

Licence Application Decision

(Transportation Network Services - New)

Application #	7911-19TNS	Applicant	MDD Transport Network Inc.
Trade Name	MDD		
Principals	Sze Kwong Juju TSU Xin LI Kuan Ming PENG	Kin Wai LO Kik Kwan SHUM	
Address	Suite 2080, 1055 West Georgia Street Vancouver, BC V6E 3R5		
Primary Areas of Operation	Originating Area: <ul style="list-style-type: none"> Region 1 – Lower Mainland, Whistler Destination Area: <ul style="list-style-type: none"> B.C. or Outside B.C. 		
Current Licence	None		
Publication of Application	December 11, 2019		
Application Summary	New Special Authorization: Transportation Network Services Authorization (TNSA)		
Deadline for Submissions	December 23, 2019 (original submissions) February 24, 2020 (2 nd set of submissions)		
Submitters (and representatives)	<ul style="list-style-type: none"> BC Taxi Association (“BCTA”) Bel-Air Taxi (1982) Limited, Kimber Cabs Ltd., White Rock South Surrey Taxi Ltd. (“Bel-Air <i>et al</i>”) 		
Board Decision	<p>The special authorization is approved for the reasons set out below.</p> <p>Terms and conditions of licence are approved as set out in this decision.</p>		
Decision Date	March 19, 2020		
Panel Chair	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 December 4, 2019, MDD Transport Network Inc., doing business as MDD (“MDD”) 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) (the “Application”). In accordance with s. 26 of the Act, the Registrar of Passenger Transportation forwarded MDD’s Application to the Board for determination. In a letter dated February 5, 2020, an addendum to the Application (the “Addendum”) was provided to the Board specifically addressing the requirements of s. 28(1) of the Act.

[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 MDD'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 December 11, 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 MDD's Application, the Board received submissions from the BCTA and Bel-Air *et al* (collectively the "Submitters").

[8] MDD's Application is one of over 30 TNS licence applications that have been made by various companies since the introduction of the TNS legislative amendments to the Act. Both of the Submitters responded to this Application and others globally rather than individually, with a focus on two other applicants.

[9] Both of the Submitters asked the Board to conduct oral hearings in respect of applications received by the Board, including this Application. 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 the reasons set out in its decision of October 30, 2019, the Board determined to follow its usual process of conducting a written hearing for the Application.

[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 February 11, 2020, the Board sent an application package to the Submitters which included MDD's initial response to the Submitters' materials, the Addendum as well as the documents provided by MDD in support of its Application (*i.e.* TNS Information Sheet, TNS Declaration Forms, Business Plan, Cash Flow Projections, Statement of Start-up Funding and Sources of Funding, Projected Balance Sheets, Resumes, Criminal Record Checks, Signing Authority, BC Registry Service Company Status, National Safety Code ("NSC") Safety Certificate Application and Disclosure of Unlawful Activity and Bankruptcy Forms).

[12] 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 MDD. 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 MDD.

3. MDD's Application

[13] MDD was incorporated in April 2019 and is located in Richmond, B.C. MDD's President is Mr. Juju (Harris) Tsu. The General Manager, who is also a Director, is Kin Wai (Brian) Lo. There are three additional Directors all of whom have experience in the automotive business.

[14] The Application outlines the unique features of the MDD app. The MDD app is available in English, Traditional Chinese and Simplified Chinese. An MDD app user can also connect to a live operator who speaks English, Mandarin or Cantonese. The ride hailing services provided by MDD include hiring a vehicle for a trip from a starting point to a destination, hiring a vehicle for a round trip by enabling a passenger to pre-book a return trip, and hiring the vehicle for multiple destinations. The MDD app can also be used to hire a driver to drive a passenger's personal car home, to pick up items or for a block of time for activities such as simple moves or tours. The app offers "end-of day" functions for drivers whereby the app populates customers seeking transportation on the driver's route home.

[15] MDD has formed a partnership with a security / alarm monitoring company who will provide 24-hour support to any app user. Both drivers and passengers can push an in-app emergency button to connect to an emergency response team fluent in the three languages offered by the app and, if required, a patrolling security guard will be dispatched to the phone's GPS location.

[16] The MDD app offers credit card payment as well as payment through Alipay and WeChat Pay which are both popular methods offered by Chinese based platforms. A page targeting tourists which outlines major tourist attractions will be provided in the future, as will one-click classified ads, and a business networking system enabling users to benefit from cross-promotions between MDD and various businesses.

[17] Additional details on the app's capability are outlined. MDD advises that its app can meet the Board's TNS App Rule and geofencing requirements. The Addendum provides a number of screen shots demonstrating the app's functionality.

[18] The Application provides statistics on the large number of international students in B.C., the large number of international visitors to the province and the growing population of the province. MDD notes that almost 30% of the population of Metro Vancouver is ethnic Chinese. MDD will therefore focus on the ethnic Chinese market in the first six months of operation and then expand beyond that to the mainstream market.

[19] Marketing to the Chinese community will be done by placing advertisements in group chats and subscriptions in WeChat and targeting major student clubs in universities and colleges. Marketing to the mainstream market will be done through social media platforms including Instagram, Facebook, and Twitter. MDD is targeting joint partnerships with

restaurant chains, shopping malls and hotels to grow its business and had commitments from 12 establishments at the time of its application. A passenger referral program will also be introduced.

[20] MDD acknowledges that recruiting drivers will be a challenge and plans on addressing that through incentives and promotions, including an initial sign up bonus to all qualified drivers. Drivers for MDD will go through a strict screening process to ensure they meet the statutory requirements of the Act, Regulation and NSC requirements. This includes ensuring a driver has a valid class 4 commercial driver's licence, the required criminal record check and driver's abstracts. Vehicles will be inspected to ensure all requirements are met. The Addendum cites in detail the different provisions of the Act, Regulation and the NSC that pertain to TNS drivers, vehicles and care and control provisions, alongside information on how MDD will ensure these requirements are addressed.

[21] All drivers must participate in a mandatory orientation prior to being hired. This training will cover requirements drivers have under the Act, Regulation and NSC as well as customer service expectations, terms and conditions of employment, drivers' compensation and safety measures. A question and answer session will also be held.

[22] The anticipated fleet size for MDD is 300 vehicles at the onset of operation and their target fleet size is 1,000 vehicles. MDD's competition in the Lower Mainland is Kabu Ride, Uber, Lyft and a few black market companies operating from China without authorization. The unique features of the MDD app and the ride hailing services as well as access to the Chinese market will provide a competitive advantage to MDD.

[23] The Application provides information on the assumptions used for the 36-month financial pro forma. Information is provided on start up capital, its sources, the cost of app development and the cost of future app enhancement. Efforts to minimize costs during start up are outlined. Balance sheets and income statements are provided.

4. Analysis and Findings

[24] 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 MDD and the Submitters, it has carefully considered it when making its determination.

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

[25] The first consideration is whether there is a public need for the service that MDD proposes to provide. This requires an applicant to demonstrate that there are people that would use MDD's proposed service. In this respect, MDD relies on the 2018 TNC Report, the 2019 TNS Report, the 2018 Hara Report and the Hansard debates regarding amendments to the Act. MDD also provides statistics and information on its target market, including tourists,

international students and new immigrants. It notes the proportion of Metro Vancouver's population that is ethnic Chinese is almost 30%.

[26] Both the 2018 Hara Report and the 2018 TNC Report, generally support the public need 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.

[27] 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.

[28] The Board does not agree with arguments advanced by the Submitters that background materials, such as the 2018 TNC Report, 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 in B.C. 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] The Board is satisfied from MDD's Application that there is a public need for the service it intends to provide. MDD has identified a growing market niche which focuses on the increasing number of immigrants, tourists and international students coming to Canada as well as the resident Chinese speaking population in Metro Vancouver. The Board therefore finds that s. 28(1)(a) is 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))?

[30] 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.

[31] 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.

[32] 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.

[33] 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.

[34] MDD was issued an NSC safety certificate on December 2, 2019. It provided the results of a criminal record check for MDD's President and General Manager, the required Disclosures of Unlawful Activity & Bankruptcy, and TNS Declarations, all to the satisfaction of the Board. MDD's Application included resumes for MDD's President, Mr. Tsu, and General Manager, Mr. Lo. Both have post-secondary education and years of experience in the private sector at senior levels in administration and sales. Both speak English, Cantonese and Mandarin.

[35] The Board is satisfied that MDD is a "fit and proper person" for s. 28(1)(b) purposes.

[36] The Board has reviewed MDD's business plan and financial statements relating to its proposed operations as part of its assessment of MDD's capability to provide the proposed service. MDD outlines its assumptions for revenue and expenditure forecasts. It outlines the manner in which it will reduce costs during the early stages of business. The 36-month cash flow projection provided has sufficiently detailed revenue and expenditure information. The Board finds the revenue and expense assumptions and estimates are reasonable. MDD estimates it will be profitable within the 36-month period. The business plan outlines MDD's initial capital, the sources of this funding and how it proposes to use this money. Projected balance sheets are provided and demonstrate a positive equity position.

[37] In the Addendum, MDD provided tables with detailed reviews of the Act, Regulation and NSC provisions that will apply to its operations along with actions MDD will undertake to address each of these statutory requirements. Viewed as a whole, MDD's Application 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. This and MDD's business plan and financial information demonstrate that it is capable of providing the proposed service. The Board is satisfied that MDD'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))?

[38] The remaining consideration is whether granting MDD'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.

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

[40] The Submitters to this Application made arguments relating to "sound economic conditions" that are generic in nature and relate primarily to two other applicants. They are not directly responsive to MDD's Application and do not identify any specific concerns with MDD's Application. The 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
- Increased congestion
- Treatment of TNS drivers
- Wheelchair accessibility

[41] 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 the Uber and Lyft decisions, 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.

[42] MDD's response to the submissions focused on its view that an oral hearing of its application was not appropriate. That issue is dealt with above.

[43] Many of the concerns expressed by the Submitters, for example predatory pricing and operating at financial losses, the fitness of other TNCs, or the fairness of the treatment of TNS drivers do not directly relate to MDD's Application. As such, the Board gave little weight to those concerns in reaching its determination. Regardless, the Board finds that many of the concerns identified by the Submitters can be addressed through the inclusion of terms and conditions on MDD's licence. It will therefore include terms and conditions to:

- Set MDD's rate at the Region 1 taxi flag rate.
- Prohibit MDD from using coupons or discounts to lower its rates below the minimum.
- Require MDD to submit operational data. Data parameters will be monitored by the Board and fleet size, operating areas or minimum rates can be adjusted in the future.
- Require MDD 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 MDD 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

[44] Many of the factors identified by the Submitters opposing MDD's Application are 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.

[45] In accordance with s. 28(1) of the Act, the Board is satisfied that: (a) there is a public need for the service proposed by MDD; (b) MDD is a fit and proper person and has the capability to provide that service; and, (c) properly regulated, MDD'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 MDD's licence to ensure that it is able to monitor and assess MDD's operations as they unfold and to respond where data establishes the necessity of a regulatory response.

5. Conclusion

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

Appendix 1

General Terms and Conditions

MDD Transport Network Inc.

Special Authorization	Transportation Network Service Authorization
Terms & Conditions of Licence	
“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation	
A. Legislative Requirements	
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. Passenger Transportation Vehicles	
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.
C. Originating Areas & Other Requirements	

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

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

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

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](#), 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