerald Taxi Ltd.</li> <li>• Kalum Kabs Ltd.</li> <li>• Kami Cabs Ltd.</li> <li>• Kater Technologies Inc. (“Kater”)</li> <li>• Dr. Martin Braun</li> <li>• MLT Aikins LLP</li> <li>• Prince George Taxi Ltd.</li> <li>• Salmon Arm Taxi (1978) Ltd</li> </ul>		

	<ul style="list-style-type: none"> <li>• SBDS Enterprises Ltd. dba Star Taxi</li> <li>• Williams Lake Taxi Ltd. and Town Taxi (1987) Ltd.</li> <li>• Yellow Cabs (Kamloops) Ltd.</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., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Ltd., White Rock South Surrey Taxi Ltd., Surdell Kennedy Taxi Ltd., A.C. Taxi Ltd., Swiftsure Taxi Co. Ltd., Jatinder Gill dba Oceanside Taxi, Comox Taxi Ltd., Duncan Taxi Ltd., Sunshine Coast Taxi Ltd. (“Syd’s Taxi <i>et al</i>”)</li> <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>	February 7, 2020
<b>Panel Chair</b>	Catharine Read

## 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 s. 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 vehicles). 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 KABU-Ride Inc. (KABU) applied for a passenger transportation licence with a special authorization in the form of a TNS authorization (“TNSA”) to provide ride hailing services in Region 1 (Lower Mainland, Whistler), Region 2 (Capital Regional District (CRD)), Region 3 (Vancouver Island, excluding CRD), Region 4 (Okanagan, Kootenay, Cariboo) and Region 5 (BC North Central and Other Regions of BC) (the “Application”). In accordance with s. 26 of the Act, the Registrar of Passenger Transportation forwarded KABU’s Application to the Board for determination.

[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 licence and establish licence terms and conditions, as provided for in ss. 28(3) to (6).

[6] For the reasons set out below, the Board has approved KABU’s Application in whole on the basis that it meets the requirements under s. 28(1) of the Act.

## **2. Procedural Matters**

[7] Section 26 of the Act requires the Board to publish notice of the Application, which it did on September 18, 2019. Section 27(2) provides that any person may (within 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 KABU’s Application, the Board received submissions from:

- 457562 BC dba Osoyoos Taxi and Oliver Taxi
- BCFED
- BCTA
- Chilliwack Taxi Ltd.

- City of Burnaby
- City of Delta
- City of Richmond
  - Mayor Malcom D. Brodie (two submissions)
  - Cecilia Achiam – General Manager of Community Safety
- Dr. Jonathan Brock
- Emerald Taxi Ltd.
- Kalum Kabs Ltd.
- Kami Cabs Ltd.
- Kater
- Dr. Martin Braun
- MLT Aikins LLP
- Prince George Taxi Ltd.
- Salmon Arm Taxi (178) Ltd.
- SBDS Enterprises Ltd. dba Star Taxi
- Williams Lake Taxi Ltd and Town Taxi (1987) Ltd.
- Yellow Cabs (Kamloops) Ltd.
- Syd’s Taxi *et al*
- VTA

(collectively the “Submitters”)

[8] KABU’s Application is one of over 20 TNS licence applications that have been made by various companies since the introduction of the TNS legislative amendments to the Act. Many of the Submitters responded to these applications globally rather than individually, with a focus on two other applicants. There were three Submitters (two from the City of Richmond and one from Kater) who took the position that KABU’s Application should be dismissed on the basis that it is not a “fit and proper person” for s. 28(1)(b) purposes.

[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 KABU and the Submitters on October 30, 2019, the Board determined to follow its usual process of conducting a written hearing.

[10] Section 27(5) of the Act provides that, unless the Board directs otherwise, 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 6, 2019, the Board sent an application package to all Submitters which included KABU's initial response to the Submitters' materials as well as the documents provided by KABU in support of its Application (TNS Information Sheet, TNS Declaration Form, Business Plan, Cash Flow Projections, Statement of Business Assets, Resume, Criminal Record Check, Signing Authority, BC Registry Service Company Status, and Disclosure of Unlawful Activity and Bankruptcy Form). Consistent with Rule 17 of the Board's Rules of Practice and Procedure, the application package sent to the Submitters contained limited redactions which were necessary to protect the confidential business and personal information of KABU. The Submitters were provided 14 days to provide further written submissions on the Application. The Board then provided copies of the written submissions received from the Submitters to KABU.

### **3. KABU's Application**

[12] KABU was continued as a B.C. company on April 2, 2019. Prior to that, it was incorporated as a company in Alberta on June 12, 2018. KABU is a subsidiary of GoKABU Group Holdings Inc. ("GoKABU") which was founded in 2016 and headquartered in Richmond, British Columbia. Yi (Billy) Xiong is President and Co-founder of GoKABU and KABU. Martin van den Hemel, Daniel Xiao and Timo Hengge are key management employees of both companies.

[13] GoKABU Technologies Inc. is also a subsidiary of GoKABU. It is a software development firm. GoKABU Technologies created a software application called KABU Rider (the "KABU App") which connects riders and drivers through the social media platform WeChat. GoKABU used the KABU App to provide ride hailing services primarily in the Lower Mainland from 2016 to September 14, 2019. During that period, GoKABU provided more than 1.3 million rides to more than 70,000 customers.

[14] KABU maintains that it is seeking to solve transportation shortcomings across British Columbia where there is a demand for ride hailing and a sufficient supply of ride hailing drivers. The company has identified an under-served and growing niche market across Canada that focuses on transportation for minority groups, including new immigrants, international students, and tourists. KABU says that by speaking in their native language and providing services via familiar channels (such as social media channels popular in their home country), KABU can capture market share that other service providers have shown little or no interest in. KABU provided information on the size of the markets for tourism, international students and new immigrants to Canada and the United States.

[15] The concerns about transportation in this target market include the language barriers which make communication between the target market's riders and drivers difficult and the information gap faced by these riders on transportation options in their new destination. KABU notes that different ethnic groups are accustomed to different

software platforms to acquire services and these are often geo-blocked, making downloading cumbersome and inconvenient for the traveller. If a traveller prefers fast, green or cheap transportation options, the range of options can make their choice difficult.

[16] Drivers and the KABU App address language barriers associated with international travel and immigration. KABU's App and drivers communicate with people in these target markets using multiple languages and, in most cases, no downloads are required. Based on an analysis of travel patterns and demographics, the KABU App translates the entire in-app experience to the most commonly spoken languages and, upon request, will match a traveller to a driver speaking the same language.

[17] KABU says its focus on recognizing the time, effort and resources that its drivers bring to the table sets it apart from other competitors. KABU says its drivers will come from the growing population of immigrants, and that KABU will utilize their language skills, passion, and talents. This will provide people who immigrate to Canada with an entry-level job, the ability to earn a living wage, and connections with their new city and the people who live there. KABU acknowledges the concerns about attracting and retaining class 4 drivers. To keep drivers loyal to KABU, KABU intends to provide drivers with a living wage, provide them with health and dental benefits, and create community partnerships that will help lower the cost of vehicle operation and maintenance.

[18] KABU seeks to operate immediately in Region 1 (Lower Mainland), Region 2 (Victoria) and Region 3 (Nanaimo); it seeks to expand its operations to Region 4 (Kelowna) within the first year of launch. KABU anticipates a fleet size of 40 vehicles to service the Central Okanagan (Kelowna) and Thompson-Nicola (Kamloops) areas by the end of 2020, with the hope of increasing the fleet to match demand. Its launch in Region 5 could happen in 2021 or sooner, with an initial fleet size of 25 vehicles. KABU anticipates addressing the competition that it will face from the major TNS in the following ways:

- It will advertise to travelers at the most common source airports in their native language. KABU's target market has a low level of marketing investment from its major competitors. Global translations and web-based apps targeted to different ethnic groups will be used.
- KABU's benefits package, incentives and lower commission rates will lead to higher driver retention than its competitors.
- It will provide a multi-modal transportation platform in Vancouver that integrates ride hailing, public transportation services, vehicle rentals, taxis, ferries and other transportation services into a single app for users. Riders will be able to choose their transportation modes based on their preference for the cheapest, fastest or greenest mode.

## KABU

- It will partner with key regional stakeholders such as public transportation agencies, airports and tourism organizations to drive community awareness and ridership.
- It will use a launch play book which it has developed to expand to other cities.

[19] KABU's Application notes there will be "changes to driver on-boarding". For example, KABU will require its drivers to:

- sign a document that acknowledges they have read and agreed to KABU's Driver and Company Policy;
- demonstrate that they have a Class 4 or higher licence and provide a driver's abstract;
- conduct start-of-day and end-of-day inspections of their vehicle, keep a logbook with dates and times, and submit the logbook once a week;
- limit hours of work to *National Safety Code* ("NSC") maximum hours of work;
- conduct vehicle inspections in accordance with the NSC, and regular vehicle maintenance, including oil change, windshield wiper blade and tire changes; and
- provide a new driver abstract and Vulnerable Sector Criminal Record Check on an annual basis. An automated system will remind drivers when their documents must be renewed.

[20] KABU has an established policy that must be followed if a driver is involved in an accident or receives a traffic violation ticket or order. It intends to implement a mystery driver program to grade driver performance and inspect vehicles to ensure company and provincial regulatory requirements are met. The KABU App allows for driver monitoring including checks for speeding, cell phone use, and hard acceleration, braking and turns. KABU will also provide new driver training tools, including live training, video training and best practice documents. KABU proposes to provide three levels of service: Express Ride, Luxury Ride and XLarge Ride. It says that the KABU App allows riders to see "at a glance" different means of transportation and choose based on the cheapest, fastest or greenest routes.

[21] KABU's business plan provides information about the KABU App. It reflects that KABU has the ability to place the rider app inside other platforms like WeChat or other preferred social media channels. All TNS app rule requirements can be met and the KABU App can meet geo-fencing requirements. KABU has provided financial pro forma projections for 36 months and the underlying assumptions used to develop these



projections. It has also provided a Statement of Business Assets as of September 2, 2019 which reflects a positive equity position.

#### 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 of the information filed by KABU and the Submitters, it has carefully considered it when making its determination.

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

[23] The first consideration is whether there is a public need for the service that KABU proposes to provide. This requires an applicant to demonstrate that there are people that would use KABU's proposed service. In this respect, KABU relies on the 2019 TNS Report. KABU also relies on its past success in the ride hailing industry utilizing KABU's App. In particular, KABU's App has been used to provide more than 1.3 million rides to more than 70,000 customers over a three-year period (2016 to 2019). KABU's Application was responded to by three letters of support; two of them used the KABU App when it was operated by GoKABU.

[24] While not specifically referenced by KABU, both the 2018 Hara Report and the 2018 TNC Report, support public need generally for TNS, as the Board has noted in other recent TNS application decisions. The 2018 Hara Report provides background on the history of taxi boundaries and current issues, the market for taxis and TNS, and the regulatory and industry structure for taxis. Stakeholder viewpoints and their concerns and recommendations for modernizing taxi regulation are summarized, including concerns relating to the private market value of 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 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 licences 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 TNS enter the market.

[25] The 2019 TNS Report examines four areas of TNS regulation, namely boundaries, supply, fare regimes and drivers' 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.

[26] The Board does not agree with arguments advanced by some Submitters that background materials, such as the 2018 Hara Report and the 2019 TNS Report, do not establish public need for TNS. Those 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.

[27] The Board is satisfied from KABU's Application that there is a public need for the TNS it intends to provide. KABU has identified an under-served and growing market niche which focuses on the increasing number of immigrants, tourists, and international students coming to Canada. The Board therefore finds that the provisions of section 28(1)(a) have been satisfied.

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

[28] Section 28(1)(b) requires the Board to consider whether an applicant is a fit and proper person and has the capability to provide the proposed service.

[29] 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.

[30] 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.

[31] 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.

[32] KABU was issued an NSC Safety Certificate on August 30, 2019. It provided the results of criminal records check for KABU's President, a Disclosure of Unlawful Activity & Bankruptcy, and the required TNS Declarations, all to the satisfaction of the Board. KABU's Application included a profile of KABU President Mr. Xiong. It indicates that he has been the President and Co-founder of GoKABU since 2016. Prior to that he was District Manager (2014-2015) for a pizza company and driver for that company (2012 to 2014). He graduated from the University of British Columbia in 2018, obtaining a Bachelor of Arts Degree with a major in Asian Culture and Language. He speaks Mandarin, Cantonese and English (as a second language).

[33] The question of whether KABU is a fit and proper person to provide the proposed services is not straightforward. That is because its parent company GoKABU provided commercial passenger directed services in Metro Vancouver over a three-year period (2016 to September 2019) in contravention of the Act. Throughout the time it was operating, the Act defined "commercial passenger vehicle" as a motor vehicle operated by or on behalf of a person who charges or collects compensation for the transportation of passengers in that motor vehicle. Section 23(1) of the then Act set out the licence requirements for operating a commercial passenger vehicle and it provided that a motor vehicle must be operated: (a) under a valid licence that authorizes it to be operated as that type of commercial passenger vehicle; (b) under a valid safety certificate; and (c) in

compliance with the terms and conditions of the licence and charge rates approved by the Board. The Act prohibited a person from providing a service involving the operation of a motor vehicle as a commercial passenger vehicle unless the person was a licensee whose licence included the authorization necessary for that type of operation. Throughout its operation GoKABU was providing commercial passenger directed services without the requisite passenger transportation licence or NSC Certificate. Accordingly, GoKABU was, until September 15, 2019, operating in contravention of the Act.

[34] On September 3, 2019, the Board received an Urgent Public Need (“UPN”) Licence application from GoKABU. The Executive Summary to that application reads in part:

The KABU Rider App provides a critical service to teenage international students in the Richmond, Vancouver and Burnaby areas who have over the past three years come to rely on our service for their daily transportation needs. Of the roughly 3,000 daily rides we help to provide, we estimate upwards of 50 percent involve international students, the majority of whom are between the ages of 13 and 19.

If our App is taken offline on September 16 – as it is our plan to fully comply with ride-hailing legislation – these students, and their parents, will have to turn elsewhere. Other China-based Apps we closely monitor are currently recruiting under-qualified Class 5 drivers, and we suspect they have no intention of applying for a TNS licence from the PTB. We know from competing against these companies that their business philosophy doesn’t place a priority on rider and driver safety. We know this because we have successfully competed against them and the customers and drivers have spoken. [GoKABU] now holds about 90% of the market. Complicating matters is the fact that no other licensed ride hailing companies will have the capacity or familiarity with this unique Chinese market to quickly step in and fill the void once we leave the market on September 16 and until we obtain our licence.

This places these students, and many of our other customers - from those who rely on our services after a weekend of drinking and partying at nightclubs and bars, to those whose first language is Mandarin or Cantonese and who have told us horror stories about using other transportation options – in a difficult spot.

We are genuinely concerned and would be willing to negotiate strict terms and conditions should the board be willing to grant us an Urgent Public Need licence.

This could, among other things, include a requirement that our drivers have a Class 4 licence and their vehicles successfully completed an inspection at a government sanctioned facility.

[35] On September 16, 2019, the Board denied the UPN request on the basis that taxi licensees, limousine companies and TransLink were available to provide safe, alternative

transportation services to GoKABU clients. GoKABU has kept its KABU App offline and says it will do so until it receives a TNS licence from the Board.

[36] The City of Richmond (Mayor and General Manager of Community Safety) and Kater oppose KABU's Application on the basis that it is not fit or proper based on the ride hailing business operated by the parent company, GoKABU, between 2016 and 2019. The General Manager said that GoKABU "continuously and flagrantly facilitated unlawful ride hailing services in the City of Richmond in disregard of the City's Business Bylaw" which it claims put the public at risk. Kater maintains that GoKABU's decision to suspend "its illegal existing service for six weeks to avoid paying daily fines of \$100,000" does not warrant consideration on this Application.

[37] KABU says that GoKABU was established by two young entrepreneurs (Austin Zhang and Billy Xiong) when they were in their early twenties. They are described as "two post-secondary students with a dream ... [who were] unfortunately unfamiliar with the bylaws of the city as many entrepreneurs are".

[38] KABU says that, while the City of Richmond references a continuous and flagrant disregard for its bylaws, there were in fact only two violations. GoKABU was fined \$1,000 for failing to operate its Richmond-based business without a business licence and \$1,000 for erecting a business sign in its offices without such a licence. GoKABU paid the fines and Mr. Zhang and Mr. Xiong admitted to their mistakes. While ignorance of the bylaws is not an excuse, KABU says its past mistakes do not mean that KABU is not a fit and proper person to operate ride-hailing services. It also says that the GoKABU tech company was never asked to shut down the KABU App by the City of Richmond (or the Province of B.C. or any other government entity). KABU expresses concern that the City of Richmond would "seek further retribution against a business that has already paid its debt to society and seeking to do the right thing now that ride-hailing legislation is here. GoKABU has admitted its mistakes, and even apologized in person to councillors for the business bylaw offences. The idea that any business which has ever violated a city bylaw should be barred from operating is frankly ridiculous and undemocratic".

[39] KABU says that, with the uncertainty associated with whether the Board will grant it a licence, its company's future is uncertain as are the futures of its 60 full-time and 20 part-time staff in Richmond, B.C. KABU also makes the point that its 2,500 drivers will no longer have a means of generating needed income.

[40] As noted, KABU and GoKABU are separate legal entities and so it is not appropriate to assess KABU's fitness based on GoKABU's past conduct. The Board is, however, entitled to consider the past conduct and character of KABU's directors and key management staff. Given past non-compliance issues by GoKABU associated with these same individuals, the question is whether the Board can have confidence that KABU will, in future, operate lawfully in accordance with all regulatory requirements.

[41] While the Board does not condone the operation of a commercial passenger transportation business in contravention of regulatory requirements, a past violation does not in and of itself operate as a barrier to granting KABU's Application. Given the particular and unique circumstances of this case, and the fact that KABU is a separate legal entity from GoKABU, the Board is satisfied that KABU is currently a "fit and proper person" for s. 28(1)(b) purposes. There are several reasons for this.

[42] The founders of GoKABU were young entrepreneurs when they established the company and developed the KABU App in anticipation of the introduction of ride-hailing legislation. The KABU App was created in 2016 at a time when government had announced that ride hailing was coming to B.C. The services GoKABU provided (and which KABU wishes to provide in the future) focussed on and captured a unique market and demand. GoKABU met with considerable success, providing an average of 3,000 trips per day and attracting a niche market. They built the company to the point where it currently employs a large number of employees in its Richmond-based office.

[43] As soon as the amendments to the Act came into effect, KABU made its Application and suspended the KABU App pending the Board's decision. KABU has expressed its intent to operate in full compliance with the Act and other regulatory requirements moving forward, and the Board is able to revisit and review KABU's fitness at any time. The actions it has taken in this respect since September 2019 are consistent with KABU's commitment to ensure complete regulatory compliance.

[44] As well, the Board received three letters of support for KABU's Application, all of which say that KABU has provided a professional and much needed service in the Lower Mainland. Dr. Brock, who described KABU as "the gold standard of ride hailing services", says that he has used ride hailing services all over the world and can "confidently say that not only does KABU provide a superior service as a means of reasonably priced transportation alternatives, but the company ethic vis a vis its employees is far more advanced than any other service". Dr. Braun writes that he has used KABU's services many times and finds them to be "prompt, very clean, and the drivers have all been superb". The third letter of support is from the law firm of MLT Aikins, LLP. It writes in part:

Kabu was founded by five young local entrepreneurs and is based in Richmond, British Columbia. We have been working with Kabu since February 2019 and have witnessed firsthand how Kabu, its management team and employees (together the "Kabu Team") consistently focus on developing a great local business. Their mission statement is to serve the local community while developing a recognized and trusted home-grown Canadian business.

Throughout ongoing interactions with Kabu, we have been nothing short of impressed with the level of professionalism, dedication and passion the Kabu Team conducts its business. We have seen firsthand how the Company tries to be inclusive and how deeply they care about the community that they are part of and look for

ways to not only operate a great business, but also positively impact their local community.

[45] KABU has put in place a professional advisory group that includes credible, respected international advisors in finance, insurance, legal matters, logistics and academics.

[46] The Board's view is that KABU should be given the chance to demonstrate its stated commitment to future regulatory compliance and should not be denied the opportunity to operate what has been a successful TNC for the sole reason that its parent company operated in non-compliance with the Act. However, pursuant to s. 39.1(1)(b) of the Act, the Board will include, as a term and condition of this licence, that a review of KABU as a fit and proper person will occur within 18 months of the date of the issuance of this licence.

[47] The Board has reviewed KABU's business plan and financial statements relating to its proposed operations, as part of its assessment of KABU's capability to provide the proposed service. KABU's Application includes a 36-month cash flow projection. It outlines revenue assumptions on number of riders, growth and churn in sign-ups, cost per sign-up and marketing spending. KABU also provides commission income for the company for each month. Good information is provided on costs and assumptions on which cost estimates are based, including staff cost by position type for management, research and development, and marketing staff. Commissions, customer generated costs including ICBC costs, and general and administrative costs are outlined. The Board finds the revenue and expense assumptions and estimates are reasonable. For each month and year, a pre-tax profit is estimated in line with revenues and expenses. KABU estimates it will be profitable in the 36-month period. KABU's statement of business assets demonstrate a positive equity position.

[48] KABU has satisfied the fitness requirements associated with a TNSA. KABU's business plan demonstrates to the Board's satisfaction that it will provide care and control of its drivers and vehicles and that it has the management resources to provide ride hailing services. Its business plan and financial information demonstrate that it is capable of providing the proposed service. Given the circumstances of this case the Board is satisfied that KABU's Application demonstrates that it is fit, proper and capable for the 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))?**

[49] The remaining consideration is whether granting KABU's 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 passenger transportation business overall weigh more heavily than the economic and financial interests of any particular applicant or submitter.

[50] For reasons expressed below, the Board is satisfied that granting KABU's Application will promote sound economic conditions in the passenger transportation business in B.C and finds that KABU has met the requirements of s. 28(1)(c) of the Act.

[51] As noted at the outset, the "sound economic conditions" arguments of a number of the opposing Submitters are generic in nature and relate primarily to Uber and Lyft. They are not directly related to KABU's Application. These Submitters oppose TNS generally for a variety of reasons relating to:

- 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
- Treatment of TNS drivers
- Wheelchair accessibility

[52] These types of concerns were set out in some detail in the Board's recent decisions relating to TNS applications made by Whistle (TNS7101-19) (starting at paragraph 55), Uber (TNS6988-19) (starting at paragraph 57) and Lyft (TNS6990-19) (starting at paragraph 54) and need not be repeated. The Board's general reasoning and key findings are set out in Uber and Lyft, which the Board adopts for the purposes of this Application. Those key findings are:

- TNS are not like taxis and so TNSA terms and conditions (such as limits on fleet size, rate discrepancies and other differences) are not intended to mirror those that taxis are subjected to.
- The TNS business model is markedly different from that 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, however, remain the exclusive domain of the taxi industry.
- Generally, the Board views the setting of caps on fleet size at the outset of TNS operations as inappropriate because of the specific nature of the TNS business model and the lack of an empirically substantiated basis for setting fleet size. TNS



fleet size will be closely monitored as data is collected from TNS operators. The Board has the authority to impose a cap on a TNS fleet size if there is an evidentiary basis to do so.

- The Board accepts that dynamic pricing is central to the 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 incentivizing drivers and to lower costs at off-peak periods to encourage trips. Dynamic pricing is not discriminatory in purpose or effect. The ability of TNS to charge flexible rates and use dynamic pricing will encourage healthy competition in the passenger transportation industry and promote sound economic conditions in B.C.
- The fact that there may not be equitable terms and conditions as between TNS and taxis is not a basis for rejecting a TNS application and nothing in the Act or Regulation suggests this to be the case.
- Robust competition does not equate to predatory pricing. Predatory pricing is regulated by the federal *Competition Act*, which makes such a practice an offence. If a TNS engages in predatory pricing, it can be held accountable under that legislation. The Board considers that regulation by the federal regime provides appropriate safeguards to prevent predatory pricing or to punish for it when it occurs.
- 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 adjustments. While the Board is sympathetic to the prospect that taxi licence holders may experience a drop in licence-share value, the Board has never sanctioned the market for such shares, nor does it have authority to do so. Taxi licensees created the market for them and invested as investors or used them as collateral. Given that ride-hailing has been a point of public discussion for seven years, there was ample notice of the possible introduction of ride-hailing services in this province.
- Traffic congestion is a complex issue, particularly as it relates to the Metro Vancouver area, and there are many contributing factors. The 2018 TNC Report emphasized that, without data, anticipating the effects that TNS might have on traffic congestion in BC is challenging. It is therefore important to collect and monitor traffic data and continue to review the experiences of other jurisdictions for solutions to any traffic or congestion-related problems in B.C. The Board will monitor congestion in select areas with high traffic volumes. 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 TNS are associated with increases in congestion in B.C., the Board will take appropriate steps at that time (such as setting caps on fleet size).

- Concerns about the treatment of TNS drivers are satisfactorily addressed in the terms and conditions requiring provision of information by TNS to the Board and others so that TNS labour and employment practices can be monitored. If data shows that earnings are low, the Board can consider whether rate or fleet change measures should be taken.
- The Regulation requires TNS to pay a \$0.30 per trip fee to the government to use for accessibility programs which the Board considers sufficient to facilitate the availability of wheelchair accessible services.

[53] With respect to KABU's Application specifically, KABU plans to draw drivers from the growing pool of newcomers to Canada. KABU intends to offer its drivers a living wage and provide an industry-leading Driver Health Benefits Rewards System. In particular, it will provide subsidized health, dental and disability benefits to their drivers and a \$250,000 life insurance policy. KABU also intends to offer its drivers other rewards, incentives and assistance that will reduce the costs associated with driving and maintaining ride-hailing vehicles.

[54] With respect to fears about a negative impact on taxi jobs, KABU says they are largely unfounded. KABU notes that Calgary and Mississauga are relative newcomers to ride-hailing and, based on data (provided), their experiences show there is little to no overlap between ride-hailing and taxi rides. Further, KABU states that it will focus on providing TNS to minority groups, including new immigrants, international students and tourists – a niche market that is underserved by other transportation service providers.

[55] However, KABU remains open to partnering with the taxi industry in smaller communities (such as Terrace) and folding their services into its KABU App. It also says that whether and how it opts to work in Regions 3, 4 and 5 will depend on its ability to recruit a critical mass of Class 4 drivers to serve the region. It believes that ride-hailing will result in brand new transportation customers, some of whom who would otherwise have relied on their own vehicle because of a lack of available options.

[56] In its Application, KABU says it intends to operate wheelchair accessible vehicles as part of its TNS. It is currently negotiating with a Richmond firm on a pilot project that would address the paucity of wheelchair accessible vehicles. It also intends to partner with TransLink to provide more ways for the public to access transit. Public transit offers riders the fastest and cheapest transportation solutions, but not everyone can access public transit. KABU says it can change that.

[57] The Board finds that many concerns identified by the Submitters can be addressed through the inclusion of licence terms and conditions. It will therefore include terms and conditions to:

- Set KABU's rate at the Region 1 taxi flag rate.

- Prohibit KABU from using coupons or discounts to lower its rates below the minimum.
- Require KABU to submit operational data. Data parameters will be monitored by the Board and fleet size or minimum rates can be adjusted in the future.
- Require KABU to provide quarterly information on drivers' earnings and hours in a format prescribed by the Board to enable the Board and others to monitor its labour and employment practices. 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.
- Require KABU to 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.

## Summary

[58] Many of the factors identified by various Submitters opposing KABU's Application are overlapping and largely based on experience with TNS generally or TNS 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 TNS operations, there was no comparable or any regulatory framework in place governing TNS. The TNS legislative amendments not only require TNCs and taxis 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 the Act also provides 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.

[59] The Board is satisfied that, for section 28(1) purposes: (a) there is a public need for the service proposed by KABU; (b) KABU is a fit and proper person and has the capability to provide that service; and, (c) properly regulated, KABU'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 KABU's licence to ensure that it assesses KABU on the basis of being a fit and proper person within 18 month of the issuance of this licence and is able to monitor and assess KABU's operations as they unfold and to respond where data establishes the necessity of a regulatory response.

## 5. Conclusion

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## KABU

[60] For the reasons set out above, the Board approves and grants KABU'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 KABU's licence.

[61] Appendix 1 includes an additional requirement that a review of KABU as a fit and proper person will occur within 18 months of the date of the issuance of this licence.

## Appendix 1

### General Terms and Conditions

KABU-Ride Inc.

<b>Special Authorization</b>	<b>Transportation Network Service Authorization</b>
<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	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: (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
Data Requirements	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> .
Hailing	Motor vehicles may be hailed under this authorization only through the use of the transportation network services approved under this authorization.
<b>B. Passenger Transportation Vehicles</b>	
Accessible Passenger Directed Vehicles	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 ( <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 complies 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: <ul style="list-style-type: none"> <li><input type="checkbox"/> Region 1 – Lower Mainland, Whistler</li> <li><input type="checkbox"/> Region 2 – Capital Regional District</li> <li><input type="checkbox"/> Region 3 – Vancouver Island, excluding the Capital Regional District</li> <li><input type="checkbox"/> Region 4 – Okanagan – Kootenay-Boundary-Cariboo</li> <li><input type="checkbox"/> Region 5 – BC North Central and Other Regions</li> </ul>
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: <p>(a) Canada Place Way between Howe Street and Burrard Street;</p> <p>(b) Howe Street between Canada Place Way and Cordova Street; and,</p> <p>(c) Burrard Street between Canada Place Way and Cordova Street.</p> 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> .
<b>D. Additional Terms</b>	
Fitness Review	In accordance with s. 39.1(1)(b) of the <i>Passenger Transportation Act</i> , the Board will conduct a review of the licensee within 18 months of the date of the issuance of this licence to determine if the licensee continues to be fit and proper.

## Appendix 2

### Minimum Rates

The minimum rates and rules below apply to each ride provided.

<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
2. Capital Region	Capital Regional District	\$3.40
3. Vancouver Island excluding CRD	Cowichan Valley Nanaimo Comox Valley Alberni-Clayoquot Strathcona Mount Waddington Qathet (Powell River)	\$3.40
4. Okanagan-Kootenays-Cariboo	Okanagan-Similkameen Central Okanagan North Okanagan East Kootenay Kootenay Boundary East Kootenay Cariboo Thompson-Nicola Columbia Shuswap	\$3.50
5. BC North Central & Other BC Regions	Fraser-Fort George Bulkley-Nechako Kitimat-Stikine Peace River Northern Rockies North Coast Central Coast	The TNS minimum rate will be set on a case by case basis after a review of the TNS application and taxi rates in



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Sunshine Coast  
Islands Trust

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an area.

### **Rules Applicable to TNS Minimum Rates**

- Minimum rates for TNSs are based on taxi flag rates in an operating region, as determined by the Board.
- The use of coupons or discounts to lower rates below the minimum rate is prohibited.
- TNS minimum rates include GST

## Appendix 3

### Data Requirements

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

#### 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

**VI. Implementation Schedule**

Type of Service and Effective Date of Rule

TNS - September 16, 2019

TNS operating in small communities with population less than 10,000 as defined by Statistics Canada - TBD

TNS must collect this data from the date that they start operating. Additional information relating to the submission deadlines and format will be provided separately.

## Appendix 4

### Supplementary Terms & Conditions Respecting TNSA Apps

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

#### 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